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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GIOVANNI VINCENZO TILOTTA (3),  
WAIEL YOUSIF ANTON (5)

Defendants.

Case No.: 19-cr-4768-GPC

**EXHIBITS TO UNITED STATES’  
MOTIONS *IN LIMINE***

Exhibit A.....Letter dated May 28, 2021

Exhibit B.....Letter dated June 30, 2021

Exhibit C.....Letter dated July 21, 2021

Exhibit D.....Letter dated July 26, 2021

Exhibit E .....Letter dated November 15, 2021

Exhibit F .....Email dated November 22, 2021

# Exhibit A



**U.S. Department of Justice**

***Linda Frakes***

*Attorney for the United States*

*Under Authority of 28 U.S.C. § 515*

*U.S. Attorney's Office*

*Southern District of California*

*Nicholas W. Pilchak*

*Assistant U.S. Attorney*

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San Diego, California 92101-8893*

*Imperial County Office  
516 Industry Way  
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Imperial County, California 92251-5782*

**May 28, 2021**

**Jeremy D. Warren**  
**Warren & Burstein**  
**501 W. Broadway, Suite 240**  
**San Diego, CA 92101**  
**Email: jw@wabulaw.com**

**Eugene G. Iredale**  
**Iredale & Yoo, APC**  
**105 West F Street, Fourth Floor**  
**San Diego, CA 92101-6036**  
**egiredale@iredalelaw.com**

***via electronic mail only***

**Re: United States v. Giovanni Tilotta & Waiel Anton**  
**19-cr-4768-GPC**

Messrs. Warren & Iredale,

We write to address the following matters in advance of our trial in this case, set for September 1, 2021.

**Pretrial Deadlines**

At our prior hearing, we discussed (and the Court adopted) a series of pretrial deadlines. Reviewing the transcript of that hearing, the deadlines are these:

- United States to provide expert notice on **July 21, 2021**
- Motions *in limine* filed on **July 30, 2021**
- Responses to motions *in limine* filed on **August 6, 2021**

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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- United States to provide notice under Fed. R. Evid. 404(b) on **August 11, 2021**
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- Parties to exchange exhibit lists on **August 18, 2021**
- United States to provide witness list on **August 18, 2021**
- Parties to exchange material under the Jencks Act, Rule 26.2 and *Giglio* on **August 18, 2021**
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- Parties to serve and file proposed *voir dire* questions, proposed verdict forms, and proposed jury instructions on **August 25, 2021**
- Parties to file trial memorandum (if any) on **August 25, 2021**
- Trial beginning **September 1, 2021** at 8:30 a.m. and anticipated to continue September 2, 7, 8, 9, 13, 14, 15 and 16, 2021.

We have prepared the enclosed proposed pretrial order, which reflects these deadlines. If it is agreeable, please let us know and we will forward it to the Court for entry on the docket for to avoid any later doubt about the schedule.

Please note that we have added one deadline we did not discuss at our hearing: a time period for the preparation and revision of transcripts. As you know, the investigation of this matter generated many audio and video recordings. We are having some of those recordings transcribed for use at trial. We propose that any party wishing to use a transcript of a recording as substantive or demonstrative evidence at trial submit a draft of the recording by **July 21, 2021**, with any proposed revisions circulated by the opposing party/parties by **August 6, 2021**, so that any disagreements can be addressed (if necessary) at the hearing for motions *in limine* on August 13, 2021.

### **Acceptance of Responsibility**

Based on our discussion with each of you, we do not believe that your clients are interested in conducting plea negotiations at this time. Nevertheless, we wanted to advise you that as the United States begins to incur significant trial preparation costs—including



May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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selection and engagement of experts, preparation of transcripts, and extensive witness preparation costs—if plea negotiations should resume, the United States would not be willing to move for a third-point reduction for acceptance of responsibility under USSG § 3E1.1(b) for any guilty plea entered after July 1, 2021.

### **Discovery Produced to Date**

According to our records, we have produced the following rounds of discovery to you on or about the dates indicated:

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Please compare this summary with your own files to be sure that you have received each of the rounds of discovery in good order. If you require any of them to be reproduced, please let us know at your earliest convenience.

### **Reciprocal Discovery**

Consistent with the pretrial disclosure schedule discussed by the Court at our last hearing, and for the avoidance of doubt as to the status of any request, please consider this to be a request for reciprocal discovery under Fed. R. Evid. 16(b), including especially Rules 16(b)(1)(A) and 16(b)(1)(C).

### **Request Under Rule 12.1**

Mr. Iredale correctly noted at our prior hearing that, for the most part, this case does not turn on alibi defenses. At the same time, the United States requests disclosure of any intent to rely on an alibi defense to Counts 3 through 7 or any of the overt acts alleged in the superseding indictment. *See* ECF No. 152. In particular, the United States

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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expressly requests notice of an intended alibi defense on the part of Mr. Tilotta to his participation in Counts 5 and 6 on April 24, 2017.

Under Rule 12.1(a)(2), any such notice should include “each specific place where the defendant claims to have been at the time of the alleged offense” and “the name, address and telephone number of each alibi witness on whom the defendant intends to rely.” Per the Rule, the United States respectfully requests written notice within fourteen (14) days of this request, absent a written agreement to the contrary.

### **Request Under Rule 12.2**

The United States hereby requests disclosure of any intent to rely on a defense involving a mental disease or defect under Rule 12.2—particularly under Rule 12.2(b). We request that you make this disclosure no later than July 1, 2021 to enable the United States to prepare any appropriate motion for relief. Please do not construe this request, which is made from an abundance of caution, to imply the existence of any condition warranting such a defense.

### **Request for Notice of Advice of Counsel Defense**

The United States hereby requests notice of any intent to rely on an advice of counsel defense, or a defense that either of your clients did not have the requisite intent to commit one or more of the charged crimes because of good faith reliance on the advice of counsel. Pretrial disclosure of such a defense is necessary to enable the Court to address the contours of any waiver of privilege occasioned by the defense, and to avoid a mid-trial delay to resolve the issue. *Cf. United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“A defendant may not use the privilege to prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.”). We request such notice no later than three weeks prior to trial.

### **Physical Evidence**

A wide variety of physical evidence was seized during the course of this investigation. To date, we have received no requests to inspect any physical evidence. If you wish to inspect any of the physical evidence seized during this investigation, please contact me to arrange a mutually agreeable time and place to do so.

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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### **Digital and Electronic Evidence**

In discovery in this case, we have produced a large amount of evidence taken from electronic accounts and digital devices, such as email accounts, cloud storage accounts, cellular telephones and computers. In each case, we either have produced or will shortly produce the relevant consent or warrant authorizing search of the device or account, as well as the results of the search in the form of the specific records or data seized by law enforcement pursuant to the legal authority authorizing the search. We have not produced in discovery the complete contents of any such account or device, since—as you know—the applicable legal process generally does not authorize our accessing the complete contents beyond the period provided for review. Although you have not requested it to date, if you wish to examine any of the devices or accounts beyond the records seized or collected during this investigation, please contact me so that we can discuss the matter.

### **Proposed Stipulations**

At our last hearing, Mr. Iredale suggested the possibility of mutually-agreeable stipulations to streamline the presentation of evidence in this case. We respectfully request that you provide any such proposed stipulations by July 1, 2021, so that we can address them and (if agreeable) tailor our trial preparation appropriately.

We also anticipate providing you with a series of proposed stipulations that the United States would be willing to enter to simplify the proof in this matter.

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

Page 6

Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Nicholas W. Pilchak  
NICHOLAS W. PILCHAK  
Assistant U.S. Attorney

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GIOVANNI VINCENZO TILOTTA (3),  
WAIEL YOUSIF ANTON (5)

Defendants.

Case No.: 19-cr-4768-GPC

**[PROPOSED] PRETRIAL ORDER**

Trial in this matter shall commence on September 1, 2021 at 8:30 a.m. Trial shall continue, as necessary, on September 2, 7, 8, 9, 13, 14, 15 and 16, 2021. Motions *in limine* will be heard on August 13, 2021 at 2:30 p.m.

IT IS HEREBY ORDERED that the parties shall comply with the following deadlines in advance of trial in this matter:

1. The United States shall provide notice of its proposed expert testimony no later than July 21, 2021, with the defense providing notice of its proposed expert testimony no later than August 18, 2021.

2. The parties shall exchange draft transcripts of any recording they plan to use at trial no later than July 21, 2021. The parties shall exchange proposed revisions to any transcript no later than August 6, 2021.

3. The parties shall file motions *in limine* no later than July 30, 2021, with responses filed no later than August 6, 2021.

4. The United States will provide notice of the nature of any evidence offered under Fed. R. Evid. 404(b) no later than August 11, 2021.

5. The United States shall disclose draft summary charts pursuant to Fed. R. Evid. 1006 no later than August 11, 2021, identifying any summaries' underlying documents and admissibility. The defense shall make similar disclosure no later than August 18, 2021.

6. The parties shall exchange exhibit lists, and the United States shall serve a copy of its witness list, on August 18, 2021. If not already produced, the parties will exchange materials subject to 18 U.S.C. § 3500, Rule 26.2, and *Giglio* on the same date.

