

STATEMENT OF FACTS

I, [REDACTED], am a Special Agent of the Federal Bureau of Investigation, currently assigned to a squad that investigates health care fraud against the government. In my duties as a 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. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

Background

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

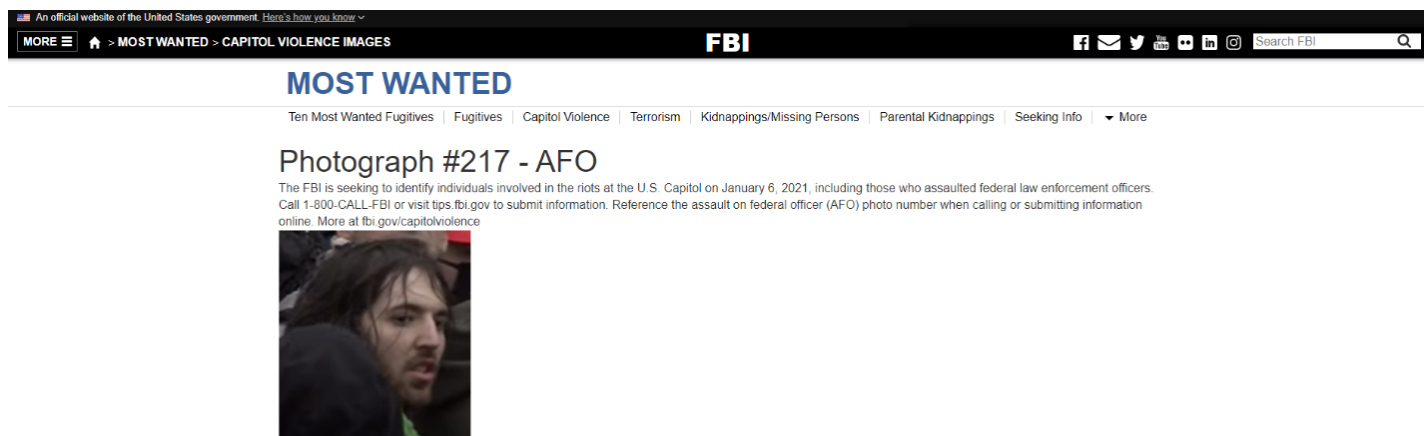
violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Conduct of DAVID JOSEPH GIETZEN

Identification of GIETZEN

The FBI Washington Field Office published multiple photographs on the FBI website (www.fbi.gov) of participants in the riot at the U.S. Capitol Building on January 6, 2021, seeking to identify those pictured. Each individual pictured was assigned a number to aid in identification, to include Photograph #217 - AFO (Exhibit 1).

Exhibit 1



On or about February 14, 2021, a tipster (TIPSTER 1) contacted the FBI and identified the individual pictured in Photograph #217 as David Joseph Gietzen (GIETZEN), residing in Raleigh, NC. TIPSTER 1 also provided a screenshot of GIETZEN's Facebook page and reported that the picture of GIETZEN on the Facebook profile was old and he had grown his hair out since the picture. TIPSTER 1 knew GIETZEN through a friend's family member and from the attending the same college as GIETZEN. On or about July 20, 2021, TIPSTER 1 was interviewed by law enforcement and described meeting GIETZEN through mutual friends several years ago while attending college. TIPSTER 1 described their relationship as acquaintances and not close friends who saw each other occasionally on campus and at off campus parties. After the riot at the U.S. Capitol building on January 6, 2021, TIPSTER 1 visited the website Reddit and scrolled through the pictures of wanted FBI subjects and saw AFO #217 and thought it matched GIETZEN. TIPSTER 1 consulted with another person who knows GIETZEN, and they both agreed #217 was GIETZEN. TIPSTER 1 subsequently submitted the tip to the FBI. The person TIPSTER 1 consulted also submitted a tip to the FBI but requested to stay anonymous. This person will be referred to as TIPSTER 2.

On or about May 27, 2021, law enforcement interviewed TIPSTER 2 and TIPSTER 2 provided photographs from a group text message indicating that GIETZEN participated in the U.S. Capitol riot. TIPSTER 2 provided the below picture of GIETZEN on January 6, 2021. GIETZEN appears to be wearing a green jacket, blue jeans, knee pads and dark shoes, and to have shoulder length brown hair, a short beard, and a mustache (Exhibit 2):

Exhibit 2



After reviewing the photograph of AFO #217, TIPSTER 2 stated AFO #217 appeared to be GIETZEN, although TIPSTER 2 could not say with 100% certainty since TIPSTER 2 had not seen GIETZEN in a few years.

TIPSTER 3, an individual personally familiar with GIETZEN, was shown the photos in Exhibit 1 and Exhibit 2, and said that both were “definitely” GIETZEN. TIPSTER 3 specifically recognized the green jacket in Exhibit 2 as belonging to GIETZEN.

On January 16, 2021, the FBI received a report about text messages in which GIETZEN and his brother indicated that they wanted to meet others at the U.S. Capitol on January 20, 2021, for the presidential inauguration. The report stated that their plan was to force their way in the Capitol building to force Congress to hold another election, and that the Gietzen brothers were also at the U.S. Capitol riot on January 6, 2021.

In response to that report, the FBI interviewed GIETZEN on January 19, 2021. GIETZEN stated that he and his brother were en route to Washington D.C. to attend the presidential inauguration and that he had no intentions of committing any acts of violence. He stated that on January 6, 2021, he and his brother had attended the protest in Washington, D.C. He stated that

while walking to the Capitol, the situation escalated because protesters believed the police were trying to stop them from continuing to the Capitol. GIETZEN said that he and his brother never made it to the Capitol.

I reviewed Body Worn Camera (“BWC”) footage obtained from multiple D.C. Metropolitan Police Department (“MPD”) Officers who were present during the riot on January 6, 2021. I also reviewed Closed Caption Television (CCTV) footage and open source video footage from outside the U.S. Capitol Building on January 6, 2021. During my review of these cameras and videos, I observed the individual pictured in Photographs #217 on numerous occasions in footage on the U.S. Capitol grounds. Based on the similarity in appearance and attire of the individual in this footage to the pictures provided by TIPSTER #1 and 2, as well as the statements made by TIPSTER #1 as detailed above, and a comparison of GIETZEN’s most recent driver’s license photograph, I believe the individual pictured in Photographs #217, as well as the individual pictured in the screenshots below, to be GIETZEN.

Conduct of GIETZEN on the Grounds of the U.S. Capitol

As stated above, GIETZEN is captured on numerous MPD Officers’ BWCs, specifically those of MPD Officers working on the exterior West Plaza and Lower West Terrace area of the Capitol, as well as open source videos and CCTV footage during the riot. Throughout this footage, GIETZEN is seen wearing a green jacket, jeans, knee pads, and on occasion a white helmet and/or goggles. GIETZEN is seen consistently moving up and down the police line along the security gate barriers. The following are a few examples from open source materials believed to capture GIETZEN (Exhibit 3A-D):

Exhibit 3A¹



Exhibit 3B²



Exhibit 3C³



Exhibit 3D⁴



TIPSTER 3 was shown the photos in Exhibit 3A and 3C. TIPSTER 3 was not certain whether either photo depicted GIETZEN, but noted that the jacket in Exhibit 3A was consistent with GIETZEN's jacket.

¹ <https://mobile.twitter.com/hashtag/greenhoodlum?src=hash>; Screenshot from video post by Captain Columbo @ColumboCaptain on 03/04/2021.

² <https://mobile.twitter.com/hashtag/greenhoodlum?src=hash>; Picture posted by Sims Simon @SimsSimon15 on 03/02/2021.

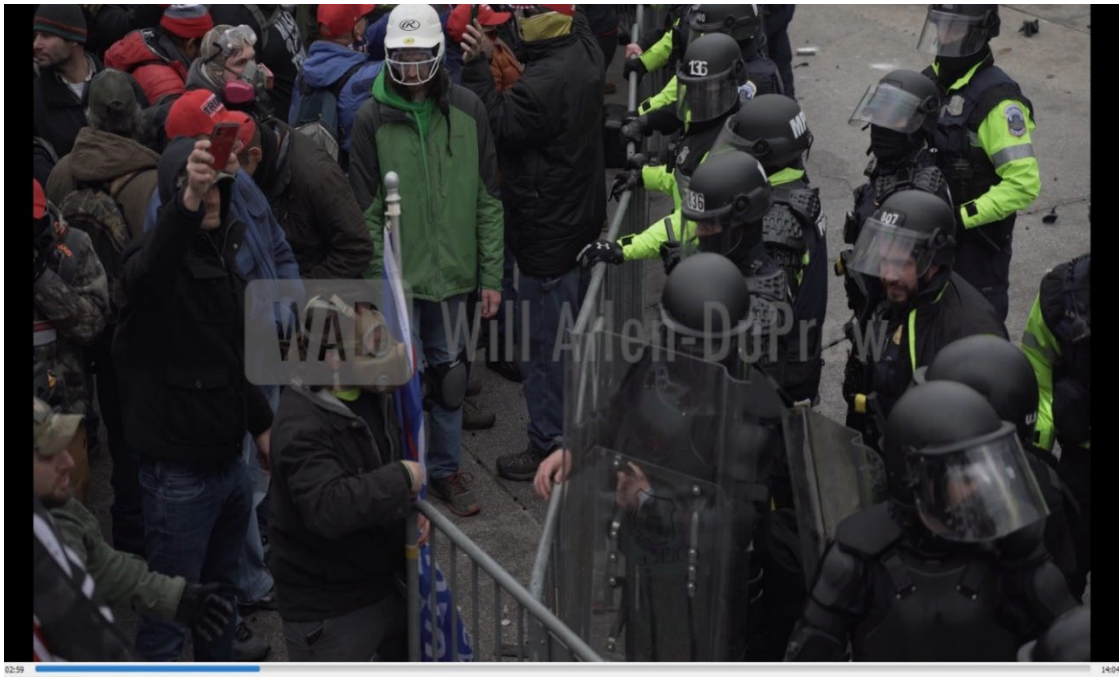
³ <https://seditionhunters.org/217-afo/>

⁴ <https://seditionhunters.org/217-afo/>

**GIETZEN Assaults Capitol Police Officers in the U.S. Capitol West Plaza Area at
Approximately 2:13 pm to 2:15 pm**

An open source video from January 6, 2021 bearing the watermark “WAD Will Allen DuPraw” shows GIETZEN in the area of the security barriers in front of the West Plaza area. He is standing directly in front of the barriers, with members of law enforcement directly behind and guarding the barriers. GIETZEN is seen wearing a white helmet with a yellow emblem on the visor, a green jacket, jeans, knee pads and dark shoes. (Exhibit 4).

Exhibit 4⁵



In the following open source photo bearing the watermark “alamy,” GIETZEN is seen in approximately the same location as Exhibit 4 wearing a white helmet with a yellow emblem on the visor and a green jacket. He appears to be pushing with the crowd against the barriers and thrusting his fist against U.S. Capitol Police officers’ shields (Exhibit 5):

⁵ <https://www.dropbox.com/s/yfc4103ng9ebu6w/Will%20Allen-DuPraw%20All%20Footage%20watermarked%20part%201.mp4?dl=0> at timestamp 3:00.

