

**Post-Hearing Questions for the Record for Jack Smith following the
January 22, 2026, Hearing of U.S. House Committee on the Judiciary**

- 1. Please confirm whether, I, Representative Andy Biggs was the subject of any toll-record, metadata, or other subpoena issued by your office or the Arctic Frost team. If yes, provide the date, scope, and legal justification.**

As has been publicly reported, the Special Counsel's Office issued subpoenas to various telecommunication providers for non-content toll records associated with individuals for whom there was evidence indicating those records were relevant to matters under investigation. Such records include the dates and times of calls, the originating and receiving phone numbers, and call duration, but do not reveal the content of any communications. Obtaining and reviewing toll records is a common investigative practice, and the Office followed Department of Justice policy and consulted with the Department's experts in the Public Integrity Section regarding subpoenas seeking non-content toll records associated with Members of Congress.

Any toll records subpoenaed or reviewed by the Special Counsel's Office would be maintained in the Office's records, which are in the possession of the Department of Justice. Although the Arctic Frost investigation preceded the creation of the Office in November 2022, records related to that investigation would likewise be maintained by the Department of Justice or FBI.

- 2. Please provide a complete list of all Members of Congress (House and Senate), congressional staff, and immediate family members whose toll records, metadata, or other communications data were obtained via grand-jury subpoena or National Security Letter at any time during the investigations, including the Arctic Frost phase prior to your tenure as Special Counsel and during your tenure. For each entry, indicate (a) the date range of records sought, (b) the provider (e.g., AT&T, Verizon), (c) whether a non-disclosure order (NDO) was requested and/or obtained, and (d) if an NDO order was requested and/or obtained, from what judge was it sought?**

Any records subpoenaed or reviewed by the Special Counsel's Office would be maintained in the Office's records, which are in the possession of the Department of Justice. Although the Arctic Frost investigation preceded the creation of the Office in November 2022, records related to that investigation would likewise be maintained by the Department of Justice or FBI.

As is typical, the Special Counsel's Office generally sought nondisclosure orders when issuing subpoenas for non-content toll records relevant to its investigation. Such orders are intended to protect the integrity of an investigation by guarding against efforts to obstruct the investigators' work, including the destruction or tampering of evidence, the intimidation of potential witnesses, or other conduct that could seriously jeopardize an investigation. In seeking such orders, the Office followed applicable Department of Justice policies while remaining mindful of its duty to protect witnesses from threat or intimidation.

- 3. Please list all state and local election officials in Arizona, Michigan, Wisconsin, Georgia, Nevada, and Pennsylvania from whom communications with President Trump, his campaign, and/or his advisors were subpoenaed. For each, state the date of the subpoena, the time period covered, and the categories of data sought (e.g., email, phone, bank records).**

Any records subpoenaed or reviewed by the Special Counsel's Office would be maintained in the Office's records, which are in the possession of the Department of Justice. Although the Arctic Frost investigation preceded the creation of the Office in November 2022, records related to that investigation would likewise be maintained by the Department of Justice or FBI.

- 4. Please provide a categorized list of all non-government individuals and entities (including attorneys, aides, family members, and organizations) whose bank, telephone, IP, mortgage, or other financial records were obtained via subpoena. Separate the list into (a) individuals associated with the Trump campaign or post-election efforts and (b) conservative organizations or entities. For each, identify the subpoena date and data categories.**

Records reflecting the investigative steps the Special Counsel's Office pursued during the course of its investigation would be maintained in the Office's records, which are in the possession of the Department of Justice. Although the Arctic Frost investigation preceded the creation of the Office in November 2022, records related to that investigation would likewise be maintained by the Department of Justice or FBI.

- 5. Please provide a list of any subpoenas, inquiries, interviews, NDO requests, and investigations that were done throughout the course of your work as Special Counsel, but were not done in relation to a grand jury hearing.**

Records reflecting the investigative steps the Special Counsel's Office pursued during the course of its investigation would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 6. How did your office determine what information was within the scope of your investigatory powers as set by 28 C.F.R. § 600.4 and DOJ policy governing Special Counsels? Upon making that scope determination, did you check compliance with your limited investigatory jurisdiction set by 28 C.F.R § 600.4 before issuing a grand-jury subpoena? If so, with whom did you consult with on compliance? Please attach or describe any internal memoranda, checklists, or approval forms used to document this determination of compliance.**

Federal regulations and Justice Department policies provide broad authority to the Attorney General to determine the scope of a Special Counsel's investigatory powers and to a Special Counsel to determine the activities of the office fall within that scope. Most notably, 28 C.F.R. § 600.4(a) permits the Attorney General to "establish[]" the "jurisdiction of a Special Counsel" through a "specific factual statement of the matter to be investigated." Subject to "the rules, regulations, procedures, practices and policies of the Justice Department," and limited "review" by the Attorney General, the Special Counsel is authorized to "determine whether and to what extent to inform or consult with the Attorney General or others within the Department about the conduct of his or her duties and responsibilities." 28 C.F.R. § 600.6-7.

Consistent with these regulations, Attorney General Merrick Garland authorized the Office to investigate "whether any person or entity violated the law in connection with efforts to interfere with the lawful transfer of power following the 2020 presidential election or the certification of the Electoral College vote held on or about January 6, 2021, as well as any

matters that arose or might arise directly from this investigation.” The Office was further authorized to conduct the investigation focused on the possession of highly classified documents at the Mar-a-Lago social club following President Trump’s departure from office. *See* Office of the Attorney General, Order No. 5559-2022, Appointment of John L. Smith as Special Counsel (Nov. 18, 2022).

Staffed with some of the most experienced prosecutors in the Department, the Office operated under the same Department policies and procedures that guide all federal prosecutors. As a result, throughout its work, the Office regularly consulted the Justice Manual, the Department’s publicly available guidebook on policies and procedures, and adhered to its requirements.

Records reflecting the investigative steps the Special Counsel’s Office pursued during the course of its investigation would be maintained in the Office’s records, which are in the possession of the Department of Justice.

- 7. When your office considered subpoenas for toll records of Members of Congress, what analysis was performed to determine if the Speech or Debate Clause (U.S. Const. art. I, § 6, cl. 1) and 2 U.S.C. § 6628 (Senate communications privacy) barred any elements of, or added limits to, your investigation?**

In accordance with the best traditions of the Department of Justice, the Special Counsel’s Office consulted with and sought guidance from subject matter experts throughout the Department during its investigation. Consistent with that practice, the Special Counsel’s Office consulted the Department of Justice’s Public Integrity Section (“PIN”), which oversees the investigation and prosecution of federal crimes affecting government integrity, in connection with the service of subpoenas seeking records related to Members of Congress.

The Special Counsel’s Office also included on its staff several prosecutors with experience working in and leading PIN, who were familiar with the Speech or Debate Clause and Department of Justice policies and procedures regarding investigations involving Members of Congress.

- 8. Your office obtained toll records for at least one member of former Representative Gohmert’s staff. What safeguards were in place to ensure that the subpoena did not capture legislative-privileged communications protected under *Gravel v. United States*, 408 U.S. 606?**

In accordance with the best traditions of the Department of Justice, the Special Counsel’s Office consulted with and sought guidance from subject matter experts throughout the Department during its investigation. Consistent with that practice, the Office consulted with the Department of Justice’s Public Integrity Section (“PIN”) when seeking non-content toll records associated with individuals for whom there was evidence indicating those records were relevant to matters under investigation. Through its consultation with PIN, as in all matters, the Office consulted the relevant legal authorities and concluded that its routine toll records subpoenas were lawful and consistent with applicable Department of Justice policies.