

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

ETHAN NORDEAN,
also known as “Rufio Panman,”
JOSEPH BIGGS,
ZACHARY REHL, and
CHARLES DONOHOE,

Defendants.

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Case No. 21-CR-175 (TJK)

GOVERNMENT’S NOTICE REGARDING DISCOVERY CORRESPONDENCE

The United States of America, by and through undersigned counsel, respectfully submits this notice of its correspondence to defense counsel regarding discovery productions to date. Filed as attachments to this notice are letters to counsel, some of which contain limited redactions to protect personal information or matters under seal. The letters are identified in the following chart, which includes the number of the attachment as well as the date and recipient(s) of the correspondence.

Attachment	Date	Recipient(s)
1	4/21/2021	Counsel for All Defendants
2	4/30/2021	Counsel for Defendant Nordean
3	5/5/2021	Counsel for Defendant Rehl
4	5/19/2021	Counsel for Defendant Nordean
5	6/2/2021	Counsel for All Defendants
6	6/2/2021	Counsel for Defendant Nordean
7	6/2/2021	Counsel for Defendant Biggs
8	6/2/2021	Counsel for Defendant Rehl
9	6/2/2021	Counsel for Defendant Donohoe
10	6/3/2021	Counsel for Defendants Biggs, Rehl, and Donohoe
11	6/3/2021	Counsel for Defendant Rehl
12	7/1/2021	Counsel for Defendant Nordean
13	7/2/2021	Counsel for Defendants Biggs, Rehl, and Donohoe
14	7/2/2021	Counsel for Defendant Nordean
15	7/6/2021	Counsel for All Defendants
16	7/6/2021	Counsel for Defendant Nordean
17	7/7/2021	Counsel for All Defendants
18	7/7/2021	Counsel for All Defendants
19	7/9/2021	Counsel for All Defendants
20	7/13/2021	Counsel for All Defendants
21	7/13/2021	Counsel for All Defendants
22	7/14/2021	Counsel for All Defendants

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney
DC Bar No. 415793

By: /s/ Luke M. Jones
LUKE M. JONES
VA Bar No. 75053
JASON B.A. MCCULLOUGH
D.C. Bar No. 998006; NY Bar No. 4544953
Assistant United States Attorneys
555 4th Street, N.W.
Washington, D.C. 20530
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Luke.Jones@usdoj.gov



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

April 21, 2021

By e-mail

Nicholas D. Smith (counsel for Ethan Nordean)
John Daniel Hull (counsel for Joseph Biggs)
Shaka Johnson (counsel for Zachary Rehl)
Lisa Costner (counsel for Charles Donohoe)

Re: United States v. Ethan Nordean et al., 1:21-cr-175 (TJK)
Capitol Tour

Dear Defense Counsel:

The U.S. Capitol Police have arranged five dates for crime scene tours of the Capitol. The tour dates and times are listed below:

- Monday, May 3rd at 9:00 a.m.
- Saturday, May 8th at 9:00 a.m.
- Sunday, May 9th at noon
- Monday, May 31st at 9:00 a.m.
- Saturday, June 5th at 5:00 p.m.

If you wish to participate in a tour, please email me at luke.jones@usdoj.gov **and** [REDACTED], and provide the following information:

- Names, phone numbers and email contact information for any counsel who will be participating in the tour.
- Case(s), Case number(s), and AUSA assigned to each case.
- Tour date selected.

The conditions of the U.S. Capitol Police for participating in the tour are as follows:

- The tours are restricted to **counsel**. You may not bring **any** guests, including investigators or paralegals.
- No cameras are permitted but if you would like photographs of specific areas, you will be able to submit your requests to the General Counsel for the U.S. Capitol Police after the tour.
- The tours will be led by officers and questions about the events of January 6 will not be permitted. If you have such questions, you may direct them to me.
- If you drive there, you will need to find your own parking.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

May 19, 2021

Via Fed Ex

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

Please find enclosed one thumb drive containing a forensic extraction of your client's phone. The password is the same as was provided previously.

We are providing this replacement drive because you have represented that you were unable to physically insert the first thumb drive into your computer. We understand that you were able to physically insert the drive into a separate computer. Please let us know if this replacement drive is more compatible with your particular equipment.

Upon opening the thumb drive, you will find two folders on the device. The folder titled "1B18_Cellebrite" contains the Cellebrite Reader and associated files. Within the "1B18_Cellebrite" folder, you will find a "CellebriteReader.exe" program file. That will launch the Cellebrite Reader. Due to the size of the extraction, it may take some time for the files to load into Cellebrite Reader.

1B18_Cellebrite	5/19/2021 10:45 AM	File folder
1B18_FullExtraction	5/19/2021 9:06 AM	File folder



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line 202-252-7233*

June 2, 2021

Via Email and Electronic File Transfer

Lisa Costner
952 West 4th Street
Suite 200
Winston Salem, NC 27101

J. Daniel Hull
Hull McGuire PC
888 Seventeenth Street, NW
Suite 1200
Washington, DC 20006

Shaka Johnson
Law Offices of Shaka Johnson, LLC
1333 Christian Street
Philadelphia, PA 19147

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this evening, the government produced a collection of videos that depict events at

and around the Capitol on January 6, 2021. The videos have been identified with Bates stamps CAPVID_00001 – 00056. An index of these videos has been provided in an attachment hereto. Please note that certain of these videos have been produced previously, and we have attempted to note such previous productions (and previous Bates stamps) where possible.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.

I. Government’s Discovery Requests

The government hereby makes a reverse discovery request pursuant to Fed. R. Crim. P. 16(b), including, but not limited to the following:

- (1) notice of documents and tangible objects the defendant expects to introduce;
- (2) a Jencks request for all prior statements of any defense witness (excluding the defendant);
- (3) a Lewis request (for which we request the name, date of birth, sex, and social security number of each defense witness prior to trial); and
- (4) a request for information pertaining to any expert or scientific testimony or evidence.

Pursuant to Fed. R. Crim. P. 16, the government notes its continuing request to receive any material pursuant to Rule 16(b) as the case proceeds.

II. Notice of Rule 404(b) Evidence

The government may seek to admit evidence pursuant to Federal Rule of Evidence 404(b). In the event that the government seeks to introduce such evidence at trial, an appropriate notice or motion will be filed.

III. Other Information (Brady / Lewis / Giglio)

The government is aware of its *Brady* or *Giglio* obligations. If such information does exist with respect to any confidential informant(s), it will be disclosed at the appropriate time. *Lewis* information for the government’s witnesses will be provided to you at the time of trial.

We understand that our discovery obligations are ongoing and intend to supplement our disclosures on a rolling basis. If you have any questions, please do not hesitate to contact us.

Please contact me should you have any questions or concerns.

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Capitol Video Production Index
(as of June 2, 2021)

Title	Bates	Description
ABQ Raw 31 Minute youtube.com watch v=YONAuAesjAY	CAPVID 00001	31:00 video showing scenes outside Capitol grounds, breach of First Street barricades, stairs near inauguration stage
ABQ Raw 9 minute youtube.com watch v=oYxKioXhve0	CAPVID_00002 21CR175_00001498	9:52 video showing breach of First Street barricades, breach of west plaza
ABQ Raw Anatomy of a Riot youtube.com	CAPVID_00003 21CR175_00001499	30:41 video showing scenes outside the Capitol grounds, breach of the First Street gate, breach of the west plaza, violence on the west plaza and the lower west terrace.
ABQ Raw People Storm the Capitol youtube.com	CAPVID 00004	18:24 video showing breach of the First Street barricades, breach of the west plaza, and violence on west plaza and lower west terrace
Banned-Video What REALLY Happen at the Capitol	CAPVID 00005	1:28:30 video showing scenes from the west plaza and lower west terrace
BG on the Ground - Trump Supporters Storm US Capitol in DC youtube.com	CAPVID 00006	1:35 video from upper west terrace, showing Dominic Pezzola breaking Capitol window with a riot shield
Block Video	CAPVID_00007 21CR175_00001497	1:40:41 video showing Proud Boy march
BREAKING_ Trump Supporters Breach Barriers and Storm Capitol	CAPVID 00008	1:25:40 video showing breach of First Street gate, breach of west plaza, violence on west plaza
Capitolhunters walking outside capitol twitter.com	CAPVID 00009	:10 video from the Capitol grounds, including Arthur Jackman
Channel 4 News Proud boys leader will continue to happen youtube	CAPVID 00010	10:10 video that aired on the BBC after the events of January 6. Features an interview with [REDACTED].
ElijahSchaffer Twitter assault on the barricades	CAPVID 00011	1:41 video showing breach of the First Street barricades
Hunting Insurrectionists Columbus Door Parler Videos youtube.com	CAPVID 00012	19:53 video that shows scenes on the east side of the Capitol, including the breach of the Columbus doors
Hunting Insurrectionists East Columbus Doors 1345 - 1645 youtube.com	CAPVID 00013	2:59:59 video that shows scenes from the east side of the Capitol from multiple angles, including the breach of the Columbus doors. Includes footage from inside the Capitol as well.

