

## STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed since January 2005. I am currently assigned to the Joint Terrorism Task Force (JTTF) in the FBI Baltimore Division. I am currently tasked, among other things, with investigating criminal activity in and around the Capitol Building grounds on January 6, 2021. As an FBI Special Agent, I am authorized by law or by a government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about.”

### *Background: Events at the U.S. Capitol on January 6, 2021*

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.

### ***Facts Specific to Brandon Keith Heffner***

Based upon review of public video, police body worn camera (“BWC”) footage, witness interviews and other investigation, there is probable cause to believe that, on January 6, 2021, BRANDON KEITH HEFFNER (“HEFFNER”) committed violations of 18 U.S.C. § 231(a); 18 U.S.C. §§ 1752(a)(1), 1752(a)(2), and 40 U.S.C. § 5104(e)(2)(D).

According to records obtained by the FBI through a search warrant served on Google, a device with ID 695508166 was present on the restricted grounds in the area of the U.S. Capitol’s West Terrace on January 6, 2021. The device was named “Brandon Heffner,” the telephone number was: XXX-XXX-6978, and two email addresses associated with it. Both addresses were spelling variations of the name Brandon Heffner. The FBI obtained a copy of HEFFNER’s Maryland Driver’s License photograph and assessed that HEFFNER bore some resemblance to an unidentified individual depicted in a photograph related to an investigation into an Assault on a Federal Officer on January 6, 2021.

The FBI interviewed HEFFNER in a public parking lot on November 30, 2021 after contacting him on his cell phone: XXX-XXX-6978. During the interview, HEFFNER admitted to being a former member of The Proud Boys<sup>1</sup> and to being at the Capitol on January 6, 2021, but he denied going inside the building and denied being the unidentified individual depicted in the photograph described in the preceding paragraph. HEFFNER explained that his beard was much shorter than that of the person depicted in the photo on January 6, 2021 and HEFFNER provided the FBI with a picture of himself purportedly taken on January 2, 2021. See *Figure 1*.

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<sup>1</sup> The Proud Boys describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.” Proud Boys members routinely attend rallies, protests, and other First Amendment-protected events, some of which have resulted in violence involving members of the group. There is an initiation process for new members of the Proud Boys, and members often wear black and yellow polo shirts or other apparel adorned with Proud Boys logos to public events.



*Figure 1:* Photograph provided by BRANDON HEFFNER

Using facial recognition technology, the FBI queried the above photograph provided by HEFFNER through its Capitol investigation digital media holdings and found several potential matches including one of an individual wearing a black helmet and black tactical vest (Figure 3). It is worth noting that the U.S. Park Police (“USPP”) had arrested HEFFNER on December 12, 2020 in Washington D.C. for assaulting a police officer and other charges. At the time of the December 12, 2020 arrest, HEFFNER was also wearing a black tactical vest and black helmet, and had a much longer beard.



*Figure 2:* Screenshot of video from December 12, 2020



*Figure 3:* Screenshot of video from January 6, 2021

The FBI continued to review its Capitol digital media holdings and located additional images and videos depicting HEFFNER’s activities at the Capitol on January 6, 2021, including a video that had been on the social media application Parler. In this video, a group of rioters on the Lower West Terrace of the Capitol physically blocked an exterior door to prevent police from exiting to deploy tear gas. Specifically, one of the individuals (not HEFFNER) blocking the door told another individual: "Spread the word. They're trying to come out and tear gas." Several

seconds later, the same individual yelled "Hold". Also, a repetitive tapping sound can be heard on the video, consistent with someone using an object to tap or strike the door numerous times. A photograph of this incident, from a different vantage point than the above discussed video, was also collected during the course of the FBI's investigation and is included below. Based on the previously reviewed video (discussed immediately above), the repetitive tapping sound is consistent with a rioter repeatedly striking the door with the end of a flagpole. See *Figure 4*.



*Figure 4*

On March 15, 2022, an FBI Confidential Human Source (CHS-1) reported the following information: HEFFNER is a Maryland/District of Columbia Proud Boys chapter leader who traveled to Washington, D.C. on January 6, 2021 and wore a black helmet, black tactical vest, and black backpack. CHS-1 was shown the picture from the FBI's Capitol media holdings of HEFFNER wearing the helmet and tactical vest with his face fully visible (Figure 3) and CHS-1 positively identified HEFFNER as the individual in the photo.<sup>2</sup>

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<sup>2</sup> CHS-1 was not paid for his/her assistance, though FBI has reimbursed CHS-1 for breakfast on one occasion. CHS-1 has interacted on numerous occasions with Heffner, in-person and online, and has provided biological and employment information for Heffner that has been corroborated. Your affiant believes that CHS's information in this matter is reliable because it is corroborated by other sources of information. CHS-1 does not have any criminal convictions. CHS-1 has personal knowledge of the information provided regarding Heffner.



*Figure 5*

In June and July 2023, the FBI reviewed body worn camera (BWC) footage from January 6, 2021 of Metropolitan Police Department (MPD) Officer C.L. This review revealed the following relevant information:

- Ofc. C.L. arrived at the Lower West Terrace (LWT) of the U.S. Capitol Building at 1:37 PM. For approximately the next 30 minutes, Ofc. C.L. was at or near the front of the police line that held back rioters, but she also periodically exhibited signs of exposure to a toxic substance. At 2:07 PM, Ofc. C.L. retreated from the line, coughing, suffering from irritated eyes, and claimed she had been exposed to bear spray. At 2:10 PM, Ofc. C.L. tried to recover from the toxic substance exposure next to an exterior door, but she soon claimed she was struggling to breathe. Another Officer assisted Ofc. C.L. through that exterior door at 2:16 PM, up a set of stairs, and under the inaugural stage where she recovered in front of a fan. Based on a comparison of the videos and screenshots of HEFFNER and others holding the door shut (discussed above) with the below BWC screenshots from Ofc. C.L., Affiant assesses that Ofc. C.L. entered the same door that HEFFNER was holding shut in the previously discussed videos. See *Figure 6*.



*Figure 6*

- At 2:29 PM, Ofc. C.L. left the recovery area under the stage and went back into the stairwell from which she had originally entered. During the next few minutes, Ofc. C.L. instructed another officer who approached the door to be “careful they might be right there.” After that other officer opened the door a crack, Ofc. C.L. exclaimed: “don’t open it don’t open it.” See *Figure 7*.



Figure 7

- Ofc. C.L. and others determined that the exterior door could not be locked. At least one other officer retreated inside to the recovery room while Ofc. C.L. continued to hold the stairway and exterior door that led to the Lower West Terrace. Ofc. C.L. continued to intermittently cough during this time. At 2:33 PM, a rioter opened the exterior door and looked in, but Ofc. C.L. shouted at the rioter to “backup! backup!” while holding her tear gas/OC canister. The rioter closed the door and Ofc. C.L. immediately ran part way up the stairs shouting for backup. It should be noted that the rioter at the bottom of the stairwell appeared to be the same individual observed standing next to HEFFNER while rioters blocked the door from being opened. See Figure 8.



Figure 8



Zoom of Figure 8



Portion of Figure 5

- As Ofc. C.L. returned down the stairwell to continue holding the door, additional rioters peered up at her after having re-opened the door.
- Ofc. C.L. immediately ran down the stairs shouting at the rioters to “backup.” The rioters again closed the door, and Ofc. C.L. continued to hold the door with her tear gas canister up and ready to deploy. A rioter can be heard on the other side of the door shouting something to the effect of: “they’re coming with pepper spray... they’ve got pepper spray right here.” See *Figure 9*.





*Figure 9*

- At 2:34 PM, Ofc. C.L. said to another officer “they might be locking us out... that’s fine.” At 2:35 PM, a repetitive knocking, banging, or tapping sound and voices could be heard from the other side of the door. Ofc. C.L. continued to hold the door until approximately 2:40 PM when she climbed the stairs to the upper west terrace. She briefly assisted officers confront another rioter before retreating inside the Capitol Building to join a larger group who were preparing to defend the building’s interior doorways.

Based on all of the above, your Affiant submits there is probable cause to believe that HEFFNER was among the group of rioters who physically blocked the door to prevent law enforcement officers, including Ofc. C.L., from exiting and using their tear gas/OC to respond to disperse the crowd.

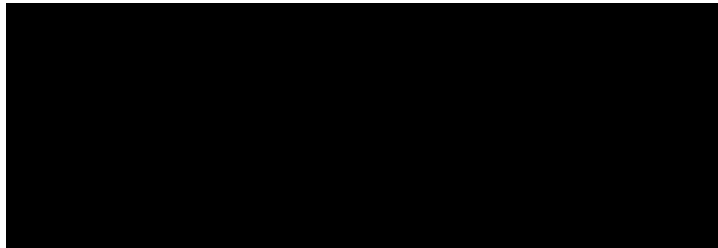
### ***Conclusion***

Based on the foregoing, your affiant submits that there is probable cause to believe that BRANDON KEITH HEFFNER 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 Section 231 of Title 18, 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 Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant also submits that there is probable cause to believe that HEFFNER violated 18 U.S.C. §§ 1752(a)(1) and 1752(a)(2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; 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. 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.

Finally, your affiant submits there is also probable cause to believe that HEFFNER violated 40 U.S.C. § 5104(e)(2)(D), 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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 28<sup>th</sup> day of November , 2023.

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MOXILA A. UPADHYAYA  
U.S. MAGISTRATE JUDGE