

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

UNITED STATES OF AMERICA

v.

DAVID CHARLES MISH, JR.,

Defendant.

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Case No. 21-cr-112 (CJN)

NOTICE OF DISCOVERY

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby informs the Court that the attached discovery letter of June 1, 2021, has been provided to the defense in this matter.

Respectfully submitted,

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

By: /s/ Christine M. Macey
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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 1, 2021

Maria N. Jacob, Esq.
Assistant Federal Public Defender
Office of the Federal Public Defender for the District of Columbia
625 Indiana Avenue, NW, Suite 550
Washington, D.C. 20004

Re: *United States v. David Charles Mish, Jr.*
Case No. 21-cr-112 (CJN)

Dear Counsel:

Today (June 1, 2021), the government uploaded initial discovery materials to you on USAfx. These materials are labeled Volume "Mish_01". They begin with Bates number CAP05_000000001 and end with Bates number CAP05_000001470.

Summary of Materials Provided. As further described in the provided index, the discovery includes FBI reports, search warrants, the Complaint and related paperwork, the recorded interviews of Mr. Mish, records run on Mr. Mish, photographs taken during the search warrant execution, the Information, screenshots of Mr. Mish inside the U.S. Capitol, video files, records obtained from grand jury subpoenas.¹ Please note, the government is in the course of using a filter team to review your client's cell phone; no materials extracted from the cell phone are enclosed in the current discovery production.

¹ Many of these materials were previously disclosed to the defense in informal discovery that was uploaded to USAfx on February 20, 2021. Those materials included the Information; signed Complaint (redacted and unredacted), arrest warrant, and related paperwork; the defendant's audio interview with Detective Hendrick; part of the defendant's recorded custodial interview; release order from the United States District Court for the Eastern District of Wisconsin; arrest warrant return; Pretrial Services Agency report (ECF No. 5); 15 screenshots from video showing the defendant inside the U.S. Capitol; search warrants for the defendant's vehicle and premises; records from Enterprise; records from Illinois Tollway Legal Department; records from the District of Columbia DDOT; and records from the Pennsylvania Turnpike.

Manner of Production. If this production is being transmitted via USAfx, please be sure to download the entire folder, including all subfolders and files contained within the subfolders exactly as it was provided immediately upon receipt to your own storage media.

This production contains the following:

- A “PDF” folder containing the discovery in searchable PDF format.
- A “NATIVE” folder of documents that cannot be converted to PDFs such as audio/video recordings. Files that could not be converted to PDF will have a “placeholder” in the “PDF” folder that references the native file. You will find the referenced file by navigating to the corresponding Bates number in the NATIVE folder.
- An index of the production, provided in both Excel and Adobe PDF formats.

If you would like this production in load files for creating a document review database (e.g., Relativity) please let me know and we will provide load files.

The discovery is unencrypted. 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.

Technical Assistance. CJA panel counsel and Assistant Federal Public Defenders with technical discovery questions or those who need of assistance managing the discovery in this case can contact Kelly Scribner (kelly_scribner@fd.org) with the Defender Services Office - National Litigation Support Team. While Ms. Scribner is not specifically tasked with assisting retained counsel, she is willing to talk with you about your discovery issues on a limited basis. However, the National Litigation Support Team typically cannot support retained defense counsel as the National Litigation Support Team is funded to assist CJA panel counsel and Federal Public Defender offices appointed through the CJA Act.

Voluminous Materials. 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, body worn camera footage, 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 of any specific information that you believe is particularly relevant to your client.

Protective Order. This material is subject to the terms of the Protective Order issued in this case on June 1, 2021.

Timing of Disclosures. 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.

Reciprocal Discovery. 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 disclose prior statements of any witnesses defendant 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 with materials relating to government witnesses.

Notice of Defenses. 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.

Sincerely,



Christine Macey
Assistant United States Attorney

Enclosures (USAFX)