

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (FBI), Indianapolis Division. I have been in this position since May 2021. I am currently assigned to the Joint Terrorism Task Force (JTTF). As a Special Agent, I am authorized by law or by a government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws. As such, I am an “investigative or law enforcement officer” of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Section 2516 of Title 18, United States Code.

The U.S. Capitol is secured twenty-four hours a day by the United States Capitol Police (USCP). Restrictions around the Capitol include permanent security barriers and temporary security barriers as well as posts manned by USCP officers. Only authorized people with appropriate identification are allowed to access the inside of the Capitol. On January 6, 2021, the exterior plaza of the Capitol was also closed to members of the public.

On January 6, 2021, a Joint Session of the United States Congress convened at the 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 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 R. 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 Capitol. As noted above, temporary barricades and permanent barricades were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

While the Joint Session and the certification proceedings were underway, the exterior doors and windows of the Capitol were all locked and secured. USCP officers 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 Capitol using unlawful methods that included 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 the Senate, including the President of the Senate, Vice President Pence, were instructed to and did evacuate the chambers. Accordingly, the Joint Session of Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of these events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted violations of local and federal law, including scores of individuals inside the U.S. Capitol without authority to be there.

Alleged Violations

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

- **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**
- **40 U.S.C. § 5104(e)(2)(F)—Act of Physical Violence in Capitol Building or Grounds**

Identification of Nicholas Hofer

After the January 6, 2021, riot at the U.S. Capitol, thousands of videos and photos were posted to websites and shared—often publicly and often by the rioters themselves—showing individuals attacking police officers, trespassing on the grounds of the U.S. Capitol, and entering the U.S. Capitol. Using publicly available websites and social media, civilians began independently investigating those that appeared to assault police officers, vandalize property, or commit other illegal acts at the U.S. Capitol. These citizens assigned persons of interest unique identifiers, also called a hashtag. The tipsters assigned the individual shown in Image 4 (below) the hashtag of #FrodoTheFash.

One individual sent two tips (one in April 2021 and the other in May 2021) to the FBI. In those tips, the individual referred to an image from January 6, 2021 they saw on an Instagram account with the handle @HomegrownTerrorists¹ and identified that individual as Nicholas Hofer (HOFER). The individual provided the FBI with the @HomegrownTerrorists image (Image 1), along with two images of HOFER from a Facebook account (Images 2 and 3). The individual

¹ The account @HomegrownTerrorists is no longer available on Instagram.

claims that they attended high school with HOFER in Westfield, Indiana. They also identified HOFER as a resident of Clay County, Indiana.



Image 1



Image 2

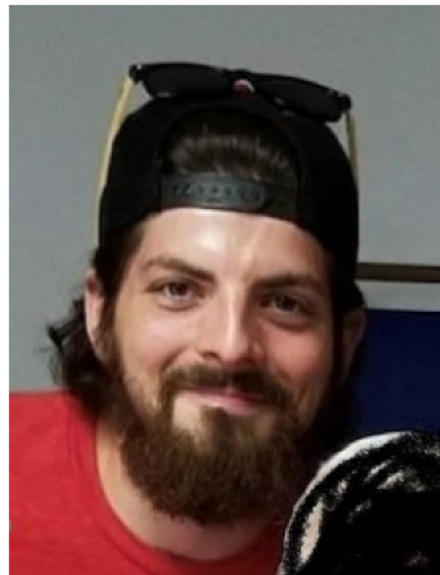


Image 3

Your affiant reviewed a photograph of HOFER received from the Indiana Bureau of Motor Vehicles (BMV) photograph database. Your affiant has also reviewed video that was recorded inside and around the U.S. Capitol on January 6, 2021, including video from body-worn cameras (BWC) worn by police officers that responded to the Capitol on January 6, 2021; official USCP closed circuit video (CCV); publicly available video; and publicly available photographs.

On June 26, 2024, your affiant conducted physical surveillance at HOFER's place of employment, located in Martin County, Indiana. At approximately 10:25 a.m., your affiant observed a red Toyota RAV4 arriving at HOFER's place of employment. A white male exited the vehicle, and your affiant observed him carrying a bag and a drink into the building. Your affiant identified the individual seen exiting the vehicle as the same individual seen at the U.S. Capitol on

January 6, 2021, and as the same individual identified in open-source media as #FrodoTheFash. Specifically, your affiant identifies #FrodoTheFash as Nicholas Scott Ingram HOFER.

On January 6, 2021, HOFER had a long, dark beard and mustache, and he was wearing a camouflage jacket; a tactical vest with a backwards United States flag patch; and black/brown gloves. The gloves appear to have reinforced knuckles. At times HOFER wore a black beanie and at other times he wore a black and dark green gas mask. *See Images 4–8.*

Through legal process, the FBI identified that a phone number with as 317 area code that ends in 6130 and is associated with HOFER. Pursuant to additional legal process, the FBI obtained records from Verizon, AT&T, and Google, LLC, which showed that a mobile device associated with this number was present at the U.S. Capitol on January 6, 2021, between approximately 1:23 p.m. and 4:20 p.m., which is during the riot.

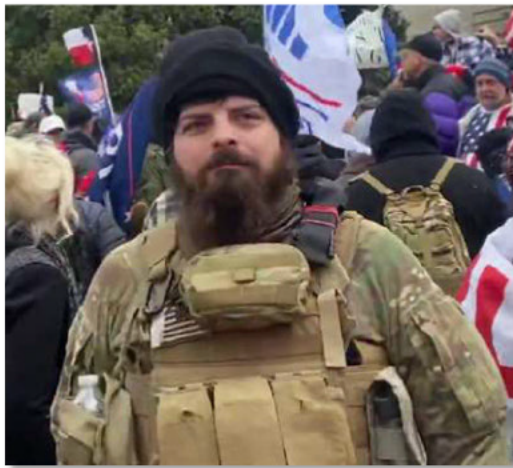


Image 4



Image 5



Image 6



Image 7

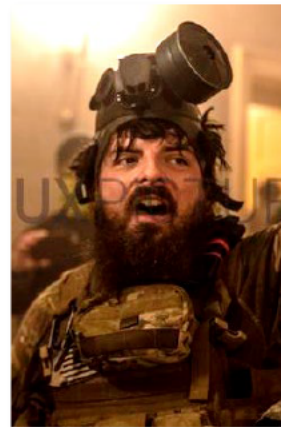


Image 8

Nicholas Hofer's Conduct on January 6, 2021

During your affiant's review of BWC, USCP CCV, open-source media, and other media and materials associated with this investigation, your affiant observed the following:

A. Arrival on the West Plaza

Rioters first breached the western perimeter of Capitol grounds and began filling the West Plaza. Initially, metal bike-rack-style barricades separated the crowd from the police officers, but at approximately 1:35 p.m., the rioters begin pushing against the barricades and lifting them in an apparent attempt to remove them. An open-source video at that location from around that time shows HOFER² near the police line, raising his arms, with a gas mask over his face. *See Image 9.*



Image 9

B. Breach of the Northwest Stairs

The Northwest Staircase is a set of staircases that lead from the West Plaza up to the Lower West and Upper West Terraces of the Capitol. On January 6, 2021, it was covered in scaffolding as part of preparations for the upcoming Presidential Inauguration. At approximately 1:50 p.m., HOFER was in the crowd as rioters breached the police line protecting the base of the staircase. A second line of officers stood at the landing atop the first set of stairs. The officers attempted to hold the rioters back behind the bike-rack-style barricades at that location. HOFER was towards the front of the group of rioters and began pushing other rioters towards the police line. HOFER also pushed the bike rack barricade into the officers. *See Images 10 and 11.*

² HOFER is outlined in yellow throughout.



Image 10



Image 11

At approximately 2:05 p.m., HOFER and the other rioters succeeded in pushing the line of officers from the landing back to the foot of a second set of stairs that leads to the Upper West Terrace. *See* Image 12. Then, at approximately 2:09 p.m., the rioters succeeded at forcing the officers to retreat up the stairs. The rioters, including HOFER, followed. *See* Image 13. As seen in USCP CCV, HOFER was approximately seven seconds behind the first rioters to breach the line.



Image 12



Image 13

At the top of the Northwest Stairs, the rioters encountered another police line reinforced with metal bike racks. HOFER watched as rioters broke the police line. HOFER and the other rioters then walked over downed bike racks and approached the first floor of the U.S. Capitol building on the Senate side. On the way, HOFER grabbed a water bottle from the USCP's stash on the Upper West Terrace.

C. Entry via the Senate Wing Door

At approximately 2:13 p.m., rioters broke out two windows next to an egress only fire door/emergency exit, often referred to as the Senate Wing Door, and they jumped inside.³ The rioters then broke open the Senate Wing Door from the inside, setting off a blaring alarm and allowing rioters including HOFER to enter through the broken door. HOFER entered and raised his arms in the air. *See* Image 14.

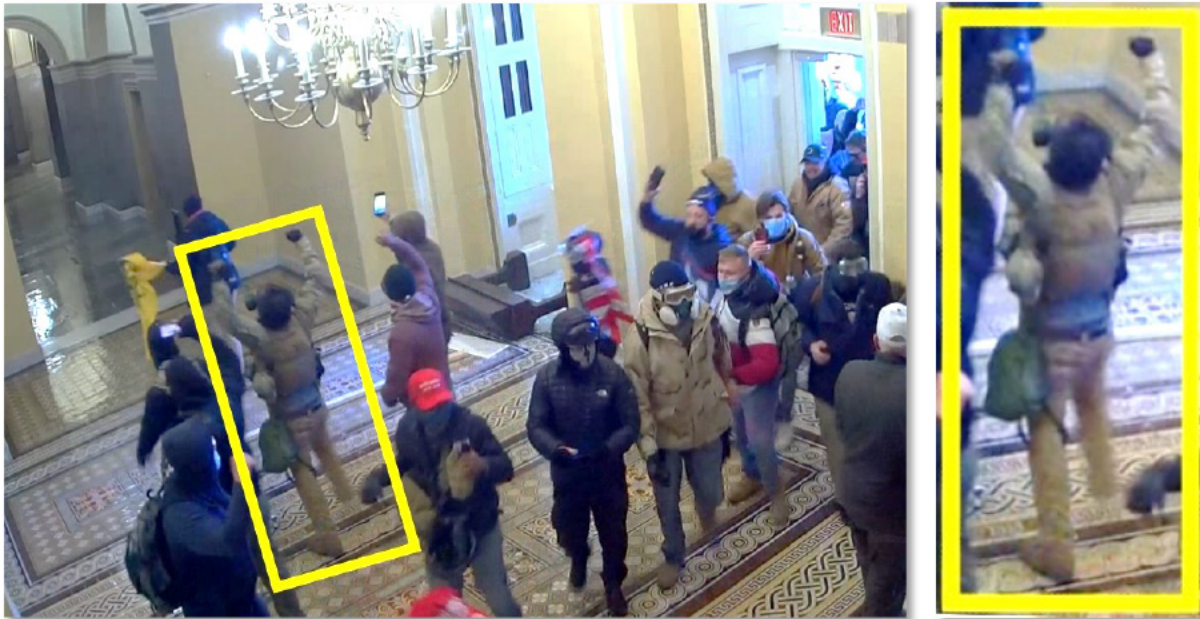


Image 14, 14a

HOFER proceeded south towards the Crypt before pausing in the hall, removing his mask, and pouring water over his face. HOFER re-entered the Senate Wing Door area at approximately 2:15 p.m., picked up a wooden exhibit stand and threw it. *See* Image 15. Shortly thereafter, HOFER placed his gas mask back over his face. *See* Image 16.

³ This door is meant for emergency use only and is not designated as an officially entry point for either staff or visitors. It does not have the equipment to perform the necessary security screenings that are required of anyone that enters the Capitol.



Image 15

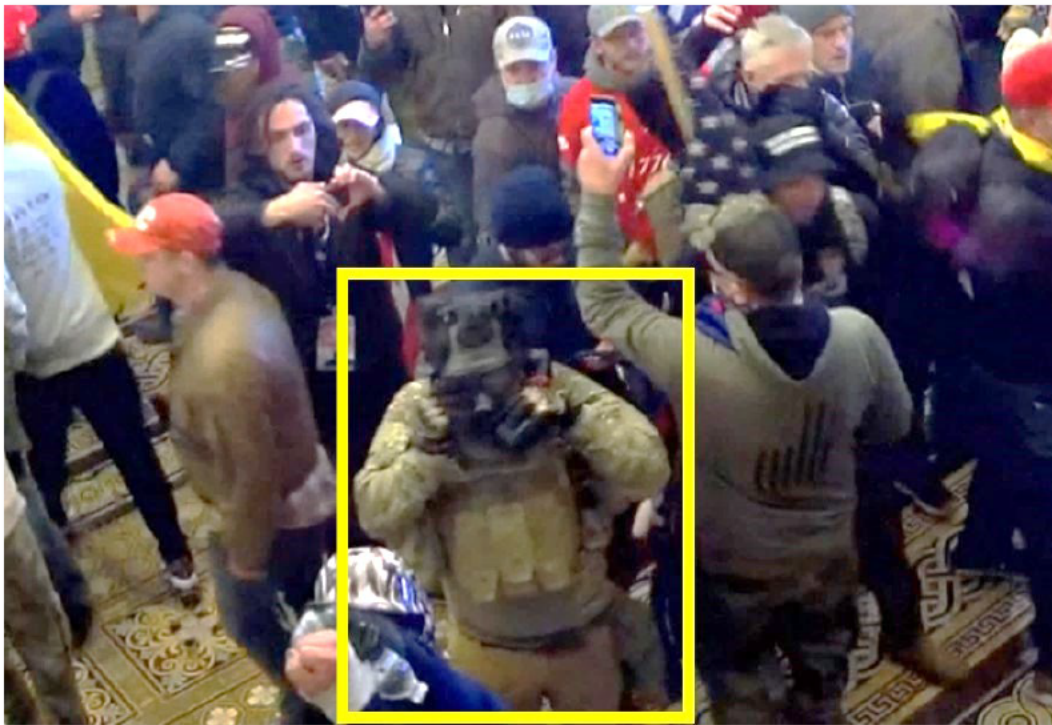


Image 16

D. Exit, Reentry, and Re-Exit via the Senate Carriage Door

USCP CCV shows HOFER and other rioters walking through a non-public hallway on the north side of the Capitol and arriving at a door on the east front of the first floor of the Capitol referred to as the Senate Carriage Door. The video shows how USCP officers worked to clear the building of all unauthorized people by directing them to leave through the Senate Carriage Door. HOFER passed through the magnetometer that is used as a security measure at the Senate Carriage Door⁴ and exited the building without incident at 2:17 p.m. See Images 17 and 18.



Image 17, 17a

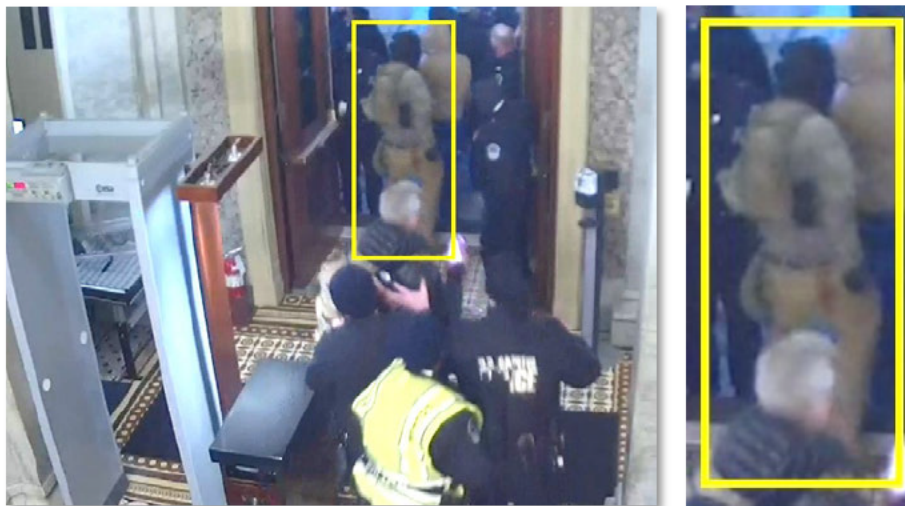


Image 18, 18a

⁴ Your affiant noted that the lights on either side of the magnetometer lit up red as HOFER walked through. Your affiant also notes that while this door to the Capitol does have security screening equipment, it is neither generally nor was it on January 6, 2021, an authorized point of entry for any member of the public, including HOFER.

Approximately one minute later, at 2:18 p.m., HOFER attempted to reenter the Capitol via the same door, the Senate Carriage Door, but a USCP officer and another rioter prevented him from being able to do so. *See* Image 19. HOFER attempted another entry and knocked another rioter in his path down. Shortly thereafter, HOFER was seen moving past the police line and back inside the building. *See* Image 20. Approximately, 20 seconds later, HOFER left the building.

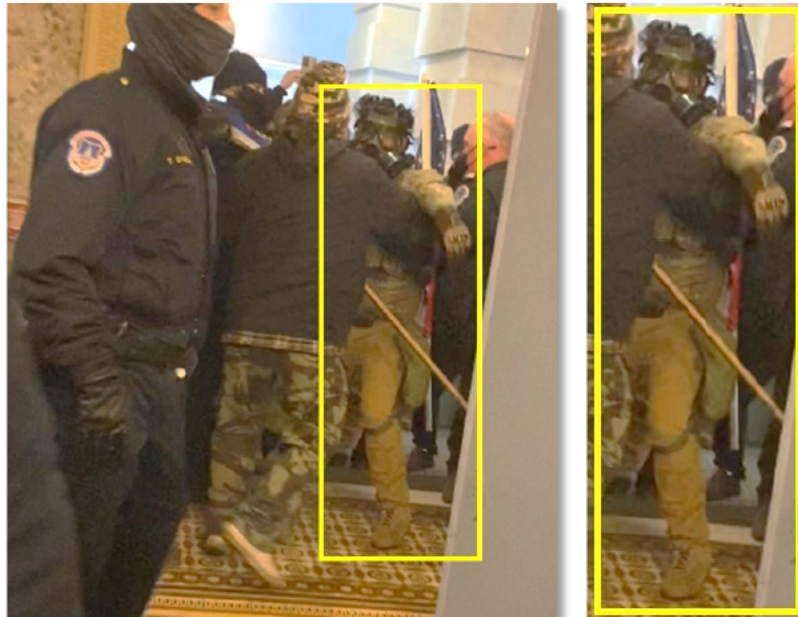


Image 19, 19a

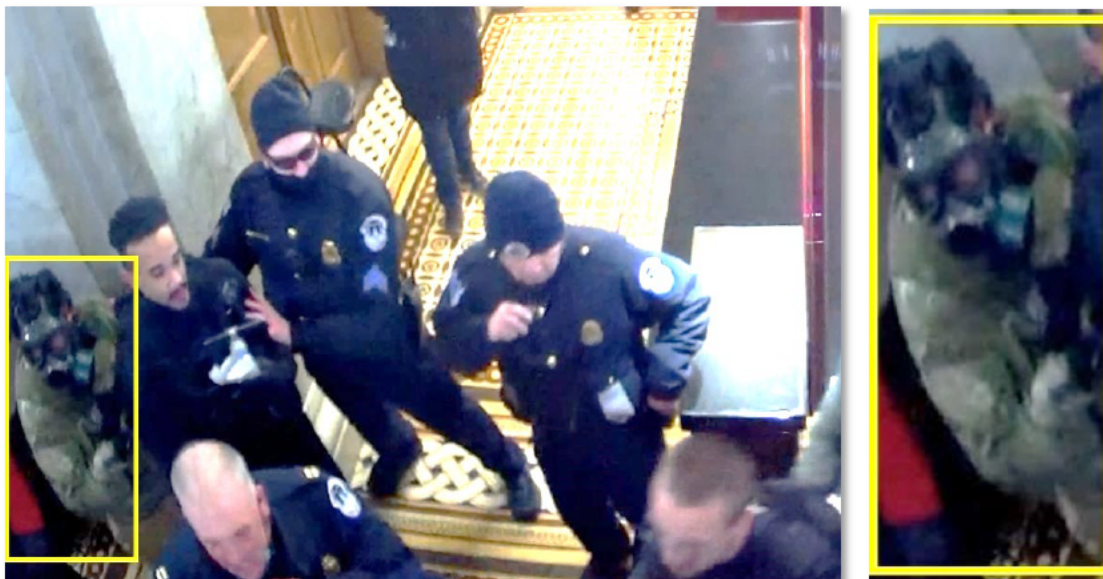


Image 20, 20a

E. Reentry Via the East Rotunda Door

HOFER was next seen at the East Rotunda Door, a second-floor door that is in proximity to and just south of the Senate Carriage Door.⁵ Rioters initially breached the East Rotunda Door at approximately 2:24 p.m., shattering the windows of the East Rotunda Door in the process. USCP resecured the East Rotunda Door following its initial breach at approximately 2:28 p.m. At approximately 2:30 p.m., HOFER and other rioters attempted to breach the East Rotunda Door. A small group of USCP officers stood between those rioters and entry into the Capitol. Those officers were repeatedly assaulted by the rioters.

A publicly available video⁶ shows how at approximately 2:35 p.m., rioters began attacking the officers trapped in the alcove of the East Rotunda Door by grabbing them, pushing them, striking them with flagpoles, and by robbing them of their riot shields and protective equipment. The officers had nowhere to go. Their backs were to the now-secured East Rotunda Doors, which can only be opened from the inside.

As seen in the images below, HOFER reached over the heads of other rioters and attempted to take a riot shield away from one of the officers, but his grip slipped. *See Image 21.* HOFER then placed one hand on the frame of the alcove and grabbed the handle of the officer's riot shield with the other. With some assistance from other rioters, HOFER then ripped the riot shield out of the officer's grip. *See Image 22.* With the officer now vulnerable, another rioter sprayed an orange-colored chemical irritant into the officer's face and eyes. *See Image 23.* HOFER passed the shield back and it disappeared into the crowd of rioters.

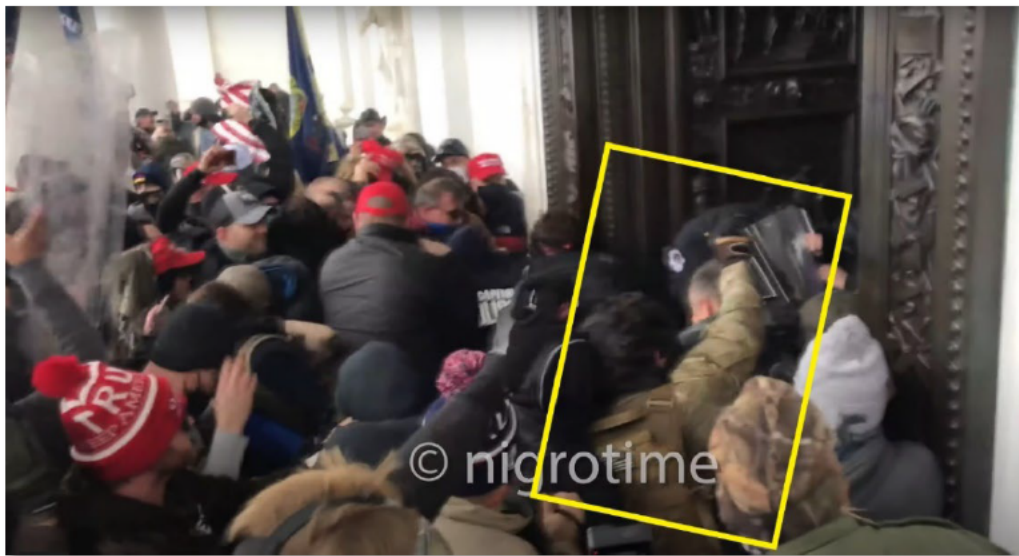


Image 21

⁵ Much like the Senate Wing Doors referenced above, the East Rotunda Door is not an authorized entrance of the Capitol for anyone. It does not have the screening equipment necessary to allow employees, officials, or visitors to use the East Rotunda Door as an entrance.

⁶ <https://www.youtube.com/watch?v=MVullQb-Lec>



Image 22



Image 23

At approximately 2:37 p.m., the rioters from inside the building succeeded in pushing the doors open for a second time, and the mass of rioters surged forward. The force of the rioters created a bottleneck in which officers and rioters alike were crushed. An open-source video obtained from Parler shows HOFER pushing directly against a USCP Officer, putting his hand on the officer's back and head. *See* Image 24. Image 25 is that same screenshot, but with HOFER's arms and hands shaded yellow and the police officer's body and head shaded blue.



Image 24



Image 25

At approximately 2:39 p.m., HOFER succeeded by pushing his way past the police, and into the Capitol building. *See Image 26.*

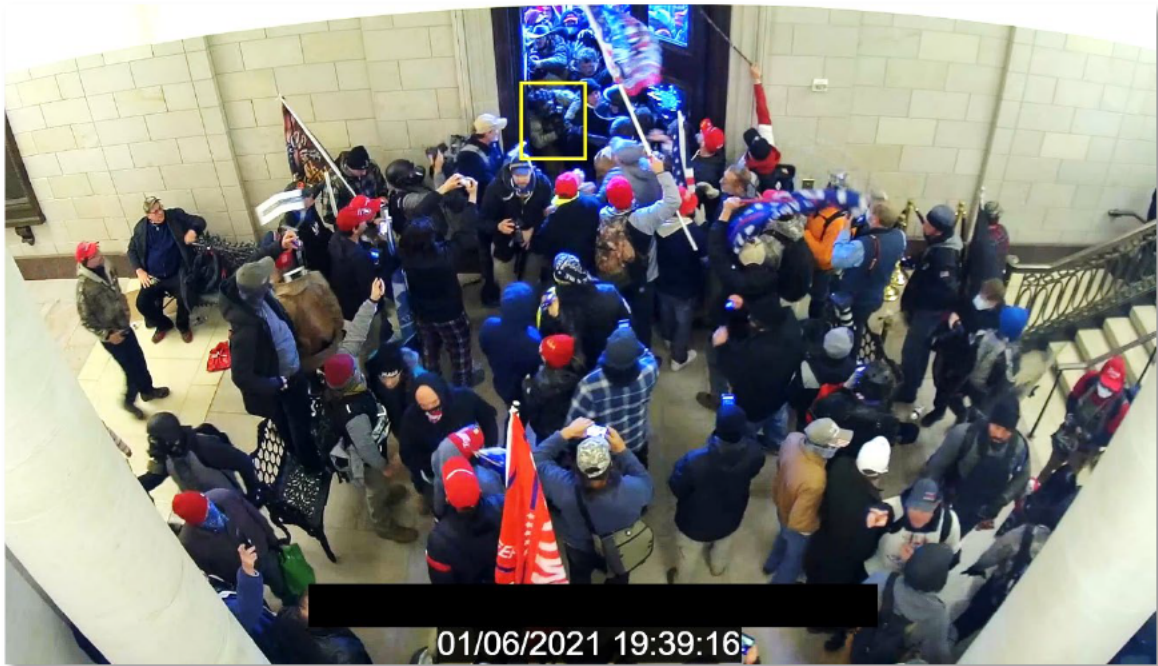


Image 26



Image 26a

Immediately upon his entry, HOFER grabbed onto a USCP officer that was attempting to keep the rioters out of the Capitol and pulled him away from his colleagues and into the building. *See Image 27* (USCP officer outlined in red). HOFER and other rioters then surrounded the lone officer and put their arms out, preventing that officer from being able to provide further assistance to his fellow officers. *See Image 28*.



Image 27

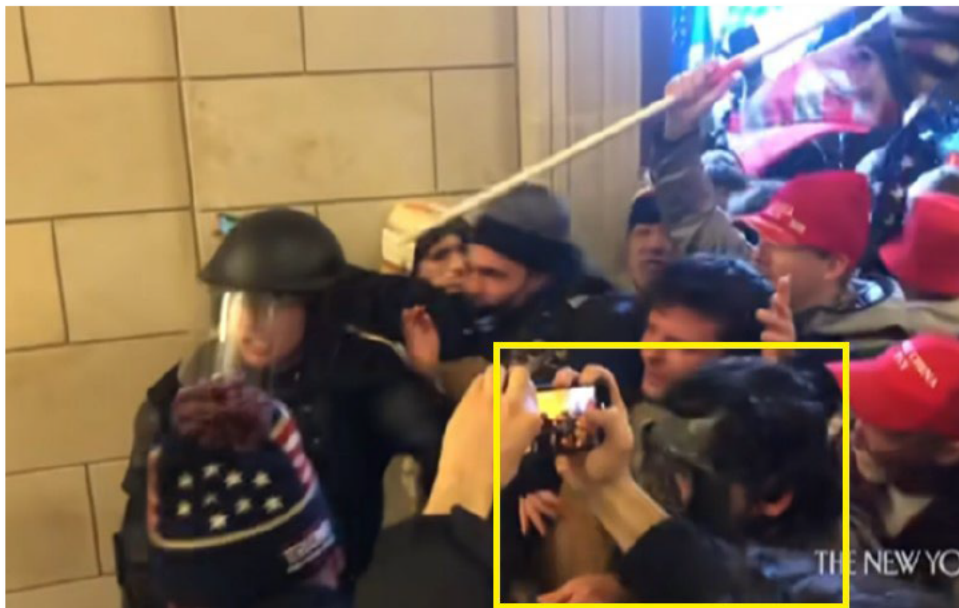


Image 28

F. Grand Rotunda, House Main Door, and Exit via the East Rotunda Door

Less than a minute later, at approximately 2:40 p.m., HOFER entered the Capitol's Grand Rotunda. While there, he held up his cell phone in a manner consistent with taking videos and photos of the area. *See Image 29.*



Image 29, 29a

At approximately 2:43 p.m., HOFER made his way through Statuary Hall to the antechamber of the House Chamber. *See Image 30.* Near the antechamber, HOFER watched as other rioters tried to breach the House main door. *See Images 31 and 32.*

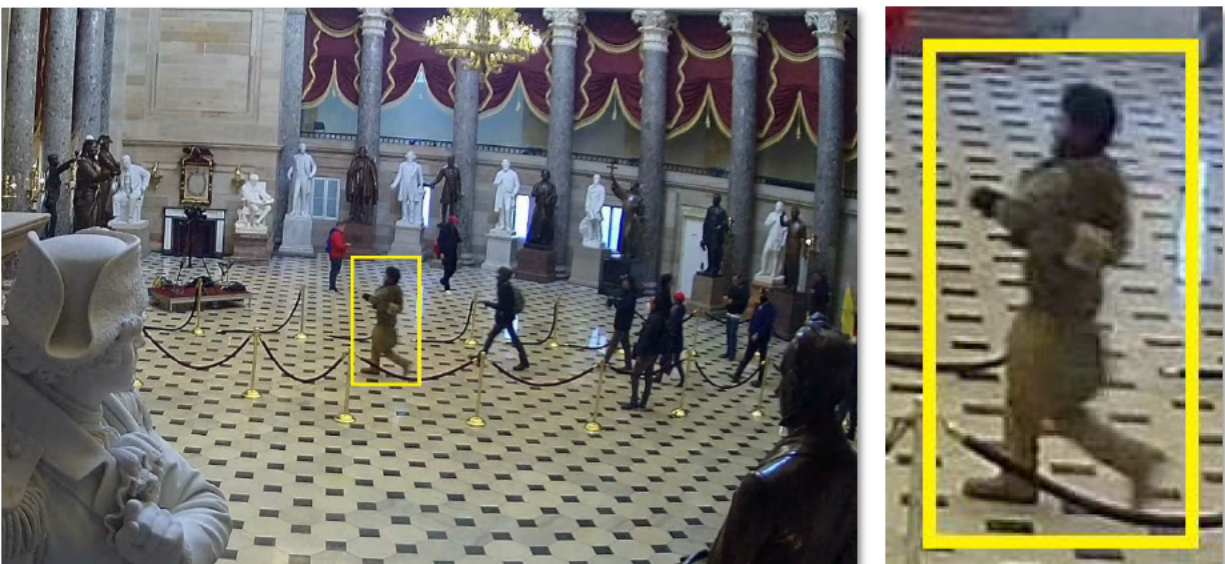


Image 30, 30a



Image 31



Image 32

At approximately 2:55 p.m., HOFER made his way back to the Rotunda and made a phone call. At approximately 3:02 p.m., a large contingent of police officers arrived to clear the rioters out of the Rotunda and out of the Capitol. HOFER placed himself at the front of the rioters and near the police line. As the officers worked to force the rioters out of the Rotunda, out of the East Rotunda Door, and out of the building, instead of moving, HOFER put his hands and arms up and did not move. *See* Images 33 and 34. For a period of approximately ten minutes, HOFER maintained his position at or near the police line with his mask on. Though he did not voluntarily leave the Capitol and generally resisted backwards movement, your affiant is presently unaware of any evidence showing that HOFER initiated physical contact with officers in the Rotunda.



Image 33



Image 34

At approximately 3:11 p.m., officers forced HOFER out of the Rotunda. Approximately six minutes later, at 3:17 p.m., HOFER exited the building through the East Rotunda Door. In total, he spent approximately 38 minutes inside the Capitol.

G. The Lower West Terrace and the Tunnel

Sometime later, HOFER returned to the Upper West Terrace and went down a flight of stairs to get to the Lower West Terrace. Open-source video shows HOFER on the Lower West Terrace near one of the Capitol's exterior doors, known as "the Tunnel," sometime at or before 3:55 p.m. At this time, police officers had lined the inside of the Tunnel while rioters pushed against and attacked the officers. The rioters appeared to use stolen police shields, spray chemical irritants, throw projectiles at the officers, and coordinate group pushes against the police line.

HOFER is seen near the Tunnel as other rioters passed a large orange ladder into the Tunnel and pushed it into the heads of the officers. *See Image 35.* HOFER assisted rioters as they launched a giant flagpole at the officers in the Tunnel. *See Image 36.*



Image 35

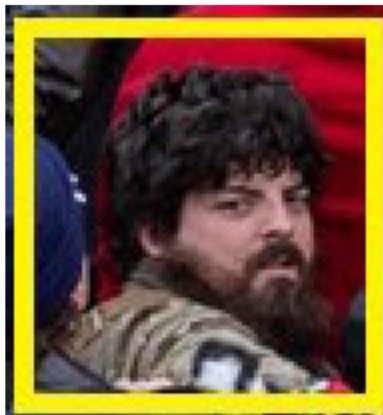


Image 35a



Image 36

USCP CCV shows HOFER and other rioters at the mouth of the Tunnel at approximately 4:13 p.m. Along with those rioters, HOFER pushed into the Tunnel and forced the officers back. A short time later, HOFER is seen deeper in the Tunnel. For approximately seven minutes, HOFER continued to push, at one point turning around and pushing with his back towards the police line. *See Image 37.* At approximately 4:20 p.m., MPD and USCP officers, used chemical irritant, and pushed the rioters out to regain control of the tunnel. *See Image 38.*



Image 37



Image 38

Probable Cause to Issue an Arrest Warrant for NICHOLAS HOFER

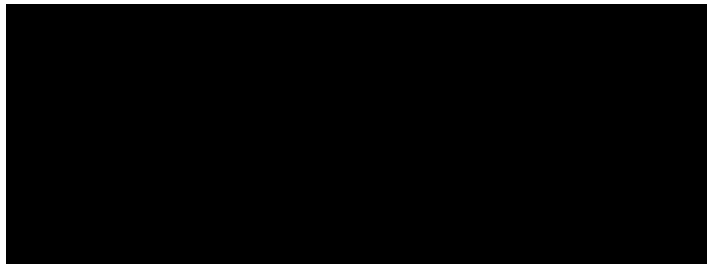
Your affiant submits that there is probable cause to believe that Nicholas Scott Ingram Hofer violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the 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 Nicholas Scott Ingram Hofer 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 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 Nicholas Scott Ingram Hofer 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; 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 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 Nicholas Scott Ingram Hofer violated 40 U.S.C. §§ 5104(e)(2)(D) and (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; and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 20th day of August 2024.

HONORABLE G. MICHAEL HARVEY
U.S. Magistrate Judge