

## STATEMENT OF FACTS

I, Steven Fleenor, am a Special Agent assigned to the Federal Bureau of Investigation (FBI). I am assigned to the Portland, Maine Joint Terrorism Task Force and my duties include investigating foreign and domestic threats to the United States' national security. Currently, I am 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, detection, 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 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.

### **FACTS SPECIFIC TO TODD TILLEY**

I have studied video footage and still photographs of the January 6, 2021, incursion of the U.S. Capitol, and I have identified an individual in them as Todd Tilley (TILLEY) of South Paris, Maine, for the reasons described herein. As also described herein, the images and video footage that I have reviewed, as well as the other facts gathered in this investigation, establish that TILLEY did unlawfully enter the U.S. Capitol on January 6, 2021.

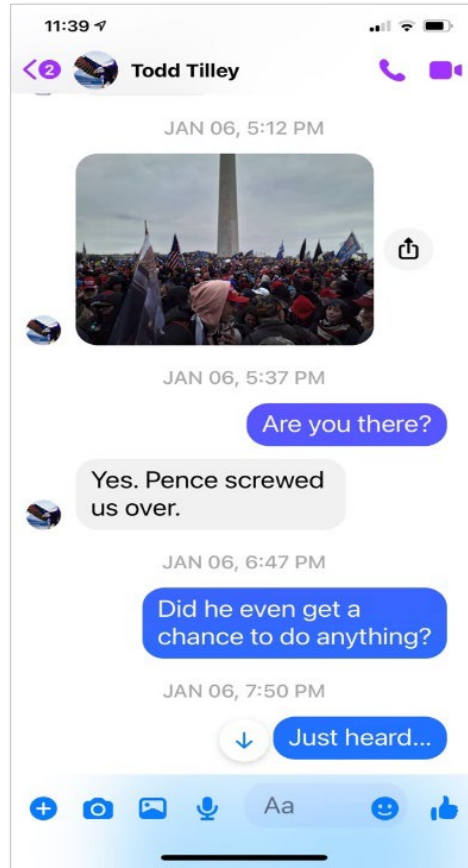
On or about January 7, 2021, an individual posted a video titled “The Insurrection of The United States Capitol” to YouTube under the username Jayden X. The video, which is no longer available on YouTube,<sup>1</sup> depicts, among other things, a large crowd climbing stairs leading to the Upper West Terrace of the U.S. Capitol, individuals entering the Capitol building through the Senate Wing Doors, and crowds walking through the Capitol hallways. The video captures several clashes between individuals and law enforcement, including the fatal shooting of Ashli Babbitt outside the Speaker’s Lobby, adjacent to the House chambers. In the minutes leading up to this shooting, the video shows rioters attempting to breach the door to the House Chamber. The camera then pans to individuals standing in the hallway just outside the House Chamber and captures an individual wearing glasses and a red hooded sweatshirt at approximately 27:49. (Figure 1).



*(Figure 1: Frame captured from Jayden X video, clip time 27:49, approximately 2:38 p.m.)*

<sup>1</sup> The video is archived at <https://archive.org/details/nYiFQbNc65jwFYCWY> (last accessed April 12, 2022).

On August 30, 2021, I interviewed TILLEY's brother and showed him the above picture from the Jayden X video. TILLEY's brother confirmed that the individual in the picture was TILLEY. TILLEY's brother further indicated that he was aware that TILLEY attended the rally prior to the Capitol riot but did not know whether TILLEY had entered the Capitol Building. TILLEY's brother sent me the screenshot below of electronic messages between himself and TILLEY on January 6, 2021, which included a picture from TILLEY of a large crowd gathered near the Washington Monument, TILLEY's brother asking, "Are you there?" and TILLEY's response, "Yes. Pence screwed us over." (Figure 2).



(Figure 2: Screenshot of Electronic Conversation)

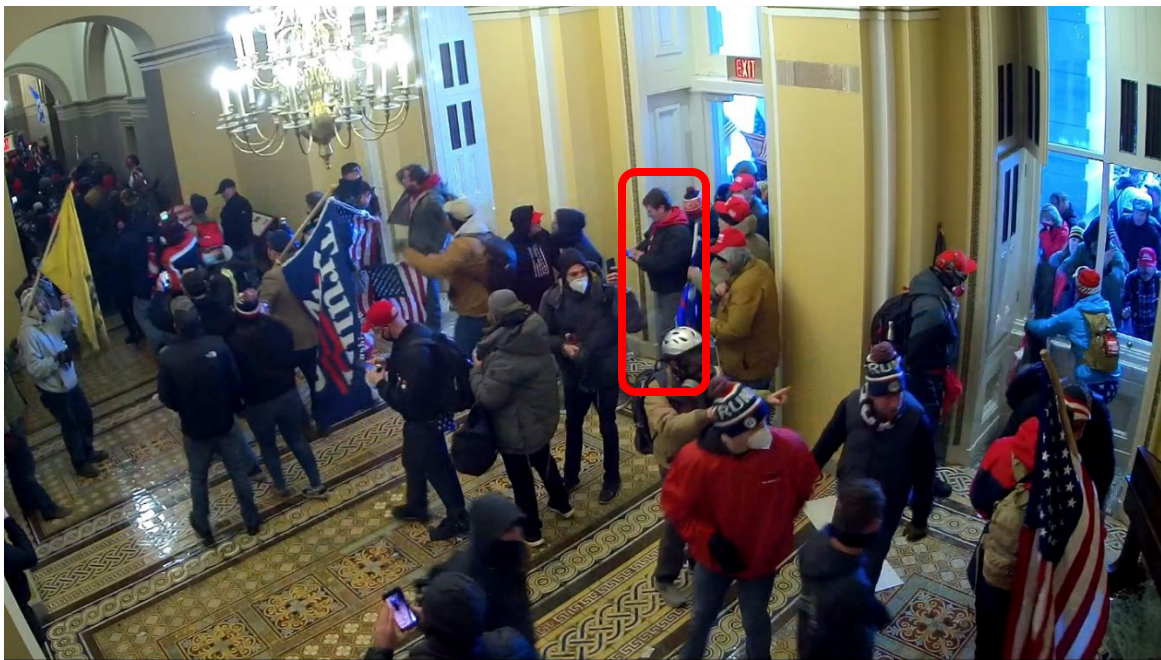
According to records obtained through legal process, a cellular phone with a phone number of \*\*\*-\*\*\*-7709 ("subject telephone number") was identified as being inside the Capitol building on January 6, 2021, at 2:27 p.m. Records obtained from the Oxford County Sheriff's Office (which covers South Paris, Maine) show that the subject telephone number was associated with TILLEY as of April 4, 2021. Records obtained from the Maine Department of Labor show that TILLEY used the subject telephone number in connection with an unemployment claim from December 6, 2020, through December 5, 2021. TILLEY's brother reported that TILLEY previously used the subject telephone number, but that he received a text message from TILLEY on March 20, 2021, from a different number stating, "this is Todd and this is my new number, I had to change my number."

Prior to entering the Capitol, TILLEY can be seen on video assisting another individual climb a wall to reach the stairs leading to the Upper West Terrace. (Figure 3).



(Figure 3: TILLEY assisting climber)

Closed circuit video depicts TILLEY entering the first floor of the Capitol through the Senate Wing Doors on the west side of the building at approximately 2:24 p.m. A still capture of the video shows TILLEY using a cellphone shortly after he entered. (Figure 4).



(Figure 4: CCTV of interior of Senate Wing Doors at approximately 2:24 p.m.)

Closed circuit video depicts TILLEY entering the Crypt from the north and walking near the Memorial Door to the south of the Crypt where the crowd is turned back by law enforcement. (Figures 5 and 6).



*(Figure 5: CCTV of Memorial Door)*



*(Figure 6: CCTV of Memorial Door)*

Closed circuit video depicts TILLEY walking south through Statuary Hall on the second floor of the Capitol and passing through the Statuary Hall Connector before being captured in the Jayden X video. (See Figure 1 above). Another public source video from this time shows TILLEY joining with the crowd in shouting, “Stop the steal.” (Figure 7).



(Figure 7: Frame of public source video of TILLEY shouting, “Stop the steal.”)

Closed circuit video depicts TILLEY walking inside the Capitol near the Upper House Door. (Figure 8).



(Figure 8: CCTV of Upper House Door Interior)

Closed circuit video depicts TILLEY exiting the Capitol through the East Front House Door at approximately 2:53 p.m., nearly 30 minutes after he entered. (Figure 9).



*(Figure 9: CCTV of East Front House Door at approximately 2:53 p.m)*

Based on the foregoing, I submit that there is probable cause to believe that TILLEY 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.

I submit that there is also probable cause to believe that TILLEY 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.



STEVEN FLEENOR  
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 16th day of June, 2022.

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HONORABLE ROBIN M. MERIWEATHER  
UNITED STATES MAGISTRATE JUDGE