

Congress of the United States

Washington, DC 20515

October 17, 2025

VIA ELECTRONIC TRANSMISSION

The Honorable Pam Bondi
Attorney General of the United States
United States Department of Justice
Washington, D.C. 20530

Dear Attorney General Bondi:

We write today following last week's deeply disturbing revelations that the Biden Department of Justice (DOJ) spied on duly elected members of Congress, specifically seeking and ultimately obtaining "tolling data" from cell phones as part of its corrupt, politically motivated Arctic Frost investigation. It is clear to us that this invasion of our privacy was nothing more than a fishing expedition geared toward targeting President Trump. For the reasons outlined below, we request that you immediately refer Jack Smith to the Department's Office of Professional Responsibility (OPR).

As part of Jack Smith's weaponized witch hunt, the Biden DOJ issued subpoenas to several telecommunications companies in 2023 regarding our cell phone records, gaining access to the time, recipient, duration, and location of calls placed on our devices from January 4, 2021, to January 7, 2021. We have yet to learn of *any legal predicate* for the Biden Department of Justice issuing subpoenas to obtain these cell phone records.

While we await further details on these troubling revelations as DOJ and the FBI continue to investigate, one thing is clear: Jack Smith was a rogue Special Counsel who, based on his conduct in the Arctic Frost matter, would do anything to stop President Trump—including taking concerted steps to spy on duly elected members of Congress. In the United States, one of the fundamental principles of our constitutional republic is the concept of separation of powers. By infringing on our constitutional rights and obligations as elected federal officials, Jack Smith and his team of prosecutors trampled on this separation of powers principle that underlies our system of government. This is especially true given the invasion of our privacy was directly connected to our core legislative functions protected by the Speech or Debate Clause of our Constitution.¹

In addition to these constitutional concerns, we believe that Jack Smith engaged in serious prosecutorial misconduct. Without any sufficient rationale or cause, Jack Smith's team used a federal grand jury subpoena to obtain the phone records of sitting United States Senators and a Member of the House of Representatives. To the best we can tell, Smith's team went on this fishing

¹ See U.S. CONST. art. I, § 6, cl. 1 ("The Senators and Representatives . . . shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.").

expedition for one simple reason: we are Republicans who support President Trump. And, as noted above, we have no knowledge of any predicate that underlies this invasion of our privacy.

To that end, upon the Senate Judiciary Committee and Senate Homeland Security Permanent Subcommittee on Investigations receiving all documents and records in this matter, we urge you to refer Jack Smith—and any of his prosecutors who assisted with the issuance of these subpoenas to the nine members of Congress—to the Department’s Office of Professional Responsibility. As you know, the mission of OPR “is to ensure that Department attorneys perform their duties in accordance with the highest professional standards, as would be expected of the nation’s principal law enforcement agency.”² From the information we already know, it is clear that Jack Smith’s conduct fell far below these “highest professional standards.”

Smith is licensed to practice law in both Tennessee and New York and, in both jurisdictions, the Rules of Professional Conduct strictly prohibit a lawyer from using “means that have no substantial purpose other than to embarrass, delay, or burden a third person or knowingly use methods of obtaining evidence that violate the legal rights of such a person.”³ It is blatantly clear that, by seeking these phone records without our knowledge and consent and without any known legal predicate, the Special Counsel has violated this provision of the Rules of Professional Conduct that is intended to prevent precisely the type of conduct that occurred in this matter.

Upon completion of OPR’s investigation of Jack Smith, we urge you to promptly refer the findings of your inquiry to both the Tennessee Board of Professional Responsibility and the relevant New York Attorney Grievance Committee. We firmly believe that, upon examination of OPR’s findings, these state entities should consider all options in holding Smith accountable for this misconduct—including disbarment. The conduct that Jack Smith and his team engaged in harkens back to a dark chapter in American history that we have not seen since the days of J. Edgar Hoover, and the completely corrupt investigation and prosecution by the FBI and DOJ of the late Senator Ted Stevens of Alaska. We must ensure that we never return to these disgraceful eras.

Thank you for your attention to this urgent matter and for your continued work to root out the two-tiered system of justice that operated for far too long in the Department of Justice.

Sincerely,



Marsha Blackburn
United States Senator



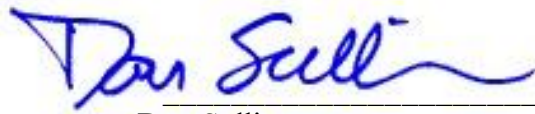
Lindsey O. Graham
United States Senator

² *About OPR*, DOJ: Off. Pro. Resp. (Feb. 8, 2023), <https://www.justice.gov/opr/about-opr>.

³ Tenn. Sup. Ct. R. 8, RPC 4.4; N.Y. Comp. Codes R. & Regs. tit. 22, § 1200.4.4 (2017).



Tommy Tuberville
United States Senator



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Mike Kelly
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