

Case: 1:23-mj-00198
Assigned To : Harvey, G. Michael
Assign. Date : 8/8/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Task Force Officer (“TFO”) assigned to the Federal Bureau of Investigation’s Joint Terrorism Task Force (“FBI-JTTF”) to the Resident Agency (“RA”) located in Bridgeport, Connecticut, which is a sub-office of the FBI’s New Haven Field Office and have been assigned here since August 2019. In my duties as a TFO, I am authorized by law or by the FBI to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws. Currently, I am tasked, among other things, with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

At approximately 1:00 p.m., a crowd of violent rioters penetrated the restricted perimeter of the U.S. Capitol grounds – which was denoted by bike racks, snow fencing, officers, and “AREA CLOSED” signs – and assembled on the West Front of the U.S. Capitol. USCP formed a line of bike racks extending from the north end of the West Front to the South end to act as a barrier against the crowd. Officers were standing watch behind this line and fending off repeated attempts by the rioters to pull on the bike racks, either with their hands or with ropes and straps.

At approximately 2:00 p.m., some people in the crowd forced their way through, up, and over the barricades and law enforcement. The crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by USCP officers or other authorized security officials. At such time, the certification proceedings were still underway, and the exterior doors and windows of the United States Capitol were locked or otherwise secured. Members of law enforcement attempted to maintain order and keep the crowd from entering the United States Capitol. The crowd of rioters had amassed and collectively pushed and tore down the bike rack barriers, assaulted law enforcement officers, and otherwise violently breached the police line, opening the path to the Capitol building.

At approximately 2:30 p.m., significant sections of the police line on and near the U.S. Capitol’s Lower West Terrace broke as the rioters in the crowd swarmed and overwhelmed police officers. The police line guarding the West front had collapsed. Rioters quickly followed retreating officers up to the inaugural platform on the Lower West Terrace by climbing the stairwell and scaffolding in the Southwest section of the U.S. Capitol grounds.

A group of rioters then converged at a pivotal location – the Lower West Terrace “Tunnel.” The “Tunnel” is a stairway that had been converted into a narrow entryway due to construction of the temporary inaugural platform on the Lower West Terrace of the Capitol building. At the end of the Lower West Terrace tunnel were two sets of glass double doors, emblazoned with the sign “Members Entrance Only,” which opened directly into the heart of the U.S. Capitol building.

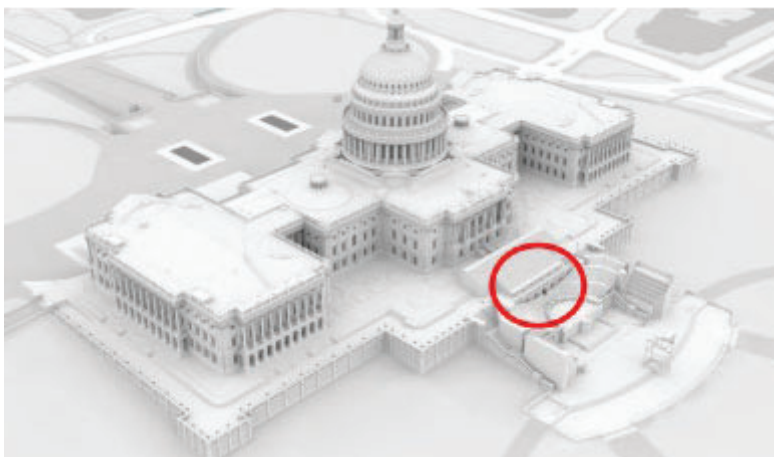


Image 1 (Diagram of U.S. Capitol building, Tunnel in red circle)



Image 2 (The “Tunnel” as seen on CCTV footage prior to rioters entering)



Image 3 (The “Tunnel”)

Rioters amassed outside the tunnel with a variety of tools and weapons. By the time rioters began entering the tunnel, at about 2:40 p.m., a group of officers had formed a line at a second set of glass doors inside the tunnel. Rioters outside the tunnel quickly summoned more rioters to join their efforts in pushing their way through the doors in the tunnel. As the tunnel quickly filled with rioters, it became the point of intense and prolonged violent clashes between rioters and police officers, as rioters attempted to break their way through the tunnel and into the Capitol building.

