

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent (“SA”) with the FBI, and has been so employed since December 2007. After graduating from the FBI Academy at Quantico, Virginia, SA Menges was assigned to the Washington, D.C., Division of the FBI where she investigated a variety of national security and criminal matters including international terrorism, weapons of mass destruction, wire fraud, money laundering and others. As an FBI Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws. 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 are 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, shortly 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.

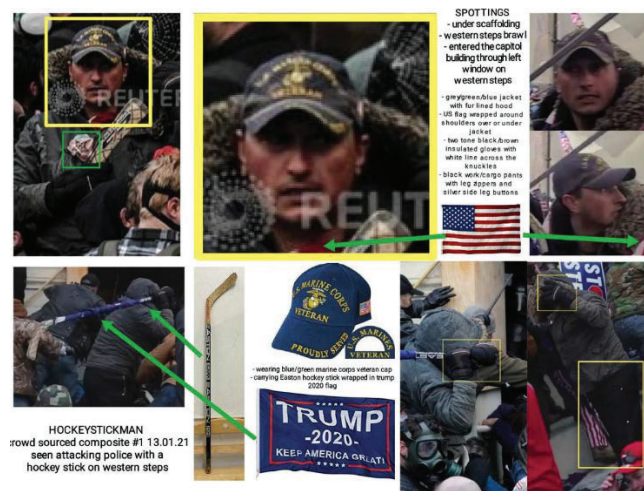
During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On or about January 10, 2021, the FBI received a tip on its official Twitter account. The tip provided a single image or photograph of a male carrying a hockey stick. The exact tweet stated “This is the man that killed the police officer. He hit him with a hockey-stick over and over in the head.” This tip has not been corroborated or confirmed by law enforcement. Additionally, your affiant has no evidence that the suspect killed a police officer. We nevertheless include this fact to explain the investigative steps that were subsequently taken.



On or about January 15, 2021, the FBI conducted open source research for an individual matching the tip’s provided photograph. Several additional photographs were identified from various online sources. These photographs indicated that the same individual, carrying a hockey stick, had been present both outside and inside the Capitol.





White male, first seen wearing olive jacket over red down vest over blue hoody. Large curved ears & 2 to 3 days of facial hair.



On or about January 16, 2021, the FBI identified a video from an online New York Times article, found at www.nytimes.com/2021/01/11/us/capitol-mob-violence-police.htm. The video depicts an individual wearing the exact same clothing as the individual above, bearing a hockey stick. In the video, the individual aggressively swings the hockey stick at an individual lying on the ground. The article indicates that the video footage was taken during the attack of a law enforcement officer. Specifically, the video shows a large crowd of individuals gathered around an entrance to the U.S. Capitol. It further shows the man with the hockey stick lifting the stick above his head and swinging it down rapidly, striking an individual on the ground several times. At no point does it appear that the individual on the ground is acting aggressively, nor does it appear that the attack is justified.

Based on further investigation, the FBI was able to determine that the individual identified above was Michael Joseph Foy, the son of Joseph Foy. Specifically, on or about January 19, 2021, the FBI discovered a Facebook account for Joseph Foy (JOSEPH), from Detroit, Michigan, and currently residing in Westland, Michigan. I have reviewed the Driver's License photograph for JOSEPH, and it matches the photographs posted on JOSEPH's Facebook account. Additionally, JOSEPH's current address is listed in Westland, Michigan.

JOSEPH's Facebook page also contains a post dated January 6, 2021, and the post has a photograph of a male, dressed in the same clothing and carrying a hockey stick with a Trump flag draped from it, similar to that carried by the male in the aforementioned video and pictures. This man is wrapped in an American Flag and standing in front of the Washington Monument in Washington, D.C. A comment from another Facebook user asked, "Was he the guy sitting in Nancy Pelosi's chair?" JOSEPH replied, "[Facebook user] he was raised better," suggesting that JOSEPH could be self-identifying as the man's father.



Another post on JOSEPH’s Facebook page, dated November 10, 2020, indicates that JOSEPH changed his profile picture to that of a male, draped in an American Flag, and wearing a Marine Corps Veteran hat (*see below*), similar to that of the aforementioned individual depicted in the photographs and video from January 6, 2021. In several comments, JOSEPH refers to the man in the photo as his son. Additionally, another Facebook user, after stating its thanks for all that have served in the U.S. military, makes the following comment, “Michael Foy THANK YOU”.



Law enforcement was able to determine that the individual depicted above, with the American flag and the military hat was, in fact, the son of JOSEPH, named Michael Joseph Foy (“FOY”). The FBI further found an online photograph of FOY participating in a November 6, 2020 political rally for President Trump. As can be seen below, the photograph of FOY from his father’s Facebook post and the photograph of FOY at the rally appear consistent. The photograph caption names the individual as Michael Foy.



Michael Foy of Wixom holds his flag open while standing above the crowd gathered for a rally in support of President Trump outside of the TCF Center in Detroit on Friday, Nov 6, 2020 where the absentee ballot count for the city of Detroit took place. Trump supporters gathered to express their concern for the results after Democratic Presidential Candidate Joe Biden won the State of Michigan turning the state blue.
RYAN GARZA, DETROIT FREE PRESS



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Additionally, I have reviewed the driver’s license photograph for FOY, and it is consistent with the individual depicted in both JOSEPH’s Facebook posts, as well as the man seen attacking law enforcement in the photographs and video captured on January 6, 2021.

On January 17, 2021, the FBI also identified a YouTube video entitled, “I can’t breathe (on the steps)/The Storm Arrived Pt 9,” posted by user name The Black Conservative Preacher. This

video shows another angle of the attack on law enforcement at the U.S. Capitol on January 6, 2021. Specifically, at time stamp 1:00 in the video, FOY begins striking a group of Metropolitan Police Officer (“MPD”) assisting in the protection of the U.S. Capitol who had been knocked down and dragged into the crowd of rioters. . This attack continues for approximately 16 seconds until FOY is knocked down by another rioter. At that time, FOY circles back through the crowd, lowers his hood, which reveals a clear image of his face. At time stamp 1:26, FOY raises his hockey stick above his head in celebration and begins shouting (the words are indistinguishable from the other crowd noise). At 3:45, Foy begins motioning and shouting, as if to another individual in the crowd, and appears to be saying “Let’s Go,” while pointing at the U.S. Capitol building. At 3:59, FOY is seen crawling through a broken window into the U.S. Capitol.

Based on the foregoing, your affiant submits that there is probable cause to believe that MICHAEL JOSEPH FOY violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (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; (4) knowingly engages 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.

Your affiant submits there is probable cause to believe that MICHAEL JOSEPH FOY 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. This includes the Joint Session of Congress where the Senate and House count and certify Electoral College votes.

Your affiant submits there is also probable cause to believe that MICHAEL JOSEPH FOY violated 18 U.S.C. § 111(a)(1) and (b) and 18 U.S.C. § 2 which makes it unlawful to (1) forcibly assault, resist, oppose, impede, intimidate, or interfere with any officer or employee of the United States or of any agency in any branch of the United States Government while engaged in or on account of the performance of official duties, or aid, abet, counsel, command, induce or procure its commission.

Finally, your affiant submits there is probable cause to believe that MICHAEL JOSEPH FOY violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede

any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



FEDERAL BUREAU OF
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this day of January 2021.

A handwritten signature in blue ink, appearing to read "Robin M. Meriweather", written over a circular official seal.

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ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE