

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Los Angeles Field Office of the Federal Bureau of Investigation and have been so employed since March 2017. In my duties as a Special Agent, I investigate violations of the laws of the United States, specifically investigations of domestic and international terrorism. As a Special Agent, I have received both formal and informal training regarding criminal and terrorism 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 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 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 James Flint-Smith (“FLINT-SMITH”)

On August 11, 2021, agents with the FBI conducted an interview of another participant in the January 6 riot, Michael Aaron Carico (“CARICO”) upon his arrest.¹ CARICO identified FLINT-SMITH and INDIVIDUAL-1 as two friends he was with on January 6, 2021. Among other things, CARICO claimed he was present to take photographs, that he got mistakenly caught up and went in the building, and that it looked like people were letting them in.

On September 8, 2021, agents with the FBI conducted a voluntary interview of CARICO. CARICO again identified FLINT-SMITH as one of the individuals he met up with in Washington, DC on January 6, 2021.² Specifically, CARICO stated that after he told INDIVIDUAL-1 about his plans to travel to D.C., he met up with FLINT-SMITH and INDIVIDUAL-1 in D.C. CARICO knew FLINT-SMITH through INDIVIDUAL-1. On January 5, FLINT-SMITH, CARICO, and INDIVIDUAL-1 stayed at a hotel paid for by INDIVIDUAL-1. On the morning of January 6, CARICO, FLINT-SMITH, and INDIVIDUAL-1 went to the Lincoln Memorial, then to the vicinity of the Washington Monument to hear then-President Trump’s speech. After the speech, CARICO, FLINT-SMITH, and INDIVIDUAL-1 followed the crowd towards the Capitol building. The group walked up the steps of the building to the left side of the inauguration scaffolding; CARICO and FLINT-SMITH followed the crowd into the Building. Once inside, CARICO and FLINT-SMITH followed the crowd into the Capitol Rotunda and remained inside for approximately 30 to 40 minutes before police officers told the crowd to leave. CARICO and FLINT-SMITH then followed the crowd outside and, according to CARICO, CARICO climbed the media tower. FLINT-SMITH flew out of D.C. separately on January 7.

The FBI took steps to corroborate CARICO’s identification of FLINT-SMITH as the individual with him inside the Capitol Building on January 6, 2021. Specifically, according to records obtained through a search-warrant served on Google, a mobile device with Google device ID 1606682492 and associated with email address XXXXXXXXXXXXXXXXXXXX@gmail.com (“Email Account-1”), and another mobile device with Google device ID -2006423721 associated email address XXXXXXXXXXXXXXXXXXXX12@gmail.com (“Email Account-2”), were both present at the U.S. Capitol on January 6, 2021. The recovery email for both devices is a third email address, XXXXX_XX@msn.com (“Email Account-3”). 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. In this case, Google location data shows that the devices with Google device IDs 1606682492 and -2006423721 were within an area consistent with the interior of the U.S. Capitol building at approximately 3:33 p.m. Google subscriber

¹ Carico pleaded guilty and was sentenced on one count of violating 40 U.S.C. § 5104(e)(2)(G). *United States v. Michael Aaron Carico*, 21-cr-696 (TJK) (D.D.C.).

² Both interviews are also described in Gov’t Sent. Mem. at 10–12, ECF No. 33, *United States v. Michael Aaron Carico*, 21-cr-696 (TJK) (D.D.C. March 4, 2022).

information obtained pursuant to legal process shows that both FLINT-SMITH is the subscriber of Email Account-1 and Email Account-2 and telephone number XXX-XXX-8251 (“the 8251 Number”) is the recovery number for both accounts. According to information from AT&T, pursuant to legal process, the 8251 Number has some identifiers associated FLINT-SMITH. Specifically, the billing party listed on the 8251 Number is an individual with FLINT-SMITH’s last name at an address in Missouri previously associated with FLINT-SMITH, and the listed contact home email for the 8251 Number is Email Account-3.

In addition, FBI agents, including your affiant, conducted surveillance of FLINT- SMITH on June 5, 2023 based on information provided to the FBI about a flight that FLINT-SMITH took into Los Angeles. Based on your affiant’s surveillance, I believe that the individual depicted in Images 1 through 24 below is the person that I observed, FLINT-SMITH. In addition, surveilling agents observed FLINT-SMITH travel by automobile from Los Angeles International Airport to a residence previously associated with FLINT-SMITH through California Employment Development Department records.

As a result of (1) CARICO’s identification of one of the individuals he was with on January 6 as FLINT-SMITH; (2) Google and AT&T returns placing devices associated with FLINT-SMITH inside the Capitol Building on January 6; and (3) my own surveillance of FLINT-SMITH, I believe that the person depicted in the following pictures and videos from January 6, 2021 is in fact, JAMES FLINT-SMITH.

FLINT-SMITH’s Conduct on January 6, 2021

On January 6, 2021, FLINT-SMITH wore a black jacket, red-white-and-blue gator around his neck, a white baseball hat with the words “MAKE AMERICA GREAT AGAIN” in black lettering, grey gloves, and blue jeans. At times, FLINT-SMITH also wore a tan camouflage face mask over a black respirator and a tan camouflage backpack. A photo depicting FLINT-SMITH and CARICO on Capitol grounds, obtained from a court-ordered search warrant of CARICO’s phone, is included below as Image 1. A still image from a publicly available video showing FLINT-SMITH inside the Capitol wearing the backpack and mask is included below as Image 2.



Image 1: FLINT-SMITH (circled yellow, left) and CARICO (circled orange, right), taken from the top of the Media Tower on restricted Capitol grounds on January 6, 2021



Image 2: FLINT-SMITH (circled yellow) wearing a tan facemask inside the Capitol (approx. 2:37 of <http://gettyimages.com/detail/1295319080>)

FLINT-SMITH, CARICO, and INDIVIDUAL-1 attended former President Trump’s “Stop the Steal” rally by the Ellipse. FLINT-SMITH, CARICO, and INDIVIDUAL-1 approached the Capitol from the West. As they walked over, at approximately 1:00 p.m., a video obtained from CARICO’s phone depicts FLINT-SMITH filming with his phone, stating, “This is America right here, this is America.” A still from the video from CARICO’s phone is included as Image 3 below.



Image 3: FLINT-SMITH (wearing the white baseball cap) records on his phone

As they approached Capitol grounds, CARICO filmed the barricades, signage, and the gathering crowd on Capitol grounds. In a video CARICO took at approximately 1:27 p.m., obtained by court-ordered search warrant, CARICO and FLINT-SMITH commented on the gathering crowd. FLINT-SMITH stated, “This is why we came, this is why we came right here. To send a message, to these guys [gesturing towards the Capitol building]. America First.” CARICO replied, “F*ck Congress.” See Image 4.

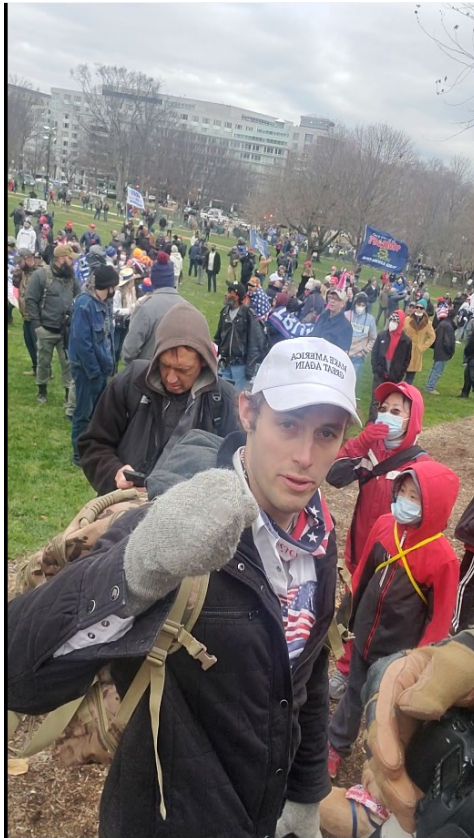


Image 4: FLINT-SMITH tells the camera that he came to send a message to Congress

As depicted in a publicly available video, FLINT-SMITH climbed a bike rack used as a ladder onto the ledge next to the Northwest scaffolding. See Image 5. Both FLINT-SMITH and CARICO then climbed the stairs to the Upper West Terrace.



Image 5: FLINT-SMITH (circled) climbs a bike rack as a ladder up to the ledge (available at <https://www.youtube.com/watch?v=L5EfNYprOuo&t=422s>)



Image 6: FLINT-SMITH (circled yellow) and CARICO (circled orange) climb the Northwest Stairs (available at approx. 12:06 of <https://archive.org/details/2Nyw59bgjtrLh3edi>)

On the Upper West Terrace, FLINT-SMITH—now wearing a face mask and respirator—and CARICO proceeded to the Senate Wing Door, which had been breached by rioters minutes

earlier, as reflected in Image 7 below, a still image from a publicly available video. At that time, the crowd was loudly chanting “Our House” and officers were visible standing guard at the entrance to the Senate Parliamentarian Door nearby.



Image 7: FLINT-SMITH (circled yellow) and CARICO (circled orange) proceed to the Senate Wing Door (available at [https://www.youtube.com/watch?v= E-6bRNfx2c&t=1321s](https://www.youtube.com/watch?v=E-6bRNfx2c&t=1321s))

At 2:21 p.m.—roughly eight minutes after the initial breach—FLINT-SMITH entered the Capitol through the Senate Wing Door. FLINT-SMITH, whose face was then covered by the gator, entered slightly after CARICO. Image 8 below is a still image from Capitol surveillance footage.



Image 8: FLINT-SMITH (circled yellow) enters the Capitol, slightly behind CARICO (circled orange)

FLINT-SMITH and CAIRCO then proceeded to the Crypt, arriving at 2:22 p.m. See Image 9 below. At that time, a line of U.S. Capitol Police officers stood guard to prevent the growing mob from breaching deeper into the Building. FLINT-SMITH, with CARICO, walked to the South side of the Crypt, right up against the line of officers.



Image 9: CARICO (left, circled orange) and FLINT-SMITH (right, circled yellow) join the crowd in the Crypt at 2:22 p.m.



Image 10: FLINT-SMITH (circled yellow), identifiable by his white hat, walks to the front of the crowd against the police line (red arrow) on the South side of the Crypt at approximately 2:24 p.m.

At approximately 2:25 p.m., the mob overran the line of officers defending the Crypt. FLINT-SMITH and CARICO were at the front of the crowd charging forward. See Images 11 and 12.



Image 11: FLINT-SMITH (circled yellow) and CARICO (circled orange) surge forward with the mob



Image 12: FLINT-SMITH (circled yellow) and CARICO (circled orange) charge forward at the front of the crowd as U.S. Capitol Police officers fall back

After several minutes of scuffles between the law enforcement and rioters, rioters pushed back police near the Memorial Door. At approximately 2:33 p.m., FLINT-SMITH and CARICO proceeded from the Crypt towards the Memorial Door, then ascended a set of stairs to the Rotunda. See Image 13. As depicted on an open source video, the crowd was yelling, "Nancy." I believe that this is in reference to then-Speaker of the House, Nancy Pelosi. See Image 14.

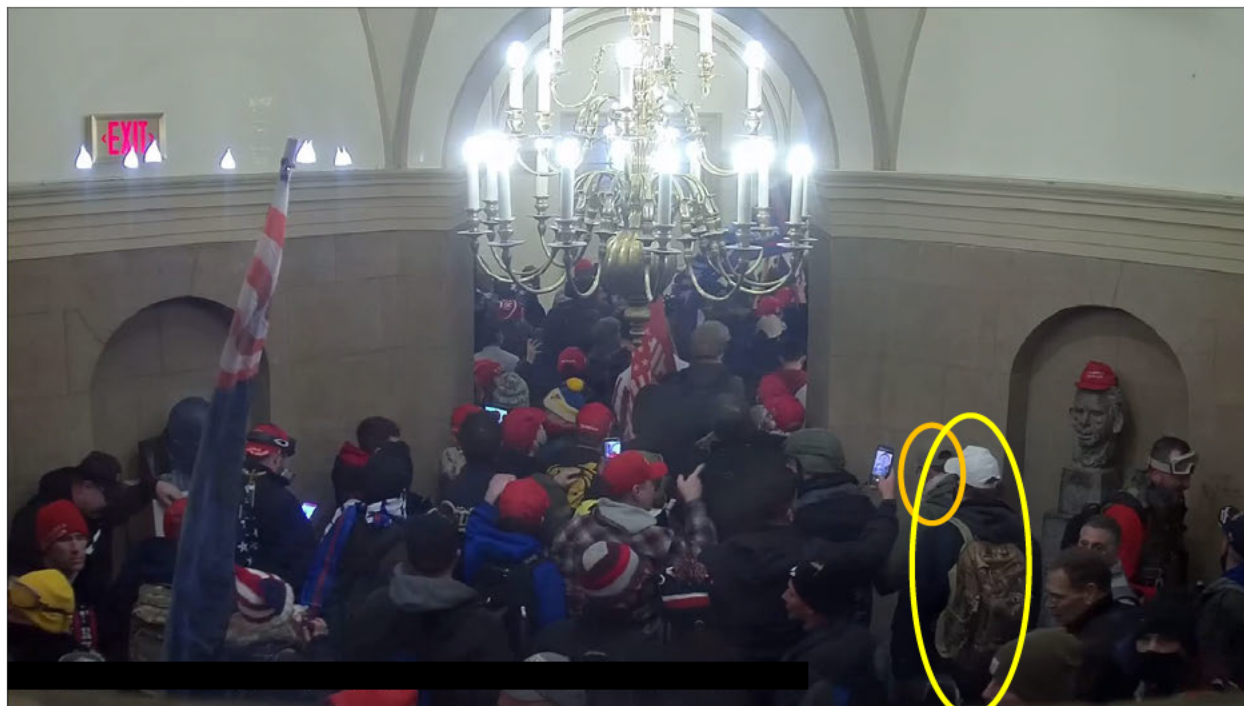


Image 13: CARICO (orange, left) and FLINT-SMITH (yellow, right) proceed towards the Memorial Doors at approximately 2:33 p.m.

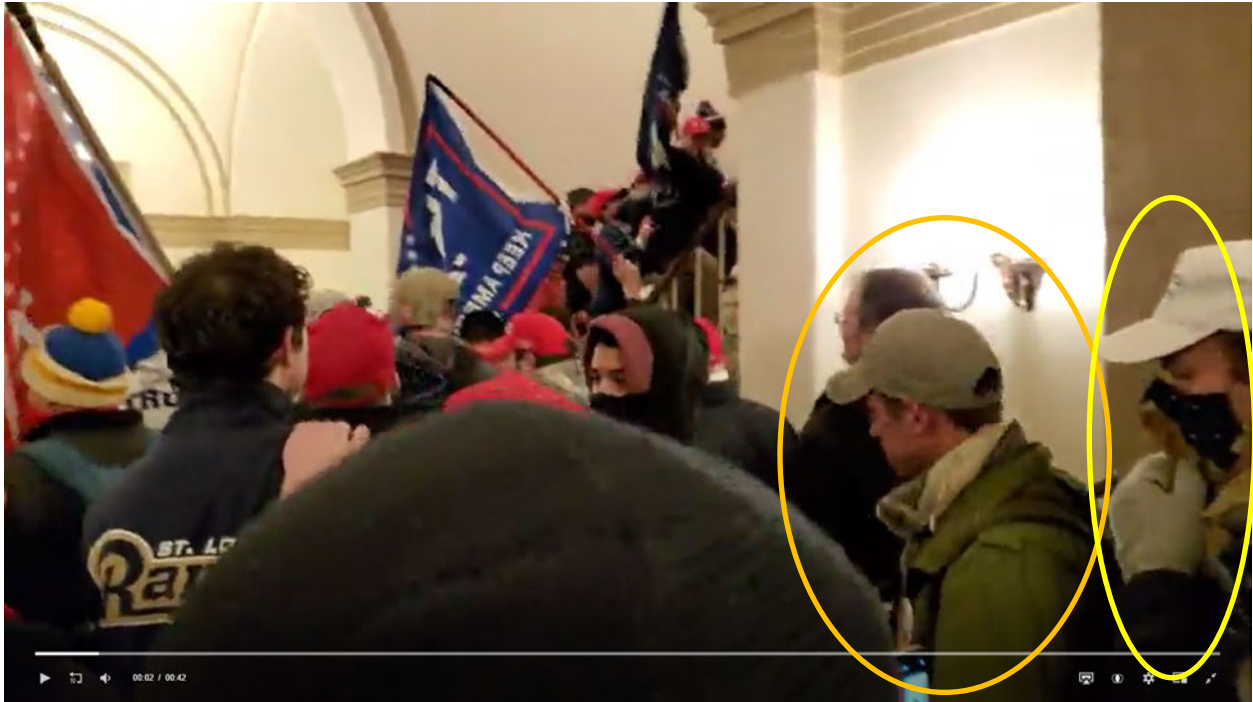


Image 14: CARICO (orange, left) and FLINT-SMITH (yellow, right) take the stairs leading to the Rotunda as the crowd yells “Nancy” (<https://archive.org/details/ATNdQhE8YarRZJ4SF>)

FLINT-SMITH and CARICO arrived in the Rotunda at approximately 2:37 p.m., arriving from the south side. See Image 15 below. They joined a prayer huddle with other rioters, as depicted in Image 16 from open source video below. See Image 16.



Image 15: FLINT-SMITH (circled yellow) and CARICO (circled orange) enter the Rotunda at 2:37 p.m.

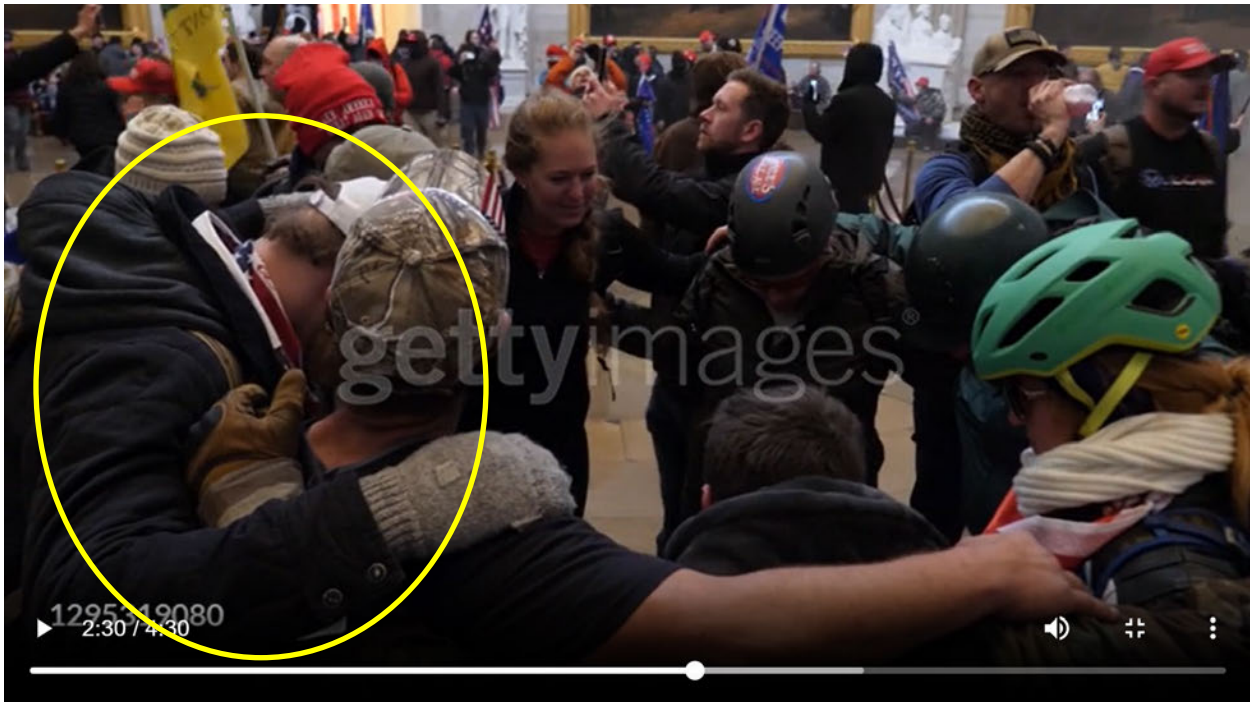


Image 16: FLINT-SMITH (circled) joins a prayer huddle in the Rotunda
(<https://www.gettyimages.com/detail/video/donald-trump-supporters-storm-the-united-states-capitol-news-footage/1295319080>)

Immediately after the huddle, FLINT-SMITH and CARICO proceeded north, in the direction of the Old Senate Chamber and the U.S. Senate itself. *See Image 17.*



Image 17: CARICO (circled orange) and FLINT-SMITH (circled yellow) proceed North to the U.S. Senate at approximately 2:40 p.m.

FLINT-SMITH and CARICO saw the mob overrun police officers defending the hallway by the Old Senate Chamber, as depicted in an open source video, a still image from which is included below as Image 18.



Image 18: FLINT-SMITH watches the mob storm the hallway outside the Old Senate Chamber (<https://www.newsflare.com/video/402653/mob-incited-by-trump-storms-interior-of-capitol-including-offices-of-mcconnell-and-pelosi-in-terrifying-act>)

By approximately 2:53 p.m., FLINT-SMITH was present in the Rotunda again. CARICO joined about a minute later, and they walked together around the Rotunda for several minutes, with CARICO taking photographs. See Image 19 below. At approximately 3:00 p.m., CARICO and FLINT-SMITH headed towards the East Rotunda doors. Both then turned around and listened to a speech given by another rioter, Simone Gold, as depicted in an open source video, a still image from which is included as Image 20 below.



Image 19: CARICO (circled orange) and FLINT-SMITH (circled yellow) in the Rotunda at approximately 2:54 p.m.



Image 20: At approximately 3:00 p.m., FLINT-SMITH (circled yellow) and CARICO (circled orange) listen to another rioter's speech in the Rotunda (<https://archive.org/details/capital-hill-occupy-ovfr-18/Capital+Hill+Occupy+-ovfr18.mp4>)

FLINT-SMITH and CARICO remained near the threshold to the Rotunda Door interior for several more minutes. At 3:12 p.m., FLINT-SMITH and CARICO departed the Capitol via the Rotunda Door, as depicted in Images 21 and 22 below.

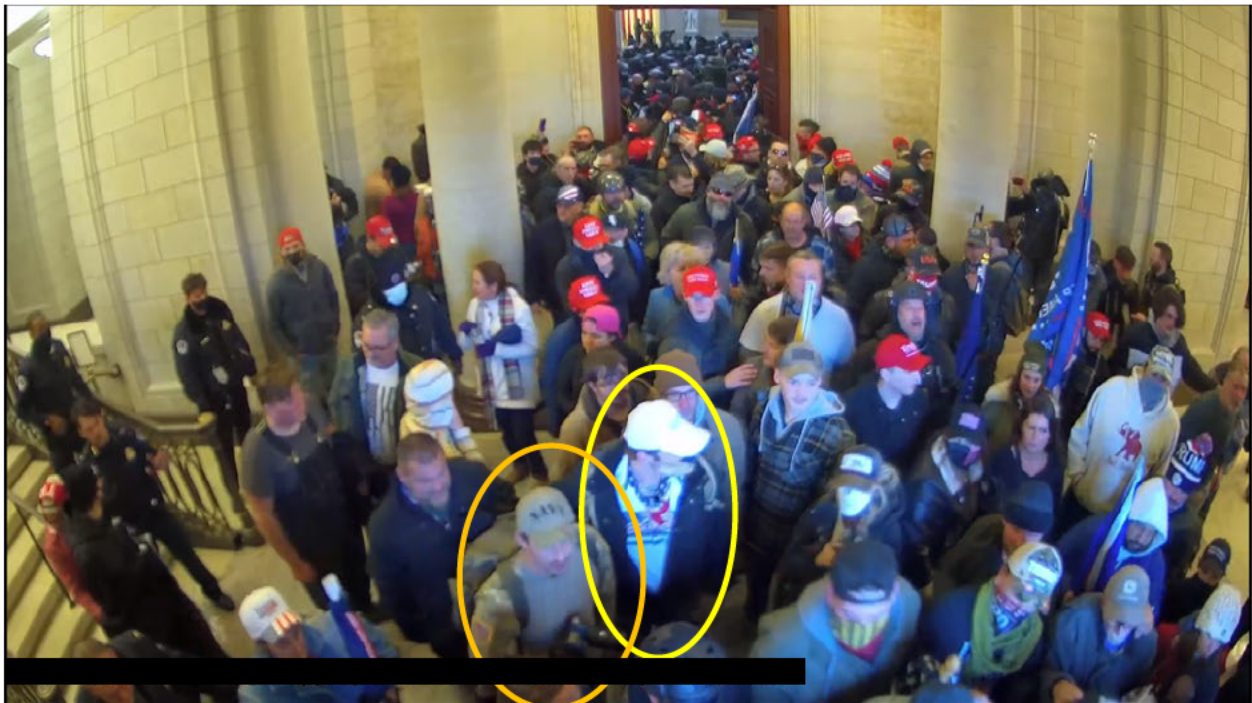


Image 21: CARICO (circled orange) and FLINT-SMITH (circled yellow) leave the Capitol through the Rotunda Door at approximately 3:12 p.m.

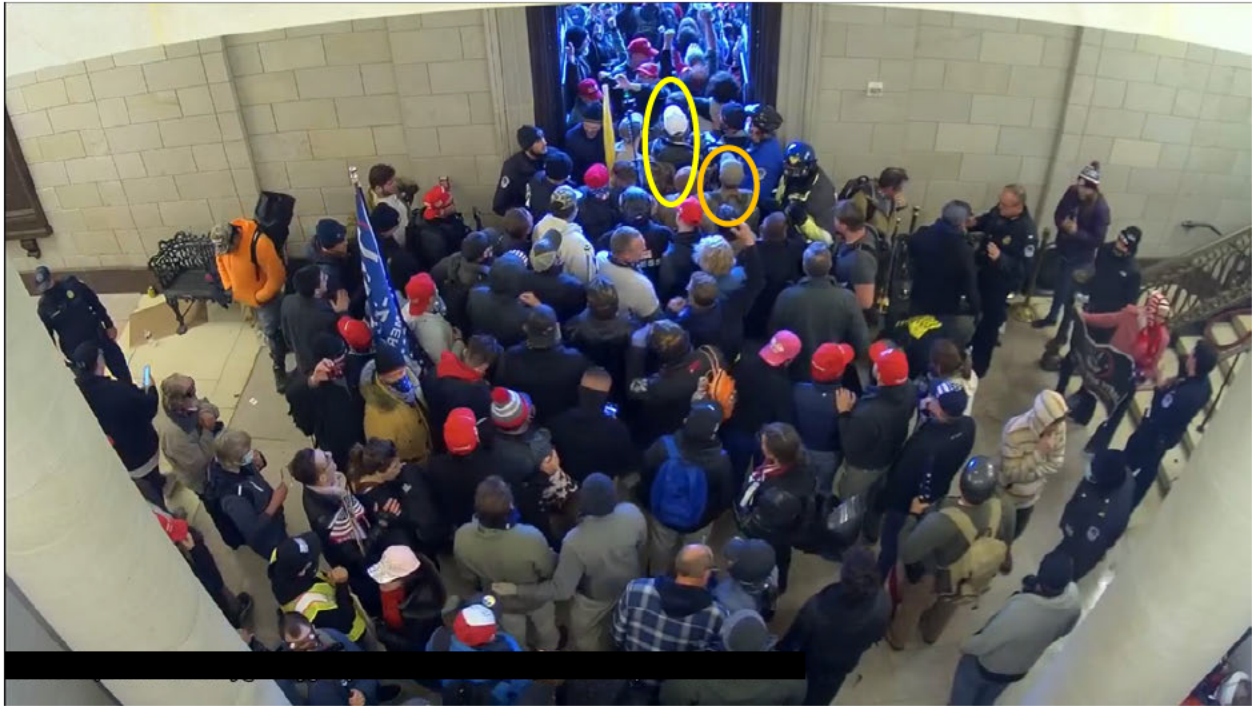


Image 22: CARICO (circled orange) and FLINT-SMITH (circled yellow) leave the Capitol through the Rotunda Door at approximately 3:12 p.m.

After he exited, FLINT-SMITH pulled down his gator, raised his fist, and joined the mob's chants of "USA" in celebration, as depicted in Image 23 below from a publicly available video.



Image 23: FLINT-SMITH (circled) raises his fist and chants "USA!"
(<https://ia904502.us.archive.org/9/items/wpWfpLcDKnk9CJraS/wpWfpLcDKnk9CJraS.mpeg4>)

CARICO and FLINT-SMITH returned to the West side of the Capitol Building. At approximately 4:27 p.m., CARICO and FLINT-SMITH climbed the Media Tower on the West Plaza that was set up for the upcoming inauguration. A still image from a video obtained from a court-ordered search warrant of CARICO's Google account depicting FLINT-SMITH climbing up the media tower is included below as Image 24. In the media tower, CARICO took the photo of himself and FLINT-SMITH previously included as Image 1. In another video CARICO took from the top of the media tower, he says to the camera, "Hey Nancy, go f*ck yourself!" FLINT-SMITH was next to him at this time.

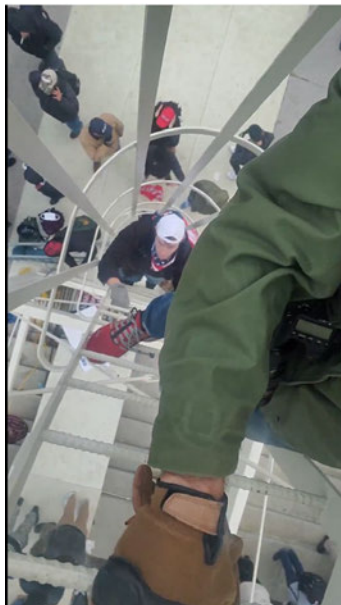


Image 24: FLINT-SMITH climbs the media tower at approximately 4:27 p.m.

Based on the foregoing, your affiant submits that there is probable cause to believe that FLINT-SMITH 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; 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; or attempts or conspires 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 FLINT-SMITH violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes 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 (G) parade, demonstrate, or picket in 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 26th day of August 2024.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE