

**STATEMENT OF FACTS**

The facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about.”

**Background: Events at the U.S. Capitol on January 6, 2021**

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. 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 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 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 Matthew James Melsen**

Based upon review of public video, closed circuit video (“CCV”) footage and police body worn camera (“BWC”) footage depicting the events at the U.S. Capitol building and grounds on January 6, 2021, law enforcement identified an individual who assaulted a law enforcement officer on the West Plaza of the U.S. Capitol Building on January 6, 2021. The FBI subsequently posted a photograph of the individual at the U.S. Capitol under the name “375-AFO” and requested help from the public to identify the individual. As set out in detail below, law enforcement has identified 375-AFO as MATTHEW JAMES MELSEN (“MELSEN”) and there is probable cause to believe that on January 6, 2021, MELSEN committed violations of 18 U.S.C. §§ 231(a)(3) (civil disorder), 111(a)(1) (assaulting, resisting, or impeding certain officers or employees); 1752(a)(1) (knowingly entering or remaining in any restricted building or grounds without lawful authority to do so); (2) (knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engaging 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 engaging in any act of physical violence against any person or property in any restricted building or grounds), 40 U.S.C. § 5104(e)(2)(E) (impeding passage through Capitol grounds or any of the Capitol Buildings); and 40 U.S.C. § 5104(e)(2)(F) (act of physical violence in the Capitol building or grounds).

#### **A. 375-AFO’s Activities at the U.S. Capitol on January 6, 2021**

According to BWC footage, at approximately 2:15 p.m. 375-AFO arrived at the bike racks separating the crowd from the U.S. Capitol and police officers on the West Plaza. 375-AFO immediately made his way through the crowd and to the bike racks where police officers were standing. Below is a still image from BWC showing 375-AFO in the yellow square on the West Plaza:



As depicted in the image above, 375-AFO was wearing a white t-shirt over a red long-sleeve t-shirt, a navy coat, jeans, and a black baseball hat with white lettering that read “Keep America Great.”

Seconds later, BWC captured 375-AFO as he reached over the bike rack and pushed a Metropolitan Police Department (“MPD”) Officer, Officer C.C. Officer C.C. responded by pushing 375-AFO back away from the bike racks and into the crowd. 375-AFO then charged again at Officer C.C. with both hands outstretched and pushed him in the chest. Officer C.C. pushed 375-AFO back towards the crowd again and another officer sprayed 375-AFO with OC spray. Below are still images from BWC showing 375-AFO’s attack on Officer C.C.







375-AFO's assault of Officer C.C. was also captured in an open source video ("Video 1"). Video 1 shows 375-AFO emerge from the crowd and push Officer C.C. in the chest with both hands. Below is a still image depicting 375-AFO shoving Officer C.C. from Video 1.



After 375-AFO was sprayed with OC spray, he moved back further into the crowd on the West Plaza away from the police line.

Later, another open source video ("Video 2") captured 375-AFO as he climbed up onto the Inaugural Stage near scaffolding erected on the West Plaza of the U.S. Capitol building:



By approximately 3:54 p.m., 375-AFO had made his way onto the Inaugural Stage and through the dense crowd to the mouth of an entrance to the U.S. Capitol building located on the

Lower West Terrace known as “the tunnel.” Below is a still image from CCTV footage showing 375-AFO circled in yellow near the police line at the tunnel:



At approximately 3:55 p.m., a MPD officer climbed up on a ledge on the side of the tunnel and attempted to stop a rioter (“Rioter 1”) from climbing into the tunnel and on top of officers by poking Rioter 1 with a long stick. Rioter 1 grabbed the stick and tried to pull it away from the officer. 375-AFO also grabbed the stick and held onto it with the other rioters until the stick broke. Rioter 1 then used the broken part of the stick to forcefully strike the officers’ shields several times while yelling “LET US IN!” Below is a still image from CCTV footage showing 375-AFO (with the sleeves of his red long-sleeved t-shirt visible) as he grabbed the officer’s stick:



A few seconds later, another officer attempted to use his baton to stop Rioter 1 from attacking the police. Once again, 375-AFO tried to grab the officer's baton to prevent him from using it. Below is a still image from CCTV footage showing 375-AFO holding up his hands to prepare to grab the officer's baton:



CCTV footage indicates that 375-AFO moved away from the police line shortly after the above still image. However, additional open source videos indicate 375-AFO stayed in the area

around the tunnel for at least several more minutes. In fact, the open source photograph below shows 375-AFO stayed on U.S. Capitol grounds until after dark:



## B. Identification of 375-AFO as MATTHEW MELSEN

On or about February 6, 2021, before FBI identified 375-AFO in photographs and video from January 6, the FBI received a tip from a member of the public (“Tipster 1”) who claimed an acquaintance named Matthew with phone number [REDACTED] (“Melsen Phone 1”) was in Washington, D.C. on January 5, 2021. Tipster 1 reported that s/he saw on Facebook that Matthew was in Washington, D.C. on January 5, 2021 for a rally. Tipster 1 also said s/he viewed a video online that appeared to depict Matthew at the U.S. Capitol on January 6.<sup>1</sup> Law enforcement subsequently performed searches of open sources and law enforcement databases for Melsen Phone 1 and identified MATTHEW MELSEN (“MELSEN”) as a person associated with Melsen Phone 1.

On or about April 2, 2021, the FBI conducted an interview with MELSEN. During the interview, in summary and not verbatim, MELSEN stated that he went to Washington, D.C. on January 5, 2021 in order to attend President Trump’s speech and to protest at the Capitol building.

<sup>1</sup> Tipster 1 was subsequently interviewed by the FBI in or around February 2024. Tipster 1 was shown a still image from a video by FBI that the FBI believed Tipster 1 was referencing in the tip submitted in February 2021, which FBI does not believe depicts MELSEN. Tipster 1 confirmed that the image from the video was the video that s/he referenced in the tip. However, Tipster 1 was no longer sure whether the image from the video depicted Matthew. Tipster 1 was also shown photographs of 375-AFO and stated s/he was unsure whether 375-AFO was Matthew.

MELSEN stated that he met another individual (“Person 1”) at the airport and went to the speech and protest with Person 1. MELSEN did not identify Person 1. MELSEN told the FBI that he stayed for all of President Trump's speech and then marched to the Capitol. MELSEN claimed that he was located far away from the Capitol building but did see things were happening from a distance. MELSEN told the FBI that he decided to leave the protest based on what he observed and that he left at approximately 4:00 p.m. MELSEN claimed he did not go near or inside the Capitol building.

In or around May 2021, the FBI posted photographs of 375-AFO as a BOLO (“Be On the Lookout”) on its website. Below are the BOLO photographs of 375-AFO:



In or around January 2023, the FBI identified an individual who appeared in close proximity to 375-AFO in photographs and videos from the U.S. Capitol on January 6, 2021. FBI subsequently performed an interview with this individual who positively identified a photograph of 375-AFO as MELSEN. The individual told FBI that he met MELSEN during a connection on January 5, 2021 prior to arriving in Washington D.C. MELSEN stayed with the individual at a hotel in Arlington, Virginia and traveled with him to the rally and then to the U.S. Capitol on January 6 where they were separated. Based on these statements and my training and experience in law enforcement, I believe that this individual is Person 1, whom MELSEN mentioned during his interview in April 2021. Person 1 provided Melsen Phone 1 as MELSEN’s phone number and stated that MELSEN admitted to Person 1 that he fought with an officer while at the U.S. Capitol.

In February 2024, law enforcement obtained records from Comcast through legal process for Melsen Phone 1. According to those records, Melsen Phone 1 is subscribed to Matthew Melsen at a service address on the [REDACTED].

In January 2024, law enforcement also obtained records from United Airlines pursuant to legal process. Records from United Airlines indicate that MELSEN, with a phone number of Melsen Phone 1, traveled from [REDACTED] to Washington Dulles International Airport (IAD) on January 5, 2021 with a departure time of [REDACTED] and arrival of [REDACTED]. United Airline records also indicate that MELSEN traveled back to [REDACTED] from Washington, D.C. on January 7, 2021 with a departure time of 1750 and an arrival of 1952.

### **Conclusion**

Based on the foregoing, your affiant submits there is probable cause to believe that MELSEN 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 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 Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.

Your affiant further submits there is probable cause to believe that MELSEN violated 18 U.S.C. § 111(a)(1), which makes it unlawful to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties. For purposes of Section 111 of Title 18, United States Capitol Police Officers and Metropolitan Police Department Officers who responded to assist United States Capitol Police Officers on January 6, 2021 constitute persons designated in Section 1114 of Title 18.

Your affiant also submits that there is probable cause to believe that MELSEN 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; 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; and (4) knowingly engage 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.

Finally, your affiant also submits there is probable cause to believe that MELSEN violated 40 U.S.C. §§ 5104(e)(2)(E) and (F), which make it a crime to willfully and knowingly (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; and (F) engage in an act of physical violence in the Grounds or 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 27th day of February, 2024.

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HONORABLE ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE