

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :  
 :  
 v. : **Crim. No. 21-CR-310 (ABJ)**  
 :  
 JOSHUA WAGNER and :  
 ISRAEL TUTROW, :  
 *Defendants.* :

**NOTICE OF FILING DISCOVERY CORRESPONDENCE**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby files a June 11, 2021, preliminary-discovery letter, which was served as an attachment to this notice via the Court's electronic case files system (ECF) on counsel for the defendant.

Respectfully submitted,

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

By: /s/ Seth Adam Meinero  
SETH ADAM MEINERO  
Trial Attorney  
Detailee  
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United States Attorney's Office  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 11, 2021, I served a copy of this pleading on the parties listed in ECF.

/s/ Seth Adam Meinero

SETH ADAM MEINERO

Trial Attorney

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United States Attorney's Office

for the District of Columbia



U.S. Department of Justice

Channing D. Phillips  
Acting United States Attorney

*District of Columbia*

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*Judiciary Center  
555 Fourth St., N.W.  
Washington, D.C. 20530*

June 11, 2021

**VIA EMAIL**

Christopher Leibig, Esq.  
*Counsel for Joshua Wagner*

H. Heather Shaner, Esq.  
*Counsel for Israel Tutrow*

Re: *United States v. Joshua Wagner and Israel Tutrow*, 21-CR-310 (ABJ)

Dear Counsel:

This memorializes that today, the United States Attorney's Office for the District of Columbia provided you preliminary discovery comprising the following materials via USAfx (sensitivity restrictions under the protective orders entered in this case are noted in parentheses):

- FBI 302s:
  - K.C. phone interview (1/19/2021) (**sensitive**)
  - K.C. in-person interview (1/19/2021) (**sensitive**)
  - Witness 1 interview (redacted) (1/19/2021) (**sensitive**)
  - C.C. interview (1/19/2021) (**sensitive**)
  - Witness 2 interview (redacted) (1/19/2021) (**sensitive**)
  - L.O. interview (2/8/2021) (**sensitive**)
  - C.C. interview (2/8/2021) (**sensitive**)
  - Tutrow interview (2/2/2021) (**sensitive for Wagner**)
  - L.O. interview (1/29/2021) (**sensitive**)
  - Arrest of Wagner (1/28/2021) (**sensitive for Tutrow**)
  - Arrest of Tutrow (1/28/2021) (**sensitive for Wagner**)
  - Meeting with Wagner (1/26/2021) (**sensitive for Tutrow**)
- FBI 1057s:
  - Lead coverage (redacted) (serial 20 - 1/18/2021)
  - Tipster report (redacted) (serial 39 - 3/3/2021) (**sensitive for Wagner**)

- Documentation of Tutrow exiting Capitol (serial 23 - 1/21/2021) (**sensitive for Wagner**)
- Documentation of social-media posts capturing Wagner and Tutrow (serial 16 - 1/19/2021)
- Review of Wagner's cellphone (serial 50 - 5/12/2021) (**sensitive for Tutrow**)
- Review of L.O.'s cellphone (serial 46 - 4/26/2021) (**sensitive**)
- Review of Tutrow's cellphones (serial 49 - 4/27/2021) (**sensitive for Tutrow**)
- 1 .zip file of 35 screenshots from Wagner's Facebook page (**sensitive for Tutrow**)
- FBI Media Exploitation and Intake Reports:
  - Media exploitation report (serial 39 - redacted) (2/27/2021) (**sensitive for Wagner**)
  - Intake report (redacted) (serial 13 - 1/16/2021) (**sensitive for Wagner**)
  - Intake report (serial 4 - 1/10/2021) (**sensitive for Wagner**)
  - Intake report (redacted) (serial 2 - 1/7/2021) (**sensitive for Wagner**)
  - Intake report (redacted) (serial 3 - 1/9/2021)
  - Intake report (redacted) (serial 6 - 1/8/2021) (**sensitive for Wagner**)
  - Intake report (serial 5 - 1/10/2021) (**sensitive for Wagner**)
- .vob file of Tutrow's videorecorded interview with FBI (1/27/2021) (**sensitive for Wagner**)
- Capitol Police surveillance video (camera 0102) (**HIGHLY sensitive**)
- Three screenshots of surveillance video (camera 0102) (not subject to sensitivity restrictions)
- One spreadsheet comprising the return from Parler search warrant for Wagner's account (**sensitive for Tutrow**)
- Other Files:
  - .mp4 from Twitter depicting Tutrow exiting Capitol
  - 2 .pngs of Reddit accounts depicting Tutrow
  - Twitter screenshot depicting Tutrow
  - FD-491: Tutrow consent to search two phones (**sensitive for Wagner**)

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.

The preliminary discovery provided 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.

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 the defense provide the government with the appropriate written notice if the defense plans to use one of the defenses referenced in those rules. Please provide any notice within the period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward additional significant discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

/s/ Seth Adam Meinero

SETH ADAM MEINERO

*Trial Attorney*

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