



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 11, 2021

BY EMAIL

Eugene Ohm
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Counsel for Robert Schornak

Colleen Fitzharris
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Counsel for Daniel Herendeen

Re: *United States v. Robert Schornak and Daniel Herendeen, 21-cr-278*
Discovery Production 2

Dear Counsel:

In response to your request for discovery, and in the hopes of exploring a possible resolution of this matter in the future, we write to memorialize the preliminary discovery that we provided for download off of USAFx. This material is subject to the terms of the Protective Order issued in this case. **Materials in this production are designated Sensitive and Highly Sensitive under the Protective Order.**

Materials Provided to Both Defendants:

The following materials were provided via USAfx on May 28, 2021:

- **USCP CCTV – All Designated Highly Sensitive;**
 - 13 videos including the following:
 - 7206 USCS 01 Crypt Lobby East
 - 0102 USCS 01 Senate Wing Door near S139 – 14h24min
 - 0681 USCG 00 SW Drive near RHOB Taxi Stand
 - 0403 USCH 01 Crypt South – 14h26min
 - 0102 USCS 01 Senate Wing Door near S139 – 14h36min
 - 0178 USCH 01 Crypt East – 14h26min

- 0402 USCH 01 Crypt North – 14h26min
- 7143 CVC UL North Emancipation Hall
- 7062 CVC LL Emancipation Hall South
- 0102 USCS Senate Wing Door near S139 – 14h19min
- 0403 USCH 01 Crypt South – 14h20min
- 0402 USCH 01 Crypt North – 14h20min
- 0178 USCH 01 Crypt East – 14h20min

Materials Provided to Counsel for Robert Schornak:

The following materials were provided via email on June 9, 2021:

- June 9, 2021 correspondence and a list of 1b items in Excel spreadsheet, including 3 physical items of evidence and 3 electronic devices;
- The defense requested a copy of the extractions of the 3 electronic devices and the government advised the process to provide the copies with an estimated timeline of 30 days. The defense declined to inspect the 3 physical items (tactical vest, tactical helmet, and blue jacket) at this time.

Materials Provided to Counsel for Daniel Herendeen:

The following materials were provided via email on June 8, 2021:

- June 8, 2021 correspondence and a list of 1b items in Excel spreadsheet, including 1 physical item of evidence and 2 electronic items;
- The defense requested a copy of the 2 electronic items (iCloud data and iPhone) and the government advised the process to provide the copies with an estimated timeline of 30 days. The defense declined to inspect the 1 physical item (hat) at this time.

Additional Discovery and Information:

- On May 21, 2021, the government provided the parties with plea offers that expire on June 11, 2021.
- The government is in the process of preparing an additional production for both Mr. Herendeen and Mr. Schornak. The government anticipates completing this production in the next 30 days, subject to any unforeseen delays.

We received a notification that counsel has already downloaded some of the materials for this case from USAfx. To the extent you have not already done so, please download all of these files as soon as possible from USAfx, as it is not a storage medium; rather, it is a file transfer method. The folder and its contents will expire within 60 days. Please advise me immediately if you have difficulty downloading the discovery folder. This early discovery is not a complete production, but rather preliminary discovery. We anticipate producing more fulsome discovery in the future. 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.

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 additional categories of information that you believe are particularly relevant to your client.

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

CHANNING D. PHILLIPS
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For the District of Columbia

By: _____ /s/
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