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

July 31, 2021

By e-mail
Herbert L. Greenman
42 Delaware Avenue Suite 120
Buffalo, NY 14202

Re: *U.S. v. William Michael Sywak*, 21-CR-494

Dear Counsel:

I have uploaded to your account in USAFx the following discovery: all of the files listed on the attached index (Exhibit A). ***All files uploaded to USAFx will automatically be deleted after 60 days per the automatic retention policy in place. Please download the files before then.*** This material is subject to the terms of the Protective Order issued in this case.

Note that all these files and their related physical attachments are currently being formally processed for discovery by the discovery team assigned to the Capitol Riots cases. As such, the same files will be re-produced with bates-stamps at a later date. Nevertheless, we wanted to provide you what we can now as we wait for this processing to be finalized.

You will notice that some of the files being produced refer to physical attachments that were burned to a disk. If the physical attachments were too large to send via USAFx, they will instead be provided with the formal discovery round after being processed, or will be produced in another manner. This may include the full copy of your client's cellphone.

In addition, note that we have produced to you certain FBI Serials from your co-defendant's case file (0176-BF-3397730) that will eventually be produced to you in your client's case file. Those files are Serials 32, 33, and 34 of your co-defendant's case file, which will ultimately be produced to you as Serials 34, 36, and 37 (respectively) of your client's case file. The materials from your co-defendant's cell phone download are being designated HIGHLY SENSITIVE:

0176-BF-3397730_0000032.pdf
0176-BF-3397730_0000032_Import.pdf

0176-BF-3397730_0000033.pdf
0176-BF-3397730_0000033_1A0000027_0000001.pdf
0176-BF-3397730_0000033_1A0000027_0000002.3gp
0176-BF-3397730_0000033_1A0000027_0000003.pdf
0176-BF-3397730_0000033_1A0000027_0000004.3gp
0176-BF-3397730_0000033_1A0000027_0000005.3gp
0176-BF-3397730_0000033_1A0000027_0000006.jpg
0176-BF-3397730_0000033_1A0000027_0000007.png
0176-BF-3397730_0000033_1A0000027_0000008_PHYSICAL.pdf
0176-BF-3397730_0000033_1A0000027_0000009.jpg
0176-BF-3397730_0000033_1A0000027_0000010.jpg
0176-BF-3397730_0000033_1A0000027_0000011.jpg
0176-BF-3397730_0000033_1A0000027_0000012.jpg
0176-BF-3397730_0000034.pdf
0176-BF-3397730_0000034_1A0000038_0000001.pdf
0176-BF-3397730_0000034_1A0000038_0000002_PHYSICAL.pdf
0176-BF-3397730_0000034_1A0000038_0000003.pdf
0176-BF-3397730_0000034_1A0000038_0000004.pdf
0176-BF-3397730_0000034_1A0000038_0000005.pdf

The following materials are designated as SENSITIVE under the protective order in this case:

0176-BF-3379402_0000001.pdf
0176-BF-3379402_0000003.pdf

The following materials are designated as HIGHLY SENSITIVE under the protective order in this case:

0176-BF-3379402_0000003_1A0000002_0000002_Redacted.pdf
0176-BF-3379402_0000004_Redacted.pdf
0176-BF-3379402_0000005_1A0000003_0000003_Redacted.pdf
0176-BF-3379402_0000005_1A0000003_0000018_Redacted.pdf
0176-BF-3379402_0000005_1A0000003_0000019_Redacted.pdf
0176-BF-3379402_0000005_Import_Redacted.pdf
0176-BF-3379402_0000006.pdf
0176-BF-3379402_0000007_1A0000005_0000001_Redacted.pdf
0176-BF-3379402_0000008.pdf
The folder entitled: 0176-BF-3379402_0000008_1A0000006_0000001_PHYSICAL
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0176-BF-3379402_0000009_1A0000007_0000001_Redacted.pdf
0176-BF-3379402_0000014.pdf
0176-BF-3379402_0000014_1A0000010_0000001.pdf
0176-BF-3379402_0000031_Import_Redacted.pdf

0176-BF-3379402-FISUR_0000001_Redacted.pdf
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0176-BF-3397730_0000033_1A0000027_0000001.pdf
0176-BF-3397730_0000033_1A0000027_0000002.3gp
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0176-BF-3397730_0000033_1A0000027_0000011.jpg
0176-BF-3397730_0000033_1A0000027_0000012.jpg

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.

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/ William Dreher
William Dreher
Assistant United States Attorney

Enclosure(s)

Exhibit A:

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0176-BF-3379402_0000002_1A0000001_0000001_Redacted.pdf
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