

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

UNITED STATES OF AMERICA

v.

**JEFFREY SABOL,
PETER FRANCIS STAGER,
MICHAEL J. LOPATIC SR.,
CLAYTON RAY MULLINS,
JACK WADE WHITTON,**

Defendants.

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Criminal No. 21-CR-35 (EGS)

NOTICE OF DISCOVERY

The United States of America, by and through its attorney, the Acting United States Attorney for the District of Columbia, hereby informs the Court and defense that the attached discovery letter of May 13, 2021, has been provided to the defense in this matter.

Respectfully submitted,

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

By: /s/ Colleen D. Kukowski
COLLEEN D. KUKOWSKI
Assistant United States Attorney
DC Bar No. 1012458
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CERTIFICATE OF SERVICE

I certify that a copy of the Government's Notice of Discovery was served on all counsel of record via the Court's electronic filing service.

/s/ Colleen D. Kukowski
COLLEEN D. KUKOWSKI
Assistant United States Attorney

Date: May 13, 2021



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*

May 13, 2021

JON NORRIS
Counsel for Jeffrey Sabol

DAVID BENOWITZ
RAMMY BARBARI
Counsel for Peter Stager

DENNIS BOYLE
BLERINA JASARI
Counsel for Michael Lopatic

PAT M. WOODWARD JR.
Counsel for Clayton Mullins

BEN ALPER
Counsel for Jack Wade Whitton

Re: *United States v. Sabol et al*
Case No. 21-CR-35 (EGS)

Dear Counsel:

We are writing to provide you with preliminary discovery in this case through USAFx. This material is subject to the terms of the Protective Order issued in this case. 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.

You have been provided with access to a folder on USAfx¹
(<https://usafx.box.com/s/c8m7xl6lvo6xs2zpe1t0c36s24wp3oex>) that contains the following materials:

¹ Please note that USAfx is not a permanent storage system and does not retain documents or files indefinitely. Please download these materials as soon as possible to avoid delay resulting from having to re-upload files.

Body Worn Camera Footage

- C.M BWC (2 files)
- A.W. BWC
- Chen BWC
- Craig BWC
- Huff BWC (2 files)
- Loaner BWC
- Manzan BWC
- Park BWC
- Powell BWC
- Sajumon BWC
- Sterling BWC

Other News and Social Media Material

- Parler Videos²
 - Parler - 02.28 pm - bLzjJt5EsDB8_cvt.mp4
 - Parler - 2.31 pm - hKd9GuPNUuAT_cvt.mp4
 - Parler - 3.19 pm - rKv1m3cDVn8K_cvt.mp4
 - Parler - 3.20 pm - UIFLvUXYEHxc_cvt.mp4
 - Parler - 4.26 pm - v7NTo8ADJ2au_cvt.mp4
 - Parler - 4.28 - pm - kiBnNejo0JW0_cvt.mp4
- Getty Images
 - gettyimages-1230454707-2048x2048.jpg
 - gettyimages-1230454782-2048x2048.jpg
 - gettyimages-1230455766-2048x2048.jpg
 - gettyimages-1230455814-2048x2048.jpg
 - gettyimages-1230464880-2048x2048.jpg
 - gettyimages-1230464942-2048x2048.jpg
 - gettyimages-1230464979-2048x2048.jpg
 - gettyimages-1230464990-2048x2048.jpg
 - gettyimages-1230465060-2048x2048.jpg
 - gettyimages-1230465064-2048x2048.jpg
 - gettyimages-1230465303-2048x2048.jpg
 - gettyimages-1230465307-2048x2048.jpg
- Reuters Images
 - B.M - Image ID RC2M2L9S5XAE.jpg
 - B.M. - Image ID RC274L93E0B4.jpg
 - B.M. - Image ID RC274L94BX5J.jpg
 - B.M. - Image ID RC274L9U18YZ.jpg
 - B.M. - Image ID RC274L9UENKP.jpg
 - B.M. - Image ID RC2M2L9FO04Y.jpg

² These files were obtained from <https://projects.propublica.org/parler-capitol-videos/>

- B.M. - Image ID RC2M2L9M4LBK.jpg
- B.M. - Image ID RC2M2L9NBQ3S.jpg
- B.M. - Image ID RC2M2L9TUQZ3.jpg
- B.M. - Image ID RC2O2L9I6YRN.jpg
- Other News and Social Media Files
 - 10000000_222135906057308_1709896189201208084_n.mp4
 - 2021-02-16_15-29-20_Twitter_Video1.mp4
 - capitol_police_officer_dragged_and_beaten_to_death__00_00__00_35_.mp4
 - FULL FOOTAGE Patriots STORM U.S. Capitol (4K60fps).mp4
 - IMG_0563.MOV
 - IMG_4418.jpg
 - Instagram_video_CCN_21-004-536_-_APO.webm
 - The Telegraph footage US Capitol 6 January 2021 CLIP 1.MOV
 - The Telegraph footage US Capitol 6 January 2021 CLIP 2.MOV
 - t_4d6ceb66e85d4e3e8a938b9292875ebb_name_officers.mp4
 - yt1s.com - ProTrump Protesters Clash with Capitol Police Before Breaking Into Building_480p.MP4

Materials Classified as “Sensitive” Pursuant to the Protective Order

- MPD Documentation
 - Civil Disturbance Unit 65 Roster (1 page)
 - MPD Documents – Officer A.W.
 - CCN #21003668 – INCIDENT REPORT (5 pages)
 - BOLO (1 slide)
 - BWC Synopsis (3 pages)
 - MPD Case Packet for A.W. (14 pages)
 - PD-42 (7 pages)
 - MPD Documents – Officer B.M.
 - BOLO (1 slide)
 - Email: RE_CCN_21-004-536_-_Invitation_to_collaborate.msg
 - 3_CCN__21-004-536_Miller_Pic__1.jpg
 - 4_CCN__21-004-536_Miller_Pic__2.jpg
 - Stager Arrest Warrant Affidavit (6 pages)
 - BWC Synopsis (3 pages)
 - Sabol Arrest Warrant (1 page)³
 - Sabol Arrest Warrant Affidavit (5 pages)
 - MPD Case Packet for B.M. (20 pages)
 - PD-42 (2 pages)
 - MPD Documents – Officer C.M.
 - PD-42 (2 pages)
 - BOLO (1 slide)

³ The second page of this document contains Defendant Sabol’s PII and was not suitable for redaction; accordingly, it is not included in this production.

- Indictment (7 pages)
 - News article, The Morning Call (11 pages)
 - MPD Case Packet for C.M. (13 pages)
- Video of MPD Officer M.F. Assault: MPD Officer M.F. was also assaulted and dragged into the crowd at the Lower West Terrace. We are providing a copy of a video of his assault and his BWC so that you can cross reference the times of his assaults with the offenses in *United States v. Sabol et al.*
 - M.F. Body Worn Camera
 - Raw360clip in mp4 format.mp4

Materials Classified as “Highly Sensitive” Pursuant to the Protective Order

- United States Capitol Surveillance Camera Footage from 2:40 pm to 5:15 pm (9 video files)

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,

/s/ Colleen D. Kukowski
COLLEEN D. KUKOWSKI
Assistant United States Attorney