

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

**JOSHUA CHRISTOPHER DOOLIN,
MICHAEL STEVEN PERKINS, and
OLIVIA MICHELE POLLOCK,**

Defendants.

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CASE NO. 21-cr-447 (CJN)

PROPOSED LEGAL INSTRUCTIONS

The parties propose the following legal instructions, subject to issues that arise at trial:

1. Instruction for Count One: Civil disorder, 18 U.S.C. § 231(a)(3)
2. Instruction for Count Seven: Assaulting, resisting, or impeding certain officers using a dangerous weapon, 18 U.S.C. § 111(a)(1) and (b)
3. Instruction for Count Thirteen: Assaulting, resisting, or impeding certain officers, 18 U.S.C. § 111(a)(1)
4. Instruction for Count Sixteen: Theft in a federal enclave, 18 U.S.C. § 661
5. Instruction for Count Seventeen: Theft of government property, 18 U.S.C. § 641
6. Instruction for Count Eighteen: Civil disorder, 18 U.S.C. § 231(a)(3)
7. Instruction for Count Twenty-One: Entering and remaining in a restricted building or grounds with a deadly or dangerous weapon, 18 U.S.C. § 1752(a)(1) and (b)(1)(A)
8. Instruction for Count Twenty-Two: Entering and remaining in a restricted building or grounds, 18 U.S.C. § 1752(a)(1)

9. Instruction for Count Twenty-Three: Disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon, 18 U.S.C. § 1752(a)(2) and (b)(1)(A)
10. Instruction for Count Twenty-Four: Disorderly and disruptive conduct in a restricted building or grounds, 18 U.S.C. § 1752(a)(2)
11. Instruction for Count Twenty-Five: Engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon, 18 U.S.C. § 1752(a)(4) and (b)(1)(A)
12. Instruction for Count Twenty-Six: Engaging in physical violence in a restricted building or grounds, 18 U.S.C. § 1752(a)(4)
13. Instruction for Count Twenty-Seven: Act of physical violence in the capitol grounds or buildings, 18 U.S.C. § 5104(e)(2)(F)

For the aid of the Court, the table below lists the relevant counts in the Superseding Indictment (ECF No. 116), and the charges and defendants for each.

Count	Defendant(s) Charged	Charge	Description
1	Michael Perkins and Olivia Pollock	18 U.S.C. § 231(a)(3)	Civil disorder
7	Michael Perkins	18 U.S.C. § 111(a)(1) and (b)	Assaulting, resisting, or impeding certain officers using a dangerous weapon
13	Olivia Pollock	18 U.S.C. § 111(a)(1)	Assaulting, resisting, or impeding certain officers
16	Joshua Doolin	18 U.S.C. § 661	Theft in a federal enclave
17	Joshua Doolin	18 U.S.C. § 641	Theft of government property
18	Joshua Doolin	18 U.S.C. § 231(a)(3)	Civil disorder
21	Michael Perkins	18 U.S.C. § 1752(a)(1) and (b)(1)(A)	Entering and remaining in a restricted building or grounds with a deadly or dangerous weapon
22	Joshua Doolin and Olivia Pollock	18 U.S.C. § 1752(a)(1)	Entering and remaining in a restricted building or grounds
23	Michael Perkins	18 U.S.C. § 1752(a)(2) and (b)(1)(A)	Disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon
24	Joshua Doolin and Olivia Pollock	18 U.S.C. § 1752(a)(2)	Disorderly and disruptive conduct in a restricted building or grounds
25	Michael Perkins	18 U.S.C. § 1752(a)(4) and (b)(1)(A)	Engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon
26	Olivia Pollock	18 U.S.C. § 1752(a)(4)	Engaging in physical violence in a restricted building or grounds
27	Michael Perkins and Olivia Pollock	18 U.S.C. § 5104(e)(2)(F)	Act of physical violence in the capitol grounds or buildings

Count One: Civil Disorder
18 U.S.C. § 231(a)(3)
as to Michael Perkins and Olivia Pollock

Count One of the indictment charges defendants Michael Perkins and Olivia Pollock with committing or attempting to commit an act to obstruct, impede, or interfere with law enforcement officers lawfully carrying out their official duties incident to a civil disorder, which is a violation of federal law.

In order to find the defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, the defendant knowingly committed an act or attempted to commit an act with the intended purpose of obstructing, impeding, or interfering with one or more law enforcement officers;

Second, at the time of the defendant's actual or attempted act, the law enforcement officer or officers were engaged in the lawful performance of their official duties incident to and during a civil disorder; and

Third, the civil disorder in any way or degree obstructed, delayed, or adversely affected either commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function.

Definitions

A person acts "knowingly" if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the

defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.¹

The term “civil disorder” means any public disturbance involving acts of violence by groups of three or more persons, which (a) causes an immediate danger of injury to another individual, (b) causes an immediate danger of damage to another individual’s property, (c) results in injury to another individual, or (d) results in damage to another individual’s property.

The term “commerce” means commerce or travel between one state, including the District of Columbia, and any other state, including the District of Columbia. It also means commerce wholly within the District of Columbia.

The term “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.

The term “department” includes executive departments. The Department of Homeland Security, which includes the United States Secret Service, is an executive department.

The term “agency” includes any department, independent establishment, commission, administration, authority, board, or bureau of the United States.

The term “law enforcement officer” means any officer or employee of the United States or the District of Columbia while engaged in the enforcement or prosecution of any criminal laws of the United States or the District of Columbia.

¹ The defendants object to the inclusion of the following sentence in the “knowingly” definition: “In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.”

For the U.S. Capitol Police and Metropolitan Police Department on January 6, 2021, the term “official duties,” means policing the U.S. Capitol Building and Grounds, and enforcing federal law and D.C. law in those areas.

Attempt

In Count One, defendants Michael Perkins and Olivia Pollock are also charged with attempt to commit the crime of obstructing officers during a civil disorder. An attempt to obstruct officers during a civil disorder is a federal crime even though the defendant did not actually complete the crime of obstructing officers during a civil disorder.

In order to find the defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, that the defendant intended to commit the crime of obstructing officers during a civil disorder, as I have defined that offense above; and

Second, that the defendant took a substantial step toward obstructing officers during a civil disorder which strongly corroborates or confirms that the defendant intended to commit that crime.

With respect to the first element of attempt, you may not find a defendant guilty of attempting to obstruct officers during a civil disorder merely because he thought about it. You must find that the evidence proved beyond a reasonable doubt that the defendant’s mental state passed beyond the stage of thinking about the crime to actually intending to commit it.

With respect to the substantial step element, you may not find the defendant guilty of attempt to obstruct officers during a civil disorder merely because he or she made some plans to or some preparation for committing that crime. Instead, you must find that the defendant took some firm, clear, undeniable action to accomplish his or her intent to commit obstruction of an

official proceeding. However, the substantial step element does not require the government to prove that the defendant did everything except the last act necessary to complete the crime.

Aiding and Abetting²

In this case, the government further alleges that defendants Michael Perkins and Olivia Pollock aided and abetted others in obstructing officers during a civil disorder, as charged in Count One.

In order to find any defendant guilty of obstructing officers during a civil disorder because he or she aided and abetted others in committing this offense, you must find the following elements beyond a reasonable doubt:

First, that others committed obstruction of officers during a civil disorder by committing each of the elements of the offense charged, as I have explained above;

Second, that the defendant knew that the obstruction of officers during a civil disorder was going to be committed or was being committed by others;

Third, that the defendant performed an act or acts in furtherance of the offense;

Fourth, that the defendant knowingly performed that act or acts for the purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the offense of obstructing officers during a civil disorder; and

Fifth, that the defendant did that act or acts with the intent that others commit the offense of obstructing officers during a civil disorder.

² The defendants object to the inclusion of the Aiding and Abetting theory in the legal instructions.

**Count Seven: Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous
Weapon
18 U.S.C. § 111(a)(1) and (b)
as to Michael Perkins**

Count Seven of the indictment charges defendant Michael Perkins with forcibly assaulting, resisting, opposing, impeding, intimidating, and interfering with a person assisting officers of the United States who are engaged in the performance of their official duties, which is a violation of federal law. These counts additionally charge that the defendant, in the commission of such acts, used a deadly or dangerous weapon, and made physical contact with the person and acted with the intent to commit another felony. In this count, Michael Perkins is alleged to have committed this offense with a flagpole.

Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon
18 U.S.C. § 111(a)(1) and (b)

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with A.P., a Metropolitan Police Officer, or a federal officer or officers or any person or persons assisting a federal officer;³

Second, the defendant acted forcibly;

Third, the defendant did such acts voluntarily and intentionally,

Fourth, the person assaulted, resisted, opposed, impeded, intimidated, or interfered with was an officer or an employee of the United States who was then engaged in the performance

³ The defendants object to the first element and have proposed the following: “First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with A.P., a Metropolitan Police Officer, and another police officer.”

of his or her official duties, or any person assisting such an officer or employee in the performance of that officer's duties; and

Fifth, in doing such acts, the defendant used a deadly or dangerous weapon.

Assaulting, Resisting, or Impeding Certain Officers
18 U.S.C. § 111(a)(1)

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with A.P., a Metropolitan Police Officer, or a federal officer or officers or any person or persons assisting a federal officer;⁴

Second, the defendant acted forcibly;

Third, the defendant did such acts voluntarily and intentionally;

Fourth, the person assaulted, resisted, opposed, impeded, intimidated, or interfered with was an officer or an employee of the United States who was then engaged in the performance of his or her official duties, or any person assisting such an officer or employee in the performance of that officer's duties; and

Fifth, the defendant made physical contact with the person assisting officers of the United States who were then engaged in the performance of their official duties, or acted with the intent to commit another felony. For purposes of this element, "another felony" refers to any of the offense charged in Count Twenty One (entering and remaining in a restricted building or grounds with a deadly or dangerous weapon), Count Twenty Three (disorderly and disruptive

⁴ The defendants object to the first element and have proposed the following: "First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with A.P., a Metropolitan Police Officer, and another police officer."

conduct in a restricted building or grounds with a deadly or dangerous weapon), Count Twenty Five (engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon), or Count Twenty Seven (act of physical violence in the capitol grounds or buildings).

Definitions

A person acts “forcibly” if he uses force, attempts to use force, or threatens to use force against the officer. A threat to use force at some unspecified time in the future is not sufficient to establish that a defendant acted forcibly.

The term “assault” means any intentional attempt or threat to inflict injury upon someone else, when coupled with an apparent present ability to do so. A finding that one used force (or attempted or threatened to use it) isn’t the same as a finding that he attempted or threatened to inflict injury. In order to find that the defendant committed an “assault,” you must find beyond a reasonable doubt that the defendant acted forcibly and that the defendant intended to inflict or intended to threaten injury.

The terms “resist,” “oppose,” “impede,” “intimidate,” and “interfere with” carry their everyday, ordinary meanings.

An object may be considered a “deadly or dangerous weapon” for one of two reasons. First, an object is a deadly or dangerous weapon if it is inherently or obviously dangerous or deadly. Such inherently dangerous weapons include guns, knives, and the like. Second, an object is a deadly or dangerous weapon if the object is capable of causing serious bodily injury or death to another person and the defendant used it in that manner. Objects that have perfectly peaceful purposes may be turned into dangerous weapons when used in a manner likely to cause seriously bodily injury or death.

In determining whether the object is a “deadly or dangerous weapon,” you may consider both the physical capabilities of the object used and the manner in which the object is used.

Aiding and Abetting

In this case, the government further alleges that the defendant aided and abetted others in assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon, as charged in Count Seven.

In order to find the defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, that others committed the offense of assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon by committing each of the elements of the offense charged, as I have explained above;

Second, that the defendant knew that the offense of assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon was going to be committed or was being committed by others;

Third, that the defendant performed an act or acts in furtherance of the offense;

Fourth, that the defendant knowingly performed that act or acts for the purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the offense of assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon; and

Fifth, that the defendant did that act or acts with the intent that others commit the offense of assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon.

Count Thirteen: Assaulting, Resisting, or Impeding Certain Officers
18 U.S.C. § 111(a)(1)
as to Olivia Pollock

Count Thirteen of the indictment charges defendant Olivia Pollock with forcibly assaulting, resisting, opposing, impeding, intimidating and interfering with S.S., or a federal officer or person assisting officers of the United States who are engaged in the performance of their official duties, which is a violation of federal law.

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with S.S., a Metropolitan Police Officer, or a federal officer or officers or any person or persons assisting a federal officer;⁵

Second, the defendant acted forcibly;

Third, the defendant did such acts voluntarily and intentionally;

Fourth, the person assaulted, resisted, opposed, impeded, intimidated, or interfered with was an officer or an employee of the United States who was then engaged in the performance of his or her official duties, or any person assisting such an officer or employee in the performance of that officer's duties; and

Fifth, that at the time, the defendant acted with the intent to commit another felony offense, that is, Count One (civil disorder).

⁵ The defendants object to the first element and have proposed the following: "First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with S.S., a Metropolitan Police Officer."

Definitions

A person acts “forcibly” if he uses force, attempts to use force, or threatens to use force against the officer. A threat to use force at some unspecified time in the future is not sufficient to establish that a defendant acted forcibly.

The term “assault” means any intentional attempt or threat to inflict injury upon someone else, when coupled with an apparent present ability to do so. A finding that one used force (or attempted or threatened to use it) isn’t the same as a finding that he attempted or threatened to inflict injury. In order to find that the defendant committed an “assault,” you must find beyond a reasonable doubt that the defendant acted forcibly and that the defendant intended to inflict or intended to threaten injury.

The terms “resist,” “oppose,” “impede,” “intimidate,” and “interfere with” carry their everyday, ordinary meanings.

Aiding and Abetting

In this case, the government further alleges that the defendant aided and abetted others in assaulting, resisting, or impeding certain officers using a deadly or dangerous weapon, as charged in Count Thirteen.

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, that others committed the offense of assaulting, resisting, or impeding certain officers by committing each of the elements of the offense charged, as I have explained above;

Second, that the defendant knew that the offense of assaulting, resisting, or impeding certain officers was going to be committed or was being committed by others;

Third, that the defendant performed an act or acts in furtherance of the offense;

Fourth, that the defendant knowingly performed that act or acts for the purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the offense of assaulting, resisting, or impeding certain officers; and

Fifth, that the defendant did that act or acts with the intent that others commit the offense of assaulting, resisting, or impeding certain officers.

Count Sixteen: Theft in a Federal Enclave
18 U.S.C. § 661
as to Joshua Doolin

Count Sixteen of the indictment charges the defendant Joshua Doolin with taking and carrying away, with the intent to steal the personal property of another, that is, a crowd-control spray gun, which is a violation of federal law.

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, that the personal property described in the indictment, a crowd-control spray gun, belonged to someone other than the defendant;

Second, that the defendant took and carried away such property;

Third, that the defendant acted with intent to steal the property; and

Fourth, that the offense occurred within the special maritime and territorial jurisdiction of the United States.

The parties stipulate that the U.S. Capitol building and grounds are a “special maritime and territorial jurisdiction of the United States.”

To “steal” means to wrongfully take money or property belonging to another with intent to deprive the owner of its use and benefit either temporarily or permanently. Any appreciable change of the location of the property with the intent to deprive constitute a stealing whether or not there is an actual removal of its owner’s premise.

Count Seventeen: Theft of Government Property
18 U.S.C. § 641
as to Joshua Doolin

Count Seventeen of the indictment charges the defendant with the theft of government property, specifically, a United State Capitol Police riot shield, which is a violation of federal law.

In order to find a defendant guilty of this crime, you must find the following elements beyond a reasonable doubt:

First, that the personal property described in the indictment, a United State Capitol Police riot shield, belonged to the United States government;

Second, that the defendant stole or knowingly converted such property to the defendant's own use; and

Third, that the defendant did so knowing the property was not his and with intent to deprive the owner of the use of the property.

It is not necessary to prove that the defendant knew that the United States government owned the property at the time of the wrongful taking.

To "steal" or "knowingly convert" means to wrongfully take money, property, or thing of value belonging to another with intent to deprive the owner of its use or benefit either temporarily or permanently. Any appreciable change of the location of the property with the intent to deprive constitutes a stealing whether or not there is an actual removal of it from the owner's premises.

Aiding and Abetting

In this case, the government further alleges that the defendant aided and abetted others in theft of the government property, as charged in Count Seventeen.

In order to find any defendant guilty of theft of the government property because he aided and abetted others in committing this offense, you must find that the government proved beyond a reasonable doubt the following five requirements:

First, that others committed the offense of theft of government property by committing each of the elements of the offense charged, as I have explained above.

