

IN THE
Supreme Court of the United States

DONALD J. TRUMP, *et al.*,

Applicants,

v.

STATE OF CALIFORNIA, *et al.*,

Respondents.

**BRIEF OF *AMICI CURIAE* STATE AND LOCAL ELECTION OFFICIALS,
LOCAL GOVERNMENTS, AND THE CENTER FOR ELECTION
INNOVATION AND RESEARCH IN OPPOSITION TO APPLICATION
FOR A STAY OF INJUNCTION ISSUED BY UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF MASSACHUSETTS**

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STATEMENT OF INTEREST

Amici Curiae (“*Amici*”) include a bipartisan group of 118 current and former state and local election officials who are or were charged with the responsibility for administering elections, including federal elections, within their jurisdictions. *Amici* hail from a diverse range of states and localities, including 29 states. *Amici* also include several local governments that administer elections, as well as election experts from the Center for Election Innovation and Research (“CEIR”) who support election officials’ work.¹ *Amici* are authorized to sign this brief in their individual capacities or as local governments in opposition to the pending application to stay the injunction issued by the United States District Court for the District of Massachusetts against the unconstitutional executive order entitled “Ensuring Citizenship Verification and Integrity in Federal Elections,” Exec. Order No. 14399, 91 Fed. Reg. 17125 (Mar. 31, 2026), <https://perma.cc/LVY4-3ATL> (the “EO”).

Given their roles and responsibilities, *Amici* have a strong interest in the fair and efficient administration of elections, in avoiding threats of baseless prosecutions, and in protecting the Constitutionally derived authority of states and localities to regulate elections within their borders. To carry out their duties, election officials develop policies and procedures for their offices, train staff and poll workers, educate

¹ Pursuant to Supreme Court Rule 37.6, *Amici* state that no party or party’s counsel authored this brief in whole or in part, and no party or party’s counsel contributed money intended to fund preparation or submission of this brief. A list of all *Amici* is provided at Appendix A. *Amici* include election officials who serve within the Plaintiff States covered by the district court’s injunction, as well as officials from other states. Regardless of the specific jurisdiction they serve, *Amici* share a commitment to protecting the rights of all eligible voters to cast a ballot.

voters, and respond to real-time constituent needs within their respective jurisdictions. *Amici* election officials are also duty bound under the National Voter Registration Act (“NVRA”) to “promote the exercise of” the “fundamental right” to vote. 52 U.S.C. § 20501(a). *Amici* are unified in their commitment to ensuring that elections operate in accordance with state and federal law and that every eligible voter has an opportunity to cast a ballot.

As the front-line workers of election administration and election administration experts, *Amici* understand the practicalities of administering elections and are well-positioned to explain the significant administrative problems and confusion introduced by the challenged EO and its implementing provisions, including the U.S. Postal Service’s (“USPS”) proposed rule, titled “Ballot Mail for Federal Elections,” 91 Fed. Reg. 32915 (proposed June 2, 2026) (the “Proposed Rule”). *Amici* write to offer the Court their first-hand perspective on the on-the-ground impact of the EO, including the clear and immediate harms that the EO will continue to impose on election officials and their ongoing preparations for the upcoming midterm elections, if the district court’s injunction is not maintained.

SUMMARY OF ARGUMENT

The challenged EO represents an unprecedented and plainly unlawful intrusion by the Executive Branch into electoral matters reserved to the states and Congress. Not only is the EO unconstitutional and contrary to statutory requirements, Applicants issued the EO and began its implementation weeks *after* primary elections were in full swing in many states. The federal government’s ongoing efforts to implement the EO have thus already placed *Amici* in the untenable position of having

to help carry out the EO’s directives—on pain of threats of criminal prosecution—with primary elections already underway. Moreover, the upcoming general midterm elections are now mere months away, with election officials across the country already preparing in earnest to administer them.

Against this backdrop, the district court’s injunction against implementation of Sections 2 and 3 of the EO was appropriate and should be maintained. The injunction is limited to preserving the status quo for the rapidly approaching November 3, 2026 midterm elections, as well as any other elections held before that date. And the injunction was appropriately supported by the district court’s findings of the EO’s insuperable conflicts with both the Constitution and multiple federal statutes. *See* App. 56a–59a.

Throughout this litigation, Applicants have offered no serious defense of the EO on its merits, instead relying on the refrain that judicial review of the EO is premature. But the district court and the First Circuit correctly addressed and rejected those standing and ripeness arguments, in light of the unique electoral context and timelines at play here. *See* App. 8a (“All told, between the compressed timelines and anticipated changes to states’ election processes, the summary judgment record indicates that the EO has already produced an incredible strain on state election officials and their teams.” (internal citation and quotation marks omitted)); *see also* App. 78a (“With an ever-narrowing window of time in which review is appropriate and practicable, and where that review may well require timely involvement by the Court of Appeals or Supreme Court prior to the November 3, 2026 election . . . the legality of the EO as to the November 3, 2026 election (and earlier

elections) is both ripe and fit for review.” (internal citations omitted)). Indeed, as the First Circuit held, immediate judicial intervention is both necessary and appropriate because “the record reflects that the Plaintiff States would suffer multiple harms if the EO were enforced, including diversion of staff time to comply with the EO, pocketbook injuries, potential funding cuts and criminal prosecution of their officials, and sovereignty harms.” App. 15a.

