



ICE Election Information Grab: What We Know

ICE's subpoena is very broad.

This week we learned that the U.S. Attorney for the Eastern District of North Carolina, acting on behalf of U.S. Immigration and Customs Enforcement (ICE), has subpoenaed massive troves of voter data from the State Board of Elections and from 44 North Carolina counties dating back several years. The subpoenas demand information on voter registration, voting records, and even over 2 million ballots traceable to the voters who cast them.

The subpoena burdens officials currently preparing for elections.

If state and county staff comply with the subpoena it would mean reproducing tens of millions of documents, including sensitive voter information, in less than three weeks, ahead of the fast approaching 2018 General Election. As State Board of Elections and Ethics Enforcement attorney Josh Lawson told the assistant U.S. Attorney handling the case, "compliance with the subpoena as-written will materially affect the ability of county administrators to perform time-critical tasks ahead of absentee voting and early voting."

ICE seeks very sensitive information on millions of North Carolina voters.

The State Board of Elections and Ethics Enforcement preliminary estimate is that 5.6 million ballots are covered by the subpoena, 2.3 million of which would be traceable to the voters who cast them. If the counties comply with the subpoena, ICE would be able to access the ballots of any voter who had used absentee or early voting in the 44 covered counties in the past 5 years, and see who that person voted for.

The subpoena disproportionately covers Black and American Indian registered voters in North Carolina. According to data available from the State Board of Elections and Ethics Enforcement, the 44 counties covered by the subpoena include only 39% of registered voters, but 46% of Black voters in North Carolina and 69% of American Indian voters in North Carolina.

The timing and context here are troubling.

ICE has no role in election administration, and it is not clear how federal authorities will use the subpoenaed data or how they are justifying a request of this magnitude on such a short timeline. The now-disbanded Presidential Advisory Commission on Election Integrity requested similarly sensitive voter information from all 50 states in 2017; many states rejected those requests in whole or in part. One of the commission's former members now says that the group sought a predetermined, politically motivated outcome in its work. This new effort is even broader and more forceful, and does not articulate its connection to federal election and voting rights oversight.