UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Case No. 21-CR-108 (TSC)**
	:	
	:	
v.	:	
	:	
MICHAEL JOSEPH FOY,	:	
	:	
Defendant.	:	

NOTICE OF FILING

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully gives notice that undersigned counsel for the government has provided counsel for the defendant additional discovery in the above-mentioned case as outlined in the government's attached discovery letter dated August 20, 2021.

Respectfully submitted,

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

By: /s/ *Emory V. Cole*
EMORY V. COLE
Assistant United States Attorney
PA. Bar Number 49136
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-7692
Emory.Cole@usdoj.gov

CERTIFICATE OF SERVICE

On August 20, 2021, a copy of the foregoing notice and attached discovery letter were served on defendant's counsel through the Court's Electronic Filing System with the listed attachment provided to counsel through the means described in the discovery letter.

/s/ Emory V. Cole
Emory V. Cole
Assistant United States Attorney

U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

August 20, 2021

By USAfx
Eugene Ohm
Federal Public Defender
for the District of Columbia
625 Indiana Avenue, NW
Suite 550
Washington, DC 20004
(202) 208-7500
eugene_ohm@fd.org
Counsel for Defendant

Re: *United States v. Michael Joseph Foy*
Criminal No.: 21-CR-108 (TSC)

Dear Counsel:

Pursuant to our discovery obligations, we are providing the following files via USAfx:

- All of the files listed on the attached index, which are part of the Foy case file.

Among other things, this letter memorializes ongoing discovery that has been provided to you in the above-referenced matter. By now, you are connected to the USA File Exchange ("USAfx" or "the Box"). As you are aware, there is a case-folder labeled, "Michael Joseph Foy" and you and your paralegal have access to this case-folder and are able to download its contents.

I. Discovery

A. Documents and Digital Files:

Discovery in the above mentioned case has been uploaded to to the USA File Exchange ("USAfx" or "the Box") titled "Michael Joseph Foy" **Please keep in mind that all of the items placed in the USAfx case-folder will be deleted automatically – some in as few as 30 days or less. It is therefore imperative that you download all discovery as soon as possible.**

Note that all of these files and their related physical attachments are currently being formally processed for discovery by the discovery team assigned to the Capitol Riots cases. As

such, the same files will be re-produced with bates-stamps at a later date. Nevertheless, we wanted to provide you with we can at this time, as we wait for this processing to be finalized.

Platform	***Quantity***	***Description***	***Production Date***
USAfx	**3 zip files**	**Body Worn Camera Videos from the U.S. Capitol January 6, 2021**	*2021-08-20*
		• evidence.com_evidence_package_1_of_1_created_2021-08-18T19_00_36Z.zip • evidence.com_evidence_package_1_of_2_created_2021-08-18T19_00_20Z.zip • evidence.com_evidence_package_2_of_2_created_2021-08-18T19_00_20Z.zip	

Please be advised that we anticipate providing additional discovery in this case.

B. 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, we note our continuing request to receive any material pursuant to Rule 16(b) as the case proceeds.

C. Upcoming Discovery

The government anticipates providing numerous files related to the Foy casefile in the coming weeks. Some of it will be duplicative, but will be provided nonetheless. Like the files being provided in connection with this letter, all the files will be re-disclosed once processed and bates-stamped by the discovery team.

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.

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 provide the government with the appropriate written notice if defendant 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.

II. Contact Information

If you have any questions about the information provided above, you may contact me by telephone, fax, or mail as provided below.

Emory V. Cole
Assistant United States Attorney
United States Attorney's Office
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Respectfully,

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