Rioters began entering the tunnel and attacking the officers. Rioters broke through the first set of glass doors and forced open the second set of doors, eliminating the barriers between police officers and rioters. From approximately 2:42 p.m. onward, groups of rioters consistently rotated into the tunnel, collectively attempting to breach the police line and force their way into the building. The rioters used various weapons, as well as the force of their bodies, in an attempt to overcome the officers and make it inside the Capitol building. Many of the rioters assaulted MPD and USCP officers by hurling objects towards the officers, physically striking officers with batons and other blunt instruments, using strobe lights to distract and disorient the officers, using electrical shock devices, crushing officers between the doors and walls of the confined space, deploying chemical sprays and fire extinguishers against the officers, and collectively joining together to engage in violent “heave ho” pushes against the officer line.

BENJAMIN COHEN’s Identification

Following the January 6, 2021 assault on the U.S. Capitol, the FBI located evidence of an individual, designated BOLO AFO-379, who assaulted U.S. Capitol Police (USCP) and Metropolitan Police Department (MPD) officers on the West Plaza of the U.S. Capitol between approximately 2:28 p.m. and 2:30 p.m. EST. BWC footage shows that the individual who committed these assaults is a young-adult white male wearing a black jacket, a red hat, and blue pants. The FBI Office of Public Affairs published photographs of BOLO AFO-379 in May 2021 on the FBI’s Capitol Violence website (<https://www.fbi.gov/wanted/capitol-violence>). See Images 4–9.



Image 4



Image 5



Image 6

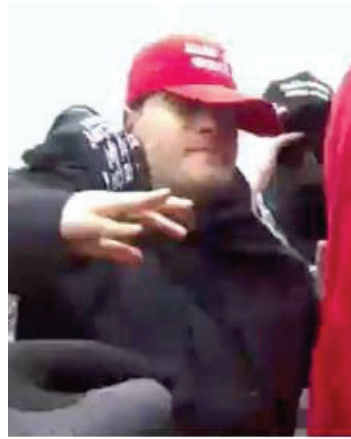


Image 7



Image 8



Image 9

On or about July 26, 2022, the FBI received a tip identifying BOLO AFO-379 as BENJAMIN COHEN (COHEN) of Westport, Connecticut. Following this tip, the FBI compared a Connecticut Department of Motor Vehicles (DMV) photo of COHEN to footage taken at the U.S. Capitol on January 6, 2021, which revealed that COHEN's DMV photo matched an individual depicted in a variety of photos and videos wearing the same clothing as BOLO AFO-379. Further review of government records revealed COHEN's last known address in Westport, Connecticut.

On December 13, 2022, FBI investigators interviewed one of COHEN's former work associates. The interviewee consented to looking at four photos from the Capitol on January 6, 2021, to see if they recognized the person in the photographs. *See* Images 10–13. The interviewee identified the individual depicted in all four photos as COHEN.

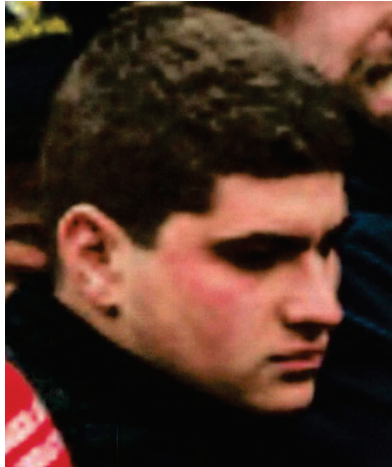


Image 10



Image 11



Image 12

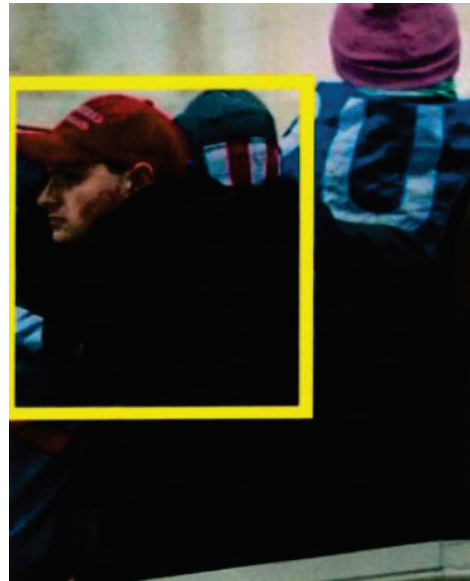


Image 13

On January 30, 2022, FBI investigators separately interviewed COHEN's father, COHEN, and COHEN's mother at COHEN's Westport, Connecticut residence. COHEN's father explained that COHEN traveled to Washington, D.C., with his mother on January 6, 2021, in order to attend the political rally taking place that day. COHEN's father learned that after the rally, COHEN joined the march to the Capitol building. COHEN confirmed that he traveled with his mother by car to D.C., attended the January 6, 2021 rally in support of then-President Trump, and then walked to the Capitol building—entering Capitol grounds around 2:00 p.m. COHEN admitted that he joined a crowd on the front steps of the building and got “tear gassed.” COHEN's mother confirmed that she travelled with COHEN to D.C. for the rally and stated that she lost contact with COHEN after they reached the Capitol grounds' outer barriers and COHEN proceeded closer to the Capitol building.

COHEN's Involvement in the Events of January 6, 2021

As part of its investigation, the FBI reviewed multiple BWC, CCTV, and open-source video footage depicting COHEN's conduct at the Capitol on January 6, 2021. The material reviewed shows that COHEN assaulted multiple police officers on the Capitol's West Plaza between approximately 2:28 p.m. and 2:30 p.m.; joined rioters inside of the Lower West Terrace "Tunnel" at approximately 2:48 p.m.; participated in at least two coordinated "heave-ho" efforts by the mob to physically break through police lines in the Tunnel at approximately 2:51 p.m. and 2:56 p.m.; and went inside a Capitol office to the left of the Tunnel entrance.

Around 2:28 p.m., BWC and open-source video footage taken at the Capitol on January 6, 2021, depicts COHEN standing at the front of the crowd of rioters gathered along a police line on the West Plaza. Just before 2:29 p.m., COHEN joined rioters breaching the police line and moved toward a group of officers. *See Image 14.*



Image 14

Open-source video shows that COHEN then made physical contact with the group of officers—pushing and shoving them with his hands as the crowd surged forward. *See Images 15 and 16.*



Image 15

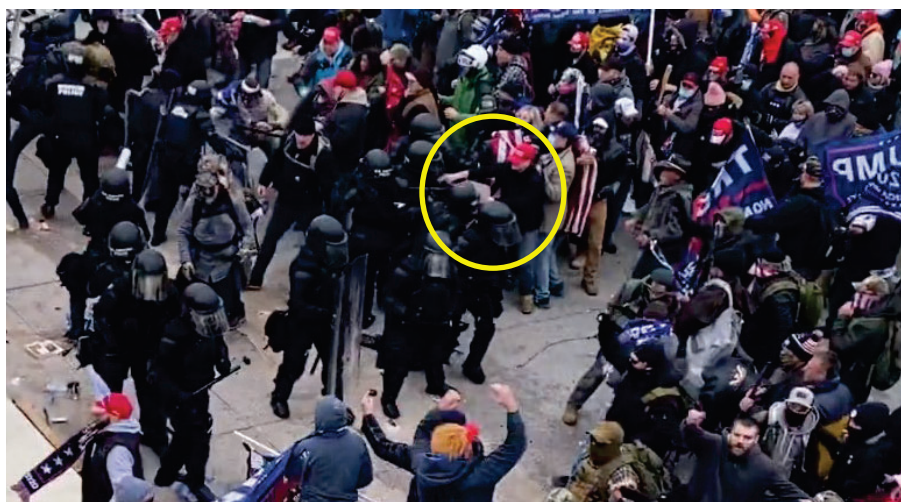


Image 16

Seconds later, COHEN rushed toward the officers again, shoving and striking officers with his hands. *See Images 17–19.*

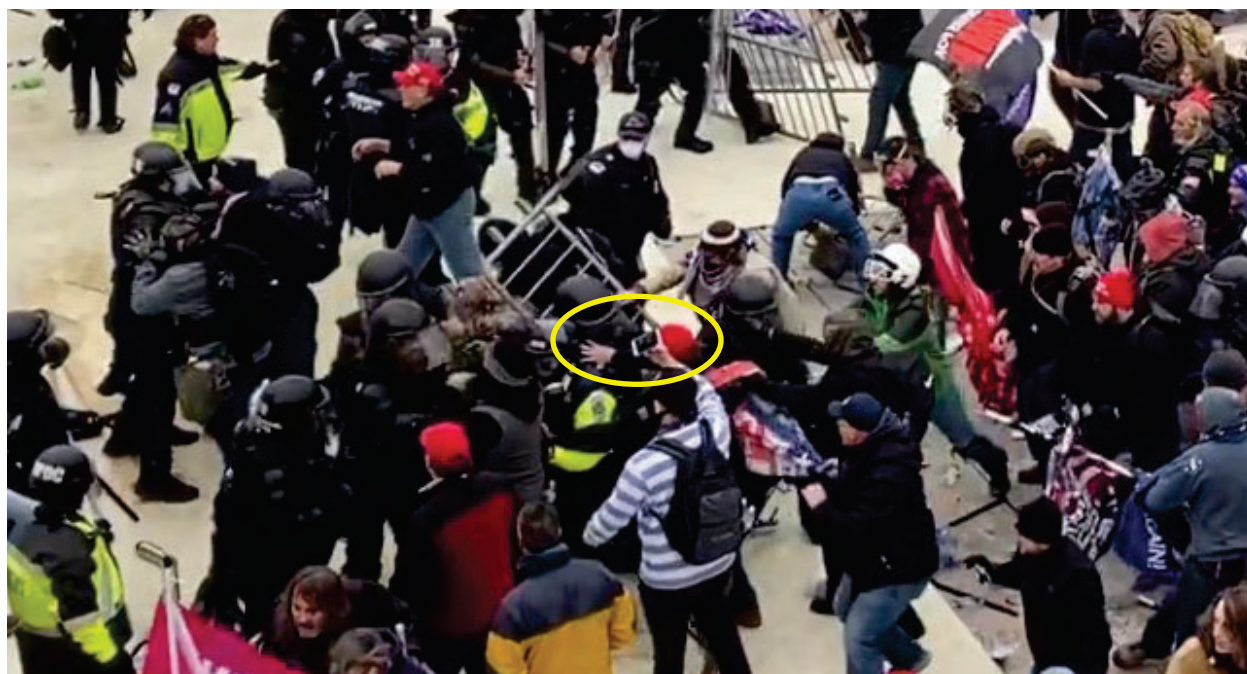


Image 17



Image 18



Image 19

At some point shortly thereafter, open-source video footage shows COHEN standing in the crowd of rioters, where he can be heard shouting, “Our House!” See Image 20.



Image 20

At approximately 2:48 p.m., COHEN entered the Lower West Terrace Tunnel, joining rioters assembling against police. See Image 21.



Image 21

COHEN then made his way deeper into the mob. From the vantage point at the mouth of the Tunnel, COHEN could see the large phalanx of police officers defending the Tunnel entrance to the Capitol building and could hear a door alarm from the emergency exit blaring. Just before approximately 2:51 p.m., COHEN pushed against the rioter in front of him, and additional rioters joined the pushing effort around and behind him. Together, the mob pushed in a “heave ho” effort against the police line until about 2:51:20 p.m. *See Image 22.*



Image 22

After this first “heave ho” effort, COHEN returned to the mouth of the Tunnel by approximately 2:52 p.m. But about a minute later, COHEN reversed course and again moved deeper into the Tunnel through the crowd of rioters. COHEN continued to press forward with the apparent intention to re-engage with the police line. *See* Image 23. COHEN watched as rioters shined strobe lights, threw objects, and utilized other means to disrupt the police line. At one point, COHEN observed another rioter just to COHEN’s left deploying a chemical spray against the police. *See* Image 24.



Image 23



Image 24

COHEN then moved further forward, closer to the police line. He continued to aid other rioters in pushing against the police line—despite deployments of chemical spray and baton strikes by the officers. *See* Image 25. At approximately 2:56:39 p.m., a rush of additional rioters entered the Tunnel, and, at approximately 2:57 p.m., those rioters, including COHEN, engaged in another heave ho effort by moving their bodies in unison back and forth, pushing with coordinated force against the police.



Image 25

By approximately 3:05 p.m., COHEN made his way back to the Tunnel entrance and began rinsing his eyes after having apparently been sprayed by officers. *See* Image 26. COHEN then moved out of the Tunnel.

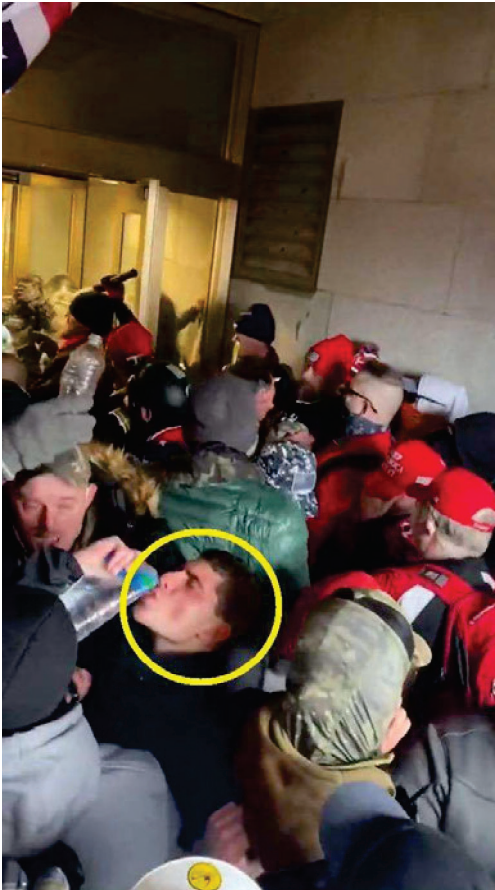


Image 26

COHEN remained with the mob just outside the Tunnel until at least approximately 4:01 p.m., where he continued to assist combined efforts by the mob to push back into the Tunnel. *See* Image 27.



Image 27

At some point thereafter, COHEN was photographed inside an office situated with a window, which had been broken, just to the left of the Tunnel entrance. *See* Image 28. COHEN is depicted in open-source video departing this office through the broken window. *See* Image 29.

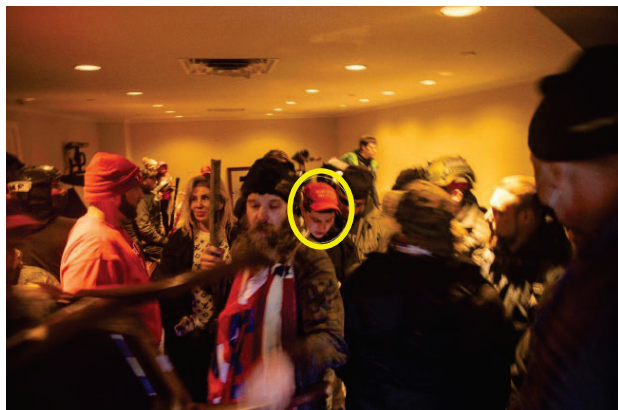


Image 28



Image 29

Based on the foregoing, your affiant submits that there is probable cause to believe that COHEN violated 18 U.S.C. § 111(a)(1), which makes it a crime to assault, resist, oppose, impede, intimidate, or interfere with a Federal law enforcement officer, as designated in Section 1114 of Title 18, while engaged in or on account of the performance of official duties, or on account of those duties. Section 1114 specifically lists USCP officers as Federal law enforcement officers. This definition under Section 1114 is further extended to any person assisting such a federal officer or employee in the performance of his or her duties or on account of that assistance. USCP officers are Federal law enforcement officers, and MPD officers were assisting them in protecting the Capitol and the Members of Congress on January 6, 2021.

Your affiant also submits there is probable cause to believe that COHEN violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which

in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof.

Your affiant also submits that there is probable cause to believe that COHEN violated 18 U.S.C. § 1752(a)(1), (2), and (4), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Finally, your affiant submits there is also probable cause to believe that COHEN violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



Task Force Officer
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 8th day of August 2023.

G. Michael
Harvey  Digitally signed
by G. Michael
Harvey

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE