County of San Diego

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Adam Gordon, United States Attorney
U.S. Department of Justice
Southern District of California
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893

RE: Notice of Suspected Likely Aliens on San Diego County Voter Roll

Dear Mr. Gordon:

This letter acknowledges County of San Diego Registrar of Voters Shawn Brom's (ROV) receipt of the U.S. Department of Justice's (DOJ) letter dated October 23, 2026. The letter was accompanied by a flash drive purporting to contain a list of "1,709 likely aliens."

In that letter, you demand that the ROV "[w]ithin 48 hours . . . commit to working with DOJ and DHS to identify who on the accompanying list is a citizen and who is not" by sending DOJ confidential, "nonpublic" voter registration information—including Social Security numbers, state ID and/or driver's license information, voter registration applications, and a copy of any documents presented during voter registration—for all 1,709 people on the list. It also demands that, the ROV "segregate" and not count the ballots of these 1,709 people unless and until their citizenship is confirmed.

The ROV is committed to ensuring that only eligible voters cast a ballot. The ROV is equally committed to ensuring that every eligible voter can exercise their Constitutional right to vote free from threat or intimidation. To that end, the ROV follows all state and federal laws that govern election administration. Those laws cover voter registration and citizenship attestation requirements (Cal. Elec. Code §§ 2101, 2102, 2111, 2112, 2150) and also require the ROV to mail ballots to all registered voters and process each of those ballots when received (*Id.* §§ 15101(b)(1), 3003, and 3019). And state law provides procedures to challenge a voter's eligibility. *Id.* §§ 14240(a), 15105, 15106. As the 9th Circuit Court of Appeal in *United States v. California* correctly pointed out just

yesterday, "California—like all states—comprehensively regulates the administration of its elections, and its officials are not free to diverge from the procedures directed by the state legislature."

As you are no doubt aware, the Elections Clause of the U.S. Constitution grants each State the authority to prescribe the time, place and manner of elections and Congress the ability to alter those rules. U.S. Const. art. I, § 4, cl. 1. This authority over "times, places, and manner" of elections include procedures regarding "registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, . . . and numerous requirements as to procedure and safeguards . . .." *Smiley v. Holm*, 285 U.S. 355, 366 (1932). The DOJ, as part of the Executive Branch, has no authority to interfere with that procedure. Even if DOJ had such authority, any change to election rules at this stage of an election, which is already underway, is prohibited by *Purcell v. Gonzalez*, 549 U.S. 1 (2006). *See also, People Not Politicians v. Onder*, No. 26A388, 2026 WL 2883222, at *2 (U.S. Sept. 25, 2026) (per curiam) (the "*Purcell* principle applies with even greater force here" when "[t]he election is not merely upcoming; it has already started.")

DOJ's request would also violate the National Voter Registration Act's ("NVRA") prescribed ninety-day "quiet period," within which voters may not be systematically removed from rolls, *see* 52 U.S.C. § 20507(c)(2), and the mandate under the Voting Rights Act to "permit any person to vote who is entitled to vote," 52 U.S.C. § 10307(a). In short, the ROV is legally prohibited from taking the actions requested in the letter and is, therefore, unable to comply with the requests.

Additionally, the DOJ's letter does not provide specific, actionable information regarding the source or accuracy of the allegations that each of the 1,709 reported County residents is a "likely" noncitizen. The letter is accompanied by declarations from two individuals who state they helped create the statewide list of alleged noncitizens.

The declarations make clear that DOJ's analysis—which started with "what appeared to be the California voter roster" that "appeared credible enough"—has relied in large part on unknown "third party commercial data" and the federal government's notoriously inaccurate citizenship records.[1] Indeed, DOJ concedes that the data may be "incomplete,

[1] As another federal court also very recently noted, the federal government's citizenship records are "known to be unreliable." *Common Cause, et al. v. Department of Justice, et al.*, No. 1:26-cv-01352, 2026 WL 3033772, at *8 (D.D.C. Oct. 9, 2026); *see also* U.S. Social Security Administration, *Social Security Corrects Tens of Millions of Files in the Social Security Number Database Improving the Integrity of Vital Records* (Oct. 20, 2026), https://www.ssa.gov/news/en/press/releases/2026-10-20.html ("SSA is currently in the process of correcting an additional 8.5 million records with inaccurate citizenship status."); Jen Fifiefl & Zach Despart, The Texas Tribune, *A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas.* (Feb. 13, 2026),

outdated, or dispatched." (Bartell Dec. ¶ 16). Less than forty-eight hours before your letter was delivered, a federal court in the Northern District of California enjoined the federal government from conducting certain election-related field operations in California based on records generated by its "reliance on admittedly flawed and incomplete data," including "data that is widely known to inadvertently include U.S. citizens." *California Nurses Association, et al. v. Mullin, et al.*, No. 4:26-cv-10680-AMO, 2026 WL 3166149, at *1–2, 8–10 (N.D. Cal. Oct. 21, 2026).

The fact that your letter requests confidential voter information in order to confirm DOJ's unsubstantiated allegations against County residents is further proof that the list of 1,709 individuals is just that—unsubstantiated.[2] In fact, Acting Deputy Attorney General Trent McCotter has publicly admitted that there may be errors in these lists, and that has proven true. Los Angeles County's investigation into the list that was provided to it indicates that such errors are rampant. Of the individuals in the sample Los Angeles reviewed, over 40% have canceled registrations, and over a third were born in the United States, automatically making them citizens. And a spot check of a random 10% of the list sent to San Diego County also reveals significant reasons to doubt the reliability of that list. 59% of that sample currently have canceled voter registrations and 74% have no recorded history of voting in San Diego County. Moreover, inconsistent and incomplete date-of-birth information complicates reliable identity verification and reduces the likelihood of successfully matching corresponding records.

The DOJ's request is a thinly veiled voter purge and request for confidential voter information without a proper purpose. DOJ has attempted this before and was resoundingly rebuffed in *United States v. Weber*, 816 F. Supp. 3d 1168, 1174 (C.D. Cal. 2026) (holding that DOJ's efforts to obtain confidential voter information from California's voter rolls, including social security numbers as "unprecedented and illegal.")

Notably, DOJ has not presented the County with a judicial warrant for the confidential information it seeks. DOJ certainly knows how to obtain a judicial warrant and could have done so if it had a sufficient evidentiary basis for the allegations in the letter. But as

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https://www.texastribune.org/2026/02/13/save-voter-citizenship-tool-mistakes-confusion/; Clint Swift & Jiamin Huang, *The 'SAVE' Tool Could Disenfranchise U.S. Citizens* (August 2025), https://protectdemocracy.org/wp-content/uploads/2025/09/SAVE_DOGE-Full_graphics.pdf.

[2] As evidence that DOJ's demands are justified, you note that DOJ "charged 28 aliens for unlawful voting and registration offenses, each of whom was on the list provided to the California Secretary of State." But as you know, criminal charges or arrests are not a basis for voter registration cancellation—or any other ROV action—under either state or federal law.

DOJ counsel represented to the Ninth Circuit in oral argument in *U.S. v. California* just this past Sunday: these inaccurate, unsubstantiated lists are "all the evidence we have." In short, it is clear that DOJ's lists are deeply flawed, and the County will not be bullied into participating in DOJ's fishing expedition for more definitive information.

Your letter cites no statutory or other legal authority that would allow DOJ to direct a county's administration of ballots. The opposite is true: DOJ is demanding that the ROV engage in an unlawful course of conduct. The ROV will not do so. It intends to carry out its constitutional mandate ethically and soundly.

First, federal and state law support and require voter registration when eligibility requirements are met by attestation from an applicant. 52 U.S.C. §§ 20501 *et seq.*, 20504; Cal. Elec. Code §§ 2102–03, 2105–06. For voter registration purposes, a person may prove they are a citizen by their certification under penalty of perjury on the affidavit of registration. Cal. Elec. Code § 2111. Such attestation shall be deemed evidence of citizenship for voting purposes only. Cal. Elec. Code § 2112. As such, the ROV is required to register voters when eligibility requirements are met by the voter's own attestation of citizenship and associated identification information that is verified through the California statewide voter registration database maintained and regulated by the California Secretary of State, in addition to a number of other voter eligibility criteria reviewed and managed by other agencies. The ROV does not, nor is it authorized to, independently investigate an applicant's citizenship status. Any investigation regarding a registered voter's eligibility must be based on individualized evidence that would be referred to and handled by other enforcement and investigative agencies, such as the California Secretary of State or the California Attorney General. But even more problematically, your letter demands that, less than two weeks away from Election Day and without any identified authority, the ROV segregate and not process ballots for individuals on the list until "their citizenship status can be determined." The letter does not explain who would make such a determination, how, or when—much less whether such a determination would occur prior to the legal close of the voting period. The ROV is not authorized to treat any registrant's ballot differently, withholding it for an unspecific amount of time including past the mandatory vote counting deadline, on the basis that it is awaiting word from an unspecified authority that the registrant's vote may be counted.

Second, under 52 U.S.C. section 10307(a), "[n]o person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote . . . or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote." Notice of unverified and uncorroborated allegations of voter ineligibility does not authorize the ROV to violate this federal law. Indeed, a failure to register voters as required by federal and state law can subject the ROV to civil enforcement and a private right of action. 52 U.S.C. § 20510; Cal. Elec. Code § 2142.

Third, you offer no legal authority for the proposition that the ROV can produce unredacted confidential voter information without a subpoena or warrant. California law prohibits the disclosure of the information you request, absent some form of court order or a confidentiality agreement. *See, e.g.*, Cal. Gov't Code §§ 7921.505(c)(5), 7924.000, 7924.005; Cal. Elec. Code § 2194(b). Unlawfully distributing confidential voter information can also subject the ROV to a private right of action. Cal. Elec. Code § 2194(d). The ROV cannot and will not disclose the confidential information of almost 2,000 reported county residents in response to an unsubstantiated letter. The requested action would be unlawful and a breach of voters' trust of the highest order.

As you acknowledge in your letter, the NVRA does indeed safeguard against systematic removals of ineligible voters ahead of a federal election. You reference "targeted, individualized evidence of unlawful voting," but you have simply provided a list of names unsupported by evidence. We understand that your goal is to have California (through its counties) withhold the ballots of all 20,000 registrants until such time as California conclusively proves that those individuals are citizens. Splitting the DOJ's list of more than 20,000 California registrants into county-by-county lists does not transform a systematic effort into an individualized one. At this stage, while you may not be demanding cancellation—a request that would be patently premature in light of the total lack of evidence presented in your letter—DOJ's action as described in the letter and attached declarations can only be described as "systematic." You present no individualized evidence, which would ultimately be required for the ROV to take any action as to any of the registrants on your list.

DOJ's requests would jeopardize San Diegans' constitutional right to vote and risk violation of the Voting Rights Act, the NVRA, the California Constitution, and California state laws affording eligible voters the right to access a mail-in ballot and cast a vote. The ROV rejects DOJ's invitation to violate both state and federal law based on nothing more than unsubstantiated suspicions regarding a person's citizenship.

Based on the foregoing, the ROV is unable to comply with DOJ's demands. Be aware that we consider DOJ's efforts to threaten California election officials with criminal

sanctions for following federal and state law to be an effort to unlawfully intimidate both election officials and California voters. The County reserves its rights to pursue all legal remedies against DOJ for its unlawful intimidation of election officials and California voters. The ROV will continue to comply with federal and state laws while it conducts free and fair elections in this county.

Very truly yours,



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