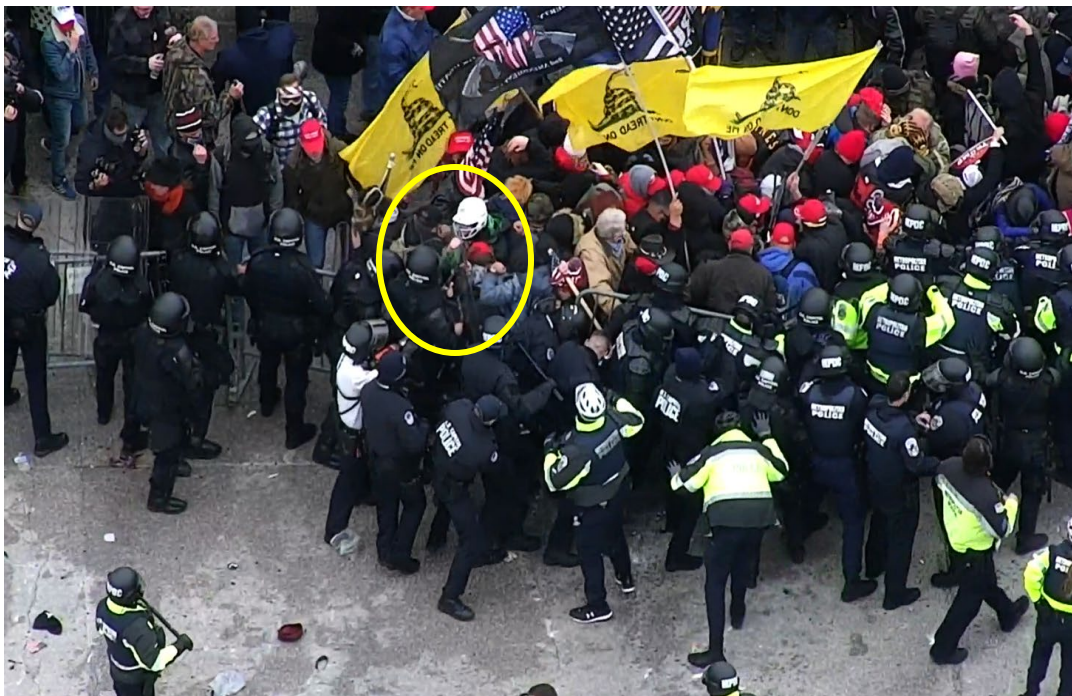
Exhibit 5⁶



Law enforcement reviewed CCTV from the Capitol grounds showing footage of the West Plaza area taken at or around 2:13 PM. The CCTV captured the incident in Exhibit 5 from another angle and shows GIETZEN, in the white helmet and a green jacket, in an altercation with law enforcement when he thrusts his fist towards officers' shields (Exhibit 6A):

⁶ <https://www.alamy.com/washington-dc-january-6-2021-pro-trump-protesters-and-police-clash-on-top-of-the-capitol-building-image396850795.html>

Exhibit 6A



At or around 2:15 PM, GIETZEN was viewed on U.S. Capitol grounds in the same CCTV video grabbing the shield of a U.S. Capitol Police Officer. GIETZEN is identified by his white helmet and green jacket (Exhibit 6B):

Exhibit 6B



Moments later, the same CCTV video shows GIETZEN pushing the U.S. Capitol Police officer's shield. GIETZEN is identified by his white helmet and green jacket (Exhibit 6C):

Exhibit 6C



The open source video footage referenced above bearing the watermark “WAD Will Allen DuPraw” appears to capture the same incident. The following images show GIETZEN grabbing and then pushing the officer's shield. GIETZEN is identified by his white helmet with a yellow emblem on the visor and green jacket (Exhibits 7A-D):

Exhibit 7A



Exhibit 7B



Exhibit 7C



Exhibit 7D



GIETZEN Assaults Officers in the U.S. Capitol West Plaza Area at Approximately 2:28 pm

