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October 25, 2026

BY ELECTRONIC MAIL

Craig H. Missakian
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Northern District of California
11th Floor, Federal Building
450 Golden Gate Ave., Box 36055
San Francisco, CA 94102
craig.missakian@usdoj.gov

Re: DOJ Demand Letter Dated October 23, 2026

Dear Mr. Missakian:

This letter acknowledges County of Santa Clara Registrar of Voters Matt Moreles's (ROV) receipt of the U.S. Department of Justice's (DOJ) letter dated October 23, 2026, hand delivered to the Office of the County Counsel for the County of Santa Clara in San José at approximately 12:39 p.m. PDT. The letter was accompanied by a printout of what the letter describes as a list of "902 likely aliens."

Your letter demands 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 902 people on the list. It also demands that, on the basis of a printed spreadsheet of names and addresses, the ROV "segregate" and not count the ballots of these 902 people.

The ROV is legally prohibited from taking the actions requested in the letter and is, therefore, unable to comply with the requests. As a preliminary concern, the letter does not provide specific, actionable information regarding the source or accuracy of the allegations that each of the 902 reported county residents is a "likely" noncitizen. The letter is accompanied by declarations from two individuals who state they helped create the list of alleged noncitizens.

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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 The problem of the reliability of federal records hardly needs to be explained to DOJ: 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 902 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 sample of the list sent to Santa Clara County also reveals significant errors. None of the names checked has any history of a successfully counted ballot. Roughly a third of the sample were canceled voter registrations, some of which were canceled as far back as 2019. On the first page alone, one name appears three times, with the same date of birth and address in all three instances, suggesting there may be further duplicates throughout the list.

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 DOJ counsel represented to the Ninth Circuit in oral argument in *U.S. v. California* just this afternoon: these

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 Fiefel & Zach Despart, *The Texas Tribune, A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas.* (Feb. 13, 2026), <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.

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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 § 2114. 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 unspecified 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

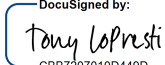
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confidentiality agreement. *See, e.g.*, Cal. Gov't Code §§ 7921.505(c)(5), 7924.000, 7924.005; Cal. Elec. Code § 2194(b). Unlawfully distributing confidential voter information can also subject the ROV to a private right of action. Cal. Elec. Code § 2194(d). The ROV cannot and will not disclose the confidential information of almost 1,000 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 federal National Voter Registration Act (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 DOJ conclusively proves that those individuals are noncitizens, requiring voter registration cancellation. 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.

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,

DocuSigned by:

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TONY LOPRESTI
County Counsel