



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*

August 17, 2021

By e-mail

Nathan I. Silver, II
Law Offices of Nathan I. Silver
6300 Orchid Drive
Bethesda, MD 20817

Re: *U.S. v. Daniel Scott, 21-CR-499*

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 or other digital devices.

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

266O-TP-3375935_0000018_Redacted.pdf
266O-TP-3375935_0000018_1A0000122_0000001_Redacted.pdf
266O-TP-3375935_0000018_Import_Redacted.pdf
266O-TP-3375935_0000019_Redacted.pdf

266O-TP-3375935_0000019_1A0000021_0000001_Redacted.pdf
266O-TP-3375935_0000019_1A0000021_0000002_Redacted.pdf
266O-TP-3375935_0000019_1A0000021_0000003.pdf
266O-TP-3375935_0000015.pdf
266O-TP-3375935_0000015_1A0000020_0000001.xlsx
266O-TP-3375935_0000016.pdf
266O-TP-3375935_0000017.pdf
266O-TP-3375935_0000017_1A0000015_0000001.pdf
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266O-TP-3375935_0000018_1A0000114_0000001.csv
266O-TP-3375935_0000018_1A0000115_0000001.xlsx
266O-TP-3375935_0000018_1A0000116_0000001.pdf
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266O-TP-3375935_0000019_1A0000021_0000004.pdf
266O-TP-3375935_0000019_1A0000021_0000005.pdf
266O-TP-3375935_0000019_1A0000022_0000001.jpg

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

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266O-TP-3375935_0000006_Redacted.pdf
266O-TP-3375935_0000008_Redacted.pdf
266O-TP-3375935_0000008_Import_Redacted.pdf
266O-TP-3375935_0000039.pdf
266O-TP-3375935_0000039_Import.pdf

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.

Some defense counsel in the Capitol Breach cases have requested information that they claim suggests a member (or members) of law enforcement allowed people to enter or remain in the Capitol or on restricted grounds, acted friendly or sympathetic to the rioters, or otherwise failed to do their jobs. As an initial matter, we do not believe that such information is exculpatory as to guilt or punishment within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1973). Nevertheless, the government possesses some information that arguably could be responsive to these requests. Out of an abundance of caution, the government will be making such information available to you, if it has not done so already.

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:

266O-TP-3375935_0000002_Redacted.pdf
266O-TP-3375935_0000002_Import_Redacted.pdf
266O-TP-3375935_0000011_Redacted.pdf
266O-TP-3375935_0000012_Redacted.pdf
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