

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

**PUBLIC INTEREST LEGAL FOUNDATION,
INC.,**

Plaintiff,

v.

CONWAY BELANGIA, in his official capacity as
the Executive Director of the South Carolina
Election Commission,

Defendant.

Civil Case No. 3:24-cv-01276-JFA

**Plaintiff Public Interest Legal Foundation, Inc.'s
Memorandum in Support of its Motion for Summary Judgment**

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INTRODUCTION

The Public Interest Legal Foundation (“Foundation”) has standing here because it is injured by the denial of South Carolina’s Statewide Voter Registration List (“SVRL”) because it cannot conduct activities that fulfill the statutory objectives of Congress. The denial of information Congress deemed public stymies the programing of the Foundation and the Congressional purposes in enacting the National Voter Registration Act (“NVRA”). The Foundation cannot identify, analyze, and educate about errors in the SVRL and provide solutions for any errors that may exist. Defendant’s decision to deny information to everyone but registered South Carolina voters are the cause of these consequences. No genuine dispute of material facts exists, and the Foundation is entitled to judgment as a matter of law on the issue of its Article III standing to bring this case.

Congress enacted the NVRA to accomplish complementary purposes: increasing voter registration, protecting the integrity of elections, and ensuring accurate and current voter rolls. 52 U.S.C. § 20501(b)(1)-(4). The Foundation intends, but is unable, to analyze the SVRL for its accuracy and currency, report on its findings, and educate the public and policymakers about the state of the SVRL and list maintenance programs in South Carolina. In other words, by denying the Foundation the SVRL, Defendant, the South Carolina Election Commission (“Commission”), not only causes injury to the Foundation but also prevents the Foundation from fulfilling Congress’s purposes. The Foundation has standing and summary judgment should be granted.

STATEMENT OF UNDISPUTED MATERIAL FACTS¹*The Foundation*

1. The Foundation is a 501(c)(3) public interest law firm dedicated to election integrity. It seeks to promote election integrity and fulfill Congress's purposes in enacting the NVRA, 52 U.S.C. § 20501(b)(1)-(4), through research, education, remedial programs, and litigation. Exhibit 1 ("Churchwell Dec.") at ¶ 9.

2. The Foundation's regular programmatic activities include, but are not limited to, (1) evaluating how and whether state and/or local governments are complying with voting and voter list maintenance laws; (2) pursuing legal action to enforce state and federal voter list maintenance laws; (3) reviewing and analyzing voter registration and voting data; (4) educating the public through published reports, blog posts, press and media content, newsletters, and emails; and, (5) providing voter list maintenance leads and potentially irregular registration and voting data to state and local governments. Without state voter roll data, the Foundation cannot perform these activities. Churchwell Dec. at ¶ 10.

3. To further its mission to promote the integrity of elections nationwide, the Foundation's regular programmatic activities described above require the Foundation use the NVRA's Public Disclosure Provision, 52 U.S.C. § 20507(i), to compile records and data about statewide voter registration lists. Churchwell Dec. at ¶ 9.

4. The Foundation uses statewide voter registration lists and other voter registration and voting records to monitor, study, and evaluate that state's voter list maintenance activities and those of other states. Churchwell Dec. at ¶ 14.

¹ The Foundation incorporates by reference the docketed stipulation of facts, ECF No. 27.

5. The Foundation uses statewide voter registration lists and other voter registration and voting records to enforce the NVRA and other voter list maintenance laws. Churchwell Dec. at ¶ 16.

6. The Foundation uses statewide voter registration lists and voter registration and voting records to educate the public and government officials, including through the Internet. Churchwell Dec. at ¶ 17.

7. The Foundation uses statewide voter registration lists and other voter registration and voting records to provide voter list maintenance leads and potentially irregular registration and voting data to state and local governments. Churchwell Dec. at ¶ 18.

8. The Foundation uses statewide voter registration lists to investigate whether states improperly remove registrants from the statewide list of registered voters because of state voter list maintenance activities. For example, the Foundation analyzes whether states improperly remove registrants because of the Electronic Registration Information Center (“ERIC”) incorrectly identifying the registrant as deceased. ERIC periodically provides reports to states, including South Carolina, identifying improperly flagged registrants (“SSA Corrections Updates”). The Foundation compares the SSA Corrections Updates to the state’s voter roll and voting records to determine whether the state implemented functioning remedial procedures placing improperly removed registrants back on the voter roll. The Foundation takes legal action in instances where the state did not re-enfranchise an improperly removed registrant. Churchwell Dec. at ¶ 19.

9. The Foundation cannot do any of its regular programmatic activities without states’ statewide voter registration lists. Churchwell Dec. at ¶ 10.

10. The Foundation intends to use South Carolina's SVRL to engage in the regular programmatic activities described above but it cannot because the Commission denied the Foundation the SVRL. Churchwell Dec. at ¶ 21.

The Commission's Denial

11. Because the Foundation's intended activities require use of the SVRL, it sought a copy. On February 5, 2024, the Foundation sent a letter to the Executive Director of the Commission requesting, under the NVRA, that the Commission "reproduce or provide the opportunity to inspect...[a] current or most updated copy of the South Carolina statewide voter registration list as described in S.C. Code § 7-5-186." ECF No. 1-1, at 1.

12. The Commission denied the Foundation's request in a letter sent on February 20, 2024, stating, "the Executive Director does not have discretion to abrogate S.C. Code § 7-3-20(D)(13)," which says the requested record is "provided, for a fee, to qualified electors in South Carolina." ECF No. 1-2.

13. The Foundation notified the Commission that it violated the NVRA for "failure to permit inspection and reproduction of public records as required by the NVRA, 52 U.S.C. §20507(i)(1)" and that the Commission would "face federal litigation" if it "continue[d] to deny access to the requested records." ECF No. 1-3, at 1.

14. The Commission filed a declaratory judgment action against the Foundation in South Carolina State Court. ECF No. 18-1. The state court action was removed to federal court, *see Knapp v. Pub. Int. Legal Found., Inc.*, No. 3:24-cv-01687 (removed April 4, 2024), and then dismissed, *Knapp*, No. 3:24-cv-01687, ECF No. 9 (stipulation of dismissal).

The Foundation's Injuries

15. The Foundation intends, but is unable, to use the SVRL to further Congress's objectives through its regular, programmatic activities described in the above paragraphs, including (1) monitoring, studying, analyzing, and evaluating the list maintenance activities in South Carolina and in other jurisdictions and states; (2) enforcing voter list maintenance laws in South Carolina and in other states; (3) educating the general public and government officials about list maintenance activities in South Carolina and other states, including through the internet; (4) sharing voter list maintenance leads and potentially irregular registration and voting data to state and local governments within and outside South Carolina. To do so, it requires a copy of the SVRL. Churchwell Dec. at ¶ 21.

16. Upon receipt of the SVRL, the Foundation intends to determine whether and to what extent the SVRL contains the types of errors the Foundation has found in other states and in versions of the SVRL the Foundation received in the past. These errors include, deceased registrants, interstate duplicates, intrastate duplicates, and placeholder/fictitious birthdates, among other things. Churchwell Dec. at ¶ 22.

17. The Foundation conducted a similar analysis based on a SVRL it received in 2019 ("2019 SVRL"). Churchwell Dec. at ¶ 28.

18. The Foundation published the results of its analysis of the 2019 SVRL and analyses of the statewide voter registration lists of 41 other states in a report titled, "Critical Condition." Churchwell Dec. at ¶ 29; Exhibit C to Churchwell Dec.

19. Critical Condition furthered Congress's objectives and the Foundation's mission by giving the electorate, legislators, and state election officials data-driven information concerning

problems in voter list maintenance systems nationwide and provided solutions for those problems. Churchwell Dec. at ¶ 28; Exhibit C to Churchwell Dec.

20. The Foundation published Critical Condition in September 2020 and distributed it widely. Churchwell Dec. at ¶ 29.

21. The Foundation intends to compare the current SVRL to the 2019 SVRL and its analysis in Critical Condition to determine whether South Carolina improved its list maintenance processes since 2019 or if new errors have arisen. Churchwell Dec. at ¶ 32.

22. The Foundation intends to produce a report on South Carolina's voter list maintenance activities and the currency and accuracy of its list of registered voters, Churchwell Dec. at ¶ 22—like what the Foundation did with many other states. *See* Exhibits E and F to Churchwell Dec. The Foundation prepared a draft report and will fill in the particulars as soon as it receives the SVRL. Exhibit G to Churchwell Dec.

23. The Foundation will produce the report imminently upon receipt of the SVRL and will publish the report on its website and share it with the Commission, South Carolina residents, the public, and state and federal law and policy makers. Churchwell Dec. at ¶ 24.

24. The Foundation will also compare South Carolina's SVRL to the statewide voter registration lists of North Carolina (and other neighboring states) and identify individuals registered in multiple states. Churchwell Dec. at ¶ 25.

25. The Foundation did a similar analysis of interstate duplicates on a SVRL in 2022. Churchwell Dec. at ¶ 30. The Foundation published a report on its analysis, Exhibit D to Churchwell Dec., and shared it with a South Carolina resident, Terrye Seckinger. Churchwell Dec. at ¶ 31.

26. Ms. Seckinger recently requested the Foundation compare the 2022 analysis with an analysis of the current SVRL to determine whether South Carolina resolved the previously identified errors, made changes to improve list maintenance processes, and if new errors exist. Exhibit 2 (“Seckinger Dec.”) at ¶ 2.

27. Ms. Seckinger will share the analysis conducted by the Foundation with individuals throughout the South Carolina state government to alert them to issues with the SVRL and necessary changes to the list maintenance processes. Seckinger Dec. at ¶ 4.

28. The Foundation also intends to use the SVRL to research specific South Carolina registrants incorrectly identified as deceased by ERIC and take legal action if necessary to enforce voting rights. Churchwell Dec. at ¶¶ 34, 36.

29. The Foundation intends to share and discuss the results of its analyses of the SVRL with legislators, and election officials in South Carolina, in the federal government, and in other states. Churchwell Dec. at ¶¶ 24, 32.

30. The Foundation intends to develop more specific plans for the SVRL after the Commission provides the SVRL to the Foundation that are tailored to the data provided. Churchwell Dec. at ¶ 43.

31. The Foundation requires a current version of the SVRL for every planned activity. Churchwell Dec. at ¶ 20.

32. Specifically, the Foundation requires a current SVRL for all regular, programmatic activities to accurately assess a state’s voter list maintenance procedures and so the Foundation can compare the current SVRL to those from years past. Churchwell Dec. at ¶ 20.

33. The Foundation must be able to obtain statewide voter registration lists directly from the state. Limiting the chain of custody to the state and the Foundation preserves data integrity

and ensures the data the Foundation relies on is not outdated or altered by a middle party. Churchwell Dec. at ¶ 8.

34. Because of the Commission's denial, the Foundation cannot conduct any of its intended analyses and comparisons, produce its intended reports, share its analyses and reports, or talk to legislators about errors on the SVRL. Churchwell Dec. at ¶¶ 22, 25, 33, 37-38. In other words, the Foundation cannot further Congress's objectives.

Additional Adverse Effects of the Denial

35. The Foundation suffered and continues to suffer additional adverse effects from The Commission's denial. For example, the Foundation could not include South Carolina in an analysis of the impact New York, New Jersey, and Pennsylvania's list maintenance activities had on other states in the I-95 corridor. Churchwell Dec. at ¶ 39.

36. The Foundation produced several voter roll studies in 2025 about the 2024 statewide voter registration lists in North Carolina and Maine to compare with New York, New Jersey, and Pennsylvania's statewide voter registration lists. Churchwell Dec. at ¶ 39; Exhibit E to Churchwell Dec.

37. The Foundation requested the SVRL from South Carolina on February 5, 2024, ECF No. 1-1, in part to include it in the comparison. Churchwell Dec. at ¶ 39.

ARGUMENT

I. Summary Judgment Standard

"Summary judgment is proper when, viewing the evidence in the light most favorable to the nonmoving party, there's 'no genuine dispute as to any material fact and [the moving party] is entitled to judgment as a matter of law.'" *Deque Sys. v. Browserstack, Inc.*, 177 F.4th 585, 598 (4th Cir. 2026) (quoting Fed. R. Civ. P. 56(a)).

II. The Foundation Is Entitled to Summary Judgment

This Court already found the Commission denied the Foundation the SVRL and the Commission cannot genuinely dispute that the Foundation intends to use the SVRL for specific purposes when it receives the SVRL. The Commission also cannot dispute the SVRL is a list maintenance document within the scope of the NVRA's Public Disclosure Provision and the NVRA preempts South Carolina's law preventing disclosure. *See* ECF No. 38 at 16, Order on Cross-Motions for Summary Judgment.

The issue at summary judgment is the Foundation's Article III standing. To have standing, "a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). The Fourth Circuit narrowed the standing issue in this case to whether the Foundation "suffered 'a real harm with an adverse effect resulting from the failure to receive' the voter list." *Pub. Int. Legal Found., Inc. v. Wooten*, 164 F.4th 362, 366 (4th Cir. 2026) (internal citations omitted). The answer is "yes."

The Commission's denial of the SVRL constitutes "real harm." The Public Disclosure Provision created a right to information the Commission violated by denying the Foundation's request for the SVRL. *See Pub. Int. Legal Found., Inc. v. Nago*, 174 F.4th 664, 674-75 (9th Cir. 2026) ("The NVRA creates a broad public right to information about government activities."); *see also FEC v. Akins*, 524 U.S. 11, 21 (1998) ("[A] plaintiff suffers an 'injury in fact' when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute.") (citing *Pub. Citizen v. U.S. Dep't of Just.*, 491 U.S. 440, 449 (1989)).

The infringement of the right to information caused the Foundation significant adverse effects—namely, the Foundation cannot engage in its regular programmatic activities and fulfill Congress’s express purposes and intent behind the NVRA. 52 U.S.C. § 20501(b)(1)-(4). Without the SVRL, the Foundation cannot, among other things, analyze the SVRL for its accuracy and currency, publish a report on the accuracy and currency of the SVRL, and share the report and its findings with the public, election officials, and legislators, as it intends, Churchwell Dec. at ¶ 21—all sufficient adverse effects for Article III standing. *See Pub. Int. Legal Found., Inc. v. Fontes*, 816 F. Supp. 3d 984 (D. Ariz. 2026); *see also Voter Reference Found., LLC v. Galvin*, No. 24-cv-12592-DJC, 2026 U.S. Dist. LEXIS 64416 (D. Mass. Mar. 26, 2026); *see also Campaign Legal Ctr. v. Scott*, 49 F.4th 931, 940 (5th Cir. 2022) (Ho, J., concurring).

Congress directed states maintain accurate and current voter registration lists and meant for the public to hold states accountable to this standard. 52 U.S.C. § 20501(b)(4); 52 U.S.C. § 20507(i). The Commission’s denial prevents the Foundation from completing its planned activities and, in turn, from fulfilling Congress’s intent.

The adverse effects the Foundation suffers surpass the low burden for standing in public records cases and align with the harms other courts found sufficient for standing. The Foundation is entitled to summary judgment on this issue.

A. The Foundation’s Intended Uses Further Congress’s Intent.

Congress has provided guidance here as to the scope and extent of any injury necessary for standing. Any injury that impairs Congressional intent should vest standing here. Courts addressing this question should defer as much as possible to explicit Congressional aims, notwithstanding Article III requirements. But those requirements should not be a heavy barrier to

a plaintiff seeking information that Congress deemed public and important. If a plaintiff is impaired from advancing Congressional aims, then that plaintiff is injured.

The Foundation intends, but is unable, to catalog mistakes on the SVRL and inform election officials, legislators, and the public about these mistakes and aid in developing solutions so the mistakes do not happen in the future. Congress envisioned these activities when it enacted the NVRA and included the Public Disclosure Provision.

Both the express purposes of the NVRA and the Public Disclosure Provision reveal Congress's intent. Two of the four purposes in enacting the NVRA are "protect[ing] the integrity of the electoral process" and "ensur[ing] that accurate and current voter registration rolls are maintained." 52 USC § 20501(b)(3)-(4). The Public Disclosure Provision "convey[s] Congress's intention that the public should be monitoring the state of the voter rolls and the adequacy of election officials' list maintenance programs." *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at **12-13 (S.D. Fla. Mar. 30, 2018). The Foundation intends to fulfill Congress's purposes by doing exactly that—analyzing and reporting on the state of the SVRL in South Carolina. Churchwell Dec. at ¶ 21.

Congress made "all records" subject to public inspection because transparency leads to accountability. Errors and discrimination in South Carolina's list maintenance process may not come to light because the Commission prevents the Foundation from analyzing the SVRL, cataloguing mistakes, and informing election officials, the public, and legislators about those mistakes. When those flaws remain in the dark, public confidence in elections and the likelihood of state officials rectifying the problems decreases.

The Foundation sought a copy of the SVRL under the Public Disclosure Provision to analyze the SVRL for errors, report on the results of its analysis, and inform the public and election

officials about any identified issues. The work the Foundation plans to do, but cannot, would expose the effectiveness of South Carolina's list maintenance processes at catching mistakes and protecting the right to vote. The work would fulfill the NVRA's purposes.

Courts regularly find that public disclosure accomplishes Congress's purposes in enacting the NVRA. In this case, the Fourth Circuit recognized, "The purpose of [the Public Disclosure Provision] is to help identify errors and fraud in the preparation and maintenance of voter rolls." *Wooten*, 164 F.4th at 364. Indeed, without the NVRA's transparency, "public confidence in the essential workings of democracy will suffer." *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 339 (4th Cir. 2012).

Similarly, the District of Massachusetts found, "Making 'all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters,'... available under the public disclosure provision, is clearly related to at least one of the statute's purposes." *Galvin*, No. 24-cv-12592-DJC, 2026 U.S. Dist. LEXIS 64416, at *16 (internal citations omitted).

Congress intended for the public to catalogue mistakes. The Fourth Circuit said as much when it said, "It is selfevident that disclosure will assist the identification of both error and fraud in the preparation and maintenance of voter rolls." *ProjectVote*, 682 F.3d at 339. Other Circuits agree. *See Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1082 (10th Cir. 2025) ("Put simply, making voter data unavailable for close public scrutiny disrupts the purpose and intended effects of the NVRA."); *see also Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 54 (1st Cir. 2024) ("Such a provision evinces Congress's belief that public inspection, and thus public release, of Voter File data is necessary to accomplish the objectives behind the NVRA. Indeed, the analysis and subsequent dissemination of Voter File data to the public is necessary if members of the public,

or organizations such as PILF, are ever to identify, address, and fix irregularities in states' voter rolls by exercising their private right of action under the NVRA.”).

And the Foundation, an organization with expertise, capability, and whose mission encapsulates what Congress envisioned, has standing to bring this case because the Commission's denial prevents it from fulfilling Congress's purpose.

B. The Foundation Intends to Scrutinize South Carolina's List Maintenance Activities.

The accountability envisioned by Congress requires monitoring changes, ideally improvements, in voter registration list maintenance. The Foundation will do that in South Carolina, when it receives the SVRL.

The Foundation intends to compare the current SVRL with analyses it did in 2019 and 2022 to determine whether South Carolina corrected previously identified errors, improved its list maintenance processes, or developed new errors. Churchwell Dec. at ¶ 32. The Commission's denial prevents the Foundation from conducting that comparison and frustrates Congress's vision of public oversight through the Public Disclosure Provision. Churchwell Dec. at ¶ 33.

In 2019, the Foundation received a copy of the SVRL—2019 SVRL. Churchwell Dec. at ¶ 27. The Foundation studied and analyzed the data and incorporated the findings, along with the analyses of 41 other states' statewide voter registration lists, into Critical Condition—a report the Foundation published in 2020. *See* Exhibit C to Churchwell Dec. The Foundation identified thousands of probable deceased and duplicate registrants as well as individuals credited for voting more than once across 42 states, including South Carolina. Exhibit C to Churchwell Dec.

The Foundation concluded South Carolina did well compared to other states with certain things but not others. For example, South Carolina ranked seventh out of 41 states for the highest number of deceased registrants on the statewide voter registration list, Exhibit C to Churchwell

Dec. at 14, but ranked 21 out of 29 states for the most same-address duplicates showing a second vote credit in the 2016 election. Exhibit C to Churchwell Dec. at 22. The Foundation plans to analyze the current SVRL and see, among other things, whether South Carolina still performs well in same-address duplicates with a second vote credit and whether South Carolina improved in the number of deceased registrants on the list. Churchwell Dec. at ¶ 32.

The Foundation received another SVRL from South Carolina in 2022—2022 SVRL—and analyzed interstate duplicates. Churchwell Dec. at ¶ 48. The Foundation compared the 2022 SVRL to other states’ voter registration lists including California, Colorado, Connecticut, Florida, Michigan, New York, North Carolina, and Pennsylvania. Churchwell Dec. at ¶ 48; Exhibit D to Churchwell Dec. The Foundation found many interstate duplicates. Exhibit D to Churchwell Dec. It intends to do a similar analysis of the current SVRL to determine whether South Carolina improved its list maintenance procedures to limit, or better yet, eradicate, the number of interstate duplicates on the SVRL. Churchwell Dec. at ¶ 32.

The Foundation intends to analyze the SVRL for errors state and federal law already require South Carolina to fix.²

For example, the Help America Vote Act (“HAVA”) requires South Carolina have a “single, uniform, official, centralized, interactive computerized statewide voter registration list”

² In discovery, the Foundation asked for evidence of problems or potential problems with SVRL list maintenance procedures, ECF No. 69-8 at 5 (Request for Product of Documents Number 6), that could have established that the Foundation could have fulfilled Congress’s purpose of “ensur[ing] that accurate and current voter registration rolls are maintained.” 52 U.S.C. § 20501(b)(4). The Commission, however, objected to the request and this Court denied the Foundation’s Motion to Compel, ECF No. 81, so the Foundation could not put forth this evidence. Regardless, the Foundation’s prior and intended activities adequately demonstrate that the Foundation is ready and capable of advancing Congress’s objectives.

that “shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.” 52 U.S.C. § 21083(a)(1)(A)(viii).

Further, the NVRA, HAVA, and state statutes require South Carolina to perform list maintenance to ensure the SVRL includes only eligible registrants. *See* 52 U.S.C. § 20507(c)(2)(A) (requiring South Carolina “complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters”); S.C. Code. § 7-5-340(A)(3) (same).

More specifically, South Carolina must remove duplicate names and deceased registrants. 52 U.S.C. § 20507(a)(4)(A) (requiring South Carolina “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of...the death of the registrant”); 52 U.S.C. § 21083(a)(2)(B)(iii) (requiring South Carolina perform voter registration list maintenance in a manner ensuring “duplicate names are eliminated from the computerized list”); S.C. Code. § 7-5-340(A)(1), (3) (describing circumstances for removal from the SVRL including because of death of the registrant).

The Foundation has a track record of conducting this work to advance Congressional purposes. It has assessed, albeit with less reliable data attained through a third party, how well South Carolina was maintaining accurate lists. Exhibits C and D to Churchwell Dec. The Foundation intends to do the same thing again to assess whether South Carolina improved or needs more work to ensure an accurate and current SVRL, as Congress intended. 52 U.S.C. § 20501(b)(4). Receiving the rolls directly from the Commission will increase the quality and reliability of the conclusions. Churchwell Dec. at ¶ 8.

The Foundation will analyze the SVRL for errors, report on the results of its analysis, and inform South Carolina of the effectiveness of its maintenance processes and areas for improvement to meet federal and state standards. Churchwell Dec. at ¶¶ 21-22. The Commission’s denial not only prevents the Foundation from doing its intended work, but the denial conceals mistakes.

Denial of the information to organizations with the skill to analyze it shields government officials from the scrutiny that Congress baked into the NVRA.

C. In Public Records Cases, the Foundation Does Not Need to Show Adverse Effects or Downstream Consequences.

The burden of establishing an injury should be light. The Fourth Circuit remanded this case for the purpose of putting forth evidence of the adverse effects it suffers from the Commission’s failure to provide it with the SVRL. *Wooten*, 164 F.4th at 366. The Foundation maintains that the denial of information Congress made public is sufficient for an Article III injury. Nevertheless, requiring an expansive and severe injury would nullify the Public Disclosure Provision.

“‘Sunlight is said to be the best of disinfectants’ for honest elections.” *Fontes*, 816 F. Supp. 3d at 986 (quoting *Buckley v. Valeo*, 424 U.S. 1, 67 (1976)). Requiring more than a denial of public information to have an injury turns these “right to know” statutes into “need to know” statutes and relieves governments of accountability through transparency.

This framework is antithetical to the purpose of sunshine laws. “Information about our government should be made available to citizens based on their *right* to know—not on their *need* to know.” *Campaign Legal Ctr.*, 49 F.4th at 939 (Ho, J., concurring) (emphasis in original). Under this new standing framework where requestors are required to prove their need for and use of the information, the government may prod and probe at what the requestor intends to do with the information and decide whether that is a “good enough” reason to see what their government is

doing. Inevitably, no reason will be good enough—the Commission’s response to this motion will likely demonstrate as much.

The Fourth Circuit also decided the case without the benefit of the Ninth Circuit’s recent decision in *Pub. Int. Legal Found., Inc. v. Nago*, 174 F.4th 664 (9th Cir. 2026), where the court applied the traditional informational injury doctrine and found the Foundation had standing based on Hawaii’s bare denial of the Foundation’s request for its statewide voter registration list.

The Ninth Circuit squarely addressed the question of standing for public records claims under the NVRA. The court held that the Foundation “has standing because the bare denial of a request for information under the NVRA causes an injury in fact sufficient to support Article III standing.” *Nago*, 174 F.4th at 670. “No additional adverse effects need be shown.” *Id.* at 674.

The Ninth Circuit concluded that *Pub. Citizen v. U.S. Dep’t of Just.*, 491 U.S. 440 (1989) and *FEC v. Akins*, 24 U.S. 11 (1998) remain controlling law on this issue and acknowledged that the Supreme Court has “long recognized that if a statute creates a broad public right to obtain information about the government, the denial of a request for information made pursuant to that statute causes an injury in fact.” *Id.* at 670.

The Ninth Circuit stressed that “[n]either *Akins* nor *Public Citizen* required a showing of adverse effects.” *Id.* at 673. As to the language from *Public Citizen* about the plaintiffs’ intended uses for the information, the Ninth Circuit explained that the Supreme Court “emphasized that its ‘decisions interpreting the Freedom of Information Act have never suggested that those requesting information under it need show more than that they sought and were denied specific agency records. There is no reason for a different rule here.’” *Id.* at 673-74 (quoting *Pub. Citizen*, 491 U.S. at 449). So too here.

The Ninth Circuit also rejected the argument that *TransUnion v. Ramirez*, 594 U.S. 413 (2021), changed the relevant standing analysis. Among other things, the plaintiffs in *TransUnion* “complained about formatting defects in certain mailings sent to them by TransUnion.” *TransUnion*, 594 U.S. at 418. Plaintiffs received all the information required by the Fair Credit Reporting Act, but in two separate mailings, when it should have been sent in one. *See id.* at 440-441. The Ninth Circuit determined *TransUnion* does not control where the litigant claims to have been *denied* information. *Nago*, 174 F.4th at 672. Further, *TransUnion* does not control because it “did not involve a sunshine law.” *Id.* In contrast, “[t]he public disclosure provision serves a transparency function, ensuring that the public may verify that list-maintenance activities are implemented lawfully....” *Id.* at 668.

The Ninth Circuit’s reasoning applies equally in this case. The Foundation’s request for public records under the NVRA was denied. Therefore, the Foundation has standing.

D. The Foundation Clears the Low Evidentiary Burden for Adverse Effects.

Even if it is true that Article III standing in this context requires some adverse effect, the burden to establish an injury for standing here is low and the Foundation clears it. In his concurrence in *Campaign Legal Ctr. v. Scott*, 49 F.4th 931 (5th Cir. 2022), Judge Ho recognized, “The evidence of injury required by *TransUnion* is ‘not...burdensome.’” *Campaign Legal Ctr.*, 49 F.4th at 940 (Ho, J. concurring).

Judge Ho also provided ways that standing under the NVRA could be satisfied. These included that “the information is necessary to engage in public advocacy about a pressing matter of policy” or “the information is essential to furthering Plaintiffs’ mission to protect the voting rights of various communities.” *Id.* The Foundation’s adverse effects from the denial of the SVRL coincide with Judge Ho’s examples and, in fact, exceed his catalog to vest standing.

The Foundation needs the SVRL to engage in its public policy objectives regarding election integrity, generally, and statewide voter registration lists, specifically. Congress and state legislatures have asked the Foundation to testify about the current condition of voter rolls and other list maintenance issues. Churchwell Dec. at ¶¶ 11-12; Exhibits A and B to Churchwell Dec. To do so, the Foundation requires up-to-date information about state voter registration lists. Churchwell Dec. at ¶ 20. Without South Carolina's current SVRL, the Foundation cannot do the kind of public policy work it intends to do, including commenting and providing its advice on the state of the SVRL and on how effective South Carolina's voter list maintenance procedures are in general and compared to other states. Churchwell Dec. at ¶ 21. Without the SVRL, the Foundation suffers from a gap in relevant knowledge when it provides Congressional and state legislative testimony.

Beyond the Foundation's independent policy work, a South Carolina resident is waiting on the Foundation's analysis and report to share it with her contacts in the South Carolina state government so legislators can improve the South Carolina voter list maintenance process. Seckinger Dec. at ¶¶ 2-4.

To Judge Ho's second example of a sufficient adverse effect relating to the plaintiff's organizational mission and protecting voters' rights, the Foundation's mission is "to assist states and others to aid the cause of election integrity and fight against lawlessness in American elections." *Mission and Impact*, PUBLIC INTEREST LEGAL FOUNDATION, <https://publicinterestlegal.org/about/> (last accessed Oct. 16, 2026). The Foundation plans to accomplish this in South Carolina by analyzing the SVRL for its accuracy and currency, identifying any errors, and producing a report to inform the public and policymakers about what it finds, Churchwell Dec. at ¶¶ 22-24, Exhibit G to Churchwell Dec. *See Project Vote*, 682 F.3d at

339 (explaining it is “selfevident” maintaining accurate and current voter registration lists may advance election integrity). This work necessitates access to the SVRL. Churchwell Dec. at ¶ 22.

The Foundation goes beyond Judge Ho’s “low burden” standard with its other, specific, plans. For one, the Foundation intends to compare the SVRL with ERIC SSA Corrections Updates to ensure prompt and proper re-enfranchisement of those erroneously disenfranchised. Churchwell Dec. at ¶¶ 35-37. The Foundation did this work in other states, reported on the problems to the United States Department of Justice, Exhibit H to Churchwell Dec., and intends to do this analysis in South Carolina as well. Churchwell Dec. at ¶¶ 34-37.

Project Vote was decided before *TransUnion*, but it is worth noting that the plaintiff in that case was a “nonprofit organization seeking to increase voter registration among young, low-income, and minority voters,” *Project Vote*, 682 F.3d at 333. *Project Vote* had similar adverse effects from the denial of its NVRA request as the Foundation in this case and the Eastern District of Virginia found it had standing. *Project Vote/Voting for Am., Inc. v. Long*, 752 F. Supp. 2d 697 (E.D. Va. 2010). The defendant did not raise standing on appeal, and the Fourth Circuit did not disturb the District Court’s ruling on standing. *Project Vote*, 682 F.3d 331. The plaintiff in that case wanted voter registration records to investigate whether “students’ registration applications had been erroneously rejected by the Norfolk General Registrar.” *Id.* Similarly, the Foundation intends to use the SVRL and SSA Corrections Updates to ensure South Carolina is applying adequate remedial measures to re-enfranchise improperly removed registrants. Churchwell Dec. at ¶ 36. In *Project Vote*, the plaintiff was not a voter who was denied registration. The injury suffered by *Project Vote* was far more detached from any downstream consequence than the Foundation’s injury here.

The Foundation also intends to compare the SVRL to statewide voter registration lists in neighboring states, including North Carolina, to assess whether the SVRL possesses interstate duplicates. Churchwell Dec. at ¶ 25. The Foundation will also compare the current SVRL with analyses it did with previous years' SVRLs. Churchwell Dec. at ¶ 26.

Judge Ho described the low burden to vest standing. The Foundation has more than a general interest or curiosity in the SVRL. It has specific plans it intends to fulfill and projects it intends to complete that effectuate Congress's purposes in enacting the NVRA, but cannot complete, because the Commission withholds documents Congress made public. The Foundation has standing.

E. Other Courts Found the Foundation's Injuries Meet the Article III Standard.

Other district courts found the Foundation, or a similar organization, has standing for information denial injuries. Both the Districts of Arizona and Massachusetts recently found nearly identical adverse effects sufficient to meet the Article III standing requirement.

In *Pub. Int. Legal Found., Inc. v. Fontes*, 816 F. Supp. 3d 984 (D. Ariz. 2026), the Foundation requested and the state denied access to different NVRA documents—ERIC SSA Corrections Updates. *Fontes*, 816 F. Supp. 3d at 987. The Foundation alleged the denial prevented it from “evaluating Arizona’s compliance with state and federal voter list maintenance obligations,” “hinder[ing] its ability to ‘propos[e] best practices and solutions that will assist Arizona in carrying out its voter list maintenance programs and activities and help ensure Arizona’s voter roll is accurate and current,’” “speaking (and educating) about matters of public importance—namely, erroneous disenfranchisement of voters and voter roll accuracy,” and “frustrat[ing] the Foundation’s accumulation of current and timely institutional knowledge,” impeding “its efforts to carry out its organizational mission.” *Fontes*, 816 F. Supp. 3d at 990.

