

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

UNITED STATES OF AMERICA	:	
	:	Case No. 1:22-cr-182 (BAH)
v.	:	
	:	
DAVID JOHNSTON,	:	
	:	
Defendant.	:	

**GOVERNMENT’S SUPPLEMENTAL REPORT AND POSITION
REGARDING PHOTO AND VIDEO EVIDENCE**

Pursuant to this Court’s December 5, 2022 Minute Order, the United States will make the following evidence available to the Court electronically:

No.	File Name	Length	Source	Description
1	Video file: IMG_5172	23 minutes, 52 seconds	Co-defendant Chad Clifton	<p>Video filmed by co-defendant Clifton of Johnston and Clifton outside and entering Capitol building.</p> <p>Johnston visible throughout video, including at: :45, 1:13, 8:35, 12:47, 13:09, 20:08.</p> <p>Flash bangs throughout including at 5:15</p> <p>Police presence and bike rack barriers visible throughout video from :00 to 7:00.</p> <p>LRAD system heard throughout including at :10 and 1:08.</p> <p>Objects thrown towards police line throughout video, including at: 1:16, 2:32, 5:23.</p> <p>Fighting between rioters and law enforcement including at 5:45 – 6:45.</p> <p>Johnston filming himself talking about breaking through barriers, at 13:30-14:05.</p> <p>Rioter saying, “we breached the</p>

				door” at 15:00.
2	https://vimeo.com/500625255	10 minutes, 20 seconds	Open Source Footage	Video showing different angle of same time period and area where Clifton’s video No. 1 (above) was filmed. <i>See</i> 4:51 to 6:04, 6:04 to 7:18.
3	BWC Clip_ Johnston sentencing.mp4	2 minutes, 47 seconds	Metropolitan Police Department Body Worn Camera	Officer’s body worn camera showing different angle of same time period and area where Clifton’s video No. 1 (above) was filmed.
4	GH010089.MP4	8 minutes, 19 seconds	Open Source Footage	Footage showing Johnston and Clifton outside Capitol building, videoing while rioters clash with law enforcement. <i>See</i> 0:00 to 2:00.
5	Video file: IMG_5180	1 minute, 14 seconds	Co-defendant Chad Clifton	Johnston and Clifton walking through Capitol building, including in Crypt. Sirens heard throughout, including at :46, :56.
6	Video file: IMG_5182	7 minutes, 45 seconds	Co-defendant Chad Clifton	Video of Johnston and Clifton walking through Capitol building and leaving the Capitol building. Johnston visible throughout video, including at 1:30, 2:37, 2:50, 6:02.
7	Image file: 5E66908B-2A2A-4AA9-8207-21659C22DAE6-L0-001	N/A	Co-defendant Chad Clifton	Photo of Capitol grounds exterior, showing bike racks and snow fencing.
8	Image file: 8D7E3359-283B-46D0-98BA-4EF3539C5AC1-L0-001	N/A	Co-defendant Chad Clifton	Photo of Johnston standing in front of bike fencing around Capitol grounds, early in the day on January 6, 2021.
9	Image file: E21A4924-1046-4A83-AD72-12177C958650-L0-001	N/A	Co-defendant Chad Clifton	Photo of Capitol grounds exterior showing line of bike racks.

The Government believes that all of the above-listed exhibit can be publicly released without restriction.

The Government has conferred with counsel for the defendant, who stated that he objects to the public release of Exhibits 2 and 3, because they do not depict Johnston or his co-defendant and neither of the co-defendants were involved in any assaultive behavior or charged with anything indicating the same (destruction of property, assault, rioting, etc.), and “[a]dmission of these recordings conflates Johnston’s limited crime with the more aggravated and serious acts depicted in these recordings. The parading crime to which Johnston pleaded guilty prohibits knowing and willful parading, demonstrating, or picketing “in” any of the Capitol buildings. The subject videos are not in the Capitol.” The defendant further objects to the public release of Exhibit 4 beyond timestamp 1:15 for the same reason.

Respectfully submitted,

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