

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

UNITED STATES OF AMERICA :
: **Case No. 21-cr-129 (ABJ)**
v. :
:
GABRIEL AUGUSTIN GARCIA, :
also known as "Gabriel Agustin Garcia," :
:
Defendant. :

NOTICE OF LETTER PROVIDED TO DEFENSE COUNSEL

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby gives notice that the United States gave to counsel of record in the above-captioned case via USAfx file exchange the discovery listed in the attached letter on the dates set forth in the letter. The government requests that the attached discovery letter, dated July 18, 2021, be made part of the record in this case.

Respectfully submitted,

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

By: /s/ Angela N. Buckner

Angela N. Buckner
DC Bar #1022880
Assistant United States Attorneys
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CERTIFICATE OF SERVICE

On July 18, 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 attachments provided to counsel through the means described in the discovery letter.

By: /s/ Angela N. Buckner
Angela N. Buckner
Assistant United States Attorneys



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*

July 18, 2021

By e-mail

Aubrey Webb
aubrey@aqwattorney.com

Charles Haskell
charles@charleshaskell.com

Re: *Gabriel Garcia*
Preliminary Discovery for Case Number 21-cr-129

Dear Counsel:

I have uploaded preliminary discovery to USAfx. As we receive and review additional discovery, it will be uploaded to USAfx. When our investigation and review is complete, I will provide a more formal, bates stamped production which will include items such as serialized 302s and responsive search warrants returns.

Note that I have marked CCTV and certain other videos as “highly sensitive” (**[HS]**), and thus subject to the protective order in this case.

If you have any questions, issues, or concerns with how I’ve marked (or not marked) documents, please let me know and I’m happy to revisit.

As of the date of this letter, the following items have been uploaded to USAfx:

Apple Records	Zip File containing 3 excel sheets and providing subscriber information, account details, and iCloud logs.
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PayPal Records	Zip file containing 21 PDF files titled “account info,” 21 excel sheets titled “transaction log,” and 21 excel sheets titled “activity log.”
Residential and Cell Phone Search Warrant	PDF (38 pages)

Additionally, I write to memorialize certain discovery provided on the dates indicated below.

The following was provided on or about July 10, 2021:

ATT Records	Zip file containing 11 PDF files and providing subscriber information, mobility call detail records (7599 pages), wireline call detail records (196 pages), IMEI, SIM Card, and payment information
FBI 302 - Serial 23	CAST Result – PDF File (1 page)

The following was provided on or about May 22, 2021:

CCTV (Videos)	Crypt South ([HS]) Advance to: 2:19:47
Banned-Video	Video([HS]) Advance to: 19:51 ¹
DSC 0017	Video ([HS]) Advance to: 6 second into the video

The following was provided on or about April 20, 2021:

CCTV (Videos)	Crypt East ([HS]) Advance to: 2:19:47
	Crypt North([HS]) Advance to: 2:19:47
	Rotunda South ([HS]) Advance to: 2:34:39

¹ In that same USAfx folder, I included a screenshot from that video titled “Clip from TheResistance Video”

	Rotunda North ([HS]) Advance to: 2:34:39
	Senate Wing Door ([HS]) Advance to: 2:16:44
Facebook Account (Web-based format)	Various embedded web links, accompanied by native files.
Phone Contacts (PDF)	Contacts pulled from Mr. Garcia's phone extraction (1204 pages)

The following was provided on or about February 16, 2021:

Facebook Live Videos	FB Live Video Walking to Capitol (3:06 minutes) FB Live Video from Crypt (5:30 minutes) FB Live Video From Rotunda (00:22 seconds) FB Live Video from Rotunda (1:29 minutes)
Facebook Account (PDF Files) ²	Activity Log (84 pages) Messages (491 pages) Photos (84 pages)
Phone Contacts	Contacts pulled from Mr. Garcia's phone extraction (1204 pages)

I note that you have specifically requested the return of Mr. Garcia's cellular phone. As we've briefly discussed, the government is not yet ready to release Mr. Garcia's phone. However, the government will produce the full extraction report (regardless of responsiveness) and associated native files. For mobile devices, we will generally provide a Cellebrite reader report which is an executable file and will open on any Windows machine.

I have made arrangements for you to receive a copy of the extraction. To facilitate, you will need to provide an external hard drive to the FBI. The FBI has indicated to me that they recommend a 1TB USB 3 external drive. I will contact you by email with the name and address where you can send the external hard drive. The FBI will return your hard drive directly to the address you specify. Accordingly, please ensure that the hard drive is clearly labeled with the defendant's name and case number as well as a point of contact to receive the drive including, name, firm, address, and telephone number.

² As I indicated on February 16, 2021, the Facebook Account is a set of web links with associated media files, etc. To make these PDFs, I opened a few of the web links and printed to PDF.

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.

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,

CHANNING D. PHILLIPS
Acting United States Attorney

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