

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Bryon J. Speakes was on duty and performing my official duties as a Special Agent with the Federal Bureau of Investigation (“FBI”). I have been a Special Agent since 2015 and, in addition to my regular duties, I am currently also tasked with investigating criminal activity that occurred 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, 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 U.S. 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 without authority to be there.

At approximately 1:00 p.m., a crowd assembled at the U.S. Capitol on the Lower West Terrace. U.S. Capitol Police (“USCP”) and the Metropolitan Police Department (“MPD”) formed a line of bike racks extending from the North end of the Lower West Terrace to the South end, to act as a barrier against the crowd. While law enforcement officers were attempting to control the crowd at the Lower West Terrace, numerous individuals climbed the top of scaffolding erected for the inauguration of then President Elect Joe Biden. This position allowed individuals to observe law enforcement officers assembled below.

While reviewing surveillance footage of this incident, your Affiant observed an individual later identified as NICHOLAS JAMES BROCKHOFF (hereinafter, “BROCKHOFF”), assaulting law enforcement officers. BROCKHOFF’s actions caused the dispersing of law enforcement officers and impeded law enforcement officers from performing official duties.

Figure One is an image taken from surveillance footage on January 6, 2021. BROCKHOFF is the individual circled in red. Figure Two is an image taken from surveillance footage on January 6, 2021, which depicts the same event from a different and closer angle. In Figure Two, BROCKHOFF can be seen wearing the same blue jacket with a green hood lining and a backpack with a yellow tag, which can be seen in later, close-up photos taken outside the U.S. Capitol. In Images Two and Three, BROCKHOFF is discharging the contents of fire a fire extinguisher from the scaffolding near the Lower West Terrace. BROCKHOFF discharged the content from the fire extinguisher from the elevated position onto both MPD and USCP law enforcement officers who were standing beneath BROCKHOFF and attempting to hold back the rioters. In Figure Three, BROCKHOFF, is wearing the blue jacket with a green hood lining and is holding a red fire extinguisher. *See*, Figures Four-Eight. BROCKHOFF is the individual circled in red in each of the Figures below.

I have interviewed two of the MPD officers who were standing below BROCKHOFF as he sprayed the contents of the fire extinguisher at them. Both officers stated that they were hit with the contents of the fire extinguisher, which caused law enforcement to disperse, and obstructed law enforcement’s ability to see.



*Figure One*



*Figure Two*



*Figure Three*

While reviewing surveillance footage from the U.S. Capitol on January 6, 2021, your Affiant observed BROCKHOFF entering the U.S. Capitol through a broken window. BROCKHOFF was able to access the window by climbing the scaffolding near the Lower West Terrace. In Figure Four, BROCKHOFF is circled in red, is wearing a blue jacket with the green hood lining and backpack with yellow tag, and is entering the U.S. Capitol through the broken window.



*Figure Four*

Further, your Affiant reviewed body worn camera (“BWC”) footage from MPD officers located at the U.S. Capitol on January 6, 2021. BWC showed BROCKHOFF in possession of a stolen MPD helmet. In a verbal exchange between MPD officers and BROCKHOFF, MPD officers tell BROCKHOFF, “Now you’re locked up. Now you’re locked up. Turn around. Get him [BROCKHOFF] out. You’re going to come out with an MPD helmet?” BROCKHOFF responds, “I just found it [the MPD helmet] on the ground.”

In another verbal exchange recorded on BWC, a MPD officer asks BROCKHOFF, “What’s your name?” BROCKHOFF responds, “Nick.” The officer then asks, “Nick what?” BROCKHOFF replies, “Brockhoff.” Figure Four is an image of BROCKHOFF that was taken from the BWC that depicts this exchange between BROCKHOFF and the MPD officer. In that same BWC recording, a second MPD officer then asks, “Are you injured?”<sup>1</sup> BROCKHOFF responds, “A little bit.” The MPD officer then inquires, “Are you injured from MPD or climbing through a window?” BROCKHOFF replies, “Glass, glass, glass, yeah.”

Figure Five is an image taken from BWC footage on January 6, 2021. BROCKHOFF is seen holding his hands up and is wearing the blue jacket with green hood lining.



*Figure Five*

A review of social media platforms by an FBI analyst revealed an image of BROCKHOFF wearing the same MPD helmet with the same MPD helmet number on the front above the visor. In Figure Six, BROCKHOFF can be seen below wearing the MPD helmet in the crowd and wearing the same jacket with the green hood lining. Figure Six was taken from an open source website launched after the Capitol riots and apparently intended to crowd source efforts to identify

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<sup>1</sup> During my review of the second MPD officer’s BWC I observed lacerations and bandage applied to BROCKHOFF’s left hand.

persons who breached the Capitol for the FBI by collecting and sorting images from social media posts and the FBI.gov website.<sup>2</sup>



*Figure Six*

Further review of media platforms by an FBI analyst revealed a video Getty Images Inc. which shows BROCKHOFF—wearing the same MPD helmet seen above in Figure Six—making a forced entry into room “ST6M,” later identified as a Republican Conference Room, of the U.S. Capitol.

Figure Seven is an image derived from a YouTube video. BROCKHOFF is wearing a backpack with a yellow tag, blue jacket with green hood lining, and an MPD helmet. In the video, BROCKHOFF can be observed directing other individuals on the best method to make entry into the room.



*Figure Seven*

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<sup>2</sup> While the photo purports to come from Getty and its origins cannot be fully traced, it appears to be consistent with other photos taken from known law enforcement sources and depicting BROCKHOFF wearing the exact same clothing – including the blue jacket with the green hood lining. See, [GreenHornHoodlum \(jan6attack.com\)](https://www.jan6attack.com) (containing multiple images of what appears to be BROCKHOFF).

FBI reviewed records of vehicles known to be operated by BROCKHOFF and members of his immediate family. These records indicated that BROCKHOFF traveled to the area of Washington, D.C. on January 6, 2021.

On April 7, 2021, FBI conducted an in-person interview an individual, who has known BROCKHOFF for approximately five years. During the interview, FBI presented the individual with the images in Figure Eight below. After reviewing the images, the individual positively identified BROCKHOFF.



*Figure Eight*

Based on the foregoing, your affiant submits that there is probable cause to believe that BROCKHOFF violated 18 U.S.C. §§ 111(a) and (b), which makes it a crime to, assault, resist, oppose, impede, intimidate, or interfere 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.

Based on the foregoing, your affiant submits that there is probable cause to believe that BROCKHOFF 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 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.

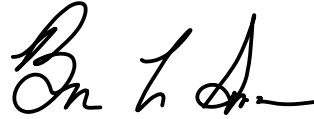
Your Affiant submits there is also probable cause to believe that BROCKHOFF violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his or her 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 Electoral College votes.

Your Affiant submits there is also probable cause to believe that BROCKHOFF violated 40 U.S.C. § 5104(e)(2)(D), (F), 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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your Affiant submits there is probable cause to believe that BROCKHOFF 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.



The information contained in this affidavit is based on my knowledge of the investigation and information provided by other law enforcement officers. Because this statement of facts is being submitted for the limited purpose of establishing facts sufficient for the charges in the complaint, I have not included each and every fact known to me concerning this investigation.



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BRYON J. SPEAKES  
SPECIAL AGENT, FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1. by telephone, this 24<sup>th</sup> day of May, 2021.

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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE