

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

<b>UNITED STATES OF AMERICA</b>	:	
	:	
<b>v.</b>	:	<b>Case No. 21-cr-37</b>
	:	
<b>TIMOTHY LOUIS HALE-CUSANELLI</b>	:	
	:	
	:	
<b>Defendant.</b>	:	

**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 its July 14, 2021 discovery letter in this case, which was served via email and via USAfx on counsel for the Defendant.

Respectfully submitted,

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

By: /s/ Kathryn E. Fifield  
Kathryn E. Fifield  
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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*

July 14, 2021

Jonathan Crisp  
jcrisp@crisplegal.com

Re: *United States v. Timothy Hale-Cusanelli*  
Case No. 21-cr-37

Dear Counsel:

Below is a list of materials produced by the government as part of preliminary discovery, to date. **If you have not done so already, please download materials on USAfx at your earliest convenience as USAfx will auto-delete files after 90 days.**

Item description	Produced via:	Produced on:
Video recording of custodial interview of Defendant Hale-Cusanelli	USAfx	February 22, 2021
Bulk report of interviews conducted by NCIS	Email to defense counsel Jonathan Zucker	March 7, 2021
	USAfx	June 1, 2021 (reproduction)
Report of interview conducted by NCIS of Sergeant John Getz	Email to defense counsel Jonathan Zucker	March 8, 2021
Partial extraction of Apple iPhone – includes Cellebrite Extraction Report (PDF 1209 pages) and native files most relevant to Defendant’s detention proceedings and conduct on January 6, 2021	USAfx	March 11, 2021

Capitol Surveillance CCTV capturing defendant. <b>The Government has designated these files <u>Highly Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	May 25, 2021 (reproduction)
CHS video and audio recordings. <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	May 7, 2021
Cellebrite Extraction Report (PDF 63073 pgs): iPhone 6s (A1633), MSISDN 7328105132, ISMI 310120163205040. Produced via USAfx on May 7, 2021	USAfx	May 7, 2021
Full extraction of Defendant's Apple iPhone	Encrypted zip drive	April 28, 2021
	Blu Ray discs	April 28, 2021 (reproduction)
	Hard drive supplied by defense counsel Zucker	May 25, 2021 (reproduction)
Body Worn Camera video showing Defendant inside the U.S. Capitol on January 6, 2021. <sup>1</sup>	Download link from evidence.com and USAfx (duplicate)	June 1, 2021
One image of Defendant outside of the Capitol on January 6, 2021 in a crowd of rioters	USAfx	June 1, 2021
Toms River Police report dated 2/29/20. <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	June 1, 2021 (reproduction)
Photo of Toms River Investigative Narrative dated 2/29/20. <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	June 1, 2021 (reproduction)
Digital scan of Toms River Investigative Narrative dated 3/2/20. <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	June 1, 2021 (reproduction)
Cellebrite extraction report of text messages between Defendant and [REDACTED]	USAfx	June 1, 2021 (reproduction)
Howell Township Police Department Arrest Report dated 8/4/10	USAfx	June 1, 2021 (reproduction)
Cellebrite extraction report of text messages between Defendant and [REDACTED]	USAfx	June 1, 2021 (reproduction)

<sup>1</sup> Defendant appears in full-length video at approximately 2:45 pm, or the 1:26:43 marker on the video player.

Filed copy of letter by [REDACTED], filed on 3/7/21	USAfx	June 1, 2021 (reproduction)
Two still images from Capitol CCTV of Defendant inside the Capitol building on January 6, 2021. <b>The Government has designated these files <u>Highly Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	June 1, 2021
Screen capture of email to Defendant from Rise Up Ocean County dated 1/4/20	USAfx	June 1, 2021 (reproduction)
Guardian Report, file name "266N-NK-3370340_0000001.pdf." <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Opening EC, file name "266N-NK-3370340_0000002.pdf." <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Initial report of NCIS CHS, file name "266N-NK-3370340_0000003.pdf."	USAfx	July 14, 2021
Documentation of an NCIS CHS Interaction with defendant, file name "266N-NK-3370340_0000004.pdf;" digital attachment, file name "266N-NK-3370340_0000004_1A0000001_0000001.pdf." <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Contact with Army CID Special Agent [REDACTED], file name "266N-NK-3370340_0000005.pdf."	USAfx	July 14, 2021
Guardian complaint form and digital attachments, file names "266N-NK-3370340_0000007.pdf;" "266N-NK-3370340_0000007_Import.pdf;" "266N-NK-3370340_0000007_1A0000002_0000001.jpg;" "266N-NK-3370340_0000007_1A0000002_0000002.jpg;" "266N-NK-3370340_0000007_1A0000002_0000003.jpg;" "266N-NK-3370340_0000007_1A0000002_0000004.jpg;" "266N-NK-3370340_0000007_1A0000002_0000005.jpg;" "266N-NK-3370340_0000007_1A0000002_0000006.jpg;" "266N-NK-3370340_0000007_1A0000002_0000007.jpg;" "266N-NK-3370340_0000007_1A0000002_0000008.jpg;" "266N-NK-3370340_0000007_1A0000002_0000009.jpg;" "266N-NK-3370340_0000007_1A0000002_0000010.jpg;" "266N-NK-3370340_0000007_1A0000002_0000011.jpg;" "266N-NK-3370340_0000007_1A0000002_0000012.jpg;" "266N-NK-3370340_0000007_1A0000002_0000013.jpg;"	USAfx	July 14, 2021

<p>“266N-NK-3370340_0000007_1A0000002_00000014.jpg;”  “266N-NK-3370340_0000007_1A0000002_00000015.jpg;”  “266N-NK-3370340_0000007_1A0000002_00000016.jpg;”  “266N-NK-3370340_0000007_1A0000002_00000017.jpg.”  <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b></p>		
<p>Documentation of arrest and digital attachments, file names  “266N-NK-3370340_0000010.pdf;” “266N-NK-3370340_0000010_1A0000005_0000001.pdf;” “266N-NK-3370340_0000010_1A0000005_0000002.pdf;” “266N-NK-3370340_0000010_1A0000005_0000003.pdf;” “266N-NK-3370340_0000010_1A0000005_0000004.pdf;” “266N-NK-3370340_0000010_1A0000005_0000005.pdf;” “266N-NK-3370340_0000010_1A0000005_0000006.pdf;” “266N-NK-3370340_0000010_1A0000005_0000007.pdf;” “266N-NK-3370340_0000010_1A0000005_0000008.pdf;” “266N-NK-3370340_0000010_1A0000005_0000009.pdf.”</p>	USAFX	July 14, 2021
<p>Record of physical surveillance and digital attachment, file names “266N-NK-3370340_0000011.pdf;” “266N-NK-3370340_0000011_1A0000006_0000001.pdf.”</p>	USAFX	July 14, 2021
<p>Record of physical surveillance and digital attachment, file names “266N-NK-3370340_0000012.pdf;” “266N-NK-3370340_0000012_1A0000007_0000001.pdf.”</p>	USAFX	July 14, 2021
<p>Documentation of arrest and digital attachments, file names  “266N-NK-3370340_0000013.pdf;” “266N-NK-3370340_0000013_1A0000008_0000001.pdf;” “266N-NK-3370340_0000013_1A0000009_0000001.pdf;” “266N-NK-3370340_0000013_1A0000010_0000001.pdf.”</p>	USAFX	July 14, 2021
<p>Report on subject who traveled to Capitol and digital attachment, file names “266N-NK-3370340_0000014.pdf;” “266N-NK-3370340_0000014_Import.pdf.”</p>	USAFX	July 14, 2021
<p>Forensic Cell Phone Extraction of one Apple iPhone 6S and digital attachment, file names “266N-NK-3370340_0000015.pdf;” “266N-NK-3370340_0000015_1A0000011_0000001.pdf.”</p>	USAFX	July 14, 2021
<p>Record of transport of defendant, file name “266N-NK-3370340_0000016.pdf.”</p>	USAFX	July 14, 2021
<p>Search of Ford F-150 and digital attachments, file names  “266N-NK-3370340_0000017.pdf;” “266N-NK-3370340_0000017_1A0000014_0000001_PHYSICAL.pdf;” “266N-NK-3370340_0000017_1A0000012_0000001.pdf;” “266N-NK-3370340_0000017_1A0000013_0000001_PHYSICAL.pdf.”</p>	USAFX	July 14, 2021

Conversion to full investigation, file name “266N-NK-3370340_0000018.pdf.” <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Search of [REDACTED] and digital attachments, file names “266N-NK-3370340_0000022.pdf;” “266N-NK-3370340_0000022_1A0000017_0000001_PHYSICAL.pdf;” “266N-NK-3370340_0000022_1A0000017_0000002_PHYSICAL.pdf;” “266N-NK-3370340_0000022_1A0000015_0000001.pdf;” “266N-NK-3370340_0000022_1A0000016_0000001_PHYSICAL.pdf;” “266N-NK-3370340_0000022_1A0000016_0000002_PHYSICAL.pdf;” “266N-NK-3370340_0000022_1A0000015_0000002.pdf;” “266N-NK-3370340_0000022_1A0000018_0000001.pdf.”	USAfx	July 14, 2021
Record of interview of defendant and digital attachment, file names “266N-NK-3370340_0000023.pdf;” “266N-NK-3370340_0000023_1A0000019_0000001.pdf.”	USAfx	July 14, 2021
Record of interview of [REDACTED] and digital attachment, file names “266N-NK-3370340_0000029.pdf;” “266N-NK-3370340_0000029_1A0000022_0000001.pdf.”	USAfx	July 14, 2021
Record of indictment of defendant and digital attachment, file names “266N-NK-3370340_0000037.pdf;” “266N-NK-3370340_0000037_1A0000023_0000001.pdf.”	USAfx	July 14, 2021
Record of CHS recordings and digital attachment, file names “266N-NK-3370340_0000041.pdf;” “266N-NK-3370340_0000041_1A0000024_0000001_PHYSICAL.pdf.” <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Update from CID, file name “266N-NK-3370340_0000043.pdf.”	USAfx	July 14, 2021
Record of detention hearing, file name “266N-NK-3370340_0000045.pdf.”	USAfx	July 14, 2021
Records of Toms River Police reports and digital attachments, file names “266N-NK-3370340_0000047.pdf;” “266N-NK-3370340_0000047_1A0000027_0000001.pdf;” “266N-NK-3370340_0000047_1A0000027_0000002.pdf.” <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>	USAfx	July 14, 2021
Records of interview of PROTECT IDENTITY witness, file names “266N-NK-3370340_0000049.pdf;” “266N-NK-3370340_0000049_1A0000028_0000001.jpg;” “266N-NK-	USAfx	July 14, 2021

3370340_0000049_1A0000028_0000002.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000003.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000004.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000005.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000006.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000007.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000008.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000009.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000010.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000011.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000012.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000013.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000014.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000015.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000016.jpg;" "266N-NK- 3370340_0000049_1A0000028_0000017.jpeg." <b>The Government has designated these files <u>Sensitive</u> under the Protective Order issued in this case.</b>		
NCIS Investigative Reports and digital attachment, file names "266N-NK-3370340_0000062.pdf;" "266N-NK- 3370340_0000062_1A0000030_0000001.pdf."	USAfx	July 14, 2021
NCIS Investigative Reports and digital attachment, file names "266N-NK-3370340_0000063.pdf;" "266N-NK- 3370340_0000063_1A0000031_0000001.pdf."	USAfx	July 14, 2021
Update to arrest warrant and digital attachment, "266N-NK- 3370340_0000064.pdf;" "266N-NK- 3370340_0000064_1A0000032_0000001.pdf."	USAfx	July 14, 2021
Notes of interview of defendant and attachment, file names "266N-NK-3370340_0000066.pdf;" "266N-NK- 3370340_0000066_1A0000034_0000001.pdf."	USAfx	July 14, 2021
NCIS interview notes, file names "266N-NK- 3370340_0000067.pdf;" "266N-NK- 3370340_0000067_1A0000035_0000001.pdf;" "266N-NK- 3370340_0000067_1A0000035_0000002.pdf."	USAfx	July 14, 2021
Records of review of Capitol CCTV, file names "266N-NK- 3370340_0000069.pdf;" 266N-NK- 3370340_0000069_1A0000005_0000001.pdf;" "266N-NK- 3370340_0000069_1A0000005_0000002.zip."	USAfx	July 14, 2021
Create case request, file name "266N-NK- 3370340_0000055.pdf."	USAfx	July 14, 2021
Create case request and digital attachment, file names "266N- NK-3370340_0000056.pdf;" "266N-NK- 3370340_0000056_1A0000001_0000001.msg."	USAfx	July 14, 2021

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 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.

This material is subject to the terms of the Protective Order issued in this case.

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,

Kathryn E. Fifield  
Trial Attorney-Detailee

Enclosure: link to USAfx folder  
cc: Olivia Lindesmith, [olindesmith@crisplegal.com](mailto:olindesmith@crisplegal.com);  
Cassandra Baddorf, [FedAdmin@crisplegal.com](mailto:FedAdmin@crisplegal.com)