From their perspective as the election officials charged with administering the upcoming midterm elections in practice, *Amici* urge this Court not to lose sight of that critical context. This Court has repeatedly cautioned against “channel[ing] . . . election disputes to shortly before election day.” *Bost v. Ill. State Bd. of Elections*, 607 U.S. 71, 80 (2026). Accepting Applicants’ invitation to stay the existing injunction, under the mistaken view that the Plaintiff States do not yet have standing or the dispute is not yet ripe for review, would do exactly that. And it would almost certainly render any later judicial involvement too little, too late—not just because of the tight timelines and ongoing election preparations, but also because the federal government has never disclaimed the possibility that it may later attempt to rely on *Purcell v. Gonzalez*, 549 U.S. 1 (2006), in an effort to preclude any later judicial review of the EO. Applicants should not be permitted to evade scrutiny of their unlawful actions by claiming that review now is too soon, while arguing in the next breath that review later will be too late.

Should this Court approve the requested stay, thereby allowing the EO to take effect within the Plaintiff States fewer than 100 days before a major federal election where well over 100 million voters are likely to cast ballots, the result will be chaos.

And that will be entirely attributable to Applicants’ own choices: the Executive Branch waited until fewer than eight months before the November 2026 general elections to promulgate the EO. USPS then published its Proposed Rule two months later, providing incomplete details regarding the extensive changes to election procedures that the EO would require for all election officials in every state—even while primary elections were already ongoing in many states. And now, although the EO mandated that USPS issue its final rule by July 29, 2026, at the latest, the agency did not do so—despite Applicants apparently having done everything else to finalize that rule short of publishing it in the Federal Register.

In short, all publicly available evidence indicates that if Applicants prevail on this stay application, they will then publish a final USPS rule sometime in August 2026 at the very earliest—leaving under three months before the general elections. The rules governing those elections will remain entirely unclear, and election officials nationwide will be required to grapple with that uncertainty as they prepare to administer the November 3, 2026 elections in accordance with their respective states’ own laws and procedures. This all underscores the current ripeness of the Plaintiff States’ claims, as well as the necessity of the district court’s existing—and appropriately limited—injunction.

For all of these reasons, and because election preparations are already well underway, with the EO’s unlawful provisions causing immediate harm to election administration *right now*—including impacting recruitment and retention of election workers and volunteers—this Court should deny the requested stay.

ARGUMENT

I. If the Injunction Is Not Maintained, the EO Will Continue to Cause Irreparable Harm to Ongoing Preparations for the Upcoming 2026 Midterm Elections.

A. Preparation for the 2026 midterm elections is already well underway.

The demands of implementing the EO, and the EO's resulting impacts, will be felt most acutely at the state and local levels, where elections are administered. State and local election officials must coordinate with election workers, establish guidance and rules for election administration, engage in voter education, send ballots to registered voters, work with third-party contractors, and rely on election workers' experience and expertise in each jurisdiction to ensure the orderly operation of elections. These steps all take time, and *Amici* are thus already undertaking efforts to recruit and train election workers for the upcoming midterm elections.² See *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring) (acknowledging that "state and local election officials need substantial time to plan for elections" because "[r]unning elections state-wide is extraordinarily complicated and difficult. . . . and pose[s] significant logistical challenges"). But those efforts are proving difficult in the current climate.³ Safety concerns among local election officials are

² See, e.g., Wendy Wright, *Primary Election Day preparations underway across upstate New York*, Spectrum News 1 (June 4, 2026), <https://perma.cc/SAF8-9KGU>.

³ See McKenzie Muskett, *Charleston County program gets creative to recruit new poll workers*, Spectrum News (Apr. 29, 2026), <https://perma.cc/AE3H-AUE6>; Susana Canales Barrón, *LA Officials race to recruit bilingual election workers ahead of primary elections*, L.A. Pub. Press (Apr. 3, 2026), <https://perma.cc/PEB9-N9BE>; Adrian Ashford, *House approves tax break for poll workers as SC struggles to recruit enough of them*, S.C. Daily Gazette (Feb. 5, 2026), <https://perma.cc/7U8C-YX5A>.

high.⁴ Now, the uncertainty injected by the EO into election administration, along with threatened prosecution of election workers, as described further below, has further depressed recruitment.

In addition to recruitment efforts, other preparations have already begun for the midterm elections in many jurisdictions. As the First Circuit recognized, “it [i]s uncontroverted that, at the time they filed their lawsuit, the Plaintiff States were actively administering or preparing to administer federal primaries . . . and preparing to administer the November 2026 general election.” App. 4a (internal citations and quotation marks omitted). These ongoing preparations include such matters as voter education, ballot design, and “purchas[ing] mail ballot envelopes for [voting by mail in] the 2026 federal election cycle.” *Id.*

The challenged EO imposes specific deadlines over the next several months, and elections will occur throughout this period, with the November 3, 2026 midterm elections now occurring in just three months. *See* App. 75a. Given that compressed timeline, the district court correctly found that “postponing judicial review is impracticable” and would “inflict significant hardship” on the Plaintiff States and others—including election officials like *Amici*—who must prepare right now for the upcoming elections. App. 76a. The First Circuit agreed. *See* App. 9a (“The Plaintiff States have no practical choice but to respond to the EO now.” (citations omitted)).

⁴ *Local Election Officials Survey* 3, Brennan Ctr. for Just. (Apr. 13, 2026), <https://perma.cc/C49K-EC2S> (noting that 32 percent of local election officials surveyed reported experiencing threats, harassment, or abuse because of their job, while 52 percent reported concern for the safety of their colleagues).

B. The EO has already placed state and local election officials in an untenable position.

“The Court’s precedents recognize a basic tenet of election law: When an election is close at hand, the rules of the road should be clear and settled.” *Democratic Nat’l Comm. v. Wis. State Legislatures*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). “[R]unning a statewide election is a complicated endeavor,” requiring “thousands of state and local officials and volunteers [to] participate in a massive coordinated effort to implement the lawmakers’ policy choices on the ground before and during the election,” and requiring “at every step, state and local officials [to] communicate to voters how, when, and where they may cast their ballots through in-person voting on election day, absentee voting, or early voting.” *Id.* But, absent a continued injunction, this unconstitutional EO would place election officials like *Amici* in the untenable situation of having to prepare to implement an unlawful and confusing order, while facing threats of criminal sanctions, and without knowing what rules will govern the midterm elections that are only months away.

As both the First Circuit and the district court have explained, the EO has already imposed “numerous immediate, predictable harms” on states and their electoral preparations. App. 15a (internal quotation marks omitted). That is because the EO requires states, election officials, and voters alike to “reckon today with both the likelihood that the executive branch agencies will follow the EO’s multiple directed actions and simultaneously with the uncertainty that exists as the details are slowly rolled out over the next few months.” App. 76a; *see also* App. 9a (First

Circuit finding sufficiently immediate, non-hypothetical harm because “the EO lays out a clear set of rapidly approaching deadlines by which states must coordinate with federal officials and comply with new voting procedures—all while the states must also ensure that their officials and the public understand the evolving set of rules that would govern the upcoming September and November elections”). Indeed, it is notable that even while the district court’s injunction has been in place, the federal government has continued to take steps toward implementation of the EO’s directives, such as the changes to the procedures for voting by mail mandated in section 3 of the EO.⁵ These considerations amply supported the lower courts’ assessment of the Plaintiff States’ standing and this matter’s ripeness for judicial review, as well as the necessity for immediate injunctive relief.

By contrast, Applicants’ preferred wait-and-see approach would only

⁵ For example, on June 18, 2026, USPS provided advance notice of a proposed new General Privacy Act System of Records Notice (“SORN”) to coincide with its proposal to amend the Mailing Standards of USPS’s Domestic Mail Manual (DMM), regarding the transmission of mail-in or absentee ballots for federal elections. Notice at 1, *California v. Trump*, 2026 WL 1826490, Dkt. No. 210. On July 17, 2026, formal publication of that SORN took place. *Id.* at 2. The SORN expressly acknowledges that USPS’s proposed changes to the procedures governing voting by mail are the subject of active litigation, and thus states that no final rule or new System of Record will take effect until the government obtains relief from all relevant injunctions. However, the fact that the SORN was issued is further evidence that Applicants are proceeding with efforts to implement the EO, including under the expectation that the new changes will apply to the upcoming midterm elections. In addition, the website for the Office of Management and Budget’s Office of Information and Regulatory Affairs, which houses information for federal regulations, currently shows that, as of July 30, 2026, the “Conditions on the Preparation of Ballot Mail for Federal Elections” rule is in “pending” status and in the “Final Rule” stage. *Pending EO 12866 Regulatory Review*, Off. of Mgmt. & Budget, <https://perma.cc/4ASQ-X72R>. This suggests that USPS is preparing to publish a final rule once litigation is resolved.

compound the administrative burdens imposed by the EO, leaving no time for judicial intervention to halt the EO's obviously unlawful mandates until the final months or even weeks immediately preceding the upcoming midterm elections—by which point irreparable damage will already have been done. For example, the EO directs that the “State Citizenship List[s]” that federal agencies must compile under Section 2 of the EO “shall be updated and transmitted to State election officials no fewer than 60 days before each regularly scheduled Federal election.” EO § 2(a). In the case of the upcoming November 3, 2026 elections, this means that those lists may not be finalized until September 4, 2026.

State and local election officials, as well as the voters whom they serve, deserve better. *Amici* deserve to know the rules and procedures that will apply to elections sufficiently far in advance to enable the orderly administration of elections—including such time-intensive matters as preparing, printing, mailing, and receiving ballots; training election workers and volunteers; educating voters about how to cast a ballot; and responding to voters' inevitable questions and concerns. The balance of equities and the public interest thus strongly favor maintaining the district court's existing injunction against the EO.

C. The “State Citizenship Lists” mandated in the EO will inevitably contain errors and place substantial burdens on *Amici*.

The “State Citizenship Lists,” which the EO mandates be “compile[d]” by federal agencies and then “transmit[ted] to the chief election official of each State,” EO § 2(a), will inevitably conflict with states' and localities' own voter rolls, contain significant errors, and thus impose substantial costs and harms on states, election officials, and

voters alike. Consistent with existing federal law, states and localities already maintain their own lists of eligible voters in their jurisdictions, pursuant to the Help America Vote Act (“HAVA”) and NVRA.⁶ The direction to the federal government to create and disseminate so-called “State Citizenship Lists,” however, would upend this carefully calibrated scheme, amounting to federal maintenance of these lists, in contravention of HAVA and NVRA. *See Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624–29 (6th Cir. 2025).

Section 2 of the EO also imposes direct and immediate harms by threatening election workers and officials like *Amici* with criminal and other sanctions if they provide ballots to individuals who do not appear on the federal government’s “State Citizenship Lists,” *see* EO § 2(b)—even if those individuals are in fact eligible voters, as confirmed by states’ own voting rolls. As the First Circuit noted, “the EO expressly targets state and local officials” with criminal investigation and prosecution. App. 12a–13a. Moreover, throughout this litigation, “the Government repeatedly indicated . . . that the DHS Citizenship Lists” mandated by Section 2 “could be used to ‘facilitate . . . post-election law enforcement activity,’ including prosecuting [alleged] violations of laws that ‘explicitly prohibit non-citizens from registering to vote.’” *Id.*

⁶ For example, the HAVA directs that “*the appropriate State or local election official shall perform list maintenance* with respect to” such lists on a “regular basis,” including to remove ineligible voters, 52 U.S.C. § 21083(a)(2)(A)(i) (emphasis added), but such maintenance must be conducted “in a manner that ensures that . . . only voters who are not registered or who are not eligible to vote are removed from the computerized list[s].” *Id.* § 21083(a)(2)(B)(ii). And NVRA mandates that each state “conduct a general program that makes a reasonable effort to remove the names of ineligible voters.” 52 U.S.C. § 20507(a).

13a (quoting EO § 1).

But, problematically, the federal databases from which the EO directs that the federal “State Citizenship Lists” be derived are not designed for this task and thus are almost certain to contain errors that improperly exclude many eligible citizen voters. *See, e.g., Pub. Int. Legal Found, Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 261 (4th Cir. 2021) (noting a “high rate of inaccuracy” in the federal SAVE database’s information on voter eligibility).⁷ Furthermore, the federal government’s “list[s] will also be underinclusive as a result of feasibility issues, where the federal government may be unaware of name changes (such as when a woman changes her name at marriage) or residence changes (where a citizen moves from state to state).” App. 77a. Election officials like *Amici* will thus bear the burdens of determining how to reconcile their voting rolls with the federal “State Citizenship Lists,” all while lacking sufficient information and time to cross-check their rolls with those lists while being threatened with potential criminal prosecution anytime the lists conflict.⁸

⁷ The Department of Homeland Security itself has acknowledged that “due to misspelling of names, transposed numbers, or incomplete information, the SAVE Program may produce inaccurate results” regarding citizenship. Dep’t of Homeland Sec., DHS Ref. No. DHS/USCIS/PIA-006(d), Privacy Impact Assessment for the Systematic Alien Verification Entitlements “SAVE” Program 19 (Oct. 31, 2025), <https://perma.cc/G92ULYPM>.

⁸ The federal government’s June 8 notice pertaining to implementation of Section 2 of the EO, *see* Memorandum, *California v. Trump*, 2026 WL 1826490, Dkt. No. 188-1, provides no meaningful clarification and risks imposing more burdens on *Amici*. The steps outlined in that notice—which aim to corner election officials into consulting flawed federal databases, all while under threat of potential criminal prosecution—needlessly burden election officials who are already operating under time and resource constraints. And the notice solves none of the problems resulting from the significant errors inevitably contained in the federal databases.

The First Circuit appropriately concluded that, given the context of the EO as a whole and the federal government’s repeated threats of criminal enforcement, the challenged provisions of Section 2 are imposing “immediate, predictable harms” that warrant injunctive relief with respect to the upcoming November 2026 elections. App. 15a (internal quotations and citations omitted); *see also* App. 78a (describing the “direct and immediate dilemma for Plaintiffs” that would result from implementation of Section 2 of the EO, even if the implementing federal agencies only create and disseminate the mandated lists “to the extent feasible”). Because no other pending litigation has yet resulted in an injunction against the EO’s “Citizenship List” provisions, election officials in the Plaintiff States would immediately be subject to the burdensome implementation requirements in Section 2 of the EO for the upcoming midterm elections, absent a continuation of the district court’s injunction. Moreover, as the First Circuit observed, the mandates in Section 2(a) of the EO must be read together with the threats of prosecution in Section 2(b), and “[s]tate and local officials are no exception to the commonsense rule that ‘[p]eople do not lightly disregard public officers’ thinly veiled threats to institute criminal proceedings against them.’” App. 13a (quoting *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 68 (1963)); *see also id.* for the proposition that “in their legal rulings, courts ‘are not required to exhibit a naiveté from which ordinary citizens are free’” (quoting *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019)).

Accordingly, the district court’s injunction against Section 2 of the EO was an appropriate response to the immediate, here-and-now harms imposed by those provisions.

D. Substantial burdens and irreparable harms will also result from the EO's changes to procedures governing voting by mail.

Similarly, the significant changes mandated in Section 3 of the EO also impose additional problematic requirements for mail-in and absentee ballots, again relying on election officials to perform the majority of the labor associated with the changes. Among other things, Section 3 of the EO directs that USPS adopt new rules requiring “all outbound ballot mail” to be sent in envelopes that “ha[ve] undergone a mail envelope design review by the USPS,” including for compliance with the EO’s mandated requirements for “designated [envelope] markings” and “unique Intelligent Mail barcode[s].” EO § 3(b)(i). The EO further directs that USPS must adopt rules under which it “shall not transmit mail-in or absentee ballots from any individual unless those individuals have been enrolled on a State-specific list” of eligible voters maintained by USPS, which the EO describes as the State’s “Mail-In and Absentee Participation List.” *Id.* § 3(b)(iii)–(iv).

The First Circuit correctly refused to stay the district court’s injunction against these challenged provisions of the EO, as well, finding that “precedent supports the [district] court’s conclusion that the Plaintiff States face an imminent and credible threat of penalties if they do not use USPS-designed envelopes,” as mandated in Section 3, or if they attempt to provide absentee or mail-in ballots to individuals not included on USPS’s “Mail-In and Absentee Participation Lists.” App. 12a. Throughout this litigation, the federal government has attempted to shield Section 3 of the EO from judicial review by the simple expedient of hiding behind the lack of a final USPS-issued rule. But as the First Circuit found, Section 3 of the EO phrases

its directives to USPS as mandatory, not optional, and it “directs various changes to the voting-by-mail process for . . . elections that will impact how [election] officials administer elections, regardless of the details of USPS’s final rule.” *Id.* at *7.

At any rate, on June 2, 2026, USPS published its Proposed Rule describing how it plans to implement the EO’s directives in Section 3. 91 Fed. Reg. 32915. This Proposed Rule only bolsters the First Circuit’s conclusion that, as the federal government itself has “concede[d],” “the federal defendants have been moving ahead to implement the directives in the EO,” including the directives in Section 3 relating to voting by mail. App, 6a; *see also id.* (describing the federal government’s concession that it has been “taking steps to create a [USPS] portal for collecting information about individuals who are eligible to vote by mail” (internal quotation marks omitted)).⁹

Without a continued injunction, the burdens imposed by Section 3 of the EO will inescapably fall on election officials like *Amici*. For example, under USPS’s Proposed Rule, the chief election official of each state will be responsible for authorizing users within their state to access a new USPS “Federal Ballot Mail Portal.” 91 Fed. Reg. 32916. Local election officials like *Amici* will then be required

⁹ Although the EO directed that USPS promulgate its final rule by July 29, 2026, *see* EO § 3(d) (directing that the final rule “be issued no later than 120 days from the date of this order,” dated March 31, 2026), the agency has since stated in this litigation that “a final rule will not be published unless and until the government obtains relief from all relevant injunctions.” Notice at 2, *California v. Trump*, 2026 WL 1826490, Dkt. No. 210. Nonetheless, as described above, *see supra* note 5, the federal government has still been undertaking all other necessary steps in the meantime to ready the Proposed Rule for final publication.

to use that portal to notify USPS of individuals to whom they plan to mail a ballot, including the unique barcode associated with the outbound and return ballot assigned to each voter. *Id.* at 32916–18. State and local election officials will thus be required to stand up wholly new procedures to input information into USPS’s portal to form the basis of the state-specific Mail-In and Absentee Participation Lists mandated by the EO. But the portal’s specifications have not been released, and the portal itself may not be ready for intake until the final months or even weeks before Election Day. This places election officials like *Amici* in an impossible position, and—absent a continued injunction—would require them to begin expending and diverting resources already to prepare to comply with these new mandates.

The EO, along with USPS’s Proposed Rule implementing it, also imposes burdens on state and local election officials to re-design and even re-print ballot envelopes. Most states do not have a single design for mail ballot envelopes. Counties and localities in a single state may use different voting machines and different types and sizes of ballots, requiring different ballot and envelope designs. Changing these processes to comply with the EO’s mandates would be a major undertaking, requiring both significant time and monetary resources—burdens which would also inevitably fall on state and local election officials. Similarly, under USPS’s Proposed Rule, local election officials would be “responsible for barcode creation” “as well as envelope design and printing for all ballot mail.” *Id.* at 32918. The EO’s requirement that every jurisdiction use Intelligent Mail barcodes on each outbound and return envelope creates onerous, new obligations that will be costly and difficult—if not impossible—for election officials to follow. And this will especially be the case in rural communities

that do not currently have the technology to produce these barcodes.¹⁰

As the First Circuit also noted, “the ‘untenable’ and ‘undemocratic’ consequences of waiting to hear ‘election disputes . . . shortly before election day’ weighed in favor of [the district court’s] adjudication” of this issue now, “even before [USPS’s proposed] rules’ effects on the plaintiffs have come into full view.” App. 13a–14a (quoting *Bost*, 607 U.S. at 79–80). The significant changes mandated in Section 3 of the EO have already imposed substantial costs and placed states and election officials “at ‘substantial risk [of] harm.” App. 11a (alterations in original) (citing *Mahmoud v. Taylor*, 606 U.S. 552, 559–60 (2025)). Accordingly, the injunction against those provisions should be maintained.

II. The EO Imposes Significant Legal Risks for Election Officials, Causing Downstream Harms to Election Administration *Right Now*.

As the First Circuit also correctly concluded, the EO exacerbates its substantive and administrative burdens on states and election officials by “expressly target[ing] state and local officials, both overall and in numerous subsections” of the EO. App. 12a–13a. Indeed, the EO threatens election officials like *Amici* with federal criminal charges for issuing ballots to individuals whom the federal government—relying on its flawed and extra-statutory lists—deems ineligible. *See id.* These legal threats have already harmed ongoing election preparations, including by deterring staff, volunteers, and contractors from agreeing to assist in election administration.

¹⁰ *See* Dion Nissenbaum et al., *USPS proposal to carry out Trump’s Executive Order could create new barriers to mail voting*, VOTEBEAT (May 29, 2026), <https://perma.cc/8TV4-MW5K>.

Maintaining the existing district court injunction against the EO is therefore necessary to continue to prevent these immediate and irreparable harms.

A. The threat of prosecution of state and local election officials functions as the EO’s enforcement mechanism.

The EO puts state and local election officials, like *Amici*, in baseless legal peril. Election officials carefully follow state and federal law, adopting strict processes to ensure only eligible voters can vote. As a result, noncitizen voting is vanishingly rare.¹¹ Regardless, the EO highlights that “[f]ederal statutes explicitly prohibit non-citizens from registering to vote or voting in Federal elections and impose criminal penalties for violations,” citing various criminal statutes. EO § 1. It directs the Attorney General to “prioritize the investigation and, as appropriate, the prosecution of” both “*State and local officials* or any others involved in the administration of Federal elections who issue Federal ballots to individuals not eligible to vote in a Federal election” and of “*individuals and public or private entities engaged in, or aiding and abetting*, the printing, production, shipment, or distribution of ballots to individuals who are not eligible to vote in a Federal election.” *Id.* § 2(b) (emphases added). The EO specifies that “the unlawful use of the mail in connection with elections is prohibited by various Federal statutes” and directs agencies to coordinate “for investigation of suspected unlawful use of the mail involving Federal election materials.” *Id.* § 3(a), (c). Furthermore, it prioritizes referral of “[e]vidence of violations of existing Federal laws *by State or local election officials* [and] *States or*

¹¹ See *Update: Review of Claims of Noncitizen Registrants and Voters*, Ctr. for Election Innovation & Rsch. (July 2, 2026), <https://perma.cc/5893-J5YS>.

localities, including any instrumentalities thereof . . .” for investigation and potential charges under various federal criminal statutes. *Id.* § 5 (emphases added).

Under the EO, criminal prosecution is an option of *first* resort, creating an atmosphere of fear and making clear that even small mistakes resulting from confusion related to the EO’s new mandates could result in investigations, indictments, and prison time. The EO’s prosecute-first mandate does not exist in a vacuum. While the federal government has long been a partner to state and local governments in the effort to administer free and fair elections, over the past year the federal government has repeatedly undermined that relationship. On July 17, 2026, the Secretary of the Department of Homeland Security (“DHS”) explicitly warned that election officials could face jail time if their states do not cooperate with the Executive Branch in investigating non-citizens on their voter rolls.¹² The federal government has also seized or attempted to gain access to election materials in multiple jurisdictions,¹³ and the Department of Justice has filed dozens of lawsuits against states that refused to comply with the federal government’s demand for voter registration lists.¹⁴ The FBI has increased its presence in Fulton County, Georgia to

¹² Ali Swenson, *DHS Secretary Mullin says he’ll chase voter fraud after Trump revives election claims*, Associated Press (July 17, 2026), <https://perma.cc/7LS3-WGNA>.

¹³ See, e.g., Stephen Fowler, *The FBI executes a search warrant for 2020 election ballots in Georgia’s Fulton County*, NPR (Jan. 29, 2026), <https://perma.cc/9JH3-A3LH>; Patrick Marley, *DOJ demands Detroit-area 2024 ballots, escalating election scrutiny*, Wash. Post (Apr. 19, 2026), <https://perma.cc/A774-BA7C>.

¹⁴ See, e.g., *United States v. Weber*, 816 F.Supp.3d 1168 (C.D. Cal. 2026); *United States v. Oregon*, 828 F.Supp.3d 1092 (D. Or. 2026); *United States v. Benson*, 819 F.Supp.3d 753 (W.D. Mich. 2026).

investigate 2020 presidential election issues, and FBI Director Kash Patel recently announced plans to initiate arrests related to the 2020 election¹⁵—despite the fact that the five-year statute of limitations for election crimes has passed and without any proof of wrongdoing. These efforts are not aimed at improving election administration; they are focused on attempting to revive disproven conspiracy theories. Under these conditions, election officials reasonably fear that the EO’s threat of prosecution is genuine.

And yet, because the EO’s terms “are not clearly defined,” the EO fails to provide *Amici* with a “reasonable opportunity to know what is prohibited.” *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). For example, as described above, Section 2 directs the creation of “State Citizenship Lists” to determine voter eligibility, but fails to explain how these lists interact with already existing (and almost certainly *more* accurate) state voter rolls. The EO similarly does not explain how the federally maintained “Citizenship Lists” will interact with USPS’s “Mail-In and Absentee Participation Lists.” And it fails to “provide explicit standards” of enforcement, *Grayned*, 408 U.S. at 108, threatening prosecution of a potentially wide range of actors and broad scope of conduct, *see* EO § 2(b) (threatening prosecution of those “*engaged in, or aiding and abetting*, the printing, production, shipment, or distribution of ballots.” (emphasis added)). The practical consequences of this risk of

¹⁵ See Jacob Wendler, *Trump DOJ redoubling election scrutiny efforts*, Politico (Apr. 19, 2026), <https://perma.cc/5RTU-UA5B>; Kate Brumback, Alanna Durkin Richer & Eric Tucker, *The FBI is directing hundreds of analysts to its probe of Georgia’s 2020 presidential election*, Associated Press (July 2, 2026), <https://perma.cc/MBD6-UDEH>.

arbitrary enforcement are severe and present another reason that the district court’s injunction to preserve the status quo should be maintained. *See Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 733 (D.C. Cir. 2022) (clarifying the status quo is the last “uncontested status” that preceded the pending controversy—here, the state of affairs prior to the implementation of the EO).

B. The EO’s threats of prosecution are already harming *Amici*’s ability to adequately staff for upcoming elections.

State and local election officials like *Amici* operate under challenging conditions. They manage our nation’s consequential elections within a short time frame and rely on recruiting temporary workers and volunteers. Many of their colleagues have resigned in large numbers in recent years, due in part to a rise in threats and harassment against election workers.¹⁶ A 2024 survey found that 38% of election workers reported experiencing threats, harassment, or abuse for doing their jobs.¹⁷ Now, as local election officials are struggling to retain talent, the EO imposes new burdens that are inevitably resulting in further attrition.

Because the EO’s reach is so broad, threatening “public or private entities” who are “engaged in, or aiding and abetting,” activities that include “the printing, production, shipment, or distribution of ballots,” EO § 2(b), it carries downstream chilling effects throughout the electoral apparatus. The EO is already making it more

¹⁶ Andrew Howard, *Election officials grapple with a brain drain as threats rise*, Politico (Feb. 3, 2026), <https://perma.cc/45E6-VSME>.

¹⁷ Ruby Edlin & Lawrence Norden, *Poll of Election Officials Finds Concerns About Safety, Political Interference*, Brennan Ctr. for Just. (May 1, 2024), <https://perma.cc/93M9-JWS4>.

difficult for election officials to recruit poll workers and other volunteers, who fear they could be subject to severe criminal penalties simply for giving a ballot to someone they understand to be an eligible voter. Similarly, the EO may make it more difficult for election officials to work with contractors, instill fear in other actors involved in the preparation and delivery of ballots, and discourage a broad range of activities needed to administer a federal election. *Amici* and other officials like them cannot effectively do their jobs under such conditions. The district court's injunction therefore stands as a critical safeguard of effective preparations for the upcoming November 2026 midterm elections.

C. The EO runs headlong into existing voting rights laws and risks undermining confidence in elections.

Beyond the threats of prosecution under the EO itself, the EO puts election officials in legal jeopardy by potentially forcing them to violate statutes governing voting rights. This places officials like *Amici* in an impossible position: They risk federal prosecution if they send ballots to individuals who appear on state voter rolls but not on the federal government's lists (which, as already explained, necessarily rely on unreliable citizenship-verification mechanisms). But if they fail to provide ballots to eligible voters, election officials place themselves in potential legal jeopardy under state and federal criminal law. *See, e.g.*, 52 U.S.C. § 10307(a) (prohibiting refusing to permit an eligible voter to vote). Indeed, local election officials have a responsibility to promote the fundamental right to vote. 52 U.S.C. § 20501(a). And even if they do not face criminal prosecution, process failures from the rushed implementation of this ill-conceived EO will require that election officials field an

overwhelming number of calls when eligible voters do not receive the mail-in ballots they are expecting, manage long lines at polling places as voters seek to vote in-person instead, and attempt to help rural voters who have limited options to cast ballots in-person.

Election officials also play an important role in promoting voter confidence and increasing voter participation. Because the EO and the accompanying USPS Proposed Rule impose significant changes immediately preceding an election and do not clearly delineate the functionality or uses of the various lists or legal threats contemplated, election officials are unable to counter and respond to the uncertainty and fear sowed by the EO. Similarly, without clarity on how the federal government seeks to operationalize the EO, election officials are unable to prepare communications and trainings for election workers and the public to assuage confusion or concerns about, for example, how the federally maintained “State Citizenship Lists” and “Mail-in and Absentee Participation Lists” will be used or how registered voters can assure that they receive their mail-in or absentee ballot and can then confidently return it.

In short, the First Circuit was correct to find that “neither the federal defendants nor the intervenor states [have] grapple[d] with the numerous immediate, predictable harms” that the EO would inevitably impose on states, election officials, and voters absent a continued injunction. App. 15a (internal citations and quotation marks omitted). Applicants cannot come close to defending the constitutionality or lawfulness of the EO on its merits. And in the meantime, as the First Circuit correctly held, “[t]he undisputed summary judgment record indicates that, were the EO to take

effect for the elections taking place in September and November [2026], it would sow confusion and threaten disenfranchisement of many eligible voters.” *Id.*

CONCLUSION

For the foregoing reasons, the Court should deny the application for a stay of the district court’s injunction.

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August 3, 2026

APPENDIX A: LIST OF *AMICI CURIAE*

Amici include the Center for Election Innovation and Research (“CEIR”), a nonpartisan nonprofit whose core mission is to work with election officials and build confidence in elections that voters should trust and do trust. *Amici* also include the following local governments, and the following current or former election officials, listed alphabetically by last name, along with their titles and jurisdictions:

LOCAL GOVERNMENTS AND ORGANIZATIONS

County of Alameda, California

City of Albany, New York

Allegheny County, Pennsylvania

City of Beaverton, Oregon

City of Boston, Massachusetts

Bucks County, Pennsylvania

Chester County, Pennsylvania

Hennepin County, Minnesota

County of Los Angeles, California

Milwaukee County, Wisconsin

City of Minneapolis, Minnesota

City of New Haven, Connecticut

Pierce County, Washington

City and County of San Francisco, California

City of San Jose, California

County of Santa Clara, California

County of Sonoma, California

Texas Association of County Election Officials

Travis County, Texas

City of Tucson, Arizona

Vermont Municipal Clerks' and Treasurers' Association

STATE AND LOCAL ELECTION OFFICIALS

Natalie Adona

Registrar of Voters, Marin County, California

Laura Anna

Director of Elections, County of Venango, Pennsylvania

Kristin Mae Atwood

Clerk & Treasurer, Town of Barton, Vermont

Mildred Barry

Clerk, Town of Westminster, Vermont

Patricia A. Bennett

Commissioner of County Board of Elections, Monmouth County, New Jersey

Seth Bluestein

Commissioner, City of Philadelphia, Pennsylvania

Tracy L. Borst

Clerk & Presiding Officer, Town of Thetford, Vermont

Bobbi Brimblecombe

Clerk, Town of Marshfield, Vermont

Cherilyn Brown

Clerk & Treasurer, Town of Moretown, Vermont

Lisa Brown

Clerk & Register of Deeds, Oakland County, Michigan

Brande Buchanan
Chief Deputy Clerk, Borden County, Texas

Bill Burgess
Clerk, Marion County, Oregon

Barb Byrum
Clerk, Ingham County, Michigan

Elaina Cano
Clerk-Recorder & Registrar of Voters, San Luis Obispo County, California

Thomas M. Carpenter
City Attorney, City of Little Rock, Arkansas

Gabriella Cázares-Kelly
Recorder, Pima County, Arizona

Mary R. Clark
Clerk, Town of Delta Charter, Michigan

John Clark
Mayor, Town of Ridgway, Colorado

Katharine Clark
Clerk, Santa Fe County, New Mexico

Belinda Harris Clegg
Clerk, Town of Wolcott, Vermont

Domonique Clemons
Clerk & Register of Deeds, Genesee County, Michigan

Becky Close
Clerk & Recorder, Eagle County, Colorado

Rich Coglianese
Board of Elections Member, Union County, Ohio

Kristin Braun Connelly
Clerk-Recorder & Registrar of Voters, Contra Costa County, California

Cynthia Cox
Election Administrator, Brewster County, Texas

Daryl D. Daus II
Chief of Staff for County Auditor, Kitsap County, Washington

Lisa Deeley
Commissioner, Philadelphia, Pennsylvania

David Del Terzo
Elections Senior Software Developer, Miami-Dade County, Florida

Keaton Denlay
Clerk-Recorder & Registrar of Voters, Butte County, California

Francisco Diaz
Clerk-Recorder & Registrar of Voters, San Benito County, California

Jilline Dobratz
Clerk, City of West Bend, Wisconsin

Justin Douglas
Commissioner, Dauphin County, Pennsylvania

Teegan Dykeman-Brown
Clerk, Town of Calais, Vermont

Daniel Adams Eaton
Moderator, Town of Stoddard, New Hampshire

Susan Esmond
Elections Specialist, Summit County, Colorado

Michael Estergren
Principle Clerk, Atlantic County, New Jersey

Gail Fallar
Clerk & Treasurer, Town of Tinmouth, Vermont

Giselle Feliciano
Registrar of Voters, City of Hartford, Connecticut

Rebecca L. Fielder
Clerk, Town of Pomfret, Vermont

Hilary Francis
Clerk, Town of Brattleboro, Vermont

Diana Fuentes
Clerk, City of San Diego, California

Susan M. Gage
Clerk, Town of Brandon, Vermont

Eileen Giesbrecht
Clerk, Southfield Township, Michigan

Jill Gifford
Clerk, Town of Stockbridge, Vermont

Brandon Joseph Gingher
Clerk, Village of Marshall, Wisconsin

Rachel Giroux
Clerk, Town of Berlin, Vermont

Jacob P. Gonzales
Chief Deputy Clerk, San Miguel County, New Mexico

Erik Greenfield
Deputy Clerk, Town of Dunn, Wisconsin

Mary Hall
Auditor, Thurston County, Washington

Jaime Hammack
Clerk, Town of Plainfield, Vermont

Beau Harbin
Legislator, Cortland County, New York

Cathy Hasslinger
Clerk, Town of Dunn, Wisconsin

Philip J. Hatcher
Moderator, City of Dover, New Hampshire

Joshua Heinlein
Assistant County Counsel, San Diego County, California

Deidre M. Henderson
Lieutenant Governor, Utah

Keri Hilton
Clerk, Yamhill County, Oregon

Forrest Holzapfel
Clerk, Town of Marlboro, Vermont

Amy C. Hutchinson
Clerk, Lake County, Oregon

Jonathan Johnson
Clerk, Town of Putney, Vermont

Corinn Julow
Clerk, Town of North Hero, Vermont

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Patty Kenyon
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Michele Konopka
Supervising Clerk, Atlantic County, New Jersey

Sandy Kraemer
Clerk, Town of Springville, Wisconsin

Elizabeth Krizenesky
Election Manager, Pend Oreille County, Washington

Alfreda Langhorne
Election Official, Sumter County, South Carolina

Danielle M. Laramie
Clerk, Town of Fair Haven, Vermont

Tracey Lauritzen
Clerk & Recorder, Lake County, Colorado

Lisa Lawitzke
Clerk, Town of Bellevue, Michigan

Debra Lee
Clerk & Chief Election Officer, Laramie County, Wyoming

Nicholas J. Lima
Registrar & Director of Elections, City of Cranston, Rhode Island

Dyana Limon-Mercado
Clerk, Travis County, Texas

Rachel Littlehale
Clerk, Town of Whitingham, Vermont

Dean C. Logan
Registrar-Recorder & County Clerk, Los Angeles County, California

Daniel Loomis
Clerk, Douglas County, Oregon

Awoyunla Lowman
Board of Registration & Elections Member, DeKalb County, Georgia

Robin Major
Elections Administrator, Monmouth County, New Jersey

Neil Makhija
Board of Elections Chair, Montgomery County, Pennsylvania

Claudia McDaniel
Clerk, Dimmit County, Texas

Kirk McDonough
Board of Canvassers Chairperson, City of Cranston, Rhode Island

Catherine McMullen
Clerk, Clackamas County, Oregon

Glen Mendez
Commissioner, Monmouth County, New Jersey

Lori Mitchell
Clerk & Recorder, Chaffee County, Colorado

Karin Schlosser Mott
Clerk, Town of Middlebury, Vermont

Diane Nelson
Clerk, Town of Brule, Wisconsin

Lia Nicol
Clerk, Monmouth County, New Jersey

Sally Ober
Clerk, Town of Lincoln, Vermont

John Odum
Clerk, City of Montpelier, Vermont

Louanna Ortega
Clerk, San Miguel County, New Mexico

Christy Marie Pion
Clerk, Town of Lowell, Vermont

Chris Piper
State Department of Elections Former Commissioner, Virginia

Creed Pogue
Board of Elections Chair, Atlantic County, New Jersey

Taryn Power
Clerk & Recorder, Summit County, Colorado

Jake Quinn
Board of Elections Member, Buncombe County, North Carolina

Rebecca A. Rice
Clerk, Town of Shrewsbury, Vermont

Derrin E. Robinson
Clerk, Harney County, Oregon

Justin F. Roebuck
Clerk, Ottawa County, Michigan

James Sabatino
Council Chair, Luzerne County, Pennsylvania

Kenneth Selser Jr.
Election Manager & Auditor-Treasurer, Sherburne County, Minnesota

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Clerk, Town of Weston, Vermont

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Braxton White
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