

## STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent assigned to the Federal Bureau of Investigation (FBI), All Hazards Assessment squad (CT-5) in the Chicago Field Office. In my duties as a special agent, I am tasked with investigating federal crimes associated with threatening communications, allegations of terroristic activities and mitigating threats that involve allegations of federal criminal activity. 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. On January 6, 2021, 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.

### **JOHN BANUELOS' Participation on January 6, 2021**

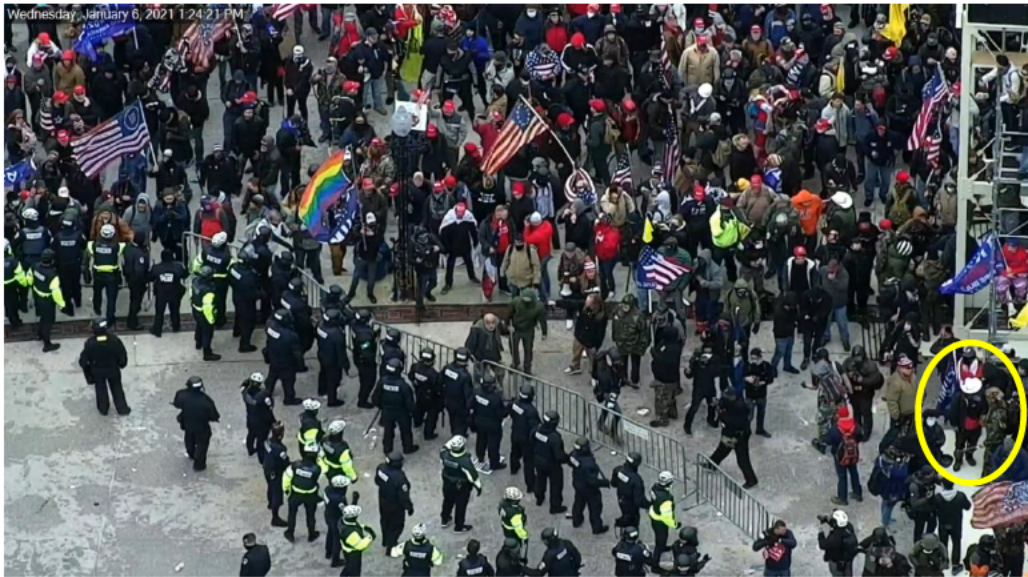
During this investigation, I have located and reviewed open-source media, Metropolitan Police Department body worn camera (BWC), and United States Capitol close circuit television (CCTV) which captured the movements of JOHN BANUELOS on January 6, 2021. BANUELOS is captured in open-source media near the former President Donald Trump's 'Stop the Steal' rally. Throughout the day, he can be seen wearing brown and black boots, black jeans, navy blue shirt, black knee pads (with white labeling and affixed with green and red bungee cords), and various combinations of the following outer layers: a red puffer jacket, black puffer jacket, a black zip up jacket, a black cross-body bag, black backpack, gray and black gloves, a white "Trump 2020" cowboy hat with stars and stripes, red knit hat, and gray cloth wrapped around his neck (Images 1 and 2).



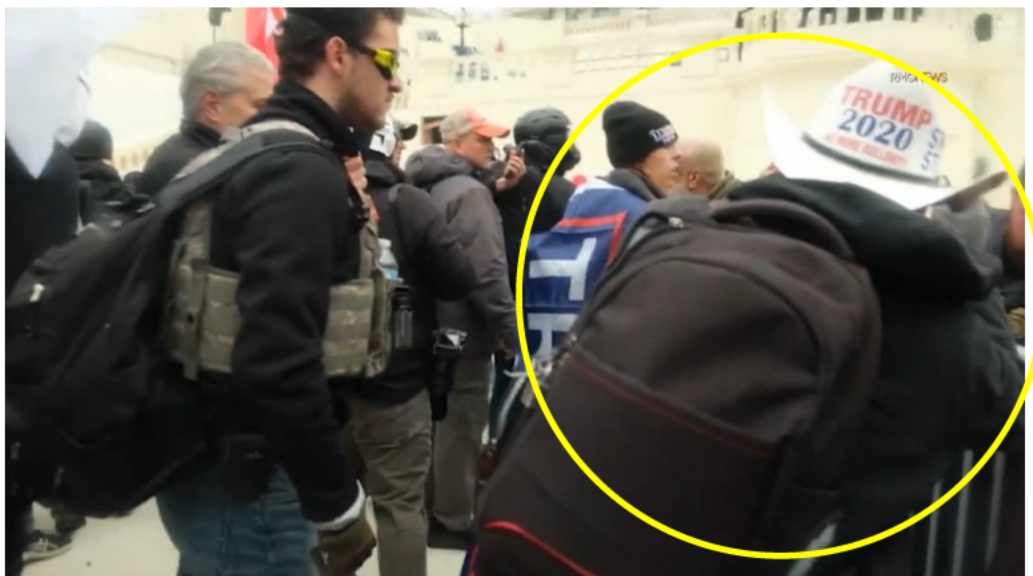
**Image 1**

**Image 2**

From the area near the rally, BANUELOS walked to the United States Capitol Building and entered the restricted grounds on the west side of the Capitol. The mob became increasingly hostile towards United States Capital Police (USCP) and Metropolitan Police Department (MPD) officers, pushing officers back to the West Plaza and the base of the Inaugural Stage. At approximately 1:24 p.m., BANUELOS (identified in the yellow circle below) made his way to the front of the crowd opposite the police line. Officers were attempting to reestablish the police line using metal barricades after a skirmish with the crowd (Image 3 and 4). CCTV footage from the Capitol captures BANUELOS pointing at officers and kicking the metal barricade at least two times at 1:25 p.m.

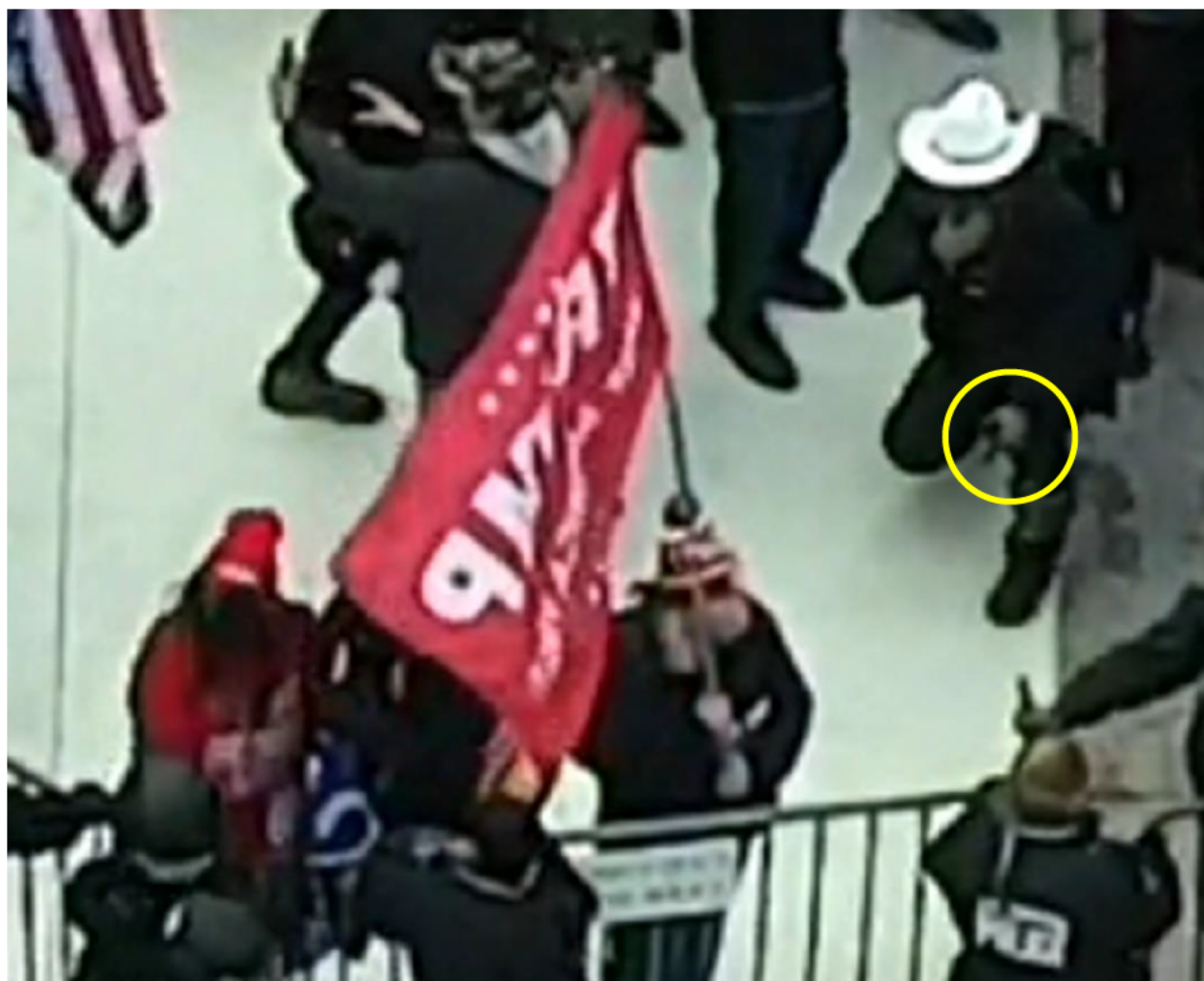


**Image 3**



**Image 4**

At approximately 1:26 p.m., CCTV captured BANUELOS holding up his gloved hand to form the shape of a “finger gun” and appeared to simulate “firing” multiple times in the direction of officers.



**Image 5**

BANUELOS is captured on CCTV walking back and forth through the West Plaza crowd for approximately thirty minutes. At 1:56 p.m. BANUELOS (circled in yellow below) is captured in CCTV and open source, joining other rioters in using his body to forcefully push with the crowd against officers in an attempt to breach the line (Image 6 and 7).



**Image 6**



**Image 7**

The push by the crowd continued, on-and-off, for approximately three minutes. During this sequence, BANUELOS raised his jacket to reveal what appears to be a firearm in his waistband (Image 8 and 9).<sup>1</sup>



**Image 8**



**Image 9**

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<sup>1</sup> The *Vice News* video, which includes some of the push effort and gun flashing, is available at [https://www.youtube.com/watch?v=lfP\\_5L8epow&t=114s](https://www.youtube.com/watch?v=lfP_5L8epow&t=114s) (1:50-2:05).

BANUELOS moved to the south side of the West Plaza where, at approximately 2:28 p.m., he was a part of a crowd that breached the police line. BANUELOS can be seen (circled in yellow in Images 10 and 11) wearing the red puffer jacket, backpack, and knee pads with the red bungee cord, and boots.



At approximately 2:33 p.m., BANUELOS is captured on CCTV video scaling the southwest Inaugural Stage scaffolding. BANUELOS can be seen waving the crowd towards him before pulling what appears to be a firearm from his waistband. Open-source media<sup>2</sup> and CCTV captured BANUELOS raising the gun over his head, and, at approximately 2:34 p.m., firing two shots into the air. Based on my training and experience with firearms, BANUELOS's actions and the object he is holding is consistent with an operable firearm. BANUELOS's red puffer jacket, gloves, red knit hat, knee pads, black jeans, backpack, cross-body bag, blue shirt, and boots are visible in video reviewed (Image 12). The two shots, though not captured on video, are also audible in BWC and other open-source media. BANUELOS returned the firearm to his waistband and climbed down the scaffolding, rejoining the crowd below.



**Image 12**

Shortly after January 6, 2021, the FBI distributed a photograph of a person that it identified as AOM-200 on a website of persons wanted in connection with the riot at the U.S. Capitol. The photograph associated with 200-AOM is included below as Image 13.

<sup>2</sup> Video of shooting was posted on or about February 8, 2024 and is available at <https://rumble.com/v4c7cpi-exclusive-man-fires-gun-on-january-6th-at-capitols-west-terrace.html> (2:05-2:10)





**Image 13**

On or about February 4, 2021, WITNESS called the National Threat Operations Center and identified BANUELOS as the individual in FBI's Photograph #200-AOM. WITNESS was interviewed by the FBI and reported that they have known BANUELOS for numerous years. WITNESS reported that BANUELOS told WITNESS that he was in a *Vice* video from January 6, 2021. WITNESS reviewed the *Vice* video and identified BANUELOS as the individual who was filmed pushing against officers and flashing a gun.

On October 4, 2023, an account with vanity name "John Banuelos" and handle @JohnBan21401662, which appears to show BANUELOS racking the slide of a semi-automatic weapon in a video.<sup>3</sup> This tweet was directed to an X account that had tweeted BANUELOS' FBI-AMO poster. In response to that post by "John Banuelos" on X, your affiant interviewed BANUELOS during which BANUELOS denied intending to threaten anyone and claimed that many of his posts were done by artificial intelligence. BANUELOS stated that any weapons seen in his posts on X were fake and/or done by artificial intelligence. BANUELOS agreed to refrain from posting any further threatening messages. During the interview of BANUELOS on January 19, 2024, your affiant had the opportunity to observe his build and facial features. Based on my

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<sup>3</sup> Your affiant notes that this appears to be a different style of weapon than the one carried and discharged by BANUELOS at the Capitol on January 6, 2021.

review of the images and videos from January 6 and the time spent interviewing BANUELOS, I can identify BANUELOS as the individual in images 1-13.

A check of the National Crime Information Center (“NCIC”) database revealed that BANUELOS was not licensed to carry a firearm on January 6, 2021. Although certain exemptions to the firearm registration requirement exist, BANUELOS is not subject to any of those exemptions. There are no firearm or ammunition manufacturers in the District of Columbia. Therefore, the firearm and ammunition in this case would have necessarily traveled in interstate commerce.

Based on the foregoing, your affiant submits that there is probable cause to believe that JOHN BANUELOS 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 Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant submits that there is probable cause to believe that JOHN BANUELOS violated 18 U.S.C. § §§ 1752(a)(1) and (b)(1)(A), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; and (b)(1)(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm. 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 probable cause to believe that JOHN BANUELOS violated 40 U.S.C. § 5104(e)(1)(A)(i), which makes it a crime for an individual or group of individuals to carry on or have readily accessible to any individual on the Grounds or in any Capitol Buildings a firearm, a dangerous weapon, explosives, or an incendiary device.

Your affiant submits there is probable cause to believe that JOHN BANUELOS violated 40 U.S.C. § 5104(e)(1)(A)(ii), which makes it a crime for an individual or group of individuals to discharge a firearm or explosives, use a dangerous weapon, or ignite an incendiary device, on the Grounds or in any of the Capitol Buildings.

Finally, your affiant submits there is also probable cause to believe that JOHN BANUELOS violated 40 U.S.C. § 5104(e)(2)(D) which makes it a crime to willfully and knowingly 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.

[REDACTED]

[REDACTED]

Special Agent

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 07 day of March 2024.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE