

STATEMENT OF FACTS

Your affiant, [REDACTED]

[REDACTED]. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021. As a [REDACTED], 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 of BRIAN LEO KELLY

The FBI posted images on its website of individuals involved in the events of January 6, 2021, and sought the public's assistance in identifying them. The FBI posted "Be On the Lookout" (BOLO) Photograph #26, and numerous tipsters contacted the FBI in response. Through investigation, the FBI was able to conclusively determine that some of those tips identified individuals who were not present inside the U.S. Capitol on January 6, 2021, and were not the individuals depicted in Photograph #26. The FBI did not pursue those leads further. Two other tips, however, provided useful information that the affiant was able to later confirm. Both of those tips identified an older white male wearing a blue Trump hat and holding a cellular phone in his hand while walking through the U.S. Capitol building, as BRIAN LEO KELLY (circled below).



Image 1: FBI BOLO Photograph #26 (red circle added)

One anonymous tipster who identified KELLY in Photograph #26 provided information that KELLY runs a business in Northern Virginia called Affordable Oil Tank Removal. The tipster provided KELLY's work email address as ExcavatiXXXX@gmail.com and KELLY's work phone number as (703) 608-XXXX.

A second tipster identified the individual in Photograph #26 as KELLY, and stated that the same image appeared in a Hulu documentary called "Special Assault on the Capitol." The tipster agreed to be interviewed in-person, and that person identified KELLY and stated that he/she has had regular contact with KELLY at a location in Northern Virginia.

According to records obtained through a search warrant which was served on Google, a mobile device associated with ExcavatiXXXX@gmail.com was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a "maps display radius" for each location data point. Thus, where Google estimates that its location data is accurate

to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time. In this case, Google location data shows that a device associated with ExcavatiXXXX@gmail.com was within the U.S. Capitol building on January 6, 2021.

Through a subpoena issued to T-Mobile, the affiant confirmed that the cellphone associated with telephone number (703) 608-XXXX is registered to KELLY. Through additional database queries, the affiant further confirmed KELLY has provided (703) 608-XXXX as his contact number during past interactions with local law enforcement, and that this same phone number is used by KELLY for various businesses that he runs out of his residence in Northern Virginia.

KELLY’S Involvement in the Events of January 6, 2021

The affiant reviewed United States Capitol Police (“USCP”) CCTV from January 6, 2021. The CCTV showed that KELLY entered the U.S. Capitol at approximately 2:35 p.m. through the Upper West Terrace Door.

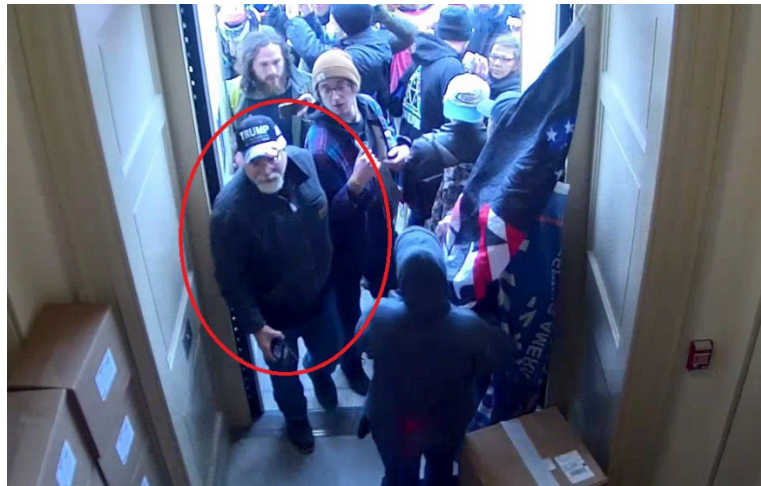


Image 2: KELLY entered the U.S. Capitol through the Upper West Terrace Door at 2:35 p.m.

After entering, KELLY headed east and walked up a staircase to the second floor. KELLY entered around Rotunda at roughly 2:37 p.m., where he raised his cellphone above his head and filmed as he walked through the area.



Image 3: KELLY walked through the Rotunda while filming on his cellphone.

At approximately 2:39 p.m., KELLY walked through Statuary Hall to the Statuary Hall Connector, and he continued to film events on his cellphone. KELLY remained in the area around Statuary Hall and the Connector for roughly ten minutes, and in that time, KELLY joined the crowd in chanting in the Statuary Hall Connector, filmed and took calls on his cellphone.



Image 4: KELLY chanted with the crowd in the Statuary Hall Connector at 2:41 p.m.

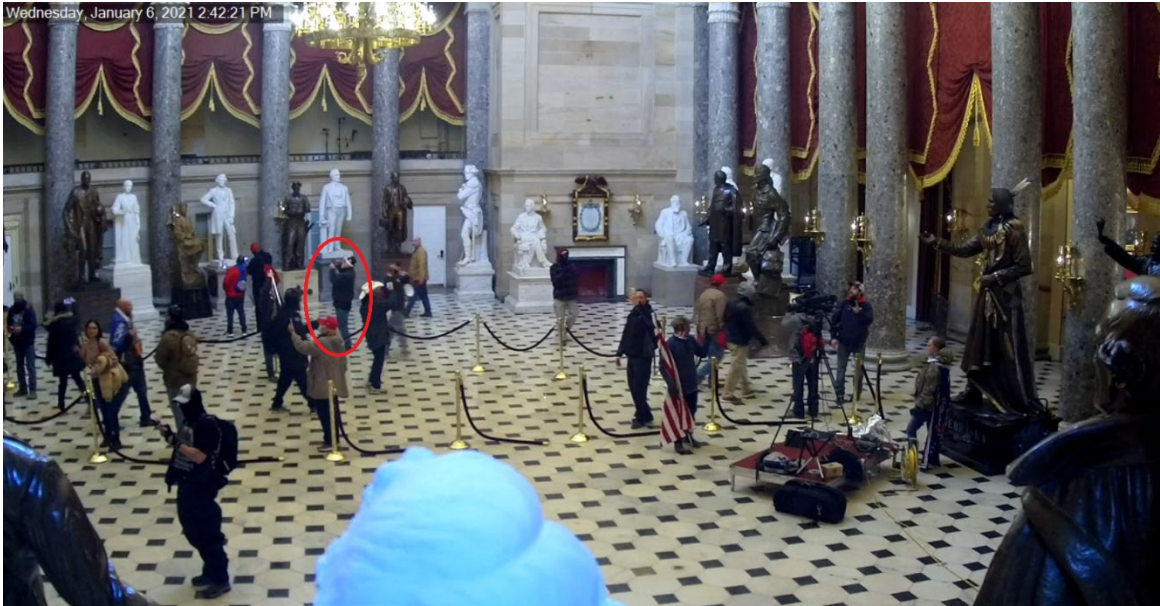


Image 5: KELLY filmed with his cellphone by the Statuary Hall.

KELLY walked back into the Rotunda at approximately 2:48 p.m., where he continued to take calls and photos with his cellphone. KELLY exited the U.S. Capitol building at 3:11 p.m. through the Rotunda door.

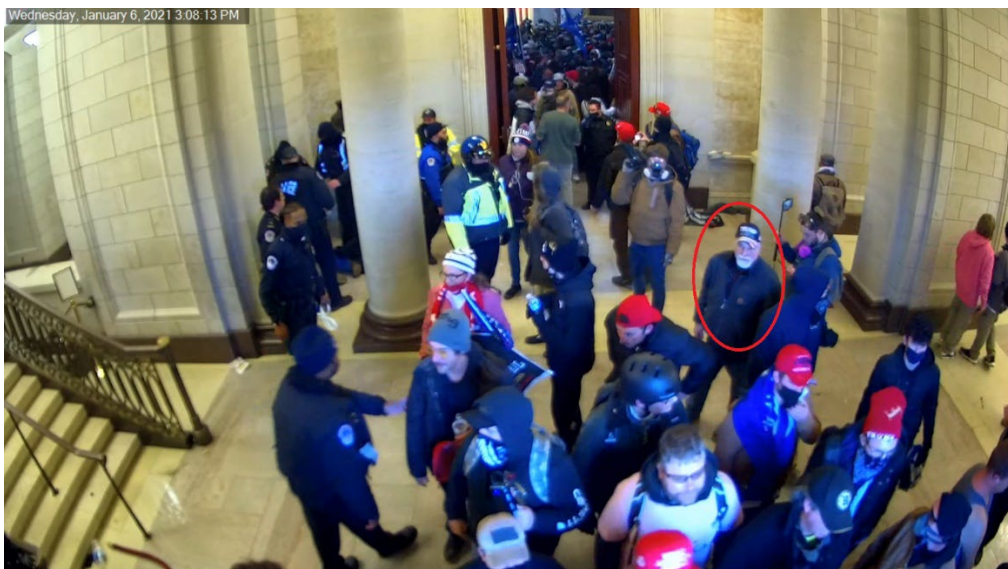


Image 6: KELLY exited the U.S. Capitol building at 3:12 p.m. after standing for several minutes near the Rotunda Door.

Your affiant submits that there is probable cause to believe that KELLY 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; (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

