

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MITCHELL TODD GARDNER, II

Defendant.

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Case No. 21-cr-622-APM

**GOVERNMENT’S NOTICE OF FILING OF EXHIBITS PURSUANT
TO LOCAL CRIMINAL RULE 49 AND STANDING ORDER 21-28**

The United States hereby gives notice, pursuant to Local Criminal Rule 49 and Standing Order 21-28, of the following exhibits provided to the Court and counsel to be used by the government in the sentencing in this matter.

The following video and photographic evidence available to the Court electronically:

Exhibit Number	File Name	Source	Description
1	Exhibit 1. Open-Source Rendering of Capitol Building and Grounds as they appeared on January 6, 2021.png]	Open-Source Twitter users @ne0ndistracton and @sansastark525	Open-Source Rendering of Capitol Building and Grounds as they appeared on January 6, 2021.
2	Exhibits 2A-B.png	USCP security footage	Stills from USCP security footage showing the progression of the crowd, from the outer barricades
3	Exhibits 3A-B.jpg	USCP security footage	Stills from USCP security footage showing the breach of the West Plaza barricades.
4	Exhibits 4.png	USCP security footage	Stills from USCP security footage showing the breakthroughs in the defensive line on both the left and right flanks.
5	Exhibit 5.jpg	Architect of the Capitol,	West Front of the Capitol on Inauguration Day.

		https://www.aoc.gov/what-we-do/programs-ceremonies/inauguration	
6	Exhibit 6.jpg	Defendant Gardner's Phone	Photo of Defendant Gardner as dressed on January 6, 2021.
7	Exhibit 7.jpg	Defendant Gardner's Phone	Photo of Defendant Gardner as dressed on January 6, 2021.
8	Exhibit 8.png	Open-Source	Photo of Defendant Gardner on restricted grounds of the U.S. Capitol just past Peace Circle.
9	Exhibit 9.png	Open-Source	Photo of Defendant Gardner on restricted grounds of the U.S. Capitol on the West Plaza.
10	Exhibit 10.png	Open-Source	Photo of Defendant Gardner on restricted grounds of the U.S. Capitol on the West Plaza.
11	Exhibit 11.png	Open-Source	Photo of Defendant Gardner on restricted grounds of the U.S. Capitol entering stairs built for the Inauguration.
12A	Exhibit 12A.png	Open-Source	Defendant Gardner making his way through the crowd.
12B	Exhibit 12B.png	Taken from a yet-to-be-charged target's phone.	Defendant Gardner making his way through the crowd.
13	Exhibit 13 Gardner (Political Trance Video text and squares).mp4	Open-Source video titled "Political Trance"	Video - Defendant Gardner yelling, pointing, spraying OC, etc.
13-1 through 13-13	Exhibit 13-1.png through Exhibit 13-13.png	Open-Source video titled "Political Trance"	Stills from video Exhibit 13.
14	Exhibit 14 Gardner Spraying.mp4	Taken from a yet-to-be-charged target's phone.	Video - Defendant Gardner spraying into LWT tunnel with MPD MK46 OC spray.
14-1	Exhibit 14.png	Taken from a yet-to-be-charged target's	Still from Exhibit 14.

		phone.	
15	Exhibit 15 CCTV	CCTV	Video - CCTV.
15-1	Exhibit 15-1.png	CCTV	Still from Exhibit 15.
16	Exhibit 16. BWC from MPD Officer J.L.	BWC MPD Officer J.L.	Video - BWC.
16-1	Exhibit 16-1.png	BWC MPD Officer J. L.	Still from Exhibit 16.
17	Exhibit 17.png	CCTV	Gardner’s arm reaching up to redirect construction ladder to a window.
18	Exhibit 18 Gardner breaking window with MK46.mp4	Open-Source	Video - 37 seconds showing Gardner breaking window with MK46.
18-1 through 18-4	Exhibit 18-1.png through Exhibit 18-4.png	Open-Source	Stills from Exhibit 18.
19	Exhibit 19.mp4	Open-Source	Video - Gardner assisted others up onto the ledge outside the window into ST-2M.
19-1 through 19-3	Exhibits 19-1.png through Exhibit 19-3.png	Open-Source	Still from Exhibit 19.
20	Exhibit 20. Gardner in STM2.MOV	From another defendant’s phone	Video - Gardner inside ST-2M.
20-1	Exhibit 20-1	From another defendant’s phone	Still from Exhibit 20.
21	Exhibit 21. 32 minutes excerpt from Full Footage.MOV	Full Footage https://www.youtube.com/watch?v=iNFcdpZdkh0	Video - Gardner helping others into the Capitol, waving for others to come closer, and giving a “Nixon-like victory sign.”
21-1 through 21-4	Exhibit 21-1 through Exhibit 21-4	Full Footage https://www.youtube.com/watch?v=iNFcdpZdkh0	Stills from Exhibit 21.
22	Exhibit 22	From defendant St Cyr’s phone	Video - 2 minute 30 seconds, in which Gardner can be seen in ST-2M and helping remove window.
22-1 through 22-4	Exhibit 22-1 through Exhibit 22-4	From defendant St Cyr’s phone	Stills from Exhibit 22.

23	Exhibit 22 Video of Gardner Later in the Day.mp4	Open-Source	Video - Gardner on the LWT encouraging other rioters.
23-1 and 23-2	Exhibit 22-1.png and Exhibit 22-2.png	Open-Source	Stills from Exhibit 23.
24	Exhibit 24	CCTV	Video - CCTV 4:48:57 – 4:56:33 p.m.
24-1 and 24-2	Exhibit 24-1 and 24-2	CCTV	Stills from Exhibit 24
25-1 through 25-3	Exhibits 25-1 through 25-3	BWC and CCTV	BWC and CCTV stills
26	Exhibit 26	Documentary film by Alex Holder	Video - Segment of documentary film.
27	Exhibit 25. MPD Commander Ramey Kyle Impact Statement V4.mp4	Video compiled from CCTV, BWC, and Interview of Commander Kyle.	Video - Victim Impact Statement of MPD Commander Kyle.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 3rd day of March, 2023, a copy of the foregoing was served on counsel of record for the defendant via the Court's Electronic Filing System.

/s/ Jacqueline Schesnol
Jacqueline Schesnol
Assistant United States Attorney