

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

UNITED STATES OF AMERICA,

v.

KAROL J. CHWIESIUK,
Defendant.

Criminal Action No. 21-536 (CKK)

ORDER

(September 18, 2021)

On September 15, 2021, the Government filed its [18] Motion for a Protective Order. The Motion asks the Court to enter the [18-1] Protective Order Governing Discovery onto the docket, rendering it operative in this case. Defendant, however, has opposed the Government's [18] Motion. Specifically, Defendant objects to Paragraph 6(a) of the proposed protective order, which requires that an appropriate member of the defense team monitor Defendant when he accesses or views "Highly Sensitive" discovery materials. Defendant claims that this provision impinges on his Due Process right to assist in his own defense and unnecessarily requires his attorney to "babysit" him while reviewing discovery. *See* Def.'s Opp'n, ECF No. 20, at 1–3.

Upon consideration of Defendant's objection and the record in its entirety, the Court will grant the Government's [18] Motion for a Protective Order. First, as the Government notes in its reply brief, *see* Gov't Reply, ECF No. 22, at 1–4, no material has yet been designated as "Highly Sensitive" in this case. Accordingly, Defendant's specific concerns about Paragraph 6(a) of the proposed protective order and its corresponding effect on his ability to review discovery have not yet manifested themselves and, therefore, remain speculative at this time. If such disputes do, in fact, materialize, then defense counsel may promptly raise those disputes to the Court for resolution in a concrete setting. But in the interim, the Court finds it advisable to enter the proposed protective order onto the docket in its unmodified form, so as to permit the parties to proceed in

with discovery in full.

Finally, the Court notes that there may well be some surveillance footage designated as “Highly Sensitive” in this case, particularly as it relates to the security of the U.S. Capitol. The Government has a cognizable interest in the safekeeping of such video content. As Chief Judge Howell just recently observed, “the Government’s interest in maintaining the security of the U.S. Capitol is indisputably very strong” and “[c]oncern about security in particularly sensitive areas of the U.S. Capitol is warranted.” *United States v. Torrens*, No. CR 21-204-2 (BAH), 2021 WL 4192048, at *6 (D.D.C. Sept. 15, 2021). Moreover, the Government in this case has presented the declaration of the General Counsel for the U.S. Capitol Police, which credibly explains that the misuse of sensitive video footage from the U.S. Capitol may dangerously expose potential “vulnerabilities and security weaknesses” in the Capitol building. DiBiase Decl., ECF No. 18-3, at ¶¶ 14–15. Such security concerns counsel in favor of issuing a protective order to govern discovery in a case such as this one. And again, if a concrete dispute does arise regarding Defendant’s ability to efficiently review such material, defense counsel may raise that particular dispute to the Court when it arises for this Court’s full consideration.

For the reasons set forth herein, the Court **GRANTS** the Government’s [18] Motion for a Protective Order. The Court shall enter the [18-1] Protective Order Governing Discovery onto the docket in its entirety and without modifications and that Protective Order shall be operative.

SO ORDERED.

Dated: September 18, 2021

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge