

## STATEMENT OF FACTS

Your Affiant, Joshua Floyd, is a Special Agent assigned to Federal Bureau of Investigation (“FBI”) Atlanta Field Office. In my duties as a special agent, I investigate a variety of federal crimes. Currently, my duties include investigating criminal activity in and around the United States 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, detection, investigation, or prosecution of a violation of Federal criminal laws.

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

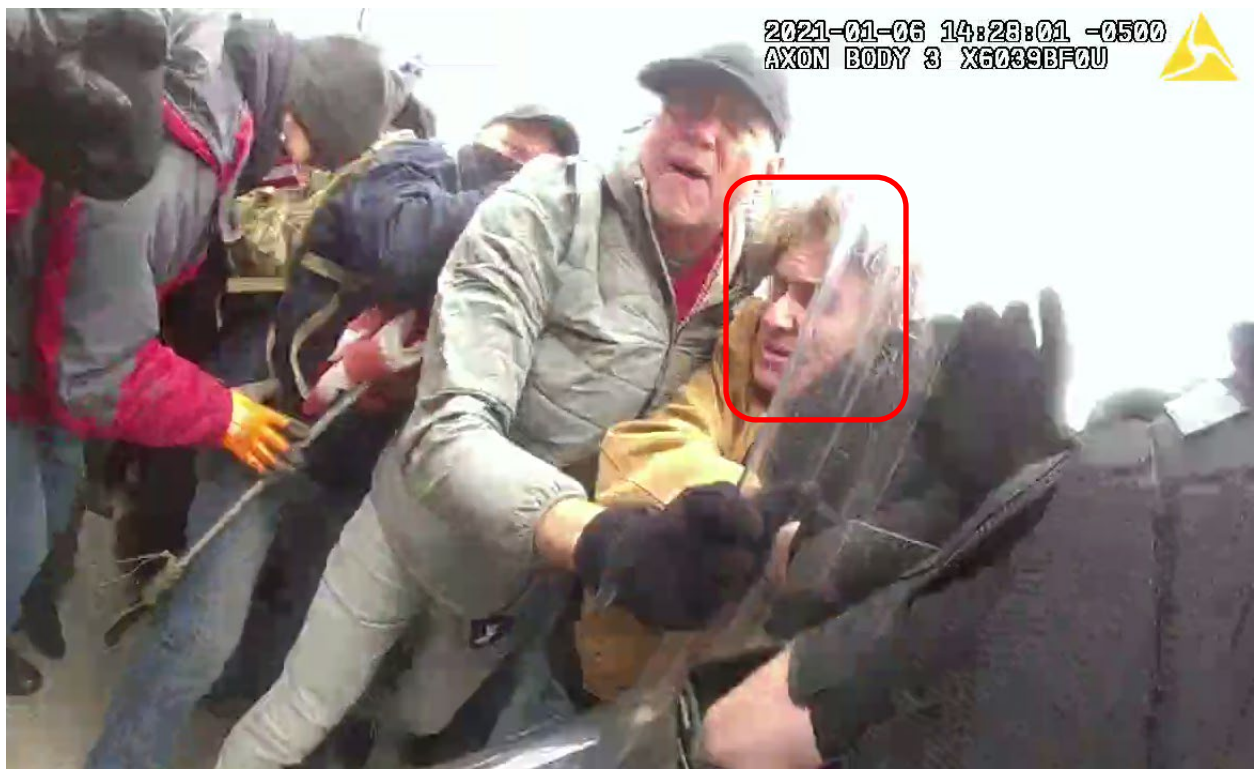
Video footage recorded at the Capitol on January 6, 2021, depicted numerous violations of federal law, including assaults on law enforcement officers.

On April 1, 2021, the FBI conducted a telephone interview of a family member of JAKE MAXWELL (“MAXWELL”). MAXWELL also was on the phone call during the interview. MAXWELL’s family member stated that he, MAXWELL, and a third person traveled to Washington, DC, to attend the rally for President Trump that occurred on January 6, 2021. They traveled there on January 5, 2021, and left on January 7, 2021. MAXWELL’s family member stated that after the three of them attended the rally on January 6, 2021, they followed the crowd to the U.S. Capitol.

In or about October 2021, the FBI received information from a confidential human source identifying MAXWELL as a person who was engaged in physical confrontations with law enforcement officers at the Capitol on January 6, 2021. FBI Atlanta obtained and reviewed copies of body-worn camera (“BWC”) footage of two Metropolitan Police Department (“MPD”) officers, which was recorded in the West Plaza area of the Capitol grounds on January 6, 2021. Those videos show a man whose appearance is consistent with the person shown in MAXWELL’s driver’s license photo, which I reviewed and compared to the person shown in the BWC footage. I am further able to identify MAXWELL in this BWC footage because I am familiar with his appearance from interviewing him in person on December 9, 2021. That interview is discussed below. The following describes what the BWC footage shows:

- a. MAXWELL banged his hands and pushed on the riot shield of a U.S. Capitol Police officer for several seconds as the officer tried to push him away with the shield:









- b. MAXWELL then moved toward an MPD officer, and got into a physical struggle with him. During that struggle, MAXWELL first hooked his arm around the officer's baton. The officer then got his baton away from MAXWELL and used it to keep MAXWELL away from the line of officers trying to protect the Capitol building from the mob of rioters:









c. MAXWELL then grabbed the officer's baton with his left hand and pulled on it for about two seconds.







The BWC footage discussed above shows MAXWELL wearing a tan Carhartt jacket and at times holding a black cowboy hat. A photograph posted on MAXWELL's father's Facebook page shows MAXWELL wearing what appears to be the same Carhartt jacket and black cowboy hat, and states "with Jake Maxwell" in the caption:






MAXWELL voluntarily came to FBI Atlanta on December 9, 2021, for an interview. During that interview, MAXWELL identified himself in the above-described BWC footage in which he is shown physically struggling with police officers protecting the Capitol during the riot and grabbing an officer's baton. He said he did not remember doing those things, but he confirmed the person shown doing those things was him. He said he was under the effects of being sprayed with an irritant, and that he had "started freakin' out."

Based on the foregoing, your Affiant submits that there is probable cause to believe that MAXWELL 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. Section 1114 specifically lists United States Capitol Police (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 submits there is also probable cause to believe that MAXWELL 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 further submits that there is probable cause to believe that MAXWELL 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 attempt or conspire 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 also is probable cause to believe that MAXWELL 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.

  
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Joshua Floyd  
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 9<sup>th</sup> day of February, 2022.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE