Nos. 19-251, 19-255

IN THE

Supreme Court of the United States

AMERICANS FOR PROSPERITY FOUNDATION,
Petitioner,

v.

MATTHEW RODRIQUEZ,
ACTING ATTORNEY GENERAL OF CALIFORNIA,
Respondent.

THOMAS MORE LAW CENTER,
Petitioner,

v.

MATTHEW RODRIQUEZ,
ACTING ATTORNEY GENERAL OF CALIFORNIA,
Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF AMICI CURIAE PUBLIC CITIZEN AND PUBLIC CITIZEN FOUNDATION IN SUPPORT OF RESPONDENT

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March 2021

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INTEREST OF AMICI CURIAE[1]

Public Citizen and Public Citizen Foundation (collectively, Public Citizen) are nonprofit consumer advocacy organizations with members and supporters nationwide. Public Citizen advocates before Congress, administrative agencies, and the courts on a wide range of issues, and works for enactment and enforcement of laws protecting consumers, workers, and the public. Public Citizen's longstanding concerns include issues relating to First Amendment rights of speech and association. Public Citizen also recognizes that, in a variety of contexts, disclosures relating to organizational funding, especially but not only as to organizations engaged in electoral advocacy, promote significant public and governmental interests.

Public Citizen strongly supports, and depends on, the First Amendment right of citizens to associate freely to advance common interests. And Public Citizen has opposed unwarranted interferences with that right, as well as with the related right of individuals to engage in anonymous speech. Public Citizen Foundation is itself subject to the California requirements at issue in this case and would be among the entities adversely affected if those requirements stifled associational freedoms. However, Public Citizen also recognizes that donor-disclosure requirements affecting tax-exempt charities, as well as organizations engaged in political advocacy, may advance substantial governmental interests while involving relatively small impacts on associational freedoms—whether

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[1] This brief was not authored in whole or part by counsel for a party. No one other than amici curiae made a monetary contribution to preparation or submission of the brief. Counsel for all parties have consented in writing to its filing.

those requirements involve confidential disclosures to government regulators, as in this case, or public disclosures such as those typically imposed on groups active in electoral politics.

Public Citizen submits this brief to emphasize that this Court's decisions have struck the appropriate balance by subjecting disclosure requirements and other regulations that affect associational rights in similar ways to a level of scrutiny that is more flexible than strict scrutiny, yet still demanding—one that requires assessment of the sufficiency of the governmental interest at stake in light of the *actual* burden imposed on associational rights. Under that standard, the requirements at issue in this case are constitutional both on their face and as applied.

SUMMARY OF ARGUMENT

This Court's decisions recognize that requirements that organizations disclose the identity of their members and financial supporters may significantly affect associational freedoms protected by the First Amendment. At the same time, the Court has recognized that such requirements do not affect First Amendment rights as severely as laws that directly penalize association or restrict speech based on its content. Thus, the Court has not required strict scrutiny of donor-disclosure requirements that may affect associational rights. Instead, the Court has held that such requirements may be imposed if they are substantially related to a governmental interest that is sufficiently important to justify the *actual* burden imposed on associational rights. Applying that standard, the Court has upheld many disclosure requirements, most often in matters relating to elections.

Here, the actual burden imposed by California's disclosure requirements, in most of their applications, is relatively small. The charities to which they apply are for the most part not engaged in advocacy on controversial matters, and most contributions subject to them do not involve substantial communicative, associational, or privacy interests. Critically, the disclosures are also not public; they are submitted to state authorities confidentially. Because the regulatory interests advanced by the state are ample to justify the *typical* application of the requirements, petitioners' facial challenge must fail.

Petitioners' as-applied challenge fares no better. This Court's decisions recognize that an organization may bring an as-applied challenge to a facially constitutional disclosure requirement if the organization demonstrates a *reasonable probability* that application of the requirement will result in threats, harassment, or reprisals against its supporters. Petitioners claim that public disclosure of their donors' identity would lead to such reprisals, but they have not shown a reasonable probability of such harm because they have not shown that it is reasonably likely that their information will ever be disclosed to the public. They thus have shown no basis for prohibiting the collection of their information. Moreover, even if petitioners could show that California's safeguards against public disclosure warrant improvement, such a showing would, at most, entitle them to injunctive relief requiring better protections against disclosure—relief they do not ask this Court to provide them.

ARGUMENT

I. This Court's decisions require that donor-disclosure requirements be substantially related to an interest sufficient to justify the burden imposed on First Amendment freedoms.

This Court has consistently evaluated First Amendment challenges to requirements that organizations disclose information about their members and contributors under a standard of scrutiny that is significantly more stringent than rational-basis scrutiny and less stringent than strict scrutiny. Under the applicable standard, the Court upholds disclosure requirements if there is "'a "substantial relation" between the disclosure requirement and a "sufficiently important" governmental interest.'" *Doe v. Reed*, 561 U.S. 186, 196 (2010) (quoting *Citizens United v. FEC*, 558 U.S. 310, 366–67 (2010) (quoting *Buckley v. Valeo*, 424 U.S. 1, 64 (1976)).

This standard differs from the strict scrutiny applicable to content-based restrictions and prior restraints on noncommercial speech, as well as to severe infringements on First Amendment-protected association, in that it does not require disclosure requirements to be supported by a compelling government interest. Rather, disclosure requirements must be supported by an interest that is *sufficient* in light of the nature of the requirement at issue: "[T]he strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights." *Id*. (quoting *Davis v. FEC*, 554 U.S. 724, 744 (2008) (citing *Buckley*, 424 U.S. at 68)). In addition, the standard requires only a "substantial relation" between means and ends, *id*., not the narrower tailoring

required by strict scrutiny's demand that the government employ the least restrictive means of meeting its objective.

At the same time, the standard for assessing disclosure requirements demands much more of the government than the rational-basis standard applicable to laws that do not implicate fundamental rights. *See*, *e.g.*, *Ysursa v. Pocotello Educ. Ass'n*, 555 U.S. 353, 359 (2009). Rational-basis review involves no weighing of the importance or sufficiency of the governmental interest supporting a law; the interest need only be "legitimate." *Box v. Planned Parenthood of Ind. & Ky., Inc.*, 139 S. Ct. 1780, 1782 (2019). Nor does rational-basis review require a substantial connection between means and ends. It is enough that the means and ends be "rationally related," *id.*—that is, that a reasonable person *could* think the law served a legitimate interest.

The Court's assessment of contributor-disclosure requirements under a standard that falls between strict and rational-basis scrutiny reflects the nature of the intrusion into First Amendment-protected interests that disclosure requirements entail. Such requirements do not prevent anyone from speaking, *see Citizens United*, 558 U.S. at 366, or even from speaking anonymously, *see McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995). Such requirements also do not impose content- or viewpoint-based speech restrictions, which are subject to strict scrutiny because they implicate the First Amendment's core concern of preventing governmental attempts to "restrict expression because of its message, its ideas, its subject matter, or its content." *Barr v. Am. Ass'n of Pol. Consultants*, 140 S. Ct. 2335, 2346 (2020) (quoting *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 95 (1972)).

Likewise, disclosure requirements have less impact on associational rights than laws that prohibit individuals from associating with one another in particular groups, *see De Jonge v. Oregon*, 299 U.S. 252 (1937), or compel unwanted association, *see Boy Scouts of Am. v. Dale*, 530 U.S. 640 (2000). They do not directly penalize a person's acts of association by making those acts the basis for deprivation of the ability to pursue employment or the opportunity to travel. *See*, *e.g.*, *Elrod v. Burns*, 427 U.S. 347 (1976); *United States v. Robel*, 389 U.S. 258 (1967); *Keyishian v. Bd. of Regents*, 385 U.S. 589 (1967); *Aptheker v. Sec. of State*, 378 U.S. 500 (1964). And they do not preclude members of disfavored groups from access to our country's mechanisms of self-government. *See*, *e.g.*, *Williams v. Rhodes*, 393 U.S. 23, 30–32 (1968). Disclosure laws generally lack the direct, severe impacts that trigger strict scrutiny of laws that directly infringe associational freedom.

At the same time, however, disclosure requirements can involve significant infringements of associational freedoms. Broad public disclosure requirements aimed at identifying members of controversial groups, or groups whose lawful activities offend government authorities and their supporters, may create threats of retaliation and suppression of concerted activity that could, depending on the circumstances, "constitute as effective a restraint on freedom of association" as more direct interference with the ability of individuals to join together for common purposes. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 462 (1958). Under some circumstances, disclosures limited to government officials may have similar effects. *See*, *e.g.*, *Gibson v. Fla. Legis. Investigation Comm.*, 372 U.S. 539 (1963). And even absent

circumstances that suggest the likelihood of retaliation, individuals have a legitimate interest in the privacy of their associations. *Buckley v. Valeo*, 424 U.S. at 64.

The interests affected by disclosure, however, do not override all competing interests, and not all disclosure requirements affect them to the same degree. A broad requirement that a lawful organization disclose its entire membership to the public entails a much greater intrusion into associational privacy interests than a more targeted requirement that financial information be disclosed privately to government regulators. And although disclosures of financial contributors "may" involve significant intrusions on "privacy of belief," *Buckley*, 424 U.S. at 66, that is not inevitably the case. Contributions to charities that engage in activities, aside from advocacy, that are widely regarded as contributing to the public good may involve a minimal degree of association and an even lesser interest in privacy. *Cf. Doe v. Reed*, 561 U.S. at 200–01 (noting minimal intrusion on privacy in disclosures concerning support for relatively uncontroversial matters). Disclosures limited to very large contributions involve less intrusion on association because they permit individuals to engage in the "symbolic act of contributing" without triggering the disclosure requirement. *Buckley*, 424 U.S. at 21. And, outside of circumstances where governmental retaliation is a substantial concern, disclosures limited to government regulators involve considerably less intrusion on associational privacy than public disclosures. *See Nixon v. Admin. of Gen. Servs.*, 433 U.S. 425, 467 (1977); *Whalen v. Roe*, 429 U.S. 589, 602–05 (1977).

The standard of review this Court has devised for disclosure requirements and other laws and

government actions that affect associational freedoms but do not inherently involve severe restrictions on such freedoms appropriately reflects the degree to which constitutionally protected interests are at stake. Unlike content-based restrictions on fully protected speech, which this Court has found to be intrinsically so suspect as to call for strict scrutiny, *see Barr*, 140 S. Ct. at 2346, government actions affecting associational rights do so in a broad range of ways and to many different degrees. Assessing the constitutionality of such actions requires a nuanced consideration of whether the "the strength of the governmental interest" invoked to justify the action "reflect[s] the seriousness of the actual burden on First Amendment rights." *Doe*, 561 U.S. at 199 (citation omitted).

With respect to disclosure requirements affecting associational rights, therefore, the Court assesses the sufficiency of the government's justification and the substantiality of the relationship of means and ends in relation to the degree of impact on protected interests. *See id.* In addressing the related issue of the impact of contribution *limits* on associational freedoms, the Court engages in a comparable inquiry into whether the limits are "closely drawn" to serve a "sufficiently important interest." *McCutcheon v. FEC*, 572 U.S. 185, 197 (2014) (citations omitted). And in assessing election laws that affect associational rights but do not severely limit them (by for, example, effectively freezing disfavored groups out of the process entirely), the Court "must weigh 'the character and magnitude of the asserted injury' " to associational rights "against 'the precise interests put forward … as justifications for the burden …,' taking into consideration 'the extent to which those interests make it necessary to burden the plaintiff's rights.' " *Burdick v. Takushi*,

504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)). The analysis applicable to all these kinds of impacts on associational freedoms is "flexible," *id*., while remaining sufficiently "rigorous" to protect the interests at stake, *McCutcheon*, 572 U.S. at 197.

The parties, the United States, and many of the amici label the standard applicable to disclosure requirements affecting association "exacting scrutiny," echoing the use of that phrase in a number of this Court's decisions. Those decisions, however, have not used the phrase entirely consistently. *Buckley*, for example, uses the phrase to describe both the strict scrutiny applied in that case to strike down limits on independent political campaign expenditures, *see* 424 U.S. at 44, and the less stringent scrutiny applied to uphold disclosure requirements, *see id*. at 64. *Citizens United* uses the phrase to describe the lesser scrutiny applicable to disclosure requirements, 558 U.S. at 366, in contrast to the strict scrutiny applicable to direct restraints on speech, *id*. at 340. *Doe* uses "exacting scrutiny" in the same way. *See* 561 U.S. at 196. *McCutcheon*, however, uses "exacting scrutiny" to describe the *strict* scrutiny applicable to expenditure limits. 572 U.S. at 197 (citing *Sable Comm'c'ns of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989), which applied strict scrutiny to a content-based restriction on fully protected speech).[2] *McCutcheon* uses the term "closely drawn" scrutiny to describe the intermediate level of

[2] *McIntyre* also uses the term "exacting scrutiny" to describe the strict scrutiny applicable to a restriction of pure speech. *See* 514 U.S. at 344–47 & n.10; *see also id*. at 370 (Thomas, J., concurring in the judgment) (describing majority opinion as applying strict scrutiny).

scrutiny applicable to contribution limits. *Id.* at 197. *McCutcheon*'s description of that standard, requiring a "sufficiently important" state interest and a fit between means and ends that is substantial but not "least restrictive," *id.* at 197, 218, is substantively the same as the intermediate standard applied to disclosures in *Citizens United* and *Doe*.

In light of these variations in usage, the word "exacting" may be best understood not as precisely defining a standard of scrutiny, but as an adjective that describes the extremely exacting strict scrutiny applicable to content-based speech restraints and direct or severe limits on association, as well as the less demanding but still exacting scrutiny applicable to requirements that burden association less directly. Whatever name is applied to it, however, the standard this Court has applied to disclosure requirements and other regulations that implicate but do not severely restrict associational liberty falls in between strict scrutiny and rational-basis scrutiny.

Petitioner Thomas More Law Center (at 29) asserts that scrutiny under this more flexible standard is limited to disclosure and other requirements in the context of elections "because [the government] has an important interest in preventing electoral corruption." That assertion has it backwards. The important interest in preventing electoral corruption is the reason campaign-contribution disclosure requirements and reasonable contribution limits *survive* the proper level of scrutiny, not the reason that scrutiny applies in the first place.[3] The proper level of scrutiny is determined

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[3] As explained in the amicus brief of Representative Paul Sarbanes and Democracy 21 in support of neither party, this case

(*Footnote continued*)

principally by "the degree to which [a challenged restriction] encroaches upon protected First Amendment interests." *McCutcheon*, 572 U.S. at 197; *see also Citizens United*, 558 U.S. at 366. Thus, *Buckley* derived the standard it applied to campaign-contribution disclosure requirements from cases considering associational rights outside the electoral context. *See* 424 U.S. at 64–66.

Similarly misguided is the contention of Senator McConnell that strict scrutiny should displace the more flexible standard applicable to disclosure requirements because such requirements impose a prior restraint on speech. McConnell Amicus Br. 5. This Court in *Citizens United* analogized a *prohibition* on corporate electoral speech to a prior restraint because whether the corporation could engage in speech at all depended on whether the Federal Election Commission determined that the speech constituted electoral advocacy. *See* 558 U.S. at 335–36. The Court concluded exactly the opposite with respect to contribution disclosure requirements, which do not prevent anyone from speaking. *See id*. at 366. *Buckley*, too, rejected the claim that disclosure requirements are prior restraints. 424 U.S. at 82; *see also Citizens United v. Schneiderman*, 882 F.3d 374, 385–88 (2d Cir. 2018) (explaining inapplicability of prior-restraint doctrine). Likewise, Senator McConnell's novel suggestion that the disclosure requirements at issue here *compel* speech either by contributors (who are not required to

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provides no occasion for questioning the Court's consistent endorsement of contribution disclosure in the campaign-finance context, where the Court has repeatedly held that public disclosure substantially serves interests that are more than sufficient to justify the relatively small burdens it may place on interests protected by the First Amendment.

do anything) or by organizations is unfounded. This Court has not treated reporting requirements similar to those at issue here as compelled speech. Doing so would potentially subject all manner of legitimate requirements—including that of filing a tax return, issuing a W-2 form, or even filling out a census form—to strict First Amendment scrutiny.

II. California's reporting requirements impose little burden on associational rights in the vast majority of their applications.

In this case, a realistic assessment of whether the governmental interests at stake are sufficiently important to justify the "actual burden on First Amendment rights" entailed by the requirements at issue, *Doe*, 561 U.S. at 196 (citation omitted), weighs decisively against the claim that California's requirement that charities submit their Form 990 Schedule B to state regulators amounts to a facial First Amendment violation.

For most of the organizations subject to California's requirements, and their donors, the "actual burden" is minimal. The organizations subject to the requirements are primarily charities exempt from federal income taxation under Section 501(c)(3) of the tax code. Although many 501(c)(3) charitable organizations are significantly engaged in advocacy regarding controversial social and political issues, even more are not.[4] Tax-exempt charities include hospitals and clinics; medical and scientific research organizations;

[4] Those that do engage in advocacy often are affiliated with financially separate organizations that claim exemptions under Section 501(c)(4) or Section 527 of the tax code, which may engage in substantial lobbying activity and political campaign activity, respectively.

educational institutions and educational support groups, such as PTAs and foundations that fund programs in public schools; recreational organizations; youth organizations; performing arts organizations, such as orchestras, operas, choirs, and theatrical groups; museums and art exhibition spaces; food banks and other organizations providing services to the needy, the elderly, and the disabled; organizations that provide relief to victims of natural disasters; animal shelters; organizations that help maintain parks, gardens, and historical sites; international relief and aid organizations; and many others.

Contributions to such groups are only minimally expressive. They generally reflect the desire to provide financial support to the useful work that the groups do in their communities and the wider world, not the communication of a specific message. The contributions "serve[ ] as a general expression of support" for the organization's activities, "but do[ ] not communicate the underlying basis for the support." *Buckley*, 424 U.S. at 21. Moreover, "[t]he quantity of communication by the contributor does not increase perceptibly with the size of his contribution, since the expression rests solely on the undifferentiated, symbolic act of contributing." *Id.* And unlike political contributions, such contributions generally do not suggest support for any set of political "views," *id.*, but only for the work of the charities that receive them, which in many cases is noncontroversial and nonideological.

Moreover, such contributions, as a general matter, implicate association minimally, if at all. A charitable contribution does not in most instances make a person a member of any group or substantially affiliate the giver with either the organization or other individuals. Sending a check to a choir, a food bank, the Red

Cross, or a university does not associate the giver with the recipient and other contributors in the same way as does joining an organization in which one acts collectively with other members. In addition, charitable contributions do not necessarily implicate strong privacy interests. Many charities list their donors in programs and publications, often organized by the amount they have given. Requests for anonymous listings often reflect a donor's altruistic motivations, not a fear of being associated with the organization for ideological reasons.[5]

The actual burden imposed by California's requirements is further reduced by their limited nature. The requirements do not prevent anyone from becoming a member of any association anonymously: They do not require membership disclosure, and they do not require disclosure of any speech supporting an organization or its activities. Moreover, they permit contributors to give substantial amounts of money, up to $4,999 annually, without any possibility that their names will appear in the Schedule B submitted to the state. Even contributors who give more than that amount will not have their names disclosed *publicly* absent an inadvertent disclosure, which is not likely to occur as to any given charity and, if it did, would in most cases pose no risk of retaliation, harassment, or even embarrassment. Individuals are unlikely to be persecuted for contributing $5,000 to an orchestra, Goodwill, the American Cancer Society, or their alma mater.

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[5] *See* J. Savary & K. Goldsmith, *Unobserved Altruism: How Self-Signaling Motivations and Social Benefits Shape Willingness to Donate* (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3026475.

In light of the minimal burden that California's reporting requirements impose on First Amendment rights in the great majority of their applications, the substantial interests California advances to justify those requirements, *see* Resp. Br. 29–35, are more than sufficient to compel rejection of petitioners' facial challenge. Where the "typical" application of the law involves no significant impact on First Amendment rights, the Court "must reject" a "broad challenge" to its facial constitutionality. *Doe*, 561 U.S. at 201.

III. The challengers have not shown a reasonable probability that California's requirements will adversely affect them or their supporters.

Of course, "upholding the law against a broad-based challenge does not foreclose a litigant's success in a narrower one." *Doe*, 561 U.S. at 201. And as this Court has recognized, organizations "may be exempt" even from facially constitutional disclosure requirements "if they can show a 'reasonable probability that the compelled disclosure of … contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties.' " *Id.* (quoting *Buckley*, 424 U.S. at 74). Disclosures that present such a likelihood are, under the applicable standard of review, less likely to have a justification sufficient to justify the actual burden they impose on associational freedom. *See Brown v. Socialist Workers '74 Campaign Comm. (Ohio)*, 459 U.S. 87, 92–98 (1982). And the availability of such as-applied challenges is a critical protection against the kinds of abuses that this Court addressed in cases like *NAACP v. Alabama*, 357 U.S. 449, *Bates v. City of Little Rock*, 361 U.S. 516 (1960), and *Gibson*, 372 U.S. 539, in

which requirements that organizations disclose their membership were used as bludgeons to stifle citizens' attempts to associate to advocate for political and social causes.

Not every as-applied challenge is as meritorious as the ones in those cases. Here, the supposed threat to association comes from the fear that contributors will face threats or harassment if identified *publicly* as petitioners' supporters. But California does not require public disclosure, and in fact prohibits it. The court of appeals determined that, in light of the safeguards that the state has instituted to prevent public disclosure, petitioners have not shown a reasonable probability that their information would be released to the public, No. 19-251 Pet. App. 38a, 34a, and hence have failed to support their as-applied challenge.[6]

In its amicus brief, the United States agrees that the court of appeals was correct in finding that there is no reasonable probability that *nonpublic* disclosure would lead to threats, harassment or reprisals against petitioners' donors, *see* U.S. Br. 32, and it does not argue that the court of appeals erred in finding no reasonable likelihood that *petitioners*' information would become public as a result of its confidential submission to the state, *see* U.S. Br. 33. Nonetheless, the United States argues that the case should be remanded so that the court of appeals may consider "the

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[6] Because the state does not assert an interest in public disclosure of donors and has taken measures to prevent such disclosure, this case does not present the question whether there are state interests that would justify public disclosure of large contributors to charitable groups in general or advocacy groups in particular, or of how to weigh such interests against potential countervailing interests in privacy and avoidance of possible harassment of donors.

severity of the harms such disclosure *could* produce," *id*. (emphasis added), if that not-reasonably-probable event were to happen.

The United States argues that its position follows from this Court's statements that organizations presenting an as-applied challenge to disclosure should not face "unduly strict requirements" and "must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim." U.S. Br. 34 (quoting *Buckley*, 424 U.S. at 72). But the United States does not explain how a party can establish that there is a "reasonable probability" that a confidential disclosure of information will cause injury to its supporters if there is no reasonable probability that the information will fall into the hands of those it fears will act against its supporters. Nor does the United States explain why requiring a challenger to establish the necessary premise of the challenger's claim is "unduly strict."

The United States' argument is especially paradoxical because, in cases brought to challenge its own actions, the United States typically argues that a plaintiff lacks standing if it cannot show a substantial risk that it will be subject to an injurious application of a challenged law or policy—no matter how much it may *fear* that it will be. *See*, *e.g.*, *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 417–18 (2013); *Trump v. New York*, 141 S. Ct. 530, 535–36 (2013). Although petitioners here undoubtedly have standing to challenge regulations that require them to take an action to which they object, a potential chilling effect on donors that is attributable to an *unreasonable* fear that their identities may be disclosed to the public is a slender basis on which to argue that California's actions are unconstitutional as applied to petitioners. *Cf. Susan B.*

Anthony List v. Driehaus, 573 U.S. 149, 158 (2014) (holding that a "substantial risk of harm" supports a cognizable First Amendment claim). And even if there were a statistical likelihood that *some* organization's information would someday be disclosed, that likelihood would not necessarily establish a First Amendment injury to petitioners or their supporters. *Cf. Summers v. Earth Island Inst.*, 555 U.S. 488, 497–500 (2009) (stating that a statistical probability that some unspecified person is likely to suffer injury does not establish that an organization has established a likelihood of injury).

In any event, if the issue here is, as the United States' argument suggests, whether California's safeguards against disclosure are sufficient in light of the degree of risk of disclosure and the possible consequences of disclosure, the remedy for any inadequacy found would be limited to injunctive relief tailored to prevent the injurious disclosures, not invalidation of the reporting requirement as applied to groups challenging the adequacy of the safeguards. Absent evidence that providing protection sufficient to safeguard the interests at issue is impossible, any broader relief would violate the fundamental principle that courts must frame relief for a constitutional violation that is "no broader than required by the precise facts to which the court's ruling would be applied." *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 222 (1974). Indeed, the United States appears to recognize this very point. U.S. Br. 35. But it fails to explain why a remand to consider the possibility of narrowly tailored relief is appropriate when the challengers themselves express no interest in it. *See* No. 19-251 Resp. Br. 53, No. 19-255 Resp. Br. 57.

Respondents ask this Court only to stop the state from collecting the information from them (or from anyone), not to improve the security of the information collected—and they have failed to show that they are entitled to the sole relief they seek.

CONCLUSION

This Court should affirm the judgment of the court of appeals.

Respectfully submitted,

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March 2021