

## STATEMENT OF FACTS

Your affiant, [REDACTED] assigned with the Federal Bureau of Investigation (FBI) assigned to the Joint Terrorism Task Force (JTTF) out of the San Francisco field office, San Jose resident agency. In my duties as a Special Agent, I have gained training and experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, the exploitation of lawfully obtained evidence and data, and various other procedures. 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.

*Identification and Interview of Christopher Gutierrez*

The FBI received a tip from a member of the public concerning an individual who unlawfully entered the restricted grounds of the U.S. Capitol and/or entered the U.S. Capitol Building on January 6, 2021. The tipster identified CHRISTOPHER GUTIERREZ, who they are personally familiar with, as being at the U.S. Capitol on January 6, 2021. The tipster was interviewed and said they saw multiple Facebook posts by GUTIERREZ. GUTIERREZ used “Christopher Carr” as his Facebook username with a listed date of birth of October 2, 1986 and political affiliation “April 19 1775.” According to the tipster, GUTIERREZ posted three videos on Facebook. As of January 7, 2021 GUTIERREZ had taken down the three separate videos. According to the tipster, the videos showed GUTIERREZ inside the Capitol Building. (Figures 1 & 2).



*Figures 1 & 2: Screenshots of GUTIERREZ's Facebook posts.*

According to records obtained through lawful legal process from Meta Platforms, Facebook account with user identification number 100000660994846 was associated with phone number [REDACTED] and registered email addresses [REDACTED] and [REDACTED], all accounts belong to GUTIERREZ. On January 7, 2021, Gutierrez posted from his Facebook account, as seen in Figures 3, 4, and 5 below, stating in part, “[W]e were marching when we heard the news about pences [sic] decision and that is what triggered the uproar. We lost the house senate and our president. I need to make a video or two of what it was like being inside the capital [sic].”

**Posted** 2021-01-07 17:46:23 UTC  
**Status** I am fully aware of my sole actions and take full responsibility. Chose to take the videos down to make a more in depth one. May not get a chance to so keep the spirit, stay safe and God Bless America.  
**Mobile** true  
**Id** 4033618553336805  
**Author** Christopher Carr (100000660994846)

*Figure 3: Screenshot from GUTIERREZ's Facebook account.*

**Author** Christopher Carr (Facebook: 100000660994846)  
**Sent** 2021-01-07 04:58:40 UTC  
**Body** Hey sue I'm taking the videos down, headed back to Arizona/Ca I'm on cbs/cnn cameras giving my name talking about being in the capital building. I have footage of the trump speech to the march on the capital, we were marching when we heard the news about pences decision and that is what triggered the uproar. We lost the house senate and our president. I need to make a video or two of what it was like being inside the capital. Wish I could have had time to say hi hope you guys are well, and thanks for sharing today

*Figure 4: Screenshot from GUTIERREZ's Facebook account.*

**Author** [REDACTED]  
**Sent** 2021-01-07 17:59:19 UTC  
**Body** bro u went lol ahahahahah fuck ya

**Author** [REDACTED]  
**Sent** 2021-01-07 17:59:34 UTC  
**Body** Hope u didnt break into the capitol building ahahahahahaah

**Author** Christopher Carr (Facebook: 100000660994846)  
**Sent** 2021-01-07 18:06:14 UTC  
**Body** I was the last one out!

*Figure 5: Screenshot from GUTIERREZ's Facebook account.*

According to records provided by AT&T for September 1, 2020 through June 17, 2022, cellular number [REDACTED] was associated with customer name Christopher Gutierrez with the address [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] and email address [REDACTED].

On April 7, 2021, GUTIERREZ was interviewed by FBI Agents at his residence located at [REDACTED] regarding his involvement in the events on January 6, 2021. GUTIERREZ stated that he drove to Washington, D.C. with a friend and arrived on January 5, 2021. On the morning of January 6, 2021, GUTIERREZ departed his hotel and walked to the Washington Monument to attend the Stop the Steal Rally. GUTIERREZ later approached the Capitol Building from the west, where rioters had broken a window located next to the Senate Wing Door, or northwest side, of the Capitol to gain access into the Capitol Building. GUTIERREZ explained that he climbed through the same broken window and gained access to the interior of the Capitol Building. GUTIERREZ further described to agents the areas where he went while in the Capitol Building. GUTIERREZ indicated that he did not leave Capitol grounds until 6 p.m. on the night of January 6, 2021.

Based on security camera footage, as well as third party footage at the U.S. Capitol Building from January 6, 2021, GUTIERREZ was distinctively dressed. GUTIERREZ dressed in a green, long sleeve sweatshirt, a black vest, a green scarf or neck gaiter, a black hat, and black sunglasses. In addition, GUTIERREZ held a PVC pipe with a white and black flag attached to it. The flag depicts a broken snake and the words "Join or Die." Agents reviewed these images and based on their personal experience meeting and interviewing GUTIERREZ, they concluded that the person in these images and videos is in fact CHRISTOPHER GUTIERREZ. In addition, GUTIERREZ willfully admitted he was inside the Capitol Building and voluntarily provided his GoPro footage. The videos document his arrival to Washington D.C., attendance at the Stop the Steal rally, and inside the Capitol Building on January 6, 2021.

#### *Christopher Gutierrez's Participation in the January 6 Riot*

Open-source images reflect that GUTIERREZ attended the "Stop the Steal" rally on the National Mall. The videos further show that GUTIERREZ participated in the protest and stood amidst a crowd of demonstrators, holding a PVC pipe with a flag attached to it, depicting a broken snake and the words "Join or Die" (Figure 6).



*Figure 6: Screenshot from open-source social media post. GUTIERREZ circled in yellow.*

GUTIERREZ then left the rally at the Washington Monument and marched through Washington, D.C. towards the U.S Capitol Building. GUTIERREZ then advanced closer to the U.S. Capitol Building and climbed the wall of the northwest staircase. The northwest staircase leads to the Upper West Terrace of the U.S. Capitol Building which is closer to several doors that lead directly into the U.S. Capitol Building. At approximately 2:21 p.m., GUTIERREZ appeared on United States Capitol Police (USCP) Closed Circuit Television (CCTV) at the bottom of the northwest staircase and raised his arm and fist in the air and appeared to cheer (Figure 7). Shortly thereafter, GUTIERREZ then climbed up the banister of the staircase, bypassing large crowds of rioters who had amassed on the staircase. As GUTIERREZ scaled the banister even further, he put up his hands and appeared to cheer again, waving his “Join or Die” flag (Figure 8).



*Figure 7: GUTIERREZ (circled in red) at the northwest staircase of the U.S. Capitol Building.*



*Figure 8: GUTIERREZ (circled in red) at the northwest staircase of the U.S. Capitol Building.*

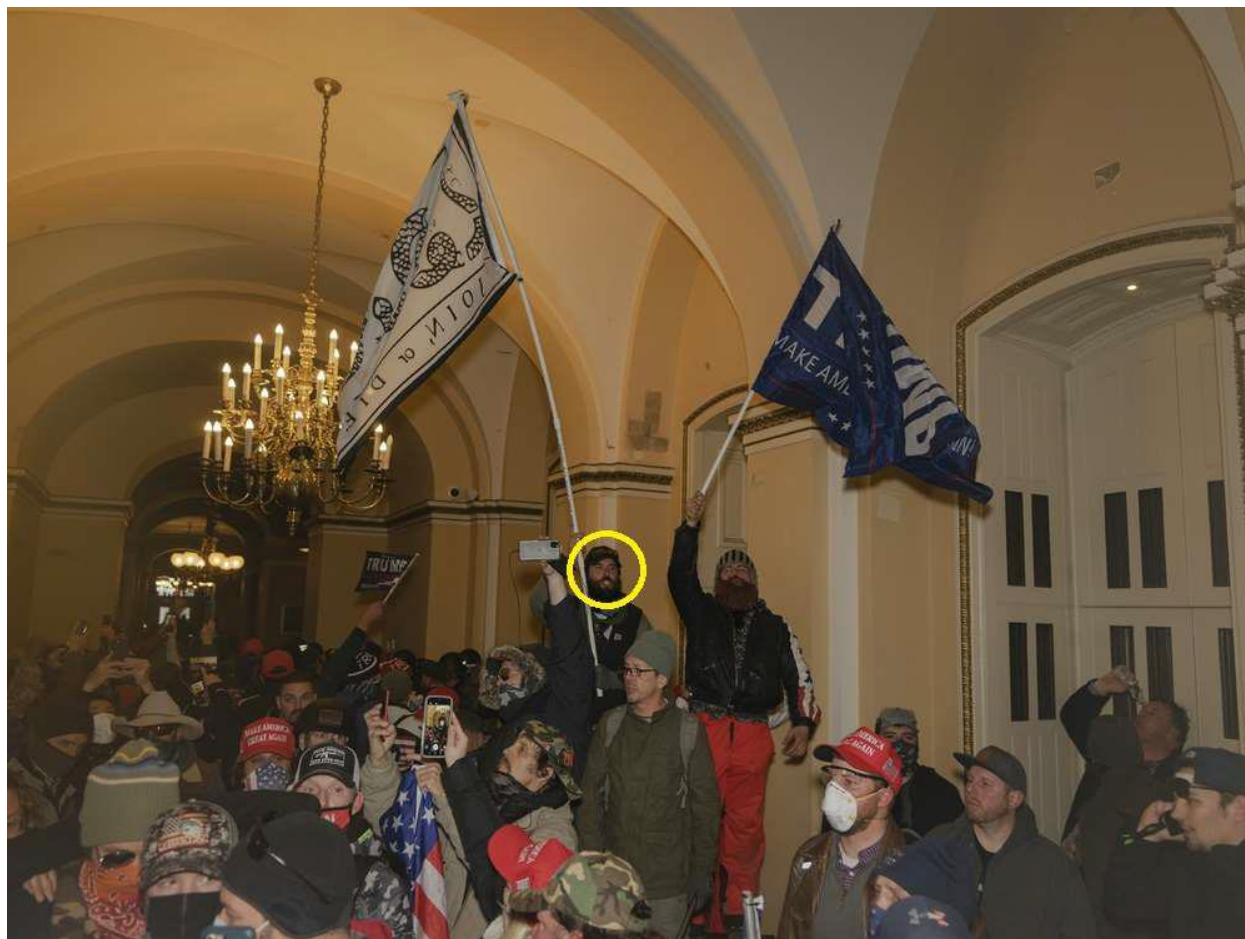
USCP security cameras captured images of individuals who unlawfully entered and rioted inside the U.S. Capitol Building on January 6, 2021. Based on my knowledge of the events on January 6, 2021, the Senate Wing Door, located on the northwest side of the U.S. Capitol, was a significant point of entry for rioters. The Senate Wing Door was the site of the first breach of the Capitol Building on January 6, 2021. CCTV footage shows that rioters kicked down and smashed the Senate Wing Door and adjoining windows at approximately 2:14 p.m., scattering shattered glass inside the Capitol and, according to open-source footage with audio, causing a loud alarm to

sound for several hours. At 2:49 p.m., CCTV footage shows that GUTIERREZ entered the U.S. Capitol by climbing through a shattered window adjacent to the Senate Wing Door (Figure 9).



*Figure 9: GUTIERREZ (circled in yellow) entering U.S. Capitol through broken window in the Senate Wing.*

According to open-source photographs and videos and CCTV from inside the U.S. Capitol Building, GUTIERREZ then advanced even further into the Capitol Building after entering through a broken window in the Senate Wing. GUTIERREZ often waved his flag as he paraded through the Capitol, as seen on open-source materials and CCTV from the Senate Wing (Figure 10), Crypt (Figure 11) and Hall of Columns (Figure 12). GUTIERREZ exited the U.S. Capitol Building through the Memorial Doors at approximately 3:34 p.m. GUTIERREZ remained inside the U.S. Capitol Building from approximately 2:49 p.m. to 3:34 p.m. or 45 minutes. He remained on Capitol grounds for even longer.



*Figure 10: GUTIERREZ (circled in yellow) in the Senate Wing vestibule.*





Figure 11: GUTIERREZ (circled in yellow) in the Crypt.

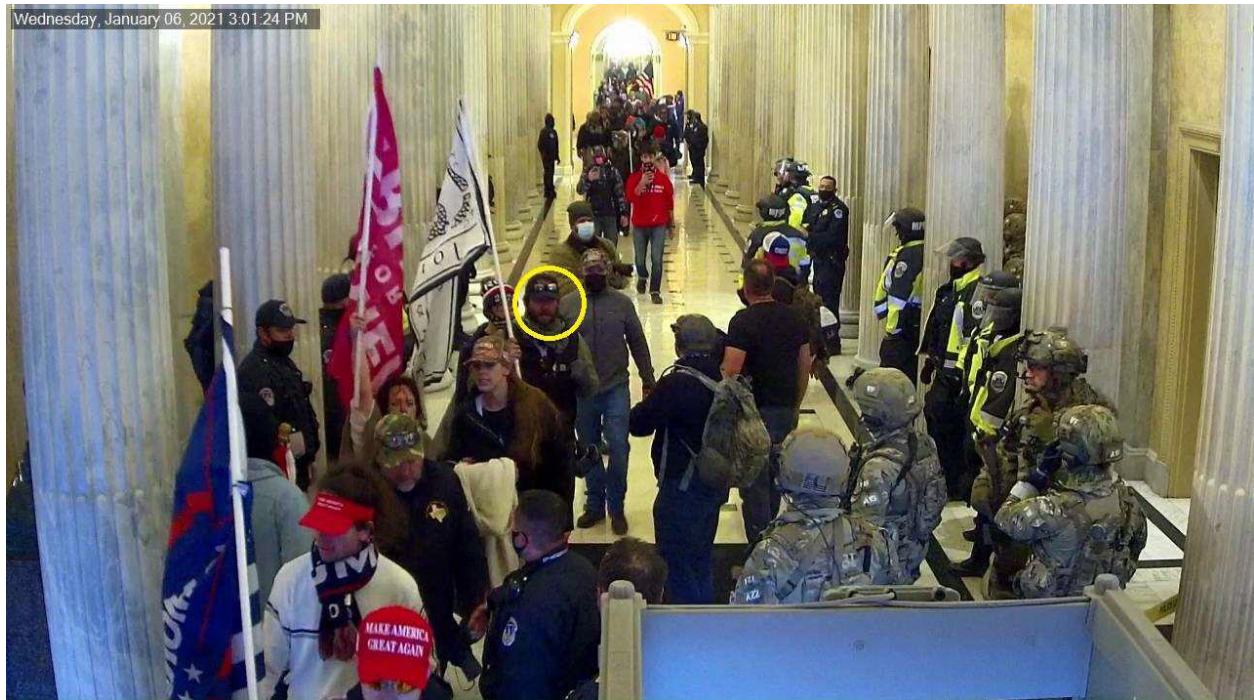
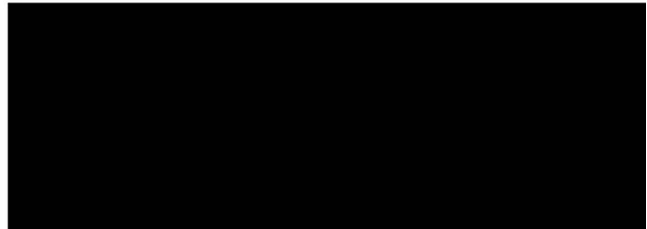


Figure 12: GUTIERREZ (circled in yellow) inside the Hall of Columns.

Based on the foregoing, your affiant submits that there is probable cause to believe that CHRISTOPHER GUTIERREZ 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 so; 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 be 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 CHRISTOPHER GUTIERREZ 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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 22 day of September, 2023.

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U.S. MAGISTRATE JUDGE