

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the FBI's Baltimore Field Office. In my duties as a special agent, I investigate violations of federal law. 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 United States Capitol is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are 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 U.S. 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 the U.S. Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on Tuesday, 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 Michael Richard 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 Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent security barricades were in place around the exterior of the U.S. Capitol. USCP officers were present, and they attempted to keep the crowd away from the U.S. Capitol 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. USCP officers attempted to maintain order and keep the crowd from entering the Capitol. Around 2:13 p.m., however, individuals in the crowd forced entry into the U.S. Capitol through violent and destructive acts, including breaking windows and assaulting USCP officers. Others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the House of Representatives and Senate, including the President of the Senate, Vice President Pence, were instructed to and did evacuate the respective Chambers. Accordingly, the Joint Session of Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the certification proceedings resumed.

Many people present around the U.S. Capitol and inside the U.S. Capitol were taking pictures, recording videos, and livestreaming audio and video of themselves and others committing violations of local and federal law. During national news coverage of these events, much of this publicly broadcast and openly shared media was widely broadcast by news networks and showed scores of identifiable individuals in the crowd that were assaulting police officers, destroying

government property, and illegally trespassing inside the U.S. Capitol without permission or authority to be there. As set forth in more detail below, one such individual was Thomas “Tommy” Joseph Kelly, Jr., (Kelly) of Middletown, Maryland, an individual that is also known as 189-AFO / #ZIONOR.

## **I. ALLEGED VIOLATIONS**

Based on the evidence contained in and referenced by this document, I believe that there is probable cause that Thomas Joseph Kelly, Jr., violated the following federal statutes:

- **18 U.S.C. § 111(a)(1) and (b)—Assaulting, Resisting, or Impeding Certain Officers Using a Deadly or Dangerous Weapon;**
- **18 U.S.C. § 111(a)(1)—Assaulting, Resisting, or Impeding Certain Officers;**
- **18 U.S.C. § 231(a)(3)—Civil Disorder;**
- **18 U.S.C. § 1752(a)(1)—Entering and Remaining in a Restricted Building or Grounds;**
- **18 U.S.C. § 1752(a)(2)—Disorderly and Disruptive Conduct in a Restricted Building or on Restricted Grounds;**
- **18 U.S.C. § 1752(a)(4)—Engaging in Physical Violence in a Restricted Building or Grounds;**
- **40 U.S.C. § 5104(e)(2)(D)—Disorderly and Disruptive Conduct in Capitol Building or Grounds; and**
- **40 U.S.C. § 5104(e)(2)(F)—Act of Physical Violence in Capitol Building or Grounds.**

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## II. IDENTIFICATION

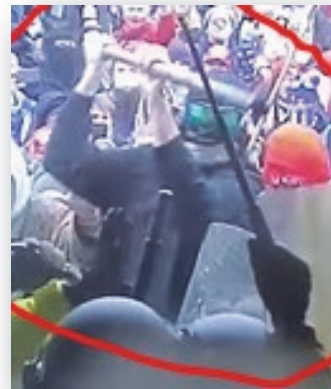
### A. FBI BOLO 189-AFO

Shortly after the attack on the U.S. Capitol that occurred on January 6, 2021, the FBI began designating certain individuals as individuals for whom the public should “be on the lookout” (BOLO). This BOLO designation was accompanied by a number. When the individual was believed to have assaulted a federal officer, it included the suffix “-AFO.” One such BOLO is 189-AFO. 189-AFO is the subject of this Statement of Facts and is an individual now known to be Thomas Joseph Kelly, Jr. (Kelly).

USCP Closed Circuit Video (CCV) recorded many criminal acts committed on January 6, 2021, including the assault seen in the video from which Image 1 (below) was captured and shows 189-AFO assaulting police officers in the Tunnel of the Capitol’s Lower West Terrace by striking the police repeatedly with a pole.



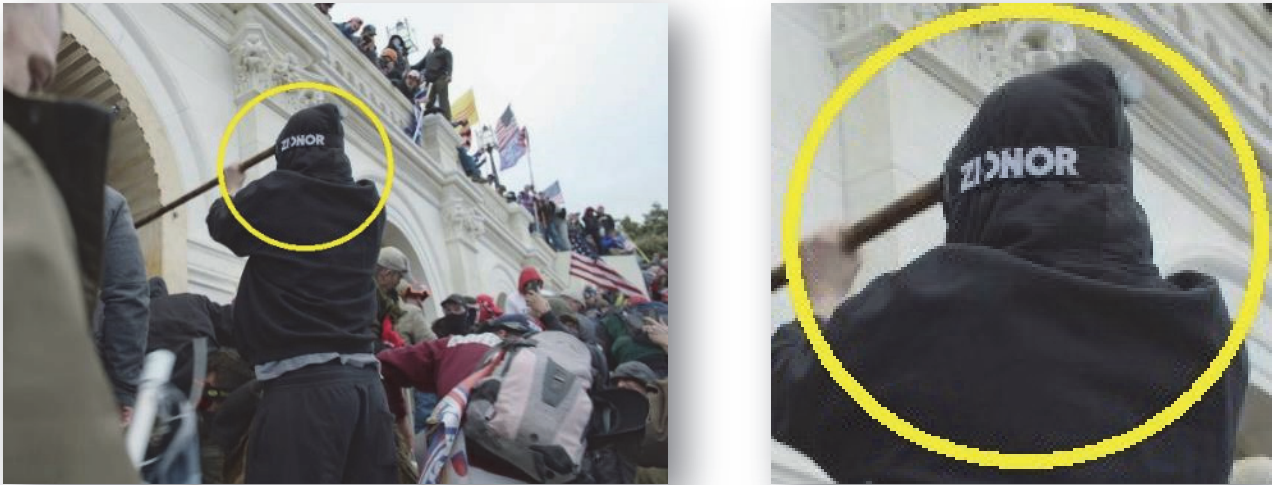
*IMAGE 1: An image on the FBI’s Capitol Violence website designated as Photograph # 189-AFO.*



*IMAGE 2, 2a: (left) A screenshot from USCP CCV showing 189-AFO striking police officers with what appears to be a pole; and (right) a close-up cropping of that same screenshot.*

B. #ZIONOR

Citizen sleuths independently investigating the attack on the U.S. Capitol and the assaults committed against federal officers often assigned persons of interest a moniker consisting of an octothorpe<sup>1</sup> followed by a catchy or memorable nickname that served as a unique identifier, also known as a hashtag. As for the individual known as 189-AFO, the sleuths dubbed him #ZIONOR.<sup>2</sup> As seen below, this is highly likely a reference to the ZIONOR-brand snow goggles worn by 189-AFO / #ZIONOR on January 6, 2021.



*IMAGE 3, 3a: (left) A screenshot from publicly available open-source video showing #ZIONOR striking police officers with a pole while wearing snow goggles with the brand name ZIONOR clearly visible; and (right) a close-up cropping of that same screenshot.*

Based on my review of images and videos from the vicinity of the Capitol grounds on January 6, 2021, I believe that 189-AFO and #ZIONOR are the same person. My review included USCP CCV, body-worn camera (BWC) footage from the Metropolitan Police Department (MPD) and other police officers who responded to the Capitol to assist USCP officers, and images and videos recorded by other individuals. As set forth below, that I believe that Thomas Joseph Kelly, Jr., is 189-AFO and #ZIONOR.

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<sup>1</sup> The symbol #, also known as a hash mark, number sign, or pound sign.

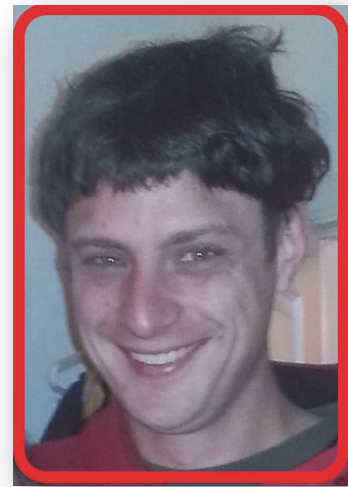
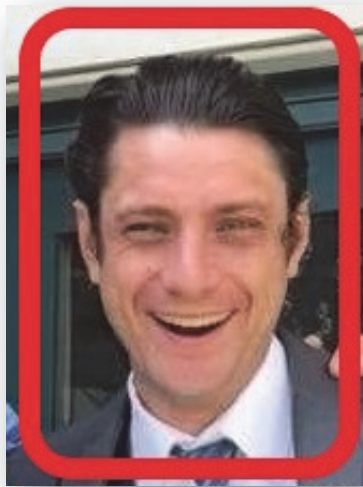
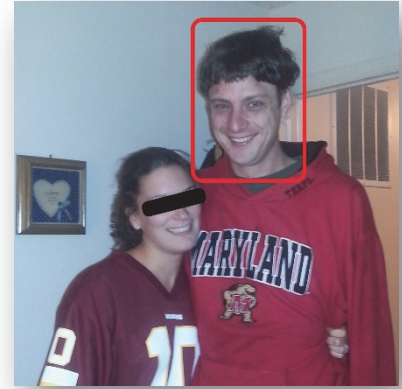
<sup>2</sup> ZIONOR is a company that sells outdoor products.

C. *Identification of Thomas Joseph Kelly, Jr., as 189-AFO and #ZIONOR*

In February 2022, the FBI was made aware of publicly available images of Kelly. The example below compares a cropped photo of 189-AFO (bottom left) to a cropped publicly available photo of Kelly (bottom right) that the FBI found on a wedding and engagement photography website. I compared the features of the faces in the two photos and found that there are distinct shared facial features, for example the similarity in size and position of two moles, as marked with yellow arrows below.



**IMAGES 4, 5, 6:** (top left) A screenshot from a publicly available video showing 189-AFO / #ZIONOR holding a pole at the mouth of the Tunnel on the Lower West Terrace of the Capitol; (top right) a photograph of Kelly and his wife in a publicly available photograph; and (bottom) a close-up of Kelly in Images 4 and 5 using yellow arrows to indicate the matching size and position of moles visible on 189-AFO / #ZIONOR's face as compared to those on Kelly's face.



*IMAGES 7, 7a, 8, 8a, 9, 9a: (top left) A publicly available photograph of 189-AFO / #ZIONOR smiling while standing near the Tunnel of the U.S. Capitol during the riot of January 6, 2021; (bottom left) a close-up of 189-AFO / #ZIONOR; (top center) a photograph posted in 2018 to Kelly's father's publicly available Facebook account of the father and an individual he identifies as "Tommy"; (bottom center) a close-up of "Tommy"; (top right) a photograph posted in 2019 to Kelly's father's publicly available Facebook account of an individual identified as Tommy and his wife; and (bottom right) a close-up of the individual identified on the account as Tommy.*

On or about February 22, 2024, FBI agents conducted surveillance of Kelly at his place of employment in Mt. Airy, Maryland. During surveillance, agents noted the two moles on Kelly's face, the location of which appeared to match the location of those in Image 6 (supra). At one point in the surveillance, an agent spoke with Kelly and Kelly identified himself as "Tommy." Agents noted during their surveillance that Kelly's hairstyle and facial hair differed from its appearance on January 6. Agents also noted, however, that Kelly walked with a slight limp. As noted below, open-source video from January 6, 2021, showed 189-AFO / #ZIONOR walking with a slight limp.

Multiple publicly available videos show 189-AFO / #ZIONOR (below left, in red box) on restricted Capitol grounds with a female companion that the FBI has identified as Kelly's wife, (below right, in yellow box), whose full name is known to the FBI.



**IMAGE 10, 10a:** (left) A screenshot from publicly available open-source video<sup>3</sup> showing Kelly (189-AFO / #ZIONOR) outlined in red, standing next to his wife outlined in yellow; and (right) a closeup of that same screenshot. The two are standing with other members of the mob in the West Plaza of the Capitol at approx. 1:09 p.m.

Another publicly available video shows Kelly and his wife as they approached the U.S. Capitol from the west, walking along Madison Drive NW.<sup>4</sup>



**IMAGE 11, 11a:** (left) A screenshot from publicly available open-source video showing Kelly (189-AFO / #ZIONOR), walking next to his wife; and (right) a closeup of that same screenshot. Kelly and his wife are walking east towards the U.S. Capitol on Madison Drive NW with other protestors.

<sup>3</sup> <https://www.youtube.com/watch?v=YPZxZIL8qNk&t=105> at 1:44.

<sup>4</sup> <https://www.youtube.com/watch?v=vyp5m0NJndE&t=149> at 2:28.

Another publicly available video<sup>5</sup> captured Kelly wearing his snow goggles and a face mask with his wife wearing sunglasses and a face mask on the Lower West Plaza prior to the time when the mob overcame the police line.



*IMAGE 12, 12a:* (left) A screenshot from publicly available open-source video showing Kelly (189-AFO / #ZIONOR) standing next to his wife on the West Plaza of the Capitol; and (right) a closeup of that same screenshot.

Another publicly available video shows Kelly (189-AFO / #ZIONOR) and his wife later in the afternoon walking together away from the Capitol near the scaffolding set up for the Inauguration on the restricted grounds of the U.S. Capitol.<sup>6</sup>



*IMAGE 13:* A screenshot from publicly available open-source video showing Kelly (189-AFO / #ZIONOR) standing next to his wife later in the afternoon of January 6, 2021, as they walk away from the U.S. Capitol. Kelly (189-AFO / #ZIONOR) and his wife had by that time removed their protective eyewear and face masks.

<sup>5</sup> [https://archive.org/download/6u8pBq4eDQBThpyoa/FB\\_20210106\\_135438.mpeg4](https://archive.org/download/6u8pBq4eDQBThpyoa/FB_20210106_135438.mpeg4) at 38:21

<sup>6</sup> <https://www.youtube.com/watch?v=IKnQEohxIIQ>



Pursuant to legal process, the FBI obtained Kelly's wife's Amazon account purchase history. The account was used to make the following relevant purchases:

- **October 21, 2020:** One pair of ZIONOR Lagopus B1 snow goggles
- **November 22, 2020:** One pair of Brooks Women's Caldera 4 shoes
- **December 15, 2020:** One flag, described as "Trump Law & Order 2nd Amendment Guns Flag Trump Flag Make America Great Again"

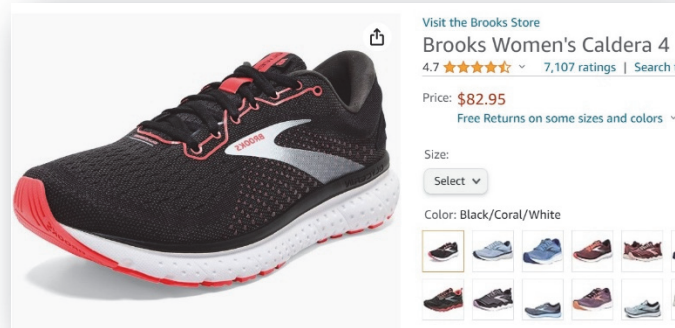
For each of these purchases, Amazon records indicated the "customer name" was that of Kelly's wife. The customer email for each order was a Gmail account with a username that was the first letter of Kelly's wife's name followed by her maiden name. The orders were all shipped to the residential address of record in Middletown, Maryland, that is owned and shared by Kelly and his wife.

The ZIONOR goggles purchased from Amazon in October 2020 appear to match those worn by 189-AFO / #ZIONOR on January 6 during the Capitol riot, as seen in the screenshots below.



*IMAGES 14, 3a, 15: (top left) A screenshot from publicly available open-source video showing Kelly (189-AFO / #ZIONOR), wearing a pair of ZIONOR snow goggles that were ordered from his wife's Amazon account on October 21, 2020, as seen from the front; (top right) Image 3a (supra) showing Kelly wearing the same goggles as seen from the side; and (bottom) a screenshot of an Amazon listing for ZIONOR Lagopus B1 goggles.*

On January 6, 2021, Kelly's wife appeared to wear Brooks running shoes matching the appearance of those ordered through her account in November 2020. Specifically, the shoes appeared to be the black/coral/white version of this shoe model. The Brooks shoes are visible in the screenshots below from January 6 (left) and from Amazon (right) respectively.



*IMAGES 13a, 16: (left) A closeup of Image 13 (supra) showing Kelly's wife wearing a pair of what appear to be Brooks Women's Caldera 4 running shoes that were ordered through her Amazon account on November 22, 2020; and (bottom right) a screenshot of an Amazon listing for Brooks Women's Caldera 4 running shoes.*

Records provided by Amazon indicated the aforementioned items were addressed to an individual with Kelly's wife's name and sent to an address in Middletown, Maryland, that per law enforcement records is associated with both Kelly and his wife. For example, the address to which these items were sent is the same address listed in subscriber information for Kelly's cellphone account. In addition, during surveillance of the Middletown address in September 2023, FBI agents noted vehicles on the property that are registered to Kelly and his wife.

The FBI also viewed Thomas J. Kelly, Jr.'s driver's license photo. Your affiant confirms that the individual shown in that driver's license photo appears to be the same individual known as 189-AFO / #ZIONOR.

Kelly's Maryland driver's license data indicates that Kelly is 6'4" tall. Images 10, 12, and 13 (supra) show 189-AFO / #ZIONOR, believed to be Kelly and his wife. These screenshots also show that 189-AFO / #ZIONOR was substantially taller than most of the nearby individuals. During surveillance conducted by the FBI at Kelly's workplace, Kelly's height appeared to match that listed on his driver's license data.

### **III. THOMAS JOSEPH KELLY, JR.'S CONDUCT AT THE CAPITOL**

Based upon my review of photographs and videos from the U.S. Capitol on January 6, 2021, I have learned that Kelly was present on the restricted grounds of the U.S. Capitol for over three hours that day. On multiple occasions and in multiple locations, Kelly assaulted and interfered with police officers while trespassing on the restricted grounds during the riot at the U.S. Capitol.

A publicly available video<sup>7</sup> shows Kelly approaching the Maryland Avenue walkway, located on the U.S. Capitol’s grounds in the southwest quadrant. Several “AREA CLOSED” signs attached to snow fencing and bike rack style barricades surrounded the U.S. Capitol’s grounds and were clearly visible to Kelly as he approached.



*IMAGE 17, 17a: (left) A screenshot from publicly available open-source video showing Kelly (189-AFO / #ZIONOR) walking towards the U.S. Capitol with several clearly visible AREA CLOSED signs on snow fencing; and (right) a closeup of that same screenshot.*

*A. The West Plaza*

Another publicly available video<sup>8</sup> shows Kelly (189-AFO / #ZIONOR) on the Capitol’s Lower West Plaza. At approximately 12 minutes 10 seconds into the video, a voice, presumably that of Kelly (189-AFO / #ZIONOR) yelled out towards the police line, “Pussy ass bitches!” The videographer panned to Kelly (189-AFO / #ZIONOR), who then screamed, “Fuckin’ cops!” The videographer then walked up to Kelly (189-AFO / #ZIONOR) and the following dialogue occurred:

VIDEOGRAPHER: Hey man, what do you think about all this? What do you think about all this? What’s goin’ on? What’re you seein’?

RIOTER 1: We need to rush ‘em!

KELLY: Yeah, he’s exactly right. That’s what we need to do.

RIOTER 1: Let’s fuckin’ rush these motherfuckers! If we all do it, they can’t stop us all!

<sup>7</sup> <https://archive.org/details/JhDLz5zmRwkcjvqgS> at 0:01

<sup>8</sup> <https://archive.org/download/gKYttPtgq3prk63YE/gKYttPtgq3prk63YE.webm> at approx. 12:32

KELLY: I mean, we gotta . . . They [the police] initially were back there! We jumped the fence, and they ran back! They're scared! They're scared!

RIOTER 1: If we all rush them at one time, there's no way they can stop us!

KELLY: [unintelligible] . . . get fucked up . . . [unintelligible].

RIOTER 1: Some of us will, but hey, that's the price we pay!

KELLY: Exactly!



*IMAGES 18, 19, 20: (left to right) A series of three screenshots from a publicly available open-source video showing Kelly (189-AFO / #ZIONOR) on the West Plaza of the U.S. Capitol.*

A short time later, Kelly (189-AFO / #ZIONOR) appeared to cheer<sup>9</sup> as another rioter deployed a chemical irritant at the police line as the police were attempting to hold back the rioting crowd on the Lower West Plaza.

<sup>9</sup> <https://web.archive.org/web/submit?url=https://video.parler.com/li/Te/liTeu1lKt5jf.mp4> at 1:46



*IMAGE 21, 21a:* (left) A screenshot from a publicly available open-source video showing Kelly (189-AFO / #ZIONOR) raising his hands in celebration as police officers are sprayed and attacked by other rioters; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

Publicly available video<sup>10</sup> captured Kelly (189-AFO / #ZIONOR) acting in concert with other rioters who used a giant metal-framed “TRUMP” sign as a battering ram against the police line. Kelly (189-AFO / #ZIONOR) maintained contact with the metal-edged sign for over thirty seconds. As one of the tallest individuals holding the sign, Kelly (189-AFO / #ZIONOR) played a significant role in driving the sign forward and into the police officers, assaulting and impeding them.



*IMAGE 22:* A screenshot from a publicly available open-source video showing Kelly (189-AFO / #ZIONOR) holding on to and pushing the large TRUMP sign as it was rammed into police and driven forward toward the Capitol.

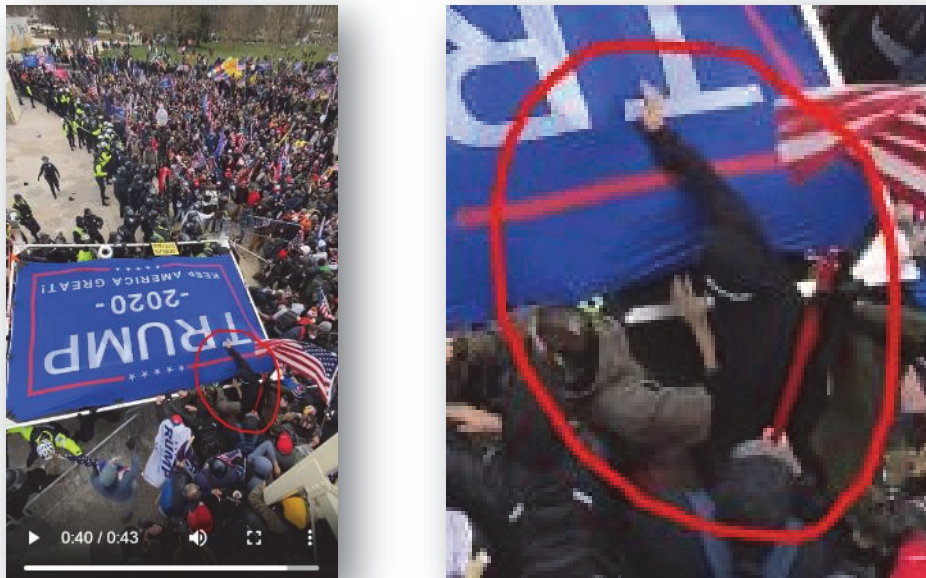
<sup>10</sup> <https://archive.org/details/uRC7wNHjwztmFhWE6> at 1:03 and 1:22



*IMAGES 23, 23a, 24, 24a: (top left) A screenshot from a publicly available open-source video showing Kelly (189-AFO / #ZIONOR) holding on to and pushing the large TRUMP sign as it was rammed into police officers and driven forward toward the Capitol; (top right) a closeup of Kelly (189-AFO / #ZIONOR) from that video; (bottom left) a screenshot from another video<sup>11</sup> that shows Kelly (189-AFO / #ZIONOR) with his hands on the sign, pushing it forward; and (bottom right) a closeup of Kelly (189-AFO / #ZIONOR) from that video.*

<sup>11</sup> <https://archive.org/details/i6cf4BXtjETbFGm2W> at 4:25.

As rioters rammed the giant sign into the police line, Kelly (189-AFO / #ZIONOR) appeared to use his open hand to strike an officer that was underneath the sign through its fabric:<sup>12</sup>



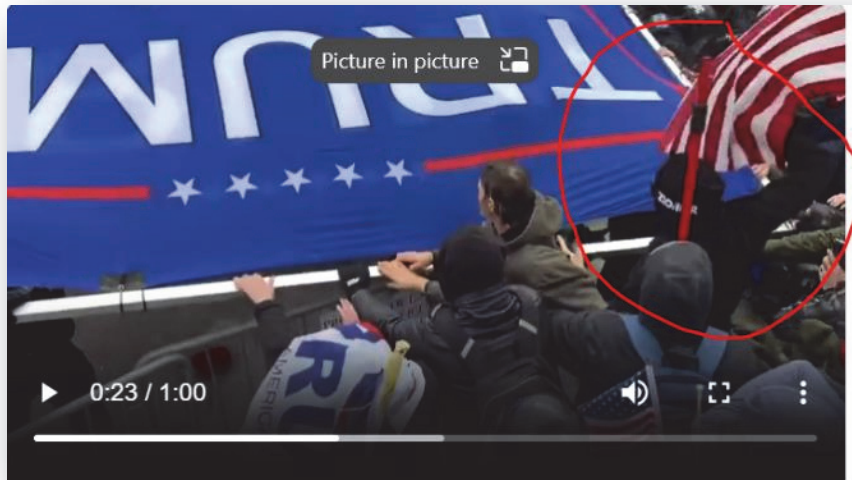
*IMAGE 25, 25a: (left) A screenshot from a publicly available open-source video showing Kelly (189-AFO / #ZIONOR) striking the top of the fabric of the large TRUMP sign; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot. From the video, it appears that Kelly (189-AFO / #ZIONOR) is hitting the fabric with the intent of striking a police officer that is underneath.*

Another publicly available video captured Kelly's (189-AFO / #ZIONOR) open-handed strike against the police officer that was at that moment under the fabric of the TRUMP sign.<sup>13</sup> The screenshot below shows Kelly (189-AFO / #ZIONOR) drawing back his arm in preparation for the blow against the fabric of the sign and the police officer underneath.

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<sup>12</sup> <https://web.archive.org/web/submit?url=https://video.parler.com/3F/XN/3FXNEGVR6mTr.mp4> at 0:37

<sup>13</sup> <https://web.archive.org/web/20210110203230/https://parler.com/post/8fa99928-7026-40ca-a2c9-9776aa1563fc> at 0:20



**IMAGE 26:** A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) drawing back his arm to strike a police officer that is underneath the fabric of a large sign.

After joining other rioters in ramming the giant sign into the police line, Kelly (189-AFO / #ZIONOR) remained on the front line of the rioters that continued to aggressively confront the police.



**IMAGE 27, 27a:** (left) A screenshot from an MPD officer's BWC showing Kelly (189-AFO / #ZIONOR) at the front of a group of rioters that were aggressively confronting the police officers; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

Less than a minute later, Kelly (189-AFO / #ZIONOR) joined the rush of rioters who successfully overwhelmed the police line on the Lower West Plaza. It appears that Kelly (189-AFO / #ZIONOR) pushed directly against the police line.





**IMAGE 28, 28a:** (left) A screenshot from an MPD officer's BWC showing Kelly (189-AFO / #ZIONOR) pushing directly against the police line with other rioters; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

Another open-source image<sup>14</sup> shows that Kelly (189-AFO / #ZIONOR) as identified by his ZIONOR snow goggles, was part of the vanguard of rioters who overwhelmed and broke through the police line on the Lower West Plaza shortly before 2:30 p.m.



**IMAGE 29, 29a:** A publicly available photograph from Getty Images showing Kelly (189-AFO / #ZIONOR) at the front of a line of rioters that is charging at and overwhelming the police line.

<sup>14</sup> <https://www.gettyimages.com/detail/1230455744>

During the breach of the police line, at approximately 2:29 p.m., Kelly (189-AFO / #ZIONOR) made physical contact with MPD Officer B.S. as shown by both open-source video<sup>15</sup> and BWC.



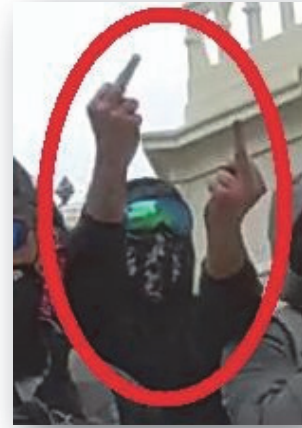
**IMAGE 30, 30a:** (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) appearing to assault MPD Officer B.S.; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.



**IMAGE 31:** A screenshot from MPD Officer B.S.'s BWC showing Kelly (189-AFO / #ZIONOR) pushing directly against him.

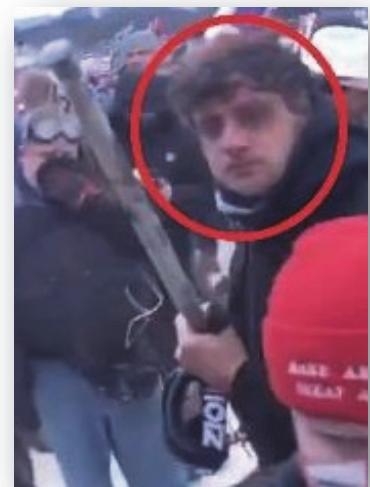
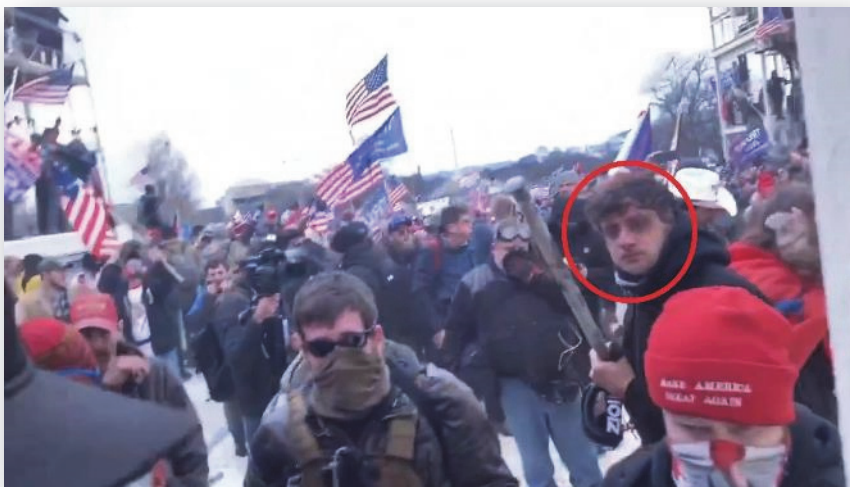
<sup>15</sup> [https://capitol-hill-riots.s3.us-east-1.wasabisys.com/User%20Submissions%20-%20UNSORTED/Content/Youtube\\_video\\_0zyjCvDN4Ig%26t%3D2s\\_Channel\\_UCBJv3HTbI16szVvaPJ\\_z1UQ\\_WARNING\\_%20GRAPHIC%20CONTENT\\_%20RAW%20FOOTAGE%20OF%20THE%20CAPITOL%20YESTERDAY%20-%20THIS%20IS%20WHAT%20REALLY%20HAPPENED.mp4](https://capitol-hill-riots.s3.us-east-1.wasabisys.com/User%20Submissions%20-%20UNSORTED/Content/Youtube_video_0zyjCvDN4Ig%26t%3D2s_Channel_UCBJv3HTbI16szVvaPJ_z1UQ_WARNING_%20GRAPHIC%20CONTENT_%20RAW%20FOOTAGE%20OF%20THE%20CAPITOL%20YESTERDAY%20-%20THIS%20IS%20WHAT%20REALLY%20HAPPENED.mp4) at 43:05

About five minutes later, Kelly (189-AFO / #ZIONOR) remained in the front rank of rioters and continued to push against the police officers.



**IMAGE 32, 32a:** (left) A screenshot from an MPD Officer's BWC showing Kelly (189-AFO / #ZIONOR) flipping off the police officers that were attempting to keep the rioters away from the U.S. Capitol and all those inside; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

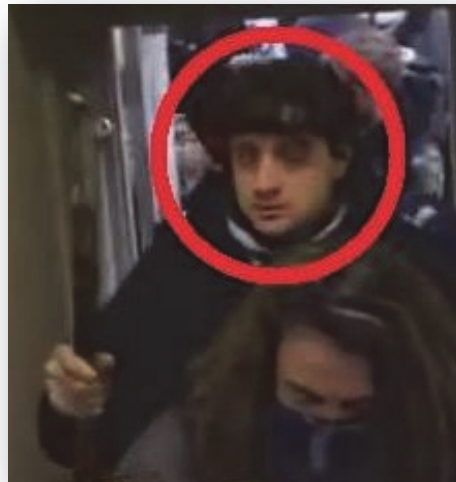
Shortly after this, another open-source video<sup>16</sup> showed Kelly (189-AFO / #ZIONOR) holding both his ZIONOR snow goggles and a long pole. Kelly's (189-AFO / #ZIONOR) face is clearly visible in this video.



**IMAGE 33, 33a:** (left) A screenshot from a publicly available video showing Kelly's (189-AFO / #ZIONOR) face and showing him now holding his ZIONOR snow goggles and what appears to be a long pole; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

<sup>16</sup> <https://www.youtu8be.com/watch?v=QfEjzABHqeY&t=875> at 14:35

Open-source video<sup>17</sup> shows that as officers fell back, Kelly (189-AFO / #ZIONOR) and other rioters pursued them, chasing them up a staircase that had been built into the temporary Inaugural Stage of the Lower West Terrace. Kelly (189-AFO / #ZIONOR) continued to hold the long pole in his hand.



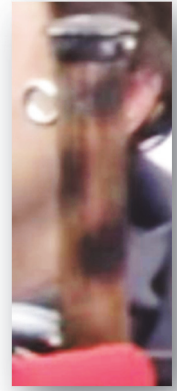
**IMAGE 34, 34a:** (left) A screenshot from a publicly available video showing Kelly's (189-AFO / #ZIONOR) face and showing him now holding a long pole; and (right) a closeup of Kelly (189-AFO / #ZIONOR) and the pole from that screenshot.

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<sup>17</sup> [https://capitol-hill-riots.s3.us-east-1.wasabisys.com/User%20Submissions%20-%20UNSORTED/Content/Youtube\\_video\\_0zyjCvDN4Ig%26t%3D2s\\_Channel\\_UCBJv3HTbI16szVvaPJ\\_z1UQ\\_WARNING\\_%20GRAPHIC%20CONTENT\\_%20RAW%20FOOTAGE%20OF%20THE%20CAPITOL%20YESTERDAY%20-%20THIS%20IS%20WHAT%20REALLY%20HAPPENED.mp4](https://capitol-hill-riots.s3.us-east-1.wasabisys.com/User%20Submissions%20-%20UNSORTED/Content/Youtube_video_0zyjCvDN4Ig%26t%3D2s_Channel_UCBJv3HTbI16szVvaPJ_z1UQ_WARNING_%20GRAPHIC%20CONTENT_%20RAW%20FOOTAGE%20OF%20THE%20CAPITOL%20YESTERDAY%20-%20THIS%20IS%20WHAT%20REALLY%20HAPPENED.mp4) at 54:44

*B. The Lower West Terrace*

A few moments later, the same video shows another view of Kelly (189-AFO / #ZIONOR) back out in the open having ascended to the Lower West Terrace. As seen below, the pole appears to have metal screw eyes protruding from its side.



*IMAGE 35, 36, 36a: (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) holding what appears to be a long pole while standing on the Lower West Terrace of the U.S. Capitol; (center) a screenshot from a video showing Kelly (189-AFO / #ZIONOR) on Capitol grounds, smiling while holding the same long pole, but the metal screw eyes and metal cap are more clearly visible; and (right) a close-up of the pole in which the screw eye and the cap are clearly visible.*

Another open-source video<sup>18</sup> shows Kelly (189-AFO / #ZIONOR) waving other rioters forward and holding the same pole while standing atop the temporary Inaugural Stage.



*IMAGE 37, 37a: (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) waving other rioters forward while holding a long pole; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that same screenshot.*

<sup>18</sup> <https://archive.org/details/kPe795nNjohCayHMz> at 12:21

USCP CCV captured Kelly (189-AFO / #ZIONOR) entering an area known as the Tunnel<sup>19</sup> of the Lower West Terrace with the long pole at approximately 2:44 p.m. At that time, police officers had gathered at the interior end of the Tunnel and were attempting to keep the rioters from advancing further.



**IMAGE 38:** (left) A screenshot from USCP CCV showing Kelly (189-AFO / #ZIONOR) holding a long pole while standing at the mouth of the Tunnel; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.

Open-source video<sup>20</sup> from about the same time shows that Kelly (189-AFO / #ZIONOR) shook the pole while entering the Tunnel. This video clearly shows the pole, which had a mottled wood-like finish, a metal endcap, and metal screw eyes protruding from the side.

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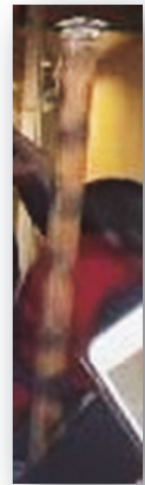
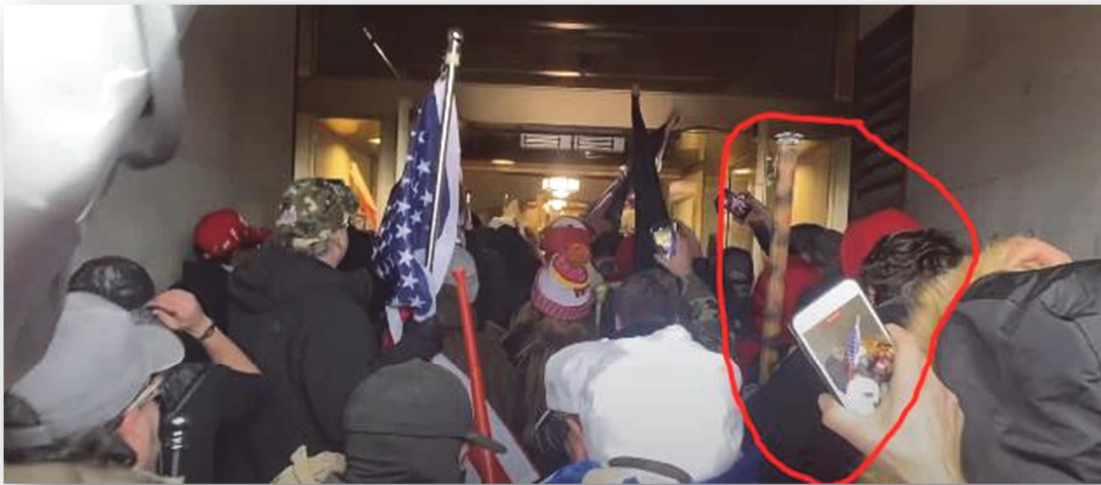
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<sup>19</sup> A passageway that leads from the Lower West Terrace of the U.S. Capitol to the interior of the building.

<sup>20</sup> <https://archive.org/details/2S69NcvXrFEfnuJCC> at 22:10



**IMAGE 39, 39a:** (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) entering the Tunnel while holding and shaking a long pole; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.



**IMAGE 40, 40a:** (left) Another screenshot from that same video showing Kelly (189-AFO / #ZIONOR) entering the Tunnel at a time of intense conflict while carrying a long pole with metal protrusions; and (right) a closeup of the pole Kelly (189-AFO / #ZIONOR) carried into the Tunnel.

Kelly (189-AFO / #ZIONOR) remained in the Tunnel until about 2:51 p.m. At one point Kelly (189-AFO / #ZIONOR) pressed forward so far that he was no longer visible in the USCP CCV covering the Tunnel. When Kelly (189-AFO / #ZIONOR) emerged from the Tunnel, he had put his ZIONOR goggles back on.

An open-source video<sup>21</sup> and an open-source photograph<sup>22</sup> showed Kelly (189-AFO / #ZIONOR) mere feet away from MPD Officer B.M. as rioters aggressively separated and isolated him from his fellow officers.



*IMAGE 41, 41a: (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) near rioters that had forcefully separated MPD Officer B.M. from his fellow officers; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that same screenshot.*



*IMAGE 42, 42a: (left) A publicly available photograph showing Kelly (189-AFO / #ZIONOR) near rioters that had forcefully separated MPD Officer B.M. from his fellow officers; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that same screenshot.*

<sup>21</sup> [https://archive.org/download/N4ZWS4mrjvHhzbZQF/10000000\\_422275462158756\\_.mpeg4](https://archive.org/download/N4ZWS4mrjvHhzbZQF/10000000_422275462158756_.mpeg4) at 6:47

<sup>22</sup> <https://twitter.com/erjlee/status/1348685520642125833/photo/4>



*C. Assault of MPD Officer C.M. and of Police Officers in The Tunnel*

FBI Special Agents reviewed USCP CCV along with MPD BWC footage from Officer S.S., who was in the Tunnel next to Officer C.M. at the time Kelly (189-AFO / #ZIONOR) assaulted him with a long metal pole.<sup>23</sup> These videos show that Kelly (189-AFO / #ZIONOR) assaulted Officer C.M. at approximately 4:33:14 p.m.

Specifically, Kelly (189-AFO / #ZIONOR) jabbed and thrust the pole directly into the police line and the end of the pole hit Officer C.M. in the head. The screenshots below, taken from Officer S.S.'s BWC, show the assault by Kelly (189-AFO / #ZIONOR). Although the pole appears to directly impact Officer S.S., interviews of both officers indicate the pole grazed Officer S.S. before smashing into Officer C.M.'s head.



**IMAGES 43, 44:** (top to bottom) Two screenshots from MPD Officer S.S.'s BWC at approximately 4:33:14 p.m. showing Kelly (189-AFO / #ZIONOR) holding a long pole in his right hand and thrusting it forward into the police line that was in the Tunnel attempting to keep the violent rioters out of the U.S. Capitol.

<sup>23</sup> Officer C.M.'s BWC had been knocked to the ground shortly before the assault.

Open-source video<sup>24</sup> also captured Kelly's (189-AFO / #ZIONOR) assault of Officer C.M.



**IMAGE 45:** A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) holding a long pole in his right hand and thrusting it forward into the police line. The pole struck MPD Officer C.M. in the face, possibly cracking his riot helmet and knocking him unconscious for a brief period.



**IMAGE 46:** A screenshot from a video obtained by the government showing Kelly (189-AFO / #ZIONOR) holding a long pole in his right hand and thrusting it forward into the police line several times. (Note that the number along the bottom is a counter for the video from which the screenshot is taken and is not reflective of the time of day.)

<sup>24</sup> <https://archive.org/download/miP4s89YEqHdY5vEX/miP4s89YEqHdY5vEX.mpeg4> at 0:17



**IMAGE 47:** A screenshot from a video obtained by the government showing Kelly (189-AFO / #ZIONOR) holding a long pole in his right hand and thrusting it forward into the police line several times.

After Kelly (189-AFO / #ZIONOR) used a pole to assault police officers that were defending the Tunnel and the U.S. Capitol, Kelly (189-AFO / #ZIONOR) handed it to another rioter,<sup>25</sup> who took it and broke it while striking the police officers, and then used a broken piece to continue assaulting police officers in the Tunnel.



**IMAGE 48:** A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) passing the long pole to another rioter.

<sup>25</sup> [https://archive.org/download/JRtPc2W4bEfunM7et/FULL\\_FOOTAGE\\_\\_Patriots\\_STORM\\_U.S.\\_Capitol\\_4K60fps\\_.mpeg4](https://archive.org/download/JRtPc2W4bEfunM7et/FULL_FOOTAGE__Patriots_STORM_U.S._Capitol_4K60fps_.mpeg4) at 1:21:08.

In January 2024, the FBI interviewed MPD Officer C.M. Officer C.M., wearing a riot helmet with number 5229, responded to the U.S. Capitol on January 6, 2021, and assisted in the defense of the Tunnel of the Lower West Terrace. Officer C.M. described a specific assault in which he was struck with what appeared to be a metal object wielded by a rioter, causing him to lose consciousness for approximately five seconds. Even after he regained consciousness, Officer C.M. struggled to remain conscious.

The force of the assault, and specifically the impact of the hard object against his riot helmet, appears to have cracked the shell of Officer C.M.'s riot helmet.<sup>26</sup> Officer C.M. continued to experience symptoms from this blow to his head during the remainder of January 6, 2021, including symptoms such as vision loss and degraded consciousness. Below is a photograph of Officer C.M.'s cracked riot helmet.



*IMAGES 49, 50: (left) A photograph of Officer C.M.'s broken riot helmet; and (right) a photograph of MPD Officer C.M., one of the victims of Kelly's (189-AFO / #ZIONOR) assaults, standing on the Lower West Terrace of the U.S. Capitol after police officers successfully cleared out the rioters.*

<sup>26</sup> As seen in Image 49, the face shield of Officer C.M.'s riot helmet was also broken, but it is unclear at this time how if at all Kelly's (189-AFO / #ZIONOR) assault contributed to the breaking of his face shield.

USCP CCV and open-source video<sup>27</sup> captured Kelly (189-AFO / #ZIONOR) on the Lower West Plaza at approximately 4:46 p.m. The video shows that Kelly (189-AFO / #ZIONOR) appeared to walk with a slight limp.



*IMAGE 51, 51a: (left) A screenshot from a publicly available video showing Kelly (189-AFO / #ZIONOR) walking away from the Capitol after assaulting police officers at the U.S. Capitol; and (right) a closeup of Kelly (189-AFO / #ZIONOR) from that screenshot.*

#### IV. PROBABLE CAUSE

Based on the foregoing, your affiant submits that there is probable cause to believe that Thomas Joseph Kelly, Jr., violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of official duties, while using a deadly or dangerous weapon. Persons designated within 18 U.S.C. § 1114 include federal officers such as USCP officers and include any person assisting an officer or employee of the United States in the performance of their official duties.

Your affiant submits that there is probable cause to believe that Thomas Joseph Kelly, Jr. violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of official duties, where such acts involve physical contact with the victim or the intent to commit another felony. Persons designated within 18 U.S.C. § 1114 include federal officers such as USCP officers, and include any person assisting an officer or employee of the United States in the performance of their official duties.

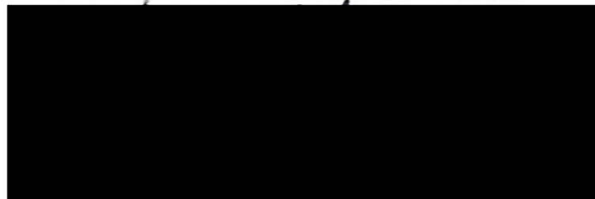
Your affiant submits there is probable cause to believe that Thomas Joseph Kelly, Jr., violated 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the

<sup>27</sup> <https://rumble.com/vcq33v-protestors-storm-the-dc-capitol-jan-6-2021.html> at 21:50.

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 18 U.S.C. § 231, 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 submits that there is probable cause to believe that Thomas Joseph Kelly, Jr., violated 18 U.S.C. § 1752(a)(1), (2), and (4), which make 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; (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 18 U.S.C. § 1752, 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 Thomas Joseph Kelly, Jr., violated 40 U.S.C. § 5104(e)(2)(D), (F), which make 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; (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 21st day of May 2024.

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G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE