

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

UNITED STATES OF AMERICA

v.

ERIK RAU

Defendant.

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Case No. 1:21-cr-00467-JEB

GOVERNMENT’S NOTICE OF FILING

The United States of America, through its attorney, the United States Attorney for the District of Columbia, respectfully files a copy of the Government’s letter regarding its second discovery production (without attachments) provided to defense counsel on September 25, 2021.

Respectfully submitted,

Channing D. Phillips
Acting U.S. Attorney
D.C. Bar No. 415793

By: /s/ Leslie A. Goemaat
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing notice to be served by electronic means, through the Court's CM/ECF system, upon all parties of record.

/s/ Leslie A. Goemaat

LESLIE A. GOEMAAT

Assistant United States Attorney



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*

September 25, 2021

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BY EMAIL

Re: *United States v. Erik Rau, Volume 2 Discovery*
Case No. 21-cr-00467-JEB

Dear Counsel:

I previously provided you with Volume 1 of Informal Discovery via USAFx containing 47 files and 17 folders of (1) CCV footage of Erik Rau (2) the results of the Attachment B review of Derek Jancart's seized Facebook account (3) the audio of the interview of Derek Jancart (4) the results of the Attachment B review of Erik Rau's seized google account (5) the recorded proffer of Erik Rau and (6) screenshots of Erik Rau and Derek Jancart in the U.S. Capitol.

I have just shared three USAFx folders with you as detailed below.

USAFx Folder 1:

As part of our ongoing discovery production in this case, you or your designee will receive an invitation via USAFx to download reports from U.S. Capitol Police (USCP) investigations of alleged wrongdoing by USCP officers on January 6, 2021. Officer names,

witness names, and complainant names have been redacted.¹ We are working to produce a set of reports that replaces the redactions with unique identifiers for individuals whose names have been redacted. When that process is complete, we will reproduce the documents with the unique identifiers. Additional exhibits from these investigations are forthcoming. At this time, we understand that a small number of investigations are still on-going, and we will provide reports of those investigations on a rolling basis as they are concluded.

USAFx Folders 2 & 3:

As part of our ongoing discovery production in this case, we produced the following information on September 24, 2021:

1. 4,044 files (over one terabyte) consisting of U.S. Capitol Police (“USCP”) Closed Circuit Video (“CCV”) footage from 118 cameras has been shared to the defense instance of evidence.com. The contents of footage being shared includes video from the interior of the U.S. Capitol Visitor Center and from the Capitol grounds. These files are designated Sensitive under the protective order. Additional footage will be provided on a rolling basis, as we ingest it into our own instance of evidence.com.
2. Twenty files that are exhibits to previously produced USCP OPR reports, and a corresponding index, have been shared via USAfx and you should have received a notification via email. Any applicable sensitivity designations are reflected in the index. Additional exhibits will be provided on a rolling basis as we continue to ingest and quality-check them.
3. Forty-two files that consist of MPD internal investigation reports and exhibits, and a corresponding index, have been shared via a second, separate USAfx production, and you should have received a notification via email. These reports and exhibits are unredacted and thus designated Highly Sensitive under the protective order.

The Federal Public Defender for the District of Columbia (“FPD”) has agreed to serve as the Discovery Liaison for defense counsel in Capitol Breach cases. FPD is currently reviewing the various features of evidence.com and testing out the capabilities of the program with sample data. Within the next two weeks, FPD will be sending out information to defense counsel that includes a point-of-contact for discovery-related inquiries, the procedures to follow for obtaining a license to access evidence.com, and a quick start guide for defense counsel to use with evidence.com.

¹ Please note that significant efforts have been made to redact officers’ names. If an officer’s name was inadvertently not redacted and that officer is a subject of or witness to an allegation of misconduct, please treat that information as highly sensitive under the protective order.

It has come to our attention that there are sensitivities that must be addressed prior to large scale disclosure of body-worn-camera footage. We are working diligently to resolve these issues and in the interim we have produced a sample of fifty body-worn-camera files to FPD's instance of evidence.com. This sample will allow our technological teams to discuss the necessary infrastructure and workflows that need to be implemented. Ultimately, we intend to produce the majority of body-worn-camera footage with the least restrictive applicable sensitivity designations, if any, in order to facilitate defendant review.

In the near future, we expect to provide tools that will assist your review of the voluminous video footage described above, to include:

1. Camera maps for USCP CCV;
2. Our work product, consisting of a spreadsheet and related zone maps, identifying body-worn-camera footage by agency, officer, video start time, a summary of events, and location of the camera in 15-minute increments; and
3. Global Positioning Satellite information for Metropolitan Police Department radios, which may be of some assistance in identifying officers whose body-worn-cameras were recording at a particular time and location.

If you have any questions or if you fail to receive two separate USAfx invitations in connection with this production, please feel free to contact me.

This material is subject to the terms of the Standard Protective Order in Capitol Breach cases which you previously agreed to abide by as a condition of receiving informal discovery.

If you have any questions, please feel free to contact me.

Sincerely,

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Enclosures