Law enforcement identified GIETZEN in an open source video located in the Internet Archive “WayBack Machine,” a website that captures and preserves internet material available at various times on the Internet. Notation accompanying the video indicates that it was previously posted to Parler on January 10, 2021, and based on a comparison to other videos, Agents believe that the scene below took place at approximately 2:28 pm. In the video, GIETZEN is seen pushing an officer during a series of hand-to-hand confrontations between members of the public and MPD and Capitol Police Officers, respectively. GIETZEN is identified by his white helmet and green jacket, blue jeans, knee pads and dark shoes (Exhibits 8A & 8B):

Exhibit 8A⁷

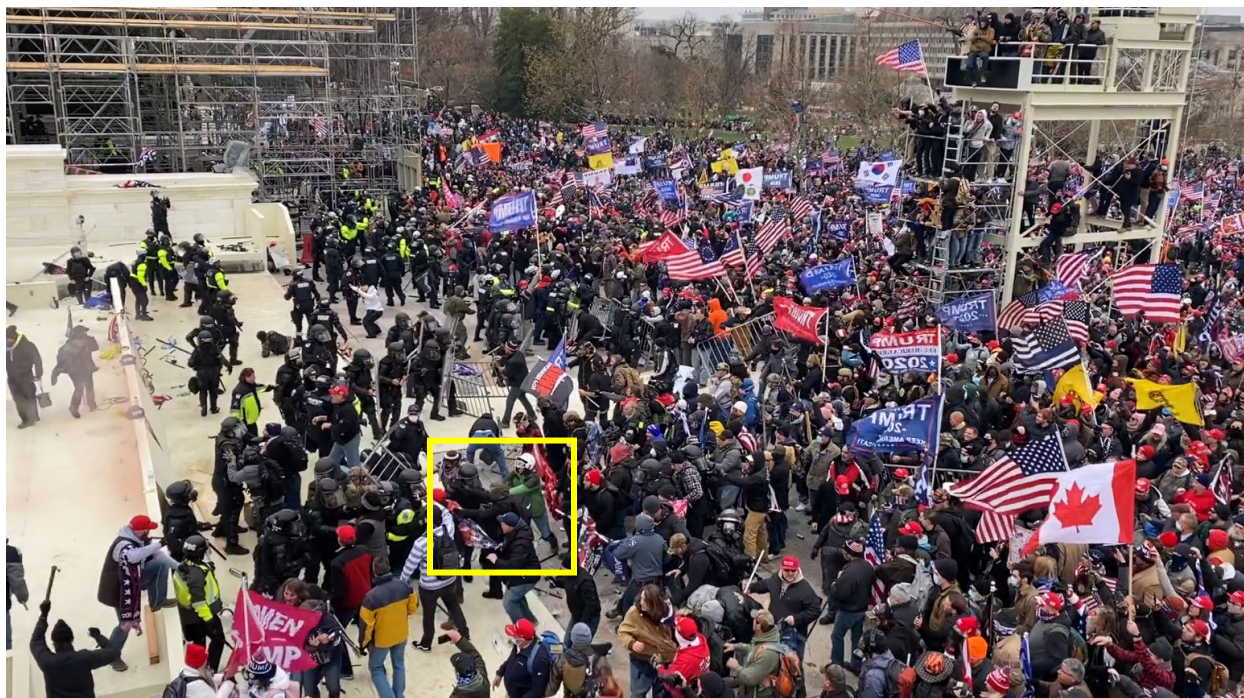


Exhibit 8B



⁷ <https://web.archive.org/web/submit?url=https://video.parler.com/xM/8C/xM8CXfu9pQHk.mp4> at timestamp 0:20.

In the same video moments later, an officer winds up surrounded by members of the crowd and GIETZEN appears to grab the officer by the throat or face mask (Exhibits 8C and 8D).

Exhibit 8C



Exhibit 8D

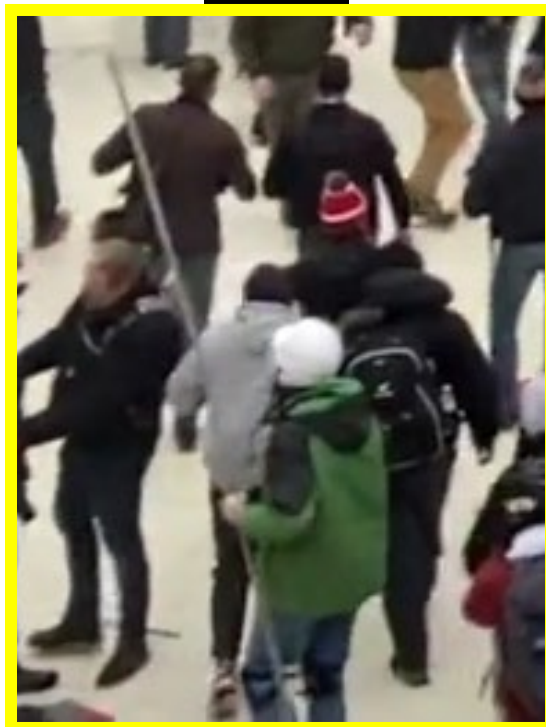


GIETZEN is temporarily out of view in the video. He reappears holding a long pole. GIETZEN is identified by his white helmet, green jacket, blue jeans and knee pads (Exhibits 8E & 8F):

Exhibit 8E



Exhibit 8F



GIETZEN Assaults a U.S. Capitol Police Officer with a Pole on the West Terrace of the U.S. Capitol Grounds at Approximately 2:31 pm

In another open source video entitled “[White hot riot] JANUARY 6 WASHINGTON, D.C. RIOT, FULL” that appears to capture the Capitol grounds at approximately the same time as the video described above from Internet Archive “WayBack Machine,” but from another angle, GIETZEN is seen holding a pole and advancing to the Lower West Terrace. GIETZEN is identified by his white helmet, green jacket, goggles, shoulder-length brown hair and short brown beard and mustache:

Exhibit 9A⁸



In the video, GIETZEN walks with a crowd to a terrace area that overlooks a large number of Capitol Police Officers. GIETZEN is seen leaning forward over the railing and thrusting the pole toward the officers. His pole appears to make contact with the crowd of officers:

⁸ <https://www.youtube.com/watch?v=AQAY5hUNhWs> at timestamp 25:06

Exhibit 9B



Exhibit 9C



Law Enforcement interviewed a U.S. Capitol Police officer in the video, USCP Officer 1, who witnessed the individual later identified as GIETZEN hit the officer next to him with the pole, striking him in the shoulder between his protective gear. According to USCP Officer 1, GIETZEN took the opportunity to hit the officers after the officers had to fight off a group of rioters who used a large piece of wood, appearing to be a piece of plywood the size of a door, to break through the perimeter. USCP Officer 1 identified BWC footage from Metropolitan Police Officer J.M. capturing the incident. A screenshot from the BWC of Officer J.M. at 2:31 pm is provided below in Exhibit 10.

Exhibit 10



CCTV of the Capitol grounds at approximately 2:31 PM EST also captured the events described above from a distance (Exhibits 11A & 11B):

Exhibit 11A

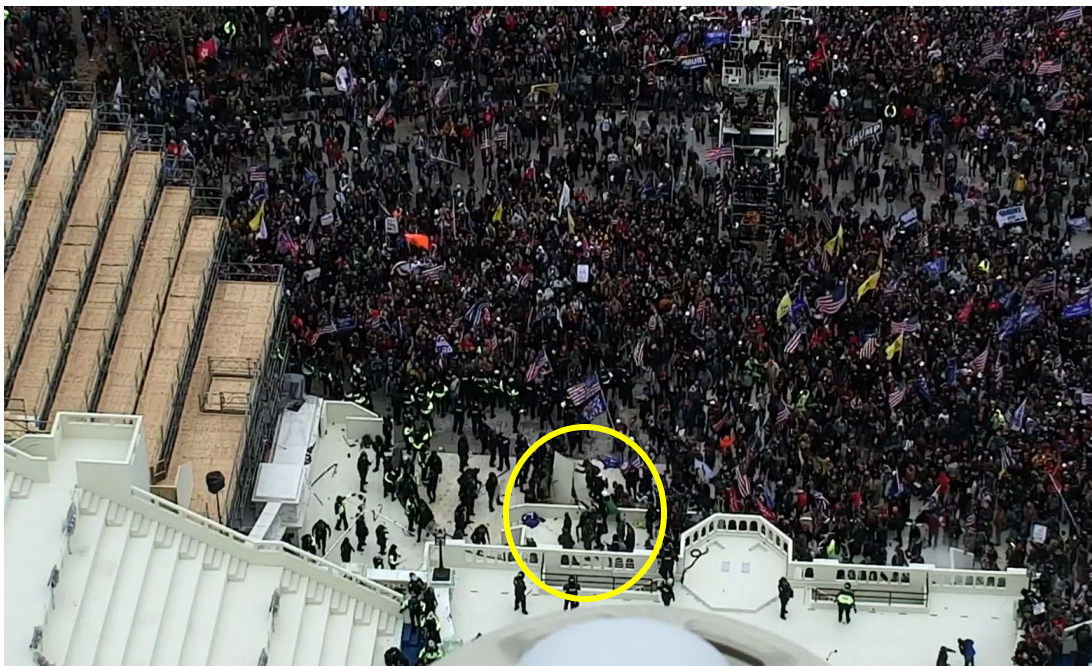
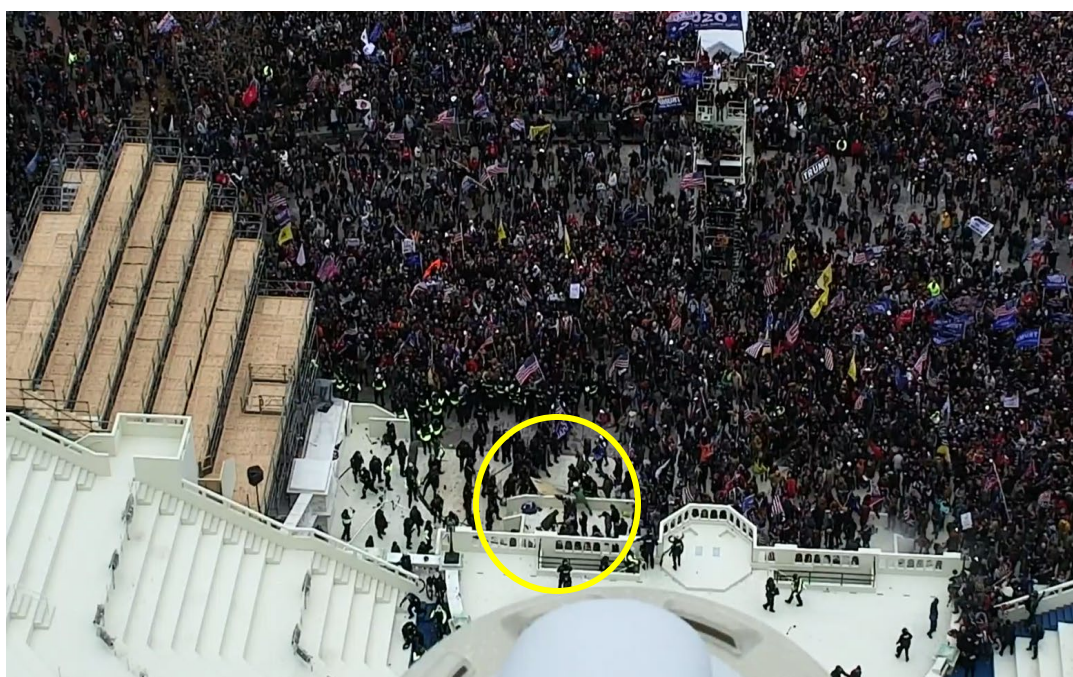


Exhibit 11B



GIETZEN Obstructs Law Enforcement Officers Between Approximately 3:40 pm to 4:00 pm

Law enforcement reviewed additional open source material and observed GIETZEN in the area of the Lower West Terrace tunnel in a series of videos, including one bearing the watermark “CJR III%” (Exhibits 12A & 12B). GIETZEN is identified by his green jacket, dark should-length hair and short beard and mustache, and by comparing his photo to the photo identified by TIPSTER 2, above.

Exhibit 12A⁹



Exhibit 12B



⁹ <https://www.bitchute.com/video/Ii1cH9WLAw7x/> at timestamp 5:33.

GIETZEN was also observed in the area outside the Lower West Terrace Tunnel in another open source video among a crowd as the crowd thrust a flagpole toward law enforcement officers securing the West Terrace Capitol entrance (Exhibit 13):

Exhibit 13¹⁰



GIETZEN was also observed on U.S. Capitol CCTV outside the Lower West Terrace Tunnel from approximately 3:57 pm to 3:58 pm pushing with the crowd back and forth against the law enforcement officers securing the entrance doorway, preventing a breach of the Capitol building (Exhibits 14A-D). He is identified by his green jacket, dark should-length hair and short brown beard and mustache, and by comparing his photo to the photo identified by TIPSTER 2, above.

¹⁰ <https://jan6archive.com/youtube/iNFcdpZdkh0.mp4> at time stamp: 1:02:18

Exhibit 14A



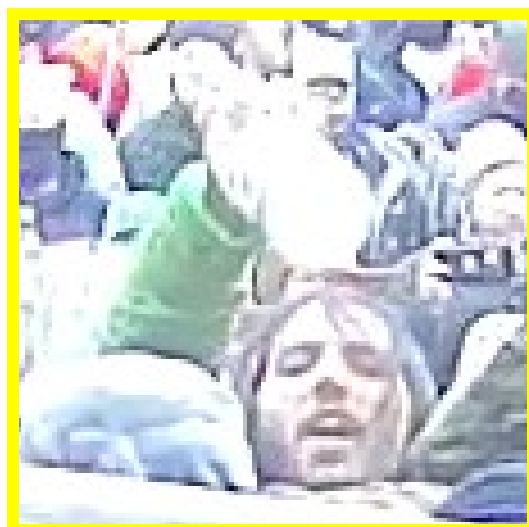
Exhibit 14B



Exhibit 14C



Exhibit 14D



Charges

Your affiant submits there is probable cause to believe that DAVID JOSEPH GIETZEN violated 18 U.S.C. § 111(a)(1) & (b), which makes it unlawful to use a deadly or dangerous weapon to forcibly assault, resist, oppose, impede, intimidate, and interfere with, an officer and employee of the United States, and of any branch of the United States Government (including any member of the uniformed services), and any person assisting such an officer and employee, while such officer or employee was engaged in or on account of the performance of official duties, and where the acts in violation of this section involve physical contact with the victim and the intent to commit another felony. For purposes of Section 111 of Title 18, persons “assisting” federal officers or employees include the MPD Officers who were assisting U.S. Capitol Police and other federal law enforcement officers in responding to the events of January 6, 2021.

Your affiant submits there is also probable cause to believe that DAVID JOSEPH GIETZEN 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.

Finally, your affiant submits that there is probable cause to believe that DAVID JOSEPH GIETZEN violated 18 U.S.C. § 1752(a)(1), (2) 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 (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; (4) knowingly engage 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.



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 25th day of March 2022.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE