

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Walter J. Messer (AKA: Walt Messer)

DOB: XXXXXX

Defendant(s)

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)
)
)
)
)
)

Case: 1:21-mj-00541

Assigned To : Meriweather, Robin M.

Assign. Date : 07/26/2021

Description: COMPLAINT W/ ARREST WARRANT

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of in the
in the District of Columbia, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,

18 U.S.C. § 1752(a)(2) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,

40 U.S.C. § 5104(e)(2)(D) - Violent Entry and Disorderly Conduct on Capitol Grounds,

40 U.S.C. § 5104(e)(2)(G) - Parade, Demonstrate, or Picket in any of the Capitol Buildings..

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.*Complainant's signature*

Kyle Metz, Task Force Officer

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: 07/26/2021

Jol - Meriweather

2021.07.26

18:03:14 -04'00'

Judge's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

Your affiant, Kyle G. Metz, is a Task Force Officer assigned to FBI Cincinnati's Joint Terrorism Task Force. In my duties as a Task Force Officer, I investigate crimes of International and Domestic Terrorism. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, 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

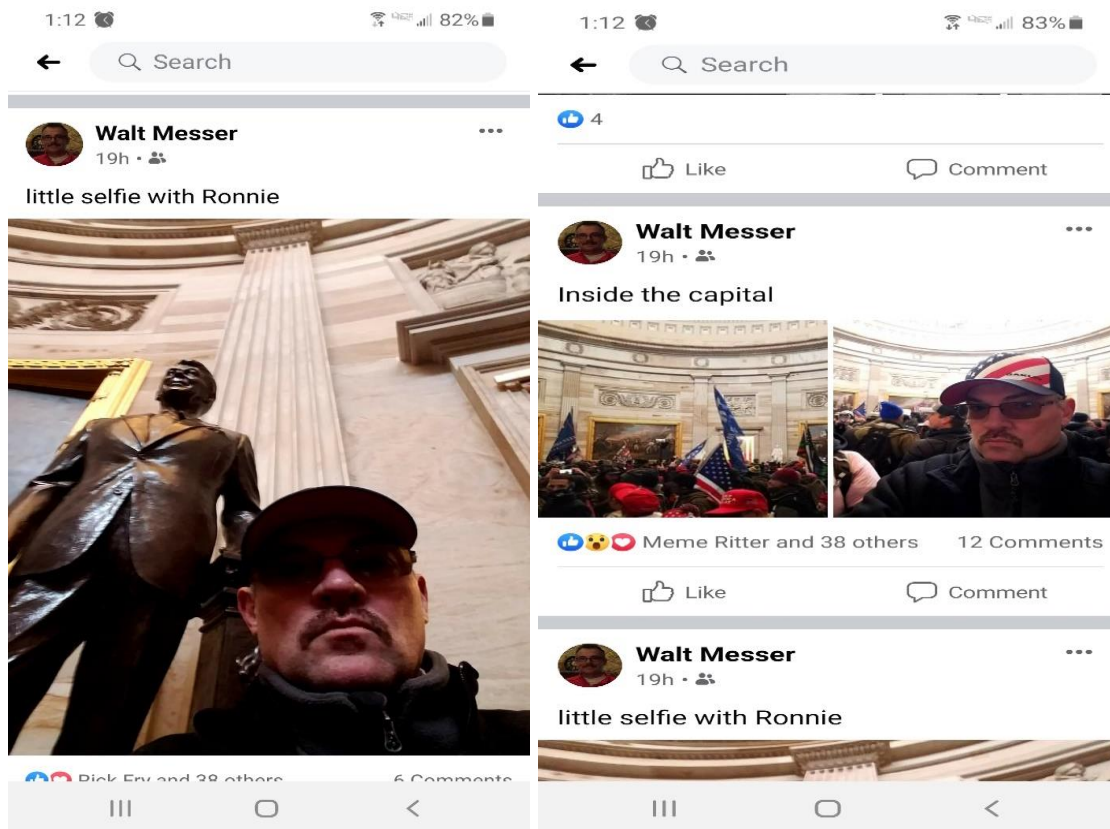
violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On January 9, 2021, an anonymous tip was made to the FBI about three individuals being present at the U.S. Capitol on January 6, 2021 and who posted pictures on their Facebook pages and uploaded YouTube videos of their activities on that day. According to the tipster ("T1"), the individuals posted photos of themselves entering the building and being present inside the building. T1 identified one of the individuals as Walter Messer, age 50, of Piqua, Ohio. The other two individuals were identified as Therese Maurer Borgerding and her husband Richard Borgerding.

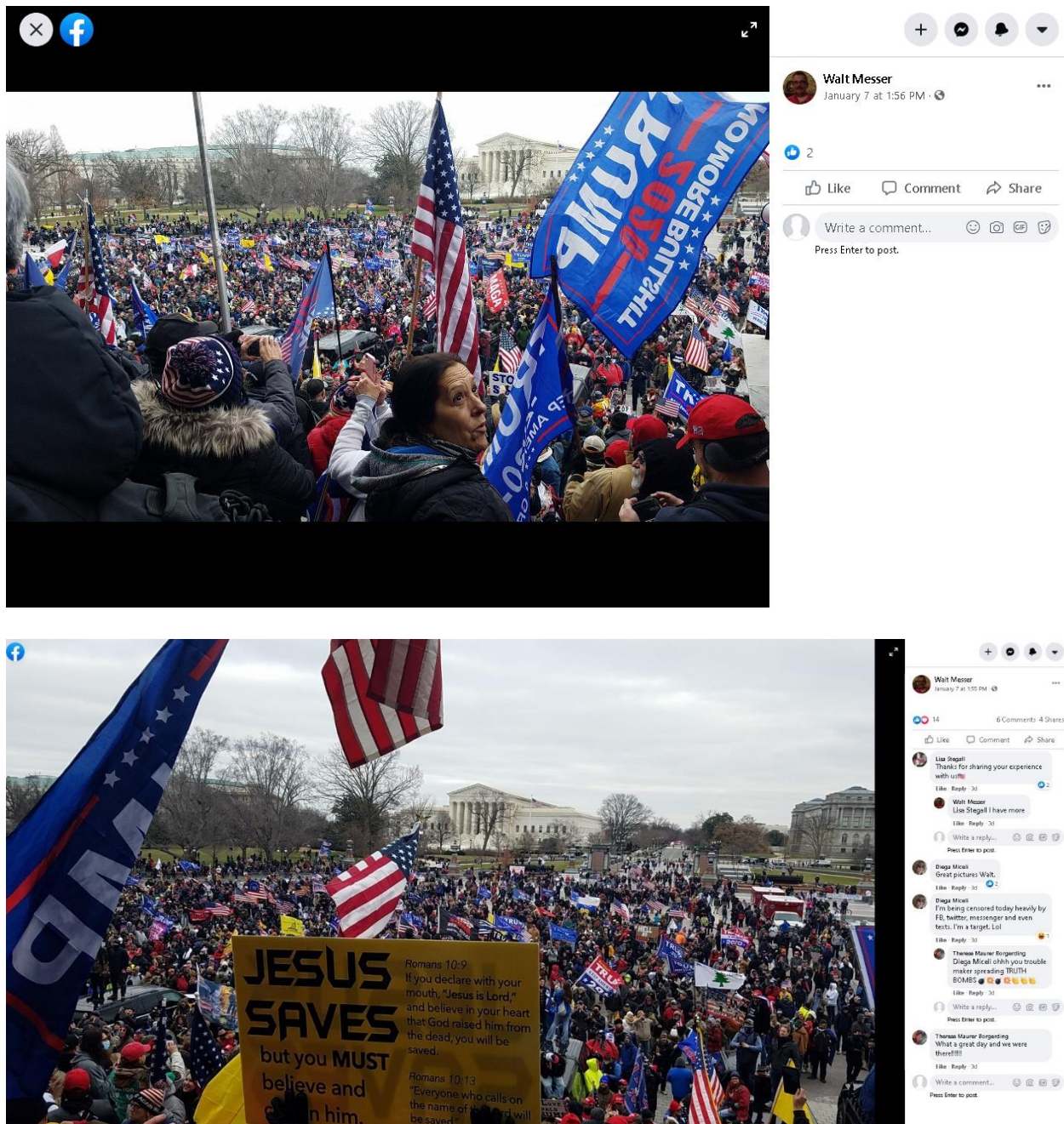
A Facebook page with the Facebook Account ID 100016499853552 was located with the vanity name "Walt Messer". The Facebook Account ID is a unique identity number which cannot be changed by the user. The vanity name can be changed by the user. The url for the page was <https://facebook.com/walt.messer>. Your affiant compared the Facebook profile photograph for this account to the Ohio Driver's License photograph of Walter J. Messer and confirmed they appear to be the same person. Additional review of the "Walt Messer" Facebook page showed a post related to the January 6, 2021 Riot, as well as comments by Messer and others about being at the U.S. Capitol.

A public post made by Messer on January 8, 2021 at 3:15 p.m. stated *"Joe Biden is claiming Trump supporters were taking selfies with the capital police. This is true. I'm glad the police took time out for these selfies during the fake riot"*. Several comments were made on this post by others and Walter Messer. A comment made by a Facebook account with the vanity name "Therese Maurer Borgerding" stated, *"Walt was there. You weren't. You have NO story to tell. You might want to shut your mouth.."* Another comment on the post by Therese Maurer Borgerding stated, *"I know they helped me and were very friendly and held the door for us to come in the Capitol Building!"*.

On January 6, 2021 at 2:45 PM PST, Messer posted the below "selfie" to his public Facebook account that shows him inside the U.S. Capitol. In the photograph, Messer is wearing glasses and an Oakley ball cap that resembles the United States Flag. The background of the photograph depicts the rotunda of the U.S. Capitol. Messer posted another "selfie" to Facebook that shows Messer standing next to a statue of Ronald Reagan, who he appears to refer to as "Ronnie".



Your affiant viewed multiple posts and comments on Messer's public Facebook account related to the unrest at the U.S. Capitol. A photograph was posted on January 7, 2021, from the vantage point of the top of the U.S. Capitol steps on the Eastern side. An additional photograph from the vantage point of the top of the U.S. Capitol steps on the Eastern side was posted on January 7, 2021 at 1:55 p.m.. Both images depict the events of January 6, 2021, to include a large crowd with many individuals holding Trump signs and flags.



Your affiant located YouTube channel under the name Walter Messer with a YouTube account ID UCe9eMOqnFLbAmOYwvQwXKMQ. A review of public videos posted on the channel include videos from the exterior of the U.S. Capitol and one from inside the U.S. Capitol on January 6, 2021. These videos are consistent with other known footage of unrest inside the U.S. Capitol to include known background identifying the location and a large group of individuals moving throughout the building. The videos were posted to the YouTube account on January 7, 2021. Your affiant compared the YouTube channel's profile photograph to the Ohio Driver's License photograph of Walter J. Messer and the "Walt Messer" Facebook account and confirmed that all photos appear to be on the same person.

Your affiant also reviewed surveillance footage from inside the United States Capitol on January 6, 2021 that shows Messer inside the Capitol Building after the Capitol had been breached. Messer is seen wearing the same clothing he is shown wearing in the Facebook images, and is seen walking with a cellular telephone in his hand. It appears in the video that he is filming a video with his phone, which is consistent with a video posted on the Walt Messer public YouTube channel. The below images from the surveillance video show Messer circled in orange.





On January 8, 2021, an anonymous tipster (“T2”) reported that Walt Messer was allegedly inside the U.S. Capitol on January 6, 2021. T2 stated that the Messer had posted numerous pictures on his Facebook page of himself inside the building, and made threatening statements regarding the election. T2 identified Walt Messer, has having a Facebook account at <https://facebook.com/walt.messer>, which has Facebook Account ID 100016499853552. T2 indicated they were friends on social media with Messer.

Lawfully obtained Facebook records show that Facebook Account ID 100016499853552. belongs to Walt Messer and is associated with telephone number [REDACTED]

Lawfully obtained AT&T records show that the telephone number [REDACTED] was assigned to Walter Messer on February 22, 2017 and the account is still active in Messer’s name.

Lawfully obtained AT&T records show that the cellphone associated with [REDACTED] was identified as having utilized a cell site providing service to a geographic area that included the interior of the U.S. Capitol building on January 6, 2021. The device was in or around the U.S. Capitol from approximately 2:45PM to 3:23PM.

Lawfully obtained Google records show that the YouTube account identified as UCe9eMOqnFLbAmOYwvQwXKMQ is associated with the email address walterjmesser@gmail.com and a Google account identification number of 412287753968.

On February 18, 2021, your affiant interviewed a witness (W-1) regarding submitted images believed to be Walter J. Messer. W-1 acknowledged submitting images to the FBI but stated that they do not know Walter Messer. W-1 referred your affiant to another witness (W-2)

who went to high school with Walter Messer. W-1 indicated that W-2 had shared the images in a Facebook group chat.

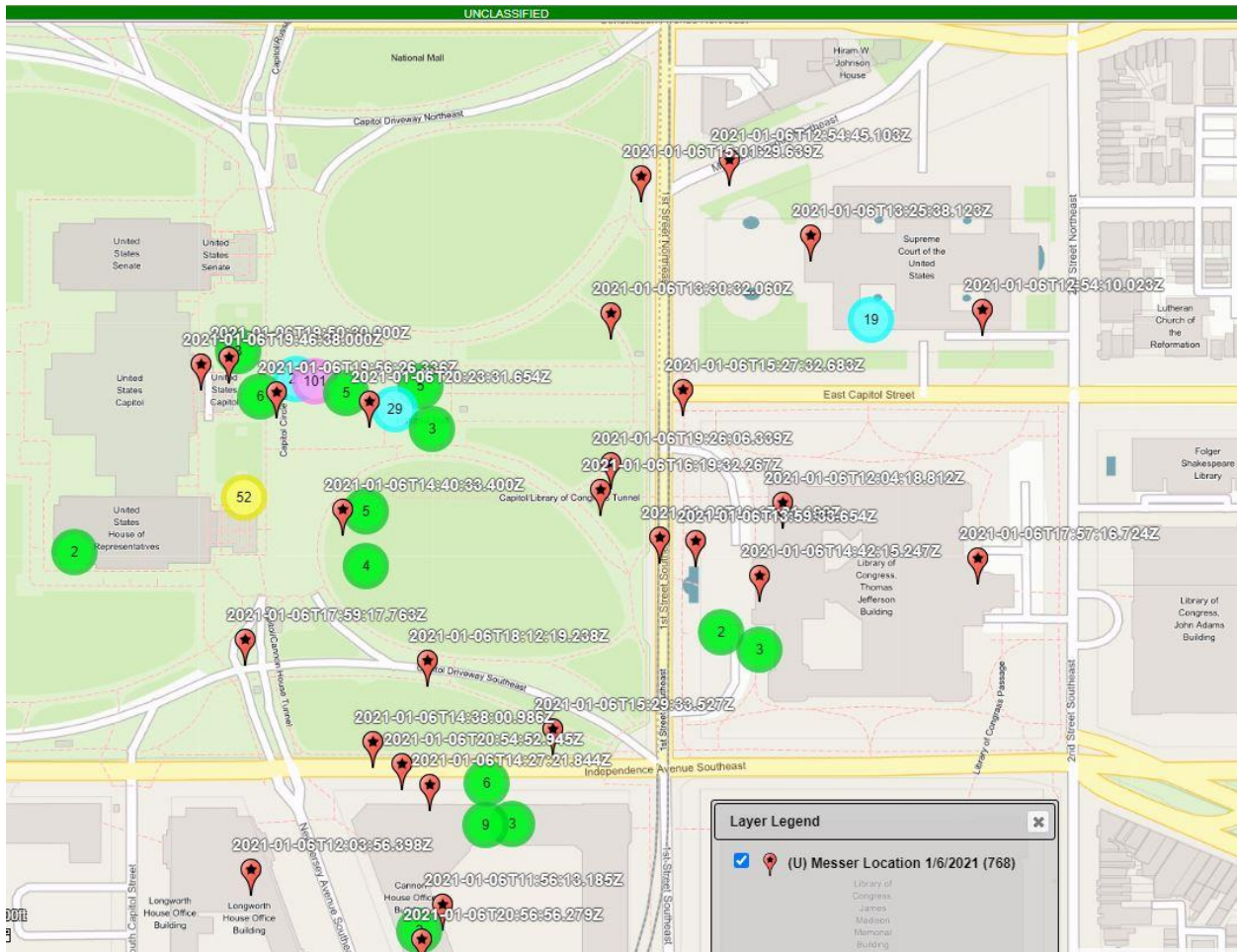
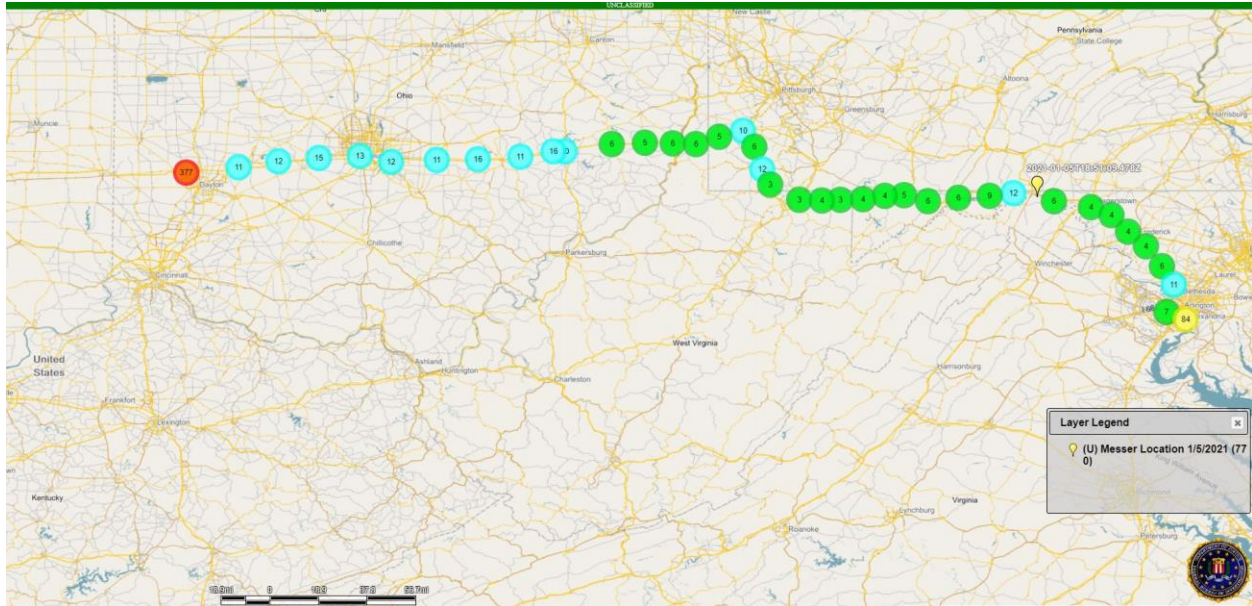
On February 19, 2021, your affiant telephonically interviewed W-2 regarding the identity of Walter J. Messer. W-2 indicated that they went to school with Walter J. Messer and had been friends with Messer on Facebook. W-2 described the photo of Messer with the bust of Ronald Reagan and positively identified the person in the photograph as Walter Messer. This is one of the same photos that W-1 submitted to the FBI which W-2 confirmed as being a photo of Messer.

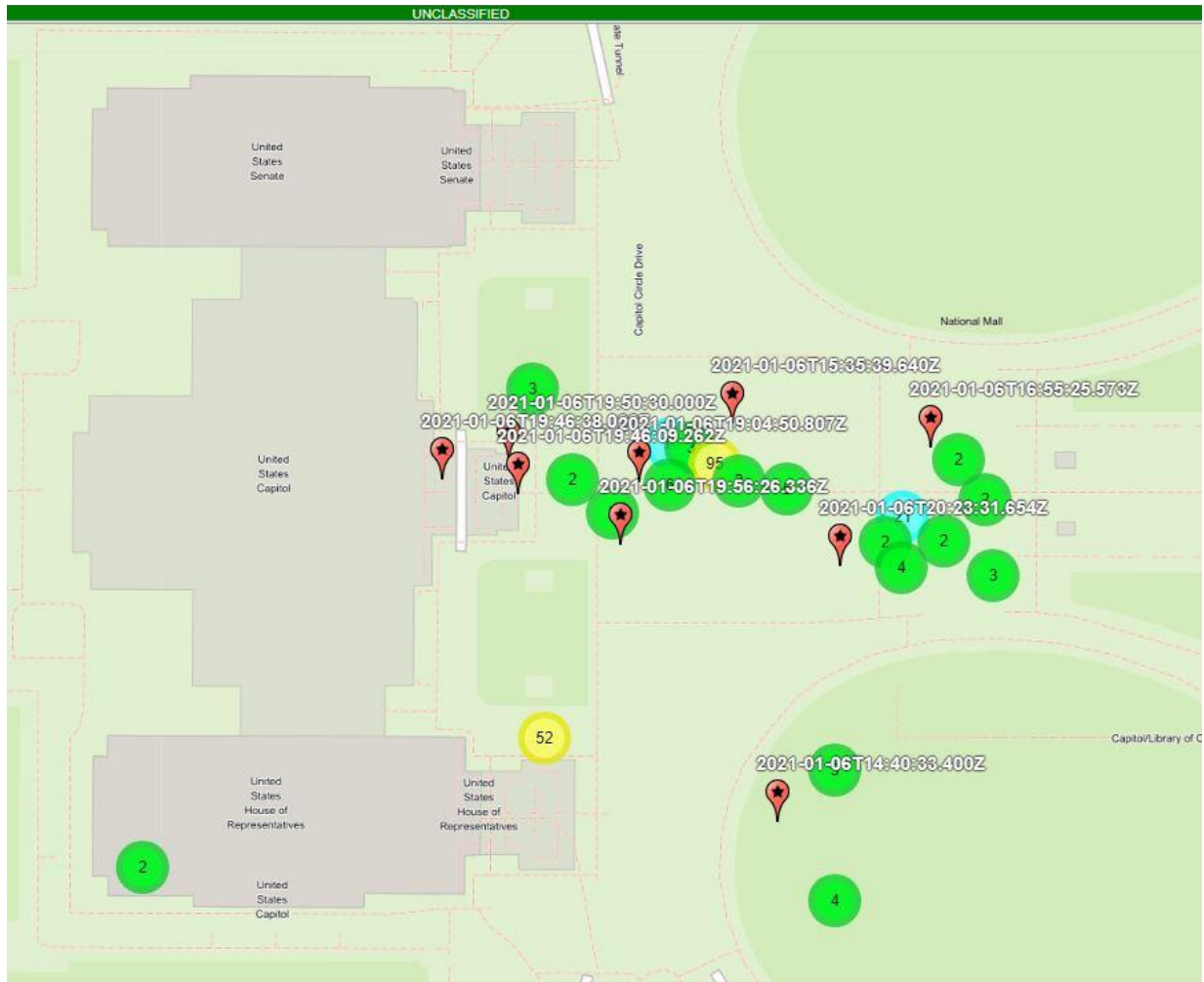
On March 4, 2021, a search warrant was served to Facebook for the account identified with the number 100016499853552 with the vanity name "Walt Messer." The requested records were provided on March 5, 2021, and subsequently reviewed. Walter J. Messer posted images on January 6, 2021, from both outside and inside the United States Capitol Building.

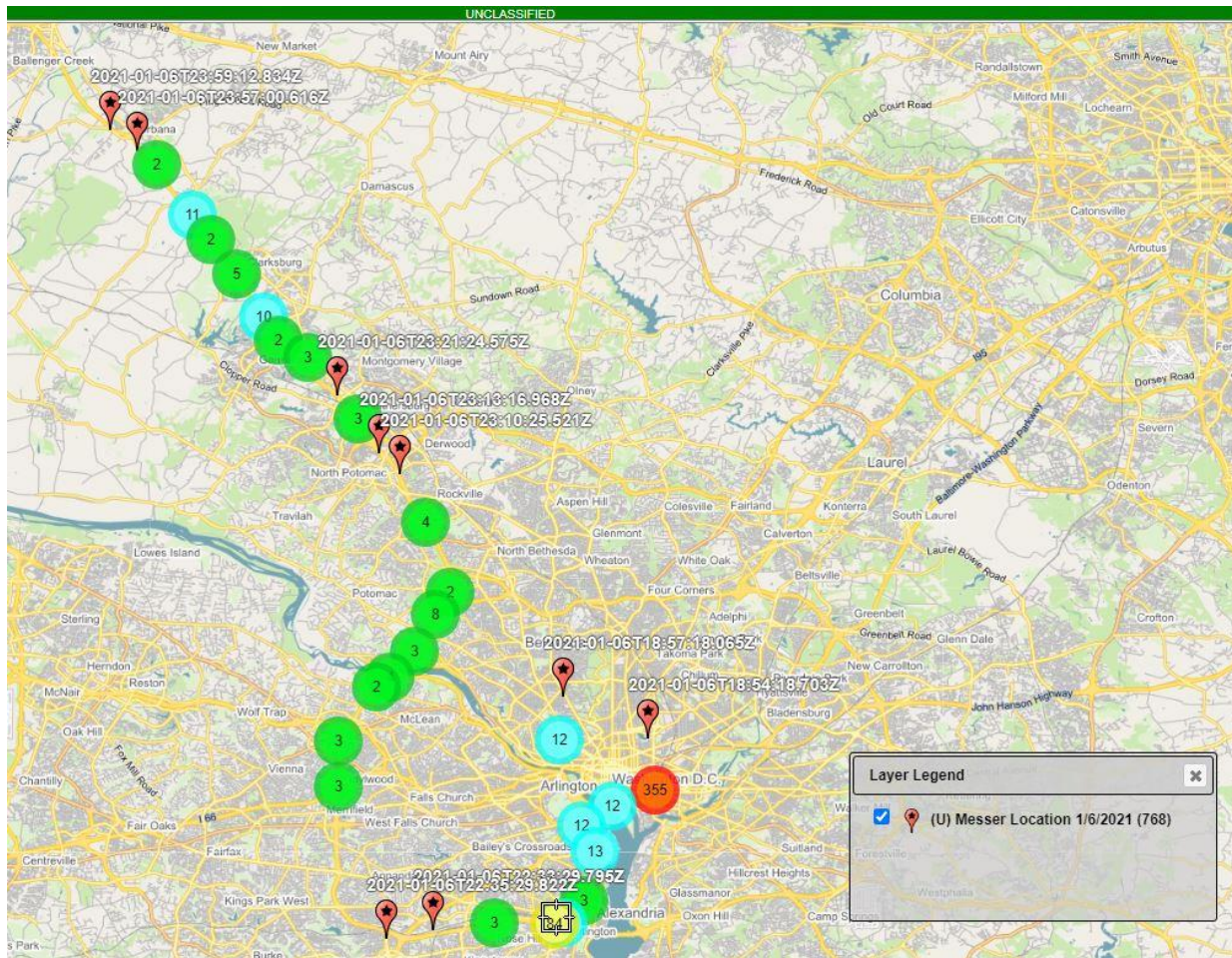




Lawfully obtained location information from Google for the account identified by the email address [REDACTED] shows the movement of Walter J. Messer as he traveled from the Dayton, Ohio area to the Washington D.C. area on January 5, 2021. Walter J. Messer's location in and around Washington D.C and the United States Capitol Building on January 6, 2021, was also located in the provided records. A travel route from Washington D.C. back to Ohio on January 7, 2021 was located. Maps showing the travel and locations are below, including travel from Dayton, Ohio to Washington, D.C. on January 5, 2021, and returning from Washington, D.C. to Dayton, Ohio on January 7, 2021.







A review of the [REDACTED] revealed seven YouTube videos posted by the account. The videos depict the events of January 6, 2021, from both inside and outside of the United States Capitol Building. In the video from inside the United States Capitol Building, the United States Capitol Police can be seen inside the Rotunda on the opposite side pushing back outside.

A search history from the [REDACTED] account returned searches of interest from January 6, 2021 until January 22, 2021. The searches included Brian Sicknick, criminal trespassing laws and penalties, federal trespassing charge, federal misdemeanor trespass, trespassing on government property, 18 U.S. 1752 – Restricted building or Grounds, AT&T locations near Dayton, FBI billboards and news articles from Capitol arrests.

An email located in the [REDACTED] account from January 17, 2021, shows that Walter J. Messer acquired a new Samsung Galaxy S20 phone. A YouTube video search on the account from January 18, 2021, for “Samsung GALAXY S20 Unboxing and Tour! Droide Life” was located. A second searched video from January 18, 2021, was located and titled “How to Insert SIM Card & SD Card in Samsung Galaxy S20 & S20+ WorldofTech”.

Based on the foregoing, your affiant submits that there is probable cause to believe that Walter J. Messer 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; 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 Walter J. Messer 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.



Task Force Officer Kyle G. Metz
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 26th day of July 2021.



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ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE