U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

November 13, 2026

Mike Howell
Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
oversightproject@heritage.org

Re: FOIA-2025-00389
25-cv-220 (D.D.C.)
VRB:JMS:LCH

Dear Mike Howell:

This is a fifth and final response to your Freedom of Information Act (FOIA) request dated and received in this Office on November 6, 2024, in which you requested records concerning the retention of federal records associated with the investigation of Special Counsel Jack Smith.

This Office previously provided you with four interim responses, most recently on October 14, 2026. I have determined that an additional forty-two pages containing records responsive to your request are appropriate for release, with certain information withheld pursuant to Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6) and (b)(7)(C), and copies are enclosed. Additionally, 223 pages are being withheld in full pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 U.S.C. § 552(b)(5), (b)(6), and (b)(7)(C). Exemption 5 pertains to certain inter- and intra- agency communications protected by civil discovery privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Exemption 7(C) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Brett Covington of the United States Attorney's Office for the District of Columbia at (202) 252-0888.

Sincerely,

Vanessa R. Brinkmann
Senior Counsel

Enclosures

DO NOT DISPOSE OF PRINT PAGES IN RECYCLING OR TRASH

SHRED NON RECORD

Examples:

Print Cover Pages, like this one.

Print outs of electronic records in our collection without substantive notation.

Print outs from research without substantive notation.

U.S. Department of Justice

Special Counsel's Office

MEMORANDUM FOR DEPUTY SPECIAL COUNSEL COONEY

FROM: [redacted]
Special Counsel's Office Smith Records Officer

SUBJECT: Factory reset of a Department iPhone

PURPOSE: To detail the circumstances, and outcome of the factory reset of a Special Counsel's Office (SCO) Smith iPhone for Paralegal [redacted].

EXECUTIVE SUMMARY: [redacted], a SCO Smith paralegal, locked herself out of her SCO issued iPhone. She requested SCO Smith Administrative Officer [redacted] help get her iPhone unlocked. [redacted] engaged the Office of the Chief Information Officer (OCIO) mobility team member Gary Murphy, who provided directions on resetting the iPhone to factory default settings. SCO Smith Records Officer [redacted] acted to recover any federal records.

DETAILS: On December 15, 2024, SCO Smith Paralegal [redacted] entered her password into her iPhone, asset tag A089869, eight times incorrectly. This is the maximum limit for entering the wrong password after which the iPhone locks and requires a factory reset be performed for continued use. [redacted] normally uses facial recognition to open her iPhone, but the battery had discharged fully and upon recharge and first use iPhones require the entry of the password. [redacted] was attempting to set up for a work call while working on her laptop and did not realize she was exceeding the attempts limit. [redacted] was sure she had the right code on the eighth try. She did not and the iPhone was permanently locked. (Note: personnel are informed when they receive their iPhone to not exceed five tries before contacting OCIO for a password reset. This would not have worked in this instance as the iPhone requires the user's password upon first use after a restart).

On December 16, 2024, [redacted] met with SCO Smith Administrative Officer [redacted] for help with unlocking the iPhone. [redacted] provided the iPhone to [redacted] who took it to the IT help desk in an effort to find a way to return the iPhone to normal use with all data intact. Help desk technician Freud Cyprien communicated with Gary Murphy from OCIO mobility services who provided that based on the screen visible on the iPhone it would require a factory reset. [redacted] asked Gary to communicate directly with [redacted] and returned the iPhone to [redacted]. [redacted] posted for tracking purposes a request for help in the SCO Smith OCIO Teams chat, which is monitored by various OCIO individuals for the purpose of quickly responding to SCO Smith requests. Gary Murphy contacted [redacted] via email with

instructions on the set up for her iPhone and a subsequent link via Teams to set up PIVD. [redacted] followed these directions, and the iPhone was returned to normal use.

In the morning of December 17, 2024, [redacted] saw that [redacted] had posted the issue in the OCIO Teams chat and questioned [redacted] on the circumstances; receiving a general description of what happened. [redacted] met with [redacted] to discuss the incident and specifically to assess if it was necessary to recover any unique federal records in the form of text messages, photos, notes or any records unique to the iPhone (in contrast to records in apps retained on external servers like Outlook and Teams). [redacted] provided generally that she did not use text and did not have any texts on her iPhone other than spam. She had one photo which was taken of a white board and emailed to an attorney and did not use notes, reminders or any other applications with records unique to the iPhone. [redacted] briefed the Deputy Special Counsel [redacted] at this time, providing these details and [redacted]'s intention to contact OCIO mobility services for further clarification regarding data on the iPhones, and to brief the director of the Office of Records Management Policy, Lawrence Brewer, who is responsible for making determinations on any departmental reporting of any inadvertent loss of a federal record.

In the afternoon of December 17, 2024, [redacted] spoke with Gary Murphy, who provided that after a factory reset the iPhone data is not retained on either the iPhone, with the carrier (AT&T) or with OCIO. Mr. Murphy provided in a subsequent conversation on December 18, 2024, that the limit to incorrect password entry is eight times, with a delay of one minute at try five, five minutes at try six, and fifteen minutes at try seven. [redacted] briefed Lawrence Brewer, Director ORMP, on the general details of the incident. Brewer requested [redacted] submit a memo with the incident details.

In the morning of December 18, 2024, [redacted] reviewed current text records retained for all former SCO personnel, reviewed the iPhones for all current paralegals and CDI team attorneys [redacted] and [redacted], and found no text chains with [redacted] A review was also done of all current administrative staff and [redacted] found one text chain from May 10, 2024, which [redacted] initiated, to which [redacted] responded; it was administrative in nature. This chain resides in [redacted]'s iPhone and will be collected for inclusion in [redacted]'s records. [redacted] discussed the one text with [redacted] which she did recall receiving amongst the spam texts, but reiterated she did not send texts and did not recall receiving any others. She was asked if she would have received or sent any work-related texts to entities outside the office, such as outside counsel, FBI or NARA personnel or any other service. She responded she did not. In an effort to reclaim any federal records, [redacted] obtained the [redacted] email with the white board photo and added the photo to [redacted]'s out processing folder for her iPhone.

Midday on December 18, 2024, [redacted] further briefed [redacted] who then briefed the Special Counsel. [redacted] joined a subsequent briefing with the Special Counsel and received direction to write a detailed report and obtain [redacted]'s iPhone in case data recovery using FBI resources was an option; all in conjunction with referring the matter to the Office of the Inspector General (OIG).

CONCLUSION: All available steps internal to the Department have been taken to assess what records, if any, existed uniquely on [redacted]'s iPhone. [redacted]'s review shows little likelihood of the presence of a unique federal record prior to the factory reset. A memo will be provided to ORMP for the director to determine if the incident fulfils the requirement for reporting to the National Archives and Records Administration. The deputy special counsel will refer this matter to the OIG.

ATTACHMENTS:

[redacted] email from OCIO for her Airwatch Enrollment

OCIO Teams Chat Post

From: (b) (6), (b) (7)(C)
To: (b) (6), (b) (7)(C)
Subject: FW: Airwatch iPhone Enrollment
Date: Wednesday, December 18, 2024 5:22:49 PM

Hi (b) (6), (b),

This is the link that Gary L. Murphy sent me to set up my phone. He also sent me the following link via Teams at 3:11 pm:

https://feddcs.managed.entrust.com/IdentityGuardSelfService/authenticate/firstFactorAuthentication;jsessionid=BA0292449790C485525497306CD18173

Best Regards,

(b) (6), (b) (7)(C)

From: DOJ Mobile Device Management <(b) (6)>
Sent: Monday, December 16, 2024 3:12 PM
To: (b) (6), (b) (7)(C)
Subject: Airwatch iPhone Enrollment

(b) (6), (b), your JMD device has been approved for mobile enrollment. After you receive your device in the mail, charge the device and follow the instructions contained in the box. Enter the Enrollment Token at the Remote Managementscreen into both the username and password fields. Your unique credentials are below:

Your Enrollment Token is: **NR2PJ3**
The token will expire in 30 calendar days.
Airwatch Device Enrollment - 12/16/2024

Open the **Hub app** and accept all terms and conditions when your device opens to the Home Screen. After completion it will be safe to enter your organization information.

If your New AT&T iPhone was powered on before this emailwas received and read, please go through all the prompts and skip the steps toget to the home screen to wipe the device. Once you get to where you areasked to enter the Apple ID, please skip over that step by selecting Forgotpassword>Enter Apple ID later in settings. Once you are at the home screen, you willneed to wipe the phone. To wipe your iPhone, you will need to do the following:

1.) Go to settings

2.) Then General

3.) Scroll down toResets

4.) Erase All Contentsand Settings

Once you completed the aboveprocess, please power the phone off and back on. Then start setting up your NewAT&T iPhone again.

Please contact your IT helpdesk if you have anyquestions:
(b) (6)

(b) (6), (b) (7)(C) Monday 1:14 PM

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) needs assistance with iPhone. She accidently wiped it and needs assistance getting her phone set up again this afternoon. She is available via teams.

👍 1

Alston, Keith (JMD) Monday 1:26 PM

(b)(6) per JMD

(b) (6), (b) (7)(C) we will have someone from our Mobility team follow up with (b) (6), (b) (7)(C)

Murphy, Gary L. (JMD) Monday 1:30 PM

(b)(6) per JMD

I will be available to assist shortly

Records and Information Management

SPECIAL COUNSEL'S OFFICE
SPECIAL COUNSEL JOHN L. SMITH
MARCH 2023

1

(b) (6), (b)

Hello and welcome to the SCO Smith 2023 Records and Information Management Training. We are your records officers, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). Thank you for joining us in the effort to avoid the irony of being investigated for the improper handling of federal records while investigating someone for the improper handling of federal records.

Agenda

1. Legal authority
2. Types of Records
3. Categories of Records to keep
4. Why we bother
5. How we bother
6. More bother
7. Helpful resources

2

(b) (6), (b) (7)(C)

We will introduce you to the legal authority that makes Special Counsel's Office records special outside of just the name.
We are going to discuss the major types of records being created in this office and when and when not to use a shredder with them.
We will identify the categories of data we will be capturing, some of which may be a surprise.
We will provide a quick background on the Records Management beyond the mission.
We will remind you of the policy driven retention requirements.
We will take a moment to provide some targeted guidance which will hopefully answer many of your unasked questions.
Finally you will get a few resources to take along, keeping in mind, (b) (6), (b) (7)(C) and (b) (6), (b) should be your first stop for any records related questions.

Let's get to it.

SCO Records Schedule

Records retention schedule - DAA-0060-2017-0034 found at this link: Department of Justice Special Collections (archives.gov)

SCO records are scheduled as a discrete permanent records collection with a 25 year retention.

Administrative records responsive to the General Records Schedule will be retained for a shorter period.

3

(b) (6), (b)

All records in the executive are required to have a specific legal authority, called a disposition authority, to provide the related agency with guidance on what it can do with a record once it has met its operational need. Disposition authorities are approved by the National Archives and Records Administration, having been submitted by the originating agency. A disposition authority is the determining factor in whether a record is destroyed or transferred to the Archives after a retention period of maintenance by the originating agency.

SCO records are responsive to the disposition authority in the records schedule DAA-0060-2017-0034 Dept. of Justice Special Collections. Once the SCO finishes its mission, the records created here will remain with DOJ for 25 years at which time they will be eligible for a disposition review and possible transfer to the Archives.

The administrative records the office creates are responsive to various disposition authorities encompassed in NARA's General Records Schedule. These authorities make most, though not all, of our administrative records temporary, generally with a retention of some time less than 6 years. Certain administrative records are permanent and will

join the mission related records at the Archives.

What is a Federal Record?

Any recorded information, regardless of form, made or received by a Federal agency in connection with public business that is evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the agency.

44 U.S.C. § 3301

Note: Shredders are for non-record use only

4

(b) (6), (b) (7)(C)

Federal records are defined under 44 USC 3301. It is a broadly worded description and generally raises questions regarding what constitutes a record based on characteristics. It is always best to ere on the side of caution and don't hesitate to ask (b) (6), (b) (7)(C) or I whether a data set or document is a record.

At no point should a federal record in the SCO collection find its way to a shredder or other form of destruction.

What is a Non-Record?

Non-record and personal records fall outside of the definition of a federal record.
Examples of non-record material:

- Copies without substantive notes
- Drafts advising syntactical changes only
- Printouts of electronic records retained in our recordkeeping system

Note: Shredders are for non-record use only

5

(b) (6), (b)

Many of you have already begun collecting non-record material in boxes, file drawers, shelves or on your floor. The key to identifying non-record is to be able to identify the official record. Our official recordkeeping is done mostly digitally either on the CDI SharePoint site or the Elections folder in the T:drive. We have a much smaller footprint of hardcopy, some of which is stored with the paralegals, some in the SCIF, or with the originator. If a copy or print-out is of a digital document which resides in our recordkeeping system, then that is non-record, often referred to as a reference copy or convenience copy. Feel free to dispose of these when no longer needed.

Non-record takes on new life as a record when substantively notated. Examples include a hard copy draft where a decision noted or a print-out of a briefing with actions written to be taken. These become new records which will either be placed in the recordkeeping system or retained locally in your collection.

A few good examples of non-substantive are highlighting, underlining, tabbing or syntactical only draft suggestions.

Feel free to shred non-record. Do it on your Friday. It can be quite cathartic.

What is a Personal Record?

Personal records are documents private to the individual, which are not used to conduct agency business.

- Personal copies of administrative records pertaining to employment are also personal papers.
- Personal papers must be clearly designated as such and maintained separately from the records of the office.

Follow DOJ policy in respect to personal data and the use of DOJ issued devices.

6

(b) (6), (b) (7)(C)

Personal is simply not business. Your copy of an administrative record specific to you is your personal record. It includes your copies of books and periodicals; and pictures of family and friends. All of these should be kept separate from operational records. Please take them with you when we conclude the business at hand.

DO NOT USE DOJ RESOURCES TO COMMUNICATE YOUR PERSONAL…Well…anything. Not through your phone, not through your laptop; not the fax machine.

Records to be Captured

- All mission related operational records regardless of format, medium, classification, or location will be retained
- All emails and chats
- All iPhone data including texts
- All individual hard copy collections (e.g., handwritten notes and notated print-outs)

7

(b) (6), (b)

Why so cautious? Because DOJ will capture all the mission related and administrative records regardless of location or format. We will collect all your Alias account information; emails, calendars and chats. We will review your laptops and iPhones, pulling all data to retain in the SCO collection. We will collect your individual collection of hard copy. All will be retained for 25 years before being transferred to NARA.

All operational records should be captured in either the related investigation's SharePoint site or in the appropriate T:drive folder. Drafts should be retained in work folders in those locations or draft folders in your OneDrive. Investigative hard copy should be retained by the paralegals, organized in a way useful to the investigation.

Your own hard copy, like handwritten meeting notes and substantively annotated print outs should be retained locally in a fashion which makes the collection useful to you while using a naming convention which makes that structure useful to others.

Management of Full Lifecycle

Management means ensuring authenticity, protection, and ready accessibility for records for use over the full lifecycle of the records from start through full retention to accession – for both primary and secondary uses

Examples of secondary use include:

- Other related Department of Justice matters, or referrals such as investigations, indictments, litigation with common interest in the same materials
- FOIA requests (OIP)
- Ediscovery requests (coming from other DOJ components)
- Congressional requests (OLA)

8

(b) (6), (b)

Once SCO SMITH concludes its business there is a continuation of maintenance of the information for use with other investigations, Freedom of Information Act requests, likely follow on litigations, Ediscovery for other DOJ components and various requests for information, most notably those from Congress. As such, part of our mission is making sure the record collection we create is complete and readily accessible across the entire lifecycle of the records, with DOJ and eventually with NARA.

Conducting SCO Official Business

Staff may use only approved DOJ SCO devices, systems, and accounts to conduct official SCO business (with limited exceptions).

Department business conducted on a personal account, device, or system, must be transferred into a DOJ recordkeeping system within 20-days.

44 U.S.C. § 2911(a)(2) and DOJ Policy Statement 0801.04
https://portal.doj.gov/sites/dm/dm/Directives/0801.04.pdf

9

(b) (6), (b) (7)(C)

Please use the equipment and systems provided by SCO to accomplish the mission. All records generated outside of that equipment or systems needs to find its way into our systems within 20 days of creation or capture.

Additional Guidance

- Do not delete any email related to your work with Special Counsel's Office
- Limit text messages to non-record or logistical information
- Do not delete any text messages except for SPAM
- Do not throw ANY paper with any text into refuse or recycling receptacles
- Shredders are for non-record use only
- Store hard copy using obvious naming conventions and dates
- Be mindful when printing

10

(b) (6), (b)

Feel free to delete spam or personal emails.

Texts are for coordinating; not operational decision making.

All texts will be captured from your iPhone when you out-process.

Do not throw away any paper. This is one of the areas where INFOSec crosses over with records management. Nothing printed should be recycled or thrown into the trash. Even printer test pages have your name on them. A good rule to follow is if it has text shred it.

…As long as the paper is none record.

If there is a form and function to your hard copy collection, please use an obvious naming convention to discern between meeting notes from document drafts. If there is not form and function and you are only retaining notes and substantive print-outs to be compliant with the requirement, then generally retain the hard copy in basic creation order so we can collect them and place them in redwalls when you out-process.

We are seeing more instances of abandoned print jobs. Please be wary of what printer you have chosen as your default. Know the location of the printer you are using. There is a printer location map on the SCO-S General SharePoint site.

Contacts and Resources

- (b) (6), (b) (7)(C) – Records Officer, SCO
  (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
- (b) (6), (b) (7)(C) – Records Officer, SCO
  (b) (6), (b) (7)(C), (b) (6), (b) (7)(C)

Policy and Guidance - SCO-S General - Home (sharepoint.us)

11

(b) (6), (b) (7)(C)

It is worth it to ask. The seemingly insignificant item often causes the most disruption.

Records and Information Management

SPECIAL COUNSEL'S OFFICE
SPECIAL COUNSEL JOHN L. SMITH
FEBRUARY 2024

1

Hello and welcome to the SCO Smith 2024 Records and Information Management Training. I am still your records officer, [redacted]. Thank you for joining me for year number two of 12 with SCO.

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2. Types of Records
3. Categories of Records to keep
4. Why we bother
5. How we bother
6. SCIF bother
7. Helpful resources

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I will remind you of the legal authority that makes Special Counsel's Office records special.
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I will reiterate the categories of data we are capturing.
I will provide an update on the Records Management beyond the mission.
I will remind you again of the policy driven retention requirements.
I will take a moment to provide some targeted guidance.
[redacted] will brief you on SCIFness
Finally I will reiterate a few resources to take along, keeping in mind, [redacted] should be your first stop for any records related questions.

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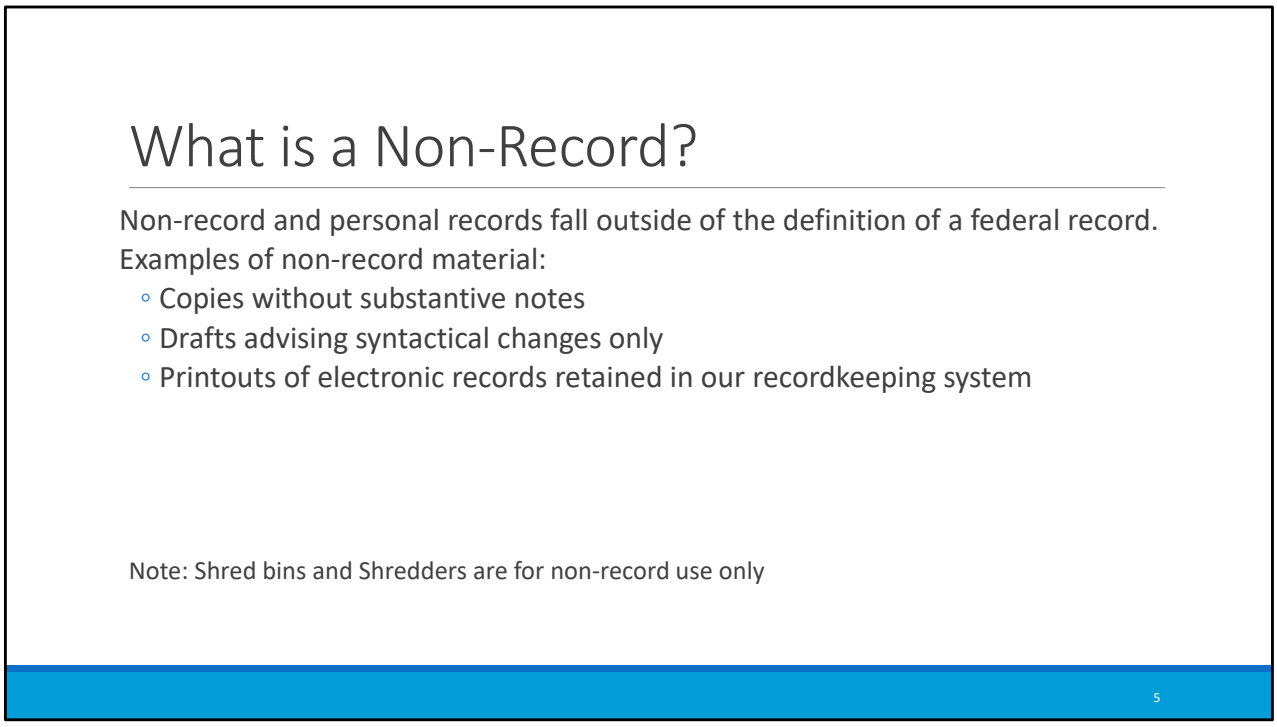

You have been collecting non-record material in boxes, file drawers, shelves or on your floor. The key to identifying non-record is to be able to identify the official record. Our official recordkeeping is done mostly digitally either on the CDI SharePoint site or folder on the T:drive or the Elections folder in the T:drive. We have a much smaller footprint of hardcopy, some of which is stored with the paralegals, some in the SCIF, or with the originator. If a copy or print-out is of a digital document which resides in our recordkeeping system, then that is non-record, often referred to as a reference copy or convenience copy. Feel free to dispose of these when no longer needed.

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A few good examples of non-substantive are highlighting, underlining, tabbing or syntactical only draft suggestions.

Feel free to drop non-record in one of the shred bins in the supply room or in the burn

bags in the SCIF.

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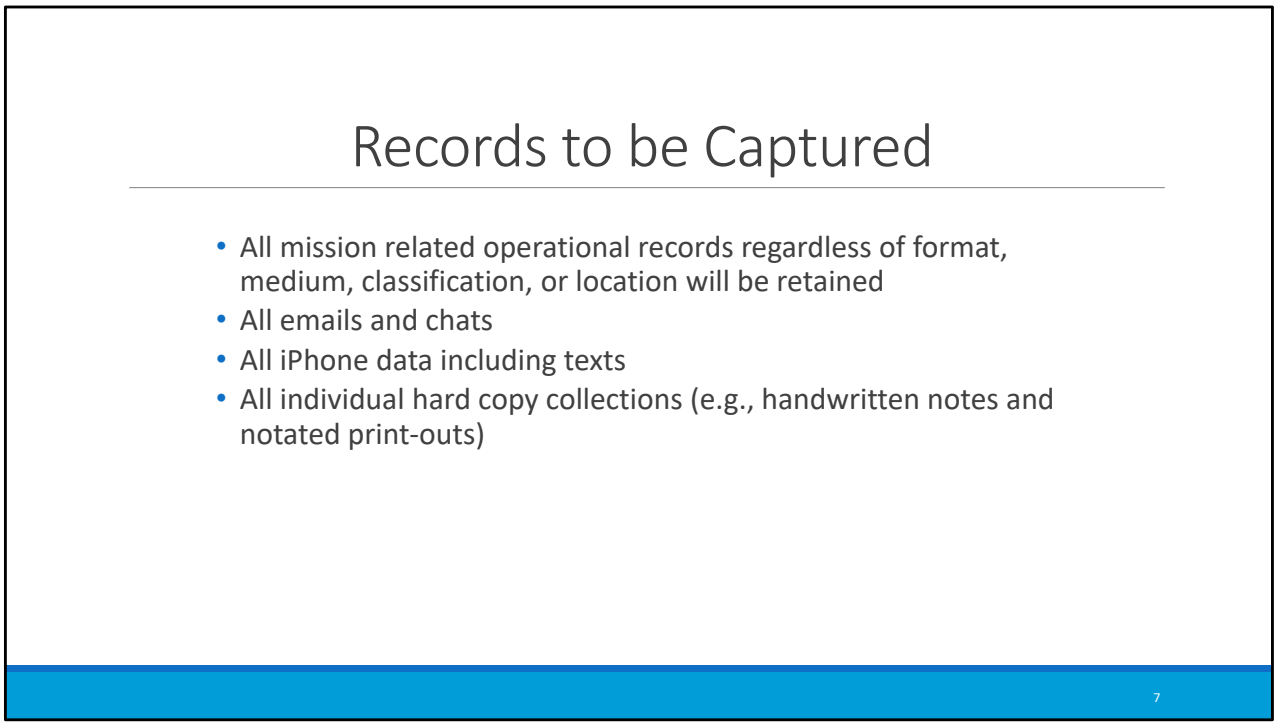

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Please use the equipment and systems provided by SCO to accomplish the mission. All records generated outside of that equipment or systems needs to find its way into our systems within 20 days of creation or capture.

Classified Document Control

SCIF Document Control protocols require additional layers of information management:

- Proper handling of open storage vs. closed storage documents
  - TS//SCI SI-G, TK, HCS-P Levels
  - Safe Use
  - Secure Laptop Use

Non-Record Classified Material

- Proper Disposition of classified information
  - Burn Bags / Safe / Shredder

Record Classified Material

- Proper archiving of classified notes

10

(b) (6), (b) (7)

Additional Guidance

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- (b) (6), (b) (7)(C) – Records Officer, SCO
  (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
- (b) (6), (b) (7)(C) – Security Programs Manager, SCO
  (b) (6), (b) (7)(C), (b) (6), (b) (7)(C)

Policy and Guidance - SCO-S General - Home (sharepoint.us)

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It is worth it to ask. The seemingly insignificant item often causes the most disruption.

Records and Information Management



SPECIAL COUNSEL'S OFFICE

SPECIAL COUNSEL JOHN L. SMITH

What is a Federal Record?

Any recorded information, regardless of form, made or received by a Federal agency in connection with public business that is evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the agency.

44 U.S.C. § 3301

SCO Records Schedule

Records retention schedule - DAA-0060-2017-0034 found at this link: Department of Justice Special Collections (archives.gov)

SCO records are scheduled as a discrete permanent records collection with a 25 year retention.

Capstone:

- Capstone is a records management approach that categorizes and schedules email and other records based on the work and/or position of the staff member – limited at this time to senior leadership and some of their subordinate staff
- Not related to SCO due to operational aspects

Management of Full Lifecycle

- Management means ensuring authenticity, protection, and ready accessibility for records for use over the full lifecycle of the records from start through full retention to accession – for both primary and secondary uses
- Examples of secondary use include:
  - Other related Department of Justice matters, or referrals such as investigations, indictments, litigation with common interest in the same materials
  - FOIA requests (OIP)
  - Ediscovery requests (coming from other DOJ components)
  - Congressional requests (OLA)

Classified Information, FOIA, Ediscovery, Privilege, etc.

- Records may be classified or protected from access for a variety of legally valid reasons that include classification, attorney-client or work product privileges, PII, or FOIA exemptions

- Status as a federal record does not affect levels of access control, requirements for production or protection related to classification, or other legal constraints and privileges.

Conducting Official Business

Staff may use only approved DOJ devices, systems, and accounts to conduct official business.

If you have captured information related to the business of the Department on a personal account, device, or system, you must transfer and capture that information into a DOJ recordkeeping system within 20-days.

44 U.S.C. § 2911(a)(2) and DOJ Policy Statement 0801.04
https://portal.doj.gov/sites/dm/dm/Directives/0801.04.pdf

Interim Guidance

Until otherwise advised by the Special Counsel Records Officer:

- Do not delete any email related to your work with Special Counsel's Office
- Limit text messages to non record or logistical information
- Do not delete any text messages until further notice
- Capture any information that you create or receive related to the business of the Special Counsel in your OneDrive

Contacts and Resources

- Jeanette Plante - Director, ORMP
  (b) (6)
- Blane Kauthen – Deputy Director, ORMP
  (b) (6)
- Policy and Guidance (Records Policy is the 800 series)
  https://dojnet.doj.gov/jmd/ormp/policy.php