7. The parties shall serve and file proposed *voir dire* questions and verdict forms no later than August 25, 2021.

8. The parties shall submit proposed jury instructions no later than August 25, 2021.

9. The parties may file a trial memorandum no later than August 25, 2021.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2021

HON. GONZALO P. CURIEL  
United States District Judge  
Southern District of California

# **Exhibit B**



**U.S. Department of Justice**

***Linda Frakes***

*Attorney for the United States*

*Under Authority of 28 U.S.C. § 515*

*U.S. Attorney's Office*

*Southern District of California*

*Nicholas W. Pilchak*  
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**June 30, 2021**

**Jeremy D. Warren**  
**Warren & Burstein**  
**501 W. Broadway, Suite 240**  
**San Diego, CA 92101**  
**Email: jw@wabulaw.com**

**Eugene G. Iredale**  
**Iredale & Yoo, APC**  
**105 West F Street, Fourth Floor**  
**San Diego, CA 92101-6036**  
**egiredale@iredalelaw.com**

***via electronic mail only***

**Re: United States v. Giovanni Tilotta & Waiel Anton**  
**19-cr-4768-GPC**

Messrs. Warren & Iredale,

We write further to our letter of May 28, 2021 to address a number of topics in advance of the trial in this matter set for September 1, 2021.

**Pretrial Deadlines**

We did not receive a response to our solicitation to submit a pretrial order confirming the deadlines set at our most recent hearing before Judge Curiel on April 29, 2021. We have once again enclosed a proposed pretrial order, which reflects these deadlines, as well as an additional deadline for pretrial disclosure of draft transcripts. If it is agreeable, please let us know and we will forward it to the Court for entry on the docket for to avoid any later doubt about the schedule. Hearing nothing, we will move shortly for entry of this order, noting that we were unable to obtain your position on it.



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Letter to Warren & Iredale

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### **Attorney Vikas Bajaj**

As you know, local attorney Vikas Bajaj pleaded guilty on December 9, 2020 to aiding and abetting Giovanni Tilotta with the false entry of firearms transaction records in violation of law. *See* 20-cr-3905-JLB. This conviction pertains to Bajaj's conduct in an October 28, 2016 firearms transfer conducted in Marco Garmo's office. The United States is currently evaluating whether to call Mr. Bajaj as a percipient witness to that transaction. It is anticipated that his testimony would be limited to that transaction and the events immediately surrounding it, as well as potentially to Mr. Garmo's purchase of a separate CZ handgun a few months later. It is not anticipated that Mr. Bajaj's testimony would extend—for example—to any information he may have about Waiel Anton's consulting business.

At the same time, as reflected in the discovery, Mr. Bajaj has made statements indicating a belief that he may have acted in some capacity as Mr. Garmo's lawyer. The investigation and prosecution team in this matter is unaware of the timing, duration, or precise details of that supposed relationship. As far as we know, Mr. Bajaj has never claimed to have represented or been in an attorney-client relationship with either of your clients.

By this letter, accordingly, we request that you inform us whether you would raise any objection arising from Mr. Bajaj's status as an attorney or any supposed attorney-client relationships he may have formed during the facts at issue in this case—whether based on a claim of joint defense privilege or otherwise. **We request this notice as soon as possible so that we can implement (and discuss with you) appropriate procedures based on your response.**

### **Pen Register Data**

The underlying investigation of this matter utilized a number of court-authorized pen register and trap and trace devices. *See, e.g.,* discovery at BF-REPORTS-MAIN-000022. It is possible that not all of the data obtained from these methods has been produced in discovery, in part because of difficulties with the format in which it was produced by the provider and collected by the investigating agencies. The United States does not at this time intend to introduce any of the pen register data at trial. Nevertheless,

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**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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out of an abundance of caution, we wanted to flag the existence of the data for you once again and remind you that it is available for your inspection upon request.

**Notice Under Fed. R. Evid. 902(11)**

At trial, the United States intends to introduce evidence under Federal Rule of Evidence 902(11). This may consist, for example, of financial evidence from bank records or telephone toll data or call records, or summaries of that data under Federal Rule of Evidence 1006. The underlying records have already been produced to you in discovery, along with their accompanying certifications from the appropriate records custodian. The United States anticipates supplementing this notice with more specific notice of the records subject to admission under Rule 902(11) shortly, but hereby provides you with notice of its intent to rely upon this evidence and requests that you notify us of any objection to this procedure no later than July 23, 2021, to enable us to timely file appropriate motions *in limine* by July 30, 2021.

**Notice Under Fed. R. Evid. 902(14)**

At trial, the United States intends to introduce evidence (such as text messages) taken from electronic devices (such as cellular telephones), typically as a result of a warrant search. In the interests of shortening the trial and streamlining the proof, we would inquire whether you are willing to stipulate to the authenticity of the extraction of these devices—without waiving the possibility of other objections, such as relevance or hearsay. Specifically, the stipulation would establish that the data extracted from the device is what it purports to be: a copy of data that was actually present on the device that was extracted.

Alternatively, the United States may rely upon Federal Rule of Evidence 902(14) in authenticating the data used in the extraction of electronic devices. A sample certification under Fed. R. Evid. 902(14) is attached for certain devices. The United States anticipates providing supplemental notice of additional devices and extractions shortly. The referenced extractions can be made available for your inspection upon request. The seized evidence obtained from the extractions either has been or will shortly be produced in discovery. We hereby provide notice of our intent to offer records at trial consisting of seized evidence taken from these extractions pursuant to Rule 902(14) and 902(11).

June 30, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

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Please let us know at your earliest convenience whether (1) you object to the form or contents of the certification, or (2) you have a good faith basis to contest the authenticity of the extractions. We request your response no later than July 23, 2021, to enable us to timely file appropriate motions *in limine* by July 30, 2021.

We will supply additional certifications concerning other electronic devices as they become available.

### **Alibi Defense Under Rule 12.1**

In our prior letter, we requested disclosure of any intent to rely on an alibi defense to Counts 3 through 7 or any of the overt acts alleged in the superseding indictment. *See* ECF No. 152. In particular, the United States expressly requested notice of an intended alibi defense on the part of Mr. Tilotta to his participation in Counts 5 and 6 on April 24, 2017. We requested such notice within fourteen (14) days of our letter and to date have not received a response. Accordingly, we understand that your clients do not intend to rely on such a defense at trial.

### **Renewed Request for Notice of Advice of Counsel Defense**

The United States hereby reiterates its request for notice of any intent to rely on an advice of counsel defense, or a defense that either of your clients did not have the requisite intent to commit one or more of the charged crimes because of good faith reliance on the advice of counsel. Pretrial disclosure of such a defense is necessary to enable the Court to address the contours of any waiver of privilege occasioned by the defense, and to avoid a mid-trial delay to resolve the issue. *Cf. United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“A defendant may not use the privilege to prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.”). We request such notice no later than three weeks prior to trial.

### **Acceptance of Responsibility**

As set out in our prior letter, the United States does not believe that your clients are interested in plea negotiations at this time. Nevertheless, if plea negotiations should resume, as we previously indicated, the United States would not be willing to move for a third-point reduction for acceptance of responsibility under USSG § 3E1.1(b) for any guilty plea entered after July 1, 2021 absent some other written agreement between us.

June 30, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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### **Proposed Stipulations**

In our prior letter, we requested that you provide us with your proposed stipulations by July 1, 2021, so that we can address them and (if agreeable) tailor our trial preparation appropriately. We renew that request.

In the spirit of compromise and efficiency, we propose the following stipulations on behalf of our client:

1. The parties would stipulate that physical evidence was seized from the locations identified in the corresponding law enforcement reports, to obviate the need to call a variety of seizing agents to establish chain of custody. For example, the parties would stipulate that the \$100 bill seized from Mr. Garmo's wallet was in fact found there, and that Mr. Garmo's Samsung S7 cellular telephone was recovered from his home, to avoid the need to call two separate seizing agents to establish those facts. The United States anticipates that none of the evidence covered by this stipulation would have been seized from your clients individually, other than three cellular telephones seized from Mr. Anton's home.
2. The parties would stipulate that all firearms seized in this case were in fact firearms as defined by law, to avoid any necessity of calling a witness to establish that fact.
3. As discussed above, the parties would stipulate to the authenticity of the forensic extractions of each digital device seized during the case, to avoid the need to call the extracting agent for each device for routine testimony establishing only that they performed the extraction. [This stipulation would not waive other objections, such as hearsay or relevance.]

Please let us know at your earliest convenience whether these stipulations are agreeable to you, but in any event before July 23, 2021 so that we can address them (if necessary) via motions *in limine*.

June 30, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

Page 6

Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Nicholas W. Pilchak  
NICHOLAS W. PILCHAK  
Assistant U.S. Attorney

***Enclosures***

Letter of May 28, 2021

Certification of Special Agent Ashley Townsend

Complete log of discovery produced to date



**U.S. Department of Justice**

***Linda Frakes***

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Letter to Warren & Iredale

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May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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### **Reciprocal Discovery**

Consistent with the pretrial disclosure schedule discussed by the Court at our last hearing, and for the avoidance of doubt as to the status of any request, please consider this to be a request for reciprocal discovery under Fed. R. Evid. 16(b), including especially Rules 16(b)(1)(A) and 16(b)(1)(C).

### **Request Under Rule 12.1**

Mr. Iredale correctly noted at our prior hearing that, for the most part, this case does not turn on alibi defenses. At the same time, the United States requests disclosure of any intent to rely on an alibi defense to Counts 3 through 7 or any of the overt acts alleged in the superseding indictment. *See* ECF No. 152. In particular, the United States



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expressly requests notice of an intended alibi defense on the part of Mr. Tilotta to his participation in Counts 5 and 6 on April 24, 2017.

Under Rule 12.1(a)(2), any such notice should include “each specific place where the defendant claims to have been at the time of the alleged offense” and “the name, address and telephone number of each alibi witness on whom the defendant intends to rely.” Per the Rule, the United States respectfully requests written notice within fourteen (14) days of this request, absent a written agreement to the contrary.

### **Request Under Rule 12.2**

The United States hereby requests disclosure of any intent to rely on a defense involving a mental disease or defect under Rule 12.2—particularly under Rule 12.2(b). We request that you make this disclosure no later than July 1, 2021 to enable the United States to prepare any appropriate motion for relief. Please do not construe this request, which is made from an abundance of caution, to imply the existence of any condition warranting such a defense.

### **Request for Notice of Advice of Counsel Defense**

The United States hereby requests notice of any intent to rely on an advice of counsel defense, or a defense that either of your clients did not have the requisite intent to commit one or more of the charged crimes because of good faith reliance on the advice of counsel. Pretrial disclosure of such a defense is necessary to enable the Court to address the contours of any waiver of privilege occasioned by the defense, and to avoid a mid-trial delay to resolve the issue. *Cf. United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“A defendant may not use the privilege to prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.”). We request such notice no later than three weeks prior to trial.

### **Physical Evidence**

A wide variety of physical evidence was seized during the course of this investigation. To date, we have received no requests to inspect any physical evidence. If you wish to inspect any of the physical evidence seized during this investigation, please contact me to arrange a mutually agreeable time and place to do so.

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

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### **Digital and Electronic Evidence**

In discovery in this case, we have produced a large amount of evidence taken from electronic accounts and digital devices, such as email accounts, cloud storage accounts, cellular telephones and computers. In each case, we either have produced or will shortly produce the relevant consent or warrant authorizing search of the device or account, as well as the results of the search in the form of the specific records or data seized by law enforcement pursuant to the legal authority authorizing the search. We have not produced in discovery the complete contents of any such account or device, since—as you know—the applicable legal process generally does not authorize our accessing the complete contents beyond the period provided for review. Although you have not requested it to date, if you wish to examine any of the devices or accounts beyond the records seized or collected during this investigation, please contact me so that we can discuss the matter.

### **Proposed Stipulations**

At our last hearing, Mr. Iredale suggested the possibility of mutually-agreeable stipulations to streamline the presentation of evidence in this case. We respectfully request that you provide any such proposed stipulations by July 1, 2021, so that we can address them and (if agreeable) tailor our trial preparation appropriately.

We also anticipate providing you with a series of proposed stipulations that the United States would be willing to enter to simplify the proof in this matter.

May 28, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Nicholas W. Pilchak  
NICHOLAS W. PILCHAK  
Assistant U.S. Attorney

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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GIOVANNI VINCENZO TILOTTA (3),  
WAIEL YOUSIF ANTON (5)

Defendants.

Case No.: 19-cr-4768-GPC

**[PROPOSED] PRETRIAL ORDER**

Trial in this matter shall commence on September 1, 2021 at 8:30 a.m. Trial shall continue, as necessary, on September 2, 7, 8, 9, 13, 14, 15 and 16, 2021. Motions *in limine* will be heard on August 13, 2021 at 2:30 p.m.

IT IS HEREBY ORDERED that the parties shall comply with the following deadlines in advance of trial in this matter:

1. The United States shall provide notice of its proposed expert testimony no later than July 21, 2021, with the defense providing notice of its proposed expert testimony no later than August 18, 2021.

2. The parties shall exchange draft transcripts of any recording they plan to use at trial no later than July 21, 2021. The parties shall exchange proposed revisions to any transcript no later than August 6, 2021.

1           3.     The parties shall file motions *in limine* no later than July 30, 2021, with  
2 responses filed no later than August 6, 2021.

3           4.     The United States will provide notice of the nature of any evidence offered  
4 under Fed. R. Evid. 404(b) no later than August 11, 2021.

5           5.     The United States shall disclose draft summary charts pursuant to Fed. R.  
6 Evid. 1006 no later than August 11, 2021, identifying any summaries' underlying  
7 documents and admissibility. The defense shall make similar disclosure no later than  
8 August 18, 2021.

9           6.     The parties shall exchange exhibit lists, and the United States shall serve a  
10 copy of its witness list, on August 18, 2021. If not already produced, the parties will  
11 exchange materials subject to 18 U.S.C. § 3500, Rule 26.2, and *Giglio* on the same date.

12          7.     The parties shall serve and file proposed *voir dire* questions and verdict  
13 forms no later than August 25, 2021.

14          8.     The parties shall submit proposed jury instructions no later than August 25,  
15 2021.

16          9.     The parties may file a trial memorandum no later than August 25, 2021.  
17

18               IT IS SO ORDERED.  
19

20 DATED: \_\_\_\_\_, 2021  
21

22 \_\_\_\_\_  
23 HON. GONZALO P. CURIEL  
24 United States District Judge  
25 Southern District of California  
26  
27  
28

**CERTIFICATE OF AUTHENTICITY**  
**OF DATA COPIED FROM ELECTRONIC DEVICES AND STORAGE**  
**MEDIA PURSUANT TO FEDERAL RULE OF EVIDENCE 902(14)**

I, Ashley V. Townsend, hereby certify that the data copied from the electronic devices enumerated below were authenticated by a process of digital identification. I make this certification pursuant to Federal Rules of Evidence 902(14) and 902(11). I attest and certify, under penalty of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct.

1. I am a Special Agent employed by the Federal Bureau of Investigation (“FBI”). I have been employed by the FBI for more than six years. As a Special Agent with the FBI, I have training and experience conducting forensic extractions of digital devices. Specifically, in concert with the trained specialists at the Regional Computer Forensics Laboratory (“RCFL”), I have personally conducted forensic extractions of numerous digital devices—chiefly cellular telephones.

2. On the dates indicated, I created each of the forensic extractions listed below:

Original Device	Source	Date of Extract	Extract Identifier
Samsung Galaxy S7 cellular telephone, IMEI: 358518070316434, seized as ATF item #85	4780 Lee Ave. La Mesa, CA 91942	3/15/2019	4E51D495-38FB-4B13-ADCA-A2038359D879
Apple iPad A1652, S/N: F6QVP035GMW3, seized as ATF item #82	4780 Lee Ave. La Mesa, CA 91942	3/18/2019	5b33ea1d-e3c1-4937-82e1-2562350b0e10
LG G Pad 7.0 tablet computer, S/N: 410CQMR557275, seized as ATF item #86	4780 Lee Ave. La Mesa, CA 91942	3/18/2019	1F492BAA-F5A2-4403-9216-0943D7E87F5A
Apple iPhone 8, S/N: F4GWL1Q6JC6N	14852 Elijo Way, Jamul, CA	2/15/2019	3F92E622-1A2A-41CF-9378-751D01AD8338
Samsung Galaxy S9+ cellular telephone, S/N: R38K70EA29H	M. Marco Garmo, San Diego County Sheriff's Department Headquarters, 9621 Ridgehaven Ct. San Diego, CA 92123	2/15/2019	FDAD900D-DD24-4BF6-B4C7-BF765487E801

3. For the first four devices (all except the Samsung Galaxy S9+), I received the original devices from other special agents from the Bureau of Alcohol,



Tobacco, Firearms and Explosives (“ATF”) who were present when the devices were obtained. Based on their observations and the devices’ chain of custody records, I know that the data on the devices were not modified in any significant way by law enforcement after the seizure of each device. For the final device (the Samsung Galaxy S9+), I was present at San Diego County Sheriff’s Department (“SDCSD”) headquarters when the original device was obtained from M. Marco Garmo. That device, too, was formally seized by a special agent from the ATF, and accordingly I know based on my own observations as well as the observations of other agents and the device’s chain of custody records that the data on the device were not modified in any significant way by law enforcement after the seizure of the device.

4. The forensic extractions identified above were made at or near the time the devices were seized, using specialized forensic software, called Cellebrite. In my training and experience, this forensic software creates accurate and reliable forensic exactions of digital devices, and I have regularly relied on Cellebrite to create accurate and reliable forensic extractions in the past. Based on my conversations with technical personnel, Cellebrite is designed to avoid adding data or significantly altering data during the extraction of data from devices.



7. Finally, the specialized forensic software expressly indicated for each of the forensic extractions set forth above that the extraction was successful, thereby further confirming the digital authentication of each forensic extraction.

8. Accordingly, I hereby certify that the data copied from the electronic devices, storage media, and files as set forth above are true and accurate extractions of the original electronic devices, storage media, or files in the custody of the FBI.

6/24/2021  
Date

Special Agent Ashley Townsend  
Signature

# Exhibit C



**U.S. Department of Justice**

***Linda Frakes***

*Attorney for the United States*

*Under Authority of 28 U.S.C. § 515*

*U.S. Attorney's Office*

*Southern District of California*

*Nicholas W. Pilchak*

*(619) 546-9709*

*Andrew R. Haden*

*(619) 546-6961*

*Assistant U.S. Attorney*

*Fax (619) 546-0510*

*Email:*

*nicholas.pilchak@usdoj.gov*

*San Diego County Office  
Federal Office Building  
880 Front Street, Room 6293  
San Diego, California 92101-8893*

*Imperial County Office  
516 Industry Way  
Suite C  
Imperial County, California 92251-5782*

July 21, 2021

Jeremy D. Warren  
Warren & Burstein  
501 W. Broadway, Suite 240  
San Diego, CA 92101  
Email: [jw@wabulaw.com](mailto:jw@wabulaw.com)

Eugene G. Iredale  
Iredale & Yoo, APC  
105 West F Street, Fourth Floor  
San Diego, CA 92101-6036  
[egiredale@iredalelaw.com](mailto:egiredale@iredalelaw.com)

*via electronic mail only*

**Re: United States v. Giovanni Tilotta & Waiel Anton  
19-cr-4768-GPC**

Messrs. Warren & Iredale,

Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G), we are writing to provide a written summary of the expert testimony that the United States intends to offer pursuant to Federal Rules of Evidence 702, 703, and 705 during the jury trial in the above-referenced criminal matter. The United States reserves the right to offer additional testimony by this expert, or other expert witnesses, pursuant to Federal Rules of Evidence 701-705, and for these experts to amend or adjust their opinions and bases therefor, based on information perceived by or made known to the experts before or during trial.

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Letter to Warren & Iredale

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a. Federal Firearms Regulations

The United States intends to call Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Senior Industry Operations Investigator (IOI) Thomas M. Chimileski, Jr., as an expert in federal firearms regulations and Federal Firearms Licensee (FFL) Industry Operations.

Mr. Chimileski has been an IOI for over 16 years and estimates that he has personally interacted with more than five hundred FFL applicants and license holders. He serves frequently as an Instructor for ATF and is also classified as an Industry Operations Intelligence Specialist (IOIS). A copy of his CV is attached to this letter. Please note that although he was physically present at a few events related to this case, Mr. Chimileski has not been involved with the investigation or prosecution, and we do not anticipate asking him any questions related to his percipient observations.

Instead, it is anticipated that IOI Chimileski will explain to the jury many aspects of federal firearms regulations and FFL industry operations. For example, Mr. Chimileski will define and explain the following processes and industry terms:

*The Gun Control Act* and its supporting regulations, including their provision for compliance inspection authority with respect to FFLs.

*Bureau of Alcohol Tobacco Firearms Industry Operations.*

*Federal Firearms License (FFL)*

*FFL application and qualification inspection*, including a description of the inspection process, goals, average duration, and outcomes, as well as a discussion of the review of the Acknowledgment of Regulations Form and an inspection of the relevant documents required to initiate FFL (e.g., premises lease, corporate/entity documentation, etc.).

*FFL compliance inspection*, including a description of the inspection process, goals, average duration, and outcomes, as well as a discussion of the inspection's focus on the accuracy of firearms acquisition/transfer documentation and the retention of those records to ensure the traceability of firearms.

*Federal Firearms Regulations Reference Guide* (ATF Publication 5300.4) – A guidebook of the Federal firearms laws and supporting regulations compiled to provide a

July 21, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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reference for FFLs, and promote industry compliance with the laws and regulations governing the manufacture, importation and distribution of firearms. Up until late 2014, these guides were freely distributed in hard copy to FFL applicants and licensees during on-site qualification and compliance inspections. Since late 2014, field investigators have provided applicants and licensees the internet address where the current version of the guidebook can be found online. This internet address and other quick reference points are also listed on the Acknowledgement of Regulations Form provided to applicants and licensees during on-site inspections.

*Acknowledgement of Regulations Form* – A document used onsite during application and compliance inspections to facilitate applicants’ and FFLs’ understanding of the applicable firearms laws and regulations, which are cited in the form. During an inspection, FFLs acknowledge that the laws and regulations have been explained and provided to them, and that their questions (if any) have been answered, and check a box for each provision and sign at the bottom to indicate receipt. A copy of the form, which also includes ATF contact information for further consultation or questions, is left with the applicant or FFL at the conclusion of each inspection.

*Reports of violation* are issued to document findings of violation on site, which form the basis for any administrative (or other) action that may be required to ensure future compliance.

*Automated Firearms System (AFS)* – AFS is the State of California database that houses evidence-gun and crime-gun information recorded by law enforcement and Dealer Records of Sale (DROS) reported by California FFLs. Law enforcement agencies in California routinely utilize AFS to obtain the best-known information on the ownership status and/or custody of firearms in California.

*FFL’s Acquisition and Disposition Log (A&D)* –The mass inventory document that details the firearms that have been acquired by the FFL, the firearms remaining on the FFL’s premises, and the firearms that have been sold or transferred, including additional information about each transaction.

*Form 4473* – The primary source of information related to a firearms purchase or transfer. Form 4473, in conjunction with the A&D log, contains the vast majority of information pertinent to a firearms transaction, or attempted transaction. Attestations on Form 4473 are made under penalty of federal law, and FFLs are required to retain them

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for at least 20 years for completed transaction and 5 years for transactions that do not result in a transfer.

*Straw purchase* – A straw purchase occurs when the actual buyer uses another person (straw purchaser) to falsely execute the Form 4473 to show that the straw purchaser is the actual purchaser of a firearm, typically because the actual buyer may not qualify for – or for some reason may not want their name associated with – the acquisition of the firearm. False information in Form 4473 from a straw purchase can then adversely affect the traceability of the firearm.

*Dealer's Record of Sale (DROS)* – A physical and electronic documentation system utilized by California FFLs to initiate the required background check and subsequently report the sale or transfer of firearms to the California Department of Justice (DOJ), Bureau of Firearms (BOF). In the State of California, the DROS system is used for conducting federally-required background checks for the purchase or transfer of a firearm, which is independent of the National Instant Criminal Background Checks (NICS) system. DROS information appears on Form 4473, although the DROS form is the ultimate record of firearm ownership for the State of California.

*California's 10-day waiting period* – The State of California requires a wait of ten 24-hour periods before a member of the public can obtain a firearm, with limited exceptions, including an exemption for members of law enforcement with proper authorization.

*California's one-handgun, 30-day limitation* - The State of California prevents the general public from acquiring more than one new handgun in a 30-day period, with limited exceptions, including an exemption for sworn members of law enforcement.

*California's roster of safe handguns certified for sale* – The State of California has enacted safety requirements for new firearms to be sold requiring, in essence, new firearms to undergo safety and drop testing through a California-authorized laboratory to ensure their compliance with California requirements. Manufacturers are required to submit a prototype sample, as well as their annual fee, to be listed on the certified roster. New firearms not listed on the certified roster are sometimes known as “non roster” or “off roster” firearms, and may only be sold or transferred under specific exemption, typically to law enforcement as a duty weapon.



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*Private Party Transfers* (PPTs) – Non-licensed individuals who sell or transfer a pre-owned firearm in the State of California are required to conduct the transfer through an authorized licensee. Certain sworn members of law enforcement may generally sell or transfer an “off roster” handgun to any firearm-eligible purchaser through any FFL.

In addition to this testimony, it is anticipated that Mr. Chimileski will provide context and express his opinion as an IOI as to the relationship, import and relevance of many of the federal firearms regulations that may have been implicated in this case. For example, it is anticipated that Mr. Chimileski will explain that:

- Federal law enforcement relies heavily on FFLs to keep truthful, accurate, and complete records of firearms transactions. FFL records are the only federal documentation of a firearms transfer. In the vast majority of states, the federal government has no other way of knowing that a transaction has occurred. As a result, the federal government can be prevented from successfully tracing a firearm without the cooperation of the FFL and the accuracy of its documentation.
- Requiring the purchaser of a firearm to be physically present when initiating a purchase is the only way to verify the true identity of the person making the application to acquire a firearm. The purchaser’s physical presence is also the only way to acquire their answers to the qualifying questions in accordance with the instructions on Form 4473, or to obtain the purchaser’s certified acknowledgment that their answers to the questions on Form 4473 were true and accurate at the time of the purchaser’s application to acquire the firearm.
- During the acquisition of an FFL, applicants must certify that the business to be conducted under the license is not prohibited by state or local law at the premises indicated. During the same process, applicants are advised that—within 30 days after an application is approved—they will comply with state and local laws applicable to the business activity. Federal regulations require that Form 4473 be prepared at the business premises or a qualifying gun show event in the same state in which the premises are located. California law limits the conduct of business by an FFL to the licensed business premises, or a gun show or event. Conducting firearms transactions at other locations can negatively impact the validity of firearms acquisition/transfers for a variety of reasons, including the lack of required signage, safe storage requirements, security, and the accuracy of records.

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**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

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- Straw purchases hamper the operation of federal law enforcement for at least three reasons. First, a straw purchase may allow firearms to be acquired by prohibited persons. Second, a straw purchase can negatively affect the traceability of the firearm. Finally, a straw purchase means that the Forms 4473 maintained by the FFL do not contain accurate information, which undermines the integrity of the federal records and the recordkeeping system.

Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Andrew R. Haden

ANDREW R. HADEN  
Assistant U.S. Attorney

***Enclosures***

Curriculum Vitae of Thomas M. Chimileski, Jr.



**UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (ATF)  
LOS ANGELES FIELD DIVISION**

**Thomas M. Chimileski Jr.**

**Job Title:** Sr. Industry Operations Investigator / Industry Operations Intelligence Specialist  
ATF Los Angeles Field Division – Crime Gun Intelligence Center

**Disciplines:** Crime Gun Intelligence, Firearms Regulation, Explosives Regulation

**Employment History:**

**United States Department of Justice**

**ATF Los Angeles Field Division, San Diego / Riverside, California**

- 10/2016 - Present: Industry Operations Intelligence Specialist (IOIS)
- 10/2004 - Present: Industry Operations Investigator (IOI)

**Mesa Police Department, Mesa, Arizona**

- 03/1999 - 05/2000: Senior Evidence Technician
- 01/1995 - 03/1999: Evidence Technician

**Tempe Police Department, Tempe, Arizona**

- 11/1994 - 01/1995: Detention Enforcement Officer

**United States Department of the Treasury**

**U.S. Customs Service, San Diego, California**

- 01/1992 - 09/1994: Customs Inspector

**United States Marine Corps, Camp Pendleton, California (Southwest Asia)**

- 02/1988 - 07/1991: Crash, Fire & Rescue Section Leader
- 08/1985 - 02/1988: Crash, Fire & Rescue Specialist (Aviation Firefighter)

**Employment Related Training Attended:**

- 10/2019: National Integrated Ballistic Information Network (NIBIN) Authorized Trainer Certification  
ATF - NIBIN National Correlation & Training Center, Huntsville, Alabama
- 07/2018: Crime Gun Intelligence  
ATF - Atlanta, Georgia / Washington, DC
- 12/2017: Crime Gun Intelligence / Violent Crime Strategies (CGI-VCS-1802)  
ATF - San Francisco, California
- 04/2017: Integrated Ballistics Identification System Data Acquisition  
ATF - NIBIN National Correlation & Training Center, Huntsville, Alabama
- 08/2016: Advanced Explosives Training (AETI-1603)  
ATF - National Center for Explosives Training & Research (NCETR), Huntsville, Alabama
- 04/2014: Unfinished Receivers / Firearm Manufacturing  
ATF - National Services Center (NSC), Martinsburg, West Virginia
- 08/2009: Southwest Border Firearms Trafficking Techniques (SWBFTT – 0901)  
ATF - San Diego, California
- 06/2008: Chemistry of Pyrotechnics and Explosives (CP-0801)  
Washington College, Chestertown, Maryland
- 09/2007: Southwest Border Firearms Trafficking Techniques  
ATF - Coronado, California

**Employment Related Training Attended (continued):**

- 06/2005: Advanced Explosives Training (AETI-0502)  
ATF - Fort A.P. Hill, Virginia
- 12/2004: Inspector Basic Training Academy (IBT-0502)  
Federal Law Enforcement Training Center, Brunswick, Georgia
- 11/1994: Municipal Law Enforcement Detention Academy (94-1)  
Tempe Police Department, Tempe, Arizona
- 07/1992: U.S. Customs Service - U.S. Customs Service Academy (11PI-9214)  
Federal Law Enforcement Training Center, Brunswick, Georgia
- 05/1989: U.S. Marine Corps - Noncommissioned Officer Course  
Marine Corps Base Camp Pendleton, California
- 08/1985: U.S. Marine Corps - Aircraft Firefighting and Rescue Course  
U.S. Naval Air Technical Training Center, Naval Air Station Memphis, Millington, Tennessee
- 07/1985: U.S. Marine Corps - Marine Corps Recruit Training (Series 1051)  
First Battalion, A Company, Platoon 1051, Marine Corps Recruit Depot, Parris Island, South Carolina

**ATF Instructor**

**Firearms & Explosives Related Training Presented:**

- 05/2021: Instructor - *Privately Made Firearms / Firearm Manufacturing, Firearms Identification & Tracing*  
San Bernardino Police Department, San Bernardino, California
- 03/2020: Instructor - *FFL Seminar, Privately Made Firearms, Firearms Tracing*  
Project Guardian Summit: U.S. Attorney's Office – Southern District of California, San Diego, California
- 05/2019 – 08/2019: Instructor - *Firearm Function & Safe Handling*  
ATF Los Angeles Field Division Industry Operations Offices, (Glendale, San Diego, Santa Ana), California
- 04/2019: Instructor – *Privately Made Firearms / Firearm Manufacturing, Firearm Recognition*  
Ventura County District Attorney's Office, Ventura, California
- 03/2019: Instructor - *Firearm Recognition, Firearms Tracing, National Integrated Ballistic Information Network*  
California Association for Property & Evidence (CAPE), Santa Barbara, California
- 08/2018 – 09/2018: Instructor - *Firearm Function & Safe Handling Training*  
ATF Los Angeles Field Division Industry Operations Offices, (Glendale, San Diego, Santa Ana), California
- 08/2018: Instructor - *Privately Made Firearm, e-Trace, National Integrated Ballistic Information Network*  
California Gang Investigators Conference, Garden Grove, California
- 04/2018: Instructor - *Privately Made Firearms / Firearm Manufacturing, Firearms Identification*  
Newport Beach Police Department, Newport Beach, California
- 01/2018: Instructor - *Privately Made Firearms, Firearms Identification*  
Los Angeles High Intensity Drug Trafficking Area (HIDTA) Executive Board Conference, Los Angeles, California
- 01/2018: Instructor - *Firearm Recognition, Firearm Tracing, National Integrated Ballistic Information Network*  
Riverside County Sheriff's Office & California Association for Property & Evidence, Palm Desert, California
- 10/2017: Instructor - *Unfinished Receivers / Firearm Manufacturing, Firearms Identification*  
San Bernardino Police Department, San Bernardino, California
- 07/2017: Instructor - *Firearm Function & Safe Handling*  
ATF Los Angeles Field Division Industry Operations Offices, (Glendale, San Diego, Santa Ana), California
- 11/2016: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, Yuma, Arizona

## ATF Instructor

### **Firearms & Explosives Related Training Presented (continued):**

- 10/2016: Instructor - *Unfinished Receivers / Firearm Manufacturing, Firearms Identification*  
San Bernardino County Sheriff's Department, San Bernardino, California
- 09/2016: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, San Diego, California
- 05/2016: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, Palm Desert, California
- 07/2015: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, Ontario, California
- 06/2015 – 07/2015: Instructor - *Firearm Function & Safe Handling*  
ATF Los Angeles Field Division Industry Operations Offices, (Glendale, San Diego, Santa Ana), California
- 03/2015: Instructor - *Federal Firearms & Explosives Laws/Regulations, Licensing, Explosives Storage*  
U.S. Defense Contract Management Agency (DCMA), Ontario, California
- 10/2014: Instructor - *Unfinished Receivers / Firearm Manufacturing, National Firearms Act Firearms*  
San Luis Obispo Sheriff's Department, San Luis Obispo, California
- 09/2014: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, Ventura, California
- 07/2014 – 09/2014: Instructor - *Unfinished Receivers / Firearms Manufacturing*  
ATF Los Angeles Field Division Offices, (Carlsbad, El Centro, Glendale, Long Beach, Los Angeles, Riverside, San Diego, Santa Ana), California
- 08/2013: Instructor - *Federal Explosives Licensee / Permittee Seminar*  
ATF Los Angeles Field Division, Ontario, California
- 08/2013: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, El Centro, California
- 06/2013: Instructor - *Unfinished Receivers / Firearm Manufacturing*  
ATF San Francisco Field Division, Dublin, California
- 08/2012: Instructor - *Federal Explosives Licensee / Permittee Seminar*  
ATF Los Angeles Field Division, Ontario, California
- 06/2012: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, San Diego, California
- 12/2010: Instructor - *Advanced Firearms Training for Industry Operations Investigators (ATFI – 1101)*  
ATF – National Services Center (NSC), Martinsburg, West Virginia
- 09/2010: Instructor - *Southwest Border Firearms Trafficking Techniques (SWBFTT – 1002)*  
El Paso Intelligence Center (EPIC), El Paso, Texas
- 07/2010: Instructor - *Firearms Trafficking Techniques (FTT – 1001)*  
San Diego, California
- 04/2010: Instructor - *Southwest Border Firearms Trafficking Techniques (SWBFTT – 1001)*  
El Paso Intelligence Center (EPIC), El Paso, Texas
- 09/2009: Instructor - *Southwest Border Firearms Trafficking Techniques (SWBFTT – 0902)*  
El Paso Intelligence Center (EPIC), El Paso, Texas
- 02/2007: Instructor - *Federal Firearms Licensee Seminar*  
ATF Los Angeles Field Division, San Diego, California

### **Honors & Awards:**

- Outstanding Employee of the Year (Non-Supervisory)  
ATF – Washington, DC - 08/2015
- Distinguished Graduate  
ATF - Inspector Basic Training Academy (IBT-0502),  
Federal Law Enforcement Training Center, Brunswick, Georgia - 12/2004
- Distinguished Graduate  
U.S. Customs Service Academy (11PI-9214),  
Federal Law Enforcement Training Center, Brunswick, Georgia - 07/1992
- Honor Graduate  
U.S. Marine Corps – Aircraft Firefighting and Rescue Course,  
U.S. Naval Air Technical Training Center, Naval Air Station Memphis, Millington, Tennessee - 08/1985

### **Memberships / Organizations:**

- Life Member – National Rifle Association
- Life Member – Disabled American Veterans

# Exhibit D



**U.S. Department of Justice**

***Linda Frakes***

*Attorney for the United States*

*Under Authority of 28 U.S.C. § 515*

*U.S. Attorney's Office*

*Southern District of California*

*Nicholas W. Pilchak*  
*Assistant U.S. Attorney*  
*Email:*

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*Fax (619) 546-0510*  
*nicholas.pilchak@usdoj.gov*

*San Diego County Office*  
*Federal Office Building*  
*880 Front Street, Room 6293*  
*San Diego, California 92101-8893*

*Imperial County Office*  
*516 Industry Way*  
*Suite C*  
*Imperial County, California 92251-5782*

July 26, 2021

Jeremy D. Warren  
Warren & Burstein  
501 W. Broadway, Suite 240  
San Diego, CA 92101  
Email: jw@wabulaw.com

Eugene G. Iredale  
Iredale & Yoo, APC  
105 West F Street, Fourth Floor  
San Diego, CA 92101-6036  
egiredale@iredalelaw.com

***via electronic mail only***

**Re: United States v. Giovanni Tilotta & Waiel Anton**  
**19-cr-4768-GPC**

Messrs. Warren & Iredale,

We write further to our letters of May 28, 2021 and June 30, 2021 to address the following topics in advance of the trial in this matter set for September 1, 2021.

**Notice Under Fed. R. Evid. 404(b)**

Under the Court's pretrial order, formal notice of evidence the United States intends to introduce pursuant to Federal Rule of Evidence 404(b) is not due to be disclosed until August 11, 2021. However, the United States intends to move to admit certain evidence under Rule 404(b) in its pretrial motions, which are due to be filed July 30, 2021. Accordingly, the United States hereby provides early disclosure of its intent to introduce evidence on the following subjects, without prejudice to its ability to supplement this notice on or before August 11, 2021.

July 26, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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**Prior straw purchase.** On or about December 2, 2015, a representative of the California Department of Justice (“Cal DOJ”) inspected Honey Badger Firearms. During the inspection, according to Cal DOJ records recently received by the investigation and prosecution team, the inspector found that Honey Badger had conducted a possible straw purchase on April 3, 2015, and cited Mr. Tilotta for a possible straw purchase. *See, e.g.*, BF-REPORTS-004173. We anticipate that the witness from Cal DOJ will testify that she admonished Mr. Tilotta about the straw purchase of firearms in connection with this finding. At trial, the United States anticipates offering this evidence to show Mr. Tilotta’s knowledge of the prohibition on conducting straw transfers, his intent in conducting the transactions charged in the indictment and participating in the charged conspiracy, and his absence of mistake and lack of accident. Specifically, the United States will offer this evidence to show that Mr. Tilotta deliberately conducted straw purchases while aware that they were prohibited by law, and that he did not act under a misunderstanding, or through mistake or accident in conducting the transactions.

**Association with the Sheriff’s Department.** At trial, the United States intends to introduce evidence that Mr. Anton closely associated himself with the San Diego Sheriff’s Department, and periodically held himself out as a quasi-member of the Sheriff’s Department. For example, on January 8, 2019, Mr. Anton texted an associate complaining about an unruly person at the associate’s business that he (i.e., Mr. Anton) would “send a unit” (i.e., a Sheriff’s Deputy) to that location. Similarly, it is anticipated that witnesses from the Sheriff’s Licensing department will testify that Mr. Anton used his Honorary Deputy Sheriff’s Association (“HDSA”) credentials to be admitted to non-public areas of Sheriff’s Department facilities. This evidence will be offered to show Mr. Anton’s motive in committing the charged crimes, including aiding and abetting Marco Garmo’s unlicensed firearms dealing. Specifically, the United States will offer this evidence to show that Mr. Anton’s motive in abetting Mr. Garmo was to further his own professional and political aspirations by continuing to closely associate himself with the person whom he believed to be the future Sheriff of San Diego County.

**Fundraising and campaign evidence.** At trial, the United States intends to introduce limited evidence of Mr. Anton’s activities raising campaign contributions for prominent members of local law enforcement, such as Sheriff Bill Gore, and associated entities benefiting law enforcement, such as the HDSA. For example, the United States intends to introduce evidence of Mr. Anton’s prominent position at the HDSA, and his repetitive solicitation of contributions to the HDSA (and to law enforcement



July 26, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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candidates)—including from individuals for whom he was providing “consulting” work in connection with their applications to the Sheriff’s Department for permits to carry concealed weapons (“CCWs”). This evidence will be offered to show Mr. Anton’s motive in committing the charged crimes, including as described in the prior paragraph, based on his professional aspirations through his close association with law enforcement. It will also be offered to show Mr. Anton’s motive and intent in directing the undercover agent to lie about having paid Mr. Anton for his CCW “consulting” services.

### **Transcripts**

In response to our prior letters, you declined to agree to a timeline for pretrial production of draft transcripts for recordings that the parties will seek to use at trial. Nevertheless, in the interests of efficiency and avoiding mid-trial surprise, we are disclosing together with this letter a number of transcripts that we may use at trial. Specifically, we are disclosing transcripts from:

- January 22, 2019: a telephone call between the undercover agent and Mr. Garmo concerning a permit to carry a concealed weapon (“CCW”);
- February 4, 2019: three telephone calls between Mr. Anton and the undercover agent concerning CCWs;
- February 5, 2019: an in-person meeting between Mr. Anton and the undercover agent concerning the CCW;
- February 13, 2019: two telephone calls between Mr. Anton and the undercover agent concerning the CCW;
- February 14, 2019: a telephone call between Mr. Garmo and the undercover agent;
- February 14, 2019: a telephone call between Mr. Anton and the undercover agent;
- February 18, 2019: a telephone call between Mr. Anton and the undercover agent;
- February 19, 2019: a telephone call between Mr. Anton and the undercover agent; and
- February 20, 2019: three recordings of an in-person interaction during ATF’s initial contact with Mr. Tilotta at Honey Badger Firearms.



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Letter to Warren & Iredale

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Please note that we plan to supplement this list with two more transcripts, from a January 4, 2019 in-person meeting between an undercover federal agent and Mr. Garmo at Honey Badger Firearms; and a January 14, 2019 interaction in which the undercover agent picks up a firearm from Honey Badger Firearms. We will provide those transcripts as soon as they are finalized.

We respectfully request that you notify of us of any objections you may have to these transcripts no later than August 6, 2021, so that we can address the objections before (and if necessary, at) the *in limine* hearing on August 13, 2021.

We also reiterate our request that you disclose to us as soon as possible any draft transcripts that you anticipate using at trial so that we can review them in an orderly fashion and let you know of any objections. We reserve the right to object at trial to the use of any transcript that you have not previously disclosed.

### **Supplemental Notice Under Fed. R. Evid. 902(11)**

By our June 30, 2021 letter, we provided general notice of our intent to admit evidence under Federal Rule of Evidence 902(11). Specifically, we generally identified records consisting of financial evidence from bank records or telephone toll data or call records, or summaries of that data under Federal Rule of Evidence 1006. The underlying records have already been produced to you in discovery, along with their accompanying certifications from the appropriate records custodian.

By this letter, the United States supplements that prior notice and specifically informs you that we intend to introduce the following particular records under Rule 902(11), including by way of summary charts under Federal Rule of Evidence 1006:

- Mr. Anton's JP Morgan Chase bank records (see BF-JPMC-079-000001 *et seq.*);
- Mr. Anton's Verizon telephone records (see BF-VERIZON-030-000316 *et seq.* and BF-VERIZON-118-000001 *et seq.*); and
- Mr. Garmo's AT&T telephone records (see BF-ATT-003-000001 *et seq.* and BF-ATT-024-000001 *et seq.*).

We previously requested that you notify us of any objection to this procedure no later than July 23, 2021, to enable us to timely file appropriate motions *in limine* by

July 26, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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July 30, 2021. Having received no response, we request that you notify us as soon as possible.

**Supplemental Notice Under Fed. R. Evid. 902(14)**

In our June 30, 2021 letter, we requested that you inform us whether you would be willing to stipulate as to the authenticity of the extraction of evidence taken from electronic devices in the interest of shortening the trial and streamlining the proof. Any such stipulation would, of course, be without prejudice as to any other objections, such as relevance or hearsay. At this time, with the understanding that the list may change slightly, we can identify the following devices for which we would request such a stipulation:

- Mr. Anton's gray Apple iPhone S A1633, seized on February 13, 2019 from his residence;
- Mr. Anton's Apple iPhone 6s, with S/N FVMW808AHFLR, seized on February 13, 2019 from his residence;
- Mr. Garmo's Apple iPad A1652, with S/N F6QVP035GMW3, seized February 13, 2019;
- Mr. Garmo's LG G Pad 7.90 tablet, with S/N 410CQMR557275, seized on February 13, 2019;
- Mr. Garmo's Samsung Galaxy S7 cellular telephone, seized on February 13, 2019;
- Mr. Garmo's Samsung Galaxy S9 cellular telephone, seized on February 13, 2019; and
- Mr. Hamel's Apple iPhone 8, with S/N F4GWL1Q6JC6N, seized on February 13, 2019.

We have not yet heard back from you on this point and hereby renew our request.

In the alternative, and also as noticed in our prior letter, we would intend to rely upon Federal Rule of Evidence 902(14) to authenticate the data obtained in the extraction of electronic devices. We previously attached a proposed certification for your review, and hereby with this letter provide another two certifications. The referenced extractions can be made available for your inspection upon request. The seized evidence obtained from the extractions either has been or will shortly be produced in discovery. We hereby

July 26, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

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once again provide notice of our intent to offer records at trial consisting of seized evidence taken from these extractions pursuant to Rule 902(14) and 902(11).

Please let us know at your earliest convenience whether (1) you object to the form or contents of the certifications, and/or (2) you have a good faith basis to contest the authenticity of the extractions. Once again, we previously requested your response no later than July 23, 2021, to enable us to timely file appropriate motions *in limine* by July 30, 2021. Having received no response, we once again request that you notify us as soon as possible.

### **Proposed Stipulations**

In our prior letters, we requested that you provide us with your proposed stipulations (if any) by July 1, 2021, so that we can address them and, if agreeable, tailor our trial preparation appropriately. We have not received anything to date.

In the spirit of compromise and efficiency, we have proposed a number of stipulations on our client's behalf. To date, we have not had any response, but we request that you let us know as soon as possible if any are agreeable to you. In particular, we previously requested notice no later than July 23, 2021 so that we can address them (if necessary) via motions *in limine*. Having received no response, we request that you notify us as soon as possible.

July 26, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Nicholas W. Pilchak  
NICHOLAS W. PILCHAK  
ANDREW R. HADEN  
Assistant U.S. Attorneys

***Enclosures***

Certification of Special Agent Daniel James

Certification of Special Agent Chelsea Lenowska

Draft transcripts outlined above

# Exhibit E



**U.S. Department of Justice**

***Linda Frakes***

*Attorney for the United States*

*Under Authority of 28 U.S.C. § 515*

*U.S. Attorney's Office*

*Southern District of California*

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November 15, 2021

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***via electronic mail only***

**Re: United States v. Giovanni Tilotta & Waiel Anton  
19-cr-4768-GPC**

Messrs. Warren & Iredale,

We write further to our prior letters to address the following topics in advance of the trial in this matter set for January 25, 2022.

**Notice Under Fed. R. Evid. 404(b)**

The United States hereby supplements its prior disclosure of evidence that it intends to offer at trial in its case-in-chief pursuant to Rule 404(b).

**Industry operations inspections.** The United States intends to offer evidence that Honey Badger Firearms (“HBF”) has previously been inspected by industry operations specialists of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) and by representatives of the California Department of Justice (“Cal DOJ”). This will include,

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but not be limited to, testimony and evidence about HBF's initial examination and inspection in connection with its first application for a Federal Firearms License ("FFL") on or about August 3, 2012. This evidence would also include testimony and records concerning information provided to HBF about the applicable laws and regulations. While the United States does not necessarily view this as "other act" evidence under Rule 404(b), it nevertheless offers this disclosure out of an abundance of caution. If construed as evidence under Rule 404(b), this testimony and evidence would be offered to show Mr. Tilotta's knowledge of the laws and regulations applicable to FFLs and dealing in firearms, including (without limitation) the requirement of obtaining an FFL to engage in the business of dealing in firearms under federal law. This evidence would demonstrate Mr. Tilotta's knowledge and intent in committing the charged crimes, including aiding and abetting M. Marco Garmo's unlicensed business of dealing in firearms and in conducting the charged straw purchases and participating in the charged conspiracy. It will also show that Mr. Tilotta engaged in such conduct deliberately and not through mistake or accident—or ignorance of the law.

**Prior straw purchase.** On or about December 2, 2015, a Cal DOJ representative inspected HBF. During the inspection, according to Cal DOJ records, the inspector found that HBF had conducted a possible straw purchase on April 3, 2015, and cited Mr. Tilotta for a possible straw purchase. *See, e.g.,* BF-REPORTS-004173. We anticipate that the witness from Cal DOJ will testify that she admonished Mr. Tilotta about the straw purchase of firearms in connection with this finding. At trial, the United States anticipates offering this evidence to show Mr. Tilotta's knowledge of the prohibition on conducting straw transfers, his intent in conducting the transactions charged in the indictment and participating in the charged conspiracy, and his absence of mistake and lack of accident. For example, the United States will offer this evidence to show that Mr. Tilotta deliberately conducted straw purchases while aware that they were prohibited by law, and that he did not act under a misunderstanding, or through mistake or accident in conducting the transactions. Similarly, this evidence will establish Mr. Tilotta's knowledge and intent in committing the charged offense.

**Association with the Sheriff's Department.** At trial, the United States intends to introduce evidence that Mr. Anton closely associated himself with the San Diego Sheriff's Department, and periodically held himself out as a quasi-member of the Sheriff's Department. For example, on January 8, 2019, Mr. Anton texted an associate who was complaining about an unruly person at the associate's business that he (i.e., Mr. Anton) would "send a unit" (i.e., a Sheriff's Deputy) to that location. Similarly, it is



November 15, 2021

**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

Page 3

anticipated that witnesses from the Sheriff's Licensing department will testify that Mr. Anton used his Honorary Deputy Sheriff's Association ("HDSA") credentials to be admitted to non-public areas of Sheriff's Department facilities. This evidence will be offered to show Mr. Anton's motive in committing the charged crimes, including aiding and abetting Marco Garmo's unlicensed firearms dealing. Specifically, the United States will offer this evidence to show that Mr. Anton's motive in abetting Mr. Garmo was to further his own professional and political aspirations by continuing to closely associate himself with the person whom he believed to be the future Sheriff of San Diego County.

**Fundraising and campaign evidence.** At trial, the United States intends to introduce limited evidence of Mr. Anton's activities raising campaign contributions for prominent members of local law enforcement, such as Sheriff Bill Gore, and associated entities benefiting law enforcement, such as the HDSA. For example, the United States intends to introduce evidence of Mr. Anton's prominent position at the HDSA, and his repetitive solicitation of contributions to the HDSA (and to law enforcement candidates)—including from individuals for whom he was providing "consulting" work in connection with their applications to the Sheriff's Department for permits to carry concealed weapons ("CCWs"). This evidence will be offered to show Mr. Anton's motive in committing the charged crimes, including as described in the prior paragraph, based on his professional aspirations and through his close association with law enforcement. It will also be offered to show Mr. Anton's motive and intent in directing the undercover agent to lie about having paid Mr. Anton for his CCW "consulting" services.

### **Supplemental Notice Under Fed. R. Evid. 902(14)**

In our June 30, 2021 letter, we requested that you inform us whether you would be willing to stipulate as to the authenticity of the extraction of evidence taken from electronic devices in the interest of shortening the trial and streamlining the proof. Any such stipulation would, of course, be without prejudice as to any other objections, such as relevance or hearsay. With the understanding that the final list may change slightly, we have identified the following devices for which we would request such a stipulation:

- Mr. Anton's gray Apple iPhone S A1633, seized on February 13, 2019 from his residence;
- Mr. Anton's Apple iPhone 6s, with S/N FVMW808AHFLR, seized on February 13, 2019 from his residence;

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**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

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- Mr. Garmo's Apple iPad A1652, with S/N F6QVP035GMW3, seized February 13, 2019;
- Mr. Garmo's LG G Pad 7.90 tablet, with S/N 410CQMR557275, seized on February 13, 2019;
- Mr. Garmo's Samsung Galaxy S7 cellular telephone, seized on February 13, 2019;
- Mr. Garmo's Samsung Galaxy S9+ cellular telephone, seized on February 13, 2019; and
- Mr. Hamel's Apple iPhone 8, with S/N F4GWL1Q6JC6N, seized on February 13, 2019.

We have not yet heard back from you on this point and hereby renew our request.

In the alternative, and also as noticed in our prior letter, we would intend to rely upon Federal Rule of Evidence 902(14) to authenticate the data obtained in the extraction of electronic devices. Attached to this letter are proposed certifications for your review. The referenced extractions can be made available for your inspection upon request. The seized evidence obtained from the extractions either has been or will shortly be produced in discovery. We hereby once again provide notice of our intent to offer records at trial consisting of seized evidence taken from these extractions pursuant to Rule 902(14) and 902(11).

Please let us know at your earliest convenience whether (1) you object to the form or contents of the certifications, and/or (2) you have a good faith basis to contest the authenticity of the extractions.

We request your response no later than November 26, 2021, to enable us to timely file appropriate motions *in limine* as ordered by the Court by December 10, 2021.

### **Renewed Request for Notice of Advice of Counsel Defense**

The United States hereby reiterates its multiple prior requests for notice of any intent to rely on an advice of counsel defense, or a defense that either of your clients did not have the requisite intent to commit one or more of the charged crimes because of good faith reliance on the advice of counsel. Pretrial disclosure of such a defense is necessary to enable the Court to address the contours of any waiver of privilege occasioned by the defense, and to avoid a mid-trial delay to resolve the issue. *Cf. United*

November 15, 2021

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*States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“A defendant may not use the privilege to prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.”). We request such notice no later than November 26, 2021 so that we can address such a defense (if necessary) via motions *in limine*.

### **Acceptance of Responsibility**

As indicated in our prior letters, the United States does not believe that your clients are interested in entering a traditional guilty plea at this time. Nevertheless, if either of your clients intend to enter such a plea, the United States would not be willing to move for a third-point reduction for acceptance of responsibility under USSG § 3E1.1(b) for any guilty plea entered after November 26, 2021 absent some other written agreement between us.

### **Proposed Stipulations**

In our prior letters, we requested that you provide us with your proposed stipulations, so that we can address them and, if agreeable, tailor our trial preparation appropriately. We have not received anything to date, and hereby reiterate our request.

In the spirit of compromise and efficiency, we once again propose the following stipulations on our client’s behalf:

1. The parties would stipulate that physical evidence was seized from the locations identified in the corresponding law enforcement reports, to obviate the need to call a variety of seizing agents to establish chain of custody. For example, the parties would stipulate that the \$100 bill seized from Mr. Garmo’s wallet was in fact found there, and that Mr. Garmo’s Samsung S7 cellular telephone was recovered from his home, to avoid the need to call two separate seizing agents to establish those facts. The United States anticipates that none of the evidence covered by this stipulation would have been seized from your clients individually, other than three cellular telephones seized from Mr. Anton’s home.
2. The parties would stipulate that all firearms seized in this case were in fact firearms as defined by law, to avoid any necessity of eliciting testimony or other evidence to establish that fact.

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**U.S. v. Tilotta & Anton, 19-cr-4768-GPC**

Letter to Warren & Iredale

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3. As discussed above, the parties would stipulate to the authenticity of the forensic extractions of each digital device seized during the case, to avoid the need to call the extracting agent for each device for routine testimony establishing only that they performed the extraction. [This stipulation would not waive other objections, such as hearsay or relevance.]

To date, we have not had any response to our prior proposals, but we again request that you let us know as soon as possible if any are agreeable to you. In particular, we request notice no later than November 26, 2021 so that we can address them (if necessary) via motions *in limine*.

Please feel entirely free to contact me if you have any questions about anything in this letter.

Best regards,

LINDA FRAKES  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Nicholas W. Pilchak  
NICHOLAS W. PILCHAK  
ANDREW R. HADEN  
Assistant U.S. Attorneys

***Enclosures***

Certification of Special Agent Daniel James  
Certification of Special Agent Chelsea Lenowska  
Certification of Special Agent Ashley Townsend

**CERTIFICATE OF AUTHENTICITY**  
**OF DATA COPIED FROM ELECTRONIC DEVICES AND STORAGE**  
**MEDIA PURSUANT TO FEDERAL RULE OF EVIDENCE 902(14)**

I, Daniel S. James, hereby certify that the data copied from the electronic device enumerated below was authenticated by a process of digital identification. I make this certification pursuant to Federal Rules of Evidence 902(14) and 902(11). I attest and certify, under penalty of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct.

1. I am a Special Agent employed by the Federal Bureau of Investigation (“FBI”). I have been employed by the FBI in that capacity for more than four years. As a Special Agent with the FBI, I have training and experience conducting forensic extractions of digital devices. Specifically, in concert with the trained specialists at the Regional Computer Forensics Laboratory (“RCFL”), I have personally conducted forensic extractions of numerous digital devices—chiefly cellular telephones.



2. On the date indicated, I created the forensic extraction listed below:

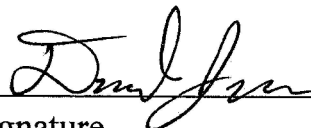
Original Device	Source	Date of Extract	Unique ID
Anton phone - grey Apple iPhone S A1633, seized as item #93	2035 Pierce Court El Cajon, California 92019	3/14/2019	ec683ccd2c3576805dbd28e5ac42ddd77631e2e1

3. I received the original device from other special agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) who were present when the devices were obtained. Based on their observations and the devices’ chain of custody records, I know that the data on the device was not modified in any significant way by law enforcement after the seizure of the device.

4. The forensic extraction identified above was made at or near the time the device was seized, using specialized forensic software, called Cellebrite. In my training and experience, this forensic software creates accurate and reliable forensic exactions of digital devices, and I have regularly relied on Cellebrite to create accurate and reliable forensic extractions in the past. Based on my conversations with technical personnel, Cellebrite is designed to avoid adding data or significantly altering data during the extraction of data from devices.

7. Finally, the specialized forensic software expressly indicated for the forensic extraction set forth above that the extraction was successful, thereby further confirming the digital authentication of the forensic extraction.

8. Accordingly, I hereby certify that the data copied from the electronic device as set forth above is a true and accurate extraction of the original electronic device in the custody of the FBI.

<u>7/20/2021</u>	
Date	Signature



**CERTIFICATE OF AUTHENTICITY**  
**OF DATA COPIED FROM ELECTRONIC DEVICES AND STORAGE**  
**MEDIA PURSUANT TO FEDERAL RULE OF EVIDENCE 902(14)**

I, Chelsea Lenowska, hereby certify that the data copied from the electronic devices enumerated below were authenticated by a process of digital identification. I make this certification pursuant to Federal Rules of Evidence 902(14) and 902(11). I attest and certify, under penalty of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct.

1. I am a Special Agent employed by the Federal Bureau of Investigation (“FBI”). I have been employed by the FBI for two years. As a Special Agent with the FBI, I have training and experience conducting forensic extractions of digital devices. Specifically, in concert with the trained specialists at the Regional Computer Forensics Laboratory (“RCFL”), I have personally conducted forensic extractions of numerous digital devices—chiefly cellular telephones.

2. On the dates indicated, I created each of the forensic extractions listed below:

Original Device	Source	Date of Extract	Extract Identifier
Anton phone - Apple iPhone 6s, SN FVMW808AHFLR	2035 Pierce Court El Cajon, California 92019	4/13/2021	129DFE73-CAB4-4522-B69D-FAC72D94149C

3. I received each of the original devices from other special agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) who were present when the devices were obtained. Based on their observations and the devices’ chain of custody records, I know that the data on the devices were not modified in any significant way by law enforcement after the seizure of each device.

4. The forensic extractions identified above was made using specialized forensic software called Cellebrite. In my training and experience, this forensic software creates accurate and reliable forensic exactions of digital devices, and I have regularly relied on Cellebrite to create accurate and reliable forensic extractions in the past. Based on my conversations with technical personnel, Cellebrite is designed to avoid adding data or significantly altering data during the extraction of data from devices.

7. Finally, the specialized forensic software expressly indicated for the forensic extraction set forth above that the extraction was successful, thereby further confirming the digital authentication of this forensic extraction.

8. Accordingly, I hereby certify that the data copied from the electronic device as set forth above is a true and accurate extraction of the original electronic device in the custody of the FBI.

7/20/2021

Date

*Chelsea Lenowska*

Signature

**CERTIFICATE OF AUTHENTICITY**  
**OF DATA COPIED FROM ELECTRONIC DEVICES AND STORAGE**  
**MEDIA PURSUANT TO FEDERAL RULE OF EVIDENCE 902(14)**

I, Ashley V. Townsend, hereby certify that the data copied from the electronic devices enumerated below were authenticated by a process of digital identification. I make this certification pursuant to Federal Rules of Evidence 902(14) and 902(11). I attest and certify, under penalty of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct.

1. I am a Special Agent employed by the Federal Bureau of Investigation (“FBI”). I have been employed by the FBI for more than six years. As a Special Agent with the FBI, I have training and experience conducting forensic extractions of digital devices. Specifically, in concert with the trained specialists at the Regional Computer Forensics Laboratory (“RCFL”), I have personally conducted forensic extractions of numerous digital devices—chiefly cellular telephones.

2. On the dates indicated, I created each of the forensic extractions listed below:

Original Device	Source	Date of Extract	Extract Identifier
Samsung Galaxy S7 cellular telephone, IMEI: 358518070316434, seized as ATF item #85	4780 Lee Ave. La Mesa, CA 91942	3/15/2019	4E51D495-38FB-4B13-ADCA-A2038359D879
Apple iPad A1652, S/N: F6QVP035GMW3, seized as ATF item #82	4780 Lee Ave. La Mesa, CA 91942	3/18/2019	5b33ea1d-e3c1-4937-82e1-2562350b0e10
LG G Pad 7.0 tablet computer, S/N: 410CQMR557275, seized as ATF item #86	4780 Lee Ave. La Mesa, CA 91942	3/18/2019	1F492BAA-F5A2-4403-9216-0943D7E87F5A
Apple iPhone 8, S/N: F4GWL1Q6JC6N	14852 Elijo Way, Jamul, CA	2/15/2019	3F92E622-1A2A-41CF-9378-751D01AD8338
Samsung Galaxy S9+ cellular telephone, S/N: R38K70EA29H	M. Marco Garmo, San Diego County Sheriff's Department Headquarters, 9621 Ridgehaven Ct. San Diego, CA 92123	2/15/2019	FDAD900D-DD24-4BF6-B4C7-BF765487E801

3. For the first four devices (all except the Samsung Galaxy S9+), I received the original devices from other special agents from the Bureau of Alcohol,

Tobacco, Firearms and Explosives (“ATF”) who were present when the devices were obtained. Based on their observations and the devices’ chain of custody records, I know that the data on the devices were not modified in any significant way by law enforcement after the seizure of each device. For the final device (the Samsung Galaxy S9+), I was present at San Diego County Sheriff’s Department (“SDCSD”) headquarters when the original device was obtained from M. Marco Garmo. That device, too, was formally seized by a special agent from the ATF, and accordingly I know based on my own observations as well as the observations of other agents and the device’s chain of custody records that the data on the device were not modified in any significant way by law enforcement after the seizure of the device.

4. The forensic extractions identified above were made at or near the time the devices were seized, using specialized forensic software, called Cellebrite. In my training and experience, this forensic software creates accurate and reliable forensic exactions of digital devices, and I have regularly relied on Cellebrite to create accurate and reliable forensic extractions in the past. Based on my conversations with technical personnel, Cellebrite is designed to avoid adding data or significantly altering data during the extraction of data from devices.

7. Finally, the specialized forensic software expressly indicated for each of the forensic extractions set forth above that the extraction was successful, thereby further confirming the digital authentication of each forensic extraction.

8. Accordingly, I hereby certify that the data copied from the electronic devices, storage media, and files as set forth above are true and accurate extractions of the original electronic devices, storage media, or files in the custody of the FBI.

6/24/2021  
Date

Special Agent Ashley Townsend  
Signature



# Exhibit F

**From:** Pilchak, Nicholas (USACAS)  
**To:** Jeremy Warren; Eugene G. Iredale (egiredale@iredalelaw.com)  
**Cc:** Katie Jenkins; Andrew Haden (ahaden@usa.doj.gov)  
**Subject:** RE: U.S. v. Tilotta & Anton, 19-cr-4768-GPC  
**Date:** Monday, November 22, 2021 4:13:00 PM  
**Attachments:** U.S. v. Tilotta & Anton - Expert Notice Letter 7.21.21.pdf

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Counsel,

We previously sent you the attached expert notice letter back in July, but since the Court's amended deadline for our expert notice is today, I am re-forwarding the notice to your attention.

We didn't receive any objection to the form of this notice last time, or to our 404(b) disclosures last week (and by our previous letter), so we would like to boldly presume that you think they are sufficient. But if you do have objections to the form of either disclosure, please let us know right away so that we can seek to cure them in a timely fashion before motions are due.

Best,

Nick

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**From:** Pilchak, Nicholas (USACAS)  
**Sent:** Monday, November 15, 2021 4:27 PM  
**To:** Jeremy Warren <jw@wabulaw.com>; Eugene G. Iredale (egiredale@iredalelaw.com) <egiredale@iredalelaw.com>  
**Cc:** Katie Jenkins <kj@wabulaw.com>; Andrew Haden (ahaden@usa.doj.gov) <ahaden@usa.doj.gov>  
**Subject:** U.S. v. Tilotta & Anton, 19-cr-4768-GPC

Counsel,

Please see the attached letter.

Best,

Nick

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United States Attorney's Office  
Southern District of California  
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San Diego, CA 92101  
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