

STATEMENT OF FACTS

Your affiant, Jennifer A. Morrow, has been a Special Agent assigned to the Federal Bureau of Investigation (FBI) for nineteen years. In my duties as a special agent, I investigate federal criminal violations related to violent crime, drug trafficking, kidnapping, and the FBI's Innocent Images National Initiative, which investigates matters involving the online line sexual exploitation of children. Currently, I am a tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a 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 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 PM. Shortly thereafter, by approximately 1:30 PM, 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 PM, 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 PM, 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 PM. 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 January 9, 2021, the FBI received a tip from a witness (Witness 1) that GARY WICKERSHAM was inside the Capitol on January 6, 2021. Witness 1 gave FBI agents second-hand information that they learned from another witness (Witness 2). Witness 2 told Witness 1 that they had received a text message from WICKERSHAM on January 6, 2021. In the text, WICKERSHAM allegedly told Witness 2 that he was inside of the Capitol. Witness 1 indicated that they know WICKERSHAM, that WICKERSHAM lives on West Chester Pike in West Chester, Pennsylvania, and provided WICKERSHAM's cellphone number to the FBI.

With the information provided by Witness 1, FBI agents were able to find a name and home address for WICKERSHAM. Further, agents were able to view a driver's license photograph (not pictured) and a publicly viewable Facebook profile picture (below) of WICKERSHAM.



Based on these photographs, the FBI located an open-source video in which an individual who appears to be WICKERSHAM is seen inside the Capitol building (cropped screenshots below).



At least two individuals—including Witness 1—have viewed the screenshot that appears above and on the left and identified the individual in the photo as GARY WICKERSHAM.

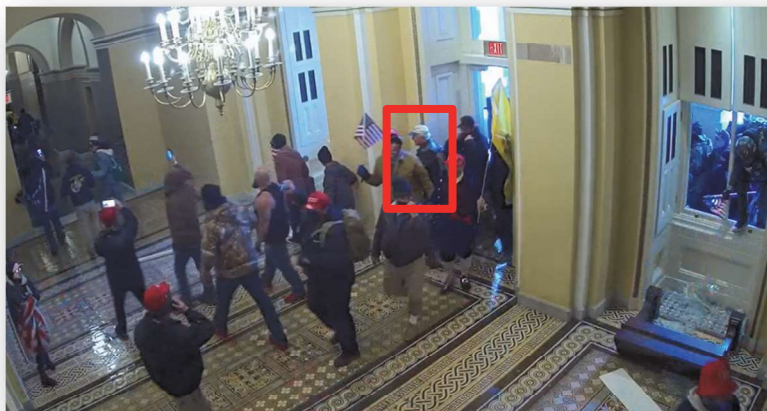
On January 15, 2021, law enforcement agents, including your affiant, interviewed the defendant, Gary WICKERSHAM at his home in West Chester, Pennsylvania. During the non-custodial interview, the defendant stated in sum and substance that he travelled to Washington, D.C., by bus to attend a rally with other supporters of former president Trump. The defendant further stated that he attended Trump’s speech and then marched to the U.S. Capitol where he observed others cursing, screaming, knocking cops away, breaking windows and doors, and entering the Capitol. The defendant stated that he believes that many of the protesters were members of Antifa. The defendant stated that he was wearing a leather jacket, blue jeans, and a white baseball hat with a blue rim.

The defendant stated that he entered the U.S. Capitol and remained inside for approximately ten to fifteen minutes. While he was inside, the defendant described seeing protestors and police officers involved in what he termed a “rugby scrum” in what was likely the Capitol Crypt. The defendant further stated that he walked by many offices, including that of Congressman Stenny Hoyer. The defendant stated that he believed that he was authorized to enter the Capitol because he pays his taxes. The defendant believes that the entire event was staged, and that law enforcement purposefully did not have enough resources there so that supporters of the former president could overrun the Capitol and be subsequently labeled as “intruders.”

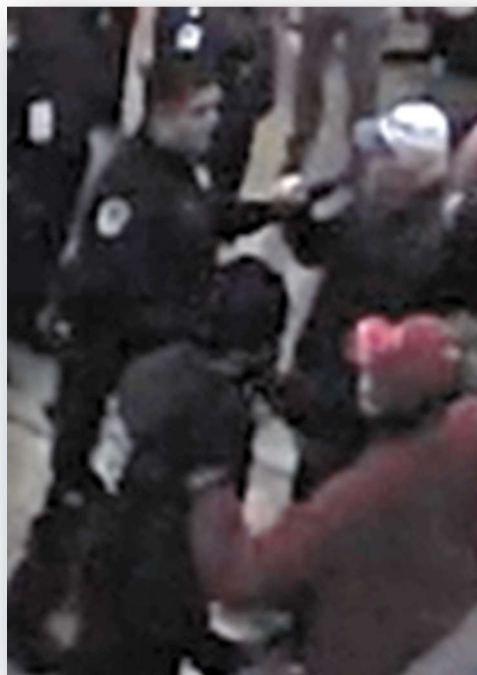
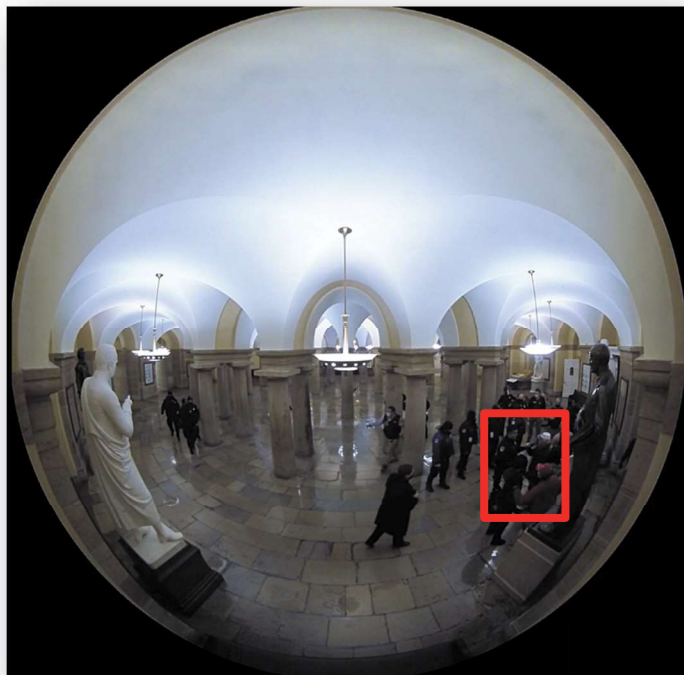
Your affiant, who was present at the in-person interview with the defendant, reviewed a short open-source video clip in which the defendant is seen inside of the Capitol. The following is a screenshot from that video with a red box around the face of the individual your affiant believes to be the defendant, Gary WICKERSHAM.



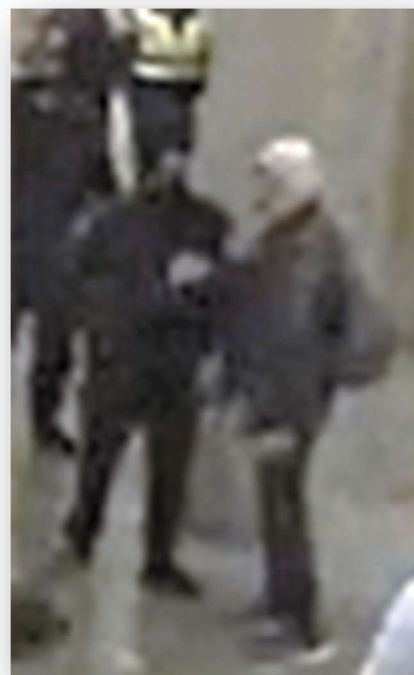
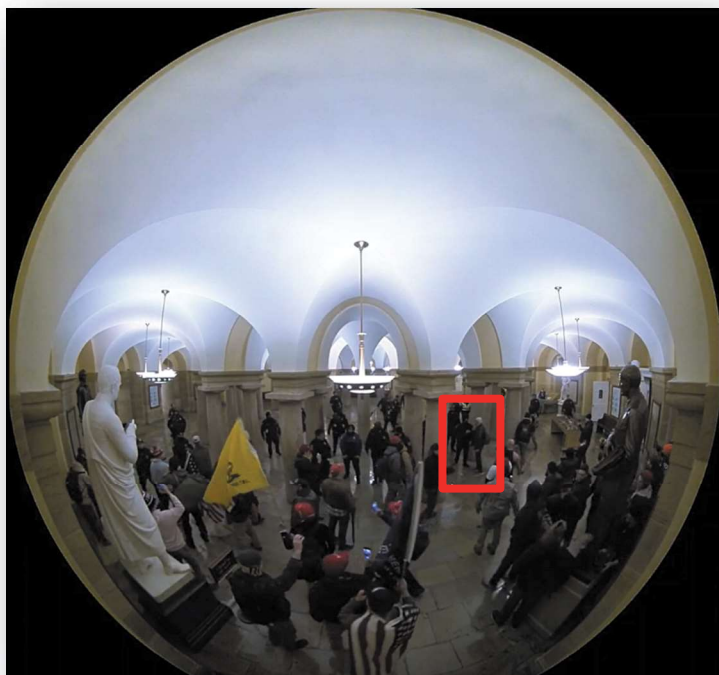
Your affiant has reviewed CCTV clips provided by the U.S. Capitol Police which show the defendant's various movements through the U.S. Capitol on January 6, 2021. This includes, but is not limited to, the defendant entering the Capitol through the Senate Wing Door at approximately 2:13 PM, as pictured below.



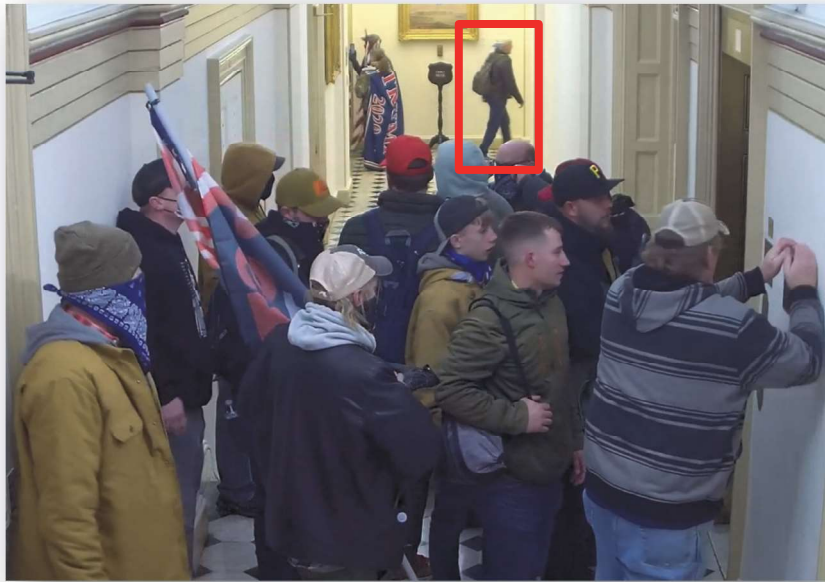
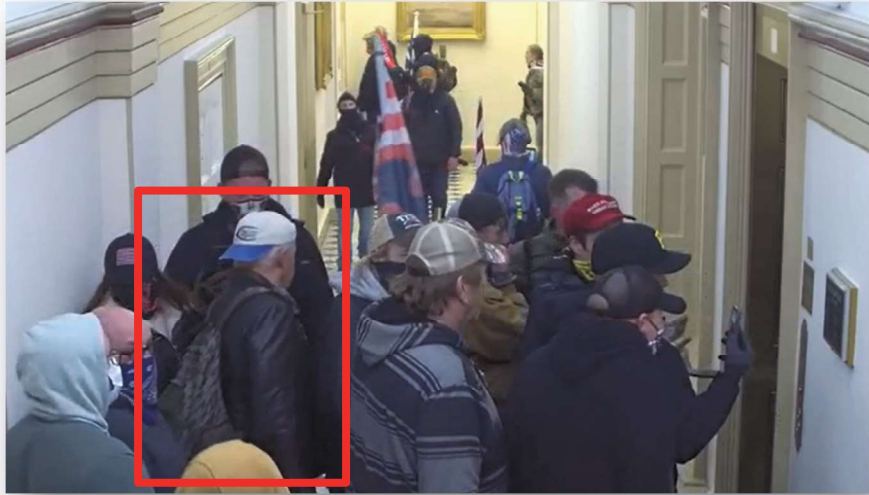
At approximately 2:15 PM, the defendant entered the Capitol Crypt and engaged with a uniformed law enforcement officer, as pictured below.



After the encounter pictured above, the law enforcement officers pushed the crowd back. A short time later, the crowd surged forward and began to fill the Crypt. The defendant also reentered the Crypt and engaged with a different uniformed law enforcement officer, as pictured below.



At approximately 2:33 PM, the defendant walked through the hallway in the vicinity of office H159 in the Capitol. At the end of the hallway, the defendant turned right, as pictured below.



At approximately 2:35 PM, the defendant exited the Capitol via a door that leads to the Upper West Terrace. After exiting the Capitol, the defendant turned, spoke to an unidentified female, and pointed back inside the Capitol, as pictured below.



Based on the foregoing, your affiant submits that there is probable cause to believe that GARY WICKERSHAM 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; 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 also probable cause to believe that GARY WICKERSHAM violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.


JENNIFER A. MORROW
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th day of May 2021.




Digitally signed by
G. Michael Harvey
Date: 2021.05.07
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G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE