

ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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November 19, 2025

The Honorable Pamela Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530

Dear Attorney General Bondi:

The Committee on the Judiciary writes to refer significant evidence that Thomas Windom, former Senior Assistant Special Counsel to Jack Smith, has, by his conduct during a deposition before the Committee, obstructed a congressional investigation. Under 18 U.S.C. § 1505, a witness, as relevant here, violates the law when he “corruptly . . . obstructs, or impedes or endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee . . . of the Congress.”¹ Congress cannot perform its oversight function if witnesses who appear before its committees corruptly refuse to provide information that the law requires them to furnish. The obstruction of a committee investigation undermines Congress’s core constitutional oversight obligations. The Committee is providing this information for the Department of Justice (DOJ) to investigate potential violations of 18 U.S.C. § 1505.

The points below support an inquiry into whether Windom obstructed the Committee’s investigation of DOJ and, specifically, of the Office of Special Counsel Jack Smith.

1. The Committee is exercising its power of inquiry regarding programs and operations of the Department of Justice.

The Supreme Court has recognized that Congress has a “broad and indispensable” power to conduct oversight that “encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them.”² Rule X of the Rules of the House of Representatives bestows upon the Committee jurisdiction over federal law enforcement including DOJ and its

¹ 18 U.S.C. § 1505.

² See, e.g., *Trump v. Mazars USA, LLP*, 591 U.S. 848, 862 (2020) (internal quotation marks and citation marks omitted).

component entities.³ Rule XI of the Rules of the House of Representatives authorizes the Committee to require by subpoena the attendance and testimony of witnesses at depositions to carry out its functions and duties.⁴ Pursuant to these authorities, the Committee is investigating the programs and operations of DOJ during the Biden-Harris Administration and, as relevant here, the Office of Special Counsel Jack Smith.

As a part of the Committee's duly authorized inquiry, the Committee wrote to Windom on April 7, 2025, to request a voluntary transcribed interview regarding his "role as a prosecutor on former Special Counsel Jack Smith's team" and other related matters.⁵ The letter provided a non-exhaustive list of examples of alleged misconduct by the Special Counsel's Office that the Committee sought to examine in greater detail.⁶ The Committee's request did not limit the scope of the information sought or condition Windom's testimony on his obtaining authorization from DOJ.⁷ Nonetheless, DOJ did authorize Windom's testimony prior to his transcribed interview. In an email dated May 29, 2025—two weeks prior to Windom's initial voluntary testimony—DOJ provided Windom's attorney with the anticipated scope of the Committee's interview, a list that included four broad topics and 20 subtopics.⁸ On June 4, DOJ consolidated and organized these items into five topics, and granted Windom specific, written authorization to "provide unrestricted testimony to the Committee[], irrespective of potential privilege," on these topics.⁹ Further, as an accommodation to Windom and in an effort to ensure his thorough and unconstrained testimony, on three occasions—April 24, May 27, and June 2—the Committee provided Windom's attorney topics that it anticipated would be discussed during his transcribed interview.¹⁰

Rather than raise concerns or seek clarification about the nature and scope of DOJ's authorization and/or the Committee's inquiry in the hope of resolving them prior to his initial testimony, Windom declined to answer multiple questions during this transcribed interview on the inaccurate basis that DOJ had not authorized testimony about those topics.¹¹ For example, Windom invoked an absurd and indefensible interpretation of DOJ's authorization by refusing to testify about communications with FBI officials in part on the grounds that FBI officials are not "DOJ officials."¹² Windom testified:

³ Rules of the House of Representatives, 119th Cong., R. X (2025).

⁴ Rules of the House of Representatives, 119th Cong., R. XI(2)(m)(1)(B) (2025).

⁵ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Thomas Windom, Former Senior Assistant Special Counsel (Apr. 7, 2025).

⁶ *Id.*

⁷ *Id.*

⁸ Email from Ernesto Sampera, Office of Legis. Aff., U.S. Dep't of Just., to Preston Burton, Orrick, Herrington & Sutcliffe LLP (May 29, 2025, 07:37 EST) (on file with the Committee) [hereinafter DOJ Email].

⁹ Letter from Brian Nieves, Office of the Deputy Att'y Gen., U.S. Dep't of Just., to Thomas Windom, Esq. (June 4, 2025) (on file with the Committee) [hereinafter June Authorization Letter].

¹⁰ Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Preston Burke, Counsel for Mr. Thomas Windom (Apr. 24, 2025, 2:00 p.m.); Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Mr. Preston Burke, Counsel for Mr. Thomas Windom (May 27, 2025, 3:00 p.m.); Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Mr. Preston Burke, Counsel for Mr. Thomas Windom (June 2, 2025, 2:00 p.m.).

¹¹ Transcribed Interview of Thomas Windom, Senior Assistant Special Counsel, USAO D.C. (June 12, 2025) [hereinafter Windom Interview] at 23, 34, 35, 39-40, 112, 116.

¹² See Windom Interview, *supra* note 1111, at 34; see also June Authorization Letter, *supra* note 9, at 1.

Q. Did you ever have discussions with Mr. D'Antuono regarding seeking information from the Willard Hotel?

A. I think that that falls into two different prohibitions. What I said before is that . . . I know who Mr. D'Antuono is. And when you asked me that, whether I interacted with him or whatever the specific question was before, I pointed you to the Department having not authorized me to—

Q. But Mr. D'Antuono . . . is a Department official, so—

A. . . . So for that reason, I would not be able to talk about specific interactions with Mr. D'Antuono. Beyond that, the question that you most immediately posed seems to me, to the extent that it occurred or did not occur, my understanding would fall, as my counsel indicated, within Rule 6 obligations, which would further prevent me from discussing that with you.

Atty. In addition, your request to the Department specifically named those two agents. Their guidance letter to us does not.

Q. It says discussions with Department officials, correct?

Atty. FBI agents are not Department of Justice officials, as I understand the term.

Q. That's ridiculous. FBI is a part of the Department of Justice.

Atty. I understand that, but I don't know that it . . . is a Department of Justice official. But anyway Regardless of whether this is an official or not, any interaction with him—I'm aware of the newspaper article that prompts this line of inquiry, which is supposedly about a subpoena to the Willard, as you just said . . . Any subpoena issued would be, by definition, a grand jury subpoena and, therefore, that topic is off limits by the terms of Rule 6(e) and as indicated on page 2 of the June 4, 2025, letter providing guidance.¹³

This position is nonsensical because the FBI is a component of the Department of Justice and the Department specifically informed Windom's attorney that the Committee would inquire

¹³ Windom Interview, *supra* note 11, at 33-34.

about communications with FBI officials.¹⁴ Windom also refused to provide certain details, including names and information about the other prosecutors he worked with during the investigations into President Trump, citing lack of specific Department authorization.¹⁵ These positions are in direct conflict with the Department's clear direction to provide "unrestricted testimony" about the topics under inquiry.¹⁶

Windom also relied on what the Committee considers to be an overly broad interpretation of Rule 6(e) of the Federal Rules of Criminal Procedure (FRCP) to decline to answer several questions during his transcribed interview.¹⁷ While the Department's authorization letter did note a limited exception for "information subject to FRCP Rule 6(e)," which protects the secrecy of "matter[s] occurring before the grand jury,"¹⁸ the questions posed by the Committee were, at most, only tangentially related to grand jury proceedings.¹⁹ On this basis, Windom refused to answer certain questions related to materials obtained from and interactions he may have had with the partisan January 6th Select Committee, as well as his interactions with the FBI to obtain billing records from the Willard Hotel.²⁰

Windom's conduct during his transcribed interview contrasts starkly with the way other Department employees have handled Rule 6(e) during their transcribed interviews before the Committee. This Congress, the Committee has conducted transcribed interviews of several other current and former Department employees who provided testimony about these and other topics without revealing material protected by Rule 6(e). For example, former Special Counsel's Office senior prosecutor J.P. Cooney testified that he "had communication with staff on the Select Committee about obtaining information."²¹ Likewise, Department tax attorneys Jack Morgan and Mark Daly testified about their interactions with the FBI, including investigatory steps and evidence collection.²² Viewed in context of these other transcribed interviews, Windom's overbroad interpretation of Rule 6(e) needlessly hampered the Committee's oversight.

¹⁴ DOJ Email, *supra* note 8. In fact, federal law authorizes the Attorney General, the head of the Department of the Justice, to investigate violation of criminal laws, *see* 28 U.S.C. § 533, an authority that has been delegated to the Director of the FBI. 28 C.F.R. § 0.85. It is simply a bad-faith interpretation of the Department's authorization letter to assert that FBI employees are not included within the meaning of "DOJ officials."

¹⁵ Windom Interview, *supra* note 11, at 23.

¹⁶ June Authorization Letter, *supra* note 9, at 2.

¹⁷ Windom Interview, *supra* note 11, at 19, 33-34, 93, 112, 129-130.

¹⁸ June Authorization Letter, *supra* note 9, at 2; Fed. R. Crim. P. 6(e)(2)(B).

¹⁹ *See* Windom Interview, *supra* note 11, at 16, 19-21, 33, 34-35, 68, 93, 112-113, 114-115, 124, 129-130. In response to some questions, Windom listed multiple reasons for refusing to answer the Committee's questions, including unidentified court orders and the Department's authorization letter, in addition to his interpretation of Rule 6(e), and did not make clear his specific basis of refusal. *Id.* at 93, 112-113, 114-116, 129.

²⁰ Windom Interview, *supra* note 11, at 19-21, 33-34, 92-93, 113-114.

²¹ Transcribed Interview of J.P. Cooney, Deputy Special Counsel, at 66 (June 24, 2025).

²² *See, e.g.*, Transcribed Interview of Jack Morgan, Trial Attorney, Dep't of Just., Tax Div., at 27 (May 22, 2025); Transcribed Interview of Mark Daly, Senior Litigation Counsel, Dep't of Just., Tax Div., at 69-70, 124 (May 7, 2025).

2. Thomas Windom’s refusal to answer questions and properly make privilege assertions during his deposition obstructed the Committee’s investigation.

After Windom refused to testify about many topics during his transcribed interview, and pursuant to House Rule XI and Committee rules, the Committee issued a deposition subpoena to Windom on July 21, 2025, compelling him to reappear and testify about these topics.²³ In advance of the deposition, on September 4, DOJ wrote to Windom to again authorize him to give “unrestricted testimony” to the Committee about a variety of subjects.²⁴ Specifically, the Department provided Windom a detailed list of topics about which he was authorized to testify at his deposition.²⁵ DOJ explained that given the “extraordinary events underlying this matter . . . the Department authorizes . . . unrestricted testimony to the Committee[], irrespective of potential privilege, including the names of line attorneys and agents in the Department.”²⁶

Despite this authorization, during his September 30 deposition, Windom declined to answer nearly every single one of the Committee’s questions, citing various and shifting justifications.²⁷ Specifically, Windom’s counsel began the deposition by asserting numerous blanket objections to the Committee’s ability to depose Windom, including an unspecified First Amendment privilege, attorney-client privilege, a misguided belief that the Committee had no legitimate legislative purpose for the inquiry, and his Fifth Amendment right against self-incrimination.²⁸

Pursuant to the House’s deposition rules, a copy of which was provided to Windom with the subpoena, a “witness may refuse to answer a question only to preserve a privilege.”²⁹ The rules also require that objections be stated “concisely and in a non-argumentative and nonsuggestive manner.”³⁰ Despite being put on notice of these rules, Windom flouted them throughout the deposition.

In response to at least 70 questions, Windom replied with some version of the following response: “I respectfully decline to respond for the reasons stated by my counsel.”³¹ When the Committee sought clarification about which of these reasons justified Windom’s refusal to answer the first few questions and whether Windom was invoking his Fifth Amendment right, Windom simply replied, “I respectfully decline to respond for all the reasons stated by my counsel.”³² When the Committee attempted to pin Windom down on his reasons for refusing to

²³ Subpoena from Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary et. al., to Thomas Windom, Senior Assistant Special Counsel, USAO D.C. (July 21, 2025).

²⁴ Letter from Rachel Jag, Office of the Assistant Att’y Gen., U.S. Dep’t of Just., to Thomas Windom, Esq., (Sept. 4, 2025) (on file with the Committee) [hereinafter September Authorization Letter].

²⁵ *Id.*

²⁶ *Id.* at 2.

²⁷ *See, e.g.*, Deposition of Thomas Windom, Senior Assistant Special Counsel, USAO D.C., at 10, 12-16, 24-25, 25-29, 30 (Sept. 30, 2025) [hereinafter Windom Deposition].

²⁸ *Id.* at 8-10.

²⁹ 171 CONG. REC. 7,146-147 (2025).

³⁰ 171 CONG. REC. 7,146-147 (2025).

³¹ Windom Deposition, *supra* note 27.

³² *Id.* at 11-12.

answer questions, Windom continued to provide vague, repetitive, and evasive responses indicating only that he “decline[d] to respond for all of the reasons cited by [his] counsel.”³³ Windom even declined to answer questions that he had already previously answered during his voluntary transcribed interview.³⁴

Windom’s improper refusal to answer nearly all questions during his deposition obstructed the Committee’s fact-finding. As a senior assistant to Special Counsel Jack Smith, Windom possesses unique, firsthand information about the work of that Office. Yet, despite being given express authorization by DOJ on two separate occasions, Windom declined to answer questions during his deposition about topics necessary and relevant to the Committee’s inquiry. These topics include:

- Knowledge of a February 2021 proposal that J.P. Cooney brought to the FBI to investigate President Trump and the individuals within his orbit;
- Interactions with and materials obtained from the January 6th Select Committee;
- Information related to the surveillance of Representative Scott Perry and the seizure of his cell phone;
- Information related to how many other Members of Congress were investigated as part of the Arctic Frost investigation and the Jack Smith investigation; and
- Communications with FBI officials related to potential evidence in the possession of the Willard Hotel.³⁵

Windom’s obstruction is particularly apparent when viewed in light of how other witnesses interviewed during the Committee’s inquiry answered the Committee’s questions. For example, former Special Counsel’s Office senior prosecutor J.P. Cooney testified that the Special Counsel team never considered how seizing Congressman Scott Perry’s cell phone would interrupt his duties as a Member of Congress,³⁶ while Windom refused to respond to any questions related to the seizure of Congressman Scott Perry’s cell phone.³⁷ In addition, Cooney testified that he “had communications with staff on the select committee about obtaining information that is described in the special counsel’s report.”³⁸ In contrast, Windom asserted a blanket objection to all questions posed to him regarding the Select Committee.³⁹ Cooney also testified that he “did review some CHS [confidential human sources] information” while working for the Special

³³ See, e.g., *id.* at 25.

³⁴ *E.g., id.*

³⁵ See Windom Interview, *supra* note 11, at 19-21, 33-34, 35, 39-40, 92-93, 112, 113-114, 116, 130; Windom Deposition, *supra* note 27, at 13, 15-16, 28-29.

³⁶ Transcribed Interview of J.P. Cooney, Deputy Special Counsel, at 50 (June 24, 2025).

³⁷ Windom Deposition, *supra* note 27, at 15-16.

³⁸ Transcribed Interview of J.P. Cooney, Deputy Special Counsel, at 64 (June 24, 2025).

³⁹ Windom Deposition, *supra* note 27, at 16.

Counsel.⁴⁰ However, when asked about confidential human sources, Windom once again asserted a blanket objection.⁴¹

Windom thus chose a different course. Although DOJ had specifically authorized Windom to testify without significant restrictions about his role as a prosecutor on Jack Smith's team,⁴² he flouted the Committee's constitutional oversight authority and its deposition rules by not answering most of the Committee's questions. Windom's insistence on refusing to answer the Committee's important questions about his work deprives the Committee and Congress of necessary firsthand information about the operations of the Office of Special Counsel Jack Smith.

3. Thomas Windom's obstruction of the Committee's duly authorized inquiry was corrupt.

Windom corruptly obstructed the Committee's duly authorized inquiry by withholding information from the Committee during his deposition using improperly invoked privileges, ill-defined and inapplicable justifications, and repeated invocation of the same blanket set of objections. As applied in 18 U.S.C. § 1505, "corruptly" is defined as "acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information."⁴³ Windom's conduct throughout the deposition evidences his improper purpose of impeding the Committee's investigation.

To be clear, this referral does not result from a good-faith disagreement between the Committee and Windom about the scope of Rule 6(e). Had Windom, at his deposition, simply refused to answer the same questions that he had refused to answer on Rule 6(e) grounds during his transcribed interview, the Committee would not be making this referral, notwithstanding the Committee's strong disagreement with Windom's interpretation of Rule 6(e). Unfortunately, Windom's conduct at the deposition went far beyond that, evidencing an intent to obstruct the Committee's investigation.

a. Windom improperly refused to testify during his deposition about topics that he had previously testified about during his transcribed interview.

Despite previously providing the Committee with certain limited information at his June 12 transcribed interview, Windom refused to confirm that same information during his deposition. To the extent that at his transcribed interview Windom did not invoke the Fifth Amendment and answered certain of the Committee's questions, there exist strong grounds to conclude that any Fifth Amendment privilege was waived with respect to those questions. Instead, Windom improperly withheld information by refusing to confirm information to which he already testified to in an apparent effort to obstruct the Committee's investigation.

⁴⁰ Transcribed Interview of J.P. Cooney, Deputy Special Counsel, at 74 (June 24, 2025).

⁴¹ Windom Deposition, *supra* note 27, at 16.

⁴² September Authorization Letter, *supra* note 24.

⁴³ 18 U.S.C. § 1515(b).

For example, Windom testified during his transcribed interview about the inception and purpose of his November 2021 detail to the U.S. Attorney's Office for the District of Columbia. On June 12, he testified:

A. The first detail was to the United States Attorney's Office for the District of Columbia.

Q. And when did that detail begin?

A. Approximately the beginning of November, kind of middle of November maybe, of 2021.

Q. And were you asked to detail or did you seek out the opportunity?

A. I was asked to go on a detail.

* * *

Q. Was the focus of the investigation on the events that occurred on January 6, 2021, or was it the 2020 election?

A. . . . [T]here was investigative information that had been developed during the course of the investigations into either the on-the-ground rioters who breached the Capitol Building and assaulted law enforcement officers, and then also what later became the conspiracy cases, as shorthand, which may involve people, I'm thinking like Oath Keepers, Proud Boys, things like that, where they may not have actually in some instances entered the Capitol. So those are the sorts of investigations where I began looking at the investigative files.⁴⁴

However, when asked about these topics during his deposition, Windom refused to provide any information about his November 2021 detail to the U.S. Attorney's Office. On September 30, he testified:

Q. You testified in June about details that you participated in while at the Justice Department. You stated the first detail was to the United States Attorney's Office for the District of Columbia. When did that detail begin?

⁴⁴ Windom Interview, *supra* note 11, at 11-13.

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. You answered that question in June: “Approximately the beginning of November, kind of middle of November maybe, of 2021.” The question is, were you asked to go on that detail, or did you seek out the opportunity?

A. I respectfully decline to respond for the reasons stated by my counsel.⁴⁵

* * *

Q. You testified that when you arrived at the U.S. Attorney’s Office for the District of Columbia on detail that there had been investigative information that was developed as part of an ongoing criminal investigation. What was the nature of that investigation?

A. I respectfully decline to respond for the reasons stated by my counsel.⁴⁶

Further, during his June transcribed interview, Windom testified about his detail to Jack Smith’s Special Counsel Office shortly after its inception. He testified:

Q. And you said that you began a series of details in the fall of 2021. . . . What was the next detail?

A. The next detail was to the Special Counsel’s Office.

Q. And when did you begin that detail?

A. The special counsel was appointed I believe on November 18th of 2022. I began the detail to that office shortly after his appointment.⁴⁷

However, during his deposition, Windom refused to answer whether he was ever detailed to the Office of Special Counsel Jack Smith. He testified:

Q. You were a member of the special counsel’s team, correct?

⁴⁵ Windom Deposition, *supra* note 2727, at 26.

⁴⁶ *Id.* at 29.

⁴⁷ Windom Interview, *supra* note 11, at 13.

A. I respectfully decline to respond for the reasons stated by my counsel.⁴⁸

In addition, despite previously testifying about his knowledge and work experience with many individuals, Windom invoked the Fifth Amendment when asked about his interactions with nine individuals during his deposition.⁴⁹ Windom also refused to answer whether he attended meetings with Attorney General Merrick Garland and Special Counsel Jack Smith, despite previously testifying that he had interacted with both men.⁵⁰ In June, Windom testified:

Q And prior to Mr. Smith's appointment . . . it appears that Attorney General Garland had summoned prosecutors to Main Justice to flag for them the impending appointment of Mr. Smith and ask that they stay on. Were you involved in this November 18th meeting?

A . . . Okay. Was I involved in that meeting? Yes.

Q And who else was in that meeting besides you and the Attorney General?

A There were a number of people, maybe I can describe . . . I was advised that day that I was invited to a meeting or an attendance in the Attorney General's Conference Room. . . . So Attorney General Garland comes in and is at the head of the table in the Attorney General's Conference Room. I can't recall if he sits down or if he's standing up. It's a brief meeting. He says something to the effect of, without recalling the exact words, now 3-ish years ago, you know, "Thank you all for coming on short notice. I wanted to let you all know that I've decided to appoint a special counsel. That special counsel is Jack Smith." I don't remember the exact words, but I do recall it was similar to what he either said shortly thereafter when he went to announce this publicly or maybe it was in the order appointing Mr. Smith, but, you know, something about the reason that he was appointing Mr. Smith. . . . And I do recall at least something similar to what you mentioned earlier. I recall him saying something along the lines of, you know, "I hope that y'all will continue working with Mr. Smith" or that "y'all will consider working with the special counsel," something along those lines.⁵¹

⁴⁸ Windom Deposition, *supra* note 2727, at 14.

⁴⁹ Windom Deposition, *supra* note 2727, at 15, 26-28, 28-29, 30, 33.

⁵⁰ *Id.* at 30, 33. Windom Interview, *supra* note 11, at 11, 23, 31.

⁵¹ Windom Interview, *supra* note 11, at 105, 107.

* * *

Q. And when was your first time meeting Smith?

A. Around the first week of December.

Q. And how often did you interact with him when you were on the special counsel's team?

A. Daily.⁵²

But when asked those same questions during his deposition, Windom refused to testify about those interactions. During his deposition, he testified:

Q. Did you have any in-person meetings with Attorney General Garland?

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. Any in-person meetings with Special Counsel Jack Smith?

A. I respectfully decline to respond for the reasons stated by my counsel.⁵³

During Windom's September 30 deposition, the Committee sought to understand why Windom refused to answer questions that he previously answered.⁵⁴ However, rather than explain his rationale, Windom continued to invoke a blanket set of various privileges and justifications for refusing to answer, declining to assert specific objections to specific questions.⁵⁵ Windom's refusal to confirm his prior testimony—despite the Committee giving him numerous opportunities to testify on basic topics including his employment history, prior interactions with DOJ employees, and the scope of his work with the U.S. Attorney's Office and the Office of Special Counsel Jack Smith—can only be understood as a blatant attempt to corruptly impede the Committee's inquiry.

b. Windom corruptly obstructed the deposition by invoking broad, vague objections and refusing to identify the basis for each invocation with specificity.

At the outset of the deposition, Windom's counsel provided a list of various objections, including the Fifth Amendment right against self-incrimination, an unspecified First Amendment

⁵² Windom Interview, *supra* note 11, at 108.

⁵³ Windom Deposition, *supra* note 2727, at 30.

⁵⁴ *Id.* at 25-29.

⁵⁵ *Id.* at 26.

privilege, and attorney-client privilege. Then, in responding to particular questions, Windom repeatedly stated, “I respectfully decline to respond for the reasons stated by my counsel.”⁵⁶ Additional specificity was not provided by Windom or his counsel for his refusal to answer individual questions. In addition, Windom’s counsel raised other non-privileged objections to the Committee’s questioning, such as a mistaken assertion that the Committee lacked a legitimate legislative purpose, and reliance on Federal Rule of Criminal Procedure Rule 6(e) regarding grand jury secrecy.⁵⁷

By refusing to state his objections to each question in a concise and nonargumentative manner, Windom failed to comply with the House’s rules governing depositions.⁵⁸ Despite repeated requests from the Committee to state with particularity which privilege(s) he was citing in refusing to answer specific questions, Windom refused to do so.⁵⁹ Windom generically referred to the reasons given by his counsel in refusing to answer approximately 70 questions.⁶⁰ In addition, Windom’s blanket Fifth Amendment assertion contravened current case law. Federal courts have routinely held that during proceedings, objections, specifically Fifth Amendment assertions, need to be stated with specificity.⁶¹ Asserting one’s Fifth Amendment right based on a “blanket claim” is impermissible.⁶² But what Windom did was worse. His repeated reliance on these broad-brush, blanket justifications given at the beginning of the deposition, without any connection to any specific question, is both highly suspect and unpersuasive, and can only be understood as an improper and deliberate effort to frustrate the Committee’s inquiry.

First, the Committee explained in detail on multiple occasions its legislative purpose in the inquiry.⁶³ Windom never questioned this purpose prior to his deposition.⁶⁴ Second, with respect to Windom’s invocation of the First Amendment, the Supreme Court has been clear that the First Amendment does not give witnesses an absolute right to refuse to respond to a congressional inquiry.⁶⁵ Where, as here, a Committee has a valid legislative purpose, the First

⁵⁶ Windom Deposition, *supra* note 27, at 10, 12-16, 24-25, 25-29, 30.

⁵⁷ *Id.* at 9-10.

⁵⁸ 171 CONG. REC. 7,146-147 (2025).

⁵⁹ Windom Deposition, *supra* note 2727, at 24-25.

⁶⁰ Windom Deposition, *supra* note 2727.

⁶¹ *Dist. Title v. Warren*, 265 F. Supp. 3d 17, 21 (D.D.C. 2017); *See, e.g., Littlejohn v. United States*, 705 A.2d 1077, 1083 (D.C. 1997); *see also In re Gorsoan Ltd.*, 435 F. Supp. 3d 589, 606 (S.D.N.Y. 2020), *rev’d and remanded sub nom., In re Gorsoan Ltd. for an Ord. Pursuant to 28 U.S.C. 1782 to Conduct Discovery for Use in a Foreign Proceeding*, 843 F. App’x 352 (2d Cir. 2021).

⁶² *Id.*

⁶³ Subpoena from Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary et. al., to Thomas Windom, Senior Assistant Special Counsel, USAO D.C. (July 21, 2025); Windom Deposition, *supra* note 2727, at 10.

⁶⁴ *See* Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Preston Burke, Counsel for Mr. Thomas Windom (Apr. 24, 2025, 2:00 p.m.); Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Mr. Preston Burke, Counsel for Mr. Thomas Windom (May 27, 2025, 3:00 p.m.); Phone Call Between Comm. Staff, H. Comm. on the Judiciary, and Mr. Preston Burke, Counsel for Mr. Thomas Windom (June 2, 2025, 2:00 p.m.); Windom Interview, *supra* note 11; Letter from Preston Burton, Partner, Orrick, Herrington & Sutcliffe LLP, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 5, 2025).

⁶⁵ *See, e.g., Barenblatt v. United States*, 360 U.S. 109 (1959).

Amendment does not insulate a witness from cooperating.⁶⁶ Regardless, Windom never specified or explained how any of the Committee's questions implicated his First Amendment rights.

For example, when asked by the Committee to explain whether he was relying on the First or Fifth Amendment when declining to answer questions related to his preparation for the deposition, Windom initially refused to do so.⁶⁷ He testified:

Q. So you're not willing to answer any questions about how you prepared for today?

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. So your counsel illuminated a number of reasons why you might not respond, including I believe the First Amendment, the Fifth Amendment. Are you invoking your Fifth Amendment on the question of preparation for today?

A. I respectfully decline to respond for all the reasons stated by my counsel.

Atty. And I will add I think your question invades privilege and work product with the client.

Q. I'm not disputing that your communications with your counsel are privileged. I'm just asking, if that's the case, to tell us, to identify those communications.⁶⁸

Windom's counsel also asserted that merely listing a series of various justifications at the outset of the deposition validated Windom's refusal to answer any question asked, and that the Fifth Amendment right against self-incrimination underpinned each invocation.⁶⁹ However, Windom himself would not directly confirm that he was invoking the Fifth Amendment in response to a question. And at no point did Windom inform the Committee when Rule 6(e) was specifically being raised as an objection in refusing to answer. For example, Windom testified:

Q. Mr. Windom, what positions did you hold at the Department of Justice during your tenure there?

A. I respectfully decline to respond for all of the reasons cited by my counsel.

⁶⁶ *Id.*

⁶⁷ Windom Deposition, *supra* note 2727, at 12.

⁶⁸ *Id.* at 12.

⁶⁹ *Id.* at 25.

Q. And is part of your reason that you're asserting your Fifth Amendment right against self incrimination?

A. I respectfully decline to respond for all of the reasons cited by my counsel.

Q. And, again, we're going to ask you with specificity to select . . . one of the reasons for the objection. Is this a Fifth Amendment assertion you're making here?

A. I respectfully decline to respond for all of the reasons cited by my counsel.⁷⁰

* * *

Q. Mr. Windom, you're objecting to our questions on a sort of a potpourri of reasons, including the fact that you believe we do not have a legitimate legislative purpose. Now, you may not like our legislative purpose, but it's not a proper objection to decline to answer questions because you believe or your counsel believes we don't have a legitimate legislative purpose. And so we're going to ask you to state your objections with specificity. If you're objecting to our questions based on preserving a privilege, such as a Fifth Amendment privilege, we're going to ask you to cite that with specificity so we can understand the nature of your refusal to answer. Do you understand that?

Atty. I understand your position.

Q. Also, to the extent that you have answered our questions before and have not invoked the Fifth Amendment, you know, there is a fair basis to conclude that, with respect to those questions, the Fifth Amendment has, in fact, been waived. . . . [W]e expect that, as it relates to questions we've asked before and you testified to before, that a Fifth Amendment objection is not proper.

Atty. I don't understand your point . . . I don't believe he's waived anything, but, to be clear, I have advised him to invoke his constitutional right to silence. There are other rights and issues, including grand jury secrecy. We do believe he's not obligated to respond to things that are inconsistent with a

⁷⁰ *Id.* at 25-26.

legitimate legislative purpose, but the foundation of his decision to decline to answer is his constitutional right to silence embodied in the Fifth Amendment. Does that help you?

Q. [W]e would just ask him to cite that with specificity to our questions, as opposed to . . . the statement that he's been providing is sort of . . . series of objections, a series of reasons.

Atty. I appreciate that. I think the series of reasons is a valid objection. You and I won't agree on that, but one of the reasons is his constitutional right to silence, and that applies to all of them.⁷¹

* * *

Q. I'm just having a hard time understanding what the concern is with answering a question such as like who is Rush Atkinson. . . . You know, answering such an anodyne question like that, it's hard for us to understand how that implicates your Fifth Amendment, certainly when you have testified about topics like this before?

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. . . . So is it fair to say that the basis for the declination here is the Fifth Amendment right against self-incrimination?

Atty. That is underscoring all of the issues. There are other objections that I stated in the outset that apply to some of them.

Q. The only proper objection, though, is one to preserve a privilege, such as a constitutionally-based privilege, not one about legitimate legislative purpose. Under the deposition rules, your client, the witness, is still required to answer those questions.

Atty. I think the privilege of his right to remain silent applies to all of them.⁷²

⁷¹ Windom Deposition, *supra* note 2727, at 24-25.

⁷² *Id.* at 26-27.

Only after numerous requests by the Committee did Windom's counsel claim that the Fifth Amendment was the basis for Windom's refusal to answer practically every question posed by the Committee.⁷³ According to Windom's counsel, "the foundation of [Windom's] decision to decline to answer is his constitutional right to silence embodied in the Fifth Amendment."⁷⁴ Nevertheless, Windom continued to refuse to answer questions on the basis of unspecified "reasons stated by [his] counsel."⁷⁵ At no point did Windom specify those additional objections in response to any question posed by the Committee—in violation of the Committee's deposition rules. Windom's conduct thus obstructed the Committee's ability to discern and evaluate if Windom had a constitutionally grounded basis for refusing to answer the Committee's questions.

c. Windom corruptly refused to answer questions that could not reasonably expose him to criminal liability.

This is an extraordinary case. Witnesses may assert their Fifth Amendment rights in front of the Committee, and the Committee respects witnesses' right against self-incrimination. However, Windom here steadfastly refused to specifically invoke his Fifth Amendment rights himself and sought to blur his reasons for not answering specific questions. Moreover, courts have consistently held that the standard for invoking the Fifth Amendment requires that "the witness reasonably believes that the information sought, or discoverable as a result of their testimony, could be used in a subsequent state or federal criminal proceeding."⁷⁶ Along with refusing to answer questions that he had already answered during his transcribed interview, Windom relied on broad invocations of the Fifth Amendment on matters where there apparently was no reasonable basis to believe that his answers would be incriminating. For instance, Windom refused to testify about whether he knew certain DOJ employees who served as United States Attorneys in the offices he worked at various times during his employment, and regarding his current employment status.⁷⁷ In applying the standard to Windom's refusal to answer these questions, it is not reasonable to believe that providing the name of a U.S. Attorney would open one up to criminal liability.

Throughout his deposition, Windom repeatedly invoked the same blanket objection for broad, unspecified reasons without explaining how responding to any particular question could reasonably expose him to criminal liability. For example, Windom refused to respond to questions about whether he knew specific individuals who he had previously worked with while employed by the Department despite previously testifying about his interactions with John Crabb and Steven D'Antuono during his transcribed interview.⁷⁸ He testified:

Q. Who is John Crabb?

⁷³ *Id.*

⁷⁴ *Id.* at 25.

⁷⁵ *See, e.g., id.* at 27, 28-30, 31, 33.

⁷⁶ *United States v. Balsys*, 524 U.S. 666, 672 (1998).

⁷⁷ Windom Deposition, *supra* note 2727, at 28, 30, 31-33.

⁷⁸ Windom Deposition, *supra* note 2727, at 30, 33; Windom Interview, *supra* note 11, at 22, 31.

A. I respectfully decline to respond for the reasons stated by my counsel.⁷⁹

* * *

Q. Who is Steven D'Antuono?

A. I respectfully decline to respond for the reasons stated by my counsel.⁸⁰

In another instance, Windom refused to testify about who the U.S. Attorneys for the District of Columbia and Maryland were at certain points during his employment.⁸¹ When pressed by the Committee to explain why he could not respond, Windom refused to explain how such information could expose him to criminal liability and instead continued invoking blanket objections for not responding. He testified:

Q. When you began your detail at the United States Attorney's Office for D.C. in November of 2021, who was the U.S. attorney at the time?

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. So testifying that Matt Graves was the U.S. attorney in November 2021 is something that you can't answer here?

A. I respectfully decline to respond for the reasons stated by my counsel.⁸²

* * *

Q. And who succeeded Mr. Rosenstein as the U.S. Attorney in the District of Maryland while you were in the office?

Atty. You're not going to back into other questions this way. I'll instruct you to assert.

A. I respectfully decline to respond for the reasons stated by my counsel.

⁷⁹ Windom Deposition, *supra* note 2727, at 30.

⁸⁰ *Id.* at 33.

⁸¹ Windom Deposition, *supra* note 2727, at 28, 31-33. Although Windom refused to respond during his deposition, he previously testified about who served as United States Attorney for D.C during his transcribed interview. Windom Interview, *supra* note 11, at 14.

⁸² Windom Deposition, *supra* note 2727, at 28.

Q. . . . I'm trying to understand the contours of this assertion. I mean, identifying who the U.S. Attorney was in the District of Maryland I don't think is a question that ought to invoke the Fifth Amendment when he said that he can talk about things up until . . . he left Greenbelt. . . . Can you tell us who the U.S. attorney was in the District of Maryland in 2021 before you moved to the D.C. U.S. Attorney's Office?

Atty. Objection, same instruction.

A. I respectfully decline to respond for the reasons stated by my counsel.⁸³

In addition, Windom refused to answer basic questions about his current employment, despite the questions having no reasonable basis of eliciting incriminating information. Windom testified:

Q. Where are you currently working?

A. I respectfully decline to respond for the reasons stated by my counsel.

Q. Are you currently working as a lawyer?

A. I respectfully decline to respond for the reasons stated by my counsel.⁸⁴

Notably, as a former federal prosecutor, Windom is well versed in when the Fifth Amendment applies and how it operates. Windom has previously demonstrated his extensive understanding of the Fifth Amendment as evidenced by a brief he filed while serving as an Assistant U.S. Attorney for the District of Maryland.⁸⁵ The brief explains in detail what the Fifth Amendment requires and how to assert it, stating that “the district court did not allow witnesses a blanket invocation of the Fifth Amendment privilege, but required that they take the stand, accompanied by their counsel, and invoke to questions posted on direct and cross-examination on a question-by-question basis.”⁸⁶ Despite this knowledge of the contours of the Fifth Amendment, Windom through his counsel asserted blanket and frivolous Fifth Amendment objections to the Committee's questions, further evidencing his corrupt intent. Windom's repeated invocation of the broad objections laid out by his counsel, which included the Fifth Amendment in response to questions where it could not reasonably apply, demonstrates his

⁸³ Windom Deposition, *supra* note 2727, at 31-33.

⁸⁴ *Id.* at 30.

⁸⁵ Brief for Appellee, *United States v. Evans Appiah*, No. 16-4593 (4th Cir. 2017).

⁸⁶ Brief for Appellee at 26, *United States v. Evans Appiah*, No. 16-4593 (4th Cir. 2017).

The Honorable Pamela Bondi

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apparent purpose of corruptly obstructing the Committee's investigation by improperly withholding information.

* * *

All individuals have an obligation to comply with a duly authorized congressional inquiry. Windom, a former public servant, is no different. Yet his blanket and frequently overbroad assertions of privileges and other objections, including under the Fifth Amendment, have obstructed the Committee's attempt to seek important information about the recent functions of DOJ and Special Counsel Jack Smith. Although DOJ twice authorized Windom to speak in an "unrestricted" manner regarding the Office of Special Counsel Jack Smith, Windom disregarded these authorizations and refused to answer the Committee's questions on topics important to the Committee's inquiry. Windom's various and shifting justifications for refusing to testify were facially unreasonable and were not offered in a manner consistent with the Committee's deposition rules. His conduct can only be understood as an intentional effort to thwart the Committee's inquiry by improperly keeping information from the Committee. We therefore believe that sufficient evidence exists for DOJ to examine whether Windom's actions warrant a charge for the violation of 18 U.S.C. § 1505. For your reference, we have enclosed documentation of the above-described obstruction.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jamie Raskin, Ranking Member

Enclosures

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4

5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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13 INTERVIEW OF: THOMAS WINDOM

14

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16

17

18 Thursday, June 12, 2025

19

20 Washington, D.C.

21

22

- 1 The interview in the above matter was held in room 2237, Rayburn House Office Building,
- 2 commencing at 10:03 a.m.
- 3 Present: Representative Jordan.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

██████████ GENERAL COUNSEL

██████████ DIGITAL DIRECTOR

██████████ CHIEF COUNSEL FOR OVERSIGHT

██████████ COUNSEL

██████████ PROFESSIONAL STAFF MEMBER

██████████ COUNSEL

██████████ MINORITY OVERSIGHT COUNSEL

██████████ MINORITY CHIEF OVERSIGHT COUNSEL

██████████ MINORITY GENERAL COUNSEL

██████████ MINORITY CHIEF COUNSEL AND SENIOR ADVISOR

██████████ MINORITY INTERN

██████████ MINORITY PROFESSIONAL STAFF MEMBER

AND LEGISLATIVE AIDE

- 1 For THOMAS WINDOM:
- 2
- 3 PRESTON BURTON
- 4 RACHEL LI WAI SUEN
- 5 Orrick, Herrington & Sutcliffe LLP

1 [REDACTED] Good morning. This is a transcribed interview of Mr. Thomas Windom, former
2 senior assistant special counsel on Special Counsel Jack Smith's team. Chairman Jordan has
3 requested this interview as part of the committee's oversight of the Office of Special Counsel Jack
4 Smith and the inexplicable seizure of a constitutionally elected Member of Congress' cell phone.

5 Would the witness please state your name for the record?

6 Mr. Windom. Thomas Windom.

7 [REDACTED] We encourage witnesses who appear before the committee to freely consult
8 with counsel if they choose, and it is my understanding that you're appearing today with personal
9 counsel. Is that correct?

10 Mr. Windom. That is correct.

11 [REDACTED] Could counsel please state your name for the record?

12 Mr. Burton. Sure. Preston Burton, and my colleague, Rachel Li Wai Suen.

13 [REDACTED] On behalf of the committee, I want to thank you for appearing here today to
14 answer our questions. We appreciate your willingness to appear voluntarily.

15 My name is [REDACTED] and I am with Chairman Jordan's staff. I'll now have everyone
16 else from the committee introduce themselves as well. I'm joined by my colleague [REDACTED]

17 Christina, if you want to go ahead.

18 [REDACTED] [REDACTED] with Ranking Member Raskin's staff.

19 [REDACTED] [REDACTED] with Ranking Member Raskin's staff.

20 [REDACTED] [REDACTED] Ranking Member Raskin's staff.

21 [REDACTED]. Alex La Roche, Ranking Member Raskin's staff.

22 [REDACTED] [REDACTED] Chairman Jordan's staff.

23 [REDACTED] [REDACTED] Chairman Jordan's staff.

1 [REDACTED] Chairman Jordan's staff.

2 [REDACTED] Chairman Jordan's staff.

3 [REDACTED] I'd like to now go over the ground rules and guidelines that we will follow during
4 today's interview.

5 Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and
6 then the minority will have an opportunity to ask questions for an equal period of time if they
7 choose. We will alternate back and forth until there are no more questions and the interview is over.
8 Typically, we take a short break at the end of each hour, but if you would like to take a break apart
9 from that, please just let us know.

10 As you can see, there is an official court reporter taking down everything we say to make a
11 written record, so we ask that you give verbal responses to all questions. Do you understand that?

12 Mr. Windom. Yes.

13 [REDACTED] So the court reporter can take down a clear record, we'll do our best to limit the
14 number of people directing questions at you during any given hour to just people on the staff whose
15 turn it is. Typically, it's just two individuals from each staff. Please try and speak clearly so the court
16 reporter can understand and the folks down at the end of the table can hear you.

17 It is important that we don't talk over one another or interrupt each other if we can help it,
18 and that goes for everybody present at today's interview.

19 We want you to answer our questions in the most complete and truthful manner as possible,
20 so we will take our time. If you have any questions or if you do not understand one of our questions,
21 please let us know. Our questions will cover a wide range of topics, so if you need clarification at any
22 point, just say so.

1 If you honestly don't know the answer to a question or do not remember, it is best not to
2 guess. Please give us your best recollection, and it is okay to tell us if you learned information from
3 someone else. Just indicate how you came to know that information. If there are things you don't
4 know or can't remember, just say so and please inform us who, to the best of your knowledge, might
5 be able to provide a more complete answer to the question.

6 You should also understand that by law you are required to answer questions from Congress
7 truthfully. Do you understand this?

8 Mr. Windom. I do.

9 ██████████ And this also applies to questions posed by congressional staff in an interview.
10 Do you understand this?

11 Mr. Windom. I do.

12 ██████████ Witnesses that knowingly provide false testimony could be subject to criminal
13 prosecution for making false statements under 18 U.S.C. Section 1001. Do you understand this?

14 Mr. Windom. Yes.

15 ██████████ Is there any reason you are unable to provide truthful testimony today?

16 Mr. Windom. No.

17 ██████████ Finally, I'd like to make note the content of what we discuss here today is
18 confidential. We ask that you not speak about what we discuss in this interview to any outside
19 individuals to preserve the integrity of our investigation.

20 For the same reason, the marked exhibits that we will use today will remain with the court
21 reporters to go into the official transcript, and any copies of those exhibits will be collected at the
22 end of the transcribed interview.

1 That's the end of my remarks. Is there anything that my colleagues from the minority would
2 like to add?

3 ██████████ We want to thank the witness for taking time out of your schedule to join us
4 today.

5 I also do want to note for the record that this interview is being video-recorded, and we
6 wanted to request on the record for that video when it is final.

7 ██████████ We give you the video when it comes in.

8 ██████████ We actually don't get it when it comes in. We get it before you use it, and I
9 appreciate that. But it's when it's available --

10 ██████████ No. We give it to you when -- like, the video needs to be mastered, right. They
11 need to take out the portions that are off the record. And then we send it to you.

12 ██████████ I don't believe that we received any of the videos from this Congress.

13 ██████████ I've sent several to Arthur.

14 ██████████ So, anyway, just to be clear, as soon as the video is ready, we have a professional
15 videographer goes through, and as soon as it's -- they take out the parts that are off the record, we
16 send it over to you.

17 Mr. Burton. If you don't videotape at all, it would make all this more efficient.

18 ██████████ Well, guess when the videotaping started? I mean, the January 6th Committee
19 started the videotaping. And so, you know, our members have an interest in doing that, and that's
20 why we are where we are.

21 Mr. Burton. Well, we are not members of the January 6th Committee, so --

22 ██████████ On that note, I don't believe that we received the bulk of the videos from last
23 Congress, so we can discuss that later, but put that on the record.

Before we begin, we understand from our communication with you that we will have the opportunity to review the transcript before it's finalized, and we have requested that we be provided reasonable advance notice before any of the video recording, which we object to, is made

I also -- I sent a letter to the chair last -- yesterday afternoon through you, and I respectfully request that that letter and the attachments I sent to the chair yesterday be made part of the record for this voluntary transcribed interview.

I have copies if that would help, if you're maintaining the copies as the majority. I can also share a copy with Democratic staff.

Just two points I'd like to emphasize from that letter. Notwithstanding the Department of Justice's position on privilege and unanswered questions about its leadership's conflicts of interest with respect to Mr. Windom and actually with respect to the entire subject matter of the committee's inquiry, in addition to limiting its approval for Mr. Windom to address the five specific topics set forth in its June 4th letter, the Department acknowledged that Mr. Windom may not violate Rule 6(e), court orders, or other laws with respect to his testimony today.

With those important restrictions and limitations in mind, along with the others more -- addressed more fully in our letter to the chair, Mr. Windom will respond to the committee's questions to the best of his recollection and understanding.

██████████ Thank you. We can mark the letter from you as exhibit No. 1.

Mr. Burton. Thank you.

[Windom Exhibit No. 1

1 was marked for identification.]

2 [REDACTED] The clock now reads 10:09 a.m. We'll start the first hour of questioning.

3 EXAMINATION

4 BY [REDACTED]

5 Q Mr. Windom, what positions did you hold at the Department of Justice during your
6 tenure there?

7 A I started in February of 2013 as an assistant United States attorney in the United States
8 Attorney's Office for the District of Maryland. I held that title throughout the entirety of my time in
9 the Justice Department, which concluded in January of this year, 2025.

10 In addition to the standard title of assistant United States attorney, I became a supervisor in
11 the Southern Division. That's the Greenbelt office of the United States Attorney's Office for the
12 District of Maryland.

13 Around early 2018, that's when I became -- I believe the sequence was an acting deputy chief
14 and then the deputy chief. I became the chief of that office around April of 2020, and then
15 concluded my term -- or my time as chief of the Greenbelt office around November of 2021. That's
16 when I began a series of details.

17 Q And what can you tell us about those details?

18 A The first detail was to the United States Attorney's Office for the District of Columbia.

19 Q And when did that detail begin?

20 A Approximately the beginning of November, kind of middle of November maybe, of
21 2021.

22 Q And were you asked to detail or did you seek out the opportunity?

23 A I was asked to go on a detail.

1 Q And who asked you to go on the detail?

2 A The initial person that spoke to me about a potential opportunity was an individual
3 named Rush Atkinson in the Office of the Deputy Attorney General.

4 Q Did you have any more conversations with anyone about the role before you accepted
5 the detail?

6 A I did.

7 Q And who did you speak with about the detail?

8 A I assume you're speaking not about like family and things like that, but --

9 Q That is correct, just at the Justice Department.

10 A The other individuals that I remember speaking to, in one of the conversations there
11 was a person by the name of Chris Kavanaugh. I don't remember him having a speaking role.

12 And let me maybe frame this for you as well. The time period that we're talking about would
13 have been fall or so of 2021, fall, late fall, something like that. At the time, much of the Department
14 was teleworking. And so when I say meeting or a conversation, I don't recall any of these being in
15 person. These, to my best recollection, were either by telephone or by videoconference.

16 Q Okay. And so you spoke with Mr. Atkinson, Mr. Kavanaugh. Did you speak with anyone
17 else at the Department about the detail before you accepted it?

18 A Yes. The person who I spoke to at some point during the process who was from the
19 United States Attorney's Office for the District of Columbia was John Crabb, who my understanding
20 was the chief of the Criminal Division there.

21 Q Were those the only conversations you had with Justice Department officials prior to
22 your detail beginning?

1 A I think that those are the only three people in terms of Justice Department officials that
2 would have been knowledgeable about the potential opportunity. I'm certain I spoke to colleagues
3 of mine in my office or other friends who were at Justice to, you know, consider whether or not going
4 on detail was something I would like to do.

5 Q And what was the purpose of the detail in November 2021?

6 A The initial conversation or conversations, it appeared to me that there was a -- there
7 had been investigative information that was developed during the course of ongoing criminal
8 investigations in the United States Attorney's Office for the District of Columbia, and some of those
9 investigative threads had not been fully explored.

10 It was my understanding that there was an opportunity to go on detail to review some of
11 these threads to explore whether additional avenues of investigation existed and ultimately to
12 determine whether I believed any of them merited investigation and then to make recommendations
13 as to what should or should not be investigated further.

14 Q And what was the focus of the investigation?

15 A The -- I think that at that time I wouldn't say that there was a focus. And I just want to
16 cabin this, I guess, to the inception of the conversations. And then the -- when I began on detail, I
17 spent -- I arrived in the U.S. Attorney's Office for the District of Columbia and began reviewing
18 information.

19 Q Was the focus of the investigation on the events that occurred on January 6, 2021, or
20 was it the 2020 election? Is that accurate, that the focus of the investigation was on the 2020
21 election? Take it separately.

22 A Okay. I think that what -- as I understood it, was that there were investigative
23 information -- there was investigative information that had been developed during the course of the

1 investigations into either the on-the-ground rioters who breached the Capitol Building and assaulted
2 law enforcement officers, and then also what later became the conspiracy cases, as shorthand, which
3 may involve people, I'm thinking like Oath Keepers, Proud Boys, things like that, where they may not
4 have actually in some instances entered the Capitol.

5 So those are the sorts of investigations where I began looking at the investigative files.

6 Q And you said that you began a series of details in the fall of 2021. So we have the one
7 that began in November 2021. What was the next detail?

8 A The next detail was to the Special Counsel's Office.

9 Q And when did you begin that detail?

10 A The special counsel was appointed I believe on November 18th of 2022. I began the
11 detail to that office shortly after his appointment.

12 Q And did you ask to be detailed to the Special Counsel's Office or did someone ask you?

13 A The Special Counsel asked me.

14 Q Special Counsel Jack Smith?

15 A Yes.

16 Q Did you speak with anyone else about that opportunity before accepting it, at the
17 Justice Department?

18 A I did.

19 Q Who did you speak with?

20 A I did not speak to -- well, I spoke to Mr. Cooney, J.P. Cooney, who was in the United
21 States Attorney's Office for the District of Columbia. I spoke to him about it. He had, my
22 understanding, previously worked with Mr. Smith.

23 Q Did you speak with anyone else about the opportunity before accepting it?

1 A I did.

2 Q Who else did you speak with?

3 A I did not speak to any other DOJ officials about it.

4 Q Just Mr. Cooney and Mr. Smith were the only ones you spoke with?

5 A In terms of DOJ officials, yes.

6 Q That is correct.

7 A I spoke to other individuals from -- that I otherwise knew from -- you know, personally
8 or professionally, who I thought may or may not have had at some point contact or knowledge of Mr.
9 Smith, but not people that would necessarily know what the specific detail would entail.

10 Q Okay. I want to go back to your first detail. I just wanted to make sure we had a clear
11 record. Just those two details or did you have another detail before January 2025?

12 A I did not have another detail before. I believe those were the two details. If I remember
13 correctly, the special counsel detail, the paperwork for it may have been for like 1 year or some
14 period of time, and so there would be additional paperwork, I assume, for like another year or
15 another whatever period of time.

16 So those are the two offices, but there may have been additional terms of details. And by
17 terms, I mean time periods.

18 Q When you began your detail at the U.S. Attorney's Office for D.C. in November 2021,
19 who was the U.S. attorney at the time?

20 A Either right when I started or shortly thereafter, Matt Graves was -- or became the U.S.
21 attorney.

22 Q And had you ever worked with Mr. Graves before?

23 A No.

1 Q When you arrived at the U.S. Attorney's Office for D.C. in November 2021, was that your
2 first time being involved in any investigation surrounding the events of January 6th?

3 A No.

4 Q Had you worked on investigations in your previous role at the U.S. Attorney's Office in
5 Maryland?

6 A I had. I was the supervisor, as I indicated, of the Southern Division. And the way
7 that -- just in terms of staff, there were opportunities and requirements of reviewing information and
8 investigations that other individuals worked on.

9 Q And you mentioned previously that there had been investigative information that was
10 developed as part of an ongoing criminal investigation when you arrived at D.C.

11 What was the nature of that investigation?

12 A My understanding -- and if I indicated in the singular, I meant plural. I was speaking of
13 the -- what I understood to be hundreds, if not more, of individual investigations into the Federal
14 felonies that were committed at and in the Capitol on January 6th of 2021.

15 Q And you noted that you were brought on to explore threads that had not been fully
16 explored. Can you kind of describe for us what those threads were that you were going to focus on
17 during your detail?

18 A I can give you a general sense of it. When I arrived, I began talking to prosecutors in the
19 U.S. Attorney's Office for the District of Columbia to determine kind of what their files look like, what
20 information existed, if they believed that there were information that had been developed during the
21 course of their investigations that may not be specifically relevant to their investigative subject but
22 that may otherwise have been worth looking into.

1 I looked at a number of investigative files from many ongoing grand jury investigations,
2 criminal investigations, and determined that ultimately, in my view, there were a few, at least a few
3 pieces of information that merited further investigation.

4 Q And what were those pieces of information that merited further investigation?

5 Mr. Burton. I think we need to be careful about Rule 6(e) and getting specific on these issues
6 because that is, you know, one of the restrictions on Mr. Windom.

7 So I don't know, when you're asking specific information about a course or topic of
8 investigation, that he can answer that question.

9 BY [REDACTED]

10 Q Okay. What were the topics that merited further investigation?

11 A I think that the best I can do, consistent with the strictures of Rule 6, is to say that they
12 involved events at and around the Capitol on January 6th of 2021.

13 Q And when you say events that occurred at or near the Capitol on or around January 6th,
14 are you talking about the speech that President Trump gave at the Ellipse?

15 A I think that what I said before can hold on that one, that I reviewed a significant amount
16 of information from ongoing criminal investigations, grand jury investigations. And beyond that, I
17 don't think that I'm permitted by law to discuss the details of that with you.

18 Q Because the special counsel's report that Special Counsel Smith published at the end of
19 his investigation in January 2025 noted pieces of evidence and information surrounding the speech at
20 the Ellipse and how that played into the indictment of the President. Were you involved in that
21 investigation, in that specific piece of the investigation?

22 A If you'd like to show me the parts of the special counsel's report, I'm happy to take a
23 look at those and answer very specifically for you.

1 Q Did you ever investigate the speech at the Ellipse?

2 A I think that, as you indicated and as the special counsel report says and I believe the
3 indictment that was handed down by a grand jury on August 1st of 2023, all discuss information
4 about the defendant's speech at the Ellipse.

5 [REDACTED] By defendant, you're talking about the President?

6 Mr. Windom. Mr. Trump, yes, President Trump.

7 BY [REDACTED]

8 Q And when did you first begin looking into the actions of President Trump in regards to
9 January 6th?

10 A I don't know that I -- there's a specific timeframe that I could give to you. I think that in
11 the investigations that preceded me that involved the rioters on the ground primarily, a large volume
12 of information had been developed.

13 By virtue of that, there was a significant amount of information on any number of individuals,
14 including publicly available information. Obviously, there were, I would venture, hundreds of people.
15 So among those hundreds of people, Mr. Trump was one of them at some point. I can't give you the
16 specific timeframe of that.

17 Q When did you begin investigating the other coconspirators that were listed in the special
18 counsel's report?

19 A So I want to be clear, I guess, on what you mean by investigating. The way that I
20 understand it, at least, as I reviewed and as other people reviewed information, you find information
21 about any number of individuals at various times throughout the course of reviewing existing case
22 files or grand jury information.

1 So I don't know that there is a specific point in time where this person appeared in a
2 document versus that person appeared in a document. I couldn't give that to you.

3 Q And when you came into the U.S. Attorney's Office in D.C. in the fall of November or
4 November 2021, did you work closely with others who were already at the D.C. office?

5 A I -- let me -- before answering your question, let me just make clear, my best
6 recollection is that it was around November of 2021. If it was early December, for example. I just
7 want to be clear on that, that it's somewhere in that time period.

8 So the question was did I work closely with other people who were already there in the
9 office? The answer to that is yes.

10 Q Did you have the opportunity to work with J.P. Cooney?

11 A Eventually.

12 Q When did you start working with Mr. Cooney?

13 A Mr. Cooney -- I mentioned a moment ago that when I arrived on my detail to that office
14 that I spoke to various prosecutors who had been there and who may be knowledgeable of existing
15 information and existing files.

16 Mr. Cooney was one of those individuals who I spoke to at the beginning. I wouldn't say that I
17 began working with him until much later.

18 Q When do you think you began working with him?

19 A It was around the summer of 2022.

20 Q So was he doing a separate investigation while you were working on exploring these
21 threads that needed to be pulled?

1 A Mr. Cooney, my recollection, was a supervisor. And the name of his section I believe has
2 changed over time, but it was either fraud or fraud and public corruption or public corruption and
3 fraud, something like that.

4 So he was a supervisor in that section doing whatever other cases that I was not involved in
5 until around the summer of 2022.

6 Q And before you started working with him in the summer of 2022, did you ever obtain an
7 understanding of his investigations related to January 6th, what he was working on?

8 A I don't know at that time if he was working on -- I don't know one way or the other if he
9 was working on investigations related to January 6th. As I said, he was a supervisor. I suppose that
10 maybe people in his section or he were working on those types of cases in addition to other cases.

11 I'm generally aware that he was involved in some cases involving what I was loosely terming
12 earlier as on-the-ground rioters or the conspiracy cases. I don't -- I don't know if that work
13 overlapped with the time when I was there, but I was not -- to the extent that he was involved in
14 that, I don't recall myself being involved in that.

15 Q Did you ever become aware that in early 2021, around February, Mr. Cooney had taken
16 a proposal to investigate ties in President Trump's orbit in his advisers related to January 6th?

17 Mr. Burton. Could you repeat that? I'm sorry.

18 [REDACTED] Of course.

19 Did you ever become aware that in February 2021, Mr. Cooney had taken a proposal to his
20 supervisors wanting to investigate President Trump and individuals within his orbit regarding the
21 lead-up to and the events of January 6th? Did you ever become aware of that?

22 Mr. Burton. I think asking about a proposal for a course of investigation would be Rule 6(e)
23 type information.

1 [REDACTED] How so? That's not before a grand jury. That's asking about a proposal that
2 went to his leadership. That's not before a grand jury.

3 Mr. Burton. That's not what Rule 6 is limited to. It's not literally what is -- happens in the
4 grand jury room. It's the course of an investigation, a course of action.

5 And I don't know that he -- well, I don't know the answer to the question, but I think if you're
6 asking about a proposal for a course of an investigation, the only investigation is going to be a grand
7 jury investigation. And I don't think, in his circumstance and as broadly as the courts interpret that
8 concept, we are going to be able to answer that question under the restrictions that that rule
9 imposes on him.

10 [REDACTED] Okay. Let me rephrase the question.

11 Without revealing information you learned from the grand jury, did you ever become
12 aware that Mr. --

13 Mr. Burton. You don't learn information from the grand jury, [REDACTED]

14 [REDACTED] Excuse me. Please let me ask my question. Please let me ask my question, and
15 then you can decide whether or not you're going to allow your client to answer.

16 BY [REDACTED]

17 Q Without revealing information you learned from a grand jury, did you ever become
18 aware in February 2021 that Mr. Cooney was having discussions with his leadership regarding looking
19 into President Trump and his advisers and their ties to what occurred before January 6th and on
20 January 6th? Did you ever become aware of that?

21 A I think I might be able to give you some information that will get us to the next question
22 or topic on this --

23 Q Okay.

1 A -- consistent with my obligations under Rule 6 and any other obligations I have,
2 including my understanding is this is not one of the specific topics that the Department of Justice has
3 authorized me to discuss.

4 What I can say is I am aware of public reporting from some time -- I don't have knowledge as
5 to when a newspaper article or a report or even the source of it came out -- that at some point in
6 time prior to my detail in the United States Attorney's Office, I -- somebody or some group of
7 people -- and I believe that Mr. Cooney was identified in whatever newspaper article I saw -- had
8 sought a series of investigative steps.

9 I couldn't tell you sitting here today what even steps that article may have mentioned, but I
10 hope that that is sufficient, that whatever your next series of questions is, we can get to those.

11 Q Do you have any independent knowledge outside of that newspaper article regarding
12 those -- that conversation that Mr. Cooney had?

13 A So on this one?

14 Q That is correct.

15 A I -- what I can say is I'm aware of the newspaper article. Beyond that, I am not
16 authorized by the Department of Justice to discuss anything about that with you if I did know it or if I
17 did not know it.

18 And if I were so authorized, my understanding based on counsel here, is that I would be
19 prohibited from discussing that with you, based on, at a minimum, Rule 6 of the Federal Rules of
20 Criminal Procedure.

21 Q And looking at other individuals you may have worked with at the D.C. U.S. Attorney's
22 Office, we'll start at the top, did you work "closely with" Mr. Graves during the beginning of your
23 detail in fall of 2021?

1 A I -- that would be my characterization of it. Perhaps what would make sense, instead of
2 saying, you know, closely with somebody, to give you a sense of numerosity of contacts.

3 I regularly interacted with Mr. Graves, attended meetings with Mr. Graves. How you want to
4 categorize that or characterize that, I -- I guess I leave to you.

5 Q Would he be your supervisor? Would you say he was your supervisor at the time of the
6 detail?

7 A He was not my direct supervisor. He, I think, by law, was everybody's supervisor in that
8 office.

9 Q And who was your direct supervisor, would you say?

10 A Mr. Crabb. John Crabb, the criminal chief.

11 Q And how closely did you interact with Mr. Crabb? Did you have several meetings with
12 him every week, talk to him on a daily basis?

13 A I don't know that I can say daily. We had frequent contact. I -- Mr. Crabb was, as I said,
14 my direct supervisor.

15 Q And what was --

16 A I'm sorry. I just want to be very clear here. In terms of a timeframe that we're talking
17 about, you're talking about when I began at the office or you're talking about kind of the duration of
18 my time there?

19 Q We can start with when you began at the office, and then we can discuss the duration.
20 So if you want to start with that.

21 A Sure. So what I said from Mr. Graves and from Mr. Crabb, I was referencing kind of
22 the -- when I began there and then kind of the initial time on detail in that office.

1 Q And what was Mr. Crabb's role in the investigative threads that you were looking at?
2 Was he looking at the same threads or did he have a different prong that he was working on, if you
3 will?

4 A Mr. Crabb was the chief of the Criminal Division of what I understand to be the largest
5 United States Attorney's Office in the country, with hundreds of assistant United States attorneys.

6 I regularly was in contact with him regarding information that I reviewed. That was certainly
7 not the only responsibility that he had in that office.

8 Q So his was more of a supervisory role, if you will?

9 A Correct.

10 Q And were there others that you worked that would have been at the same level as you
11 that worked on similar investigative threads or different prongs of the larger investigation that
12 involved January 6th?

13 A There were other individuals, other prosecutors with whom I worked.

14 Q And who would be at the same level as you? Can you give us those names?

15 A The -- I can give you kind of a sense of it, but I can't give you names. The --

16 Q Because you don't remember or -- the names?

17 A I'm not authorized by the Department to identify individual line prosecutors.

18 Q Okay. Go ahead. So give us a sense of who -- how many did you work with? Let's go
19 with that.

20 A It evolved over time. I -- there were -- you know, I started off, and then shortly
21 thereafter, another individual joined the efforts that I was beginning to look at. I -- I'd say --

1 Q So individual one, if you will, prosecutor number one, we'll call that individual
2 prosecutor number one, they were working on the same threads that you were working on. Is that
3 correct?

4 A They -- that individual was working with me.

5 Q Okay.

6 [REDACTED] But you're not giving us the name?

7 Mr. Burton. No. The letter says interactions with DOJ officials. We don't understand DOJ
8 officials to be ordinary line assistants. You can get that information from the Department of Justice if
9 they wish to furnish it.

10 [REDACTED] Or we can get a new authorization letter and bring you back.

11 BY [REDACTED]

12 Q Okay. You said it evolved over time, so did more prosecutors join the effort?

13 A More prosecutors began working with me over time. I think that a couple more. And
14 so, as I said, I think that I started early-mid November of '21. So shortly after I started, one other
15 individual was assigned to kind of look at similar things, and worked with me on that.

16 Q What do you mean by similar things?

17 A Do the same thing I was doing, basically.

18 Q Work on the same investigative threads or different investigative threads?

19 A So I don't think that we're to the point of there even being investigative threads. The
20 time period that I'm talking about, I'm reviewing files, examining existing information from ongoing
21 grand jury investigations or criminal investigations, and speaking to prosecutors. So that's the time
22 period that I'm talking about.

1 Q Okay. So if we -- we already have prosecutor number one. So prosecutor number two
2 you said joined. Did they -- were they reviewing -- you said similar things, so were they reviewing
3 different investigative files than you were?

4 A Sorry. I want to make sure I know what you're talking about when you say prosecutor
5 number two. Are you talking about the second person that began working with me or another
6 individual?

7 Q So you had identified someone that we termed prosecutor number one that was
8 working with you. Then you said two more individuals joined.

9 A That sounds right.

10 Q So this one individual, prosecutor two, since you won't give us names. So prosecutor
11 two was working on similar things is what you said. And I asked you to define similar things, and you
12 said looking at investigative files.

13 So were they looking at the same investigative files as you or different investigative files?

14 A There was a large volume of information to review. I suspect that they probably looked
15 at some of the same stuff, and I suspect that they probably looked at some different stuff. I couldn't
16 specifically tell you now, going on, you know, 3 and change years, 3 and a half years, what they
17 looked at or did not look at on any given day.

18 And I do want to be clear. It is not that I am resisting giving you the names. It's that I have
19 been given a very specific authorization of what I can and cannot provide to you. And my
20 understanding of the authorization letter from the Department of Justice is that I cannot provide that
21 information to you, consistent with my obligations.

1 Q So the other individual that joined, so we have two other people now other than you,
2 and you said there were prosecutor one that you were working with and two more joined. We've
3 discussed one.

4 So the other one, prosecutor three, what was their role?

5 A The same as the other individuals. I'm not going to use your nomenclature, but the
6 other individuals with whom I worked.

7 Q Okay. And then were there just three other prosecutors besides you working on the
8 January 6th-related investigations or did others join?

9 A I'm, again, not going to use your characterization of the January 6th-related
10 investigations. I've explained to you what I was doing in that time period. I -- other people -- other
11 prosecutors were assigned over time, other additional prosecutors.

12 Q How many other prosecutors were assigned to work on the same investigative files that
13 you were reviewing at that time?

14 A So I think that at some point I -- just to give timing, at some point, a recommendation
15 was made to the U.S. attorney that there were certain pieces of information that we collectively had
16 reviewed that merited further investigation.

17 So I recall that at least one of those prosecutors was working on these issues at the time that
18 those recommendations were made. And then thereafter, other prosecutors were not just kind of
19 reviewing investigative files and talking to prosecutors but also working on the investigative efforts
20 that the United States attorney approved.

21 Q And so in the fall of 2021, how many other prosecutors were you working with?

22 A The fall of '21?

23 Q Uh-huh.

1 A Myself. The one other individual who started shortly thereafter. And my recollection is
2 that there were approximately two people, and I don't recall if that was December of '21,
3 January-February of '22. Somewhere in that time period.

4 Q Okay. So then when did the team start to evolve and become bigger?

5 A Let's see. I think an additional person, an additional prosecutor began assisting at least
6 in around March-April-May 2022 time period.

7 Q And that was it?

8 A No. As I said, the additional prosecutors joined over time.

9 Q Okay. And at its largest, how many prosecutors were working on the same effort that
10 you were working on?

11 A You're talking about while in D.C. as opposed to in the Special Counsel's Office?

12 Q That's correct, while in D.C.

13 A So around the summer of 2022, it became apparent that additional prosecutors were
14 necessary to explore all of the information and investigations that had been approved by the United
15 States attorney.

16 Numberswise, I -- if we were around a handful of people at that time, I want to say
17 somewhere around 7 to 12 additional people joined. And I want to be clear, I guess. Seven to 12
18 additional prosecutors were asked to join during, rough timeframe, the summer of 2022.

19 Q And you had mentioned the U.S. Attorney's Office had approved various investigations.
20 When did the U.S. attorney -- I'm assuming Mr. Graves was the U.S. Attorney at that time. Is that
21 correct?

22 A Mr. Graves was the United States Attorney.

23 Q So when did Mr. Graves start approving investigations?

1 A My recollection is that the first recommendations on more specific investigations were
2 made to Mr. Graves in December of 2021.

3 Q Okay.

4 A Maybe like mid-December. And then my recollection is that Mr. Graves approved
5 certain investigative efforts ballpark Christmastime. So probably a little bit before Christmas, I would
6 think, of 2021.

7 Q Did he approve additional investigations over time, or was it just the recommendations
8 were made in December of 2021 and then he approved certain investigative efforts around
9 Christmastime? Is that the only approval that occurred?

10 A I recall at least one more investigative effort that Mr. Graves approved.

11 Q And when did that approval occur?

12 A Approximately January-February of 2022.

13 Q And when you say approved certain investigative effort, can you give us a sense of what
14 that investigative effort was?

15 A Not other than what I've already provided to you.

16 Q Was it he was going to allow you to investigate further, do witness interviews, you
17 know, send out subpoenas? Was that the type of investigative efforts he was allowing you to do?

18 A So I think that what I described before was reviewing files, reviewing existing
19 information, talking to prosecutors that had worked on other cases. What I'm thinking of in terms of
20 the additional lines of investigation that Mr. Graves approved would involve additional investigative
21 steps beyond those that were already existing.

22 So there were, broadly speaking, and I don't remember, you know, what -- you know, what
23 specific steps for which, you know, specific stream, but it likely included reviewing other documents

1 specific to the investigative streams, perhaps obtaining records that were not in existing holdings
2 regarding those efforts.

3 Ultimately -- you mentioned speaking to witnesses in one way or another. I think broadly
4 what I can say is that eventually at some point in time that did occur.

5 Q And when did you start speaking with witnesses?

6 A I -- I don't know if I can give you a specific timeframe. I'm certain that by, you know,
7 January, February, March, kind of early 2022, there were at least discussions with counsel. I don't
8 have a sense for when conversations with specific individuals began.

9 Q And since you were reviewing existing investigative files once you started your detail
10 and then Christmas 2021, there were -- or excuse me, December 2021, there were recommendations
11 and then ultimately approval was around Christmastime. Was the goal of the new investigative
12 efforts to gain new information?

13 A That was certainly part of the investigative streams that were approved by Mr. Graves.
14 There were a series of steps, next steps, those sorts of things, investigative steps, and I'm sure that
15 some of those probably included obtaining new information, as I indicated.

16 Q And the recommendations from December 2021, who made those recommendations?

17 A The best I recall, I made them, in conjunction with at least one of the other prosecutors
18 that I was working with. It may have been that it was just the two of us assigned at that time.

19 Q And who did you make those recommendations to?

20 A I made them to Mr. Graves. I don't know if I emailed them to him or if I, you know,
21 provided them to Mr. Crabb. I -- my recollection is that I received notification of Mr. Graves'
22 approval through Mr. Crabb. So I guess it's likely that I first transmitted the -- the recommendations
23 to Mr. Crabb.

1 Q So the recommendation would have been, you said, likely maybe email, but there was
2 no formal, you didn't go present your recommendations to Mr. Graves. Is that accurate?

3 A I recall a Word document. And so I said email a minute ago. I'm just assuming that that
4 was emailed to Mr. Crabb. I don't recall a specific meeting with Mr. Graves where, you know, here is
5 a Word document, let's go over this line by line.

6 My recollection, however, is that prior to that time, I had had conversations with both
7 Mr. Crabb and Mr. Graves about different things that we were finding as we were looking through
8 the investigative files.

9 Q And at this point in time, were you still teleworking in the fall of 2021?

10 A I think that I was in -- when I went on detail to D.C. and also when I was the chief in
11 Greenbelt, I largely was in person. I recall the -- when I mentioned the teleworking before, I just
12 recall being in my office in Greenbelt on a, like, whether Zoom or some other call.

13 So my general practice at that time was to -- was to be in the office whether or not it was -- it
14 was required. But in the time period specifically that you mentioned when I started in D.C., I believe
15 that I was in the office certainly most days, you know, perhaps every day.

16 Q And were the other prosecutors working on this effort, were they also in office with you
17 or did they telework?

18 A I think there's another option here. The other individuals who I mentioned before were
19 not, to my knowledge, at that time on detail or working at the U.S. Attorney's Office for the District of
20 Columbia. So they may come in, you know, as needed, or they may come in just to work there. But
21 my recollection is that, at the beginning, the individuals that I -- certainly the first individual that I
22 mentioned was assigned to an office at Main Justice.

23 Q Okay. And Mr. Graves and Mr. Crabb, were they in the office as well or --

1 A I think that they were in probably every day.

2 Q Okay. When did you start working with the Washington Field Office of the FBI on your
3 investigative efforts?

4 A I -- relatively early on. The -- well, let me give you a sense of it. The investigations that I
5 described earlier that were ongoing were already existing when I arrived. Most, if not all, of those
6 were FBI investigations or at least involved investigations that FBI agents were working on.

7 So the -- a lot of the information, my understanding, may have come or, you know, whether it
8 was housed at the FBI or housed at D.C., involved the FBI in some way. So I think relatively early on I
9 began interacting with the FBI in terms of reviewing information.

10 Q And who did you interact with mostly at the Washington Field Office?

11 A Those would be line agents.

12 Q Did you ever work with the Assistant Director in Charge, Steven D'Antuono?

13 A I think that the most I can say here, consistent with the Department's authorization, is
14 that I know who Mr. D'Antuono is. Specific interactions that I may or may not have had with the FBI
15 or other investigating agencies, the Department has not authorized me to discuss with you.

16 Q Did you ever interact with Assistant Special Agent in Charge Tim Thibault?

17 A Similar answer. I think that the most that I can say is that I know who Mr. Thibault is,
18 but beyond that, my understanding of the authorization letter that the Department has provided is
19 that I have not been authorized to discuss any interactions, any specific interactions that I may or
20 may not have had with the FBI or other law enforcement agencies.

21 Q Beyond Mr. D'Antuono and Mr. Thibault, did you interact with any other individuals at
22 the FBI?

23 A Yes.

1 Q And were those individuals lower than Mr. D'Antuono and Mr. Thibault in the hierarchy?

2 A My understanding of Mr. D'Antuono's position is that he was the assistant director in
3 charge of the entire field office. Given that, my understanding is that everybody who worked in that
4 office was lower than him.

5 Q And so did you interact with anyone else at Mr. Thibault's level, which would be the
6 assistant special agent in charge, one of the assistant special agents in charge?

7 A Kind of the same answer I gave before. Generally, I interacted with people at the FBI in
8 various levels. If you want to give me specific names, I can answer similarly as I did for Mr. Thibault
9 or Mr. D'Antuono as to whether I know who they are. And then beyond that, I would be prohibited
10 from discussing specific interactions by virtue of the Department's lack of authorization.

11 Q Did you interact with individuals on ASAC Thibault's team?

12 A My understanding of the role of an assistant special agent in charge is that there are
13 many squads underneath them. If -- I'm trying to think of how I can --

14 Q Did you work with squad CR15?

15 A Yeah, I can -- I can be responsive now that I think that you're specific. I think it's -- I
16 think it's -- I think that it is a matter of record, but my counsel can correct me if I'm wrong here. I
17 think that it's a matter of record that I worked for -- excuse me. I worked with agents who were
18 assigned to a public corruption-focused squad at WFO.

19 I don't know if the specific designator or however the FBI terms it is a matter of public record
20 or otherwise would be included in the authorization, but perhaps that gets you what you're looking
21 for.

22 Q Did you work with any other squads other than CR15?

23 A I -- can you give me a point in time, just to be clear?

1 Q Let's start with the fall of 2021. Did you work with any other squads other than CR15?

2 A I think that I -- in the fall of 2021, I worked with -- and that's my phrasing of it -- that I
3 described before that some of the information that I was looking at in that time period was from FBI
4 investigations.

5 I believe that -- you mentioned CR15. I believe that the squads or squad that was working
6 more on the on-the-ground rioter cases or the conspiracy cases was not CR15.

7 Q What can you tell us about conversations you had regarding subpoenaing the Willard
8 Hotel?

9 Mr. Burton. A subpoena would be, by definition, a grand jury subpoena. So that conflicts
10 with Rule 6(e).

11 BY [REDACTED]

12 Q Did you ever have discussions with Mr. D'Antuono regarding seeking information from
13 the Willard Hotel?

14 A I think that that falls into two different prohibitions. What I said before is that I'm -- I
15 know who Mr. D'Antuono is. And when you asked me that, whether I interacted with him or
16 whatever the specific question was before, I pointed you to the Department having not authorized
17 me to --

18 Q But Mr. D'Antuono --

19 A Excuse me, ma'am.

20 Q -- is a Department official, so --

21 A I am not done with my answer.

22 Q Go ahead.

1 A So for that reason, I would not be able to talk about specific interactions with
2 Mr. D'Antuono. Beyond that, the question that you most immediately posed seems to me, to the
3 extent that it occurred or did not occur, my understanding would fall, as my counsel indicated, within
4 Rule 6 obligations, which would further prevent me from discussing that with you.

5 Mr. Burton. In addition, your request to the Department specifically named those two
6 agents. Their guidance letter to us does not.

7 [REDACTED] It says discussions with Department officials, correct?

8 Mr. Burton. FBI agents are not Department of Justice officials, as I understand the term.

9 [REDACTED] That's ridiculous. FBI is a part of the Department of Justice.

10 Mr. Burton. I understand that, but I don't know that it --

11 [REDACTED] Okay.

12 Mr. Burton. -- it is a Department of Justice official. But anyway --

13 [REDACTED] If that's the position you're going to take, this is --

14 Mr. Burton. Could I please finish, [REDACTED]

15 Regardless of whether this is an official or not, any interaction with him -- I'm aware of the
16 newspaper article that prompts this line of inquiry, which is supposedly about a subpoena to the
17 Willard, as you just said, [REDACTED]

18 Any subpoena issued would be, by definition, a grand jury subpoena and, therefore, that topic
19 is off limits by the terms of Rule 6(e) and as indicated on page 2 of the June 4, 2025, letter providing
20 guidance.

21 BY [REDACTED]

22 Q Did you ever become aware of what has been reportedly called a war room at the
23 Willard Hotel?

1 A I think that probably the best I can give you on this is I am aware of public reporting that
2 I think probably used that phrase. I don't know what the source of that was or what the timeframe
3 of that article.

4 If it is -- setting that information aside, if there were another source of information from
5 which I learned that, if that existed, my understanding is that that would be part of the Rule 6 grand
6 jury investigation, and I would not be able to discuss another source of that information with you.

7 Q Are you aware of reporting that in November 2021, you had conversations with
8 Mr. D'Antuono where he told you he did not -- you did not have enough evidence to subpoena the
9 Willard Hotel? Are you aware of that reporting?

10 A I'm aware of the reporting.

11 Q When did you begin working or obtaining information from the United States Postal
12 Service Inspector General?

13 A I'm sorry, can you repeat the question?

14 Q When did you begin working with the United States Postal Service Inspector General?

15 A For similar reasons that I said before, the Department of Justice authorization letter has
16 not allowed me to speak about specific investigative agencies with whom we worked.

17 I think that the FBI is different because that's a matter of public record otherwise. But
18 beyond -- with respect specifically to the Postal Inspection Service, if they were or were not part of
19 the investigation at some point, my understanding is that the Department's letter does not permit
20 me to discuss that with you.

1 [11:02 a.m.]

2 BY [REDACTED]

3 Q There has been public reporting that you worked with the Postal Service Inspector
4 General. Are you aware of that reporting?

5 A I'm not sure if I recall that specific reporting. Do you have an article that you can show
6 me on that?

7 Q Yeah, we can enter the article.

8 This is the Washington Post article from June 19th, 2023, titled "FBI resisted opening probe
9 into Trump's role in Jan. 6 for more than a year." This will be exhibit No. 2.

10 [Windom Exhibit No. 2

11 was marked for identification.]

12 Mr. Windom. Is this the same one that I -- has the thing that you mentioned a minute ago?

13 BY [REDACTED]

14 Q That is correct. The Willard.

15 A Okay. Do you mind pointing me to the --

16 Q Yeah, I'll get it. So if we count -- 1, 2, 3, 4, 5, 6, 7, 8 -- page 9, there's a big, bold thing
17 that says, "I'm not serving subpoenas on the friggin' Willard."

18 A I'm sorry. Are you pointing me to the --

19 Q Yes, to page 6.

20 A -- Willard part or the postal inspection part?

21 Q The postal inspection part comes right after that.

22 A One, 2, 3, 4, 5 --

23 Q And there's a big, bold heading that says, "I'm not serving subpoenas on the Willard."

1 A Got it. So the paragraph that you want to point me to?

2 Q So there is -- if you look underneath the heading, there's a paragraph -- one, two, three,
3 four, five, six -- the eighth paragraph, just to describe what we were talking about, it said, "At a
4 meeting in November 2021, Windom asked D'Antuono to assist in a grand jury investigation, which
5 would include subpoenaing the Willard hotel."

6 The next paragraph down says, "D'Antuono was skeptical. The investigative track sounded
7 eerily similar to the Cooney proposal that had been shot down in February, he later confided to
8 colleagues."

9 The next paragraph: "'I'm not serving subpoenas on the friggin' Willard,' D'Antuono told
10 Windom, according to a person familiar with their discussions. 'You don't have enough to issue
11 subpoenas.'"

12 The next paragraph says, "Windom seemed surprised at the flat rejection."

13 And then the next paragraph is where the Postal Service comes in. It says, "In the next
14 several weeks, Windom would turn to consider the fake electors and discreetly inquire if another
15 agency might help: the U.S. Postal Service inspector."

16 A And just for clarity for the court reporter, the exhibit that you have handed me is
17 differently paginated than the one that you have. So whatever page numbers were stated may be
18 different than the official exhibit.

19 Q Uh-huh.

20 A I think that what I can say to your original question is, to the extent that I was not
21 previously aware of this public reporting, I now am aware of this public reporting.

22 Q And --

23 A I -- sorry.

1 Q No, you go ahead, sir.

2 A On the -- I -- and now that I have this in front of me, on the prior question that you
3 asked about -- and I don't remember the specific question, but generally about Mr. D'Antuono and
4 his statement, I -- again, I can't -- within what the Department has authorized, I can't give specifics.

5 I think, to the extent that it's helpful, I can generally say that I do not recall an episode like
6 this occurring.

7 Q Uh-huh.

8 A And given the relative responsibilities of prosecutors versus agents, it is somewhat
9 surprising to me that such a thing would have occurred.

10 Q And then if you go to -- it's three pages ahead of the Willard.

11 A When you say --

12 Q Turn back three pages.

13 A -- "ahead," forward or backward?

14 Mr. Burton. It's backwards.

15 [REDACTED] Uh-huh. I'm looking at the heading that says, "A prosecutor missteps with talks
16 of seditious conspiracy."

17 Mr. Burton. I'm sorry, [REDACTED] I'm trying to keep up with you, but --

18 [REDACTED] Right here.

19 Mr. Windom. It's the third one.

20 Mr. Burton. I've got it.

21 [REDACTED] Yep.

22 Mr. Windom. It's the third one back.

23 [REDACTED] Yep. And I want the paragraph directly above that heading.

1 Mr. Windom. Okay. I got it.

2 BY [REDACTED]

3 Q That paragraph says, "Officials at the National Archives had discovered similarities in
4 fraudulent slates of electors for Trump that his Republican allies had submitted to Congress and the
5 Archives. The National Archives inspector general's office asked the Justice Department's election
6 crimes branch to consider investigating the seemingly coordinated effort in swing states. Citing its
7 prosecutors' discretion, the department told the Archives it would not pursue the topic, according to
8 two people with knowledge of the decision."

9 Were you aware of this reporting prior to today?

10 A I think that the best that I can do is say that, since I was aware of the initial episode that
11 you referenced from this article, it's likely that I read this article or at least skimmed it at some point.
12 Assuming that is correct, I would have been aware of this paragraph, I assume.

13 [REDACTED] Did the reporter call you for comment?

14 Mr. Windom. Carol Leonnig and Aaron Davis, June 20th of 2023. I don't have any recollection
15 of speaking to those people about this article or knowing of its existence prior to.

16 [REDACTED] So they didn't call you for comment?

17 Mr. Windom. Not that I'm aware of.

18 BY [REDACTED]

19 Q Did you work with the Archives Inspector General?

20 A I think that I -- that is a matter of public record. And so, regardless of the Department's
21 authorization, which doesn't specifically mention the Archives, I believe that there have been filings
22 in the case regarding discovery where the Archives was referenced as having been one of the
23 agencies with whom we worked.

1 Q And when did you begin working with the Archives?

2 A I -- on that one, I'm not sure I can give specifics within the authorization. I think that the
3 best I can do is say that it was while I was on the detail to the U.S. Attorney's Office to the District of
4 Columbia.

5 Q Uh-huh.

6 A So prior to the time in the Special Counsel's Office.

7 Q Okay. So you worked with the Archives prior to your role on Special Counsel Jack
8 Smith's team, which would have started in November 2022. Is that correct?

9 A The answer to the first part of your question is yes.

10 The second part of your question as to when I started with Mr. Smith, I don't actually know if
11 that was the end of November or the beginning of December, but that time period, at least, of 2022.

12 BY [REDACTED]

13 Q Did you have any communication with Washington Post reporters during your time
14 in -- the times we're discussing now?

15 A During this time period, no. But --

16 Q At the Special Counsel's Office, did you talk to Washington Post reporters?

17 A No.

18 Q Okay. Have you ever talked to any Washington Post reporter?

19 A Yes.

20 Q Okay. But not related to any of these investigations?

21 A I'm not sure if it's helpful, but, within the last month or two, a Washington Post reporter
22 showed up at my house, and I sent them on their way.

23 Q Okay. Did you have any emails from Washington Post reporters about --

1 A I -- and maybe it's helpful to give you, kind of, the larger picture. As a rule, I didn't speak
2 to reporters about cases, not just in the Special Counsel's Office or in D.C. but historically. Each office
3 along the way has had a press person.

4 Q Uh-huh.

5 A To the extent that questions were asked of me as an unsolicited incoming, at least in
6 Maryland, I would pass that along to the press person. In the Special Counsel's Office, that's my best
7 recollection.

8 There are -- and I can't quantify it -- any number of times that I have received text messages,
9 emails, social media, you know, friend requests or whatever the different platform is --

10 Q Uh-huh.

11 A -- asking me either questions or to comment, and I universally have not engaged, not
12 responded. That's at least my recollection today.

13 Q Okay.

14 ██████████ We'll go off the record. We're at the end of our first hour.

15 [Recess.]

16 ██████████ We'll go back on the record.

17 And I apologize, I didn't get a chance to introduce myself at the beginning of the first round.
18 My name is ██████████ and I am with Mr. Raskin's staff on the House Judiciary Committee.

19 Thank you very much for coming in, Mr. Windom.

20 And before I turn things over to my colleague ██████████ I just have a couple housekeeping
21 matters I want to put on the record.

22 First, at the beginning of the last hour, there was an exchange about the videotaped
23 interviews. And I just want to put on the record, we have received recordings of two transcribed

1 interviews. We have not received the others. And I take my colleague's assurances to heart that
2 those will be provided when they are ready.

3 [REDACTED] You received all the videos that are completed. The videographers have to go
4 through their process to cut out the periods that were off the record, and they do other things, which
5 I'm not entirely sure what it is, but it takes them some time.

6 [REDACTED] Understood. And thank you for those assurances.

7 I also wanted to address some of the frustration that came to light in my colleague's
8 questions in the last round about the narrow scope of the Department of Justice's authorization
9 letter, which hems in the testimony that Mr. Windom is authorized to provide to the committee
10 today.

11 And I want to tell my colleagues that we share this frustration and would welcome the
12 opportunity to work with them to insist upon the Department of Justice to live up to this
13 administration's claim that it is the most transparent in history.

14 In particular, we have found that the Department of Justice has shown a particular
15 unwillingness to share information that touches upon evidence of criminal wrongdoing by the
16 President.

17 And this is particularly troublesome in the Department of Justice's -- the current Department
18 of Justice's continued refusal to release Volume 2 of Special Counsel Smith's report, which we
19 understand lays out evidence of how Donald Trump, while a private citizen, retained hundreds of
20 classified documents at his Mar-a-Lago clubhouse and then deliberately defied grand jury subpoenas,
21 obstructed law enforcement, hid evidence, and lied about his continuing retention of these records.

22 The Department's refusal to release Volume 2 of Special Counsel Smith's report, in sharp
23 departure from the Department of Justice's historical practice, including during the last

1 administration, of publicly releasing these special counsel reports, prepared at taxpayer expense, is
2 troubling, particularly as it appears to be part of a pattern by this administration of using the
3 Department of Justice to cover up evidence of criminal wrongdoing by President Trump.

4 And so I would -- I share my colleagues' frustration and would like to express once again that
5 we are standing by, willing to work with them to conduct oversight of the Department of Justice and
6 press this Department of Justice to live up to its claims and this administration's claims of
7 transparency.

8 I'm going to hand it to you.

9 [REDACTED] Thank you.

10 Mr. Windom, thank you again for joining us today.

11 At the top of our hour, I want to go ahead and introduce a couple documents. We're not
12 going to turn to them right away, but I'd like you to have them in front of you.

13 The first one, which I believe is exhibit 3, we'd like to introduce Volume 1 of Special Counsel
14 Smith's report.

15 [Windom Exhibit No. 3

16 was marked for identification.]

17 [REDACTED] And because of the length of the report, we only have limited copies. If anybody
18 wants an additional copy, we can certainly get one for them.

19 Mr. Windom. Thank you.

20 [REDACTED] And then as exhibit 4 we'd like to introduce the superseding indictment in United
21 States of America v. Donald J. Trump. That's case No. 1:23-cr-257-TSC in United States District Court
22 for the District of Columbia.

23 [Windom Exhibit No. 4

1 was marked for identification.]

2 Mr. Windom. Thank you.

3 EXAMINATION

4 BY [REDACTED]

5 Q Mr. Windom, a couple of followup questions from the prior hour.

6 Regarding the Willard Hotel subpoena question, not talking to that particular subpoenas,
7 whether they were served or not served, in general, what's the process for obtaining a subpoena?

8 A The process for obtaining a subpoena -- and I think that it's fair to say that this was not
9 just my time in the Special Counsel's Office but in my 12 years in the Department.

10 A determination is made, at a minimum by the prosecutor, at times in consultation with
11 agents, as to investigative steps that should be undertaken in whatever the investigation is. One of
12 those potential investigative steps is to serve a grand jury subpoena.

13 Prosecutors have the ability to issue those on their own without first going and requesting
14 that from the grand jury. There is a template. And, typically, that can be served any number of ways.
15 That can be served by the prosecutor, by staff in the prosecutor's office, by fax machine, by email,
16 hand delivery. Agents also can serve subpoenas. They can be delivered by mail. There are any
17 number of options to actually serve the subpoena.

18 In terms of obtaining the subpoena, it largely is determining that that is an investigative step
19 that may provide useful information and then, process-wise, getting that to the subpoena recipient.

20 Q And with respect to the process, what I understand you to have just said is that it is not
21 necessarily necessary to even involve an agent to serve a subpoena; that can be done directly by a
22 prosecutor. Is that correct?

23 A That's my understanding.

1 Q Or by a prosecutor's staff?

2 A By staff. Or by fax machine.

3 Q Thank you.

4 I want to take a couple steps back. You said in the earlier hour that you started at DOJ in
5 2014. Is that correct?

6 A I think it as February 11th of 2013 --

7 Q 2013.

8 A -- was my first day.

9 Q What was your educational background?

10 A I went to college at Harvard. Graduated in 2000. I went to law school at the University
11 of Virginia School of Law. Graduated in 2005.

12 Q Did you do clerkships after you graduated from law school?

13 A I did.

14 Q Who did you clerk for?

15 A I clerked for a judge on the Fifth Circuit.

16 Q Are you able to provide the name of the judge?

17 A Sure. Edith Brown Clement.

18 Q Who appointed Judge Clement?

19 A I think she was appointed twice. She was first on the district court, appointed by, I
20 believe, President George Bush, the first President Bush. And then my recollection is that she was in
21 the first class of appellate court nominees by George W. Bush. So two different Presidents.

22 Q Okay. And both George Bush and George W. Bush were both Republican Presidents. Is
23 that correct?

1 A That's my understanding.

2 Q What work did you do prior to joining the Department of Justice?

3 A Prior to -- so, after my clerkship, which ended around August or Labor Day of 2006,
4 shortly thereafter I started at a law firm in Washington, D.C.

5 Q Are you able to provide the name of that law firm?

6 A Sure. It's Williams & Connolly.

7 Q And were you an associate at Williams & Connolly?

8 A I was.

9 Q How long were you at Williams & Connolly?

10 A I was there for just over 6 years.

11 Q And so was your next step to go to DOJ, or were there any intervening --

12 A It was. I think I ended my time at Williams & Connolly in January of 2013 and began at
13 the Department in February of 2013.

14 Q And you indicated that you joined the U.S. Attorney's Office in Maryland, correct?

15 A Correct.

16 Q And until you were detailed to the District of Columbia, your entire career at DOJ was at
17 the district of Maryland, correct?

18 A Yes.

19 Q What type of work did you do there?

20 A The Southern Division in Maryland is housed in Greenbelt. That's where the office is. It
21 covers, geographically, five counties that are sort of most contiguous or adjacent to D.C.,
22 Montgomery County being the largest at, you know, a million or so folks, Prince George's County, you
23 know, being the second-largest at about a million or so folks, and then three other counties.

1 The Southern Division did not have sections. It was a generalist office. And I'm contrasting it
2 to the Baltimore office, for example; the Northern Division had different sections. So I could, as a line
3 prosecutor in Greenbelt, do any type of case, really, maybe with some exceptions, but that was my
4 understanding. And I basically did all kinds of cases in my time there.

5 Q If you had to put a number on it, can you estimate the number of cases that you worked
6 on? Just cases, not trials.

7 A Yeah, let me cabin that to just the ones that I specifically worked on myself. Because, as
8 the supervisor in the office, there would be hundreds and hundreds of other ones of which I was
9 aware and made supervisory decisions on but did not, you know, file papers in or conduct
10 investigative steps myself.

11 I would say, at a minimum, hundreds that I specifically worked on myself. I recall
12 probably close to 100 different dispositions and over 100 sentencing proceedings.

13 Q And can you estimate the number of trials that you worked on?

14 A Twelve. Twelve that I prosecuted to verdict.

15 Q Did you win any awards during your time with the Maryland office?

16 A I did.

17 Q Can you describe those awards for us?

18 A Let's see. Without getting the titles of them correct, I know that I was given awards for
19 prosecution of violent crime, prosecutions of fraud, prosecutions that involved significant issues.

20 I was, I guess, out -- it was while I was there, but they weren't office awards -- I was given an
21 award of National Security Prosecutor of the Year by the Baltimore Field Office of the FBI, and one
22 year I received an award from the FBI Director.

23 Q Okay.

1 Moving on, Chairman Jordan wrote to you on April 7th, 2025. Are you familiar with that
2 letter?

3 A I'm generally familiar with it.

4 Q We can introduce it if you'd like to see it.

5 A If there's a specific question you have, that might be helpful.

6 Q And this will be exhibit 5.

7 A Thank you.

8 [Windom Exhibit No. 5

9 was marked for identification.]

10 BY [REDACTED]

11 Q And I'm going to ask you about a line in the second paragraph on the first page, but take
12 as long as you want to --

13 A I'm fine, if you just want to point me to where.

14 Q The second paragraph on that first page, the second full sentence reads, "Specifically,
15 Special Counsel Smith and his team, including you, orchestrated partisan and politically motivated
16 prosecutions of President Donald J. Trump and his co-defendants."

17 Do you see where it says that?

18 A I do.

19 Q What's your response to that allegation?

20 A I don't agree with it.

21 Q Can you explain why?

1 A I am unaware of any foundation for that statement to have been made. At all times in
2 the office, my intention and my goal and what I actually did was to follow the facts and to follow the
3 law wherever they may lead.

4 I guess I'm somewhat surprised to see this here because, during the course of the litigation in
5 the District of Columbia, the defendant and his counsel made this same claim or something similar on
6 a number of occasions. They had the opportunity to litigate that fully in the district court. They did
7 so. And after that litigation, the district court found no evidence of selective or vindictive
8 prosecution, which is what this would refer to.

9 Q Thank you.

10 Is it fair to say that you agree with what Special Counsel Smith said in his report, that this was
11 a righteous prosecution predicated on sufficient facts and evidence to justify bringing the charges
12 that were brought?

13 A I generally agree with Mr. Smith's report. I agree that, certainly, there were sufficient
14 facts to prove the defendant's guilt beyond a reasonable doubt had we proceeded to trial.

15 Q And I want to turn to those charges now. And, as I do that, we'll be referring to both the
16 superseding indictment and then the description of the charges that is in the Smith report beginning
17 at page 33.

18 Mr. Windom, Count One of the indictment charges President Trump -- or charged President
19 Trump with violating 18 U.S.C., section 371, which is the conspiracy to defraud the United States,
20 correct?

21 A Yes.

1 Q And ordinary people who are not lawyers are probably familiar with crimes like theft
2 and murder, and conspiracy to defraud the United States is something that is not necessarily part of
3 common parlance.

4 I'm wondering if you can tell us in layman's terms what this charge alleges.

5 A Sure. So I think the best thing to do would be to refer to the special counsel's report for
6 completeness on this issue. The section on Count One begins on page 34.

7 Big picture, you know, there's a number of different elements that a prosecutor would have
8 to prove, that a grand jury would have to find, and did find.

9 But, here, that would be the defendant conspired with other individuals -- and there are
10 unidentified numbered co-conspirators, I believe, in this superseding indictment -- to defraud the
11 United States. In this case, according to the evidence and according to the special counsel report,
12 that was through a series of steps that included deceitful or dishonest means.

13 Q And the term "defraud," in the charge "defraud the United States," "defraud" doesn't
14 just mean cheating the government out of money or property, correct?

15 A That is my understanding.

16 Q What does "defraud" mean in this context?

17 A So, here, it also refers to schemes to interfere with or obstruct a lawful government
18 function.

19 The lawful government function that served as one of the bases for Count One is described
20 more fully in the special counsel report. Kind of, at core, that function -- and then this kind of bleeds
21 over into Counts Two and Three regarding the obstruction -- involved the process of selecting and
22 certifying the President of the United States.

1 Q And that was the process of selecting and certifying the President of the United States
2 on January 6, 2021, correct?

3 A I believe that the time period of the conspiracy predated that. I believe it may have
4 started around November 13th. But the certification that I think serves as the culmination of those
5 processes occurred in 2021 on January 6th.

6 Q Thank you.

7 The special counsel's report details the four elements of this crime, and I want to walk
8 through those one by one.

9 The first element is that the defendant entered into an agreement to commit the act at issue.
10 What does that mean in this context? What was the agreement?

11 A The agreement was an agreement with others to defraud the United States, to obstruct
12 a lawful government function, which, here, as I said before, was the process of selecting and
13 certifying the President of the United States.

14 Q And the statute or the, I guess, case law on the statute requires prosecutors to show
15 that the defendant -- in this case, Mr. Trump -- acted by deceitful or dishonest means, correct?

16 A That's my understanding.

17 Q Did prosecutors find that Mr. Trump acted by deceitful or dishonest means?

18 A We did.

19 Q And can you explain what those means were or how you understood that they were
20 dishonest?

21 A Sure. I think that the special counsel report -- and I don't want to read it word for word,
22 so I will summarize -- goes into fairly explicit detail on this. And I'll kind of go through the
23 paragraphs, I guess.

1 Other than that, there are -- my understanding is, this was intended as a kind of summary of
2 the major categories of information that we developed as part of the investigation, or that the
3 Special Counsel's Office developed, and so other documents, other filings, things like that, may
4 include still other pieces of information.

5 According to the special counsel report, the core of the defendant's obstructive scheme was a
6 false narrative of outcome-determinative voter fraud. That was kind of -- the deceit was kind of a
7 through-line for all of the conduct.

8 These were statements and conduct that was not just false but also, importantly, I think, that
9 the defendant knew was false. He knew that the information was false, according to the evidence
10 that was gathered and according to the special counsel's report, for any number of reasons.

11 The first one that's outlined here is that the false claims that the defendant was making were
12 repeatedly debunked to him by a variety of people -- Federal officials, State officials, courts, judges,
13 people who would have actually been knowledgeable of the facts on the ground, in the best position
14 to ascertain the truth.

15 Campaign personnel that Mr. Trump hired, whose sole role as being campaign personnel was
16 to get Mr. Trump elected, in some instances told him that the false claims he was making were, in
17 fact, false. There are some specific examples of this in the report that I can refer you to.

18 I mentioned courts before. There were a number of lawsuits that put Mr. Trump on notice
19 that his claims were false. There were -- this is something that is noted in the special counsel report.
20 Sometimes in cases, it's not just the actions that a defendant takes but actions the defendant doesn't
21 take. Here, the evidence that the special counsel developed showed that the defendant avoided
22 consulting some informed sources, such as State election officials, in the very States that the
23 defendant was saying fraud occurred.

1 Another piece of information that was developed in the special counsel's report is that, on a
2 number of occasions, the false claims that the defendant and his conspirators made changed,
3 oftentimes from day to day. There are some examples, I think at least two, in the report.

4 But, for example, in Arizona, one day, the allegation was that 36,000 non-citizens voted in the
5 State. Five days later, it was, quote, "beyond credulity" that a few hundred thousand didn't vote.
6 Three weeks after that, "The bare minimum was 40- or 50,000. The reality is about 250,000." These
7 are quotes. Days after that, the assertion was 32,000. And, ultimately, the conspirators landed back
8 where they started, at 36,000.

9 What this showed, according to the special counsel report, was not just an objective falsity
10 but what, based on this evidence, appears to be making numbers up from whole cloth, such that they
11 were unfounded to begin with.

12 Q In addition to the evidence you just described, Mr. Trump also said even before the
13 election took place that he planned to pursue false claims -- or fraud claims. Excuse me. Is that
14 correct?

15 A There is evidence that was developed by the special counsel and outlined in the special
16 counsel report that the defendant had made claims prior to the election that he would, you know,
17 declare fraud of some kind. And the ones that I'm thinking of right now are outlined at pages 38 and
18 39.

19 Q And why is the fact that Mr. Trump said even before the election took place that he
20 planned to pursue fraud claims, why was that an element that helped to show that he had
21 knowledge that what he was doing was deceitful?

1 A In general, it's helpful to show intent if a defendant makes a claim about something he
2 is going to do and why he is going to do it before it is done. And the evidence here that was
3 developed and outlined in the special counsel report, in my view, does just that.

4 Q And the special counsel report also details statements that Mr. Trump made, such as, "It
5 doesn't matter if you won or lost the election, you still have to fight like hell." When President-elect
6 Biden appeared on television in November, Mr. Trump said to a staffer, "Can you believe I lost to this
7 F'ing guy?" And then he called Vice President Pence "too honest" for declining to join the conspiracy.

8 Can you explain the importance of those particular statements in showing that Mr. Trump
9 was acting in a deceitful manner?

10 A Without really going beyond what is written in the special counsel report, the
11 defendant's intent in spreading the knowing falsehoods is evidenced by exactly these statements.

12 When, you know, the Vice President of the United States, whom the defendant had chosen as
13 his running mate, declined to join the conspiracy, the defendant said that the Vice President was "too
14 honest." That was a piece of evidence that the special counsel thought important enough to put in
15 his report.

16 BY [REDACTED]

17 Q So, just to put it in layman's terms, kind of having listened to your testimony, it seems
18 that, in essence, Count One, the evidence in there is about showing that the President entered into
19 an agreement with others to overturn the results of the 2020 Presidential elections by illegal means.

20 A That is a --

21 Q In sum and substance.

22 A That is kind of a shorthand way to say it, I guess. I would want to be precise if you're
23 talking about a specific count. And the special counsel report kind of lays out the elements that, as

1 prosecutors, we would have to prove to a petit jury beyond a reasonable doubt and the evidence, at
2 least the major categories of evidence, that the special counsel believed met that burden.

3 Q And in furtherance of that conspiracy of that agreement, President Trump repeatedly
4 said that the elections were stolen, but your evidence showed that that was a lie and that he knew
5 that that was a lie.

6 Is that, in sum and substance, the evidence you were describing earlier?

7 A I think that, generally speaking, that that is correct. I think that, as with any trial, you
8 have to have the hard evidence to back up the overall statement. And my understanding is that the
9 special counsel's report details the major categories that substantiate the view that the defendant
10 undertook deceitful or dishonest means, at least according to the language of the elements of Count
11 One, and made false statements that he knew were false.

12 Q And, just to be clear, the lying is an action that President Trump himself undertook in
13 order to advance this conspiracy. But the other participants in the conspiracy, themselves, took on
14 other steps in order to advance this conspiracy. Is that right?

15 A There was evidence that's detailed in the special counsel report that false claims were
16 made not just by the defendant but also by co-conspirators. There was other evidence that, beyond
17 words, actual conduct was taken by the defendant and by the conspirators.

18 Q Are there any other examples of some of the acts taken by other conspirators that you
19 can describe for us?

20 A There are. I think that Co-Conspirator 1 is identified here as somebody who made some
21 of the false claims with respect to numbers of non-citizens voting in Arizona.

22 I think that the first 30 or so pages of the special counsel report -- well, my understanding of
23 the structure here is, the first 30 or so pages are the facts, or a core of the facts, the major categories

1 of facts, that were developed during the investigation and that those are referenced sometimes in
2 shorthand or in shorter versions when discussing the counts.

3 BY [REDACTED]

4 Q Moving on to Counts Two and Three, which is obstruction and conspiracy to
5 obstruct -- and this is page 45 of Volume 1 of the report.

6 Generally speaking, what does the obstruction statute prohibit, not in respect to this case but
7 speaking broadly? In layman's terms, what does obstruction say -- or the statute say?

8 A Sure. Title 18, United States Code, section 1512 has any number of subparts. There are
9 other statutes that cover obstruction as well.

10 The one that was charged in Count Two and relatedly in Count Three involved, for Count Two,
11 conspiracy to obstruct an official proceeding and, for Count Three, it's the substantive act of
12 obstruction as opposed to just a conspiracy to obstruct.

13 Q And "official proceeding" in this case was the proceeding before Congress, correct?

14 A Yes. The official proceeding here was the certification of -- well, there's a definitional
15 statute which identifies an official proceeding as, quote, "a proceeding before the Congress."

16 Q And in this case that was the January 6 certification, correct?

17 A That is correct.

18 Q There are four elements of the crime of obstruction, correct?

19 A For the substantive obstruction?

20 Q Uh-huh.

21 A Let me move over to that page of the report.

22 For the conspiracy, it's just two elements, but for substantive obstruction, it is four.

1 Q The first element is that the defendant -- in this case, President Trump -- obstructed,
2 influenced, or impeded an official proceeding or attempted to do so, correct?

3 A Yes.

4 Q And as we just said, here, that official proceeding was the certification of the vote on
5 January 6, 2021.

6 A Right. That was a proceeding before the Congress.

7 Q Okay.

8 And the second element is that, in the course of doing so -- in other words, in the course of
9 obstructing, committing the obstructive act -- the defendant committed or attempted to commit an
10 act that impaired the integrity or rendered unavailable records, documents, objects, or other things
11 for use in the official proceeding, correct?

12 A Correct.

13 Q And what were the specific bad acts here?

14 A A lot of the evidence of deceit and willfulness for Count One are -- they translate to
15 showing deceit and willfulness and intent for each of the counts. And so the kind of core of those
16 facts are outlined in what we talked about before and then otherwise are expanded on in the first 30
17 or so pages of the report.

18 Q So it's things like Donald Trump falsely claiming that vote counts in Arizona were off
19 when he knew that was false, correct?

20 A That is an example of it. I think that, here, specific to the obstruction counts for Counts
21 Two and Three, there's more of a discussion about the creation of false documents, which in this case
22 would be the fraudulent elector certificates that the conspirators arranged to transit to the United
23 States Congress.

1 Q Can you describe the fraudulent elector scheme briefly for the record?

2 A Generally speaking, sure. And if I misstate anything, it's all laid out in detail in the
3 report.

4 In seven States that the defendant lost -- in which the defendant lost the popular vote, there
5 was an effort for people who would have been electors for him had he won -- to get those people
6 together or, should they be unwilling, to replace those people with other people who would serve as
7 fraudulent electors, to sign pieces of paper that stated that they were -- and I'm not going to get the
8 wording right, but -- essentially the, you know, duly-qualified electors for that State.

9 In two of the seven States, there was some qualifying language. And, again, the specifics are
10 in the report, I think. But, basically, two of those seven States, the people who agreed to sign those
11 pieces of paper said something to the effect of, "We are the duly-authorized electors if a court later
12 finds that we are." In five of the States, my recollection is there was no such qualifying language.

13 That scheme to put together those fraudulent certificates, fraudulent pieces of paper, was
14 arranged by a number of conspirators, with the knowledge of the defendant, as is outlined in the
15 special counsel report.

16 And then those individuals attempted to mimic as closely as they could the actual procedures
17 that, had they been legitimate electors, they would have had to comply with -- things like mailing the
18 pieces of paper by -- I forget if it's certified mail or registered mail -- showing up and signing the
19 pieces of paper at a specific location in a particular State, things like that.

20 And then those certificates, at least some of them, made their way to Congress, with the
21 intent that they be used contrary to or to supplant the legitimate elector certificate from those
22 States.

1 Q And did the special counsel make findings or uncover evidence to suggest how the
2 defendant and the co-conspirators intended to have those certificates accepted at Congress?

3 A I don't know that I would use the word "findings." My understanding of the report is
4 that it's intended to set forth what occurred during the pendency of the office and the results of -- or
5 at least the major categories of the results of the investigation.

6 Setting that, kind of, characterization aside, the report has a large number of details about
7 how the mechanics of the fraudulent elector scheme worked in practice.

8 Q And, sitting here today, can you summarize that for the record, what the evidence
9 showed?

10 A Sure. Beyond what I said before, and just looking at, you know, pages 11 through 16 of
11 the special counsel report, it kind of -- it basically tracks what I said before. There are some
12 additional components about how the co-conspirators, when they were trying to get fraudulent
13 electors to agree to sign these pieces of paper, how the co-conspirators lied, in some instances, to
14 the people who would sign the certificates and said that the certificates would only be used in the
15 event that ongoing litigation was resolved in the defendant's favor. There was a deception aspect to
16 it, kind of internal deception. The conspirators, again, deceived some of the fraudulent electors.

17 I think that there was also evidence of phone calls and of other communications that are
18 outlined in the special counsel report. To the extent it's not obvious, the footnotes -- and, just for
19 clarity, because I, you know, am being consistent here with what we are permitted to
20 discuss -- regardless of the Department's authorization letter, there are matters of public record.
21 When the first folks that were sitting in that chair asked me questions that were a matter of public
22 record, I was able to answer those things. For your questions, I'm doing the same thing.

1 These footnotes identify -- well, the whole report of Volume 1 is a matter of public record.
2 But the footnotes identify in large part ECF numbers, which are electronic case filing docket entries,
3 that are publicly available. And then the ones that start with "SCO," S-C-O, dash, and then a number,
4 those are Bates numbers to show the source of an existing document that may or may not otherwise
5 be on the public record.

6 Q Thank you for that.

7 With respect to the fraudulent elector scheme, the report details efforts to work with the
8 Republican National Committee, doesn't it?

9 A There are some instances that are discussed of that in the report.

10 Q Can you describe those efforts?

11 A Yes. Let me find the page here.

12 Mr. Burton. I just want him to stick to the report.

13 ████████ Understood.

14 BY ██████████

15 Q And this is, I think, page 12, and it goes on after that.

16 A That's right.

17 The special counsel's investigation uncovered evidence of a phone call between the
18 defendant and Co-Conspirator 2 on one hand and the chairwoman of the Republican National
19 Committee on the other end of the phone.

20 And, during that call, the chairwoman was told that it was important for the RNC to help
21 organize the defendant's elector nominees in the seven States that I mentioned before, or the fact of
22 those seven States.

1 The Co-Conspirator 2 told a lie to the chairwoman of the Republican Party intended,
2 according to the evidence, to induce that person's cooperation -- excuse me -- to induce the
3 cooperation of the fraudulent electors, that those electors' votes would be used only if ongoing
4 litigation in that particular State proved successful for Mr. Trump.

5 And then, from that point, Mr. Trump communicated with some of the other co-conspirators
6 about the plan. And those conspirators, in turn, worked with the more logistically focused
7 conspirators.

8 Q Right. So, in other words, Mr. Trump and his co-conspirators attempted to enlist the
9 official Republican -- the arm of the Republican National Committee that deals with campaign work,
10 right? They tried to get them to use their power, their work with the States, to develop these false
11 electors?

12 A So I'm not sure if I can go so far as to agree with what you just described. I think that
13 the most I can say is that evidence showed that the defendant and the conspirators attempted to
14 have the chairwoman of the Republican National Committee assist in organizing the fraudulent
15 elector nominees.

16 BY [REDACTED]

17 Q Just to make sure that this is clear for the record, on election day -- for example, let's
18 take the example of the State of Pennsylvania -- the voters of the State of Pennsylvania go and cast
19 their ballots, those ballots are counted, and one of the Presidential candidates wins that State, right?
20 And so, in 2020, the 2020 election, President Biden won the State of Pennsylvania.

21 After that election, 20 electors gather in a room to officially cast the vote for Pennsylvania's
22 20 electoral votes.

23 Is that -- that's how the process works?

1 A Without agreeing with each of the specifics of what you said about perhaps the number
2 and, you know, whatever the process was at that time, as a general matter, the candidate that wins
3 the popular vote in Pennsylvania is entitled to, in my understanding, the votes of the electors in total
4 from that State. And there's a process that is outlined by the Constitution and Federal statute as to
5 how they vote and how those votes are ultimately counted.

6 Q And so the ballots of those 20 electors are then sent to Congress, which is what is
7 counted on January 6th by Congress to officially ascertain the results of the election. Do I have that
8 correct?

9 A My understanding of the process is that, yes, the legitimate electors sign whatever
10 certificates that are, I understand, sealed and they bear the seal or signature of the executive of the
11 States and that those are mailed to Congress to be counted at the certification proceeding.

12 Q So am I correct in understanding, as part of this conspiracy, it assembled people who are
13 not the duly-empowered electors of a number of States to fill out a form that fraudulently
14 represented that Donald Trump had won the electoral votes for that State and attempted to send
15 that document to the Congress of the United States?

16 A That, in summary, is what the special counsel's report says. I think that, beyond that, at
17 least in a number of those States, they did in fact send -- if not in all of those States -- they did in fact
18 send, as opposed to just attempting to send, the fraudulent documents to the United States
19 Congress.

20 Q So, in sum and substance, the conspiracy created false ballots, electoral voter
21 certification ballots, to send to the Congress of the United States for the January 6th certification?

22 A The evidence shows that the conspiracy involved the creation of false documents.

23 BY [REDACTED]

1 Q We will move on to the "Conspiracy Against Rights" statute. And this is discussed
2 beginning on page 49 of the Smith report.

3 The fourth count of the indictment charged Mr. Trump with violating the "Conspiracy Against
4 Rights" statute. And I don't know that this is a statute that's commonly understood by every
5 American. Can you explain briefly what the statute says?

6 A Sure.

7 The charge here essentially was that the defendant entered a conspiracy to injure, oppress,
8 threaten, or intimidate one or more persons in the exercise of or enjoyment of a right or privilege
9 secured by the Constitution.

10 Here, the right that was guaranteed by the Constitution was the right to vote and the right to
11 have one's vote counted. So, in sum and substance, it was a conspiracy to injure that fundamental
12 right to vote.

13 Q And the individuals injured by this alleged crime would've been the voters in the States
14 where President Trump was trying to overturn the vote, correct? Or trying to overturn the vote
15 count, I should say.

16 A I want to be specific on what the special counsel report says. I think that there were a
17 number of potential victims of the crime, whether that's, you know, how that's viewed as the people
18 in the five States where there was no qualifying language, the people in the seven States where there
19 was qualifying language -- the additional two States where there was qualifying language, or all of the
20 voters in the United States who otherwise voted for a candidate other than the defendant.

21 Q So, essentially, the victim would be all the voters who voted for President Biden?

22 A Perhaps in layman's parlance. I don't know -- and just to be very clear, there are
23 statutory definitions of victims that may or may not come into play. But that is what is alleged as

1 part of the conspiracy against rights, is that, here, the defendant and the conspirators acted in
2 concert together to injure the right of at least one individual to vote and to have one's vote counted.

3 Q Mr. Windom, there have been -- some have said that Mr. Trump's actions were speech
4 protected by the First Amendment. In fact, the superseding indictment -- I think it is paragraph 3 of
5 the indictment -- recognizes that Trump, quote, "had a right, like every American, to speak publicly
6 about the election," meaning the 2020 election, "and even to claim falsely that there had been
7 outcome-determinative fraud during the election and that he won."

8 But your office claimed and a court ultimately found that Mr. Trump's actions were not
9 protected by the First Amendment, correct?

10 A There is a paragraph in the superseding indictment which is at least similar to what you
11 just described, and I think that it is uncontested that the First Amendment permits certain forms of
12 speech.

13 And there is case law and there is litigation here that the First Amendment is not absolute; it
14 has some limits. And at least one of the limits that the courts have held for a substantial period of
15 time is that the First Amendment does not protect speech that is rendered during the course of
16 criminal conduct that is deceitful, that is fraudulent, and things of that nature.

17 This is my shorthand. This is more specifically discussed in the report and in other litigation
18 filings.

1 [12:14 p.m.]

3 BY [REDACTED]

4 Q So, in other words, the fact that Mr. Trump had -- and we all have -- the First
5 Amendment right to say whatever we want about any given election, in this particular case, Mr.
6 Trump's actions were not protected by the First Amendment because he took it one step further,
7 correct?

8 A In this case, the evidence that we intended to use at trial was permissible to use, was
9 otherwise not forbidden for use by the First Amendment, and the principal reason for that is that, as
10 outlined in the report, it showed deceit and fraud.

11 Q Thank you.

12 [REDACTED] We can go off the record. Thank you.

13 [Recess.]

14 [REDACTED] We'll go back on the record. The time is now 12:23. We'll start our next hour of
15 questioning.

16 [REDACTED] Mr. Windom, during the first hour with us, you refused to provide names of DOJ
17 officials. You're relying on your DOJ authorization letter. However, I would point out that the DOJ
18 authorization letter authorizes you to provide unrestricted testimony to the committees irrespective
19 of potential privilege, and this accommodation is unique to the facts and circumstances of this
20 particular matter.

21 So the parts of the letter that you're referencing that relate to, you know, Department policy
22 about not identifying line attorneys is -- is defeated by the fact that it said, "Nevertheless, the
23 extraordinary events underlying this matter constitute exceptional circumstances, warranting an

1 accommodation of Congress in this particular case. Given these extraordinary circumstances, the
2 Department authorizes you to provide unrestricted testimony to the committee."

3 So I'll just -- I'll just identify this before [REDACTED] --

4 Mr. Burton. And, [REDACTED] notably, the part you omitted in your reading was "as limited in
5 paragraphs 1 through 5 above."

6 Your ask to the Department of Justice -- and I have great respect for the staff of this
7 committee -- did not request listing personnel. Our reading in the context where Mr. Windom is in
8 adverse litigation with this Department, in the context of this Department, limiting -- and being quite
9 specific, and recognizing other limitations -- I assume they know how to write a letter as well.

10 We're going to interpret "DOJ officials" in the most appropriate narrow fashion, as stated in
11 this letter.

12 Your -- [REDACTED] request originally to the Depar- -- to the Department, for example, listed
13 certain FBI agents. Those people are not listed in this letter.

14 So I appreciate your pointing out that language. There, it says "as limited." So we're going to
15 interpret that as appropriate. We do not believe ordinary line assistants qualify as DOJ officials.

16 [REDACTED] That's just preposterous, but [REDACTED] will proceed with the questions.

17 BY [REDACTED]

18 Q During your investigation, did you ever become aware that the Inspector General at the
19 Justice Department was conducting a related investigation into Acting Assistant Attorney General
20 Jeffrey Clark?

21 A And just to set the timeframe, can you -- let me know if you want me to describe things
22 before -- when I was in D.C. or when I was in the special counsel's office or just generally?

23 Q Let's start with when you were in D.C.

1 A Okay. The -- I think that what I can say to that is, is yes, I was aware that there was
2 a -- and you mentioned -- you mentioned OIG. I was aware that there was like a Senate or House
3 committee that did some interviews or depositions or something like that, related to -- to Mr. Clark.
4 The Office of the Inspector General, I think to the extent that I was aware of that, if it existed, I'm not
5 sure, and I'm happy to take counsel here, if that's included in the Department's authorization.

6 Q Did the Inspector General's investigation ever merge with the larger investigation that
7 you were conducting at D.C. or within the special counsel's office?

8 A Without going into the specifics of what investigation was what or what was looking at
9 what, I think it's public information that the Office of the Inspector General for the Department of
10 Justice was one of the agencies with which we worked.

11 Q And when did the appetite come about for obtaining contents of Congressman Scott
12 Perry's cell phone?

13 A Can -- you're using the word "appetite." Can you give me some definition there?

14 Q The desire. When did you identify Congressman Perry as possibly having relevant
15 evidence to your inquiry?

16 A I'm not sure of the exact timing that discussion began regarding information that may
17 establish criminal conduct that was to be found on Congressman Perry's personal cell phone.

18 There is a -- and you may have it, I'm sure, in one of those boxes. There's a redacted affidavit
19 from, I think, the Middle District of Pennsylvania that goes into substantial detail on kind of the -- the
20 evidence that supported the judge's probable cause finding. There's probably some dates in there.

21 Q But you just don't independently remember right now when you began identifying
22 Congressman Perry as possibly having relevant evidence to your inquiry?

1 A Best I can probably do is a timeframe. I think that the warrant in the Middle District of
2 Pennsylvania was August of 2022. If you want to show me the affidavit, I'm happy to kind of go
3 through and see if there's an indication of when we started developing the evidence that's outlined
4 in the affidavit. It's got to be sometime before August of 2022 and, you know, after the time that my
5 detail started.

6 Q How did the contents of Mr. Perry's phone tie into the broader investigation?

7 A I think that, as outlined in the special counsel report, there was information that
8 ultimately was recovered from Congressman Perry's personal cell phone that, prior to the Supreme
9 Court's decision in the summer of 2024, we had intended to use at a trial of the defendant, Mr.
10 Trump, and that, as noted in the report, that evidence would have been admissible in trials of any
11 other individuals, setting aside the Supreme Court's decision.

12 Q And what was that evidence?

13 A For the same reasons that we've discussed before, you're talking about, I guess, a few
14 different prohibitions that do not let me talk about that. The first is, though I recognize that the
15 Department's authorization talks about certain aspects of the seizure of Congressman Perry's cell
16 phone, there are certainly Rule 6 issues here. Beyond that, there are -- I'm aware of a variety of
17 public access litigation I think both in the Middle District of Pennsylvania and in the District of
18 Columbia. Those are the two places where Federal judges found probable cause to search
19 Congressman Perry's phone.

20 My recollection is that, as a result of that litigation, the different district court judges did not
21 permit the release of certain information; hence, what I described before, the redacted affidavit. I
22 think that there's other redacted documents. So kind of an overlapping series of statutes and court

1 rules and rules of criminal procedure, setting aside the authorization, that prohibit me from
2 discussing that in detail, other than what's in the special counsel report.

3 Q Whose idea was it to seek a warrant to obtain Congressman Perry's cell phone?

4 A I don't know who first -- it could have been me, it could have been somebody else, who
5 first proposed getting a warrant. I think that --

6 [REDACTED] That could have been your idea?

7 Mr. Windom. What I said before, [REDACTED] I don't know whose idea it was at its inception.

8 Perhaps most relevant for y'all, the approval for moving forward with such a warrant -- I
9 described kind of the supervisory structure in the District of Columbia before -- would have been Mr.
10 Crabb and Mr. Graves.

11 My recollection is that for major -- well, certainly for strategic decisions and certainly for
12 major investigative steps, that Mr. Graves was, at a minimum, consulted if not, you know, directly
13 approved.

14 [REDACTED] Did you articulate to your supervisors why you thought this was such a good
15 idea?

16 Mr. Windom. I'm not sure if -- well, setting aside whatever's permitted in the authorization, I
17 don't know that I can recall specific contents of conversations now that would have occurred around
18 3 years ago. I recall generally that, you know, I was involved in the, you know, the decision to
19 propose a search warrant to -- that that was approved by Mr. Crabb and by the U.S. attorney.

20 I think that -- and you may have a better recall than I do -- but I think that the special counsel
21 report talks about in -- at least in this instance, this is a situation where the Public Integrity Section at
22 Main Justice would also have to be consulted, according to their rules.

23 So I hope that that's responsive to your question.

1 BY [REDACTED]

2 Q Why execute the warrant while he was on travel?

3 A I saw reference to that in an article, maybe, or in your -- your topics. Maybe it's helpful
4 to give you a sense of how the process actually works for obtaining and then executing a search
5 warrant.

6 So in this case, my recollection is that there's the redacted affidavit and the
7 redacted -- probably the warrant sheets itself, which call for both a warrant to search the person of
8 Congressman Perry for his cell phone and then what I think is called a location warrant, to ping the
9 phone location to basically see where it is.

10 When -- my recollection is that when the agents -- when the agent swore out the affidavit in
11 the Middle District of Pennsylvania, that's where, my understanding, Congressman Perry lived at the
12 time. That's where his residence was. And that was the right venue under Rule 41 to seek that -- to
13 seek that warrant, which is where he was physically located.

14 After that, once the court in the Middle District of Pennsylvania found probable cause to
15 believe that there would be evidence of I think it was four separate Federal felonies on Congressman
16 Perry's personal cell phone, there is a defined period of time -- I believe it's 14 days -- it can change.
17 It's written on the face of the warrant. And during that time, the agents -- I'm giving you a typical
18 circumstance -- the agents come up with an operational plan to execute a search warrant.

19 I don't recall the specific details or the timing on this one. I know that there was at least one
20 other prosecutor that I worked with at my same level that was working on, you know, obtaining the
21 search warrant and working with the agents to effectuate it.

1 My recollection is that at the time that the warrant was signed by the judge, that the belief
2 was that Congressman Perry was in the district, and I think that that was borne out by later
3 information.

4 My recollection is that the agents then came up with an operational plan, as is common, to
5 execute the warrant. I don't remember the specific details after that. I'm assuming that since we
6 had -- there was, as part of this, the ping warrant on the phone that they were able to determine his
7 location and then -- you know, whether it was the first place they thought he would be or wherever
8 he ended up being. And my recollection is that they executed the warrants on the date that they had
9 planned to do so regardless of, you know, what the location was or who he was with. Those are
10 circumstances that are operational in nature that are outside the day-to-day control of, you know,
11 even if -- certainly, I think, in my mind, outside of the control of the agents, but outside the control of
12 the prosecutors as well.

13 Q So you were never told, prior to the execution of the search warrant, that the agents
14 were now going to have to go and find Mr. Perry at his vacation home?

15 A Probably the best I can do is to tell you what likely occurred. I don't recall the specifics
16 of it in that time period now going on 3 years ago.

17 What probably would occur in a operational situation, if the agents -- which again, I don't
18 recall -- had to travel from, let's say, Harrisburg -- you know, the Harrisburg area, I think, is in the
19 Middle District of Pennsylvania -- to a different district where the Congressman was, they likely
20 would have reached out to a prosecutor -- I can't say that that was me -- just to notify that, hey, you
21 know, the subject of the execution of the search warrant wasn't at location 1; we have to -- you
22 know, we have to go to location 2.

1 I'm surmising here based on the fact of the ping warrant. I don't specifically recall any of that.
2 And again, it may have -- to the extent that it did happen, that may have been a conversation with
3 one of the other prosecutors.

4 Q And what can you tell us about the discussions leading up to the execution of the
5 warrant? Did you have any discussions with other prosecutors regarding seeking a warrant for Mr.
6 Perry's cell phone?

7 Mr. Burton. [REDACTED] do you mean other than the ones he's discussed already, or you just
8 want to reiterate that?

9 [REDACTED] Well, he said that they may have spoken to another prosecutor, so I'm trying to
10 figure out how many other prosecutors were working on obtaining Mr. Perry's cell phone.

11 Mr. Windom. Again, and please correct me here, but my recollection is that that was August
12 of 2022?

13 BY [REDACTED]

14 Q Mm-hmm.

15 A Okay. I think I previously described the staffing over time in the D.C. U.S. Attorney's
16 Office that would have been around the time that I began working with Mr. Cooney and that other
17 prosecutors were added to the investigative efforts.

18 My recollection is that there was one other person -- one other prosecutor who I worked with
19 specifically on, you know, obtaining this warrant.

20 Q Mm-hmm.

21 A There likely were others that were less involved in kind of the day-to-day -- you know,
22 you got to do the paperwork for it, you got to arrange the -- with the court to swear something
23 out -- for the agent to swear something out.

1 There likely were other prosecutors that we worked with that were at least aware of it.
2 Certainly, as I said before, Mr. Crabb and Mr. Graves would have been the ones that authorized it.
3 And then ultimately it was up to the Federal judge to authorize it, which happened here in at least
4 two instances.

5 Q And you mentioned Mr. Cooney. Did you have conversations with Mr. Cooney about
6 seizing Congressman Perry's cell phone?

7 A I don't recall any. During that time period, I'm sure I would have just because he would
8 have been working with me at that point. So I would be surprised if that didn't occur. I'm sure it
9 occurred. I don't recall any specific conversation.

10 Q Did you have conversations with this other prosecutor you have mentioned regarding
11 seizing Mr. Perry's cell phone?

12 A Regarding obtaining judicial authority to seize the cell phone? Yes.

13 Q Okay. And did you ever discuss with this other prosecutor whether or not you should
14 seek consent before going to a warrant?

15 A Going back 3 years, I'm not sure if I specifically recall that. I think what may be helpful is
16 that, any time investigative steps are -- at least in my experience, any time that investigative steps
17 are discussed, they will include a range of options.

18 So to the extent that consent was an option here, perhaps that was discussed. I don't have a
19 specific recollection of that.

20 Q So you can't remember whether or not you discussed reaching out to a Member of
21 Congress regarding obtaining a cell phone prior to going to a warrant?

22 A I don't have a specific recollection of that. I suspect that that either was discussed or
23 was, if not discussed, then considered by the United States attorney who would have approved us

1 moving forward to reach out to chambers to arrange for the agent to swear out the affidavit that had
2 ample probable cause to find that evidence of criminal conduct existed on Congressman Perry's cell
3 phone.

4 Q So why didn't you seek consent in this instance?

5 A I'm not -- again, like I -- as I said before, I don't recall one way or the other discussions. I
6 think that there are a number of possible investigative steps. Here, there was a warrant.

7 I think that what's important, as y'all are looking at this for your legislative inquiry, is that a
8 judge in Pennsylvania issued the warrant on a finding of probable cause. Agents executed it and
9 obtained the cell phone and imaged it. And what that means is they essentially took a copy and they
10 put it in a box. They did not then review the contents of the phone.

11 Then the next step of that was a separate search warrant in the District of Columbia. As part
12 of that search warrant, there is addendum C, I think it is. And again, this is all public information.
13 That has a protocol. And the protocol exists because of the D.C. Circuit's ruling in Rayburn House
14 Office Building. I'm not sure if we're in Rayburn, but it is -- that's the name of the case. And the
15 protocol essentially dictates that, at that point, the Congressman and his counsel come immediately
16 into play with the court as an arbiter of what the government can and cannot get.

17 The addendum C, the protocol, my recollection, began a process whereby Congressman Perry
18 was given access to a copy of the image that had been taken. And Congressman Perry had the ability
19 in the first instance to designate what he believed to be privileged under the Speech or Debate
20 Clause to the Constitution. That's before anybody from the government looks at -- looks at this,
21 looks at any of this.

22 Congressman Perry made certain determinations. My recollection is that there were
23 some -- there was some information on the phone over which he did not claim any privilege. And

1 then there were parts of it, and I'm going to ballpark some numbers here, but let's just say 2,000
2 items over which he claimed a privilege.

3 Thereafter, it started a series of cascading court decisions from the district court in D.C. to
4 three judges on the D.C. Circuit to a separate district court in the District of Columbia. All five of
5 those judges, my recollection, specifically found that Congressman Perry had an overbroad view of
6 what the Speech or Debate Clause allowed him to protect.

7 And eventually -- and again, guesstimate numbers here, but of the 2,000 or so records over
8 which Congressman Perry claimed a privilege, ballpark, 1,600 of them ultimately were released to the
9 government.

10 So to the extent that there's some thought that perhaps Congressman Perry should have
11 been asked for consent at the inception rather than proceeding to a search warrant, what the
12 process ultimately ended up with was a judicially arbitered system whereby Congressman Perry had
13 the ability to invoke every privilege that he wanted with respect to Speech or Debate. The courts
14 ruled on all of that. But the core of the evidence was preserved from the inception so that whatever
15 the court later decided would be the final word and not simply the word of -- or the view of the law
16 of Congressman Perry.

17 Q But I think, you know, we can all agree that cell phones nowadays have a lot of
18 information about a person on it. Is that correct? Would you agree with that?

19 A To the basic view that cell phones have lots of information, as a general matter, yes, I
20 can agree with that.

21 Q And you were seeking very specific information from his cell phone, correct?

22 A I want to be very clear on your use of the word "you." Here, the United States Attorney
23 and, as I indicated before, likely the Public Integrity Section, approved moving forward with this. An

1 agent, a Federal law enforcement agent signed an affidavit that two different judges found had
2 probable cause to believe had evidence of criminal conduct on Mr. Perry's -- Congressman Perry's cell
3 phone.

4 There are specific things within the warrant that the government, as with every warrant, are
5 permitted to look for and to find. Here, it was somewhat the flip because the Congressman himself
6 was able to determine in the first instance what he thought might be privileged or not. And then that
7 is -- we proceeded down the path of litigating the portions that he believed might be covered by the
8 speech or debate privilege.

9 Q I understand that. And you had said that the Justice Department obtained a -- what you
10 called a copy of his whole cell phone. Is that correct?

11 A An image, yes. In common parlance, I would say copy, but I'm sure there are people
12 more scientifically inclined to -- who know better as to the terminology. I think it is called an image in
13 the filings.

14 Q So the complete copy would include any photos he had on his phone. Is that correct?

15 A My understanding is that the image is a replica of the contents of the phone.

16 Q But you weren't looking for, like, photos of him and his young daughters. Is that
17 correct?

18 A You can look specifically at the redacted affidavit for specificity on what the agent
19 believed there would be probable cause to find and what the two Federal judges found there would
20 be probable cause to find. I'm happy to go through -- typically, there's an attachment B which lists
21 the categories of information that a government agent can search.

22 Again, here, it is different because we're in a situation where a Congressman was given,
23 pursuant to the speech or debate privilege and the binding D.C. Circuit precedent, the ability in the

1 first instance to look at anything and to determine a privilege designation before any government FBI
2 agent, government prosecutor looked at any contents of the phone.

3 Q But, you know, the thing that we're trying to get at here is seizing the phone of a sitting
4 Member of Congress is a pretty big deal. And so when you receive a full copy, the Justice
5 Department takes a full copy of a sitting Member of Congress' cell phone. You now have all of the
6 contents on his phone. And I understand that he went through and looked at privilege. But why not
7 just ask him to turn over the information you were seeking?

8 Mr. Burton. Just to be clear, when you're using "you," you're meaning the Department of
9 Justice, not Mr. Windom personally?

10 [REDACTED] Yes. Correct.

11 Mr. Windom. Yeah, I mean, beyond what I've said, I'm not sure that I could detail every
12 consideration. As I said before, the United States Attorney for the District of Columbia was the one
13 that ultimately approved this. At least that's my recollection. At a minimum, it would have been his
14 criminal chief, Mr. Crabb. But I am fairly certain it's Mr. Graves in consultation with the Public
15 Integrity Section.

16 With respect to -- you know, "consent," I think, is the word that you were using. What I think
17 was borne out by the considerable litigation that occurred after the seizure is that Mr.
18 Perry -- Congressman Perry had a different view of what the law was than what it actually was.

19 After that litigation, we obtained more information than he believed the government was
20 entitled to but, as I said, five different judges found otherwise.

21 [REDACTED] Would you have remembered if you would have discussed seeking consent from
22 a Member of Congress?

1 Mr. Windom. Yeah. I mean, I see what you're doing with trying to ask the same question in a
2 different way. As I've said before, I don't recall here today if I was part of a discussion on that. In
3 general, different investigative techniques are discussed over the course of investigations: warrant,
4 subpoena, consent. The ultimate decision-maker here would have been the leadership of the United
5 States Attorney's Office.

6 [REDACTED] And what was your involvement with obtaining the warrant?

7 Mr. Windom. I guess I'll start with the one in the Middle District of Pennsylvania, the first
8 one. My recollection is that it was a -- a role that I had taken many times before with warrants.
9 Preparing the paperwork, reviewing the draft that ultimately is signed by the agent. Editing the draft,
10 I'm sure, occurred.

11 As I said before, there was at least one other prosecutor who worked on this with me, so we
12 likely, you know, both held those responsibilities.

13 BY [REDACTED]

14 Q You're not giving us the name of that prosecutor?

15 A That person is a line prosecutor, and so --

16 Q You are too.

17 A Yes.

18 Q Okay.

19 A Or I was.

20 Q Right. But during times relevant.

21 A Correct.

22 I'm sorry. I lost my train of thought. Where was I?

23 [REDACTED] We were discussing your role in obtaining the warrant.

1 Mr. Windom. Sure. So the Middle District of Pennsylvania -- I'm sure I was involved in editing
2 the affidavit, at least organizing the preparation of the paperwork by legal assistants. Likely, either I
3 or the other prosecutor that I'm thinking of had contact with the U.S. Attorney's Office for the Middle
4 District of Pennsylvania.

5 Just the way, in my experience, logistically how it works is when seeking a warrant in a district
6 where you are not the prosecutor, you call the home office because they know the procedures there
7 for, like, what judge is on duty that week or, you know, the proper formatting or font of the
8 paperwork.

9 So likely, that occurred. Spoke to somebody there. Likely, that person, whoever it was,
10 contacted chambers for the Federal judge and arranged a time to swear out -- for the agent to swear
11 out the warrant. I'm sure I was involved in all of that in some manner, whether that was actually
12 effectuating it or discussing it with the other person and discussing it with supervisors.

13 Those are more the logistics of it. This was August of '22. The affidavit has a significant
14 amount of information that supported the probable cause. So I'm sure I reviewed that, edited it, had
15 discussions with the affiant about it prior to swearing it out.

16 And then I remember being part of a similar process in D.C. for the second warrant
17 where -- something similar except it was our -- it was the jurisdiction in which we were located, so we
18 didn't have to call, you know, a AUSA in Pennsylvania. We would have arranged with chambers
19 to -- for the affiant to swear out the second warrant, which included the addendum C protocol that I
20 had previously recounted.

21 ██████████ While you're going through this process, getting ready to seek a warrant and then
22 getting a warrant for Congressman Perry's cell phone, what kinds of discussions were you having with
23 other prosecutors regarding the Speech or Debate Clause?

1 Mr. Windom. You know, setting aside conversations that I may have had with folks on the
2 line, I am certain that it was discussed, whether or what application there was or the speech -- of the
3 Speech or Debate Clause prior to seeking and obtaining the warrant in the Middle District of
4 Pennsylvania. My recollection is it is because of the Speech or Debate Clause that we sought -- that
5 the government at that time sought authorization only to seize and to image the device as opposed
6 to, you know, looking through the information.

7 My recollection is that the phone was returned to Congressman Perry within a matter of
8 hours on whatever day it was seized and the image was made. So I'm certain that there was
9 discussion of the Speech or Debate Clause, mindfulness of it.

10 Generally speaking, the folks with whom I worked were career, seasoned prosecutors who
11 otherwise had been familiar with at least the contours of the clause in other circumstances. And
12 then, as I indicated before, the litigation in the District of Columbia and the second search warrant
13 specifically included search protocols which, as I understand it, were required by the Rayburn House
14 Office Building case.

15 BY [REDACTED]

16 Q How did they get into his phone?

17 A The mechanics of it?

18 Q Yeah.

19 A I can tell you generally what I know about how that stuff works, but I couldn't tell you in
20 this instance which program --

21 Q Did he provide a password or --

22 A I'm sorry?

23 Q Do you know if he provided a password?

1 A I don't believe that he did, but I don't recall.

2 Q Okay. So how do you get into the phone without a password?

3 A If you have a copy of the affidavit, I think that there's a few different options that are
4 listed. One of them is -- and I don't want to misspeak, so I will speak generally, I guess.

5 Usually, my understanding in my experience in cases of seizures of cell phones, there's a -- as
6 part of the attachment, it permits facial recognition; so basically the agent holding up the phone to
7 the person's face. There may be other things that are listed --

8 Q Is that what happened in this case?

9 A If I can finish my answer, please, sir.

10 As I said before, I don't know what specifically happened in this case. I believe that that was
11 part of the addendum, the protocol for execution of the warrant in the Middle District of
12 Pennsylvania.

13 Separate from that, if it wasn't or if it didn't occur -- which, as I said, I don't recall -- there are
14 people who have technical expertise and who have access to law enforcement versions of devices
15 and software to get into phones that are locked. I don't recall sitting here now even if the phone was
16 locked.

17 Q Did you participate in any discussions where you talked about how you're interfering
18 with the Congressman's duties by taking his phone from him?

19 A Did I participate in discussions --

20 Q Did you even consider that?

21 Mr. Burton. When he was on vacation.

22 [REDACTED] What's that? Yeah. Congressmen work even when they're on vacation, believe it
23 or not.

1 Mr. Windom. I think that the most I can say there, consistent with my obligations, is that
2 there was a procedure in place. It was -- every legal obligation, my understanding, was fulfilled. It
3 was approved by a Federal judge in Pennsylvania. The warrant was executed in the manner and the
4 time in which we were authorized to do so.

5 And as I said before, the Congressman was deprived of his phone for, as I understand it,
6 according to the litigation, a matter of hours and, according to y'all, while he was on vacation.

7 BY [REDACTED]

8 Q But as you sit here today, you don't remember raising the fact that you're interfering
9 with his duties while taking the phone. You don't remember any conversations where you flagged
10 that as a consideration here.

11 A I'm not going to agree with that characterization. I think that --

12 Q But you don't remember it. Well, tell me what you do remember about you raising that
13 topic?

14 A Let me take your questions in turn.

15 As I said before, I don't agree with the characterization that you've just made. I have
16 indicated to you that we're going on 3 years now since discussions occurred regarding the seizure of
17 Congressman Perry's cell phone.

18 My recollection is that, as I said before, any decision as to move forward would have been
19 made by the United States Attorney, would have been approved or consulted with the Public
20 Integrity Section.

21 To the extent that there were any arguments that Congressman Perry made or could have
22 made with respect to his congressional duties, there was a substantial amount of litigation regarding
23 that, and I would --

1 Q Before you took the phone? I'm asking you, before you took the phone.

2 A In terms of the timing of that? All I can say is that, you know, going on 3 years now, I
3 don't recall the specifics. I don't believe that I would be able to talk about, even if I did, specific
4 conversations with other line prosecutors. I'm certain that appropriate consideration was given, as is
5 my experience at least, to all substantial issues. And in this case, the United States Attorney made a
6 decision, and one and, you know, then other Federal judges agreed with respect to the probable
7 cause finding.

8 Q But you do under- -- do you acknowledge that when you take the phone from him, he's
9 unable to conduct business with his top advisers and with other Members of Congress?

10 Mr. Burton. I don't think there's any factual basis that supports that. You're assuming he's
11 using his phone to do those things. You're assuming a lot. He's stated that he doesn't recall --

12 [REDACTED] Well, when you take Mr. Perry's phone, he's not able to have communications
13 with his colleagues and Congress.

14 Mr. Burton. I don't know that to be true.

15 [REDACTED] Okay. He's unable to make telephone calls.

16 Mr. Burton. With that phone.

17 [REDACTED] With that phone, correct. Do you know if he used a different phone?

18 Mr. Burton. It's your questions, [REDACTED] --

19 [REDACTED] So you're interfering with his duties as a, you know, Representative. He
20 represents 750,000 people.

21 Mr. Burton. He has -- he's --

22 [REDACTED] So the question --

23 Mr. Burton. -- he's answered the question.

1 Mr. Windom. Where was the question?

2 BY [REDACTED]

3 Q You didn't -- you don't recall any discussions about the fact that you're interfering with
4 his duties while the phone is away from him. He can't call other Members of Congress. He can't call
5 his chief of staff. He can't call his wife, if his wife was at the -- at the store.

6 A Beyond what I said before, I think that I would just reiterate that I don't agree with the
7 characterization of your question. I do not believe that, as my counsel just stated, there would be a
8 factual basis to support the question. We're talking about --

9 Q But you're interfering with his duties while his phone's gone.

10 A I'm going to continue with the answer to your first question. We're talking about a
11 period of time of, as I understand it, a number of hour --

12 Q Many hours, yeah.

13 Mr. Burton. Do you want to -- were you there? I mean, he's telling you what his
14 understanding was.

15 [REDACTED] Okay.

16 BY [REDACTED]

17 Q Many hours, correct?

18 A I'll continue with my answer, if that's okay.

19 Q Okay.

20 A My understanding is that Mr. Perry did not have his personal cell phone for whatever
21 the number of hours was, and that during that time period, obviously he was unable to use his
22 personal cell phone. I do not have information, sitting here today, going on 3 years, as to what other
23 devices he may or may not have had, if he had, for example, laptops, iPads, computers. I'm staring at

1 two different cell phones that [REDACTED] has in front of her here, others on the table -- other
2 communication devices that Mr. Perry would have been entitled to.

3 I also don't recall -- though, again, this is just my recollection. I don't recall the litigation in
4 this matter, of which much was publicly unsealed, discussing that. If you have that information and
5 would like to point it to me, I'm happy to review it. But that's -- you're making a characterization that
6 I simply don't recall being part of the litigation.

7 Q Right. But my question was, before you took the phone, did you raise concerns that,
8 hey, if you take the Congressman's phone, you're interfering with his duties? He represents 750,000
9 people from Pennsylvania. This is something serious that we need to talk about here at the Justice
10 Department before we proceed.

11 A Beyond the answer I've already given the first five or seven times you asked this
12 question, I don't have anything to add. The United States Attorney approved moving forward with
13 this. It was in consultation at least with the Public Integrity Section, is my understanding. And agents
14 executed a search warrant that was authorized by a Federal judge in Pennsylvania.

15 Q Okay. And you said yourself and then another line prosecutor, who you've refused to
16 identify, and then your immediate supervisor, the head of Criminal Division, and Matthew Graves
17 were the four DOJ people?

18 Mr. Burton. Yeah. I would object to him "refusing." He's not authorized to provide that
19 information.

20 [REDACTED] In your reading of the letter.

21 The letter, as I mentioned, says you're authorized to provide unrestricted testimony to the
22 committee irrespective of potential privilege, as limited by the paragraphs 1 through 5. This is clearly
23 within number 5.

1 We're talking about -- I'm asking questions about the basis for the seizure of stealing
2 Mr. Perry's phone. So, anyway.

3 Mr. Windom. I'm not sure what the pending question is.

4 BY [REDACTED]

5 Q I'm asking if you remember anything, and you said you don't, which is really remarkable
6 that you don't remember anything about discussion that the DOJ officials, you know, talked about
7 interfering with Mr. Perry's duties as a Congressman.

8 A I understand that you are saying certain words and making certain characterizations of
9 what did and did not occur. I have provided to you today on multiple occasions over the last 15
10 minutes in response to the same question --

11 Q Okay.

12 A -- my recollection of what occurred --

13 Q Very little. So I'll return to [REDACTED]

14 A I'm going --

15 Q Unless Mr. Jordan has some --

16 A I would appreciate being able to, as [REDACTED] said earlier, finish my answer without
17 you speaking over me. May I do that?

18 Q Okay. I thought you just said that you've told me everything.

19 A As I said before, and as I was attempting to continue, I provided you my recollection,
20 now going on 3 years, of what occurred. I've identified the individuals who approved moving forward
21 with the search warrant. I've identified that at least two Federal judges found probable cause to
22 execute the warrant; that the warrant was, in fact, executed; and the manner in which Congressman

1 Perry's rights under the Speech or Debate Clause were manifestly attended to by virtue of the
2 protocols entered by the district court in the District of Columbia.

3 Q Right. But my question was about interfering with his duties by depriving him of his
4 phone.

5 Mr. Burton. And that's an interesting characterization.

6 He's told you the facts. You can interpret the facts how you wish. I'm sure you will. He's told
7 you he doesn't recall a discussion that you are -- keep going back to. And you've expressed your view
8 that you find that however you find it.

9 Can we move on to something --

10 Chairman Jordan. Did you know the Inspector General's Office would scan the phone before
11 you took the phone?

12 Mr. Windom. I'm sorry, Congressman?

13 Chairman Jordan. Did you know the Inspector General's Office would scan the phone before
14 you took the phone?

15 Mr. Windom. My recollection is that I -- there were -- the FBI and then the Department of
16 Justice Office of Inspector General were the two law enforcement agencies that are identified in the
17 search warrant attachment.

18 I don't recall right now which of those two agencies imaged the phone. Certainly one of them
19 did, and that was the purpose of the first warrant in the Middle District of Pennsylvania.

20 Chairman Jordan. What's customary? The FBI doing it or the Inspector General doing it?

21 Mr. Windom. I can't speak to a customary situation. I think what is customary in this case is
22 that there were at least two Federal law enforcement agencies that were working with us on the
23 investigation, and my recollection is that in some instances during the course of the investigation,

1 which spanned the time prior to the special counsel, sometimes the one law enforcement agency
2 would image a phone or review a phone in some way. Sometimes another law enforcement agency
3 would. Generally speaking, my understanding is those are typically done based on staffing and
4 availability.

5 Chairman Jordan. Did you have a preference in previous investigations who would scan the
6 phone?

7 Mr. Windom. I've had -- sorry. Go ahead.

8 Chairman Jordan. I'm just asking, did you have a preference?

9 Mr. Windom. In previous investigations, I've worked with a number of different law
10 enforcement agencies, including --

11 Chairman Jordan. You said two law enforcement agencies. What two were you referring to,
12 just to be clear?

13 Mr. Windom. In this one --

14 Chairman Jordan. FBI and IG?

15 Mr. Windom. This specific search warrant authorized the movement of the phone, my
16 recollection -- and this is attachment D -- by the FBI or to the DOJ OIG's laboratory in the Northern
17 District of Virginia.

18 Chairman Jordan. Okay. It's our understanding that the Inspector General's Office scanned
19 the phone. Is that your understanding?

20 Mr. Windom. Sitting here today, I don't recall. It was certainly one of those two. I know that
21 the Office of the Inspector General did participate in forensic review, forensic extraction of certain
22 devices as part of the investigation. It would not surprise me if they were the one that did this here,
23 but it could have been the FBI as well.

1 Chairman Jordan. Okay.

2 [REDACTED] So you didn't take it back to Virginia to do it?

3 Mr. Windom. I did not do anything. The government, according to the search warrant
4 affidavit, I recall, transported the phone back. At some point, it was in the District of Columbia
5 because that is where we received the second Federal judge's authorization to search. And just by
6 purposes of the venue provisions of Rule 41, it would have had to have been in the district in order
7 for the judge in the District of Columbia to issue that warrant.

8 [REDACTED] So you take the phone in New Jersey and then you take it at least to Washington,
9 D.C., and then, presumably, back to Jersey?

10 Mr. Windom. No. My understanding is that since it was a matter of hours, just logistically,
11 that that would have taken place somewhere proximate to wherever the phone was seized. When
12 I -- and perhaps I was inarticulate before. When we obtained the search warrant in D.C., my
13 understanding, the image of the device was in D.C.

14 There are, likely, redacted publicly available documents which discuss in detail this
15 information. I'm giving you my recollection of what occurred during those few weeks.

16 [REDACTED] And I know you've discussed the litigation that ensued following the seizure of
17 Congressman Perry's cell phone. And the Court of Appeals for D.C. in September of 2023 found,
18 among other things, that his conversations with his colleagues about the 2020 election certification
19 vote and vote on proposed election reform legislation were quintessential legislative acts entitled to
20 the privilege. And what I would like to know is whether or not you had conversations, prior to
21 executing the warrant, with your fellow prosecutors regarding whether or not these conversations
22 would be privileged.

1 Mr. Windom. I think that what I can provide you is that, as I said before, we had
2 conversations, I'm certain, regarding the Speech or Debate Clause and what the contours of the
3 clause were. And that is why we took the extremely protective measures that we did in terms of a
4 warrant first to image the device and then a second warrant in D.C. whereby, for Congressman
5 Jordan's edification since he -- I don't think, sir, that you were here when I was saying this part
6 earlier, and I apologize if you were.

7 There was a addendum C, my recollection is, a protocol whereby essentially the district court
8 judge was the arbiter of what was and was not privileged. But in the first instance, Congressman
9 Perry had the ability to assert any privilege he wanted with respect to the Speech or Debate Clause
10 and then to litigate that fully up through and including the D.C. circuit and then back to the district
11 court on remand before the government saw any of these --

12 BY [REDACTED]

13 Q How long did it take, all the litigation?

14 A Timewise, I think that the warrant was August of 2022. I don't have a strong
15 recollection here, but I think maybe there was a decision either in the circuit or by the district court
16 December of '23. I think this is publicly available. So --

17 Q So you're --

18 A -- 16 months, something like that.

19 Q So why not just ask Mr. Perry's lawyer for the emails you want? Like, if there's emails
20 between him and Jeff Clark, or whatever you're searching for, why don't you just ask him for it?
21 Emails with Jeff Clark aren't, you know, obviously -- you know, that's different from communications
22 he would have with members of his staff or Members of Congress. So you don't know whether he
23 would have just given them to you because you didn't ask.

1 A So you're stating your view of the Speech or Debate Clause. I think what I went through
2 earlier was a fairly explicit and detailed version of what Congressman Perry believed was -- was the
3 protection of the Speech or Debate Clause.

4 Q It's a little different, though, once you take the phone.

5 A I'm going to continue with my answer, and then you can ask another question.

6 Congressman Perry had the opportunity to invoke whatever privilege he wanted. The
7 ballpark numbers that I gave before, he invoked a privilege over, ballpark, 2,000 items. And the
8 district court on remand -- so that would be the third court to look at it -- released something like
9 16- or 1,700 items.

10 To the extent that one can draw any conclusions about what Congressman Perry would have
11 done had he been asked consent, I commend you to review what he actually did once litigation
12 occurred. Beyond that, I have no information.

13 Q They didn't -- they didn't ask?

14 [REDACTED] On page 100 of special counsel's report, which --
15 Chairman Jordan. Can we go off the record for just one second?

16 [REDACTED] Oh. Sorry. Go off the record.

17 [Discussion off the record.]

18 [REDACTED] We'll go back on the record.

19 BY [REDACTED]

20 Q Page 100 of special counsel report -- it's exhibit 3. And I can read the passage for you
21 that I'm interested in. Let you flip to page 100 before I start.

22 A Thank you.

23 Go on.

1 Q It says, "In addition" -- this is at the top. "In addition, the office consulted with PIN
2 regarding investigative steps that involved gathering evidence connected to congressional staff."

3 Was the congressional staff in question related to Congressman Perry?

4 A I can't speak to that in terms of specifics. All I can say is what is written here in the
5 report.

6 Q Were you involved with discussions with PIN regarding evidence connected to
7 congressional staff?

8 Mr. Burton. Do you mean him personally or the office?

9 [REDACTED] Him personally.

10 Mr. Windom. The timing of -- so this says, "The office consulted with PIN." It does not use
11 the phrase, you know, the time of -- period of time spanning the -- prior to the appointment of
12 special counsel.

13 My recollection is that the primary point of contact in the Special Counsel's Office with the
14 Public Integrity Section was another person. I certainly had communications with the Public Integrity
15 Section about a number of different items, which are kind of categorized -- many of which are
16 categorized here.

17 I don't remember if I was the one that was on a phone call or an email with the Public
18 Integrity Section regarding staff. I am aware, at least in part, of what this refers to. And I was aware
19 that the Public Integrity Section, whatever was required by the Justice Manual in terms of the verb
20 "consultation" or "approval," whatever it was, was adhered to in this case.

21 [REDACTED] What does this refer to?

22 Mr. Windom. This refers to the office consulting with the Public Integrity Section regarding
23 investigative steps involving gathering evidence connected to congressional staff.

1 [REDACTED] In what congressional staff were you seeking evidence?

2 Mr. Burton. I don't believe he can answer that under Rule 6(e).

3 BY [REDACTED]

4 Q Was it connected to Congressman Perry?

5 A I can't identify information about that.

6 Q So there could have been a broader effort to sweep in evidence from other
7 congressional staff?

8 A A few things, I guess.

9 First, I am not going to agree with the characterization of your question, the words that
10 you've used. All I can say is that in response to the question, what does this mean, this sentence
11 here, I am -- my understanding is that I am prohibited by Rule 6 of the Federal Rules of Criminal
12 Procedure, and perhaps other standing orders of the court, setting aside whether the Department's
13 letter even authorizes me to discuss that, from discussing this with you.

14 Q Okay. So you're not going to discuss whether or not you were going after other
15 congressional staff information?

16 A For this -- and I appreciate you reiterating the question in a different way. Again, I'm not
17 going to agree with the characterization of what you have just said. The only thing that I am able to
18 say, consistent with my obligations under the Department's authorization letter and Rule 6 of the
19 Federal Rules of Criminal Procedure, and perhaps other standing orders of the court, is that I cannot
20 identify the congressional staff that are referred to on page 100 of the special counsel report.

21 Q What was your involvement in drafting the special counsel's report?

22 A I was involved in the drafting and editing process.

23 Q Did you -- can you tell us if you drafted specific portions of it?

1 A Unlikely. If you'd like, we can go page by page. I can tell you the process that was
2 undertaken in the office.

3 Q We can go through the process, if you'd like. Go ahead.

4 A It's your question, so I'm happy to answer it if you'd like to ask it.

5 Q Did you help draft the results of the investigation section? That was number 1, referring
6 to the table of contents here.

7 A I'm certain that I had input into that section, whether it was initial draft or editing.

8 Q Do you believe you had input into all of the major sections of volume 1?

9 A I had the ability to recommend edits to the entirety of the report.

10 Q Okay.

11 A There were -- going back to kind of the process, there were, obviously, drafts along the
12 way as there are with respect to any document. I was involved in drafting some of the sections. I
13 had the ability to recommend edits. Whether or not they were accepted, I had the ability to
14 recommend them, as did any number of other people in the office.

15 The fundamental thing to understand, though, is that this is the report of the special counsel
16 and that the final word on what is included and is not included in volume 1 of the report was up to
17 the special counsel.

18 Q And when did you personally start working on the report?

19 A Timeframe that I started maybe drafting some parts or editing would have been, I think,
20 best recollection, November of 2024.

1 [1:20 p.m.]

2 BY [REDACTED]

3 Q And if you'd -- just sticking with the report, since we have it out, on page 2, it talks about
4 a series of alleged criminal efforts. And so I just kind of wanted to go through and ask which efforts
5 you were involved with investigating. And this can be back while you were at D.C. or it can be at the
6 Special Counsel's Office, whichever time period you prefer.

7 But one of them was to allegedly induce State officials to ignore true vote counts. Were you
8 involved in that portion of the investigation?

9 Mr. Burton. Wait. I'm sorry. Where?

10 [REDACTED] Page 2 of the report, the very last few words on that page before the footnote, it
11 says, "This included" -- and that's where I'm starting to read -- "attempts to induce State officials to
12 ignore true vote counts."

13 BY [REDACTED]

14 Q Were you involved in this portion of the investigation?

15 A I was involved in the portion of the investigation that involved uncovering evidence of
16 the defendant's attempts and the conspirators' attempts to induce State officials to ignore true vote
17 counts.

18 And, then, without wasting the time to read the rest of it -- I'm happy to if you would like to.

19 Q Uh-huh.

20 A The rest of that sounds -- I think that I was involved in some way in each of those lines of
21 investigation.

1 Q Okay. And did those lines of investigation begin when you were first detailed to the U.S.
2 Attorney's Office in D.C., or did they just start where -- your involvement just begin when you became
3 a part of Smith's team?

4 A My recollection, without, you know, full recall here, going back 3 years and change, is
5 that at least some investigation with respect to each of these different components, I guess the five
6 components of the conspiracies, was in existence prior to -- and I worked on in some capacity --

7 Q Uh-huh.

8 A -- prior to the appointment of the special counsel.

9 Q And when you were accepting the detail over to D.C. in November 2021, did you have
10 an understanding that this would be the type of alleged criminal effort that you'd be investigating?

11 A I think I described before the conversations that I had with the individuals, and I do not
12 recall these specific things being part of that discussion.

13 I think that what I talked about before -- and the record will be clear on this from my prior
14 answer -- is that I began reviewing a number of investigative files from ongoing criminal grand jury
15 investigations, spoke with prosecutors, and recommended certain lines of investigation to the United
16 States Attorney, who then approved them.

17 [REDACTED] We can go off the record.

18 [Recess.]

1 [2:05 p.m.]

2 [REDACTED] It is 2:05. We can go back on the record.

3 BY [REDACTED]

4 Q Mr. Windom, just a couple of questions about the Scott Perry cell phone issue. And I
5 know we went through this in some substantial amount of detail, we'll say, in the last hour. I just
6 want to get a clean record. So I'm going to be asking you some of the same things again. I'm not
7 trying to torture you, I promise.

8 In the prior hour, you were asked about a seizure of Representative Perry's cell phone. And I
9 think, at one point, the line was used by majority counsel that accused prosecutors of stealing
10 Mr. Perry's phone. Do you remember that?

11 A I don't remember the use of that word, but I'm not sure all the different questions.

12 Q Do you consider the seizure of his cell phone to be stealing the phone?

13 A No. I think as I explained in some detail, the process whereby the government obtained
14 Congressman Perry's phone included approval authority by a senior member of the U.S. Attorney's
15 Office in the District of Columbia, the Public Integrity Section consultation.

16 And then, ultimately, after the agent signed a comprehensive affidavit describing probable
17 cause to believe that evidence related to four Federal felonies would be found on Congressman
18 Perry's phone, a neutral, detached magistrate, by law, under Rule 41, under the case law, is to review
19 that. Here, that's exactly what happened.

20 After that, a second Federal district judge, in this case, in the District of Columbia, also went
21 through the same process -- reviewed an affidavit, found probable cause, signed a search warrant.
22 So there's two Federal judges who found probable cause.

1 And, acting on the orders of the court regarding seizing an electronic device, searching the
2 different locations that are described in the affidavit, the agents executed the warrant in accord with
3 the law.

4 Q You keep referencing the Public Integrity Section. Is that the Public Integrity Section at
5 the U.S. Attorney's Office in the District of Columbia or the Public Integrity Section at DOJ Main
6 Justice?

7 A The one at Main Justice within the Criminal Division.

8 Q Okay.

9 And I want to introduce as exhibit 6 section 9-85.000 from the Department of Justice Justice
10 Manual.

11 [Windom Exhibit No. 6
12 was marked for identification.]

13 BY [REDACTED]

14 Q Are you familiar with the Justice Manual?

15 A I am generally familiar with the Justice Manual, yes.

16 Q The Justice Manual lays out procedures that prosecutors are required to follow prior to
17 or when they bring cases, correct?

18 A Among other things, yes.

19 Q Can you turn to section 9-85.110? It's on page 2 as printed.

20 A Yes.

21 Q Section 9-85.110 is "Investigations Involving Members of Congress," correct?

22 A Yes.

1 Q To the best of your knowledge, did the seizure of Representative Perry's phone follow
2 all of the procedures outlined in this section?

3 You can take a minute to review.

4 A My recollection is that -- and this would've been in the U.S. Attorney's Office for the
5 District of Columbia -- that the requirements of the Justice Manual were adhered to.

6 Just for clarity, reading every word here, I'm not sure if this was the operative version in
7 August of 2022. Generally speaking, it sounds consistent to me with what was required at that time.

8 My recollection is that the Public Integrity Section would have been consulted, whether or not
9 it was me who did the consulting. The process for doing so typically includes formalizing that
10 consultation or approval in a message from Public Integrity to the prosecutor who has requested the
11 consultation.

12 Q And, specifically, the fourth page of this is printed. About halfway down, it says, "The
13 application for a warrant for records, information, or property belonging to a Congressional office,
14 Member of Congress, or Congressional staffer or for a location or device in which legislative materials
15 are likely to be found requires approval by PIN."

16 Do you see where it says that?

17 A I do see that.

18 Q That requirement was adhered to in this situation, correct?

19 A Assuming it was approval as opposed to consultation back in August of '22, the answer
20 to that is yes.

21 Q Thank you.

22 A Whatever was required back then pursuant to the Justice Manual, my recollection, was
23 adhered to.

1 Q And you've said a number of times today that prosecutors had probable cause to
2 believe that there were evidence of four felonies on Mr. Perry's phone, correct?

3 A That's my recollection from the affidavit.

4 Q Are you able to tell us today what those four felonies were?

5 A Do you happen to have a copy of the redacted affidavit?

6 Q We do. We can introduce that as exhibit 7.

7 [Windom Exhibit No. 7

8 was marked for identification.]

9 BY [REDACTED]

10 Q And this is the affidavit that accompanied the August 2nd, 2022, application for a
11 warrant, which I believe was the first application.

12 A So the question that you posed was, what were the four felonies?

13 Q Uh-huh.

14 A Okay. Thank you for providing the document, because this does comport with my
15 recollection.

16 On page 3, paragraph 7, it lists four -- the four felonies. And that's what the affiant believed
17 that there was probable cause for.

18 And then on the very first page of the document that you handed me, there's a section in the
19 middle that says, "The search is related to a violation of," and then it identifies the four -- the same
20 four statutes, signed by the United States magistrate judge.

21 The four that I recalled, which this does support: substantive obstruction, under Title 18,
22 United States Code, section 1512(c); conspiracy to obstruct, under Title 18, United States Code,

1 section 1512(k); false statements, under Title 18, United States Code, section 1001; and conspiracy to
2 defraud the United States, under Title 18, United States Code, section 371.

3 Q Thank you.

4 Now, the courts apply particular safeguards to materials from Members -- seized from
5 Members of Congress -- or -- excuse me. Let me rephrase that.

6 There are particular safeguards that apply to materials seized from Members of Congress,
7 correct?

8 A Speaking as a general matter, yes. It depends which circuit that you're in, as for the
9 level of protection. But they all stem from the Speech or Debate Clause of the United States
10 Constitution.

11 Q And, in this particular case, Mr. Perry was given an opportunity to review and assert
12 privilege over the contents of his phone, correct?

13 A Correct. The protocol in the District of Columbia was that Congressman Perry, in the
14 first instance, would be able to assert the privilege. He did so in a manner that the courts found to
15 be overbroad.

16 That was litigated. And, ultimately, after that litigation, the government obtained information
17 from the device -- again, to your question, though, after Congressman Perry in the first instance had
18 the ability to assert his privilege.

19 Q I just want to make a note for the record that what we just introduced as exhibit 7, the
20 application for a warrant by telephone or other reliable electronic means, is available publicly online
21 through the Reporters Committee for the Freedom of the Press.

22 Mr. Windom, you just referred to a court ruling. I want to introduce as exhibit 8 the
23 memorandum opinion from Judge Boasberg dated December 19th, 2023.

1 [Windom Exhibit No. 8

2 was marked for identification.]

3 BY [REDACTED]

4 Q Is this the relevant ruling on Mr. Perry's privilege claims that you were referring to?

5 A This -- hang on one second.

6 This is certainly one of them. The others that I was referring to would've predated this.

7 There was an initial one by then-Chief Judge Howell, I recall, where she found overbreadth to
8 Congressman Perry's invocation of the privilege.

9 Then it went to the D.C. Circuit, where I believe that it was a unanimous panel that found
10 something similar.

11 Was remanded to a new chief judge. Chief Judge Boasberg had become chief judge in the
12 interim, and that's the position to whom these things go. And then this is Chief Judge Boasberg's
13 memorandum opinion.

14 I'm not sure if I said this earlier, but I think that the docket will reflect that Congressman Perry
15 did not appeal this ruling.

16 Q Thank you. And this memorandum opinion is the final disposition of the ruling on
17 privilege claims, right?

18 A That's my recollection, since the Congressman elected not to appeal.

19 Q Okay.

20 So, at the bottom of the first paragraph on the very first page, the memorandum opinion
21 reads, "Having now analyzed each of the 2,055 documents still at issue, the Court will order Perry to
22 disclose 1,659 of them, but not the 396 others," correct?

23 A I believe that you've read that correctly.

1 Q So the final ruling was that the vast majority of the documents -- or materials on
2 Mr. Perry's phone that prosecutors sought were not privileged, correct?

3 A That is true. But just to be even more specific, these were just the documents over -- or
4 the items that Congressman Perry asserted a privilege. There was a separate volume of material, my
5 recollection is, over which Congressman Perry agreed that there was no privilege, and those also
6 were produced to the government.

7 Q Thank you.

8 We can go off the record.

9 [Recess.]

10 [REDACTED] We'll go back on the record. It is 2:19 p.m. We'll start our next round of
11 questioning.

12 BY [REDACTED]

13 Q Mr. Windom, prior to joining Special Counsel Smith's team -- he was appointed on
14 November 18th, 2022 -- had you previously worked with Mr. Smith?

15 A No, I don't believe so.

16 Q And I believe in our first hour you had mentioned speaking with individuals who had
17 maybe worked with Mr. Smith. Do I have that right?

18 A Yes.

19 Q And what did they tell you about Mr. Smith?

20 A Based on those conversations, I came to view Mr. Smith as somebody with high
21 integrity.

22 Q Anything else about his reputation that you heard?

1 A That's the takeaway that I recall. I assume that there were other specific things that
2 they said, but the gist of the conversations was that he was a person of high integrity.

3 Q And prior to Mr. Smith's appointment -- and this is in the Washington Post article I
4 admitted into the record earlier -- it appears that Attorney General Garland had summoned
5 prosecutors to Main Justice to flag for them the impending appointment of Mr. Smith and ask that
6 they stay on.

7 Were you involved in this November 18th meeting?

8 A And, sorry, just to be clear, because I think I know the meeting you're talking about --

9 Q That's correct.

10 A -- but if you're talking about something from the article, if you want to point that out to
11 me, I'm happy to read it. Independent from the article, I think I know what you're talking about.

12 Q Go ahead. Let's go with independent.

13 A Okay. Was I involved in that meeting? Yes.

14 Q And who else was in that meeting besides you and the Attorney General?

15 A There were a number of people, maybe I can describe --

16 Q Uh-huh.

17 A -- coming into the meeting.

18 I was advised that day that I was invited to a meeting or an attendance in the Attorney
19 General's Conference Room that was to take place sometime not long after I was advised of this, like,
20 an hour or two later, I think, is my recollection. I think it's Friday.

21 I went to the RFK Building, Main Justice, went to the Attorney General's Conference Room. I
22 don't remember who was there when I arrived versus, you know, who arrived shortly thereafter.

23 Q Uh-huh.

1 A So, ultimately, the group of people that I recall: Mr. Cooney was there.

2 Q Uh-huh.

3 A I believe, but I am not certain, that Mr. Crabb and Mr. Graves were there. Other
4 prosecutors with whom I was working in the District of Columbia on these investigations were there
5 or arrived shortly thereafter.

6 Q And just to be clear, sorry to interrupt, but the D.C. prosecutors were the line --

7 A Correct.

8 Q -- prosecutors that you worked with?

9 A Correct.

10 Q Okay. Please continue, sir.

11 [REDACTED] Was Jay Bratt one of them?

12 Mr. Windom. No, but -- sorry. In response to your question, the answer is no. In response to
13 her question -- I'll get to that in a moment -- the answer is yes, Mr. Bratt was present. He was not
14 one of the people that I was working with in D.C.

15 [REDACTED] Okay.

16 Mr. Windom. So that was, kind of, this group of folks.

17 [REDACTED] Uh-huh.

18 Mr. Windom. This group of folks, there were people who I knew to be working on what at
19 that time was the separate -- what became the classified documents case. I believe that Mr. Bratt
20 was there. I'm not certain, but I believe that he was there. Other prosecutors who I either knew to
21 be working on that or thereafter learned were working on that.

22 [REDACTED] Uh-huh.

23 Mr. Windom. Who else? So that's the folks that were invited.

1 At some point shortly after I arrived, the Attorney General entered the conference room. He
2 had staff with him, a number of them. I don't know if that's two or four or what. My recollection is
3 that Lisa Monaco, the Deputy Attorney General, also came in, either with Attorney General Garland
4 or shortly thereafter, and was present for that brief meeting.

5 BY [REDACTED]

6 Q Was Bradley Weinsheimer in that meeting? He worked in the DAG's Office.

7 A I know who that is, and I would recognize him. His face is not coming to mind as
8 somebody who was there. He may have been.

9 I think, ballpark numbers, there were at least 20 people there. So -- and I was on, like, one
10 end of a side of the room. So I'm not sure that I -- I just don't remember if he was there.

11 Q Was there anyone else from the DAG's Office in attendance that you can remember?

12 A Yes. I believe that at some point during -- and I don't know if they walked in with
13 Ms. Monaco, but I believe that Molly Gaston, whose name you're familiar with, came in at some
14 point. At the time, she was on detail to the Office of the Deputy Attorney General.

15 And I believe at some point Mr. Atkinson, who I named earlier, came in at some point, who I
16 don't believe -- maybe he was on detail. I thought he was an employee in that office.

17 Q And other than the Attorney General, obviously, who had a speaking role at the
18 meeting?

19 A The Attorney General did, as you said. I would suspect that Ms. Monaco may have said
20 something, but I don't remember -- I don't remember with any specificity.

21 Attorney General Garland, if you'd like me to say what he said or what I remember --

22 Q Yes. Please do.

1 A So Attorney General Garland comes in and is at the head of the table in the Attorney
2 General's Conference Room. I can't recall if he sits down or if he's standing up. It's a brief meeting.

3 He says something to the effect of, without recalling the exact words, now 3-ish years ago,
4 you know, "Thank you all for coming on short notice. I wanted to let you all know that I've decided to
5 appoint a special counsel. That special counsel is Jack Smith."

6 I don't remember the exact words, but I do recall it was similar to what he either said shortly
7 thereafter when he went to announce this publicly or maybe it was in the order appointing Mr.
8 Smith, but, you know, something about the reason that he was appointing Mr. Smith.

9 Q Uh-huh.

10 A And I do recall at least something similar to what you mentioned earlier. I recall him
11 saying something along the lines of, you know, "I hope that y'all will continue working with Mr.
12 Smith" or that "y'all will consider working with the special counsel," something along those lines.

13 Q Was Jack Smith in the meeting?

14 A No.

15 Q And what was the reasoning for the appointment? Was it because President Trump had
16 announced his candidacy a few days before?

17 A I would have to refer you for the exact wording to what I think was the press statement
18 that he made.

19 Q Uh-huh.

20 A Because my recollection is, this meeting occurred, and I walked out the door and left,
21 and at that moment the Attorney General was going to -- I don't remember if it was the Great Hall or
22 some other room -- to make this press announcement, where my recollection at the time is he said
23 publicly basically what he told us.

1 Q And how long after the November 18th meeting that you had with the Attorney General
2 did you officially join Smith's team?

3 A Within -- so I think I said before, it was a Friday. It was the Friday before Thanksgiving, is
4 my recollection. I would have accepted Mr. Smith's -- at some point, Mr. Smith asked me to join the
5 team. I would have accepted that offer by the first week or so of December --

6 Q Uh-huh.

7 A -- maybe the second week, maybe the last week of November, somewhere in that
8 timeframe.

9 Q And when was your first time meeting Smith?

10 A Around the first week of December.

11 Q And how often did you interact with him when you were on the special counsel's team?

12 A Daily.

13 Q Daily?

14 Did you have any involvement in the gag order motion that was filed after the indictment on
15 September 15th, 2023?

16 A I had involvement in an order under Local Rule 57.7, which prohibited both parties, the
17 government and the defense, from making certain statements. But I'm not going to subscribe to
18 your language of a "gag order."

19 Q Okay. And the -- the order was then curbed by a panel of judges; is that correct? It was
20 narrowed?

21 A Without agreeing to your first characterization, my recollection is that a unanimous
22 panel of the D.C. Circuit upheld in large part the Rule 57.7 order, did narrow it in some respects.
23 There's an extensive opinion on this.

1 Q Uh-huh.

2 A But the basis, my recollection -- and there are filings on this -- for the findings in the
3 District Court and in the Circuit Court were that the 57.7 order should be entered both to protect
4 against threats and intimidation of witnesses and to preserve the integrity of the administration of
5 justice.

6 Q But the first order sought to keep him from talking about the -- keeping President
7 Trump -- to not allow him to talk about or criticize the case at all. Is that correct?

8 A You'd have to show me the first order. I don't remember the specific language of it.
9 I do know that the order applied equally, per the local rule, to both parties. And so -- well, at
10 least that's my recollection of it.

11 Q And then, in December 2023, there was another filing, similar, that would have
12 prohibited President Trump from being able to cite concerns regarding the National Guard, D.C.
13 Mayor, or undercover agents on January 6th. Do you remember this?

14 Mr. Burton. Do you have a date for that filing, [REDACTED] I'm sorry.

15 [REDACTED] I have December 27th, 2023.

16 Mr. Windom. And my counsel is showing me a docket, it looks like.

17 Mr. Burton. I'm just showing a docket printout.

18 Mr. Windom. December what?

19 Mr. Burton. What's listed on December 23 on the docket says "motion in limine."

20 [REDACTED] That's correct.

21 Mr. Burton. Okay. Is that what you're --

22 [REDACTED] That's the motion --

23 Mr. Burton. -- referring to?

1 [REDACTED] -- I'm referring to.

2 Mr. Burton. Okay.

3 Ms. Suen. December 27th?

4 Mr. Burton. Yes.

5 Ms. Suen. Okay.

6 Mr. Windom. If you have that for me to look at -- a motion in limine typically is an exclusion
7 regarding potential trial evidence. So, if you want me to take a look, I'm happy to take a look at it. I
8 don't agree or disagree with what you just said on what it is.

9 BY [REDACTED]

10 Q But you were involved with at least the initial filing of the motion on September 15th,
11 2023?

12 A I was involved in -- I'm sorry, you said the date was?

13 Q September 15th, 2023.

14 A I was involved in some capacity with that, yes.

15 Q And then were you involved with the subsequent litigation regarding that order?

16 A I was involved with it in some capacity. I was not the person that argued it in the D.C.
17 Circuit.

18 Q And who argued that, if you remember?

19 A Can we hold on just for a second? I just want to clarify --

20 Q Yes.

21 A -- something with my counsel.

22 Q We'll go off the record.

23 [Discussion off the record.]

1 [REDACTED] We'll go back on the record.

2 BY [REDACTED]

3 Q Go ahead, sir.

4 A Sure. I believe that your -- well, why don't you re-pose your question to make sure the
5 record's clear?

6 Q My question was, you had suggested that you were involved with the various filings
7 regarding the initial motion from September 15th, 2023, and you said, "I was not the one who argued
8 it in court." And so my question was, who argued?

9 A Sure. My recollection is that in the District Court Ms. Gaston argued that and in the
10 Circuit Court Cecil VanDevender argued that.

11 These are matters of public record. There are transcripts which identify them. I believe that
12 Mr. VanDevender's name is actually on the Circuit Court opinion as the arguing attorney.

13 And, just for clarity, that is something that I wanted to confer with my counsel on to make
14 sure was a matter of public record.

15 Q Are you aware of an effort to get transcripts from interviews conducted by the House's
16 January 6th Select Committee?

17 A I am aware that the House Select Committee provided material to the Special Counsel's
18 Office --

19 Q And --

20 A -- which included -- I'm sorry. Go ahead.

21 Q You're okay. I was just going to say, were you in communication with the committee, or
22 was there another person at your office who was in communication with the committee?

1 A For something specific like that that involves the House Select Committee, to the extent
2 that there were communications, I have not been authorized by the Department to discuss those
3 with you.

4 Q You can't even answer whether or not you, specifically, were in communication with
5 them?

6 A That's my understanding of the authorization letter.

7 BY [REDACTED]

8 Q Did they give the materials to you voluntarily, sua sponte, or did you guys request it
9 from them?

10 A I think what's a matter of public record and is detailed both in the special counsel report
11 and in Rule 17(c) subpoena litigation in the District Court is that the House Select Committee
12 provided the Special Counsel's Office with a volume of material and that all of that material was given
13 to the defendant during litigation.

14 Q But did you ask for it, or did they just provide it on their own?

15 Mr. Burton. I think that would implicate Rule 6(e).

16 [REDACTED] Sorry, I don't see that, but -- I mean, we're asking about your communications
17 with the House of Representatives.

18 Mr. Burton. But if they're communications in the course of the grand jury investigation, that
19 would be covered by Rule 6(e).

20 [REDACTED] No --

21 Mr. Burton. As to the government.

22 BY [REDACTED]

23 Q Have you had any communications with congressional staffers on this case?

1 A For the same reasons that I said before, if I did, I would be unable to discuss those based
2 on, at a minimum, the lack of authorization to do so from the Department's authorization letter and
3 then possibly, depending on how far down the line we were able to one day go, Rule 6 or other
4 standing orders of the court.

5 Q Okay. So you're not willing to disclose your communications with the House Select
6 Committee?

7 Mr. Burton. I think characterization of his willingness as incorrect.

8 [REDACTED] You're not going to disclose.

9 Mr. Burton. He is unable to disclose.

10 [REDACTED] So he's not going to disclose. Okay.

11 BY [REDACTED]

12 Q And if it's helpful, I can point you to the footnote in the Smith report where the
13 discussion of the January 6th Select Committee happens. It's not in the text of the report. It's
14 reserved for a footnote, footnote 251, to be specific, on page 93.

15 A I'm sorry. Page --

16 Q Ninety-three. Footnote 251 --

17 A Okay.

18 Q -- says, "The Office's investigation included consideration of the report issued on
19 December 22, 2022, by the U.S. House of Representatives' Select Committee to Investigate the
20 January 6th Attack on the United States Capitol, as well as certain materials received from the
21 Committee."

22 What were the certain materials received from the committee?

1 A So what I can confirm is that this comports with my recollection. If you have -- I don't
2 know that the detail on what was received was specifically public, but it may be. There are some
3 docket entries, which I'm happy to look at if you have them.

4 The defense filed a motion for Rule 17(c) subpoenas. This would've been around September,
5 October, November of 2023. That was litigated. We responded with a responsive brief that included
6 more information, is my recollection, than just what's in this footnote.

7 To the extent that that describes the material with more specificity, I'm happy to go through
8 that with you. But absent recalling what is already public, I don't believe that I can describe with
9 specificity that material.

10 Q Did you receive transcripts of interviews?

11 A For the same reasons that I said before, it's entirely possible that the information that
12 you're asking for is public. And if you have the motion that the defense filed and our responsive brief
13 and the court's order -- well, I guess there's a reply brief too -- and the court's order, it likely gives
14 more information than just the sentence that you read.

15 Q Uh-huh.

16 A But absent reviewing that right now, I don't recall what is public. And unless it's public, I
17 don't believe that either under the Department's authorization letter or Rule 6 or potentially the
18 protective order in the case, any sealing orders, that I am permitted to tell you with specificity what
19 those materials are.

20 Q Why didn't you just conduct interviews yourself? You're the Department of Justice.
21 Why did you need the transcripts?

22 A I'm not sure what the predicate of your question is except it may be assuming that we
23 had certain things, which I have said I'm not sure if that's publicly available.

1 Q Why would you need to seek transcripts from a House committee if you could conduct
2 the interviews yourself as the Department of Justice?

3 Mr. Burton. You've mischaracterized. He has not said he sought transcripts. He's not said
4 whether he received transcripts.

5 If there is something in the public record that discusses that, as he's referenced, that you
6 want to look at and show, I think he will be comfortable answering with greater specificity.

7 But if it's not in the public record, it implicates not only the scope of the letter but, more
8 importantly in my judgment, Rule 6 and also the protective order entered by Judge Chutkan.

9 BY [REDACTED]

10 Q So I take it you're not going to answer that question. Is that correct?

11 A Relying on the exact thing my counsel just said.

12 Q What can you tell us about any communications that the Special Counsel's Office had
13 with Fulton County District Attorney's Office?

14 A I think that the most I can say is that I was not involved in any
15 communication -- certainly any substantive communication, but any communication -- with
16 Fulton Coun- -- and just for clarity and to make sure that I understand, you're talking about the
17 county in which there was a State indictment against Mr. Trump and a variety of other people? Is
18 that correct?

19 Q That's correct. That would be Fulton County in Georgia.

20 A Sure.

21 Q The district attorney there is Fani Willis, if helpful for your recollection.

22 A My answer stands. I don't recall being part of any such communication, substantive or
23 otherwise.

1 Q Were you aware of any ongoing communications that you may not have been a part of?

2 A The best I can say on that is I am not aware, whether it is me or somebody else in the
3 office that had any substantive conversations there. If there were anything that I was aware of, I
4 don't think that I would be permitted to discuss it. But I'm not aware, sitting here today.

5 Q And on the special counsel's report, footnote 1, which is on page 2, the footnote says,
6 "This section of the report summarizes the evidence uncovered by the office's investigation and,
7 therefore, includes conduct for which the Supreme Court later held Mr. Trump to be immune from
8 prosecution."

9 Did you have any role in the decision to include immune conduct in the report?

10 A I'm not sure if I can say I had a decision in it. I certainly was aware of it.

11 The footnote goes on to say that --

12 Q Uh-huh.

13 A -- if I remember correctly -- and let me just read the rest of it.

14 Right.

15 So the first section of the report lays out, as it's titled, "The Results of the Investigation." The
16 information that would have served as proof beyond a reasonable doubt had we gone to trial for the
17 jury to consider did not include discussion of the evidence that the Supreme Court held to be
18 immunized. And that's reflected right here in this footnote.

19 Q Uh-huh. But why include conduct, as the next sentence says -- "that conduct is not
20 included in the superseding indictment that the office obtained after the Supreme Court's decision."

21 So why include conduct that you couldn't charge in the superseding indictment?

22 Mr. Burton. When you're using "you," you mean the Special Counsel's Office?

23 [REDACTED] Yes.

1 Mr. Burton. Okay.

2 [REDACTED] As I've said the whole day, Mr. Burton. Yes.

3 Mr. Burton. No. Sometimes "you" is him personally, and sometimes "you" is special counsel.

4 Mr. Windom. As you said, the conduct that either the Supreme Court found to be immune or
5 that we believed to be rebuttably immune, some of that conduct was included in the superseding
6 indictment.

7 My understanding of this part of the special counsel report is that it includes information that
8 the Supreme Court determined to be immunized.

9 The ultimate decision on what was included in the report content-wise, sections, structure,
10 that sort of thing, was up to the special counsel.

11 BY [REDACTED]

12 Q So it was Jack Smith's decision to include immune conduct in the report?

13 A I think that it was Jack Smith's decision, as he says -- I believe he says in here, to include
14 the information that's included in the report.

15 Q And what was your involvement in the classified documents case, if any?

16 A Can you give me a timeframe?

17 Q Any timeframe. Just tell us what your involvement was, sir.

18 A I didn't work on that case.

19 Q Uh-huh.

20 A And I will bifurcate this into my time on detail in the U.S. Attorney's Office and my time
21 on detail to the Special Counsel's Office.

22 I recall interactions with the -- at least Mr. Bratt and I believe one other person when they
23 were at the National Security Division when that investigation was ongoing prior to the Special

1 Counsel's Office. And these interactions were more in the way of informational updates that
2 occurred every so often --

3 Q Uh-huh.

4 A -- logistical issues mainly, to make sure that, to the extent any investigative steps that
5 we were -- or maybe not "any" -- but to make sure that investigative steps that we might be
6 undertaking were known to them and vice versa.

7 But I had no input into what their investigative steps were. They weren't in our office, in the
8 U.S. Attorney's Office for the District of Columbia. There was just the occasional informational
9 updates.

10 That's the -- that's my time in D.C.

11 Q Uh-huh.

12 A My time in the Special Counsel's Office, again, I did not work on that case. There were
13 interactions. We all sat on the same floor. We were occasionally in meetings together if there were
14 updates that affected both sides, both the classified documents case and the election case, or issues
15 that both sides needed to have input on.

16 Q Did you ever conduct any interviews for the classified documents case?

17 A I did not, to my recollection, conduct interviews for that case.

18 Q Uh-huh.

19 A There were overlapping witnesses.

20 Q Uh-huh.

21 A And I believe that there's a public filing on this.

1 When there were witnesses that were interviewed as part of the election case and the same
2 witnesses were interviewed by the classified documents case team, the practice was to produce both
3 of those interviews to the defendant in both of the cases.

4 Q Uh-huh.

5 A That was the practice.

6 There were times where, for, you know, logistical reasons, we arranged with -- and by "we", I
7 mean the folks on the election case team, maybe me, maybe not me -- would arrange with
8 prosecutors on the documents team and counsel for a witness to make it easier for everybody,
9 basically, to have the questioning occur by both teams on the same day but not necessarily at the
10 same time.

11 There may have been a time -- I do not recall any time where I was present for one of those
12 interviews when somebody from the classified documents team was asking questions.

13 Q Okay.

14 So, if The New York Times credited you with conducting 29 interviews in the classified
15 documents case, that's inaccurate?

16 A I mean, I guess I'm not going to speculate on if The New York Times did.

17 What I can say is, I recall the defense making an argument in litigation -- and I don't know if
18 that was on the election case or on the document case -- that certain prosecutors on one side had
19 conducted certain interviews on the other.

20 My recollection is that the response that the office filed to that was essentially what I just
21 said. There were overlapping witnesses, and, to the extent that were the case, then it was the
22 practice to produce the interview that occurred on the other case of the same witness in the first
23 case.

1 Q Did you have any involvement with the search warrant at Mar-a-Lago?

2 A No.

3 Q Okay.

4 And once you were detailed, throughout your time on detail to the U.S. Attorney's Office in
5 D.C., November 2021, through your tenure on Smith's team, did you have any communications with
6 Ms. Monaco besides the November 18th meeting that we've just discussed?

7 A I did.

8 Q And how many conversations did you have with Ms. Monaco?

9 A Conversations, two that I recall. Total interactions, four.

10 Q And when did the two conversations occur?

11 A The two conversations occurred in -- the first one I believe was in early 2022, and I don't
12 know if that means January or March or April.

13 Q Uh-huh.

14 A That was similar to what I described before, some sort of video teleconference. It was
15 an update on investigative efforts, to my recollection. I was not alone in that.

16 The second one was either October or November of 2022, before the appointment of the
17 special counsel. That was an in-person meeting at the United States Attorney's Office for the District
18 of Columbia. Similarly, I was not the only person there.

19 Q Uh-huh.

20 A I had a speaking role in both of the two, I guess -- I don't know if they're called
21 "conversations" or "meetings."

22 Q And it was just to update Ms. Monaco on the status of the investigation?

23 A That's my recollection.

1 Q And then the four interactions you described, when did those occur?

2 A So those two meetings that I described are -- I'm including that in the interactions.

3 Q Okay. So, then, just two separate interactions and the conversations.

4 A That's my recollection.

5 Q Okay.

6 A The third time I recall being in a room with Ms. Monaco was November 18th. And,
7 again, that's if she was there --

8 Q Uh-huh.

9 A -- because I don't have a clear recollection of her being there.

10 And then the fourth time that I interacted with Ms. Monaco was in January of 2025, this year,
11 and I don't know the date, first or second week.

12 Q Uh-huh.

13 A Well, first, second, or third week, I guess. And -- yeah, that's that time.

14 Q Okay.

15 And did you ever have any communications with Bradley Weinsheimer,
16 communications/interactions with Bradley Weinsheimer?

17 A Regarding this case?

18 Q That's correct.

19 A Okay. Like I said before, I know who Brad Weinsheimer is. I don't recall having any
20 interactions with him.

21 I think that I was on some -- we get a lot of email, a lot of spam email, and I remember
22 hundreds and hundreds of names being on a spam email where he also was -- there were any
23 number of people, not just in the Department, and he also was on there as a name that I recognized.

1 Q Okay.

2 A But I had no clue who the spam person was.

3 Q Beyond the November 18th, 2022, meeting with the Attorney General, did you ever
4 have any other occasion to interact with the Attorney General on this case?

5 A The only other time that I remember is the same interaction with Ms. Monaco at
6 the -- in January of this year.

7 Q Uh-huh.

8 And, during your investigation, so including your time on detail up through your time on the
9 Smith team, did you ever interact with anyone that's associated with the Biden White House?

10 A For that, to the extent that I -- and I can answer that in part.

11 Q Okay.

12 A To the extent that there were specific interactions with the incumbent Executive at that
13 time, my understanding is that the Department's authorization letter does not cover that.

14 Q Uh-huh.

15 A I can tell you what's publicly available.

16 Q Okay.

17 A When -- it is publicly available. It's included in the report. We said this in open court.
18 And, also, I believe that there was some media public-access litigation where you can go and find
19 docket entries and affidavits and filings, arguments.

20 In the time period, I think it was around August of 2022 through around March of 2023, we
21 were engaged both while in the D.C. U.S. Attorney's Office and in the Special Counsel's Office in
22 litigation over executive privilege.

23 Q Uh-huh.

1 A And I think what the public information is is that, as a predicate to that litigation, the
2 government reached out to the incumbent Executive and also to the former President -- so both the
3 White House Counsel's Office at the time, I believe it was, and then counsel for Mr. Trump -- to
4 determine whether they were going to try to invoke executive privilege over certain witnesses'
5 testimony.

6 Q Uh-huh.

7 A I believe that it was 14 witnesses -- this is all public -- it was 14 witnesses.

8 As part of that, as I said, the government reached out to both the White House Counsel's
9 Office and to counsel for Mr. Trump to determine whether they would seek to invoke executive
10 privilege.

11 Q Would it be accurate to say that if you had communications with the Biden White House
12 it would have been regarding executive-privilege assertions?

13 A I don't want to define or limit or expand or characterize what those conversations may
14 be if they occurred. I'm simply not permitted, based on my understanding of the Department's
15 authorization letter, to discuss that one way or the other, if they happened. What I am able to point
16 you to is what is in the public record.

17 Q So you could've had conversations with the Biden White House beyond discussions
18 regarding executive-privilege assertions?

19 Mr. Burton. He can't answer that if they were under the investigatory function.

20 BY [REDACTED]

21 Q As part of your investigation, did you ever review materials or information provided by
22 FBI confidential human sources?

23 A I'm trying to think what, if anything, I can respond to this.

1 The most that I could probably say is that the FBI was involved in the investigation. I reviewed
2 a number of investigative files from ongoing grand jury investigations. My recollection is that there
3 was some litigation on this, and so there are some public filings which discuss confidential human
4 sources.

5 I think that that is in a motion that the defense filed to compel discovery. I believe that we
6 would've responded to that in an opposition brief somewhere in December of 2023. And I believe
7 that the court entered an order that discusses in some respect confidential human sources in August,
8 September, October of 2024. I don't recall the specifics of those.

9 Q And there's also a public report from Inspector General Horowitz regarding the use of
10 confidential human sources by the FBI on January 6th. Were you aware of that? I believe it came out
11 in December 2024, November or December 2024.

12 A I think I've heard that such a thing existed. I don't recall reviewing it.

13 Q During your investigation, did you ever become aware that the FBI had 26 confidential
14 human sources in the D.C. area on January 6th?

15 A Again, I think that, if I had become aware of anything, specifics, regarding any number of
16 things related to the investigation, whether it's, you know, confidential human sources or virtually
17 anything else, I would be, A, not authorized to discuss it based on the Department's letter; but, B, and
18 more broadly, prohibited by Rule 6 from discussing anything that was obtained pursuant to
19 then-ongoing grand jury investigations.

20 Q Were you aware of reports of misconduct to the Office of Professional Responsibility
21 pertaining to individuals working on Jack Smith's investigations?

22 A I am aware of one.

23 Q Okay. And what can you tell us about that?

1 A I can tell you what I remember of public filings that were made on this issue.

2 Q Uh-huh.

3 A My recollection is that there was an allegation that a defendant made in the Southern
4 District of Florida, and I don't recall which one, regarding Mr. Bratt.

5 Q Does "Walt Nauta" help you out at all --

6 A I don't know --

7 Q -- for the name of the defendant?

8 A -- which one it was. I know Walt Nauta is one of the named defendants, but I don't
9 know if it was him or a different one.

10 I know that there was an allegation made. I know that there was a briefing on this in
11 Florida -- I believe that there's a transcript -- at which this was discussed. And my recollection is that,
12 somewhere along the line, the Special Counsel's Office, in a filing or in a transcript, told Judge Cannon
13 in the Southern District of Florida that it had made a self-referral, I believe the language is, to -- and I
14 think it was OPR, the Office of Professional Responsibility.

15 Q And do you have any knowledge beyond what was in the public findings regarding the
16 incident between Mr. Bratt and Mr. Nauta's counsel, Stanley Woodward?

17 A I don't have any firsthand knowledge.

18 BY [REDACTED]

19 Q Did Mr. Bratt relate anything to you about the allegation?

20 A I don't recall Mr. Bratt saying anything to me about the allegation.

21 Q Were you aware that Mr. Woodward was being considered for a judicial post at any
22 point in time?

23 A I recall that that was part of the allegation.

1 Q And were you aware that he was being considered for a judicial post separate from that
2 allegation?

3 A I don't believe so.

4 BY [REDACTED]

5 Q Were you ever in contact with OPR? Did they seek to interview you, ask you for
6 documents or anything?

7 A No. The only thing that I remember about OPR -- and I think it's OPR -- at some point
8 late in 2024, I was advised that somebody from OPR had asked for my email address, which seemed
9 odd to me because, as far as I understood, it was available in the directory.

10 Q Uh-huh.

11 A But I never received any sort of contact or communication from them that I know of.

12 BY [REDACTED]

13 Q Have you had any communication with the Weaponization Working Group that's
14 currently being operated out of the Deputy Attorney General's Office?

15 A The -- I'm sorry. Who's on that?

16 Q What's that?

17 A Who is on this?

18 Q There's an initiative inside the Deputy Attorney General's Office currently, a
19 Weaponization Working Group, and one of their missions is to evaluate the prosecution of President
20 Trump.

21 And my question was, have you had any outreach from them? Have they sought to interview
22 you?

1 A Not that I know of. I don't think I was familiar with the name of it. I know generally that
2 there was an Attorney General order of some kind that talked about something like this. But, to my
3 knowledge, I have not received outreach from whoever is doing that.

4 Q If they do reach out to you, do you intend to cooperate with them?

5 Mr. Burton. I don't think we'll -- if what you discuss happens, we'll assess it at the time it
6 happens.

7 [REDACTED] So it's possible you may not choose to cooperate if they reach out for questions?

8 Mr. Burton. I don't -- I'm not going to accept your characterization as to what "cooperation"
9 means.

10 [REDACTED] Uh-huh. Sit for an interview.

11 Mr. Burton. We'll assess -- if that event occurs, we'll assess it at the time.

12 [REDACTED] Uh-huh. But it hasn't happened yet? They haven't reached out to you yet?

13 Mr. Burton. No.

14 BY [REDACTED]

15 Q The materials that the January 6th Committee provided the Justice Department -- what
16 safeguards were implemented, or guardrails, to evaluate the information and provide it in the
17 context of the political spectrum that they were conducted in?

18 So the January 6th was a committee that operated with no, you know, functioning minority.
19 It was essentially a majority-only committee. And, you know, they were on a political mission,
20 essentially, to damage the President.

21 And so the information they collected and produced to the Justice Department was -- you
22 know, certainly had to be viewed in the prism of political -- you know, it's essentially political
23 opposition research provided to the Justice Department.

1 And I'm asking, to what extent were there guardrails or safeguards put in place to handle that
2 material in such a way?

3 Mr. Burton. I don't think, to the extent that that material is discussed -- and we're not
4 accepting your characterization of the committee or its function or those issues. I think there's a
5 limited discussion in the special counsel's report, and that's what he's confined to.

6 [REDACTED] Uh-huh.

7 Mr. Burton. He has not confirmed nor denied what, if anything, they received from that
8 committee, other than what is in the public domain. I think he's referenced there may be other
9 references in other public documents, which I think he can discuss. But, [REDACTED] I don't think he's
10 able to discuss matters relating to the investigatory phase of the special counsel's investigation.

11 BY [REDACTED]

12 Q So what can you tell us about how the Justice Department handled the materials
13 provided by the January 6th Committee?

14 A I think that I'm limited to two sources of information.

15 The first is the footnote which [REDACTED] pointed me to earlier on page 93. That's footnote
16 251. And a sentence which may be, at least in part, responsive to your question is that those
17 materials, meaning the materials obtained from the House Select Committee, comprised a small part
18 of the office's investigative record, and any facts on which the office relied to make a prosecution
19 decision were developed or verified through independent interviews and other investigative steps.

20 So that was the first source of information.

21 The second source of information are the filings that I have pointed you to, which -- I don't
22 remember the exact content, but they are a matter of public record, and there are many more pages
23 than the few sentences that we've covered today -- which may shed light on this.

1 Q So do I understand it correctly that the communications that the Special Counsel's Office
2 had with the January 6th Committee you can't talk about because of 6(e)?

3 A I think that what I said before is, to the extent that there were contacts, my
4 understanding is that, from the authorization letter, I would not be permitted to discuss those, if they
5 occurred, other than what's in the public record.

6 And, beyond that, depending on what the questions were -- and I think it probably would
7 cover everything -- that likely implicates Rule 6(e) and possibly other orders, such as the protective
8 order in this case.

9 Q Okay. So let's say you got a new authorization letter from the Department specifically
10 authorizing you to speak in an unrestricted manner about any communications you had with the
11 January 6th Committee. Would you then be able to provide us --

12 Mr. Burton. I think --

13 [REDACTED] -- with any information?

14 Mr. Burton. Are you finished? I didn't want to interrupt you.

15 I'll take your nod as a yes.

16 The Department cannot authorize, as it acknowledges in the June 4th letter, a violation of
17 Rule 6(e). And I think we would have to have a very clear understanding as to whether this
18 committee has sought an order from the court permitting a discussion of Rule 6(e), has the
19 Department sought such an order from the court.

20 So I appreciate that there may be another guidance letter from the Department, but the
21 Department, absent a court order, cannot authorize anyone --

22 [REDACTED] So --

23 Mr. Burton. -- to violate Rule 6(e).

1 [REDACTED] So is it your position that communications that somebody had on a special
2 counsel team with the January 6th Committee would be covered by 6(e)?

3 Mr. Burton. I think if it is for the purpose of the investigation, yes, I think that is interpreted
4 broadly by the courts. And if you or the Department wants to get an order narrowing that, that's
5 your prerogative.

6 [REDACTED] Okay.

7 Ready to go off the record?

8 [REDACTED] We can go off the record.

9 [Recess.]

1 [3:16 p.m.]

2 [REDACTED] It is 3:16. We can go back on the record.

3 BY [REDACTED]

4 Q I want to return to the conversation in the earlier hour about the order entered
5 pursuant to local criminal Rule 57.7(c). You remember that conversation?

6 A I do.

7 Q The Special Counsel Smith report page 112 notes that, quote, "A significant" --
8 Ms. Suen. What page?

9 [REDACTED] Page 112.

10 BY [REDACTED]

11 Q Says, "A significant challenge that the office faced after Mr. Trump's indictment was his
12 ability and willingness to use his influence and following on social media to target witnesses, courts,
13 and Department employees, which required the office to engage in time-consuming litigation to
14 protect witnesses from threats and harassment."

15 Do you see where it says that?

16 A I do.

17 [Windom Exhibit No. 9

18 was marked for identification.]

19 BY [REDACTED]

20 Q I want to introduce as exhibit 9, the government's motion to ensure that extrajudicial
21 statements do not prejudice these proceedings. It's document number -- ECF No. 57.

22 A Thank you.

1 Q But on the first page of this pleading, the second sentence of the first paragraph reads,
2 "Through his statements, the defendant" -- referring to President Trump -- "threatens to undermine
3 the integrity of these proceedings and prejudice the jury pool, in contravention of the 'undeviating
4 rule' that in our justice system a jury's verdict is 'to be induced only by evidence and argument in
5 open court, and not by any outside influence.'"

6 Do you see where it says that?

7 A I do.

8 Q What does it mean to undermine the integrity of the proceedings in this context?

9 A I think that the remainder of both this motion and the district court's discussion of it on
10 the record kind of bear out with more specificity exactly what that statement means.

11 As a general matter, the Rule 57.7 order that was sought by the special counsel and then
12 ultimately entered by the district court and narrowed but affirmed in large part, is my recollection, by
13 the circuit court sought to, in summary, prevent intimidation and threats to witnesses, and also to
14 protect the integrity of what was then going to be a forthcoming trial by jury.

15 Q And what was the specific concern about impacting the jury pool?

16 A I think that there were a few. And if you give me a moment, I'd like to look through here
17 to make sure that I state it correctly.

18 I recall some discussion in this document and at the hearing on the motion about potentially
19 polluting the jury pool with information -- false or disparaging information about witnesses or
20 putative witnesses, prosecutors, the court system. I recall some discussion of a concern that there
21 were a number of false accusations that to that point had been levied. I recall verified threats and
22 harassment that had occurred of witnesses as identified, I think, nonspecifically, because I believe

1 that there's a redacted version or redacted appendix, that to the extent that the intimidation or
2 harassment were successful, it would have had the ability to influence those witnesses' testimony.

3 Q What about the threats as on page 7 of the pleading? I don't want to call them threats,
4 but I'll just read from the tweets themselves that are cited here.

5 August 8th, 2023, 4:47 p.m., Donald J. Trump posted, "The Obama-appointed judge in the
6 free speech indictment of me by my political opponent, crooked Joe Biden's Department of Injustice,
7 shared professional ties with the law firm that worked for energy company Burisma." And it goes on.

8 "How is the law firm paid? So horrible. This is a classic conflict of interest." Gateway pundit,
9 in quotes.

10 And then the following tweet that's included on this page reads, "There's no way I can get a
11 fair trial with a judge, quote/unquote, 'assigned' to the ridiculous freedom of speech/fair elections
12 case. Everybody knows this, and so does she, exclamation point. We will be immediately asking for
13 recusal of this judge on very powerful grounds, and likewise for venue change out if" -- a mistake. I
14 think it's supposed to say "out of D.C."

15 See where it says that?

16 A I do see that.

17 Q How did those type of tweets, those type of posts by President Trump, who at this time
18 was the defendant in the case, how did those risk impairing the integrity of the case?

19 A I think that what we wrote -- or what the special counsel wrote in the filing was that
20 these two specifically were examples of the defendant attacking, undermining, and attempting to
21 intimidate the court and the jury pool. These are some -- this is one of the categories of information.
22 I think that there are a number of subsections and a number of examples that are used in this motion
23 to describe the conduct.

1 And then there is a section, I believe it starts around page 12, which discusses that it is
2 reasonably likely that statements such as these would prejudice the jury pool.

3 Q In other words, these types of statements could make it impossible to have a fair trial in
4 this case. Is that a fair statement of the concern with respect to the jury pool?

5 A I don't know if I would adopt the word "impossible," hence why I will rest on whatever
6 language there is in this pleading. I think, generally speaking, there was a concern that the
7 defendant's statements would lead to intimidation of witnesses and would undermine the integrity
8 of the justice system.

9 Q So fair to say that the goal of this pleading was to ensure that there could be a fair trial.
10 In other words, this was designed to protect the integrity of the proceedings?

11 A The intent of this motion, the intent of local Rule 57.7 specifically, which has existed on
12 the books long before the Special Counsel's Office filed a motion on that, my understanding, is to
13 protect the fair administration of justice.

14 Q And then there was some discussion in the prior hour about the order that was entered
15 by the district court and the court of appeals ruling. I want to introduce those both for the record.
16 We'll do the order from Judge Chutkan, which is ECF No. 105, as exhibit 10. And then we'll do the
17 court of appeals ruling which is dated December 8th, 2023, as exhibit 11.

18 [Windom Exhibit Nos. 10 and 11
19 marked for identification.]

20 BY [REDACTED]

21 Q And take as long as you'd like to review. And I'm going to ask you if having reviewed
22 this, if it refreshes your recollection about the extent of, first, Judge Chutkan's ruling, and then,
23 ultimately, you said in the prior hour that much of the order was left intact by the D.C. Circuit. And

1 so to ask you if this refreshes your recollection, if you can talk more about what ultimately was left in
2 place. I think the language is perhaps on page 30.

3 A Sure. This generally comports with my recollection. My recollection is that this
4 obviously was heavily litigated. It was the subject of briefing in the district court. It was the subject
5 of briefing in the circuit court.

6 You may notice that there's a header on the top of the circuit court opinion which says "Public
7 Copy -- Sealed Information Deleted," because there's some redacted portions which my recollection
8 is that that is some of the evidence that supported the motion.

9 And, ultimately, the circuit court affirmed in part the district court's opinion. And it lays out
10 various things that both -- and this is I think important -- both the defendant and the government
11 could not do. So the order, my understanding, is applied to all parties and their counsel.

12 Q And you said that, in the prior hours, well, that you felt that that was important. Why
13 do you emphasize that point?

14 A The allegation, if I remember correctly, was made somewhere along the line that this
15 was intended only to apply to the defendant. But my recollection of the local rule, and then now that
16 I'm seeing this again in the circuit court order, was that it applies equally to both parties.

17 Q I am going to move on. Page 2 of the cover letter accompanying Special Counsel Smith's
18 report about -- in the second full paragraph about halfway through. This is paragraph -- Special
19 Counsel Smith is talking about the work done by the prosecutors on his team. And he says, "The
20 intense public scrutiny of our office, threats to their safety" -- referring to prosecutors' safety -- "and
21 relentless unfounded attacks on their character and integrity did not deter them from fulfilling their
22 oaths and professional obligations."

23 Do you see where it says that?

1 A I do.

2 Q Mr. Windom, were threats and harassment an issue of concern to prosecutors working
3 on this case?

4 A I will speak for myself. They were -- I was aware that -- of these -- of the potential for
5 threats and harassment.

6 Q And how were you aware of that potential?

7 A Public statements that I saw. I was generally aware that I -- individuals on the team had
8 received communications of one kind or another. I was personally made aware that there was some
9 information somewhere on the internet specifically about me in terms of at least what I would
10 consider a threat and at a minimum harassment. I know just based on the volume of incoming mail
11 that occasionally I saw there was a lot of mail directed to the office that fits the description that the
12 special counsel put in his letter.

13 Q Did the threats and harassment and the volume of mail that you've described, did that
14 impact your office's ability to do its work? And I understand you can only speak from your own
15 perspective.

16 A Not in my mind.

17 Q Thank you.

18 [REDACTED] We can go off the record. Thank you.

19 [Discussion off the record.]

20 [REDACTED] Can we go back on the record now?

21 Mr. Burton. Thank you both, to all staff.

22 With respect to this -- today's voluntary transcribed interview, following the majority's second
23 session of questioning, after which we took a short lunch break, when I came back I was asked by

1 majority staff whether the Department of Justice had contacted us. I advised majority staff that,
2 during the break, I checked my communications. It is my practice to turn off my phone when I am
3 representing a client in a situation like this.

4 And during that second questioning session, I was -- I received a voice mail from two
5 individuals from the Department of Justice's Office of Legislative Affairs. One is not an attorney. The
6 other is, I think, an attorney. I promptly called them back during the break and left my mobile phone
7 number, which is also available on my firm's website. And I have not yet, as of the last break,
8 received a responsive communication. So I did try to call them back. I wanted to put that on the
9 record.

10 The second thing is, we had, as majority staff knows, requested that a Department of Justice
11 representative be permitted to be in the room during today's process. I was advised that under the
12 committee rules, that is not the committee's practice, nor is it permitted. But I was advised that a
13 Department representative would be outside if there was a need for consultation. I wanted to put
14 on the record that at no time today was there a Department of Justice person outside at least to
15 identify themselves to us at any time. So thank you.

16 [REDACTED] Thank you. We can go off the record.
17 [Whereupon, at 3:34 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date

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COMMITTEE ON THE JUDICIARY,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: THOMAS WINDOM

Tuesday, September 30, 2025

Washington, D.C.

The deposition in the above matter was held in room 2237, Rayburn House Office Building,
commencing at 9:59 a.m.

Present: Representatives Knott and Crockett.

1 Appearances:

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3
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5 For the COMMITTEE ON THE JUDICIARY:

6
7 [REDACTED], GENERAL COUNSEL

8 [REDACTED], DEPUTY GENERAL COUNSEL

9 [REDACTED] CLERK

10 [REDACTED], DIGITAL DIRECTOR

11 [REDACTED], CHIEF COUNSEL FOR OVERSIGHT

12 [REDACTED], PROFESSIONAL STAFF MEMBER

13 [REDACTED], COUNSEL

14 [REDACTED], MINORITY OVERSIGHT COUNSEL

15 [REDACTED], MINORITY SPECIAL COUNSEL

16 FOR INVESTIGATIONS AND SENIOR ADVISOR

17 [REDACTED], MINORITY GENERAL COUNSEL

18 [REDACTED], MINORITY CHIEF COUNSEL AND SENIOR ADVISOR

19 [REDACTED], MINORITY FELLOW

20 [REDACTED], MINORITY LEGAL INTERN

21 [REDACTED], MINORITY COUNSEL

22 [REDACTED], MINORITY INTERN

23 [REDACTED] SENIOR COUNSEL

24 [REDACTED], MINORITY INTERN

25

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2 For the WITNESS:

3

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2 [REDACTED] Good morning. This is the deposition of Mr. Thomas Windom, former senior
3 assistant special counsel. Chairman Jordan has requested this deposition as part of the committee's
4 oversight of the Office of Special Counsel Jack Smith and the inexplicable seizure of a constitutionally
5 elected Member of Congress' cell phone.

6 Mr. Windom previously appeared before the committee for a transcribed interview on
7 June 12th, 2025. Due to Mr. Windom's refusal to answer numerous questions, on July 21st, 2025,
8 the committee issued a subpoena for Mr. Windom to appear at a deposition today, September 30th.
9 I have marked the July 21st, 2025, subpoena as exhibit No. 1.

10 [Windom Exhibit No. 1
11 was marked for identification.]

12 [REDACTED] On September 23rd, the committee noticed today's deposition. I've marked
13 the September 23rd notice as exhibit No. 2.

14 [Windom Exhibit No. 2
15 was marked for identification.]

16 [REDACTED]. Would the witness please state your name for the record?
17 The Witness. Thomas Windom.

18 [REDACTED]. Could counsel please state your name for the record?
19 Mr. Burton. Yes. Thank you, [REDACTED]
20 Preston Burton and Rachel Li Wai Suen on behalf of Mr. Windom.

21 [REDACTED]. My name is [REDACTED] and I'm with Chairman Jordan's staff. I'll now
22 have everyone else from the committee who is here in the room introduce themselves as well.

23 Mr. [REDACTED] [REDACTED] with Mr. Jordan's staff.

24 Ms. [REDACTED] [REDACTED], Chairman Jordan's staff.

25 Ms. [REDACTED] [REDACTED] Ranking Member Raskin's staff.

1 Mr. [REDACTED], Ranking Member Raskin's staff.

2 Mr. [REDACTED], Ranking Member Raskin's staff.

3 Ms. [REDACTED], Chairman Jordan's staff.

4 Ms. [REDACTED], Chairman Jordan's staff.

5 Ms. [REDACTED], Ranking Member Raskin's staff.

6 Mr. [REDACTED], Ranking Member Raskin's staff.

7 Ms. [REDACTED], Ranking Member Raskin's staff.

8 Ms. [REDACTED], Raskin's staff.

9 Ms. [REDACTED], Ranking Member Raskin's staff.

10 Ms. [REDACTED], Chairman Jordan's staff.

11 Ms. [REDACTED] Chairman Jordan's staff.

12 Ms. [REDACTED], Chairman Jordan's staff.

13 Mr. [REDACTED], Ranking Member Raskin's staff.

14 Ms. [REDACTED] Thank you.

15 I will now review the ground rules and guidelines that we'll follow during today's deposition.

16 The committee will conduct today's deposition in accordance with the House's regulation for
17 the use of deposition authority. This regulation has been presented to you as part of service for the
18 subpoena.

19 Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and
20 then the minority will have an opportunity to ask questions for an equal period of time if they
21 choose. There will be two staff counsel per side asking the questions. To the extent members
22 attend and have questions for the witness, they will be propounded during their side's respective
23 rounds.

24 The clock will stop if the witness needs to confer with counsel, when counsel for the witness
25 is speaking, and when members are speaking during the opposite side's round. We'll alternate back

1 and forth until there are no more questions, and the deposition is over.

2 We ordinarily take a short break at the end of each hour, but if you would like to take a break
3 apart from that, please just let us know.

4 As you can see, there is an official court reporter taking down everything we say to make a
5 written record. So we ask that you give verbal responses to all questions.

6 Do you understand?

7 The Witness. I do.

8 [REDACTED] So the court reporter can take down a clear record, please try and speak clearly
9 so they can understand and the people at the end of the table can hear you.

10 It's important that we do not talk over one another or interrupt each other if we can help it,
11 and that goes for everybody present here at the deposition.

12 We want you to answer our questions in a complete and truthful manner. If you do not
13 understand one of our questions or need clarification about what we are seeking, please just let us
14 know. If you do not know the answer to a question or do not remember, please let us -- please tell
15 us what you do know and remember. It is okay to tell us if you learned information from someone
16 else; just indicate how you came to know the information.

17 If there are things you do not know or cannot remember, just say so and please inform us
18 who, to the best of your knowledge, might be able to provide a more complete answer to the
19 question.

20 By law, you are required to answer questions from Congress truthfully. Do you understand
21 that?

22 Mr. Windom. I do.

23 [REDACTED] This also applies to questions posed by congressional staff in a deposition. Do
24 you understand this?

25 Mr. Windom. I do.

1 [REDACTED] Witnesses that knowingly provide false testimony could be subject to criminal
2 prosecution for perjury. This includes, for example, stating that you do not recall or remember
3 something when, in fact, you do.

4 Do you understand this?

5 Mr. Windom. Yes.

6 [REDACTED] Furthermore, you cannot tell half-truths or exclude information necessary to
7 make statements accurate. You are required to provide all information that would make your
8 response truthful. A deliberate failure to disclose information can constitute a false statement.

9 Do you understand this?

10 Mr. Windom. Yes.

11 Ms. [REDACTED] Is there any reason you are unable to provide truthful answers to today's
12 questions?

13 Mr. Windom. No.

14 Ms. [REDACTED] The Federal Rules of Evidence, Criminal and Civil Procedure are not applicable
15 for today's deposition. Under the House deposition regulation, a witness' attorney may not instruct
16 a witness to refuse to answer a question, except to preserve a privilege. The House recognizes
17 constitutionally-based privileges and not necessarily those privileges derived from common law.

18 Finally, I will make note for here today that the content of what we discuss is confidential
19 under the House deposition regulation. The chairman and ranking minority member shall consult
20 before any release of testimony, transcripts, including portions thereof. This means it is a violation
21 of House and committee rules to disclose content of the deposition prior to its official release. For
22 this reason, the marked exhibits that we will use today will remain with the court reporter so they
23 can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap
24 up.

25 Before we begin the first round of questions, we will afford the minority, the witness, and

1 counsel for the witness the opportunity to offer any preliminary remarks.

2 Mr. [REDACTED] I know you came previously voluntarily. So thank you for that, and we
3 appreciate you coming to testify before our committee here today. I know last time you were
4 probably told. I just want to make sure you're aware this is being recorded. So I just want to
5 make you aware there's cameras recording your questions -- your answers here today but thank you.

6 Ms. [REDACTED] Mr. Burton, anything before you begin?

7 Mr. Burton. Yes, thank you.

8 I just want to say it is an honor to represent Thomas P. Windom. Mr. Windom is a former
9 Federal prosecutor who served with distinction for more than a decade.

10 Mr. Windom, with our assistance, has in good faith cooperated with this committee. To that
11 end, my client appeared separately for a voluntary transcribed interview before this committee on
12 June 12th, 2025. During that voluntary interview, Mr. Windom answered questions posed by the
13 committee for over 5 hours, declining to respond only where he and I believed that to do so would
14 violate the law or his ethical obligations.

15 Unsatisfied, the majority has now compelled him to re-appear under subpoena and did so
16 with a lengthy and inaccurate public letter and press release, inconsistent with its previous request
17 that we maintain the confidentiality of the interview.

18 It is now plain that the majority is disinterested in pursuing a legitimate legislative inquiry.
19 Majority staff, operating with no meaningful oversight or checks, have engaged in an unserious,
20 performative exercise, convened for political theater. Majority staff have demonstrated no respect
21 for, nor understanding of, my client's obligation to follow the laws, such as the grand secrecy
22 rules -- grand jury secrecy rules, violations of which carry criminal sanctions. Rather, they have
23 intentionally placed him on the horns of an impossible dilemma, forcing him to choose between
24 risking criminal prosecution for violating grand jury secrecy rules or, alternatively, risking criminal
25 prosecution for contempt of Congress.

1 The Department of Justice as well has abdicated its traditional role. For decades, spanning
2 multiple Republican and Democrat administrations, Department of Justice policy has been to decline
3 to make line prosecutors, such as my client, available for questioning by congressional committees.

4 The Department has also historically made a representative available for consultation during
5 congressional testimony. For my client, though, the Department has abandoned these longstanding
6 policies. The Department has disclaimed its essential role in promoting respect for the law,
7 including, significantly, safeguarding principles of grand jury secrecy.

8 It should not go unnoticed that the Department adopted these positions only after unlawfully
9 terminating Mr. Windom's employment and after he filed suit challenging that determination. And,
10 of course, these events are occurring during an unprecedented political era in this country, one in
11 which the Department and the committee are being wielded as tools to exact personal vendettas.

12 In this respect, the circumstances under which we attempted to engage with the committee
13 on a voluntary basis and in good faith several months ago have changed dramatically. Just 10 days
14 ago, the President publicly ordered the Attorney General of the United States to prosecute certain
15 people he perceives as political enemies, including those he deems responsible for his criminal
16 indictments, all of which provides important context for today's deposition.

17 My client is not obligated to respond to questions that are not pertinent to a legitimate
18 legislative function. He is also not obligated to respond to inquiries on topics that implicate his First
19 Amendment rights. More importantly, as the Supreme Court, the United States Supreme Court
20 long ago recognized, a basic function of the Fifth Amendment to the United States Constitution is to
21 protect innocent persons who otherwise might be ensnared by ambiguous circumstances.
22 Mr. Windom is such a person, though the majority's improper motives are anything other than
23 ambiguous.

24 Fortunately, the Constitution protects his right to decline to respond to questioning from this
25 committee, especially questions advancing an abuse of legislative power.

1 Accordingly, and although my client has appeared today as required by law, given the present
2 circumstances, and with great reluctance, I am advising him to invoke his constitutional right to
3 silence, along with his obligations to follow the laws governing grand jury secrecy, and decline to
4 respond to additional questioning by this committee.

5 Further, this inquiry lacks a legitimate legislative purpose and violates my client's First
6 Amendment rights.

7 Mr. [REDACTED] I'll just note for the record that we've had a number of AUSAs in this Congress
8 and, you know, recognized the boundaries of 6(e), and your client's assertion of where those
9 boundaries are, are outside of where all the other prosecutors set them, including J.P. Cooney, a
10 January 6th prosecutor.

11 We have a particular interest in the improper conduct of the Justice Department and the FBI
12 with respect to the seizure of Mr. Perry's phone, and we have plenty of legitimate legislative avenues
13 here that we are pursuing. So I'll just note for the record that your assertion that we do not have a
14 legitimate legislative purpose is without merit.

15 And, you know, as far as the rest of your statement goes, this isn't a forum for, you know,
16 committee staff, you know, to engage in, you know, an argumentative rebuttal of everything you
17 said, but we do not subscribe to your statement.

18 That being said, are you saying that your client is not going to answer any questions at all
19 today, or is it just 6(e)-related questions?

20 Mr. Burton. Pose your questions. I think, for the most part, Mr. [REDACTED], we'll be declining
21 to respond to the questions.

22 Mr. [REDACTED] Okay. In that case, you know, when individuals come before the committee
23 and assert their Fifth Amendment, we try to strike a balance between asking enough questions to try
24 to understand the contours. Presumably, Mr. Windom can tell us where -- you know, when and
25 where he worked, and, you know, we'll go from there and try to understand the contours without

1 badgering the witness.

2 Mr. Burton. I appreciate that. And, just to be completely upfront, I think, for the most
3 part, I'll be advising him to decline to respond to your questions, but I appreciate your providing that
4 context.

5 Mr. [REDACTED] Okay. And I'll just -- we'll start the clock in terms of the questions.

6 Ms. Crockett. Before you begin, for purposes of the record, Representative Jasmine
7 Crockett, Texas-30, is present.

8 Mr. [REDACTED] Good morning. Welcome, Congresswoman.

9 We'll swear the witness in.

10 The Reporter. Would you please raise your right hand.

11 Do you promise and declare under penalty of perjury that the testimony you are about to give
12 will be the truth, the whole truth, and nothing but the truth?

13 The Witness. I do.

14 The Reporter. Thank you.

15
16 EXAMINATION

17 BY [REDACTED]:

18 Q Mr. Windom, good morning. Can you tell us about your preparation for today? How
19 many sessions did you have with your counsel?

20 Mr. Burton. I'm going to object to that, Mr. [REDACTED] I think you're invading his privilege.

21 Mr. [REDACTED] I disagree. You know, depositions happen all the time. We're not asking
22 about the communications that you had with your client. We're asking about the number of
23 preparation sessions and where they occurred.

24 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

25 BY [REDACTED]

1 Q So you're not willing to answer any questions about how you prepared for today?

2 A I respectfully decline to respond for the reasons stated by my counsel.

3 Q So your counsel illuminated a number of reasons why you might not respond, including I
4 believe the First Amendment, the Fifth Amendment. Are you invoking your Fifth Amendment on
5 the question of preparation for today?

6 A I respectfully decline to respond for all the reasons stated by my counsel.

7 Mr. Burton. And I will add I think your question invades privilege and work product with the
8 client.

9 Mr. [REDACTED] I'm not disputing that your communications with your counsel are privileged.
10 I'm just asking, if that's the case, to tell us, to identify those communications.

11 Mr. Burton. Can we go off the record for one moment, please?

12 Ms. [REDACTED] Yep. Off the record.

13 [Recess.]

14 Mr. [REDACTED] We'll go back on the record.

15 The Witness. Can you repeat your question, please?

16 BY [REDACTED]

17 Q Yes. We're asking you about your preparation for today. Can you tell us what you
18 did to prepare?

19 A I can tell you that I met with my counsel. Beyond that, I decline to respond for the
20 reasons stated by my counsel.

21 Q How many meetings did you have with your counsel?

22 A I decline to respond for the reasons stated by my counsel.

23 Q And when did those meetings occur?

24 A I decline to respond for the reasons stated by my counsel.

25 Q We understand the FBI, under the direction of the Justice Department, surveilled

1 Republican Members of Congress during the summer of 2022. Did you have any involvement with
2 that?

3 A I respectfully decline to respond for the reasons stated by my counsel.

4 Q And that the objectives of the surveillance were to determine daily patterns and identify
5 associates of Republican Members of Congress, and this involved a case that you were working on.
6 Can you tell us about that?

7 A I respectfully decline to respond for the reasons stated by my counsel.

8 Q And that the Republican Members of Congress were surveilled at their workplace, which
9 is, presumably, the United States Capitol and the Rayburn House Office Building, including other
10 office buildings. Was that something that you authorized?

11 A I respectfully decline to respond for the reasons stated by my counsel.

12 Q I understand that you worked on the election investigation against President Trump.
13 Was this intended for the purpose of harming him politically?

14 A I respectfully decline to respond for the reasons stated by my counsel.

15 Mr. Burton. I also object to the assumption embedded in the question.

16 Mr. [REDACTED] Which assumption?

17 Mr. Burton. You stated that the investigation was to, I believe, target Mr. Trump. I believe
18 that was your statement. If I misquoted you --

19 Mr. [REDACTED] It certainly was intended to target Mr. Trump personally -- or politically.

20 Mr. Burton. I object to your assumption embedded in your question.

21 Mr. [REDACTED]. Okay.

22 BY [REDACTED]

23 Q Was the Justice Department trying to weaken President Trump because he was the chief
24 political rival of the then President Biden?

25 A I respectfully decline to respond for the reasons stated by my counsel.

1 Q Was the point of the investigation to affect the outcome of the 2024 Presidential
2 election?

3 A I respectfully decline to respond for the reasons stated by my counsel.

4 Q You were a member of the special counsel's team, correct?

5 A I respectfully decline to respond for the reasons stated by my counsel.

6 Q Are you aware of any actions by anyone on the special counsel's team being motivated
7 purely by political motivations?

8 A I respectfully decline to respond for the reasons stated by my counsel.

9 Q Did you have any involvement with the raid of the President's residence in Florida?

10 A I respectfully decline to respond for the reasons stated by my counsel.

11 Q What day did you join the special counsel's team?

12 A I respectfully decline to respond for the reasons stated by my counsel.

13 Q How long did you work at the Justice Department?

14 Mr. Burton. You can answer that.

15 The Witness. My recollection is that I was employed by the Justice Department from around
16 February of 2013 through January -- through a date in January of 2025.

17 BY [REDACTED]

18 Q And, during your tenure with the Justice Department, where did you work?

19 Mr. Burton. You can answer through your tenure in Greenbelt.

20 The Witness. I was initially hired into the United States Attorney's Office for the District of
21 Maryland. Beyond that, I decline to respond for the reasons stated by my counsel.

22 Mr. [REDACTED] [REDACTED]

23 BY [REDACTED]

24 Q The last time you were with us, you talked about how you were detailed to the U.S.
25 Attorney's Office in the District of Columbia to look at investigative threads that came about from

1 various January 6th investigations, and you told us there were other prosecutors who worked with
2 you. Who were those other prosecutors?

3 A I respectfully decline to respond for the reasons stated by my counsel.

4 Q While detailed to the USAO D.C., what investigative threads merited further
5 investigation by you?

6 A I respectfully decline to respond for the reasons stated by my counsel.

7 Q What can you tell us about the conversations you had regarding subpoenaing the
8 Willard Hotel?

9 A I respectfully decline to respond for the reasons stated by my counsel.

10 Q How often did you interact with ASAC Tim Thibault and his agents on the squad CR15?

11 A I respectfully decline to respond for the reasons stated by my counsel.

12 Q How many agents surveilled Representative Scott Perry in the summer of 2022?

13 A I respectfully decline to respond for the reasons stated by my counsel.

14 Q Why did the Justice Department deprive Mr. Perry of his cell phone from 9 a.m. to
15 5 p.m., for a whole workday?

16 A I respectfully decline to respond for the reasons stated by my counsel.

17 Q Were you aware that he told FBI agents that he didn't even know his chief of staff's
18 number and would need his cell phone in order to contact him?

19 A I respectfully decline to respond for the reasons stated by my counsel.

20 Q How many other Members of Congress were investigated as part of the Arctic Frost
21 investigation and Jack Smith investigation?

22 A I respectfully decline to respond for the reasons stated by my counsel.

23 Q Were there any other records of Members of Congress that were swept up by a legal
24 process in your investigation?

25 A I respectfully decline to respond for the reasons stated by my counsel.

1 Q In the special counsel's report, it talks about evidence from congressional staff. Were
2 those congressional staff connected only to Congressman Perry?

3 A I respectfully decline to respond for the reasons stated by my counsel.

4 Q Why did the investigators as part of Arctic Frost and prosecutors at the U.S. Attorney's
5 Office in D.C. seize President Trump's and Vice President Pence's cell phones?

6 A I respectfully decline to respond for the reasons stated by my counsel.

7 Q Can you tell us about your interactions with the January 6th Committee?

8 A I respectfully decline to respond for the reasons stated by my counsel.

9 Q Why did the Justice Department need transcripts from the January 6th Committee?

10 A I respectfully decline to respond for the reasons stated by my counsel.

11 Q As part of your investigation, how many confidential human sources for the FBI did you
12 talk to?

13 A I respectfully decline to respond for the reasons stated by my counsel.

14 Mr. [REDACTED] That will conclude our first round.

15 Mr. [REDACTED] Can we go off the record and have about 10 minutes to figure out --

16 Mr. [REDACTED] You need 10 minutes?

17 Mr. [REDACTED] Yes, about 10, 10 minutes, please. Thank you.

18 [Recess.]

19 Mr. [REDACTED] We can go back on the record at 10:32 a.m. I'll turn it over to the majority
20 for a second.

21 Ms. [REDACTED] During the first hour, we had a member of the majority come join us from the
22 committee. I'll have him introduce himself for the record.

23 Mr. Knott. Brad Knott, North Carolina-13.

24 Mr. [REDACTED] Thank you.

25 So we'll start our hour.

1 Just to reintroduce myself, I'm [REDACTED] I'm with the minority, working with
2 Ranking Member Raskin.

3 Before I get into any questions I may have, I'm going to put a few documents on the record.
4 Starting with exhibit 3, which will be a press release of an OIG report related to January 6th
5 confidential sources. I'll hand those out now to the parties.

6 [Windom Exhibit No. 3
7 was marked for identification.]

8 Mr. [REDACTED] Exhibit 4 will be a document related to FBI agents at the Capitol that was
9 produced to this committee by the FBI.

10 [Windom Exhibit No. 4
11 was marked for identification.]

12 Mr. [REDACTED] Exhibit 5 will be a tweet from the January 6th Select Committee related to FBI
13 agents deployed to the Capitol on January 6th.

14 [Windom Exhibit No. 5
15 was marked for identification.]

16 Mr. [REDACTED] Exhibit 6 will be a Truth Social post by President Trump directed at Attorney
17 General Pam Bondi.

18 [Windom Exhibit No. 6
19 was marked for identification.]

20 Mr. [REDACTED]. And exhibit 7 will be a New York Times article related to President Trump
21 firing prosecutors that worked on investigations against him.

22 [Windom Exhibit No. 7
23 was marked for identification.]

24 Mr. [REDACTED] And I'll give my co-counsel a second to get those to the parties before we get
25 started.

1 I just want to note, I said "the January 6th Select Committee." I meant the select
2 subcommittee. I just want to note that for the record.

3 I want to go back to something during the opening. I want to direct these questions to
4 counsel for Mr. Windom. Can you give us an overview of the authorization letters, if you remember
5 or if you have that handy, that you received from the Department of Justice related to Mr. Windom's
6 testimony before the committee?

7 Mr. Burton. I can. My recollection, Mr. [REDACTED], is that, prior to the June 12th
8 transcribed voluntary interview, we received an authorization letter. I believe that was entered into
9 the record during that testimony. I do not have perfect recall of it, but one of the -- there was a
10 dispute over the scope of the authorization letter. The letter did instruct Mr. Windom that he was
11 not authorized to violate court orders, Rule 6(e), which is the grand jury secrecy rules, and other
12 laws.

13 Subsequent to this committee's issuance of its subpoena I believe in July, we received on
14 September 4th a followup authorization letter, and it repeated -- it provided additional commentary
15 on scope, repeated the admonition that Mr. Windom is not authorized to violate Rule 6(e).

16 The Department declined to respond to our request for its position on certain rule -- certain
17 topics that arose previously and that, in our judgment, implicated Rule 6(e).

18 And the Department also advised us that it would not have a representative present for
19 consultation outside the deposition today.

20 Mr. [REDACTED]. Thank you.

21 Just to make it clear, when you're saying 6(e), that's in reference to Federal Rules of Criminal
22 Procedure 6(e). Is that correct?

23 Mr. Burton. That is correct.

24 Mr. [REDACTED]. And that rule prevents or prohibits Mr. Windom from sharing any
25 information related to the grand jury investigation of relevance here for this committee. Is that

1 correct?

2 Mr. Burton. I think that the concept is a little -- there's a little more to what the rule states.
3 I don't have it memorized, but, broadly speaking, Rule 6(e) precludes Department of Justice officials
4 and certain other individuals from disclosing matters occurring before the grand jury. What that
5 term means has been disputed here, but in our judgment, that is broadly defined by the courts,
6 particularly the Federal courts in the District of Columbia, which is the pertinent court for these
7 proceedings.

8 Mr. [REDACTED]. And, just to put a pin on this point, the DOJ authorization letter from
9 September prohibits Mr. Windom from sharing information or testifying about information that falls
10 under Rule 6(e) of the Federal Rules of Criminal Procedure. Is that correct?

11 Mr. Burton. That is correct. We'll be happy to furnish you with a copy of that letter.
12 After we conclude today, I'm happy to send that to you.

13 Mr. [REDACTED]. Thank you. Thank you.

14 You also talked a little bit in your opening about Mr. Windom's time of employment at DOJ.

15 BY [REDACTED]

16 Q Look, I understand that counsel has advised you to assert your Fifth Amendment here,
17 and so I'm going to ask the question just to understand the scope of the answers you can provide.
18 Can you let us know when was your last day with the Department of Justice?

19 Mr. Burton. I would repeat the instruction.

20 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

21 BY [REDACTED]

22 Q Understood.

23 So, Mr. Windom, you have chosen to follow your counsel's advice and assert your Fifth
24 Amendment privilege today, which is your right under our Constitution. In doing so, you're refusing
25 to answer any question asked of you during this deposition. So that means, no matter what I ask,

1 however unfair or presumptive, you're required -- or it seems like you're going to say the same
2 answer that your attorney has advised you to give. Is that correct?

3 Mr. Burton. He will follow my advice. I don't know if we would necessarily agree with all
4 of your characterizations.

5 Mr. [REDACTED]. Okay. So, no matter what question I'm going to ask, he's going to follow
6 your instructions on how to answer that question. Is that fair to say?

7 Mr. Burton. Certainly with respect to what I understand is the stated purpose of this
8 inquiry.

9 Mr. [REDACTED]. Okay. Thank you.

10 [REDACTED]
11 Q So let's start with exhibit 3, which we provided at the beginning of our hour, which is the
12 OIG January 6th confidential sources press release.

13 So this is dated December 12th, 2024, and in this document, DOJ concludes, and this is a
14 quote, "that we found no evidence in the materials we reviewed or the testimony we received
15 showing or suggesting that the FBI had undercover employees in the various protest crowds or at the
16 Capitol on January 6th," end quote.

17 So, Mr. Windom, would you be willing to answer or able to answer any questions about FBI
18 agents that were deployed to the Capitol on January 6th?

19 Mr. Burton. Same instruction.

20 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

21 BY MR. [REDACTED]

22 Q And so, also, are you aware of testimony from FBI Director Christopher Wray before the
23 House Oversight Committee on June 15th of 2021, which was held to actually examine the January
24 6th attack on the U.S. Capitol, where Director Wray said, and this is a quote, "In response to requests
25 from the U.S. Capitol Police, the FBI immediately deployed additional assistance," end quote, to help

1 secure the Capitol.

2 If I were to ask questions about that testimony, would you be able to answer questions about
3 the FBI deployment to the Capitol?

4 Mr. Burton. Same instruction.

5 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

6 BY [REDACTED]

7 Q I'm now going to direct you to exhibit 4, which is a document that was produced to this
8 committee by the FBI. So, if I directed you to this document, which was produced to this
9 committee, and asked whether this document makes it abundantly clear that 274 FBI agents
10 responded to the Capitol on January 6th to respond to bomb threats, as well as help secure the
11 inside of the Capitol, you wouldn't answer that question as well. Is that correct?

12 A I respectfully decline to respond for the reasons stated by my counsel.

13 Q Okay.

14 I would direct you to exhibit 5, which is a tweet from the January 6th Select Subcommittee.
15 If I asked you, for example, about this outlandish claim that it somehow knew that the FBI deployed
16 agents to the Capitol on January 6th, as though it was new information that Federal law enforcement
17 deployed to secure the Capitol Grounds that was being overrun by a violent mob of rioters, you
18 would give the same answer. Is that correct?

19 A For the reasons stated by my counsel, I respectfully decline to respond.

20 Q If I asked you whether it appears to you that President Trump is trying to turn the
21 Department of Justice into his personal vengeance squad and is waging an unprecedented and
22 lawless campaign against his perceived political enemies, would you provide the same answer that
23 you've given to my other questions?

24 A I respectfully decline to respond for the reasons stated by my counsel.

25 Q I'd like to direct you to exhibit 6, which is a Truth Social post from President Trump. If I

1 showed you this Truth Social post in which President Trump demanded that his Attorney General
2 prosecute his political rivals, in quote, all caps "NOW," end quote, with three exclamation points,
3 calling them, quote, "guilty as hell," end quote, and I asked you whether that shows a President
4 determined to use the historically apolitical Justice Department to exact personal revenge, you would
5 give the same answer, wouldn't you?

6 A I respectfully decline to respond for the reasons stated by my counsel.

7 Ms. Crockett. Can I jump in really quickly.

8 Mr. [REDACTED] Yes, please.

9 Ms. Crockett. Out of curiosity, you stated that you started at the DOJ back in 2013, I believe,
10 and you were there until approximately January of 2025. Speaking very generally as someone who
11 obviously has experience at the DOJ, historically, have you ever known the DOJ to operate solely at
12 the discretion or to be directed by the executive, a.k.a. the President, just generally speaking, not
13 necessarily speaking about this particular post or anything else?

14 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

15 Ms. Crockett. Go ahead.

16 Mr. [REDACTED] Thank you.

17 BY [REDACTED]

18 Q I'll direct you to exhibit 7 now, which is the New York Times article about President
19 Trump firing prosecutors that worked on the investigation against him. If I asked you about
20 President Trump firing career prosecutors for working on these criminal investigations that were into
21 him, into President Trump, and how President Trump emptied out the Public Integrity Section, which
22 is responsible for prosecuting public corruption, and whether that made it clear this President has no
23 respect for the independence of the Department of Justice or the rule of law, would you give the
24 same answer?

25 A I respectfully decline to respond for the reasons stated by my counsel.

1 Q What if I asked you whether it was appropriate for political leadership of the
2 Department of Justice and FBI to protect the President's lieutenant by killing an investigation
3 into -- an investigation and burying the records of the, quote, border czar Tom Homan taking \$50,000
4 cash bribes in exchange for promising to deliver Federal contracts to undercover FBI agents that were
5 posing as businessmen, would you give the same answer?

6 A I respectfully decline to respond for the reasons stated by my counsel.

7 Ms. Crockett. Would you define "conspiracy" as being completed once an agreement is
8 made?

9 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

10 BY [REDACTED]

11 Q Are you able to discuss President Trump's pattern of protecting his friends, which seems
12 to include blocking the release of critical documents about Jeffrey Epstein's potential co-conspirators,
13 including documents about Mr. Epstein's relationship to President Trump? Would you answer
14 questions about that?

15 A I respectfully decline to respond for the reasons stated by my counsel.

16 Q Do you know why President Trump is so laser-focused on only settling his own personal
17 grudges, protecting his corrupt buddies, and not taking care of keeping American families safe and
18 free? Are you willing to answer any questions about that?

19 A I respectfully decline to respond for the reasons stated by my counsel.

20 Q And, look, I understand that you worked on the special counsel's report. Are you able
21 to discuss why the Trump Department of Justice is refusing to release volume two of the special
22 counsel's report so that the President can continue to hide his crimes from the American public?

23 A I respectfully decline to respond for the reasons stated by my counsel.

24 Mr. [REDACTED] Mr. Windom, thank you. We don't have any additional questions for you.
25 However, we do have several notes for the record.

1 It's not surprising that you're invoking your Fifth Amendment privilege today in response to
2 the questions asked of you. This congressional investigation is a clear effort to manufacture
3 purported misconduct by the Special Counsel's Office. Moreover, the Federal Rules of Criminal
4 Procedure make it clear that you could face consequences if you were to inadvertently share
5 protected material under Rule 6(e).

6 If our committee truly cared about weaponization of the Department of Justice, we would be
7 investigating all the ways the Department is unleashing state power to go after the President's
8 personal grudges, an unprecedented campaign that attacks the foundational principles of equal and
9 partial justice in America. Instead, the majority continues to distract from the creeping
10 authoritarianism that we're seeing from this administration.

11 So, in closing, I would just say that we appreciate the work that you did as a career prosecutor
12 for the Department of Justice and will continue to fight for our democracy, which is fragile but
13 durable, and also the rule of law. Thank you for being here.

14 And we'll go off the record with that.

15 Mr. [REDACTED] We'll go back on the record. It's 10:49.

16 BY [REDACTED]

17 Q Mr. Windom, you're objecting to our questions on a sort of a potpourri of reasons,
18 including the fact that you believe we do not have a legitimate legislative purpose. Now, you may
19 not like our legislative purpose, but it's not a proper objection to decline to answer questions
20 because you believe or your counsel believes we don't have a legitimate legislative purpose.

21 And so we're going to ask you to state your objections with specificity. If you're objecting to
22 our questions based on preserving a privilege, such as a Fifth Amendment privilege, we're going to
23 ask you to cite that with specificity so we can understand the nature of your refusal to answer.

24 Do you understand that?

25 Mr. Burton. I understand your position.

1 BY [REDACTED]

2 Q Also, to the extent that you have answered our questions before and have not invoked
3 the Fifth Amendment, you know, there is a fair basis to conclude that, with respect to those
4 questions, the Fifth Amendment has, in fact, been waived. So, you know, we expect that, as it
5 relates to questions we've asked before and you testified to before, that a Fifth Amendment
6 objection is not proper.

7 Mr. Burton. I don't understand your point, [REDACTED] I don't believe he's waived
8 anything, but, to be clear, I have advised him to invoke his constitutional right to silence. There are
9 other rights and issues, including grand jury secrecy. We do believe he's not obligated to respond
10 to things that are inconsistent with a legitimate legislative purpose, but the foundation of his decision
11 to decline to answer is his constitutional right to silence embodied in the Fifth Amendment.

12 Does that help you?

13 Mr. [REDACTED] Okay. And we would just ask him to cite that with specificity to our questions,
14 as opposed to -- you know, the statement that he's been providing is sort of -- you know, referred to
15 a series of objections, a series of reasons.

16 Mr. Burton. I appreciate that. I think the series of reasons is a valid objection. You and I
17 won't agree on that, but one of the reasons is his constitutional right to silence, and that applies to all
18 of them.

19 BY [REDACTED]

20 Q Mr. Windom, what positions did you hold at the Department of Justice during your
21 tenure there?

22 A I respectfully decline to respond for all of the reasons cited by my counsel.

23 Q And is part of your reason that you're asserting your Fifth Amendment right against
24 self-incrimination?

25 A I respectfully decline to respond for all of the reasons cited by my counsel.

1 Q And, again, we're going to ask you with specificity to select, you know, one of these, one
2 of the reasons for the objection. Is this a Fifth Amendment assertion you're making here?

3 A I respectfully decline to respond for all of the reasons cited by my counsel.

4 Q You testified in June about details that you participated in while at the Justice
5 Department. You stated the first detail was to the United States Attorney's Office for the District of
6 Columbia. When did that detail begin?

7 A I respectfully decline to respond for the reasons stated by my counsel.

8 Q You answered that question in June: "Approximately the beginning of November, kind
9 of middle of November, maybe of 2021."

10 The question is, were you asked to go on that detail, or did you seek out the opportunity?

11 A I respectfully decline to respond for the reasons stated by my counsel.

12 Q Now, your Fifth Amendment concerns here, are you concerned that you're going to be
13 prosecuted for contempt of Congress, or are you concerned that the Justice Department is going to
14 prosecute you for violating 6(e) on that question?

15 A I respectfully decline to respond for the reasons stated by my counsel.

16 Q Who asked you to go on that detail that I just asked you about?

17 A I respectfully decline to respond for the reasons stated by my counsel.

18 Q You testified in June that the initial person that spoke to you about that opportunity was
19 an individual named Rush Atkinson in the Office of the Deputy Attorney General. Who is
20 Mr. Atkinson?

21 A I respectfully decline to respond for the reasons stated by my counsel.

22 Q And I'm just having a hard time understanding what the concern is with answering a
23 question such as like who is Rush Atkinson. I mean, that's not going to get you in trouble with Judge
24 Boasberg for violating 6(e). You know, answering such an anodyne question like that, it's hard for
25 us to understand how that implicates your Fifth Amendment, certainly when you have testified about

1 topics like this before?

2 A I respectfully decline to respond for the reasons stated by my counsel.

3 Mr. Burton. I will also add, [REDACTED] I appreciate your observations about the application
4 of the privilege.

5 President Trump's directives to the Attorney General, which minority counsel entered into
6 the record, a statement by -- statements by the Department's Weaponization Working Group to
7 target individuals involved in any of the investigations that led to the President's indictments, as well
8 as this committee's own suggestions that the special counsel investigations were somehow illegal,
9 engaged in improper conduct, all provide sound bases to advise Mr. Windom to invoke his
10 constitutional right to silence and decline to respond to questions about any of these matters.

11 [REDACTED] Okay. So is it fair to say that the basis for the declination here is the Fifth
12 Amendment right against self-incrimination?

13 Mr. Burton. That is underscoring all of the issues. There are other objections that I stated
14 in the outset that apply to some of them.

15 Mr. [REDACTED] The only proper objection, though, is one to preserve a privilege, such as a
16 constitutionally-based privilege, not one about legitimate legislative purpose. Under the deposition
17 rules, your client, the witness, is still required to answer those questions.

18 Mr. Burton. I think the privilege of his right to remain silent applies to all of them.

19 Mr. [REDACTED] Okay.

20 Mr. Burton. So.

21 BY [REDACTED]

22 Q There's is another individual you identified in June by the name of Chris Cavanaugh.
23 Who is Mr. Cavanaugh?

24 A I respectfully decline to respond for the reasons stated by my counsel.

25 Q You testified you had conversations with Mr. Atkinson and Mr. Cavanaugh before your

1 detail began at the United States Attorney's Office for the District of Columbia. Were those the only
2 conversations you had with Justice Department officials prior to your detail beginning?

3 A I respectfully decline to respond for the reasons stated by my counsel.

4 Q And what was the purpose of the detail in November 2021?

5 A I respectfully decline to respond for the reasons stated by my counsel.

6 Q And, at the time, was an investigation ongoing in November of 2021 when you joined
7 the detail?

8 A I respectfully decline to respond for the reasons stated by my counsel.

9 Q Was the focus of the investigation on the events that occurred on January 6th, 2021, or
10 was it the 2020 election?

11 A I respectfully decline to respond for the reasons stated by my counsel.

12 Q And you said that you began a series of details in the fall of 2021. So we have the one
13 that began in November of 2021 that you testified about. What was the next detail?

14 A I respectfully decline to respond for the reasons stated by my counsel.

15 Q And did you ask to be detailed to the Special Counsel's Office, or did someone ask you?

16 A I respectfully decline to respond for the reasons stated by my counsel.

17 Q And, for that detail, you indicated that you spoke to Mr. J.P. Cooney, who was in the
18 United States Attorney's Office for the District of Columbia. Did you speak with anyone else about
19 that opportunity before accepting it?

20 A I respectfully decline to respond for the reasons stated by my counsel.

21 Q When you began your detail at the United States Attorney's Office for D.C. in November
22 of 2021, who was the U.S. attorney at the time?

23 A I respectfully decline to respond for the reasons stated by my counsel.

24 Q So testifying that Matt Graves was the U.S. attorney in November 2021 is something
25 that you can't answer here?

1 A I respectfully decline to respond for the reasons stated by my counsel.

2 Q Even though you testified in June that Matt Graves was the United States attorney at
3 that time?

4 A I respectfully decline to respond for the reasons stated by my counsel.

5 Q And had you ever worked with Mr. Graves before?

6 A I respectfully decline to respond for the reasons stated by my counsel.

7 Q You testified that when you arrived at the U.S. Attorney's Office for the District of
8 Columbia on detail that there had been investigative information that was developed as part of an
9 ongoing criminal investigation. What was the nature of that investigation?

10 A I respectfully decline to respond for the reasons stated by my counsel.

11 Mr. [REDACTED] Can we go off the record?

12 [Discussion held off the record.]

13 Mr. [REDACTED] We're back on the record.

14 BY [REDACTED]

15 Q Mr. Windom, did you receive a letter of authorization for today's testimony from the
16 Justice Department?

17 Mr. Burton. I received a letter. I don't know that Mr. Windom did.

18 BY [REDACTED]

19 Q Are you aware of the Justice Department sending a letter authorizing your testimony
20 today?

21 Mr. Burton. Without waiving privilege, you can answer.

22 The Witness. I'm aware that a letter was sent from the Department of Justice to my
23 counsel. Beyond that, I wouldn't be able to say, and I would --

24 BY [REDACTED]

25 Q Did you read the letter?

1 A -- and I would respectfully decline to respond for the reasons stated by my counsel.

2 Q Before you appeared in June, did the Justice Department send you an authorization
3 letter for your testimony?

4 Mr. Burton. That's reflected in correspondence with the committee. I think you know the
5 answer to that question.

6 Mr. [REDACTED] Right, but I'm asking him on the record here in the deposition.

7 The Witness. I think I can give you a similar answer. I'm aware that a letter was sent from
8 the Department to my counsel, and beyond that, I respectfully decline to respond for the reasons
9 stated by my counsel.

10 BY [REDACTED]

11 Q Did you read the June authorization letter?

12 A I respectfully decline to respond for the reasons stated by my counsel.

13 Q How many authorization letters did you get from the Justice Department? Just those
14 two?

15 A I respectfully decline to respond for the reasons stated by my counsel.

16 Q Who is John Crabb?

17 A I respectfully decline to respond for the reasons stated by my counsel.

18 Q Did you have any in-person meetings with Attorney General Garland?

19 A I respectfully decline to respond for the reasons stated by my counsel.

20 Q Any in-person meetings with Special Counsel Jack Smith?

21 A I respectfully decline to respond for the reasons stated by my counsel.

22 Q Where are you currently working?

23 A I respectfully decline to respond for the reasons stated by my counsel.

24 Q Are you currently working as a lawyer?

25 A I respectfully decline to respond for the reasons stated by my counsel.

1 Q You testified today about your service at the U.S. Justice Department as a U.S. attorney
2 out of the Greenbelt office. Is that correct?

3 A I believe what I said, and the transcript will reflect this, is that I initially was hired into
4 the Department of Justice into the United States Attorney's Office for the District of Maryland.

5 Q Okay. And you were working out of the Greenbelt office?

6 A Principally.

7 Q And for what years were you in the U.S. Attorney's Office in Greenbelt, the District of
8 Maryland?

9 A I believe that what I testified to earlier was that I was hired into the Department, my
10 recollection is, around February of 2013, and then my time in the Department concluded on a day in
11 January of 2025.

12 Q And how long were you in Greenbelt? Was Greenbelt your only office that you worked
13 in, in the District of Maryland, or were there other offices?

14 A I respectfully decline to respond for the reasons stated by my counsel.

15 Q When you were hired in February of 2013, who was the U.S. Attorney for the District of
16 Maryland?

17 A When I was hired and began duty in February of 2013, the United States Attorney for
18 the District of Maryland was Rod Rosenstein.

19 Q And who succeeded Mr. Rosenstein as the U.S. Attorney in the District of Maryland
20 while you were in the office?

21 Mr. Burton. You're not going to back into other questions this way.

22 I'll instruct you to assert.

23 The Witness. I respectfully decline to respond for the reasons stated by my counsel?

24 Mr. [REDACTED] Okay. I mean, I'm not trying to -- Mr. Burton, I'm not -- you know, I'm not
25 trying to -- I'm trying to understand the contours of this assertion. I mean, identifying who the U.S.

- 1 Attorney was in the District of Maryland I don't think is a question that ought to invoke the Fifth
- 2 Amendment when he said that he can talk about things up until his -- you know, he left Greenbelt.

1 [11:12 a.m.]

2 Mr. Burton. I appreciate your perspective on the issue. You're mostly reading passages
3 from a voluntary separate proceeding earlier this year, and he's going to give you the same answers,
4 Mr. Castor.

5 Mr. [REDACTED]. Can you tell us who the U.S. attorney was in the District of Maryland in 2021
6 before you moved to the D.C. U.S. Attorney's Office?

7 Mr. Burton. Objection, same instruction.

8 The Witness. I respectfully decline to respond for the reasons stated by my counsel.

9 BY [REDACTED]

10 Q Who is Steven D'Antuono?

11 A I respectfully decline to respond for the reasons stated by my counsel.

12 Q Have you had any communications with reporters for The Washington Post?

13 A I respectfully decline to respond for the reasons stated by my counsel.

14 Q Have you had any communications with reporters for other news outlets?

15 A I respectfully decline to respond for the reasons stated by my counsel.

16 Mr. [REDACTED] With that, we'll conclude our second round. Go off the record.

17 [Discussion off the record.]

18 Mr. [REDACTED] Let's go back on the record and conclude it. Go back on the record.

19 Mr. Windom is declining to answer virtually all the questions we're propounding here today,
20 except for one question about working in the Greenbelt office of the U.S. Attorney's Office of the
21 District of Maryland. He's asserted the Fifth Amendment as a reason not to answer our questions.
22 With that, we are going to conclude today's deposition. Thank you for being here today.

23 Mr. [REDACTED] [REDACTED] I believe there were several objections made. I would defer to
24 counsel, but my understanding is that there were several bases made, including the Fifth
25 Amendment.

1 Mr. Burton. Yes. I just wanted to put on the record, again, as counsel for the majority
2 noted, we provided objections based on several bases for the questions being improper, and all of
3 them, including his right to silence, on the basis for our instruction.

4 Ms. Crockett. I'll add that while the majority may not agree with counsel and the witness,
5 just so that we are clear on the record about the current political environment that we find ourselves
6 in, we just saw just less than a week ago, only a few days ago, that James Comey was indicted and
7 was indicted for lying to Congress.

8 By all accounts, this is a weak case that looks like an overly aggressive and rogue government
9 going after anyone who is a perceived enemy. Perceived enemies have been laid out, as it relates
10 to this President, as anyone who was actually following the law and doing what they were instructed
11 to do, which was to follow evidence. And so anyone that was engaged in any investigations has
12 now been targeted.

13 We know that, besides Comey, that there has been a raid on someone's home who was
14 perceived as a political enemy. We know that the President just ordered the firing of a U.S.
15 attorney who refused to indict Letitia James, who he perceives to be a political enemy.

16 So as far as I'm concerned, as the majority has gone through this process, they are simply
17 seeking out a list of enemies to go after, because it seems like this Department of Justice, this
18 Attorney General are not interested in seeking and following their oath, which is to seek justice, not
19 convictions.

20 And so I appreciate the difference in opinions as relates to which privileges should be
21 recognized or acknowledged, but I do appreciate what counsel has instructed his witness to do
22 simply because we know that, unfortunately, the law has been twisted in a perverse way in which we
23 are not used to seeing.

24 Mr. Burton. Thank you.

25 I was just going to ask, I have a copy to enter as an exhibit, which I believe would be 8, just of

1 the statement that I read at the outset. I don't know who I tender that to for these purposes.

2 Thank you, Congresswoman.

3 [Windom Exhibit No. 8

4 was marked for identification.]

5 Mr. [REDACTED] We'll go off the record.

6 [Whereupon, at 11:19 a.m., the deposition was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date