The *Fontes* court held the Foundation adequately alleged it had Article III standing. *Id.* at 992. The court explained the Foundation “identifie[d] specific categories of reports” and “allege[d] that denial of the records prevents it from providing policy advice and testimony to state officials and Congress.” *Id.* at 991. The *Fontes* court used the Foundation’s specific intended activities to distinguish the injury in *Fontes* from the facts alleged in *Pub. Int. Legal Found., Inc. v. Sec’y of Pa.*, 136 F.4th 456 (3d Cir. 2025) and *Pub. Int. Legal Found., Inc. v. Benson*, 136 F.4th 613 (6th Cir. 2025) where the courts did not find the Foundation had standing. *Id.* at 991 (explaining the Foundation alleged “downstream consequences with more particularity than it did in *Secretary of Pennsylvania* and *Benson*.”).

The *Fontes* court found the alleged injuries were “particularized to the Foundation because they affect[] the Foundation’s own activities, not a generalized public interest,” “concrete because they involve the inability to produce specific work product,” and “actual and not hypothetical because the Foundation alleges it sought the records, was denied, and cannot now complete the work it intended to do with them.” *Id.*

The Foundation suffers the same adverse effects, with even more particularity and concreteness, from the Commission’s denial here. As in that case, the Foundation here cannot evaluate South Carolina’s compliance with voter list maintenance obligations, it cannot propose best practices and solutions that will help South Carolina with carrying out its list maintenance programs, it cannot speak about the erroneous disenfranchisement of voters and voter roll accuracy, and the Commission frustrates the Foundation’s accumulation of institutional knowledge and prevents it from carrying out its organizational mission. Churchwell Dec. at ¶¶ 21-26, 32-38.

The Foundation also put forth evidence of its adverse effects. *See* Churchwell Dec. and Exhibits A through H to Churchwell Dec. The Foundation also produced seventy (70) pages of written discovery and 623 pages of documents to the Commission. Churchwell Dec. at ¶ 53. Most notably, the Foundation does not simply *describe* the specific kinds of reports it intends to produce, but it also submits a draft report it will publish as soon as the Commission gives the SVRL to the Foundation and the Foundation fills in the particulars. Churchwell Dec. at ¶¶ 22-24; Exhibit G to Churchwell Dec.

Similarly, in *Voter Reference Found., LLC v. Galvin*, No. 24-cv-12592-DJC, 2026 U.S. Dist. LEXIS 64416 (D. Mass. Mar. 26, 2026), Voter Reference Foundation requested, and the state denied access to, voter registration records under the NVRA. *Galvin*, 2026 U.S. Dist. LEXIS 64414, at **7-8. Assuming without deciding whether standing in informational injury cases require adverse effects, the *Galvin* court found Voting Reference Foundation’s allegations of adverse effects of the denial meet the requirements under the adverse effects standard. *Id.* at 14. These adverse effects included the inability to “share the data online,” “conduct comparative analysis on voting history, and “access statewide data produced at the same point in time.” *Id.* at 17-18.

Once again, the Foundation alleges, and proves, the same kinds of adverse effects here. The Foundation intends, but is unable, to analyze the SVRL for its accuracy and currency and produce and disseminate a report describing the results of its analysis. Churchwell Dec. at ¶¶ 21-24. The Foundation also cannot educate and inform members of Congress, the South Carolina legislature, and other election officials about the state of the SVRL or provide advice on voter list maintenance best practices or remedies to any errors discovered on the SVRL. Churchwell Dec. at ¶¶ 11-12. These adverse effects relate to the NVRA’s purpose of “ensur[ing] that accurate and

current voter registration rolls are maintained.” *Galvin*, 2026 U.S. Dist. LEXIS 64416, at **17-18 (quoting 52 U.S.C. § 20510(b)(4)).

Based on specific evidence of adverse effects, this Court should follow the reasoning of the U.S. District Courts for the Districts of Arizona and Massachusetts and find the Foundation has standing in this case.

F. This Case Materially Differs From Cases Where Standing Was Not Allowed.

Decisions from the Third Circuit and Sixth Circuit faulted the Foundation for not identifying “specific plans for the records it sought relating to the purpose of the NVRA.” *Sec’y of Pa.*, 136 F.4th at 468; *Benson*, 136 F.4th at 631 (“Neither the complaint nor PILF’s briefs identify, for example, specific projects, research papers, or educational outreach efforts that were directly impacted by Secretary Benson’s failure to produce relevant records.”). While the Foundation disagrees that it must identify specific plans to have standing, it has done so here. It has drafted a report with placeholders that will be filled in once the Foundation has analyzed the SVRL. Exhibit G to Churchwell Dec. The Foundation plans to share this report with an identified person, Seckinger Dec., Churchwell Dec. at ¶ 32, and the public and lawmakers. These plans are specific and imminent.

CONCLUSION

For the foregoing reasons, the Foundation requests this Court find it has standing under Article III of the Constitution and grant its motion for summary judgment. The Foundation also requests this Court adopt its prior Order and Declaratory Judgment on Count I of the Complaint (ECF Nos. 38-39).

Dated: October 16, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification to all counsel of record in this case.

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