

**Post-Hearing Questions for the Record for Jack Smith following the
September 29, 2026, Hearing of U.S. Senate Committee on the Judiciary¹**

Questions from Sen. Booker

- 1. Who appointed you Special Counsel in November 2022, and under what authority? How did the Arctic Frost investigation come under your supervision?**
 - a. Describe the process your office followed to obtain a federal indictment. Did you have unilateral authority to charge anyone, or did charging decisions require review or approval by others in the Department of Justice?**
 - b. What is the standard for a grand jury indictment? Describe how you assessed whether the evidence met that standard before you presented a case to a grand jury.**
 - c. Describe the investigative steps your office took in both the Mar-a-Lago classified documents case and the federal election obstruction case against President Trump. To the extent you are able, describe the evidence gathering tools you used (e.g., subpoenas, search warrants, witness interviews), how your office reviewed the evidence, how you reached each charging decision, what approvals you obtained before seeking indictment, and how you presented each case to the grand jury.**
 - d. Describe the direct and circumstantial evidence that supported the charges against President Trump in each case.**
 - e. Did any witness provide direct evidence of President Trump’s conduct or intent?**

Congress has granted the Attorney General broad statutory authority to appoint and supervise attorneys, including special counsels, to carry out the Department of Justice’s law-enforcement responsibilities. *See* 28 U.S.C. §§ 509, 510, 515(b), 533(1). That authority is reinforced by longstanding historical practice, judicial precedent, and Congress’s subsequent recognition of special-counsel appointments. *See, e.g., United States v. Nixon*, 418 U.S. 683 (1974).

Federal regulations and Department of Justice 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 whether 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.

¹ The questions submitted by Members of the Committee are reproduced as written, with footnotes omitted.

Consistent with these regulations, Attorney General Merrick Garland authorized the Special Counsel's 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." *See* Office of the Attorney General, Order No. 5559-2022, Appointment of John L. Smith as Special Counsel (Nov. 18, 2022). 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. *Id.*

The Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. 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.

The Department of Justice's Principles of Federal Prosecution generally provide that prosecutors should bring charges only when the admissible evidence is sufficient to obtain and sustain a conviction. U.S. Dep't of Justice, Justice Manual § 9-27.220 (Grounds for Commencing or Declining Prosecution). Consistent with these Principles, the Special Counsel's Office's investigation developed proof beyond a reasonable doubt that President Trump engaged in criminal activity.

A grand jury may return an indictment when it finds probable cause to believe that the accused committed the charged offense. *See, e.g., Branzburg v. Hayes*, 408 U.S. 665, 686–87 (1972). In this case, grand juries in two separate districts reached this conclusion based on Donald Trump's actions, as alleged in the indictments they returned. Rather than accept his defeat in the 2020 presidential election, President Trump engaged in a criminal scheme to overturn the results and prevent the lawful transfer of power. The evidence showed that President Trump attempted to induce state officials to ignore true vote counts; to manufacture fraudulent slates of presidential electors in seven states that he had lost; to force his own Vice President to act in contravention of his oath and to instead advance President Trump's personal interests; and, on January 6, 2021, to direct an angry mob to the United States Capitol to obstruct the congressional certification of the presidential election and then exploit the rioters' violence to further delay it.

And, as set forth in the original and superseding indictments returned in the Southern District of Florida, Donald Trump stored classified documents at his Mar-a-Lago social club after he left office in January 2021, and he repeatedly tried to obstruct justice to conceal his continued retention of those documents. Highly sensitive information was held in non-secure locations, including a bathroom and a ballroom where events and gatherings took place. Tens of thousands of people came to the social club during the time period when those classified documents were stored there.

- 2. Under Federal Rule of Criminal Procedure 6(e), may a grand jury witness publicly discuss the testimony the witness provided? Describe who is bound by grand jury secrecy and who is not.**

With some exceptions, Federal Rule of Criminal Procedure 6(e) prohibits the disclosure of matters occurring before a grand jury by a grand juror; an interpreter; a court reporter; an operator of a recording device; a person who transcribes recorded testimony; an attorney for the government; or a person to whom disclosure is made under the rule. Rule 6(e) does not prohibit grand jury witnesses from publicly discussing their testimony before the grand jury.

- 3. Describe the general circumstances under which the government seeks immunity for a grand jury witness is granted immunity for their testimony, the process for obtaining it, and the scope of protection it provides.**

- a. When may a witness properly invoke the Fifth Amendment privilege before a grand jury? What must a witness reasonably believe about his or her testimony to assert the privilege?**
- b. Does an immunity order under 18 U.S.C. § 6002 protect a witness from prosecution for the underlying conduct, or only from the use of the compelled testimony and evidence derived from it?**

As a general matter, a witness may invoke the Fifth Amendment privilege against self-incrimination where answering a question could reasonably tend to incriminate the witness or provide a link in the chain of evidence supporting a criminal prosecution. *See, e.g., Hoffman v. United States*, 341 U.S. 479, 486–87 (1951). The Fifth Amendment privilege protects the innocent as well as the guilty. *See Ohio v. Reiner*, 532 U.S. 17, 18 (2001) (per curiam) (“[O]ur precedents dictate that the privilege protects the innocent as well as the guilty.”); *Ullmann v. United States*, 350 U.S. 422, 426 (1956); *Grunewald v. United States*, 353 U.S. 391, 421 (1957).

Pursuant to 18 U.S.C. § 6003, the government may seek a court order compelling testimony from a grand jury witness who has refused, or is likely to refuse, to testify on the basis of the privilege against self-incrimination. Under 18 U.S.C. § 6002, neither the compelled testimony nor any information directly or indirectly derived from that testimony may be used against the witness in any criminal case, except in a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. This protection does not bar prosecution for the underlying conduct, but in such a prosecution the government bears the burden of proving that its evidence is derived from legitimate sources wholly independent of the immunized testimony.

- 4. At least 86 different judges rejected the lawsuits that Donald Trump and his allies brought to overturn the 2020 election.**

- a. Did you play any role in any of those cases?**
- b. Did you communicate with any of the judges presiding over those cases?**

- c. Where were you serving, and in what role, during the 2020 election and the litigation that followed?**

From September 2018 until my appointment as Special Counsel in November 2022, I served as chief prosecutor for the Kosovo Specialist Chambers in The Hague. During that time, I had no involvement in cases related to the 2020 U.S. Presidential election.

- 5. Nearly a year and a half before you were appointed Special Counsel, the House of Representatives voted 222-190 to establish a Select Committee to Investigate the January 6th Attack on the United States Capitol. In December 2022, the Select Committee referred Donald Trump to the DOJ for four potential crimes related to January 6th.**
- a. Before the Select Committee issued its referrals, did you communicate with any member of the Committee? If so, describe those communications.**
 - b. Before your appointment, had you considered, discussed, or been consulted about any investigation of President Trump?**
 - c. Did you play any role in the Select Committee's investigation or influence its conclusions? What weight, if any, did your office give the Committee's referrals?**

The Special Counsel's Office sought and received materials from the Select Committee to Investigate the January 6th Attack. As noted in Volume I of the Final Report on the Special Counsel's Investigations and Prosecutions, the Office's investigation considered the materials it received, as well as the Select Committee's December 2022 report. Ultimately, however, these materials comprised a small part of the Office's investigative record, and any facts on which the Office relied to make prosecution decisions were developed or verified through independent investigative steps.

- 6. As part of your investigation, you subpoenaed third-party records, including phone records of members of Congress who communicated with the Trump White House around the January 6, 2021 attack on the Capitol.**
- a. How did you identify the phone numbers whose records you subpoenaed?**
 - b. What protection does the Speech and Debate Clause provide Members of Congress? Describe the limits of that protection, including whether it extends to conduct outside legitimate legislative activity or to participation in a crime.**

The Speech or Debate Clause provides a form of limited immunity to Members of Congress for specific legislative acts. It does not apply to non-legislative acts, nor does it provide any protections for members of the Executive Branch. The Special Counsel's Office team took the protections of the Speech or Debate Clause seriously and recognized the important role those protections play in our separation of powers. 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. Several senior officials, including some of President Trump’s closest allies, have resigned from Department’s investigation of former law enforcement and intelligence officials accused of conspiring against President Trump. Joseph diGenova, whom President Trump appointed to lead the so-called “grand conspiracy” investigation, recently resigned citing ethical concerns over what the Administration asked him to do. He told reporters, “If you want indictments where there’s no evidence, you have an ethical problem.” Two weeks later, diGenova’s replacement, Kurt Olsen, also resigned unexpectedly.
- a. In April, the Department removed Maria Medetis Long, the head of the national security section in the U.S. Attorney’s Office for the Southern District of Florida, from the investigation after she raised concerns about the strength of the evidence. You served as a prosecutor for nearly three decades. In your experience, how often has a prosecutor been removed from a case for disagreeing with supervisors about the strength of the evidence? How should the Department resolve such disagreements?
 - b. In your experience, how often has a prosecutor resigned from a case over ethical concerns about insufficient evidence? What does such a resignation indicate about an investigation?
 - c. What ethical obligations govern a prosecutor’s decision to seek an indictment? What “ethical problem” arises when the Department seeks indictments without evidence?

Consistent with the Principles of Federal Prosecution, a prosecutor should not initiate a prosecution without a belief that the admissible evidence is sufficient to obtain and sustain a guilty verdict by an unbiased trier of fact. U.S. Dep’t of Justice, Justice Manual § 9-27.220 (Grounds for Commencing or Declining Prosecution). In my 30 years as a prosecutor, I have never witnessed anything like the resignations and departures that are plaguing the current Department of Justice, which indicate that the Department is focused on achieving specific outcomes against the President’s perceived enemies rather than on following the facts and the law.

8. During your time at the Department of Justice, did you ever witness a prosecutorial decision that considered a person’s political association, activities, or beliefs, or otherwise violated Justice Manual § 9-27.260? If so, please describe the circumstances.
- a. In your experience, what factors guide Department attorneys in deciding whether to bring criminal charges against a person?
 - b. What principles guided your decisions to seek the indictments of President Trump?

Consistent with the Federal Principles of Prosecution, a prosecutor should not initiate a prosecution without a belief that the admissible evidence is sufficient to obtain and sustain a guilty verdict by an unbiased trier of fact. U.S. Dep’t of Justice, Justice Manual § 9-27.220 (Grounds for Commencing or Declining Prosecution). The Special Counsel’s

Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Politics played no role.

- 9. Did you interview any Members of Congress as part of your investigation into efforts to obstruct the certification of the 2020 presidential election? If so, approximately when did those interviews take place?**
- a. Did any Member of Congress you interviewed express the view that the January 6, 2021, attack on the Capitol was not a cause for concern?**
 - b. Based on the evidence your office gathered, what aspects of the events of January 6, 2021, concern you most?**
 - c. What does the evidence your office gathered reveal about the risk that a similar effort could succeed in the future?**

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.

- 10. According to public reports, hundreds of DOJ and FBI employees have been fired since January 20, 2025. Based on your experience at the Department, describe the impact of losing so many employees in such a short period, including the impact on the Department's mission "to uphold the rule of law, to keep our country safe, and to protect civil rights."**
- a. Can the institutional knowledge of these employees be replaced? What concerns arise when the Department lacks the personnel it needs to keep Americans safe?**
 - b. Did any of the employees who worked on the cases against President Trump exhibit malice, political bias, or personal animus toward him?**
 - c. To the extent you can, describe the effect the firings have had on the morale and retention of the Department's remaining workforce.**
 - d. What steps would be necessary to restore the Department's integrity?**

The Special Counsel's Office conducted its investigation without regard to President Trump's political association, activities, beliefs, or candidacy in the 2024 presidential election. The Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law.

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better

protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country.

Questions from Sen. Coons

- 1. Do you believe that the Senate Judiciary Committee has a responsibility to conduct oversight of U.S. Department of Justice actions like the investigation into President Donald Trump, including by holding oversight hearings? Please explain.**

The Members of the Committee are best positioned to determine how to best leverage Congress's oversight authority to ensure that the U.S. Department of Justice is conducting investigations consistent with the law and Department policy.

- 2. Do you believe that your investigation was conducted apolitically, lawfully, and in accordance with the U.S. Department of Justice's internal policies during your time as Special Counsel? Please explain.**

Yes, the Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Politics played no role.

- 3. You testified that you believe Senator Lindsey Graham was a "patriotic public servant" and that he "likely would have been a witness" in your case against Donald Trump. You went on to explain that nondisclosure orders regarding the subpoenas for Senator Graham's records were necessary because disclosure of those subpoenas "could result in Donald Trump attempting to intimidate witnesses as he had before and after[.]" Can you elaborate on your concerns about how President Trump might have reacted if he had become aware of the subpoenas?**

Nondisclosure orders are intended to protect the integrity of an investigation by guarding against efforts to obstruct the investigators' work, including the destruction of or tampering with evidence, the intimidation of potential witnesses, or other conduct that could seriously jeopardize an investigation. The Office had evidence from a variety of sources that President Trump and many of his associates may have sought to obstruct its investigation if they learned about its investigative efforts.

- 4. Between politically motivated firings and voluntary resignations, the U.S. Department of Justice and the Federal Bureau of Investigation have experienced an unprecedented exodus of many of our nation's most exceptional law enforcement officers. In your view, what effect has this had on DOJ's work and the extent to which it remains independent from the White House?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better

protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country.

Questions from Sen. Durbin

- 1. While the Trump Administration may no longer be enforcing it, Department of Justice policy requires prosecutors to meet a high bar before prosecuting any individual. According to the Justice Manual, an attorney for the government should commence or recommend prosecution not only when the alleged conduct constitutes a federal offense, and not only when there is evidence to support that conduct, but when, “admissible evidence will probably be sufficient to obtain and sustain a conviction.”**
 - a. What does this standard mean in practice and were you bound by it as Special Counsel?**
 - b. Given that you sought indictments against President Trump in both the election interference and classified documents cases, does that mean that the admissible evidence was sufficient to obtain and sustain convictions in both?**
 - c. How did you determine the strength of the evidence in both cases was sufficient to warrant prosecution?**

The Department of Justice’s Principles of Federal Prosecution generally provide that prosecutors should bring charges only when the admissible evidence is sufficient to obtain and sustain a conviction. U.S. Dep’t of Justice, Justice Manual § 9-27.220 (Grounds for Commencing or Declining Prosecution). Consistent with these Principles, the Special Counsel’s Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Ultimately, the Office’s investigation developed proof beyond a reasonable doubt that President Trump engaged in criminal activity. The charges against President Trump were the result of the evidence.

- 2. During the hearing, you noted several times that the nonpartisan, career prosecutors and Federal Bureau of Investigation (FBI) agents assigned to work on both of your investigations were fired illegally by the Trump Administration after his second inauguration.**
 - a. How many of these prosecutors were fired by the Trump Administration?**
 - b. How many of these FBI agents were fired by the Trump Administration?**
 - c. How many support staff who worked on your investigations were fired by the Trump Administration?**

The FBI and Department of Justice would be best positioned to respond to questions regarding the specific number of individuals who were wrongfully fired.

- 3. At the hearing, you also noted that these experienced civil servants “stood sentry for us, experts in national security, experts in corruption investigations” and “many of them [are] veterans.” In addition to the illegality of their firing, you argued that their terminations “make[] our country less safe.”**

- a. Can you explain how the loss of the experience and expertise of your former colleagues purged from government by the Trump Administration makes us less safe?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country.

Questions from Sen. Grassley

- 1. In advance of the committee's hearing, how many times did you review records to prepare for your testimony? Provide the date of each review.**

In preparation for my testimony before the Committee, I reviewed materials several times to ensure that I could accurately and effectively answer the Committee's questions to the best of my ability and recollection. Before providing testimony to the House Judiciary Committee in December 2025 and January 2026, I reviewed material maintained in the Office's records, which are in the possession of the Department of Justice. I did not undertake such a review before my testimony to the Senate Judiciary Committee.

- 2. During the September 29, 2026, hearing, I asked you, "should whistleblowers who made lawful disclosures to Congress about your taxpayer-funded work be investigated?" I asked this question because J.P. Cooney and Molly Gaston filed a complaint requesting that the DOJ Inspector General investigate whistleblowers who disclosed information about abuses of authority to Congress by you and your staff. You stated, in part, "I'm not aware of any whistleblowers being investigated. I believe public servants should be protected." That response failed to answer my question.**
 - a. As a general proposition, should whistleblowers who made lawful disclosures to Congress about your taxpayer funded work be investigated? Yes or No? If so, why?**
 - b. Do you stand by your former staff, J.P. Cooney and Gaston, targeting whistleblowers who made legally protected disclosures to Congress? Yes or No? If so, why?**

All public servants, including federal employees entitled to safeguards under applicable whistleblower statutes and rules, should be protected from illegal and unfair retaliation. No one should be punished for doing something that is lawful.

I have the greatest respect for Mr. Cooney and Ms. Gaston and have no reason to believe they improperly targeted whistleblowers who made legally protected disclosures to Congress. Notably, the Department of Justice's Office of Legal Counsel has concluded that the Whistleblower Protection Act "does not protect a disclosure of grand-jury information, because Federal Rule of Criminal Procedure 6(e) was adopted by statute and, therefore, disclosure of such information is 'specifically prohibited by law.'" Unauthorized Disclosures About Prosecutorial Decision-Making and the Whistleblower Protection Act, 44 Op. O.L.C. 309 (2020).

- 3. On October 23, 2025, I asked you whether you or your staff used any non-government devices, such as laptops, tablets, or phones, to conduct official business. I also requested all records. You failed to answer and produce that information in advance of your hearing.**

During the September 29, 2026, hearing, I asked you, "[d]id you ever use a personal

device for work purposes to include communications such as email, text, or creation or editing of work product? If so, do you commit to providing that material to the committee?" You responded, "Yes. When I first became special counsel, I did not have a Government phone or Government computer, and so in the initial days when I was appointed and I was still living in the Netherlands, I did use a personal device and email to communicate with folks in the Justice Department. What I did when I got Government accounts is made sure, to the best of my ability, that those -- that information was forwarded to Government accounts so it would be within the Federal Records Act. I sought at all times to comply with the Federal Records Act, as I expected my attorneys to do as well."

- a. Provide all records.
- b. On what date did you receive government devices and accounts?
 - i. List each device and each account, including email addresses.
- c. After you were issued your government accounts and devices, did you ever use a personal device for work purposes to include communications such as email, text, or creating or editing of work product? If so, which device(s)? Produce all records.
- d. To your knowledge, after your staff were issued government accounts and devices, did they ever use a personal device for work purposes to include communications such as email, text, or creating or editing of work product? If so, which device(s)? Produce all records.
- e. Did you or members of your Special Counsel staff receive or transmit any classified information using personal or government devices?

Pursuant to Department of Justice regulations, my counsel sought approval from the Department on October 14, 2026, to provide documents responsive to your request. *See* U.S. Dep't of Just., Just. Manual § 1-6.100 (2018) (explaining that under the Touhy regulations, "no present or former employee of the Department of Justice may testify or produce Departmental records in response to subpoenas or demands of courts or other authorities issued in any state or federal proceeding without obtaining prior approval by an appropriate Department official"). As of today, the Department has not yet provided that approval.

Throughout my tenure, I took steps to ensure that copies of substantive communications regarding my work were appropriately maintained in official email accounts. The Special Counsel's Office staff understood and took very seriously the rules governing the creation and maintenance of federal records, including classified materials, and the team made every effort to abide by those rules. Information regarding official devices and accounts used by the Special Counsel's Office staff would be maintained in the Office's records, which are in the possession of the Department of Justice.

4. When you became special counsel, did you personally give your staff any direction regarding the handling of speech or debate and attorney-client material? Did you

do the same for any other privileges? If so, please describe how that direction was given and which privileges were discussed. If not, why not?

The Special Counsel's Office team took the Speech or Debate Clause seriously and recognized the important role it plays in our separation of powers. The team, which included some of the Department of Justice's most experienced career prosecutors, carefully considered these issues, conferred with the Department's experts on these issues, and followed Department protocol in all aspects of the Office's investigation.

- 5. During the September 29, 2026, hearing, Senator Britt asked you, "in 2024, Thibault was found to have . . . violated the Hatch Act for anti-Trump political conduct while at the FBI, and you are saying you took over his investigation and nothing. You didn't look into any of this . . . you didn't go back and check his work. Yes or no?" You answered, "I did check the work that was done before I was there, and I did not see in that work any evidence of political bias whatsoever."**
- a. What specific records did you review to arrive at the determination that there was no evidence of political bias?**
 - b. How many records did you review to arrive at this determination?**
 - c. While Special Counsel, were you briefed on political bias touching any issue relating to the matters you took over? If so, by whom and what was the substance?**
 - d. Were you aware that anti-Trump FBI agents, such as Assistant Special Agent in Charge Thibault, played critical roles in opening and approving the elector case? If so, when did you become aware?**

Assistant Special Agent in Charge Thibault retired from the FBI prior to my appointment as Special Counsel. After being appointed as Special Counsel, I did not meet with Agent Thibault. Upon my appointment, I reviewed the evidence collected to that point and rather than evidence of political bias, I saw evidence of President Trump's criminal activity which provided an ample basis to continue the Office's investigation. Through further investigation, the Office developed proof beyond a reasonable doubt that President Trump engaged in a criminal scheme to overturn the results of the 2020 election and prevent the lawful transfer of power, and to willfully retain classified documents at his social club and obstruct the government's investigation.

- 6. When did you become aware that J.P. Cooney wanted to "prosecute any nun who still wears a head habit"? Do you agree or disagree with that statement?**

I do not recall Mr. Cooney saying anything like that. I do not believe that nuns should be prosecuted for wearing a head habit.

- 7. When did you become aware that J.P. Cooney said this with respect to views on the Speech or Debate clause: “I’m an advocate for repealing the clause”? Do you agree or disagree with that statement?**

I do not recall Mr. Cooney advocating for a repeal of the Speech or Debate Clause. The Special Counsel’s Office team took the protections of the Speech or Debate Clause seriously and recognized the important role those protections play in our separation of powers. The team, which included some of the Department of Justice’s most experienced career prosecutors, carefully considered these issues, conferred with the Department’s experts on these issues, and followed Department protocol in all aspects of the Office’s investigation.

- 8. During my opening statement, I referenced records my office made public before the hearing concerning your staff failing to properly secure a SCIF, among other breaches of law and policy. In one message about an individual failing to close the SCIF a day before, a member of your Special Counsel staff, Carli Rodriguez-Feo, said “That’s a violation and incident so I need to know the details.” In another message, J.P. Cooney told staff to go home, and “If SCIF is open, please leave it open – I will be in in [sic] about an hour. But if locked, I can u lock [sic]—so all good however.” In another message, Special Counsel Office staff said they closed the SCIF “because I was concerned if I didn’t nobody else would.” In addition, in another message Special Counsel Office staff raised concerns about individuals being cleared without having the requisite need-to-know confirmation. Specifically, that message says “Also, love how Dan just moved forward with clearing someone without the need to know confirmation.. ‘were there any concerns’ ... don’t care if there were!” In your opening statement, you said “the Special Counsel’s Office followed Justice Department policy, observed legal requirements, and took actions based on the facts and the law.”**

- a. Is it your testimony that you and your staff followed, not merely “observed,” legal requirements?**
- b. Were you aware of all the above messages before the hearing?**
- c. While Special Counsel, did you become aware of the violation and incident referenced in the messages? If so, when and what steps did you take to ensure these breaches didn’t happen again? If none, why not?**
- d. Were you notified of other violations and incidents involving Special Counsel Office staff and the SCIF? If so, when and how many? Please describe.**
- e. When did you become aware that an individual was cleared without having the requisite need-to-know confirmation?**
- f. Did any Special Counsel Office staff raise concerns to you or your staff about individuals not having a need-to-know and still obtaining access to classified materials? If so, who and when? What steps did you take to handle these concerns? If none, why not?**
- g. Other than Special Counsel Office staff, who was authorized to access the SCIF(s) your office used for its matters?**
- h. Other than Special Counsel Office staff, who accessed the SCIF(s) your office used for its matters?**

- i. **Did any Special Counsel Office staff raise concerns to you or your staff about security issues caused by Biden government officials during the classified documents investigation?**
- j. **Considering all the issues, to include breaches of security standards and protocol by your operation, raised in these messages do you stand by your testimony that “the Special Counsel’s Office followed Justice Department policy, observed legal requirements, and took actions based on the facts and the law”?**

Throughout its investigation, the Special Counsel’s Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of classified material. *See, e.g.,* U.S. Dep’t of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records reflecting the approval of facilities to allow the Office to store and review classified materials would be maintained in the Office’s records, which are in the possession of the Department of Justice.

- 9. While Special Counsel, for each SCIF used as part of your operation, was it a properly authorized SCIF? Who authorized the SCIFs for operation?**

Throughout its investigation, the Special Counsel’s Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of classified material. *See, e.g.,* U.S. Dep’t of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records reflecting the approval of facilities to allow the Office to store and review classified materials would be maintained in the Office’s records, which are in the possession of the Department of Justice.

- 10. While Special Counsel, did your operation maintain a properly authorized SCIF in the courthouse at Fort Pierce, Florida?**

- a. **Did you have office space located there? Was your office an authorized SCIF? If so, by whom?**

Throughout its investigation, the Special Counsel’s Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of classified material. *See, e.g.,* U.S. Dep’t of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records reflecting the approval of facilities to allow the Office to store and review classified materials would be maintained in the Office’s records, which are in the possession of the Department of Justice.

- 11. Prior to or during your role as Special Counsel, were you ever apprised of any SCIF not being properly authorized that housed information relevant to your operation? If so, explain in detail.**

Throughout its investigation, the Special Counsel's Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of classified material. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records reflecting the approval of facilities to allow the Office to store and review classified materials would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 12. Senator Cruz asked you, "I want you to tell us right now -- are you an officer of the court?" and you responded, "Yes." As an officer of the court, are you required to disclose to the court controlling legal authority that is adverse to your position in a matter?**

As a general matter, rules of professional responsibility require an attorney to "disclose to the tribunal legal authority in the controlling jurisdiction known to the [attorney] to be directly adverse to the position of [his or her] client and not disclosed by opposing counsel." *See, e.g.*, ABA Model Rule of Professional Conduct 3.3(a)(2).

- 13. During the September 29, 2026, hearing, I made public and Senator Lee noted that in December 2022 and March 2023 preservation requests were sent to Apple demanding that Apple preserve the entire contents of targeted phones and Apple ID accounts, which may span multiple devices. This is a significantly greater amount of information and different than toll records. Senator Lee also noted that this information would likely cover a significantly greater time than the days, weeks, or months than were the scope of your investigation. The 2022 and 2023 preservation letters request the preservation of "all stored communications, records, and other evidence currently in your possession regarding the following accounts." This appears to include all communications linked to an Apple account, for as long as the individual held the account. Did you or your Special Counsel staff ever discuss customizing this preservation request to be less broad, as far as it concerned Members of Congress? If not, why not?**

As authorized under 18 U.S.C. § 2703(f), preservation requests are a routine investigative tool used by federal law enforcement authorities to ensure that records held by an internet or telecommunications provider are not destroyed during the pendency of an investigation. Often issued early in an investigation, when it is not yet clear which records may be most relevant, preservation requests are typically broadly phrased to ensure the preservation of all potentially relevant records.

- 14. Did you or your Special Counsel staff review any of the content of messages from Members of Congress? If so, which members? If not, why not?**

As part of its investigation, the Special Counsel's Office obtained communications from a variety of sources, including from the devices of non-Legislative Branch officials that could have included communications with Members of Congress. Communications involving White House personnel that were stored on government-issued devices were obtained lawfully from the National Archives and Records Administration ("NARA"),

which possessed them in the ordinary course under the Presidential Records Act, 44 U.S.C. §§ 2201–2209. As a general matter, such records become available to the general public under the Freedom of Information Act, 5 U.S.C. § 552, five years after they are received by NARA, 44 U.S.C. § 2204(c)(1). Before I was appointed Special Counsel, the Department of Justice also executed a search warrant for the phone of Congressman Scott Perry.

15. Did you or your Special Counsel staff have any contact with the White House during your time as Special Counsel? If so, with whom and describe in detail your interactions.

Throughout its existence, the Office conducted its work in full compliance with the Department's Policy on Communications with the White House. *See, e.g.*, Memorandum from Merrick Garland, Attorney General, Department of Justice Communications with the White House (July 21, 2021). As I recall, during the course of its investigation, the Special Counsel's Office communicated with White House staff to coordinate the interview of a career National Security Council staffer and separately communicated with the Office of the White House Counsel to coordinate the review of classified documents that included National Security Council equities. In addition, as I recall, there may have also been contacts with the White House through the Office of the Deputy Attorney General regarding executive privilege litigation.

16. Did you or your Special Counsel staff ever contact anyone in the intelligence community, including at the CIA, during your investigation? If so, who, when and for what purpose?

I am unable to provide a response due to Judge Cannon's order and the Department of Justice's interpretation of that order.

17. I asked you, "have you ever received any consultation or counsel by John Brennan, former CIA Director, whether during your time as special counsel or otherwise? If so, when and for what purpose?" You responded, "I've never met John Brennan." The question related to your receipt, as Special Counsel, of "consultation or counsel" which you did, in fact, receive. Your answer was evasive and misleading, at minimum. Based on records released on October 5, 2026, during your time as special counsel your operation met with John Brennan on November 3, 2023, "to discuss expert testimony to National Defense Information in the forthcoming trial in captioned investigation."

- a. After the November 3, 2023, meeting with former CIA Director John Brennan, did your Special Counsel staff brief you on it? If so, who and when?
- b. For the November 3, 2023, meeting with former CIA Director John Brennan, who on your Special Counsel staff, who from the FBI and who from the CIA attended?
- c. On what date did you become aware of the November 3, 2023, meeting with former CIA Director John Brennan?

- d. Other than the referenced November 3, 2023, meeting, how many times did members of your Special Counsel staff meet with former CIA Director John Brennan? Did you have any role in either setting up or participating in the meetings? Please explain.**
- e. What was the purpose of each meeting?**

As I testified, I have no recollection of having met or spoken with John Brennan.

To the extent that you are now asking about communications between Mr. Brennan and other members of the Special Counsel's Office team, I am unable to provide a response due to Judge Cannon's order and the Department of Justice's interpretation of that order.

18. During your hearing, I asked you about where the Special Counsel operation stored classified material and to "[d]escribe the SCIF arrangements for both DOJ and FBI personnel during and after the court decisions." You answered, "I can't speak to FBI facilities. I can explain. Our office had a SCIF, a place to store classified information, and my recollection is that there was, at least in Florida, an ability to store it there. I can't recall if it was at the FBI field office or at the courthouse, but we had a SCIF at our office as part of our investigation, knowing that classified information would be involved in the investigation."

- a. How many locations did your Special Counsel operation use a SCIF to store or review information? Provide each location, the clearance level, whether the site was for storage or review, and when it was approved and by whom for use as a SCIF.**
- b. When you said, "our office had a SCIF...at least in Florida."**
 - i. Which office and which SCIF were you referring to? Provide the location.**
 - ii. Which government agency operated the building the SCIF was located in?**
 - iii. What classification level was the SCIF cleared at?**
 - iv. When was the SCIF approved for use and by whom?**
- c. When you said, "we had a SCIF at our office as part of our investigation..."**
 - i. Which office are you referring to? Provide the location.**
 - ii. Which government agency operated the building the SCIF was located in?**
 - iii. What classification level was the SCIF cleared at?**
 - iv. When was the SCIF approved for use and by whom?**
- d. Which FBI Field Office were you referring to?**
- e. Describe how the Special Counsel's office transported classified material to and from the courtroom. Provide a list of all employees who handled the classified information.**
- f. Did you ever personally transport classified information to and from the SCIF or the courtroom?**

Throughout its investigation, the Special Counsel's Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of

classified material. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records reflecting the approval of facilities to allow the Office to store and review classified materials would be maintained in the Office's records, which are in the possession of the Department of Justice.

19. While Special Counsel, did you have any contact with the media? Did you have authorization to do so? If so, by whom? List all interactions.

Media contacts on behalf of the Office of Special Counsel were undertaken consistent with applicable Department of Justice policies. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 1-7.000 (Confidentiality and Media Contacts Policy). Consistent with these policies, as Special Counsel, I made two public press statements announcing the filing of indictments on June 9, 2023, and August 1, 2023.

20. While Special Counsel, did you provide information to media? Did you have authorization to do so? If so, by whom? List all information.

Media contacts on behalf of the Office of Special Counsel were undertaken consistent with applicable Department of Justice policies. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 1-7.000 (Confidentiality and Media Contacts Policy). Consistent with these policies, as Special Counsel, I made two public press statements announcing the filing of indictments on June 9, 2023, and August 1, 2023.

21. While Special Counsel, did you direct anyone from your Special Counsel staff to interact with the media? List all interactions and information provided.

Media contacts on behalf of the Office of Special Counsel were undertaken consistent with applicable Department of Justice policies. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 1-7.000 (Confidentiality and Media Contacts Policy).

22. Were records obtained by the Special Counsel's office in the election case shared with the classified documents investigation Special Counsel staff and vice versa? If so, was this information filtered through the respective investigation's filter protocols? Please explain.

During the course of its investigation, relevant evidence was made available within the Special Counsel's Office as appropriate and necessary to conduct the Office's investigation. In turn, the Office took a broad approach to discovery, providing voluminous, comprehensive, and early productions to defense counsel that exceeded its obligations.

Throughout its investigation, the Special Counsel's Office sought to abide by all applicable Department of Justice policies and procedures governing the handling of classified material. *See, e.g.*, U.S. Dep't of Justice, Justice Manual § 9-90.200 (Policies and Procedures for Criminal Cases That Involve Classified Information). Records

reflecting the Office's storage and review of classified materials would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 23. Do you stand by the Special Counsel Office's assertion in its February 2, 2024, filing that no NARA personnel "played any role in the development of prosecutorial strategy" and "NARA's involvement in the investigation consisted entirely of providing documents and information"? Yes or No?**

As set out in the relevant filing, my recollection is that during my tenure as Special Counsel the National Archives and Records Administration ("NARA") was not part of the prosecution team in connection with the Special Counsel's Office's investigation of President Trump's storage of classified documents at his Mar-a-Lago social club after he left office and repeated efforts to obstruct justice to conceal his continued retention of those documents. In that investigation, my recollection is that during my tenure as Special Counsel no NARA personnel participated in interviews (other than as witnesses), presented the case to the grand jury, accompanied prosecutors to any court proceedings, or played any role in the development of prosecutorial strategy.

- 24. While Special Counsel, did you or your staff ever meet, speak, or otherwise communicate with any Biden White House officials? If yes, who, when, and what was the subject matter?**

Throughout its existence, the Office conducted its work in full compliance with the Department's Policy on Communications with the White House. *See, e.g.*, Memorandum from Merrick Garland, Attorney General, Department of Justice Communications with the White House (July 21, 2021). As I recall, during the course of its investigation, the Special Counsel's Office communicated with White House staff to coordinate the interview of a career National Security Council staffer and separately communicated with the Office of the White House Counsel to coordinate the review of classified documents that included National Security Council equities. In addition, as I recall, there may have also been contacts with the White House through the Office of the Deputy Attorney General regarding executive privilege litigation.

- 25. While Special Counsel, did you or your staff ever meet, speak, or otherwise communicate with Attorney General Garland, Deputy Attorney General Monaco, Director Wray, and/or Deputy Director Abbate about your work? If yes, who, when, and what was the subject matter?**

Records reflecting meetings between the Special Counsel's Office and other Department of Justice officials would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 26. While Special Counsel, did anyone at the White House, Attorney General Garland or Deputy Attorney General Monaco direct you or your staff to take any investigative or prosecutorial action? If so, who and what action(s)?**

Nobody at the White House or within the Department of Justice ever sought to interfere with, or improperly influence, my prosecutorial decision making.

27. While Special Counsel, did Attorney General Garland or Deputy Attorney General Monaco approve your seeking and obtaining tolling records and text messages relating to Members of Congress? If not, who approved it?

At my direction, the Special Counsel's Office consulted with the Department of Justice's Public Integrity Section ("PIN") prior to issuing subpoenas for toll records relating to Members of Congress. The Office's communications with PIN, including PIN's basis for concurring with the Office's decision to proceed with those subpoenas, are reflected in records held by the Department. It is possible Attorney General Garland or Deputy Attorney General Monaco may have been briefed on these investigative steps. To my knowledge and recollection, neither Attorney General Garland nor Deputy Attorney General Monaco had a role in that consultation process or the Office's decision to obtain communications involving White House personnel that were stored on government-issued devices from the National Archives and Records Administration.

28. When did you and your staff become aware the Biden administration used a pen register and trap and trace (PR/TT) regarding former Trump officials, Republican Party officials, and Trump's lawyers? When you became Special Counsel, what role did you have in PR/TT? Did it extend to individuals beyond those since publicly reported? If so, who?

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.

29. While Special Counsel, did you or your Special Counsel staff discuss a superseding indictment with the DOJ Public Integrity Section (PIN)? Yes or No?

Yes.

30. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever provide an assessment to you or your staff regarding the filing of a superseding indictment until after the election? Yes or No?

Yes.

31. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever advise you or your staff to wait to file a superseding indictment until after the election? Yes or No?

32. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise concerns to you or your staff about filing a superseding indictment before the election? Yes or No?

33. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise concerns to you or your staff about filing a superseding indictment with new allegations before the election? Yes or No?
34. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise concerns to you or your staff that filing a superseding indictment before the election would allow a candidate to weaponize it against another candidate? Yes or No?
35. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise concerns to you or your staff that filing a superseding indictment before the election could be seen as motivated by partisan purposes? Yes or No?
36. While Special Counsel, did you or your Special Counsel staff assert to the DOJ Public Integrity Section (PIN) that a superseding indictment should be filed before the election? Yes or No?
37. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise the option of seeking a continuance so that a superseding indictment could be pushed until after the election? Yes or No?
38. While Special Counsel, did the DOJ Public Integrity Section (PIN) ever raise an option to obtain a continuance and craft scheduling orders to avoid election year considerations? Yes or No?
39. You were asked questions regarding an August 17, 2024, call between the Special Counsel Office and DOJ's Public Integrity Section (PIN) about a superseding indictment. You responded, "the Public Integrity Section ultimately concurred that we had followed the election-year sensitivities policy."
- a. Were you on this call?
 - b. When did PIN concur with the Special Counsel Office filing the superseding indictment?
 - c. What stated factors led to PIN concurring that the Special Counsel Office superseding indictment did not pose issues with the election year sensitivity policy? Who communicated this to you and your Special Counsel staff?
 - d. Are you aware whether anyone in the Attorney General's Office, Deputy Attorney General's Office, the Office of the Solicitor General, or DOJ officials discussed this matter with PIN prior to the concurrence?
 - e. Prior to obtaining an August 27, 2024, superseding indictment, did you or anyone on your Special Counsel staff meet or communicate with individuals in the Attorney General's Office, Deputy Attorney General's Office, the Office of the Solicitor General, or DOJ officials? If so, explain the communications in detail.

Response to Questions 31-39: The Special Counsel's Office team was deeply familiar with and committed to the Department of Justice's Election Year Sensitivities policy. The

Office consulted regularly with the Department's Public Integrity Section ("PIN") during its investigation, and PIN agreed that the Office complied fully with the Election Year Sensitivities policy in both of its cases. In particular, the Office consulted with PIN prior to the filing of a superseding indictment in the elections case on August 27, 2024.

The Office's communications with PIN, including PIN's basis for concurring with the Office's decision to proceed with the superseding indictment, would be maintained in the Office's records, which are in the possession of the Department of Justice.

40. During your time as Special Counsel, did you or your Special Counsel staff file an ex parte motion to seek IRS tax information?

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.

41. During your time as Special Counsel, did you or your Special Counsel staff obtain personal information relating to election workers as well as supporters of Republican Party candidates, including volunteers?

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.

Questions from Sen. Hirono

- 1. Under President Trump, the Department of Justice has been decimated, losing thousands of prosecutors, support staff, special agents, and analysts with combined millennia of experience. The Public Integrity Section, which fought public corruption and which you previously led, is effectively gone. As someone who spent decades as a career prosecutor, can you explain what has been lost as a result of this decimation of DOJ?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country.

- 2. Members of your team were fired solely because they were assigned to work with you. Can you explain how damaging that sort of assignment-based firing is to our country, to DOJ as an institution, and to those individuals personally?**

The career prosecutors and FBI agents who worked on the Special Counsel's Office investigations were motivated by duty, not politics. These public servants followed the facts and the law, and they have been wrongly vilified. Their firings make our country less safe.

Questions from Sen. Lee

1. **On June 2, 2023, a member of your team, Thomas Windom, emailed the National Archives and Records Administration (NARA) requesting all text messages from phones used by a long list of White House personnel.**

Your team then received the messages from NARA at 12:19 P.M. on August 21. Less than 30 minutes after receiving the messages from NARA, Windom emailed members of your team and informed them that he had downloaded the messages. And around 15 minutes later, he began sharing some excerpted messages with your team. Correct?

- a. **Some of the messages from NARA included texts messages between Members of Congress and the administration. In fact, it appears that there were text messages from 44 different Members of Congress included in the text message dump. My text messages were included in that dump. As were Senator Grassley's, Senator Cornyn's, the late-Senator Graham's, Senator Hawley's, and even Senator Booker's (six members of the Judiciary Committee).**

Some of these messages contained communication about the legislative work these Members were doing. Those messages were protected under the Speech and Debate clause and should have been removed from review by your Filter Team, but they never were. In fact, the DOJ has concluded that you bypassed your own Filter Team when it came to reviewing these messages. Why were you comfortable bypassing your Filter Team and reviewing messages protected by the Speech and Debated clause?

The Special Counsel's Office team took the protections of the Speech or Debate Clause seriously and recognized the important role those protections play in our separation of powers. The team, which included some of the Department of Justice's most experienced career prosecutors, carefully considered these issues, conferred with the Department's experts on these issues, and followed Department protocol in all aspects of the Office's investigation.

As part of its investigation, the Special Counsel's Office obtained communications from a variety of sources, including from the devices of non-Legislative Branch officials that could have included communications with Members of Congress. Communications involving White House personnel that were stored on government-issued devices were obtained lawfully from the National Archives and Records Administration ("NARA"), which possessed them in the ordinary course under the Presidential Records Act, 44 U.S.C. §§ 2201–2209. As a general matter, such records become available to the general public under the Freedom of Information Act, 5 U.S.C. § 552, five years after they are received by NARA, 44 U.S.C. § 2204(c)(1). Before I was appointed Special Counsel, the Department of Justice also executed a search warrant for the phone of Congressman Scott Perry.

Communications on the phone of an Executive Branch official are not protected by the Speech or Debate Clause, and records from these government-issued phones—already in the lawful possession of NARA—were not intended to go through a filter process. 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.

2. **We have recently received an internal memo from the Department of Justice. This internal memo indicates that PIN was opposed to your filing of a superseding indictment containing 79 new allegations due to election year sensitivities. You have testified that you filed a skinnier superseding indictment that was limited to pre-existing allegations. However, the DOJ reviewed the initial draft of the superseding indictment that PIN rejected, and the DOJ has concluded that you stuffed the substance of that rejected draft into the brief supporting your skinnier indictment.**
 - a. **Did PIN review your brief for election year sensitivities?**
 - b. **Why did you not wait until after the election to file the superseding indictment and its accompanying brief?**
 - c. **Why did you move for a lightly redacted version that brief to be released to the public a month before the 2024 election? Why did you not move for that brief to remain sealed until after the election?**

The Special Counsel’s Office team was deeply familiar with and committed to the Department of Justice’s Election Year Sensitivities policy. The Office consulted regularly with the Department’s Public Integrity Section (“PIN”) during its investigation, and PIN agreed that the Office complied fully with the Election Year Sensitivities policy in both of its cases. In particular, the Office consulted with PIN prior to the filing of a superseding indictment in the elections case on August 27, 2024, and prior to filing its opening immunity brief on September 26, 2024, which was filed in accordance with the district court’s scheduling order.

The Office’s communications with PIN, including PIN’s basis for concurring with the Office’s decision to proceed with the superseding indictment and its opening immunity brief, would be maintained in the Office’s records, which are in the possession of the Department of Justice.

3. **Mr. Smith, on October 3, 2026, you wore a T-shirt that featured the words “No Kings” (a refrain used by Trump critics to insinuate that Trump is anti-democratic) to an anti-Trump concert.**
 - a. **Is Donald Trump the King of America?**
 - i. **If yes, identify all the reasons you believe Donald Trump is the King of America.**
 - b. **Given your testimony about not conducting a partisan prosecution against President Trump, did your partisan views develop before or after you dropped the prosecution? How can you expect the American public to see you as anything but a partisan actor when you go to an anti-Trump concert**

with an anti-Trump slogan on your chest?

The Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Politics played no role. Ultimately, the Office's investigation developed proof beyond a reasonable doubt that, rather than accept his defeat in the 2020 presidential election, President Trump engaged in a criminal scheme to overturn the results and prevent the lawful transfer of power.

- 4. Going forward, will you commit to providing members of Congress with the opportunity to litigate the question of privilege with respect to toll records pursuant to the Speech and Debate clause of the Constitution and 2 U.S. Code § 6628?**

I am now a private citizen and cannot speak on behalf of the Department of Justice. Throughout its investigation, the Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Going forward, federal prosecutors should continue to abide by all applicable laws and Department of Justice policies to ensure the fair and impartial administration of justice.

- 5. Identify all the instances in which government resources were used for your personal security.**

I understand that federal expenditures to provide for security for myself and other members of the Special Counsel's Office team were based on risk assessments conducted by the U.S. Marshals Service, and I am thankful to the U.S. Marshals for keeping us safe. Records reflecting such expenditures would be maintained in the Office's records, which are in the possession of the Department of Justice.

Questions from Sen. Schiff

1. **In your opening statement to the Senate Judiciary Committee, you stated “it is my belief that the rule of law faces challenges unlike any we have experienced in our lifetimes.” Can you elaborate on the challenges you see for rule of law in United States at the current moment?**
 - a. **What actions by public servants or private attorneys are supporting rule of law, and what actions are undermining it?**
 - b. **What are your biggest concerns about law enforcement and rule of law given the current state of U.S. Department of Justice?**

I have the greatest admiration and respect for the many dedicated, nonpartisan public servants throughout the Department of Justice and FBI who continue to try to serve the American people. They should be commended for their resilience, their willingness to persevere under difficult circumstances, and their commitment to the rule of law.

If we do not better protect nonpartisan public servants, I fear it will drive young people away from public service, resulting in grave long-term consequences for our country.

2. **You have stated publicly that what we are seeing today at the Department of Justice (DOJ) is “not normal.” What do you think is the best version of the DOJ, and how far are we from that today?**

The best traditions of the Department of Justice are based upon the long-held understanding that everyone should be treated equally under the law. When individuals are singled out for criminal investigation or prosecution simply because the President perceives them as an enemy, it runs counter to everything I learned over decades of Department service in both Republican and Democratic administrations. Failing to investigate credible allegations of national security lapses, corruption, abuse of power, conflicts of interest and self-dealing because doing so might uncover facts that run counter to the President’s wishes is also unlike anything I experienced during my years of service, regardless of whether a Republican or Democrat was in the White House. For example, creating and seeking to defend a billion-plus dollar fund to financially reward individuals who attacked our Capitol and assaulted police officers is not something I could ever have imagined any previous Department of Justice being party to.

3. **What is the value of public service and public servants to our democracy?**
 - a. **What message do you have for public servants who see the attacks on rule of law today and wonder if they have the courage to stand up for our Constitution?**

I have the greatest admiration and respect for the many dedicated, nonpartisan public servants throughout the DOJ and FBI who continue to try to serve the American people. They should be commended for their resilience, their willingness to persevere under

difficult circumstances, and their commitment to the rule of law. And they should know that they have the support of Americans across this country.

- 4. Public records show that 5,000 employees have resigned, retired, or been fired from the DOJ in the first year of Trump's second administration. What do you think we are losing as a country with the departure of these career public servants?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country.

- 5. Do you believe the evidence collected by the Special Counsel's Office (SCO) was going to secure you a conviction against Donald Trump in the election interference case?**

- a. How did you arrive at your conclusion and on what did you base your opinion?**

Yes. The Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. In particular, the Department of Justice's Principles of Federal Prosecution generally provide that prosecutors should bring charges only when the admissible evidence is sufficient to obtain and sustain a conviction. U.S. Dep't of Justice, Justice Manual § 9-27.220 (Grounds for Commencing or Declining Prosecution). Consistent with these Principles, the Special Counsel's Office's investigation developed proof beyond a reasonable doubt that President Trump engaged in criminal activity. Grand juries reached this conclusion based on his actions, as alleged in the indictments they returned.

As set out in those indictments, rather than accept his defeat in the 2020 presidential election, President Trump engaged in a criminal scheme to overturn the results and prevent the lawful transfer of power. The evidence showed that President Trump attempted to induce state officials to ignore true vote counts; to manufacture fraudulent slates of presidential electors in seven states that he had lost; to force his own Vice President to act in contravention of his oath and to instead advance President Trump's personal interests; and, on January 6, 2021, to direct an angry mob to the United States Capitol to obstruct the congressional certification of the presidential election and then exploit the rioters' violence to further delay it.

6. Do you believe the evidence collected by the Special Counsel's Office was going to secure you convictions against Donald Trump, Waltine Nauta, and Carlos De Oliveira in the classified documents case?

a. How did you arrive at your conclusion and on what did you base your opinion?

Yes. The Special Counsel's Office followed Department of Justice policies, observed legal requirements, and took actions based on the facts and the law. Ultimately, the Office's investigation developed proof beyond a reasonable doubt that President Trump engaged in criminal activity. The grand jury reached this conclusion based on his actions, as alleged in the indictments it returned.

As set out in those indictments, President Trump stored classified documents at his Mar-a-Lago social club after he left office in January 2021, and he repeatedly tried to obstruct justice to conceal his continued retention of those documents. Highly sensitive information was held in non-secure locations, including a bathroom and a ballroom where events and gatherings took place. Tens of thousands of people came to the social club during the period when those classified documents were stored there.

7. You testified that the case against the President was "predicated upon Donald Trump preying on party loyalty. He preyed on party loyalty and fear... One of the reasons that he was not able to take power even though he was seeking to do these things is because Republicans stood up."

- a. Did the SCO make a list of potential witnesses that you would have likely presented at trial in the election interference case?**
- b. How many witnesses did you intend to present at that trial?**
- c. Please list the witnesses the SCO expected to call at trial in the election interference case against Donald Trump.**
- d. Did the SCO also identify potential trial exhibits for this trial? If so, how many?**
- e. Please describe the types of documents or records that SCO expected to admit at trial in the election interference case against Donald Trump.**
- f. Would you be opposed to efforts to make public the trial preparation materials, including exhibits and witness outlines, for the election interference case against Trump?**

Some of the most powerful evidence developed through the Special Counsel's Office investigation was testimony from federal, state, and local Republican elected officials who put country before party to resist efforts to overturn the results of the 2020 presidential election and prevent the lawful transfer of power. Records regarding the evidence collected by the Special Counsel's Office and the Office's potential trial strategy would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 8. If Trump or his co-conspirators had called Democratic or Independent members of Congress in their attempts to overturn the 2020 election, would you have subpoenaed their toll records? Why?**

Yes. The Special Counsel's Office followed investigative leads without regard to political affiliation and sought the evidence that would be most relevant to its investigation. President Trump and those working with him sought to delay and disrupt the certification of the election, in part by calling their political allies. If they had called Democrats or Independents, the Office would have sought that evidence as well.

- 9. The Special Counsel requested documents, including White House official phone records from separate National Archives and Records Administration (NARA).**

- a. What was the purpose of requesting those phone records?**
- b. Who did the phone records belong to?**

As an element of its investigation, the Special Counsel's Office obtained communications from a variety of sources, including from certain Executive Branch devices that could have included communications between White House personnel and Members of Congress. Communications involving White House personnel that were stored on government-issued devices were obtained lawfully from the National Archives and Records Administration ("NARA"), which possessed them in the ordinary course under the Presidential Records Act, 44 U.S.C. §§ 2201–2209. As a general matter, such records become available to the general public under the Freedom of Information Act, 5 U.S.C. § 552, five years after they are received by NARA, 44 U.S.C. § 2204(c)(1).

- 10. Several recordings reportedly exist from key events in Trump's efforts to interfere with the election, such as the recording of Trump's call with Georgia Secretary of State Brad Raffensperger where Trump asked state officials to "find" him enough votes to win and was told that his theories about election fraud were false and incorrect.**

- a. Did you expect the Special Counsel's team to play these recordings to a jury in the trial?**
- b. What was your assessment of the admissibility of a recording of a defendant (Trump) making requests that were part of a conspiracy alleged by the grand jury?**
- c. Were there other recordings that you anticipated admitting as evidence at trial? If so, what recordings?**
- d. What was your assessment of the strength of this evidence for proving the case at trial?**

While the weight assigned to any evidence depends on the circumstances, a defendant's own statements are often among the most powerful evidence in a criminal prosecution because they can directly reveal the defendant's knowledge, intent, motive, or involvement in the charged conduct, and generally may be admitted against the defendant as admissions of a party opponent. Records regarding the evidence collected by the

Special Counsel's Office and the Office's potential trial strategy would be maintained in the Office's records, which are in the possession of the Department of Justice.

11. The State of Georgia conducted three recounts in the 2020 election. State officials told Trump that he did not have enough votes to win the state's electoral votes.

- a. **What was the significance to your investigation that Trump asked the Georgia Secretary of State find him enough votes to win?**
- b. **In what way were you hoping to use at trial the evidence that Trump wanted to specifically find only 11,780 votes?**

While the weight assigned to any evidence depends on the circumstances, a defendant's own statements are often among the most powerful evidence in a criminal prosecution because they can directly reveal the defendant's knowledge, intent, motive, or involvement in the charged conduct, and generally may be admitted against the defendant as admissions of a party opponent. Records regarding the evidence collected by the Special Counsel's Office and the Office's potential trial strategy would be maintained in the Office's records, which are in the possession of the Department of Justice.

12. The Superseding Indictment alleged that the purpose of Trump's conspiracy "was to overturn the legitimate results of the 2020 presidential election by using knowingly false claims of election fraud to obstruct the federal government function by which those results were collected, counted, and certified."

- a. **What would have been the impact if Trump was successful in using false electors at the certification process?**

This conspiracy was an attack on the very core of our democracy, and as the indictment alleges, its purpose was to overturn the legitimate results of the 2020 presidential election.

13. Multiple public reports describe how on December 27, 2020, Donald Trump called the Acting Attorney General Jeffrey Rosen and Acting Deputy Attorney General Richard Donoghue. Rosen and Donoghue both testified in proceedings brought by the District of Columbia Board of Professional Responsibility, which found their testimony credible. In the December 27th call, Trump reportedly complained that the election was stolen from him, even after the DOJ officials repeatedly rebutted his claims. Notes taken by a participant in that call memorialized that AG Rosen told Trump he must "understand that the DOJ can't and won't snap its fingers and change the outcome of the election. It doesn't work that way." President Trump replied, "I don't expect you to do that. Just say the election was corrupt and leave the rest to me and the Republican Congressmen."

- a. **What was the significance to the prosecution that Trump asked his Attorney General and Deputy Attorney General to "say the election was corrupt" after they explicitly informed him that his position was factually incorrect and inappropriate?**

- b. In your assessment, what would have been the potential impact if AG Rosen had agreed to “just say the election was corrupt”?**

While the weight assigned to any evidence depends on the circumstances, a defendant’s own statements are often among the most powerful evidence in a criminal prosecution because they can directly reveal the defendant’s knowledge, intent, motive, or involvement in the charged conduct, and generally may be admitted against the defendant as admissions of a party opponent. Prior to the Supreme Court’s ruling in *Trump v. United States*, 603 U.S. 593 (2024), evidence of President Trump’s instructions to Department of Justice and other Executive Branch officials would have been admissible and was highly probative of his criminal intent to overturn the legitimate results of the 2020 presidential election. Records regarding the evidence collected by the Special Counsel’s Office and the Office’s potential trial strategy would be maintained in the Office’s records, which are in the possession of the Department of Justice.

- 14. Public records from litigation as well as your public transmission letter to Attorney General Garland make clear that the Special Counsel’s Office drafted a Volume II report summarizing your investigation and evidence collected that Donald Trump and co-conspirators obstructed your investigation and willfully retained highly classified documents in violation of federal criminal laws. District Court Judge Aileen Cannon has issued a permanent injunction sealing the Volume II report and prohibited you and any other government employees from discussing the contents of the report, although her procedural decisions and reasoning are currently on appeal. If you are unable to answer particular questions about the report due to the current order, please indicate so for each specific question.**

- a. Does Volume II of the Report contain more evidence than is publicly available?**
- b. If so, did the SCO intend to use that evidence at trial?**
- c. Generally speaking, what was your assessment of the strength of that evidence for proving the case at trial?**
- d. Did the Volume II report follow a similar format as the Volume I report, which included the Results of the Investigation, a review of applicable Law, Principles of Federal Prosecution, Investigative Procedure and Policy, Investigative Challenges and Litigation Issues, and an Appendix of key filings? If not, what is the format of the Volume II report?**
- e. How many pages long is the Volume II report?**
- f. Did the SCO prepare any supplemental documents related to Volume II that have yet to be released? If so, what types of documents were prepared?**
- g. How many individuals worked on the Volume II report, whether prosecutors, agents, or support staff?**

I am unable to provide a response due to Judge Cannon’s order and the Department of Justice’s interpretation of that order.

15. In *Trump v. United States*, a majority of the Supreme Court ruled that Trump and other presidents have absolute immunity for official acts, apparently including Trump’s efforts to direct DOJ to interfere with the election results.

- a. Is it your understanding that the absolute immunity granted to Trump also applied to other federal employees who were participating in otherwise criminal acts directed by the President?**
- b. After the *Trump v. United States* decision, did the SCO make changes to the evidence alleged and acts alleged in its Superseding Indictment?**
- c. What specific changes did the SCO make for its Superseding Indictment?**
- d. The Superseding Indictment omitted evidence of Trump’s interactions with the Department of Justice, including then-Assistant Attorney General Jeffrey Clark’s efforts to publicly and falsely declare that the election was effected by fraud, and statements by Attorney General Bill Barr, Acting Attorney General Jeffrey Rosen, and Acting Deputy Attorney General Richard Donoghue telling President Trump that his claims of election fraud were unsubstantiated or false. What would have been the value of this evidence in proving that Trump was committing a crime, absent the Supreme Court’s immunity decision?**
- e. What steps did the Office of the Special Counsel take to establish that the evidence supporting the Superseding Indictment was admissible at trial?**
- f. Even with evidence of “official” criminal activity by the President excluded, do you think there was still sufficient evidence to convict Trump for interfering with the election?**

The Supreme Court’s decision concluded that President Trump had absolute immunity for core presidential conduct. After that decision, the Special Counsel’s Office sought, and a grand jury returned, a superseding indictment with identical charges, but based only on conduct we believed fell outside the scope of that decision and was therefore not immune. Though this necessarily removed some probative evidence, there remained powerful evidence to prove the case beyond a reasonable doubt; otherwise the Special Counsel’s Office would not have proceeded with the superseding indictment. Records regarding the evidence collected by the Special Counsel’s Office and the Office’s potential trial strategy would be maintained in the Office’s records, which are in the possession of the Department of Justice.

16. In the Classified Documents case, the Superseding Indictment alleged that “TRUMP caused scores of boxes, many of which contained classified documents, to be transported to The Mar-a-Lago Club.” And that “TRUMP endeavored to obstruct the FBI and grand jury investigations and conceal his continued retention of classified documents[.]” After the boxes were stored at Mar-a-Lago and Trump received a grand jury subpoena, Trump, his valet Nauta, and Mar-a-Lago security manager Oliviera appear to have taken very specific actions to obstruct the FBI’s investigation. If you are unable to answer particular questions about the report due to the current court order, please indicate so for each specific question.

- a. What acts are alleged in the indictment that you consider to be evidence of obstruction of justice?
- b. How do these acts compare to other prosecutions for obstruction of justice that you prosecuted in your nearly 30-year career as a prosecutor?
- c. Does the Volume II report include any additional evidence of obstruction beyond the acts alleged in the superseding indictment?

The Superseding Indictment alleged six obstructive acts by President Trump, each of which is described in detail. Beyond that, I am unable to provide a response due to Judge Cannon's order and the Department of Justice's interpretation of that order.

17. The classified documents Superseding Indictment includes allegations that Trump's own attorney (Trump Attorney 1) "memorialized" statements that Trump made after receiving a grand jury subpoena for any classified documents in his possession improperly.

- a. What is the evidentiary value of a contemporaneous writing by a witness?

I am unable to provide a response due to Judge Cannon's order and the Department of Justice's interpretation of that order.

18. The classified documents Superseding Indictment includes a number of public statements made by Trump about classified information, such as "We can't have someone in the Oval Office who doesn't understand the meaning of the word confidential or classified." Superseding Indictment ¶¶ 23-24.

- a. What was the significance of these statements to the prosecution of Trump for willfully retaining classified documents?

I am unable to provide a response due to Judge Cannon's order and the Department of Justice's interpretation of that order.

19. In the *Trump v. IRS* case, a federal judge concluded earlier this year that President Trump and his attorneys worked together in order to create a \$1.8 billion slush fund for his political allies. In that case, the judge ruled that because President Trump was on both sides of the litigation, the lawsuit was "non-adversarial, collusive, and jurisdictionally improper." Yet in the ongoing court case about the Special Counsel's Report on Trump's theft of classified documents, President Trump's own DOJ has helped to keep the report sealed.

- a. In January 2025, Trump's co-defendants Nauta and De Oliveira asked Judge Cannon to block the release of Volume II. Based on public pleadings, your team at DOJ objected. Is that correct and why did the government object?
- b. After Inauguration, the new DOJ dismissed its appeal of Nauta and De Oliveira's cases, effectively ending their prosecution during the Trump administration. Two outside groups have been trying to intervene to seek

public release of the report based on the First Amendment and FOIA. Is that correct?

- c. On March 14, 2025, President Trump's appointees at DOJ confirmed it would not release the Volume II report and agreed to keep the court's injunction sealing the report. Is that correct?**

Upon submitting the Final Report on the Special Counsel's Investigations and Prosecutions to the Attorney General on January 7, 2025, I noted that because Volume II of the Final Report discusses the conduct of Mr. Trump's alleged co-conspirators in the classified documents case, Waltine Nauta and Carlos De Oliveira, consistent with Department policy, Volume II should not be publicly released while their case remains pending.

As set out in its public pleadings before the Court, on January 14, 2025 (after I resigned as Special Counsel), the Department of Justice submitted a filing arguing that it should be permitted to transmit Volume II of the Final Report to senior members of the House and Senate Judiciary Committees subject to confidentiality restrictions. Litigation regarding the relevant motion is ongoing, with the Department of Justice's filings available on the public docket. The Department of Justice would be best positioned to explain its current position in the litigation relating to the release of Volume II of the Final Report. I have no objection to the release of Volume II, so long as doing so complies with the law. However, whether to release Volume II was not my decision to make when we wrote the Report, nor is it my decision now.

- 20. Please list all attorneys who represented Donald Trump in the classified documents case, both before and after Trump took office in 2025.**

Records reflecting the Special Counsel's Office communications with defense counsel during the course of its investigation would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 21. Please list all attorneys who represented Nauta, Trump's co-defendant in the classified documents case, both before and after Trump was sworn in for his second term beginning on January 20, 2025.**

Records reflecting the Special Counsel's Office communications with defense counsel during the course of its investigation would be maintained in the Office's records, which are in the possession of the Department of Justice.

- 22. On January 30, 2026, Nauta and De Oliviera moved to permanently prohibit the release of the Volume II report. Their brief stated that President Trump joined their argument, and that quote "Counsel for the United States also indicated that they consent to the filing of this motion and do not oppose the requested relief."**

- a. Why do you think the DOJ switched its position after President Trump's second inauguration on whether to release the Volume II classified documents report?**

- b. In your experience as a prosecutor, what, if any, reason would be a justification for the DOJ to switch their opinion on release or non-release of the Volume II report?**
- c. In your nearly 30-year career as a prosecutor, can you recall seeing a case where defense counsel for a defendant was subsequently in a position to make government decisions about that same client's criminal prosecution?**

The Department of Justice would be best positioned to explain its current position in the litigation relating to the release of Volume II of the Final Report on the Special Counsel's Investigations and Prosecutions. I have no objection to the release of Volume II, so long as doing so complies with the law. However, whether to release Volume II was not my decision to make when we wrote the Report, nor is it my decision now.

- 23. What does it say about rule of law at the Department of Justice that Todd Blanche, Emil Bove, and Stanley Woodward, who all worked as defense counsel to Trump or his co-defendant, were leading the DOJ when it decided to support permanently sealing the Volume II report?**

There is no role for politics in the proper administration of justice. Just as politics played no role in the investigations and prosecutions by the Special Counsel's Office, it should not play a role in decisions regarding whether to make public Volume II of the Final Report on the Special Counsel's Investigations and Prosecutions. Just the same, it is essential to avoid conflicts of interest in order to maintain the public's trust that the Department of Justice is making decisions based on the interests of the American people. The Department of Justice and its leadership would be best positioned to explain why it advocated to permanently seal Volume II of the Final Report on the Special Counsel's Investigations and Prosecutions.

- 24. You have requested to testify in public congressional hearings and have repeatedly sought clarification from the Department of Justice as to the scope of what you may discuss publicly in response to congressional inquiries. The Special Counsel's Office has also been the subject of ongoing Congressional oversight in both the Senate and House of Representatives. If you are unable to answer particular questions about the report due to the current court order, please indicate so for each specific question.**

- a. How have the current limits on your testimony from the Executive Branch and Judicial Branch affected your ability to respond to the Constitutional requirements of Congressional oversight?**
- b. Is it fair to say that you or other Special Counsel staff have additional information relevant to the investigations that is not yet part of the public record of Trump's efforts to interference with the 2020 election results?**
- c. Is it fair to say that you or other Special Counsel staff have additional information relevant to the investigations that is not yet part of the public record of Trump, Nauta, and De Oliveira's efforts to obstruct justice and willfully retain classified documents?**

- d. Is it fair to say that the Department of Justice has additional information and evidence beyond what was written in Volume I and Volume II of your report? If so, please list the types of evidence collected for each case in preparation for trial.**

Federal Rule of Criminal Procedure 6(e) bars the disclosure of information that would reveal the “inner workings” of the grand jury. In addition, I am unable to provide a response due to Judge Cannon’s order and the Department of Justice’s interpretation of that order. Records regarding the evidence collected by the Special Counsel’s Office and the Office’s potential trial strategy would be maintained in the Office’s records, which are in the possession of the Department of Justice.

25. Your written testimony on September 29, 2026, noted that we are witnessing “the vilification of the career prosecutors, FBI agents, and support staff who served on my team, simply because of their unwavering commitment to the fair and impartial administration of justice without regard for any personal costs.” On March 26, 2026, then-Deputy Attorney General Todd Blanche stated at a right-wing political conference that “[t]here isn’t a single man or woman with a gun, federal agents still in that organization, that had anything to do with the prosecution of President Trump.” In his subsequent confirmation process to be Attorney General, Blanche stated in writing, “I took office as Deputy Attorney General on March 6, 2025, and I had no role in, and was not consulted about, any personnel action taken before that date.”

- a. Have any members of your team from the Special Counsel’s Office informed you that they were fired in whole or part because of their work on those investigations?**
- b. Are you aware of any evidence that confirms or refutes Blanche’s statement that he had no role and was not consulted about any personnel action prior to March 6, 2025?**

Since January 2025, numerous agents, prosecutors, and staff who worked at the Special Counsel’s Office have been vilified for their work seeking to uphold the rule of law; many have also been fired. Firing career Department of Justice employees simply for doing their jobs is illegal and improper and unlike anything I have seen in my 30 years as a federal prosecutor serving in both Republican and Democratic administrations. Attorney General Blanche would be best positioned to discuss any involvement he had in personnel actions taken by the Department.

26. At his July 15, 2026, confirmation hearing, I asked Todd Blanche whether it would have been a conflict of interest to be involved in the firing of prosecutors who prosecuted Donald Trump, Blanche answered “I wasn’t involved. That would be a conflict of interest.”

- a. Are you aware of any evidence that Blanche was involved in the firing of prosecutors or other government personnel who assisted in the prosecutions of Donald Trump?**

- b. Do you agree that it would be a conflict of interest for a former defense attorney to be involved in personnel decisions about the government employees who assisted or supported, even marginally, in the prosecution of the defense attorney's client?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country. Attorney General Blanche would be best positioned to discuss any involvement he had in personnel actions taken by the Department.

- 27. On April 11, 2025, Deputy Attorney General Blanche authored and personally signed the "Notice of Removal" sent to the longtime public servant who served as spokesperson for the Special Counsel's Office. Do you believe it was a conflict of interest for Blanche to terminate without cause the employment of personnel who worked on your cases?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country. Attorney General Blanche would be best positioned to discuss any involvement he had in personnel actions taken by the Department.

- 28. At the Senate Judiciary Committee oversight hearing for the Federal Bureau of Investigation on September 16, 2026, Director Kash Patel was unable or unwilling to answer questions about the special agents who worked on the investigations into Donald Trump's attempt to interfere with the 2020 election and witfully retain classified documents and that were subsequently fired. Understanding that you left the Department of Justice prior to this administration, are you aware of any evidence that Patel's claims that he was uninvolved in firing FBI agents are misleading or false?**

- a. When asked “Is it your testimony today that most of those agents are no longer with the FBI because they decided suddenly to retire?,” Patel testified, “Yes.” If Patel’s statement is accurate, why do you think that “most of those agents . . . decided suddenly to retire”?
- b. Patel also testified that the FBI agents who worked on the Trump investigations “left before I got there. There’s really nothing I can do.” Do you accept Director Patel’s assertion that he had nothing to do with the FBI personnel who left prior or during the second Trump administration?
- c. To your knowledge, how unprecedented is the current rate of departure of FBI agents, and what is the effect on our national security?

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. We are all less safe when career public servants who have devoted their professional lives to developing expertise in national security matters are devalued and fired for no legitimate reason. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons. These dedicated public servants have been wrongly vilified and the attacks against them are unwarranted and unprecedented. Better protecting nonpartisan public servants so they can do their jobs without fear of reprisals is foundational to restoring the rule of law in our country. Director Patel would be best positioned to discuss any involvement he had in personnel actions taken by the FBI.

29. According to a public filing, a number of FBI agents are reportedly under criminal investigation by the Trump DOJ for their role in your investigations, including for their participation in the court-authorized search of Mar-a-Lago. At the same time, these agents are presumably subject to Judge Cannon’s order preventing them from discussing the evidence in the classified documents case or their contributions to the Volume II report. Do you find it fair that the agents are put in position where they cannot fully defend themselves on the merits of the investigation given Judge Cannon’s injunction?

Based on public filings, the Department of Justice has sought—and in some cases, compelled—testimony from former FBI agents about non-public information regarding their work in connection with the Special Counsel’s Office’s investigation of President Trump’s storage of classified documents at his Mar-a-Lago social club. As those agents have explained in a public filing, however, they cannot provide testimony on this matter without risking a violation of the terms of Judge Cannon’s order regarding the contents of Volume II of the Final Report on the Special Counsel’s Investigations and Prosecutions. I have no objection to the release of Volume II, so long as doing so complies with the law. However, whether to release Volume II was not my decision to make when we wrote the Report, nor is it my decision now.

30. You were a public corruption prosecutor here in the United States and overseas, including for five years as Chief of the DOJ Public Integrity Section. What do you think is the current state of our government’s efforts to fight corruption?

- a. Are there examples of publicly reported conduct that, in your experience, would have likely resulted in a public corruption investigation in prior administrations?**
- b. Do you think the DOJ's reaction to those events would have differed between Republican and Democratic administrations?**

The firing of career prosecutors, FBI agents, and support staff for doing their jobs undermines the credibility and effectiveness of the Department of Justice. Our government is also much more susceptible to corruption at all levels when nonpartisan public servants who have devoted their careers to assuring that nobody is above the law are illegally fired for political reasons.

The best traditions of the Department of Justice are based upon the long-held understanding that everyone should be treated equally under the law. Failing to investigate credible allegations of national security lapses, corruption, abuse of power, conflicts of interest and self-dealing because doing so might uncover facts that run counter to the President's wishes is also unlike anything I experienced during my years of service, regardless of whether a Republican or Democrat was in the White House.