Title	Bates	Description
Hunting Insurrectionists Joe Biggs Timeline youtube.com	CAPVID 00014	12:09 video showing portions of the Proud Boys march from Washington Monument to the Capitol, the breach of the First Street barricades, the upper west terrace, and the Columbus doors
Hunting Insurrectionists youtube	CAPVID 00015	13:44 video showing Proud Boys near the food trucks, the breach of the First Street Barricades, multiple angles of the breach of the west plaza, video from the west plaza, and from the east side of the Capitol, including the breach of the Columbus doors
Hunting Insurrectionists Terrorist breach the West Barricades youtube.com	CAPVID 00016	24:43 video that shows multiple angles of the breach of the First Street barricades, the breach of the barricades outside the west plaza, and rioting on the west plaza
Hunting Insurrectionists Terrorist break into Capitol multiple angles youtube.com	CAPVID 00017	5:12 video featuring multiple videos showing the breach of the Capitol building on the west side and rioters' confrontation with Officer Eugene Goodman
Insurgence full video seige on Capitol youtube.com	CAPVID 00018	1:26:25 video, featuring footage from outside the Capitol grounds, the west plaza, the stairs under the Inauguration stage, the upper west terrace, and inside the Capitol
Miami Proudboy - MoSD brief youtube.mp4	CAPVID 00019	1:38:03 video from December 30, 2020, featuring ██████████, Joe Biggs, Zach Rehl, and others describe the Ministry of Self Defense
Nabert Biggs timeline twitter	CAPVID 00020	2:18 video from the west plaza with defendant Biggs circled in multiple shots.
Nabert BulgePB twitter.com	CAPVID 00021	1:00 video from outside on the Capitol grounds
Nigrotime Capitol Riots Raw Footage youtube.com	CAPVID 00022	42:56 video showing areas outside the Capitol grounds, the lower west plaza, the stairs under and around the inauguration stage, the east side of the Capitol, and inside the building
Nigrotime The US Capitol Breach as it happened youtube.com	CAPVID 00023	7:17 video showing scenes from the east side of the Capitol, including breach of the Columbus doors and inside the Capitol

Title	Bates	Description
Nine_niall Twitter subjects entering.mp4	CAPVID 00024	:33 video from the upper west terrace
Propublica Parler 1253 Near Capitol - Breaching Fence	CAPVID 00025	:29 video showing breach of fencing on First Street
Propublica Parler 1357 Near Capitol Barricades Being Removed	CAPVID 00026	2:20 video showing barricades breached on east side of Capitol
Propublica Parler 1406 Near Capitol Pushing Past Police Line	CAPVID 00027	:30 video from east side of Capitol
Propublica Parler 1411 Near Capitol Pushing up Scaffolding	CAPVID 00028	1:03 video from scaffolding under Inauguration stage
Propublica Parler 1412 Near Capitol Reaching Walls and Banging on Windows	CAPVID 00029	:29 video from upper west terrace
Propublica Parler 1413 Near Capitol - Radio	CAPVID 00030	1:54 video form west plaza
Propublica Parler 1413 Near Capitol - Windows	CAPVID 00031	:15 video showing breaking of Capitol window with riot shield
Propublica Parler 1414 Inside the Capitol	CAPVID 00032	:35 video showing rioters entering Capitol, including Biggs
Propublica Parler 1415 Inside the Capitol	CAPVID 00033	1:48 video showing rioters entering Capitol, including Biggs
Propublica Parler 1501 inside the Capitol	CAPVID 00034	:05 video from inside the Rotunda
Propublica Parler 1512 Inside the Capitol	CAPVID 00035	:50 video from inside the Capitol
realJamesKlug Twitter Klein brothers breach door	CAPVID 00036	1:00 video showing breach of Capitol door
realJamesKlug Twitter Klein brothers breach door part 2	CAPVID 00037	:38 video showing attempted breach of Capitol door
RFIRN Eastside Capitol Building youtube.com.	CAPVID 00038	1:07:59 video showing scenes from the east side of the Capitol, including breach of the Columbus doors
SRM Pro Trump Protestors Beat Police Officer youtube.com	CAPVID 00039	2:31 video including senes from the lower west terrace and tunnel entrance to the crypt.
SRM Scenes of Chaos outside US Capitol youtube.com	CAPVID 00040	29:22 video including scenes from the lower west terrace and tunnel entrance to the crypt.

Title	Bates	Description
The Sun Live Stream youtube.com.mp4	CAPVID 00041	1:59:24 video showing the east side of the Capitol, including Proud Boys march
washingtondc theellipse live irl LIVE in DC where Trump has called in the PATRIOTS	CAPVID_00042 21CR175 00001496	3:30:00 video showing scenes outside Capitol grounds, Proud Boys near the food trucks,
Video showing breach and Pezzola shield carry	CAPVID_00043 21CR175 00001495	1:21:17 video showing breach of First Street gate and entry onto Capitol grounds; Donohoe, Pezzola, and Greene at 33:19
IMG 9475.MOV	CAPVID 00044	0:01 video ()
IMG 9476.MOV	CAPVID 00045	0:56 video depicting pedestrian walkway ()
IMG 9477.MOV	CAPVID 00046	0:42 video depicting west plaza ()
IMG 9481.MOV	CAPVID 00047	0:18 video depicting west plaza ()
IMG 9483.MOV	CAPVID 00048	0:21 video depicting west plaza ()
IMG 9492.MOV	CAPVID 00049	0:42 video depicting west plaza ()
IMG 9495.MOV	CAPVID 00050	0:08 video depicting west plaza ()
IMG 9496.MOV	CAPVID 00051	0:58 video depicting west plaza ()
IMG 9508.MOV	CAPVID 00052	0:15 video depicting west side of Capitol lawn; Biggs selfie ()
IMG 9531.MOV	CAPVID 00053	0:09 video depicting east plaza ()
IMG 9573.MOV	CAPVID 00054	0:19 video depicting television coverage of vote count ()
4104714703243710000.mp4	CAPVID 00055	0:13 video depicting protestors entering grounds ()
camvideo 5702bda6.mp4	CAPVID 00056	0:06 video Biggs selfie at Washington Monument ()



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

June 2, 2021

Via Email and Electronic File Transfer

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from Mr. Nordean's case file maintained by the Federal Bureau of Investigation. Please note that the file names bear the titles as assigned by the FBI's electronic systems.

Please note that certain of the materials to be produced from the FBI's files have been designated Sensitive or Highly Sensitive under the Protective Order that we have proposed to you. Such files have not been included in today's production. As you know, we filed a motion for the entry of the Protective Order today, and we hope to resolve the issue soon so that discovery of all materials may continue.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

June 2, 2021

Via Email and Electronic File Transfer

J. Daniel Hull
Hull McGuire PC
888 Seventeenth Street, NW
Suite 1200
Washington, DC 20006

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from Mr. Biggs' case file maintained by the Federal Bureau of Investigation. Please note that the file names bear the titles as assigned by the FBI's electronic systems.

Please note that certain of the materials have been designated Sensitive under the Protective Order entered in this case. Such materials have been produced in a separate folder that is marked "Sensitive."

In addition, an index of the produced materials is included with the production. The index itself has been designated "Sensitive" under the Protective Order. The "titles" and "file names" that appear in the index are a reproduction of the information that exists in the FBI's electronic systems.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.



U.S. Department of Justice

Channing D. Phillips
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District of Columbia

*Jason B.A. McCullough
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Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

June 2, 2021

Via Email and Electronic File Transfer

Shaka Johnson
Law Offices of Shaka Johnson, LLC
1333 Christian Street
Philadelphia, PA 19147

Re: *United States v. Ethan Nordean et al*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from Mr. Rehl's case file maintained by the Federal Bureau of Investigation. Please note that the file names bear the titles as assigned by the FBI's electronic systems.

Please note that certain of the materials have been designated Sensitive under the Protective Order entered in this case. Such materials have been produced in a separate folder that is marked "Sensitive."

In addition, an index of the produced materials is included with the production. The index has been designated Sensitive under the Protective Order. The "titles" and "file names" that appear in the index are a reproduction of the information that exists in the FBI's electronic systems.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

June 2, 2021

Via Email and Electronic File Transfer

Lisa Costner
952 West 4th Street
Suite 200
Winston Salem, NC 27101

Re: *United States v. Ethan Nordean et al*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from Mr. Donohoe's case file maintained by the Federal Bureau of Investigation. Please note that the file names bear the titles as assigned by the FBI's electronic systems.

In addition, an index of the produced materials is included with the production. The index has been designated Sensitive under the Protective Order. The "titles" and "file names" that appear in the index are a reproduction of the information that exists in the FBI's electronic systems.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.

I. Government's Discovery Requests

The government hereby makes a reverse discovery request pursuant to Fed. R. Crim. P. 16(b), including, but not limited to the following:



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

June 3, 2021

Via Email and Electronic File Transfer

Lisa Costner
952 West 4th Street
Suite 200
Winston Salem, NC 27101

J. Daniel Hull
Hull McGuire PC
888 Seventeenth Street, NW
Suite 1200
Washington, DC 20006

Shaka Johnson
Law Offices of Shaka Johnson, LLC
1333 Christian Street
Philadelphia, PA 19147

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, today, the government produced via USAfx a collection of surveillance videos provided by the U.S. Capitol Police and repair estimates obtained from the Architect of the Capitol. Please note that the materials provided in this production have been designated Highly Sensitive under the Protective Order entered in this case. An index of the materials produced is included with the production.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

July 1, 2021

Via Email and Electronic File Transfer

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, today, the government made available via USAfx a collection of surveillance videos provided by the U.S. Capitol Police and repair estimates obtained from the Architect of the Capitol.

Please note that the materials provided in this production have been designated Highly Sensitive under the Interim Protective Order entered in this case. These materials were previously made available to counsel for your client's three co-defendants pursuant to the protective order in their cases. An index of the materials produced at that time is included with the production. You were provided a copy of the government's discovery letter that accompanied the government's earlier production.

Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.

Please contact me should you have any questions or concerns.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

July 2, 2021

Via Overnight Mail

Lisa Costner
952 West 4th Street
Suite 200
Winston Salem, NC 27101

J. Daniel Hull
Hull McGuire PC
1420 N Street NW
Washington, DC 20005

Shaka Johnson
Law Offices of Shaka Johnson, LLC
1333 Christian Street
Philadelphia, PA 19147

Re: *United States v. Ethan Nordean et al*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

Please find enclosed one Blu-ray containing seized materials from a cell phone recovered from defendant Ethan Nordean at the time of his arrest. **Due to the nature of the information contained in this production, these materials have been designated “Highly Sensitive” under the Protective Order that governs discovery.** ECF 83. Among other things, these materials may contain personal information and private communications with individuals who themselves are not associated with the criminal conduct charged in this case. Please contact me should you identify materials for which you would request the government remove or reduce a sensitivity designation, and we will work to resolve the matter with you.

The disc is labeled “Case ID: 266O-SE-3380382” (Nordean’s FBI case file) and “DiscoveryCopy_242794_1B18_1.” Upon opening the disc, you will find that it contains ten folders. Each of the folders contains an executable program file named “CellebriteReader.exe.” Opening that file will launch the Cellebrite Reader software and load the data set within that subfolder. In order to view all of the files, one must open each of the ten Cellebrite Reader files on the disc. Screenshots of the folders and additional instructions are provided below for your reference.

1. *Ten folders on the disc:*

Files Currently on the Disc (10)			
	Data_Set_1	6/23/2021 8:03 AM	File folder
	Data_Set_2	6/23/2021 8:09 AM	File folder
	Data_Set_3	6/23/2021 8:14 AM	File folder
	Data_Set_4	6/23/2021 8:33 AM	File folder
	Data_Set_5	6/23/2021 8:44 AM	File folder
	Data_Set_6	6/23/2021 8:48 AM	File folder
	Data_Set_7	6/23/2021 8:57 AM	File folder
	Data_Set_8	6/23/2021 9:02 AM	File folder
	Data_Set_9	6/23/2021 9:06 AM	File folder
	Data_Set_10	6/23/2021 10:28 AM	File folder

2. *Two files within each “Data Set” folder:*

	1B18_Cellebrite_2021-05-14_Report DATA ...	6/23/2021 8:03 AM	UFDR File	485,173 KB
	CellebriteReader.exe	4/4/2021 6:03 PM	Application	532,212 KB



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
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555 Fourth St., N.W.
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Direct Line: 202-252-7233*

July 2, 2021

Via Overnight Mail

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

Please find enclosed one Blu-ray containing seized materials from a cell phone recovered from defendant Ethan Nordean at the time of his arrest.

The disc is labeled "Case ID: 266O-SE-3380382" (Nordean's FBI case file) and "DiscoveryCopy_242794_1B18_1." Upon opening the disc, you will find that it contains ten folders. Each of the folders contains an executable program file named "CellebriteReader.exe." Opening that file will launch the Cellebrite Reader software and load the data set within that subfolder. In order to view all of the files, one must open each of the ten Cellebrite Reader files on the disc.

Screenshots of the folders and additional instructions are provided below for your reference.

1. Ten folders on the disc:

Files Currently on the Disc (10)		
 Data_Set_1	6/23/2021 8:03 AM	File folder
 Data_Set_2	6/23/2021 8:09 AM	File folder
 Data_Set_3	6/23/2021 8:14 AM	File folder
 Data_Set_4	6/23/2021 8:33 AM	File folder
 Data_Set_5	6/23/2021 8:44 AM	File folder
 Data_Set_6	6/23/2021 8:48 AM	File folder
 Data_Set_7	6/23/2021 8:57 AM	File folder
 Data_Set_8	6/23/2021 9:02 AM	File folder
 Data_Set_9	6/23/2021 9:06 AM	File folder
 Data_Set_10	6/23/2021 10:28 AM	File folder

2. Two files within each "Data Set" folder:

 1B18_Cellebrite_2021-05-14_Report DATA ...	6/23/2021 8:03 AM	UFDR File	485,173 KB
 CellebriteReader.exe	4/4/2021 6:03 PM	Application	532,212 KB

3. After launching "CellebriteReader.exe," choose "Activate Later":

Get activation code will enable you to register on the MyCellebrite portal.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

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July 6, 2021

Via Email and Electronic File Transfer

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Nicholas Smith
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New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from the case files (referred to as Sentinel files) maintained by the Federal Bureau of Investigation for each of the four defendants in this case. Whereas on June 2, 2021, you received materials from the case files

of your individual defendant, this production contains materials from the files of each of the four co-defendants.

To facilitate and expedite this “cross-discovery,” **all of the materials produced from a co-defendant’s case file have been designated Sensitive pursuant to the Protective Orders entered in this case (ECF 83 and 103).** Accordingly, this entire production should be treated as Sensitive unless the materials originate from your client’s case file (and not the case file of a co-defendant). If the materials originate from your client’s case file, the designation assigned previously will continue to apply to the materials.

This designation is reflected in the folder structure on USAfx. For example, materials from case files of Defendant Biggs that were originally produced to Defendant Biggs without a designation are produced to all defendants today in a folder titled “BIGGS Sentinel Files – SENSITIVE as to NORDEAN, REHL, and DONOHOE.” The case files of Defendant Biggs that were originally produced with a “Sensitive” designation have been provided in a folder titled “BIGGS Sentinel Files – SENSITIVE AS TO ALL (INCLUDING BIGGS).”

Name ^	Updated	Size
BIGGS Sentinel Files - SENSITIVE as to NORDEAN, REHL and DONOHOE	Today by Jason McCullough	138 Files
BIGGS Sentinel Files - SENSITIVE AS TO ALL (INCLUDING BIGGS)	Today by Jason McCullough	1 File
DONOHOE Sentinel Files - SENSITIVE as to NORDEAN, BIGGS, and REHL	Today by Jason McCullough	79 Files
NORDEAN Sentinel Files - SENSITIVE AS TO ALL (INCLUDING NORDEAN)	Today by Jason McCullough	3 Files
NORDEAN Sentinel Files - SENSITIVE as to BIGGS, REHL and DONOHOE	Today by Jason McCullough	425 Files
REHL Sentinel Files - SENSITIVE as to NORDEAN, BIGGS, and DONOHOE	Today by Jason McCullough	34 Files
REHL Sentinel Files - SENSITIVE AS TO ALL (INCLUDING REHL)	Today by Jason McCullough	8 Files

An index for each set of the produced materials has been included with the production. The index has been designated Sensitive under the Protective Order. The “titles” and “file names” that appear in the index are a reproduction of the information that exists in the FBI’s electronic systems.

Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.

//
//
//



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Jason B.A. McCullough
Assistant United States Attorney
Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530
Direct Line: 202-252-7233*

July 6, 2021

Via Email and Electronic File Transfer

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced certain materials from Mr. Nordean's case file maintained by the Federal Bureau of Investigation. Please note that the file names bear the titles as assigned by the FBI's electronic systems.

This production supplements the production of FBI case files that was made on June 2, 2021. As noted in the letter that accompanied the June 2 production, files designated Sensitive or Highly Sensitive under the Protective Order were not produced at that time. With the entry of the Protective Order in this case (ECF 103), the government has produced the files listed in the attached index.

The materials described herein have been made available for download on USAfx. Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.



U.S. Department of Justice

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July 7, 2021

Via Email and Electronic File Transfer

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Nicholas Smith
7 East 20th Street
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New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, today, the government produced via USAfx a collection of seven surveillance videos provided by the U.S. Capitol Police. Please note that the materials provided in this production have been designated Highly Sensitive under the Protective Orders entered in this case.



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
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July 7, 2021

By e-mail

Nicholas D. Smith (counsel for Ethan Nordean)
John Daniel Hull (counsel for Joseph Biggs)
Shaka Johnson (counsel for Zachary Rehl)
Lisa Costner (counsel for Charles Donohoe)

Re: United States v. Ethan Nordean et al., 1:21-cr-175 (TJK)
Capitol Tour

Dear Defense Counsel:

The U.S. Capitol Police have arranged one new date for a crime scene walkthrough of the Capitol. The tour date and time is [REDACTED], and the tour will last approximately two hours. If you cannot attend on August 14, please be advised that additional dates will be scheduled in the future.

If you wish to participate in the [REDACTED] walkthrough, please email me at luke.jones@usdoj.gov and [REDACTED], and provide the following information:

- Names, phone numbers and email contact information for any counsel or investigators who will be participating in the tour.
- Case(s), Case number(s), and AUSA assigned to each case.

The conditions of the U.S. Capitol Police for participating in the walkthrough are as follows:

- The tours are restricted to **counsel and one investigator**. You may not bring **any** other guests. A paralegal or legal assistant may function as an investigator for this purpose.
- The public/non-public areas are identified on the attached list. Photos are only allowed in the public areas. Any person who takes photos in the non-public areas will be asked to leave the tour and be banned from further tours.
- The tours will be led by officers and questions about the events of January 6 will not be permitted. If you have such questions, you may direct them to me.
- Masks must be worn at all times.

Defense Counsel Capitol Walkthrough Locations

- Speaker's Lobby – non-public
- Speaker's Office – non-public
- House Chamber – non-public
- Senate Chamber – non-public
- Senate Gallery – non-public
- **Statuary Hall – public**
- **Crypt – public**
- **West Front of Capitol – public**
- **East Front of Capitol – public**
- **East Grand staircase – Senate –public**
- **Rotunda including the East Front Lobby area and steps to the Crypt – public**
- **Rotunda West staircase to the Crypt – public**
- Rotunda Door exterior – non-public
- Upper West Terrace/ Upper West Terrace Door (interior and exterior) – non-public
- Lower West Terrace – non-public
- West Terrace Steps and staircase and wall – non-public
- Senate Wing Door – non-public
- Parliamentarian's Office (and adjacent fire door) – non-public
- Lower West Terrace Door specifically (interior and exterior) – non-public
- Offices ST2 – ST10 – non-public
- Exterior HT2M window – non-public
- S140 & S145 – non-public
- **North and South Doors of Capitol – public**
- **House Wing (near House Wing Door) and Hall of Columns – public**
- Memorial Door and interior steps to Second Floor adjacent to Memorial Door – non-public
- **Capitol Visitors Center (main level and Emancipation Hall) – public**
- Area of the House Majority Leader's Office (Hoyer) – non-public



U.S. Department of Justice

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Acting United States Attorney

District of Columbia

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July 9, 2021

Via Email and Electronic File Transfer

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Philadelphia, PA 19147

Nicholas Smith
7 East 20th Street
Suite 4R
New York, NY 10003

Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, today, the government produced via USAfx a collection of Grand Jury subpoena returns. Please note that, insofar as the materials do not relate solely to your client, the materials provided in this production have been designated Highly Sensitive under the Protective Orders entered in this case. This designation is based in part on the fact that the materials contain



U.S. Department of Justice

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District of Columbia

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July 13, 2021

Via Email and Electronic File Transfer

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Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis. Specifically, this afternoon, the government produced the following search warrant applications and affidavits to each of you in cross-discovery.

Bates (21CR175_...)	Subject Account(s)	Description
1671 – 1725	[REDACTED]	[REDACTED]
1726 – 1777	[REDACTED]	[REDACTED]
1778 – 1820	[REDACTED]	[REDACTED]
1821 – 1854	[REDACTED]	[REDACTED]
1855 – 1909	[REDACTED]	[REDACTED]
1910 – 1967	[REDACTED]	[REDACTED]
1968 – 2002	[REDACTED]	[REDACTED]
35928 – 35979	[REDACTED]	[REDACTED]

Please note that this production may be duplicative of documents that you received previously. [REDACTED]

As we explained at that time, **the search warrant applications and affidavits remain sealed by order of the Court and should be treated as such.** The Court authorized the partial unsealing of these documents to permit production to defendants and their legal defense teams, including counsel of record in this case, any post-conviction or appellate counsel, investigators, paralegals, support staff, and expert witnesses who are advising or assisting defense counsel in connection with this case.

Also, to facilitate and expedite this “cross-discovery,” **all of the materials produced from a co-defendant’s case file have been designated Sensitive pursuant to the Protective Orders entered in this case (ECF 83 and 103).** Accordingly, this entire production should be treated as Sensitive unless the materials relate to your client’s personal identity information (and not the information of a co-defendant).

Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 60 days. Please let me know immediately if you have been unable to access and download the materials for your use in this case.

Please contact me should you have any questions or concerns.

Sincerely yours,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY

By: _____ /s/ _____

Jason B.A. McCullough
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U.S. Department of Justice

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July 13, 2021

Via Email

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Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize earlier productions of preliminary discovery in this case that were provided via email and not previously memorialized in a letter. The productions are identified in the below chart, which identifies the dates of the production, the recipient(s) of the productions (as indicated by the Defendants' last names), and descriptions or identifiers of the material. Additional information regarding the contents of the productions and any sensitivity designations were provided at the time of the productions.

Date	Recipient(s)	Description / Identifier
3/25/2021	Nordean	Five Telegram Chat Strings Obtained from Nordean's Phone (BATES 1-1494)
3/29/2021	Biggs, Donohoe	Five Telegram Chat Strings Obtained from Nordean's Phone (BATES 1-1494)
3/29/2021	Nordean, Biggs, Donohoe	Five Open Source Video Files (approx. 7 hours) (BATES 1495-1499)
3/30/2021	Nordean	SMS Messages Between Jan 4-8, 2021 Obtained from Nordean's Phone (BATES 1500-1543)
3/31/2021	Biggs	Audio of Jan. 18, 2021 FBI Interview of Biggs (BATES 1544)
4/8/2021	Nordean, Biggs, Donohoe	One Open Source Video File (approx. 50 minutes) 10 Open Source Parler Video Files (each less than 5min.) (BATES 1545-1555)
4/13/2021	Rehl	Production of Above Telegram Strings (BATES 1-1494) and Videos (BATES 1495-1499, 1545-1555)
4/13/2021	Nordean, Biggs, Rehl, Donohoe	213 USCP Photos and Video Files Depicting Jan. 6, 2021 Events on the West Plaza (Exterior)
4/16/2021	Nordean	Residential Search Warrant (BATES 1556-1618) 163 Search Warrant Execution Photos
4/22/2021	Donohoe	Three Telegram Chat Strings Obtained from Nordean's Phone (BATES 2006-2502)
4/27/2021	Biggs	[REDACTED] (BATES 1671-1854)
4/27/2021	Rehl	[REDACTED] (BATES 1855-1967)
4/27/2021	Donohoe	[REDACTED] (BATES 1968-2005)
4/27/2021	Nordean	Three Telegram Chat Strings Obtained from Nordean's Phone (BATES 2006-2502)
4/27/2021	Nordean	SW Returns [REDACTED]
4/27/2021	Biggs	SW Returns [REDACTED]
4/27/2021	Rehl	SW Returns [REDACTED]
4/29/2021	Nordean	11 Telegram Chat Strings Obtained from Nordean's Phone (BATES 2503-7649)
5/3/2021	Biggs	Portion of 11 Telegram Chat Strings Obtained from Nordean's Phone (BATES 2503-3197; 5782-6563; 6634-7649)
5/3/2021	Rehl, Donohoe	Portion of 11 Telegram Chat Strings Obtained from Nordean's Phone (BATES 5782-6563; 6634-7638)
5/3/2021	Biggs	SW Returns [REDACTED]
5/18/2021	Biggs	Remainder of 11 Telegram Chat Strings Obtained from Nordean's Phone (BATES 3198-5781; 6564-6633)
5/18/2021	Rehl, Donohoe	Remainder of 11 Telegram Chat Strings Obtained from Nordean's Phone (BATES 2503-5781; 6564-6633; 7639-7649)
5/18/2021	Nordean, Biggs, Rehl, Donohoe	One Telegram Chat String Obtained from Nordean's Phone (BATES 7639-35925)
5/24/2021	Biggs	FBI 302 from Jan. 8, 2021 Interview of Biggs
6/23/2021	Biggs	SW Returns [REDACTED]

Please contact me should you have any questions or concerns.

Sincerely yours,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY

By: /s/ Luke M. Jones

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July 14, 2021

Via Email and FedEx

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Re: *United States v. Ethan Nordean et al.*, Cr. No.: 21-cr-175 (TJK)

Dear Counsel:

I write to memorialize another production related to the above-captioned case as part of the government's ongoing efforts to produce preliminary discovery on an expedited basis.

Specifically, today, the government is transmitting by FedEx to each of you a copy of this letter and one Blu-Ray disc. The disc is labeled "DEWFScoped [REDACTED] E6823327 1B2" and "A 25GB Blu-Ray disc containing a Cellebrite Reader report of [REDACTED] [REDACTED]"



Due to the nature of the information contained in this production, these materials have been designated “**Highly Sensitive**” under the Protective Orders that govern discovery (ECF 83 and 103), except as to Defendant Biggs, for whom no sensitivity designation applies. Among other things, these materials may contain personal information and private communications with individuals who themselves are not associated with the criminal conduct charged in this case. Please contact me should you identify materials for which you would request the government remove or reduce a sensitivity designation, and we will work to resolve the matter with you.

Please contact me should you have any questions or concerns.

Sincerely yours,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY

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