

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

UNITED STATES OF AMERICA

v.

JOSEPH W. FISCHER,

Defendant.

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Case No.: 21-cr-234-CJN

NOTICE OF FILING DISCOVERY CORRESPONDENCE

The United States of America by and through its attorney, the United States Attorney for the District of Columbia, hereby files its May 24, 2021 discovery letter in this case, which was served as an attachment via ECF on counsel for the defendant.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY
D.C. Bar No. 415793

By: /s/ Alexis J. Loeb
Alexis J. Loeb
California Bar No. 269895
Assistant United States Attorney
Detailee
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CERTIFICATE OF SERVICE

On this 24th day of May, 2021, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ Alexis J. Loeb

Alexis J. Loeb

Assistant United States Attorney

Detailee



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*

May 24, 2021

Lori Ulrich, Assistant Federal Public Defender
Federal Public Defender for the Middle District of Pennsylvania
100 Chestnut Street, Third Floor
Harrisburg, PA 17101

Eugene Ohm, Assistant Federal Public Defender
Federal Public Defender for the District of Columbia
625 Indiana Avenue NW
Washington, D.C. 20004
Via ECF

Re: *United States v. Joseph Fischer*
Case No. 21-CR-234-CJN

Dear Counsel:

I will be sharing further preliminary discovery in this case using the government's USAfx File Exchange System. Although you may review the entire discovery on the shared drive, in order to retain access to the discovery, you must download it immediately. Once all uploaded materials are available for download, I will alert you via email. If you have any questions regarding the provided discovery or are missing something, feel free to call or email me. Please note that this discovery includes materials designated under the protective order. The designations are noted in the file name.

This fourth production of preliminary discovery contains the following:

1. Items from the FBI's case file (57 files, plus an index). This includes FBI reports, court documents, search-warrant related documents, cell tower data, tips, analyst materials, and subpoena-related documents.
2. The grand jury transcript and exhibits
3. A search warrant for cell-site location information and sealing order (note: these items remain under seal)

In addition, I note that, on May 12, 2021, Special Agent Joshua Ford provided a copy of data from your client's mobile device.

I also write to provide information regarding Google location data. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a "maps display radius" for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a "maps display radius" of 10 meters to the location data point. Finally, Google reports that its "maps display radius" reflects the actual location of the covered device approximately 68% of the time. In this case, we have not yet found Google location data showing that a device associated with the defendant's phone number, ending in 6390, was within the U.S. Capitol Building on January 6, 2021, between 1:00 p.m. and 6:30 p.m.

Due to the extraordinary nature of the January 6, 2021 Capitol attack, the government anticipates that a large volume of materials may contain information relevant to this prosecution. These materials may include, but are not limited to, surveillance video, statements of similarly situated defendants, forensic searches of electronic devices and social media accounts of similarly situated defendants, and citizen tips. The government is working to develop a system that will facilitate access to these materials. In the meantime, please let me know if there are any categories of information that you believe are particularly relevant to your client.

Please contact me if you have any issues accessing the information, and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1. Additional materials will be provided after the entry of a Protective Order in this case.

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant(s) disclose prior statements of any witnesses defendant(s) intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant(s) with materials relating to government witnesses.

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant(s) provide the government with the appropriate written notice if defendant(s) plans to use one of the defenses referenced in those rules. Please provide any notice

within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

/s/ Alexis J. Loeb

Alexis J. Loeb
Assistant United States Attorney
Detailee