

EXHIBIT 1

The Oversight Project



SENT VIA: FOI STAR

November 6, 2024

Douglas Hibbard
Chief, Initial Request Staff
Office of Information Policy
Department of Justice
6th Floor
441 G Street, N.W.
Washington, D.C. 20530

Re: Records related to Special Counsel Jack Smith's Office

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Justice (DOJ), 28 C.F.R. § 16 *et seq.*, I respectfully request the following records regarding all personnel working parttime or fulltime for Special Counsel Jack Smith, including Jack Smith.

All records related to software, hardware, or file storage updates, upgrades, modifications, or other changes, including deletion. Additionally, all records produced in the process of making such changes

All records referencing the terms "Federal Records", "FRA", "retention", "retain" "delete" "deletion" "dispose" "disposal" "burn" "burned" "destroy" , "archive" "archivist" and any communications referencing to federal law related to document retention included but not limited to Title 44 of the US code, Chapter 33, Sections §3301 - §3314.

To further narrow down the scope of the request, requester does not seek correspondence that merely forwards press clippings, such as news accounts or opinion pieces, newsletters, and published or docketed materials, if that correspondence has no comment or no substantive comment added by any party in the thread.

The term "the Superseding Indictment" is defined as the Superseding Indictment filed in *United States v. Donald J. Trump*, No. 23-cr-257 (TSC) (ECF No. 226).

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The term “[t]he Department” is defined as broadly per statute and reach any office listed on the Department’s operative organization chart. *See* <https://www.justice.gov/d9/2023-09/DOJ%20-%20AG%20signed%20%20Approved%2008.17.2023.pdf>

The terms “pertaining to,” “referring,” “relating,” or “concerning” with respect to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term. By definition a “communication” (as that term is defined herein) is also a “record” if the means of communication is any written, recorded, or graphic matter of any sort whatsoever, regardless of how recorded, and whether original or copy.

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The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” should each be construed as ‘encompassing any and all. The singular includes the plural number, and vice versa. The present tense includes the past and vice versa. The masculine includes the feminine and neuter genders.

The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), text message, MMS or SMS message, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise.

“Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.

Please consider all members of a document “family” to be responsive to the request if any single “member” of that “family” is responsive, regardless of whether the “family member” in question is “parent” or “child.”

In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. If access to this request will take longer than twenty business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the below email address.

Please comply fully with 5 U.S.C. § 552(b). Accordingly, without limitation to the foregoing, if any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies. Moreover, to the extent that responsive records may be withheld in part

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produce all reasonably segregable portions of those records. Additionally, please provide all responsive documents even if they are redacted in full.

Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's commercial interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,¹ broadcast media² (traditional and nontraditional) and press releases.³ The requested information is in the public interest because there are serious questions as to whether the Superseding Indictment Jack Smith violated the Department's Justice Manual § 9-85.500 or other Department of Justice Policy by interfering in an election.

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the Daily Signal⁴ (a major news outlet⁵), I actively gather information of potential interest to our Daily Signal audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts⁶ or articles. I also post our distinct work on our Oversight Project social media page.⁷ By function, the Oversight Project is primarily engaged in disseminating information to the public. Staff members for the Oversight Project regularly appear in television, radio, print, and other forms of media to provide expert

¹ Heritage Foundation on X. [@Heritage] (Accessed: 2024, June 25). 698.2K followers. <https://twitter.com/Heritage>

² Fox News. (Accessed: 2024, June 25). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

³ Heritage Foundation. (Accessed: 2024, June 25). Press. <https://www.heritage.org/press>.

⁴ Daily Signal. (Accessed: 2024, June 25). Mike Howell. <https://www.dailysignal.com/author/mike-howell/>

⁵ Daily Signal on X. [@DailySignal] (Accessed: 2024, June 25). 87.8K Followers. <https://twitter.com/DailySignal>

⁶ Apple. (Accessed: 2024, June 25). The Daily Signal Podcast. <https://podcasts.apple.com/us/podcast/the-daily-signal-podcast/id1313611947>

⁷ Oversight Project on X. [@OversightPR] (Accessed: 2024, June 25). 25.2K Followers. <https://twitter.com/oversightpr>

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commentary on salient issues in the national debate. I request that you waive all applicable fees associated with this request.

If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at oversightproject@heritage.org.

Sincerely,

Mike Howell
Director and Investigative Columnist at The
Daily Signal
The Heritage Foundation
214 Massachusetts Ave, NE
Washington, D.C. 20002