Second, that the defendant knew that the offense of theft of government property was going to be committed or was being committed by others.

Third, that the defendant performed an act or acts in furtherance of the offense.

Fourth, that the defendant knowingly performed that act or acts for the purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the offense of theft of government property.

Fifth, that the defendant did that act or acts with the intent that others commit the offense of theft of government property.

Count Eighteen: Civil Disorder
18 U.S.C. § 231(a)(3)
as to Joshua Doolin

Count Eighteen charges defendants Joshua Doolin with committing or attempting to commit an act to obstruct, impede, or interfere with law enforcement officers lawfully carrying out their official duties incident to a civil disorder, which is a violation of federal law.

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, the defendant knowingly committed an act or attempted to commit an act with the intended purpose of obstructing, impeding, or interfering with one or more law enforcement officers;

Second, at the time of the defendant's actual or attempted act, the law enforcement officer or officers were engaged in the lawful performance of their official duties incident to and during a civil disorder; and

Third, the civil disorder in any way or degree obstructed, delayed, or adversely affected either commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function.

Definitions

A person acts "knowingly" if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term "civil disorder" means any public disturbance involving acts of violence by groups of three or more persons, which (a) causes an immediate danger of injury to another

individual, (b) causes an immediate danger of damage to another individual's property, (c) results in injury to another individual, or (d) results in damage to another individual's property.

The term "commerce" means commerce or travel between one state, including the District of Columbia, and any other state, including the District of Columbia. It also means commerce wholly within the District of Columbia.

The term "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.

The term "department" includes executive departments. The Department of Homeland Security, which includes the United States Secret Service, is an executive department.

The term "agency" includes any department, independent establishment, commission, administration, authority, board, or bureau of the United States.

The term "law enforcement officer" means any officer or employee of the United States or the District of Columbia while engaged in the enforcement or prosecution of any criminal laws of the United States or the District of Columbia.

For the U.S. Capitol Police and Metropolitan Police Department on January 6, 2021, the term "official duties," means policing the U.S. Capitol Building and Grounds, and enforcing federal law and D.C. law in those areas.

Attempt

In Count Eighteen, the defendant is also charged with attempt to commit the crime of obstructing officers during a civil disorder. An attempt to obstruct officers during a civil disorder is a federal crime even though the defendant did not actually complete the crime of obstructing officers during a civil disorder.

In order to find a defendant guilty of attempt to commit obstructing officers during a civil disorder, you must find that the government proved beyond a reasonable doubt each of the following two elements:

First, that the defendant intended to commit the crime of obstructing officers during a civil disorder, as I have defined that offense above; and

Second, that the defendant took a substantial step toward obstructing officers during a civil disorder which strongly corroborates or confirms that the defendant intended to commit that crime.

With respect to the first element of attempt, you may not find a defendant guilty of attempting to obstruct officers during a civil disorder merely because he thought about it. You must find that the evidence proved beyond a reasonable doubt that the defendant's mental state passed beyond the stage of thinking about the crime to actually intending to commit it.

With respect to the substantial step element, you may not find the defendant guilty of attempt to obstruct officers during a civil disorder merely because he or she made some plans to or some preparation for committing that crime. Instead, you must find that the defendant took some firm, clear, undeniable action to accomplish his or her intent to commit obstruction of an official proceeding. However, the substantial step element does not require the government to prove that the defendant did everything except the last act necessary to complete the crime.

Aiding and Abetting

In this case, the government further alleges that the defendants aided and abetted others in obstructing officers during a civil disorder, as charged in Count Eighteen.

In order to find any defendant guilty of obstructing officers during a civil disorder because he or she aided and abetted others in committing this offense, you must find that the government proved beyond a reasonable doubt the following five requirements:

First, that others committed obstruction of officers during a civil disorder by committing each of the elements of the offense charged, as I have explained above;

Second, that the defendant knew that the obstruction of officers during a civil disorder was going to be committed or was being committed by others;

Third, that the defendant performed an act or acts in furtherance of the offense;

Fourth, that the defendant knowingly performed that act or acts for the purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the offense of obstructing officers during a civil disorder; and

Fifth, that the defendant did that act or acts with the intent that others commit the offense of obstructing officers during a civil disorder.

**Count Twenty One: Entering and Remaining in a Restricted Building or Grounds with a
Deadly or Dangerous Weapon
18 U.S.C. § 1752(a)(1) and (b)(1)(A)
as to Michael Perkins**

Count Twenty-One of the indictment charges the defendant Michael Perkins with entering or remaining in a restricted building or grounds while carrying a dangerous or deadly weapon, which is a violation of federal law.

Entering or Remaining in a Restricted Building or Grounds with a Deadly or Dangerous Weapon
(Greater Offense)

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, that the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, that the defendant did so knowingly.

Third, that the defendant carried a deadly or dangerous weapon during and in relation to the offense.

Entering or Remaining in a Restricted Building or Grounds (Lesser Included Offense)

In order to find the defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, that the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, that the defendant did so knowingly.

Definitions

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area where a person protected by the Secret Service is or will be temporarily visiting. The parties stipulate that the “Restricted Area” surrounding the U.S. Capitol on January 6, 2021 constituted a “restricted building or ground” for the purpose of this statute and all other charges in this case.

The term “person protected by the Secret Service” includes the Vice President and the immediate family of the Vice President.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

An object may be considered a “deadly or dangerous weapon” for one of two reasons. First, an object is a deadly or dangerous weapon if it is inherently or obviously dangerous or deadly. Such inherently dangerous weapons include guns, knives, and the like. Second, an object is a deadly or dangerous weapon if the object is capable of causing serious bodily injury or death to another person and the defendant used it in that manner. Objects that have perfectly peaceful purposes may be turned into dangerous weapons when used in a manner likely to cause seriously bodily injury or death.

**Count Twenty Two: Entering and Remaining in a Restricted Building or Grounds
18 U.S.C. § 1752(a)(1)
as to Joshua Doolin and Olivia Pollock**

Count Twenty-Two of the indictment charges Joshua Doolin and Olivia Pollock with entering or remaining in a restricted building or grounds, which is a violation of federal law.

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, the defendant did so knowingly.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President, and the immediate family of the Vice President.

**Count Twenty Three: Disorderly and Disruptive Conduct in a Restricted Building or
Grounds with a Deadly or Dangerous Weapon
18 U.S.C. § 1752(a)(2) and (b)(1)(A)
as to Michael Perkins**

Count Twenty-Three of the indictment charges the defendant Michael Perkins with disorderly or disruptive conduct in a restricted building or grounds, while carrying a dangerous or deadly weapon, namely a riot shield and flagpole, which is a violation of federal law.

Disorderly or Disruptive Conduct in a Restricted Building or Grounds with a Deadly or
Dangerous Weapon (Greater Offense)

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, the defendant engaged in disorderly or disruptive conduct in, or in proximity to, any restricted building or grounds.

Second, the defendant did so knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

Fourth, the defendant carried a deadly or dangerous weapon during and in relation to the offense.

Disorderly or Disruptive Conduct in a Restricted Building or Grounds (Lesser Included Offense)

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, that the defendant engaged in disorderly or disruptive conduct in, or in proximity to, any restricted building or grounds.

Second, that the defendant did so knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, that the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

Definitions

"Disorderly conduct" occurs when a person acts in such a manner as to cause another person to be in reasonable fear that a person or property in a person's immediate possession is likely to be harmed or taken, uses words likely to produce violence on the part of others, is unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person

"Disruptive conduct" is a disturbance that interrupts an event, activity, or the normal course of a process.

The term "restricted building or grounds" means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting.

The term "person protected by the Secret Service" includes the Vice President, and the immediate family of the Vice President.

A person acts "knowingly" if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term "deadly or dangerous weapon" has a similar meaning to that I gave you previously. An object may be considered a "deadly or dangerous weapon" for one of two reasons.

First, an object is a deadly or dangerous weapon if it is inherently or obviously dangerous or deadly. Second, an object is a deadly or dangerous weapon if the object is capable of causing serious bodily injury or death to another person and the defendant carried it with the intent that it be used in a manner capable of causing serious bodily injury or death. The defendant need not have actually used the object in that manner.

**Count Twenty Four: Disorderly and Disruptive Conduct in a Restricted Building or
Grounds**

**18 U.S.C. § 1752(a)(2)
as to Joshua Doolin and Olivia Pollock**

Count Twenty-Four charges defendant Joshua Doolin and Olivia Pollock with disorderly or disruptive conduct in a restricted building or grounds, which is a violation of federal law.

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, that the defendant engaged in disorderly or disruptive conduct in, or in proximity to, any restricted building or grounds.

Second, that the defendant did so knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, that the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

Definitions

“Disorderly conduct” occurs when a person acts in such a manner as to cause another person to be in reasonable fear that a person or property in a person's immediate possession is likely to be harmed or taken, uses words likely to produce violence on the part of others, is unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person

“Disruptive conduct” is a disturbance that interrupts an event, activity, or the normal course of a process.

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will

be temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President, and the immediate family of the Vice President.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

**Count Twenty-Five: Engaging in Physical Violence in a Restricted Building or Grounds
with a Deadly or Dangerous Weapon
18 U.S.C. § 1752(a)(4) and (b)(1)(A)
as to Michael Perkins**

Count Twenty-Five of the indictment charges the defendant Michael Perkins with engaging in any act of physical violence against a person or property in a restricted building and grounds, and during the offense, used or carried a deadly and dangerous weapon, that is, a riot shield or a flagpole, which is a violation of federal law.

Engaging in Physical Violence in a Restricted Building or Grounds
(Greater Offense)

In order to find a defendant guilty of this offense, you must find the following elements beyond a reasonable doubt:

First, the defendant engaged in an act of physical violence against a person or property in, or in proximity to, a restricted building or grounds

Second, the defendant did so knowingly; and

Third, the defendant used or carried a deadly or dangerous weapon during and in relation to the offense.

Engaging in Physical Violence in a Restricted Building or Grounds
(Lesser Included Offense)

In order to find a defendant guilty of engaging in physical violence in a restricted building or grounds, you must find the following:

First, the defendant engaged in an act of physical violence against a person or property in, or in proximity to, a restricted building or grounds; and

Second, the defendant did so knowingly.

Definitions

The term “act of physical violence” means any act involving an assault or other infliction of death or bodily harm on an individual, or damage to, or destruction of, real or personal property.

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President, and the immediate family of the Vice President.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term “deadly or dangerous weapon” has a similar meaning to that I gave you previously. An object may be considered a “deadly or dangerous weapon” for one of two reasons. First, an object is a deadly or dangerous weapon if it is inherently or obviously dangerous or deadly. Second, an object is a deadly or dangerous weapon if the object is capable of causing serious bodily injury or death to another person and the defendant carried it with the intent that it be used in a manner capable of causing serious bodily injury or death. The defendant need not have actually used the object in that manner.

**Count Twenty-Six: Engaging in Physical Violence in a Restricted Building or Grounds
18 U.S.C. § 1752(a)(4)
as to Olivia Pollock**

Count Twenty-Six of the indictment charges defendant Olivia Pollock with engaging in an act of physical violence in a restricted building or grounds, which is a violation of federal law.

To find the defendant guilty of this crime, you must find the following beyond a reasonable doubt:

First, that the defendant engaged in any act of physical violence against any person in any restricted building or grounds; and

Second, that the defendant did so knowingly.

Definitions

The term “act of physical violence” means any act involving an assault or other infliction of death or bodily harm on an individual, or damage to, or destruction of, real or personal property.

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President, and the immediate family of the Vice President.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term “deadly or dangerous weapon” has a similar meaning to that I gave you previously. An object may be considered a “deadly or dangerous weapon” for one of two reasons. First, an object is a deadly or dangerous weapon if it is inherently or obviously dangerous or deadly. Second, an object is a deadly or dangerous weapon if the object is capable of causing serious bodily injury or death to another person and the defendant carried it with the intent that it be used in a manner capable of causing serious bodily injury or death. The defendant need not have actually used the object in that manner.

Count Twenty-Seven: Act of Physical Violence in the Capitol Grounds or Buildings
18 U.S.C. § 5104(e)(2)(F)
as to Michael Perkins and Olivia Pollock

Count Twenty-Seven of the indictment charges the defendants Michael Perkins and Olivia Pollock with engaging in an act of physical violence in the Capitol building or grounds, which is a violation of federal law.

To find the defendant guilty of this crime, you must find the following beyond a reasonable doubt:

First, that the defendant engaged in any act of physical violence in any of the United States Capitol Buildings or Grounds; and

Second, that the defendant acted willfully and knowingly.

Definitions

The term “act of physical violence” means any act involving an assault or other infliction or threat of infliction of death or bodily harm on an individual, or damage to, or destruction of, real or personal property.

A person acts “knowingly” if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

Defense Theory: Good Faith Belief⁶

Furthermore, a Person who enters a restricted area with a good faith belief that he is entering with the lawful authority is not guilty of this offense. Thus, the fact-finder cannot find the defendant guilty of this offense unless he is convinced beyond a reasonable doubt that he did not have a good faith belief of lawful authority to enter or remain in the restricted area.

Defense submits that this instruction is applicable to Count Twenty One, Twenty Two, Twenty Three, Twenty Four, Twenty Five, Twenty Six.

⁶ The Government objects to the inclusion of this instruction.

Defense Theory: Self-Defense⁷

Every person has the right to use a reasonable amount of force in self-defense if (1) he has a reasonable belief that the use of force was necessary to defend himself or another against the immediate use of excessive force and (2) uses no more force than was reasonably necessary in the circumstances. A person who was the initial aggressor does not act in self-defense.

If the fact-finder finds that the defendant actually and reasonably believed that he was in imminent danger of serious bodily harm and that the defendant had reasonable grounds for that belief, then the defendant has a right to self-defense even if the defendant also had other possible motives, such as feelings of anger toward the law enforcement officers. A defendant's other possible motives do not defeat an otherwise valid claim of self-defense but can be considered in evaluating whether the defendant actually and reasonably believed that he was in imminent danger of serious bodily harm.

Self-defense is a potential defense to the charges in Counts One, Seven, Thirteen, Twenty Four, Twenty Five, Twenty Six and Twenty Seven. The defendant is not required to prove that he acted in self-defense. Where evidence of self-defense is present, the government must prove beyond a reasonable doubt that the defendant did not act in self-defense. If the government has failed to do so, the fact-finder must find the defendant not guilty on these counts.

Amount of Force Permissible

A person may use a reasonable amount of force in self-defense. A person may use an amount of force which, at the time of the incident, he actually and reasonably believes is necessary to protect himself from imminent bodily harm. Even if the other person is the aggressor and the

⁷ The Government objects to the "Self Defense" instructions for reasons set forth in Government's motion in limine and replies to defendants' opposition on the subject. (ECF 125, 141, 170, 190.)

defendant is justified in using force in self-defense, he may not use any greater force than he actually and reasonably believes to be necessary under the circumstances to prevent the harm he reasonably believes is intended.

In deciding whether the defendant used excessive force in defending himself, the fact-finder may consider all the circumstances under which he acted. A person acting in the heat of passion caused by an assault does not necessarily lose his claim of self-defense by using greater force than would seem necessary to a calm mind. In the heat of passion, a person may actually and reasonably believe something that seems unreasonable to a calm mind.

Self-Defense – Amount of Force Permissible Where Appearances Are False

If the defendant actually and reasonably believes it is necessary to use force to prevent imminent bodily harm to himself, he may use a reasonable amount of force even though afterwards it turns out that the appearances were false.

Self-Defense – Where Defendant Might Have Been the Aggressor

If the fact-finder finds that the defendant was the aggressor, he cannot rely upon the right of self-defense to justify his use of force. Mere words without more by the defendant, however, do not constitute aggression.

Defense Theory: Public Authority and Statements of Former President Trump⁸

Evidence regarding statements made by former president Donald Trump and Rudolph Giuliani on January 6, 2021 were introduced into evidence. This evidence was admitted for a limited purpose, which is its potential impact on the intent required to establish the defendant's guilt on the offenses he has been charged with committing, if the fact-finder concludes that the defendant in fact heard those statements.

The fact-finder is not to consider that evidence for any other purpose. Neither former president Donald Trump nor Rudy Giuliani actually had the power to authorize or make legal the alleged crimes charged in this case.

⁸ The Government objects to the "Public Authority" instructions for reasons set forth in Government's motion in limine and replies to defendants' opposition on the subject. (ECF 125, 141, 170, 189.)