

## STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent assigned to Denver Federal Bureau of Investigation (“FBI”) Field Office. I have been a Special Agent with the FBI since 2022. In my duties as a Special Agent, I have been assigned to the Joint Terrorism Task Force of the Federal Bureau of Investigation’s Denver Division, Colorado Springs Resident Agency. I have received specialized training regarding investigative techniques, evidence collection and evidence preservation. I have participated in investigations relating to counterterrorism, specifically domestic terrorism. Through my training and experience, I am familiar with the strategy, tactics, methods, ideology, and practices of domestic terrorism and anti-government extremists. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent with the FBI, 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 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 United States Capitol, which is located at First Street, S.E., 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

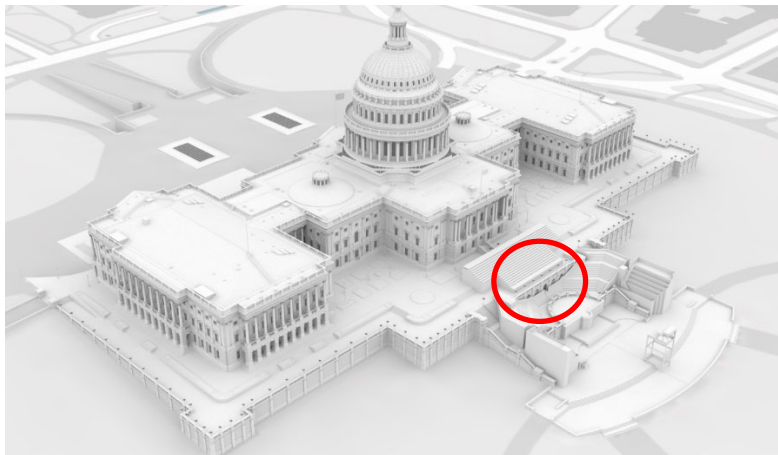
of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

Earlier this day, at approximately 1:00 p.m., a crowd of violent rioters penetrated the restricted perimeter of the U.S. Capitol grounds – which was denoted by bike racks, snow fencing, officers, and “AREA CLOSED” signs – and assembled on the West Front of the U.S. Capitol. USCP formed a line of bike racks extending from the north end of the West Front to the South end to act as a barrier against the crowd. Officers were standing watch behind this line and fending off repeated attempts by the rioters to pull on the bike racks, either with their hands or with ropes and straps.

At approximately 2:00 p.m., some people in the crowd forced their way through, up, and over the barricades and law enforcement. The crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by USCP officers or other authorized security officials. At such time, the certification proceedings were still underway, and the exterior doors and windows of the United States Capitol were locked or otherwise secured. Members of law enforcement attempted to maintain order and keep the crowd from entering the United States Capitol. The crowd of rioters had amassed and collectively pushed and tore down the bike rack barriers, assaulted law enforcement officers, and otherwise violently breached the police line, opening the path to the Capitol building.

At approximately 2:30 p.m., significant sections of the police line on and near the U.S. Capitol’s Lower West Terrace broke as the rioters in the crowd swarmed and overwhelmed police officers. The police line guarding the West front had collapsed. Rioters quickly followed retreating officers up to the inaugural platform on the Lower West Terrace by climbing the stairwell and scaffolding in the Southwest section of the U.S. Capitol grounds.

A group of rioters then converged at a pivotal location – the Lower West Terrace “tunnel.” The “tunnel” is a stairway that had been converted into a narrow entryway due to construction of the temporary inaugural platform on the Lower West Terrace of the Capitol building. At the end of the Lower West Terrace tunnel were two sets of glass double doors, emblazoned with the sign “Members Entrance Only,” which opened directly into the heart of the U.S. Capitol building.



*Photo 1: Diagram of U.S. Capitol building, tunnel in red circle*



*Photo 2: The "tunnel" as seen on CCTV footage prior to rioters entering*



*Photo 3: The "tunnel"*

Rioters amassed outside the tunnel with a variety of tools and weapons. By the time rioters began entering the tunnel, at about 2:40 p.m., a group of officers had formed a line at a second set of glass doors inside the tunnel. Rioters outside the tunnel quickly summoned more rioters to join their efforts in pushing their way through the doors in the tunnel. As the tunnel quickly filled with rioters, it became the point of intense and prolonged violent clashes between rioters and police officers, as rioters attempted to break their way through the tunnel and into the Capitol building.

Rioters began entering the tunnel and attacking the officers. Rioters broke through the first set of glass doors and forced open the second set of doors, eliminating the barriers between police officers and rioters. From approximately 2:42 p.m. onward, groups of rioters consistently rotated into the tunnel, collectively attempting to breach the police line and force their way into the building. The rioters used various weapons, as well as the force of their bodies, in an attempt to overcome the officers and make it inside the Capitol building. Many of the rioters assaulted MPD and USCP officers by hurling objects towards the officers, physically striking officers with batons and other blunt instruments, using strobe lights to distract and disorient the officers, using electrical shock devices, crushing officers between the doors and walls of the confined space, deploying chemical sprays and fire extinguishers against the officers, and collectively joining together to engage in violent heave ho pushes against the officer line.

### **FACTS SPECIFIC TO JONATHAN DAVID GRACE**

Based on a review of publicly available video footage, USCP surveillance footage, and Washington, D.C. Metropolitan Police Department (MPD) Body Worn Camera (BWC) footage of officers who responded to the United States Capitol on January 6, 2021, a white male wearing a brown beanie and black jacket with a brown hood, who has been identified as JONATHAN DAVID GRACE, can be seen repeatedly engaging in the assault against law enforcement officers guarding the United States Capitol inside the “tunnel,” by engaging in heave ho pushes.



*Image 4: GRACE on January 6, 2021*

Before making it to the tunnel, GRACE was on the Lower West Terrace, where other rioters were chanting, “WHOSE HOUSE? OUR HOUSE!” He eventually made it near the tunnel and stood by while other rioters attempted to break out a window of the Capitol building with a metal pole and a flagpole.



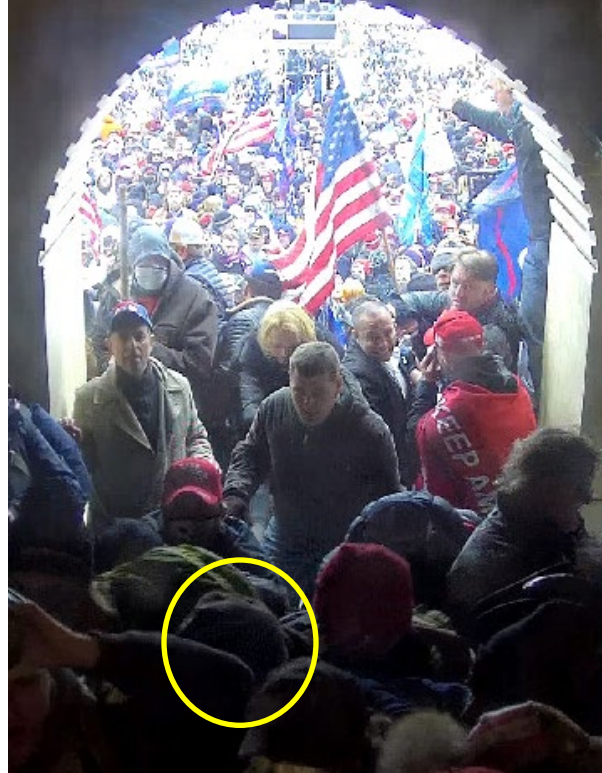
*Image 5: GRACE (yellow circle) standing outside the tunnel while rioters attempted to break through windows of the U.S. Capitol*

Around 3:12 p.m., about 30 minutes after rioters first approached the tunnel, United States Capitol Police (USCP) surveillance video captured GRACE entering the tunnel. At the front of the tunnel, rioters used stolen police shields to push against and hit officers, sprayed chemical irritants, threw projectiles at the line of officers guarding the doors, and coordinated group pushes into the officers while chanting “HEAVE HO!” and yelling “PUSH!” Almost immediately upon entering the tunnel, GRACE joined the collective efforts to push into the police line.



*Images 6 and 7: GRACE (yellow circle) entering the tunnel, left, to join the pack of rioters pushing into officers, right*

GRACE made his way deep into the mob of rioters inside the tunnel, put his head down, and began using his body weight to push in unison with the rioters against police officers.



*Image 8: GRACE (yellow circle) pushing, with other rioters, into police officers*

As GRACE and the rioters thrust their collective body weight into the officers, one officer could be heard screaming in agonizing pain as he was smashed between a shield and a metal door frame.

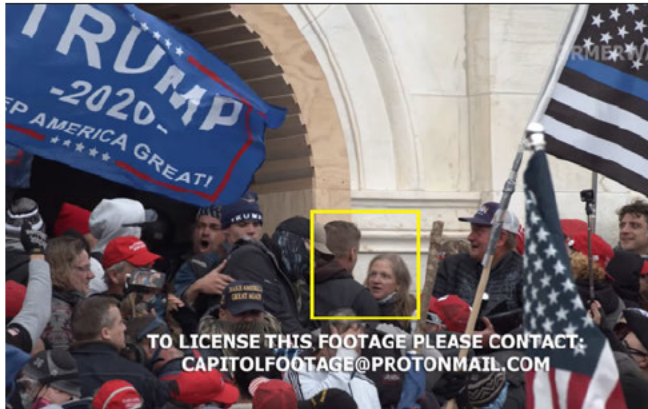


*Image 9: USCP Officer screaming in pain as he was smashed from the rioters' collective pushing*

Other rioters then passed stolen police shields to the front of the pack of rioters inside the tunnel. Rioters were chanting, "SHIELD WALL!" Rioters used those shields to make a shield wall and to assault officers.

After GRACE's prolonged violent pushing with other rioters, officers temporarily gained control in the tunnel. GRACE exited the tunnel but remained nearby on the Lower West Terrace.

GRACE pulled an unknown item out of his pocket and removed his tie string backpack and his brown beanie and handed the items to another rioter, Individual 1, believed to be GRACE's wife, Vanessa Grace, who was standing at the mouth of the tunnel.



*Images 10 and 11: GRACE (yellow square) standing at the mouth of the tunnel and handing items to rioter, believed to be Vanessa Grace*

At about 3:15 p.m., less than one minute after he exited the tunnel, GRACE re-entered the tunnel, this time without wearing his beanie or backpack.



*Image 12: GRACE (yellow circle) re-entering the tunnel*

GRACE made his way to the front of the mob of rioters inside the tunnel and joined rioters pushing against officers. Other rioters quickly joined behind him. Video footage shows GRACE pushing against police officers with other rioters, while the mob of rioters inside the tunnel aggressively yelled commands like, "PUSH!" and "LET'S GO!" and "WHOSE STREETS? OUR STREETS!"



*Images 13 and 14: GRACE (yellow circle) violently pushing into the officer line and chanting*

GRACE and the mob continued to push against the officer line until about 3:18 p.m. At that time, police officers successfully pushed GRACE and other rioters out of the tunnel. GRACE unsuccessfully tried to grasp the wall and remain in the tunnel.



*Images 15 and 16: GRACE (yellow circle) being pushed out of the tunnel, left, and attempting to grasp the wall to maintain his position in the tunnel, right*

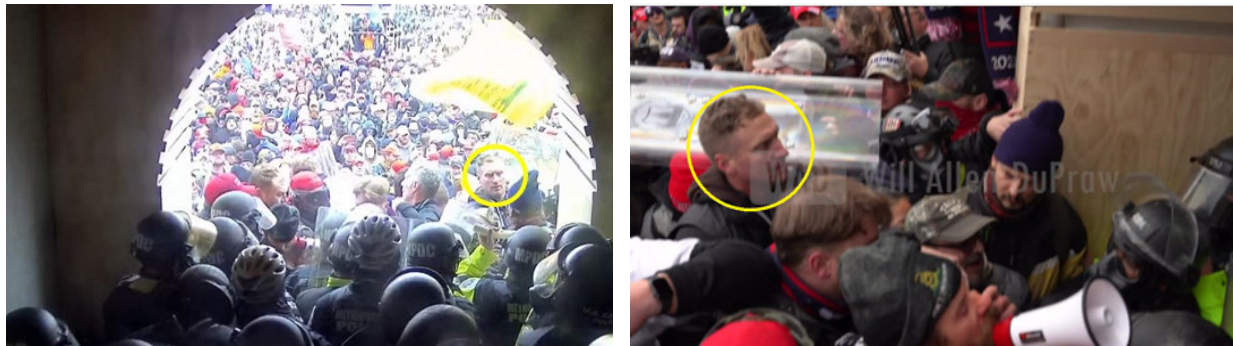
After police officers cleared rioters out of the tunnel, GRACE remained near the mouth of the tunnel as rioters continued to engage in violent acts against police officers. GRACE watched close by as rioters dragged a MPD officer out of the tunnel and brutally attacked him.





*Image 17: GRACE (yellow circle) smiling in crowd of rioters after Officer M.F. was dragged out of the tunnel and assaulted by the crowd*

Police officers continually fought to hold their line at the mouth of the tunnel, but the rioters continued to resist. About 20 minutes after he exited the tunnel, GRACE joined other rioters who began pushing against the police line, yet again attempting to force their way into the Capitol building.



*Images 18 and 19: GRACE (yellow circle) re-approaching the line of officers and joining with other rioters to push the officers in attempt to gain access to the tunnel*

As police officers continued to attempt to fully clear the tunnel of rioters, rioters reciprocated with violence; they threw objects, sprayed chemical irritants, collectively pushed, and violently attacked the officers at the mouth of the tunnel.

GRACE remained at the front of the tunnel, fighting with officers and using his body to maintain ground. He held onto the tunnel archway, turned his back to officers, and resisted the officers' pushing.



*Images 20 & 21: Screenshots of bodyworn camera showing GRACE (yellow circle/square) trying to maintain ground in the tunnel*

A police officer then sprayed chemical irritant at the rioters. Only then did GRACE retreat to the crowd.



*Image 22: GRACE (yellow square) next to defendant Kyle Fitzsimons (red square) moving away from tunnel after he had been sprayed by chemical irritant*

### **IDENTIFICATION OF JONATHAN DAVID GRACE**

In February 2021, FBI's Washington Field Office reviewed open source videos and Capitol Security footage and observed an unidentified individual assaulting law enforcement officers by pushing on a police line within the Lower West Terrace in the U.S. Capitol on January 6, 2021. In February 2021, the FBI posted photos of the then-unidentified individual, described above, as BOLO AFO-233, as seen in Images 23 and 24.



*Image 23*



*Image 24*

The FBI located a known image of GRACE from the Colorado Department of Motor Vehicles which showed GRACE's most current driver's license photograph dated July 2019. The FBI compared the driver's license photograph to the images of BOLO AFO-233 and believed them to be the same individual.

The FBI reviewed GRACE's financial transactions on and around January 6, 2021. These transactions indicate that GRACE traveled from Colorado to the greater Washington, D.C. area and back in the days surrounding January 6, 2021.

Additionally, in February 2023, FBI agents, including the undersigned, personally observed JONATHAN DAVID GRACE. Your affiant can positively identify GRACE in photos and videos from January 6, 2021, based upon that personal identification.

Your affiant submits there is probable cause to believe that JONATHAN DAVID GRACE 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 submits that there is also probable cause to believe that JONATHAN DAVID GRACE violated 18 U.S.C. §§ 1752(a)(1) and (4), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (4) knowingly engages 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 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 JONATHAN DAVID GRACE violated 40 U.S.C. §§ 5104(e)(2)(E) and (F) which makes it a crime to willfully and knowingly (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

Respectfully submitted,

A black rectangular redaction box covering the signature of the Special Agent.

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 17th day of March 2023.

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ZIA M. FARUQUI  
UNITED STATES MAGISTRATE JUDGE