



U.S. Department of Justice

Channing D. Phillips
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District of Columbia

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

May 25, 2021

VIA EMAIL

Peter D. Greenspun, Esq.
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Counsel for Cindy Fitchett

A. Eduardo Balarezo, Esq.
Counsel for Michael Curzio

Cara Halverson, Esq.
Counsel for Douglas Sweet

Sebastian Marks Norton, I
Counsel for Thomas Gallagher

Sarah Lockwood, Esq.
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Counsel for Terry Brown

David Benowitz, Esq.
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Shawn Sukumar, Esq.
Rammy Barbari, Esq.
Counsel for Bradley Rukstales

Re: *United States v. Cindy Fitchett, Michael Curzio, Douglas Sweet, Terry Brown, Bradley Rukstales, and Thomas Gallagher, 21-CR-41 (CJN)*

Dear Counsel:

This supplements a prior preliminary-discovery letter, dated March 29, 2021, and memorializes that the United States Attorney's Office for the District of Columbia provided you preliminary discovery comprising the following materials transmitted on the following dates:

April 5, 2021, and April 8, 2021 (via USAfx to counsel for Sweet only)

- Video (.mp4 file) recovered from Fitchett's phone in which Sweet is depicted
- Link to video in which Sweet is depicted: <https://www.wtkr.com/news/mathews-co-man-arrested-during-capitol-riot-trump-asked-all-the-patriots-to-show-up-so-i-did>
- Sweet's video interview with FBI (2 .mp4 files)

April 8, 2021 (via email to counsel for Curzio only)

- FBI-302 related to Curzio's noninterrogational statements made during arrest

April 8, 2021 (via email to counsel for Brown only)

- FBI-302 related to Brown's postarrest interview with FBI

April 12, 2021 (via USAfx to all counsel, following entry of protective order)

- 3 .mp4s of Capitol Police Surveillance Video (cameras 7164, 7167, and 7108) (HIGHLY SENSITIVE under Protective Order)
- Video (.mp4 file) recovered from Fitchett's phone in which Sweet is depicted

April 21, 2021 (via email to counsel for Curzio only)

- FBI-302 related to interview with Capitol Police officer

May 10, 2021 (via USAfx to counsel for Curzio only)

- Warrant return from Curzio's Facebook account, comprising:
 - 1 .pdf of business records (815.6 KB)
 - 1 .pdf of return from account (60 MB)
 - 1 .zip file (1.1GB)

May 19, 2021 (via USAfx to counsel for Fitchett and Sweet only)

- FBI video interview with Fitchett
- FBI video interview with Sweet

May 19, 2021 (via email to counsel for Gallagher only)

- FBI-302 related to arrest of Gallagher
- FD-395 (advice of rights)

May 19, 2021 (via email to counsel for Curzio only)

- Affidavit in support of Rule 41 search warrant in the Middle District of Florida for Curzio's cellphone
- Rule 41 search warrant and application in the Middle District of Florida for Curzio's cellphone

May 24 and 25, 2021 (via email to counsel for Rukstales only)

- FBI-302 related to Rukstales's arrest and booking at the FBI's Washington Field Office on January 11, 2021.
- 2 links to CBS Chicago news story and video in which Rukstales made statements regarding entry into Capitol:
 - <https://chicago.cbslocal.com/2021/01/08/northwest-suburban-man-among-13-facing-federal-charges-for-storming-u-s-capitol/>
 - <https://www.youtube.com/watch?v=PvD2E3dl2oE>

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 us 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 us if you have any issues accessing the information, and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1.

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

We recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. We will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, we will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

We 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. We 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). We 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, we 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.

We will forward additional discovery as it becomes available. We expect you will receive volume one of formal, Bates-stamped discovery in the coming weeks. If you have any questions, please feel free to contact us.

Sincerely,

/s/ Seth Adam Meinero

SETH ADAM MEINERO

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