

**STATEMENT OF FACTS  
FRANCIS JOSEPH VITOLLO**

Your affiant, [REDACTED] is a Special Agent assigned to the FBI Albany Joint Terrorism Task Force. In my duties as a special agent, I have worked on investigations involving counterterrorism and national security matters. In addition, I have worked on temporary deployments related to crimes committed on Native American Reservations, as well as investigations related to violent street gangs, violent crimes, and drug trafficking. In these assignments, I have worked and continue to work with federal, state, and local law enforcement agents and officers on a number of criminal investigations.

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.

U.S. Capitol Police (USCP), the FBI, and assisting law enforcement agencies are investigating a riot and related offenses that occurred on January 6, 2021, at the United States Capitol, located at 1 First Street, NW, Washington, D.C., 20510.

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 USCP. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol.

On the west side of the Capitol building is the West Front, which includes the inaugural stage scaffolding, a variety of open concrete spaces, two staircases, and multiple terraces. On the east side of the Capitol is the East Front, which includes three staircases, porticos on both the House and Senate side, and two large skylights into the Visitor's Center surrounded by a concrete parkway. All of this area was barricaded and closed to members of the public on January 6, 2021.

On January 6, 2021, a joint session of the United States Congress convened at the U.S. Capitol. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting to certify the vote count of the Electoral College of the 2020 Presidential Election, which took place on November 3, 2020 ("Certification"). The joint session began at approximately 1:00 p.m. in the House of Representatives. 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.

The grounds around the Capitol were posted and cordoned off, and the entire area as well as the Capitol building itself were restricted as that term is used in Title 18, United States Code, Section 1752 due to the fact that the Vice President and the immediate family of the Vice President, among others, would be visiting and did visit the Capitol complex that day.

At around 1:00 p.m., individuals broke through the police lines, toppled the outside barricades protecting the U.S. Capitol, and pushed past USCP and supporting law enforcement

officers there to protect the U.S. Capitol. As a result of these and other similar actions by the crowd, the situation at the Capitol became a civil disorder as that term is used in Title 18, United States Code, Section 231. The civil disorder obstructed the ability of the U.S. Secret Service to perform the federally protected function of protecting Vice President Pence.

As they advanced unlawfully onto Capitol grounds and towards the U.S. Capitol building over the next several hours, individuals in the crowd destroyed barricades and metal fencing and assaulted law enforcement officers with fists, poles, thrown objects, and chemical irritant sprays, among other things. Individuals in the crowd carried weapons including tire irons, sledgehammers, bear spray, and tasers, some of which were also used to assault members of law enforcement. A number of individuals in the crowd wore tactical vests, helmets, and respirators.

At approximately 2:00 p.m., some people in the crowd forced their way through, up, and over the barricades and law enforcement. The crowd advanced to the exterior façade of the building. 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.

Beginning shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of law enforcement.

Once inside, certain of the unlawful entrants destroyed property, stole property, and assaulted federal police officers.

Between approximately 2:10 p.m., and 2:30 p.m., Vice President Pence evacuated the Senate Chamber, and the Senate and House of Representatives went into recess. Unlawful entrants into the U.S. Capitol building attempted to break into the House chamber by breaking the windows on the chamber door. Law enforcement officers inside the House of Representatives drew their weapons to protect members of the House of Representatives who were stuck inside. Both the Senate and the House of Representatives Chamber were eventually evacuated.

At around 2:47 p.m., subjects broke into the Senate Chamber not long after it had been evacuated.

At around 2:48 p.m., DC Mayor Muriel Bowser announced a citywide curfew beginning at 6:00 p.m. Mayor Bowser's order imposing a curfew in the District of Columbia impacted interstate commerce. For example, grocery store Safeway closed all 12 of its stores in the District of Columbia as of 4 p.m. that day, and Safeway's stores were supposed to close at 11 p.m.

At about 3:25 p.m., law enforcement officers cleared the Senate floor. Between 3:25 and around 6:30 p.m., law enforcement was able to clear the U.S. Capitol of all of the subjects.

Based on these events, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening, the joint session could not resume until after every unauthorized occupant had left the U.S. Capitol, and the

building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had been secured. Vice President Pence remained in the United States Capitol throughout the events, including during the time he was evacuated from the Senate Chamber until the joint session concluded at approximately 3:44 a.m. on January 7, 2021.

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 of Francis Joseph Vitollo**

On June 27, 2022, FBI Albany began investigating a tip that Francis Joseph Vitollo (hereinafter, "Vitollo") was involved in the events of January 6, 2021. Subsequent investigation identified Vitollo as a living at 42 Main Street, Coeymans, New York.

FBI Albany searched data sets housing cell tower records for the U.S. Capitol building on January 6, 2021, and found phone number (518)669-1531. Vitollo was determined to be the Verizon subscriber for this number on January 6, 2021. Call detail records were returned from Verizon from a cell phone tower associated with the Capitol building on January 6, 2021, for phone number (518)669-1531.

On February 14, 2024, FBI Albany interviewed an individual by phone who had submitted an online tip related to Vitollo in 2021. The tip submitter advised that they were familiar with Vitollo from interacting with him on work-related matters, and that they had seen Vitollo in video footage taken by another rioter on January 6, 2021, as it was live-streamed from outside of the U.S. Capitol building.

On October 17, 2022, Vitollo was interviewed by FBI Albany agents at his residence. Vitollo told the agents that on January 5, 2021, he travelled to Washington D.C. with William Tryon, and two other individuals. They stayed in a hotel.

Vitollo described wearing a denim jacket and winter hat on January 6, 2021, in the FBI interview.

During the interview, Vitollo first denied going inside the U.S. Capitol building. Then he was shown the picture below (Image 1) of a male in a denim jacket with a light colored collar, and blue and red winter hat with the text “TRUMP 2020” in white, inside the U.S. Capitol building during the January 6 riot. Vitollo looked at the picture and said, “that’s me.”



**Image 1**

On March 30, 2021, William Tryon (“Tryon”) was interviewed subsequent to his arrest related to criminal activity at the U.S. Capitol on January 6, 2021. During this interview, Tryon stated that he travelled to Washington D.C. with three individuals, one of whom he identified as Joe Vitollo. Audio and video of this interview were recorded.<sup>1</sup>

### **Vitollo’s Activity at the U.S. Capitol**

Over the course of the investigation, United States Capitol Police Closed Circuit Video (CCV) footage and open-source video footage and images were reviewed showing Vitollo walking toward the U.S. Capitol, standing and walking on restricted grounds outside of the U.S. Capitol building, and walking, sitting down, and appearing to use his cellular phone inside of the U.S. Capitol building.

In his October 17, 2022, FBI interview Vitollo said that he attended the former president’s rally in Washington D.C. with Tryon and then walked toward the Capitol with him. Vitollo and Tryon were captured in an open-source image among a huge crowd of people walking toward the Capitol.

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<sup>1</sup> On August 23, 2021, Tryon plead guilty to crimes he committed at the Capitol on January 6, 2021.



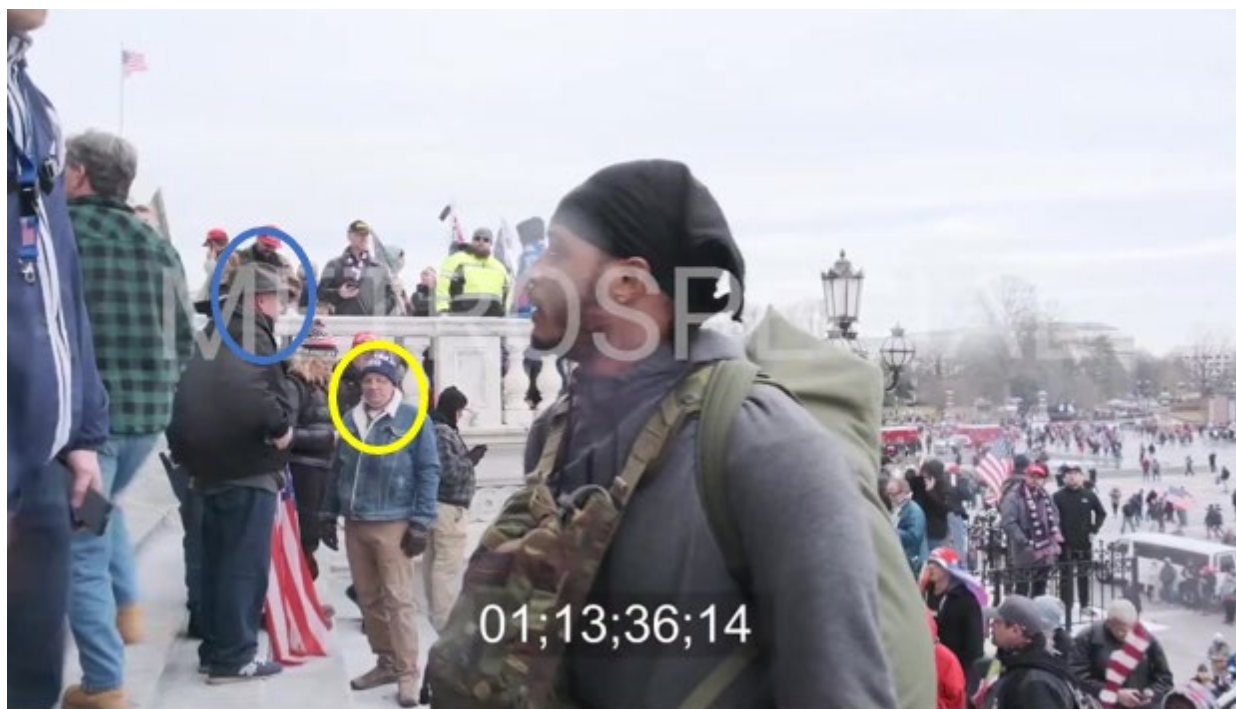
**Image 2 – Vitollo (yellow circle) with Tryon (blue circle)**

Vitollo approached the U.S. Capitol building on the East Front, and at one point stood in front of a line of police officers on the steps near Tryon.



**Image 3 – Vitollo (yellow circle), Tryon (blue circle), in front of a police line**

Vitollo, still with Tryon, then moved closer to the Capitol building near the Upper House Door on the East Front of the Capitol, amongst others near the exterior façade of the U.C. Capitol building.



**Image 4 - Vitollo (yellow circle), Tryon (blue circle), on the stairs on the East Front of the U.S. Capitol near the Upper House Door**

Vitollo approached the Capitol building and knocked on a window near the Upper House Door while the window was still intact.

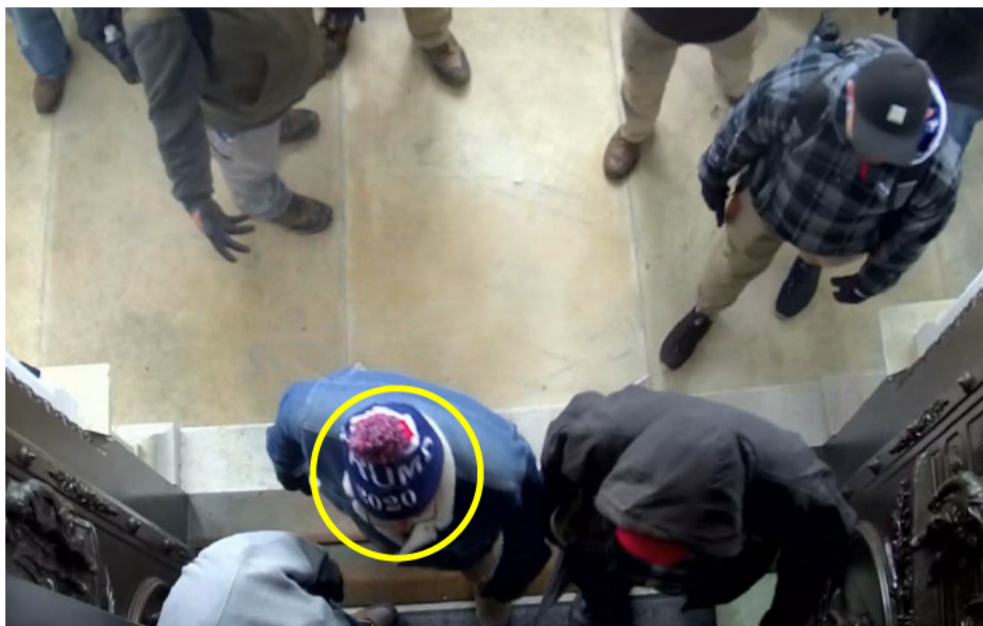


**Image 5 – Screenshot from open-source video of Vitollo knocking on window**

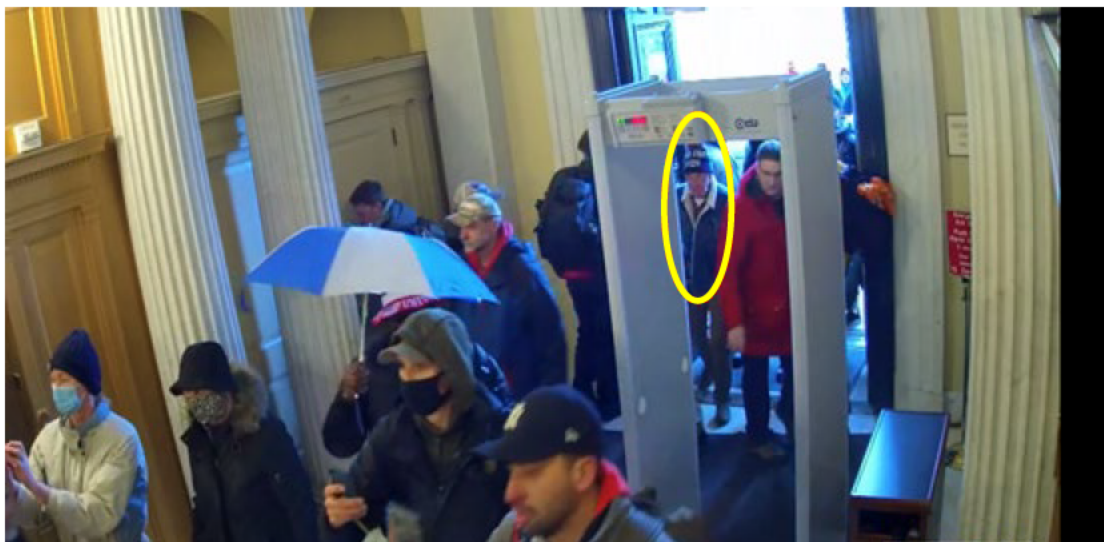
Vitollo approached the Upper House Door, but turned away without entering at approximately 2:21 p.m.



Vitollo remained on Capitol grounds and approached the Upper House Door a second time twenty minutes later. He entered the U.S. Capitol building at approximately 2:43 p.m. with alarms blaring.



**Image 7 – Vitollo (yellow circle) entering the U.S. Capitol Building**



**Image 8 – Vitollo (yellow oval) walking near an unmanned metal detector just after he entered the U.S. Capitol building**

Vitollo proceeded into the corridor near the Upper House Door at approximately 2:43 p.m. Vitollo went to the end of the hallway and sat down.



**Image 9 – Vitollo (yellow circle) in Corridor near Upper House Door**

At approximately 2:47 p.m. Vitollo was observed walking back toward the Upper House Door.





**Image 10 – Screenshot from open-source video showing Vitollo (yellow circle) in corridor walking toward Upper House Door.**

Vitollo then paused near the Upper House Door and appeared to use his mobile device inside the U.S. Capitol building with alarms blaring in the background.



**Image 11 – Screenshot of Vitollo (yellow oval) in the Capitol using his mobile device**

Based on the foregoing, your affiant submits that there is probable cause to believe that Francis Joseph Vitollo violated 18 U.S.C. § 1752(a)(1) which makes it a crime to knowingly enter or remain in any restricted building or grounds without lawful authority to do so, or attempts or conspires to do so, or aids or abets others to do so; and 18 U.S.C. § 1752(a)(2) which makes it a

crime to 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 in 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, or aids and abets others 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.

Your affiant submits there is also probable cause to believe that Vitollo violated 40 U.S.C. § 5104(e)(2)(D), which makes it a crime to willfully and knowingly engage in disorderly or disruptive conduct, at any of the U.S. Capitol Buildings or Grounds with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or attempts or conspires to do so, or aids or abets others to do so; and, 40 U.S.C. § 5104(e)(2)(G), which makes it a crime to parade, demonstrate, or picket in a Capitol Building.

  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 10<sup>th</sup> day of May 2024.

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HONORABLE ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE