

Case: 1:23-mj-00038
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 2/17/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Task Force Officer with the Federal Bureau of Investigation (“FBI”) and is assigned to the Tampa Division, Fort Myers Resident Agency, Joint Terrorism Task Force, 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, detention, 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, 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 separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

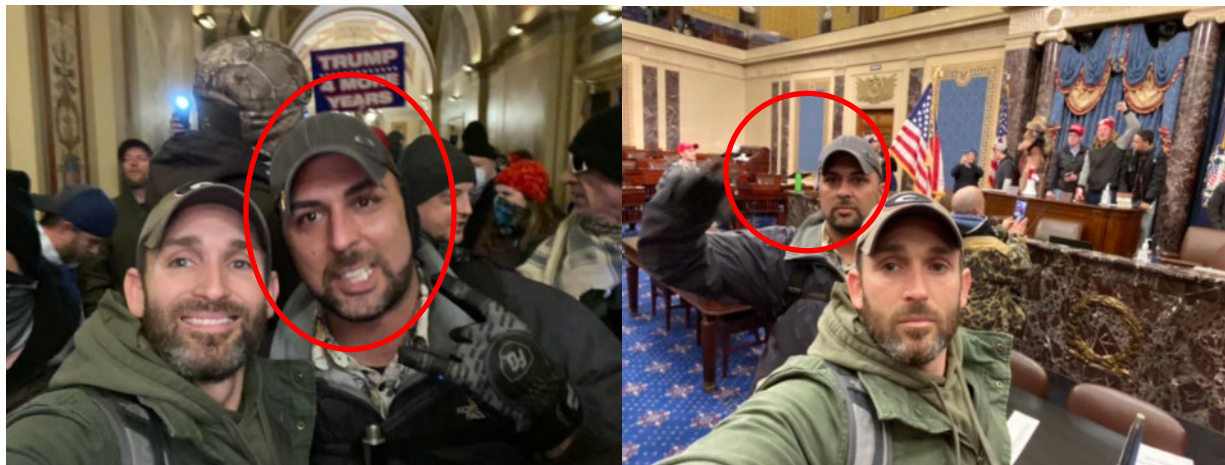
During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

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

FACTS SPECIFIC TO JOHN RICHTER

After these events on January 6, the FBI received many tips from members of the public concerning the individuals who unlawfully entered the restricted grounds and Capitol building. One of those tips identified a man in a green jacket, green/brown baseball cap with a “G” logo, grey backpack, blue jeans, metal pointed pole, and, at times, black gloves. The FBI later identified that person as JOSEPH IRWIN.¹

IRWIN was charged and arrested for his conduct on January 6, 2021. The FBI received a search warrant for IRWIN’s cell phone. Upon review of IRWIN’s cell phone, the FBI learned that IRWIN frequently communicated with a man identified as “John Richter” regarding plans to travel to Washington, D.C. on January 6, 2021. IRWIN’s phone contained several photos and videos from January 6, 2021, showing himself and a person wearing camo pants, dark jacket, black backpack, grey and brown baseball cap, black gloves, and, at times, black earmuffs, and carrying a metal pointed pole. These photos and videos were taken inside the Capitol, as well as on the Senate floor inside the Capitol.



Images 1 and 2: Photographs from IRWIN’s cell phone taken on January 6, 2021 showing a man (circled in red) wearing a dark jacket, grey and brown baseball cap, and black earmuffs (left)

In one of the videos on IRWIN’s cell phone, he takes a selfie-style video yelling, “JOHN RICHTER! JOHN RICHTER!” while on the Senate floor.

Following the January 6, 2021 attack on the United States Capitol, images of the man circled in red, above, participating in the riot appeared on the Internet. In July 2022, your affiant received information provided by a Confidential Human Source (CHS) showing additional images of the abovementioned person (circled in red) on the Senate floor on January 6, 2021. Your affiant identified that person as **JOHN RICHTER**.

¹ JOSEPH IRWIN is charged in case number 21-cr-589.

On September 14, 2022, your affiant interviewed **RICHTER** at his residence about his participation in the riot on January 6. **RICHTER** provided a willing and voluntary statement in which he admitted to being present inside the U.S. Capitol on January 6, 2021.

The FBI also located a known image of **RICHTER** from the Florida Department of Motor Vehicles which showed **RICHTER**'s most current driver's license photograph dated February 2022. The FBI compared the driver's license photograph to images taken on January 6, 2021, as well as your affiant's personal observations of **RICHTER**, and believe them to be the same individual.

Throughout November and December 2020, **RICHTER** and IRWIN sent each other numerous videos, screenshots, links, and text messages about the recent presidential election, claiming that the election results were fraudulent. For example, **RICHTER** sent IRWIN a screenshot of a Tweet from former president Donald Trump stating, "I WON THE ELECTION!"

On December 12, 2020, **RICHTER** posted a video on Twitter saying, "This isn't one of those things where we're going to say someone else is going to do something. We have to do it. It's our job. See you in D.C." **RICHTER** sent a video to IRWIN that shows **RICHTER** loading bullets into a bullet holder with a screenshot that said, "Michigan State Police Blocking GOP Electors From Entering The Capital. TYRANNY HAS BECOME LAW."

In one text message to IRWIN, **RICHTER** screenshotted a message that said it was "from Trump's Lawyer," and said, in part, "The media is going to make you believe that it's all over and Joe Biden is now officially president . . . On January 6th, Nancy Pelosi will sit down with the rest of the House members as she has no special power or authority over the hearing. Mike Pence is in full authority that day as written in the Constitution. The ballots will be certified today but that means nothing."

RICHTER also forwarded a screenshot of a text message from the former president that said, in part, "Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild!" **RICHTER** reposted the Tweet with a comment, "Muster for liberty. Let's show these liberal soy boys what the sleeping giant looks like when it's up, angry, and ready to fight."

RICHTER and IRWIN agreed that they needed to travel to Washington, D.C. for January 6. "The stage has been set," **RICHTER** said. After solidifying their plans to travel to Washington, D.C., IRWIN asked **RICHTER**, "Are we go open militia or innocent/ready bystander." **RICHTER** responded, "Well I think we are gonna be in a huge crowd mostly. So we will have to be opportunists most likely. Gnome sayin? I like the ready bystander wildcard approach myself."

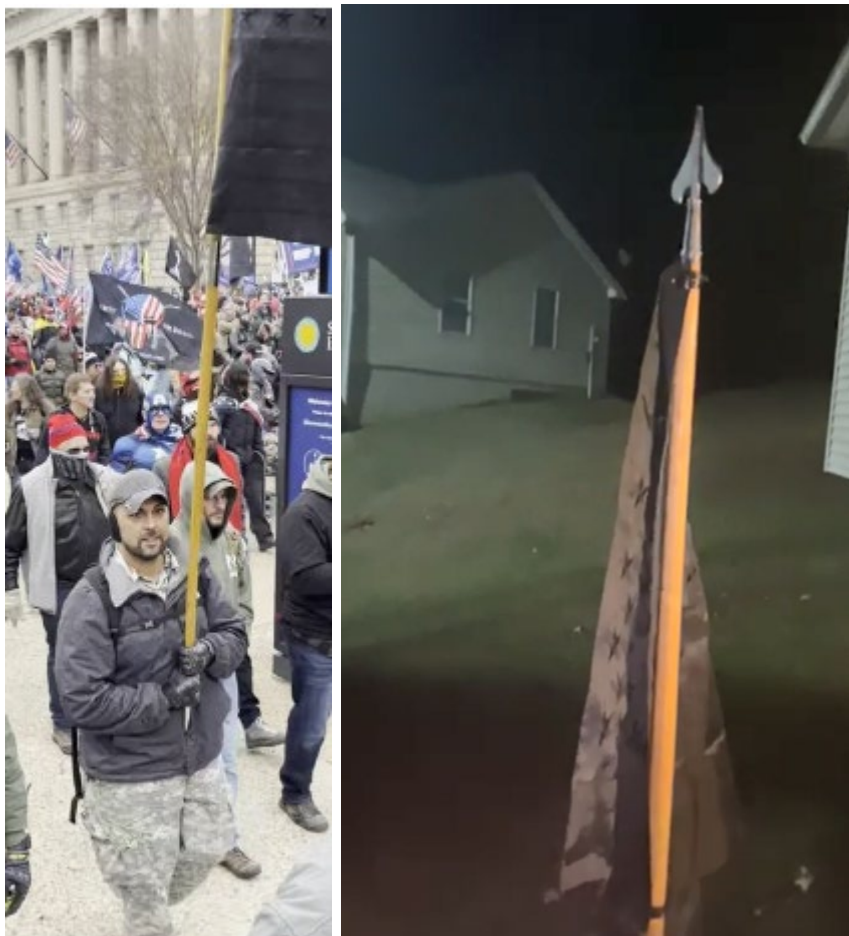
RICHTER and IRWIN discussed bringing supplies to Washington, D.C., such as flagpoles, goggles, battery banks, and full-face respirators. **RICHTER** also planned to bring an all black American flag because, he said, "All black flag means no quarter will be given. It's time to do patriot shit." "It's gonna be wild," he added.

RICHTER sent IRWIN a video he recorded that said, “Do you feel it? The storm has arrived. Jan 6, 2021 in DC. Be there, it’ll be wild. It’s time to do patriot shit. Ready up.”

On January 1, 2021, **RICHTER** texted IRWIN, “The patriots have already started taking dc. This is going to be legendary.” **RICHTER** also said, “[W]e are standing on the edge of American history. JOE WE ARE GOING. WE ARE GOING TO BE PART OF IT!!” IRWIN responded, “We’ve been part from the beginning. . . . We were the actual ‘guys who might actually be needed’ beginning.” **RICHTER** responded, “We are going to offer our hands personally to snatch n***** up. It’s fucking time.”

On January 5, 2021, **RICHTER** and IRWIN rented a car and drove from Radcliff, Kentucky to IRWIN’s sister’s house near Washington, D.C. On January 6, the pair drove into Washington, D.C., parked their rental car, and walked to the “Stop the Steal” rally. After the rally, **RICHTER** and IRWIN marched to the U.S. Capitol.

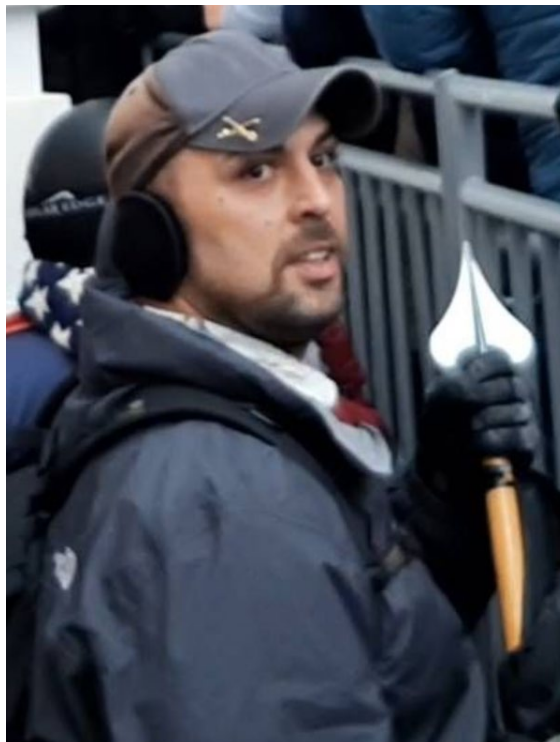
RICHTER can be seen on open source footage walking toward the Capitol building wearing camo pants, a dark jacket, black backpack, grey and brown baseball cap, black gloves, and, at times, black earmuffs, and carrying a flagpole with a black American flag and pointed metal tip.



*Images 3 and 4: Screenshot of open source video footage showing **RICHTER** marching towards the U.S. Capitol and carrying a flagpole with a black American flag attached, left, and*

*screenshot of video filmed by **RICHTER** preparing his metal pointed tipped flagpole for traveling to Washington, D.C., right*

After reaching the Capitol grounds, **RICHTER** joined a mob of rioters on the Lower West Terrace. He progressed to the front of the mob where a line of police officers was fighting against violent rioters attempting to break through the police line. **RICHTER** eventually ascended to the Upper West Terrace and made his way to the Senate Wing Doors, where he stood wielding a wooden flagpole with a pointed metal tip and watched as rioters attempted to break through the doors while chanting, “LET US IN! LET US IN! LET US IN!”



*Image 5: Screenshot of open source video footage showing **RICHTER** outside the Senate Wing Doors wielding pole with pointed metal tip, while rioters attempted to break through doors and windows*

Before rioters broke through the Senate Wing Doors (for the second time), another rioter started bashing the nearby Parliamentarian door window, attempting to break through. **RICHTER** moved to that door and watched as rioters successfully smashed the window and opened the door.

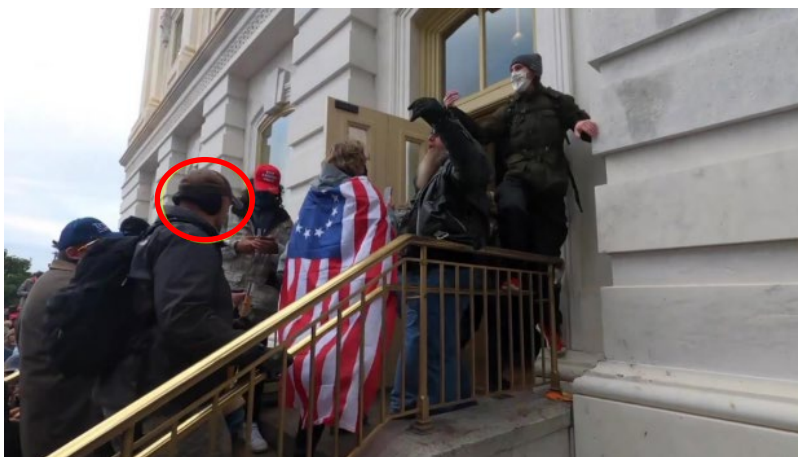


Image 6: Photograph taken by IRWIN of rioter smashing Parliamentarian's door window



*Image 7: Screenshot of video footage showing **RICHTER** (red circle) and IRWIN (yellow circle) outside the Parliamentarian's door right after it had been breached*

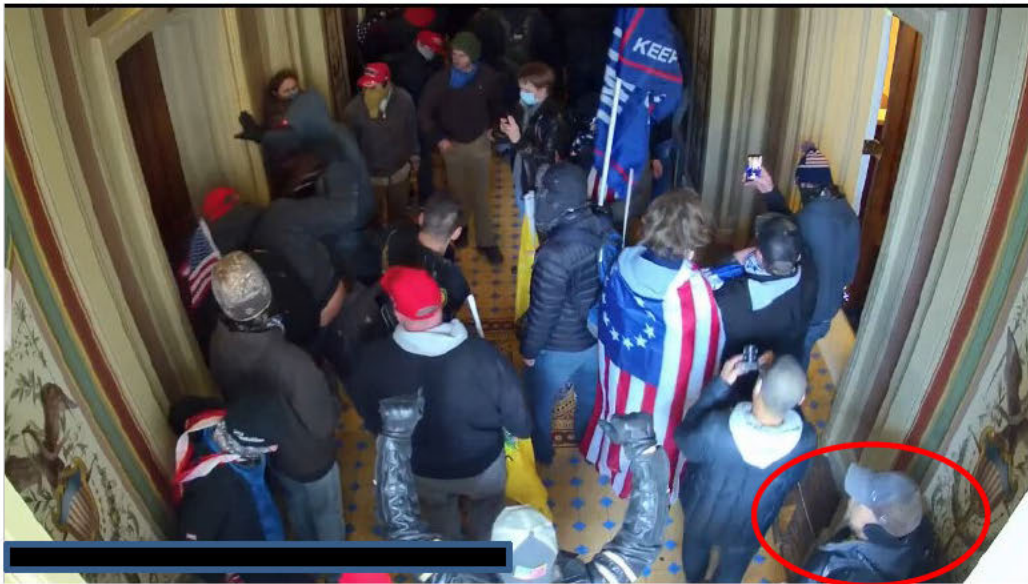
After watching a rioter break through the window and open the Parliamentarian's door, **RICHTER** quickly entered the Capitol building through that door.



*Image 8: Photograph of **RICHTER** (red circle) about to enter the Parliamentarian's door*

Your affiant obtained video footage from security cameras inside the United States Capitol on January 6, 2021 showing **RICHTER** as he entered the Capitol building at approximately 2:45 p.m., wielding the abovementioned pole – now without the flag attached – and chanting with other

rioters. As **RICHTER** entered the building, he watched as several rioters violently attempted to break through a door into an office.



*Image 9: Screenshot of video footage showing **RICHTER** (red circle) inside the Capitol building watching as rioters attempt to break through an office door*

RICHTER marched down the hallway and approached the North Appointments Desk, where a line of officers stood attempting to keep rioters from progressing farther into the building.



*Image 10: **RICHTER** (red arrow) marching down hallway toward line of officers attempting to block rioters from progressing farther into the building*

After the line of officers became outnumbered and overwhelmed by the pack of rioters, the pack of rioters, **RICHTER** included, continued to progress deeper into the building.

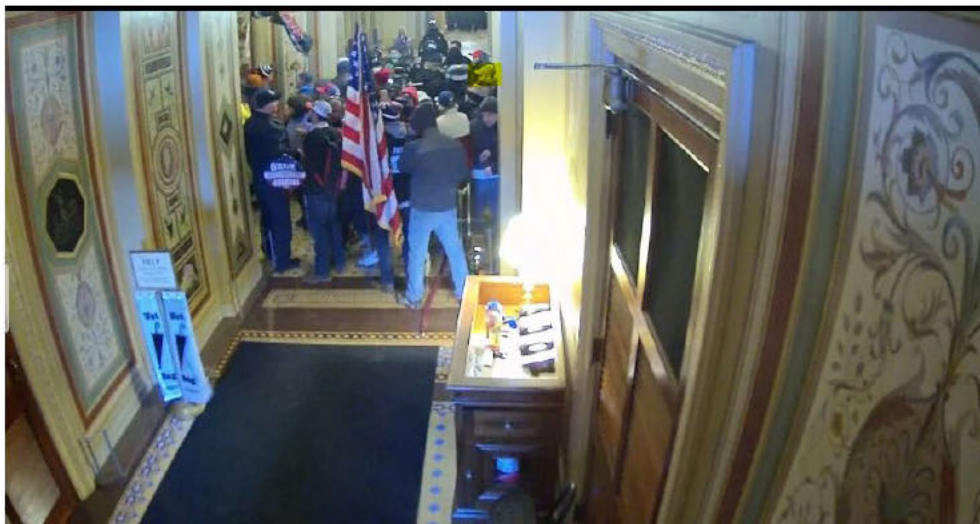


Image 11: rioters moving through hallway after officers had been overwhelmed

RICHTER ascended a set of stairs near the Senate chamber. He stood next to a desk, taking pictures or a video as IRWIN sat in a chair wielding his pole.



*Image 12: **RICHTER** (red arrow) taking a photo or video of himself as he stood nearby the Senate chamber*

After making his way through several hallways and rooms in the Capitol building, **RICHTER** arrived at the Senate Chamber. He entered the Senate Chamber and walked onto the Senate floor still wielding his pole.



*Image 13: Screenshot of video footage showing **RICHTER** (red circle) entering the Senate Chamber on the Senate floor*

After walking onto the Senate floor with **RICHTER**, IRWIN recorded a selfie-style video yelling, “JOHN RICHTER! JOHN RICHTER!” IRWIN then yelled, “THIS IS US! THIS IS OURS RIGHT HERE! THIS IS OUR HOUSE! THIS IS WHAT YOU DO WHEN YOU TAKE IT! DON’T GIVE IT BACK TO THEM NOW! THIS IS OUR HOUSE! OUR HOUSE! OUR HOUSE! OUR HOUSE! OUR HOUSE! OUR HOUSE!”



*Image 14: Screenshot of video footage showing **RICHTER** (red arrow) roaming the Senate floor while **IRWIN** (yellow arrow) takes a selfie-style video screaming “THIS IS OUR HOUSE! THIS IS WHAT YOU DO WHEN YOU TAKE IT!”*

RICHTER and **IRWIN** stood at the head of the dais, hats removed and heads bowed, and paid respect to other rioters screaming about their accomplishment of making it to the Senate floor.



*Image 15: Screenshot of video footage showing **RICHTER** (red circle) on the Senate floor paying respect to rioters*

RICHTER then sat in a Senator's desk, wielding his pole while rioters rustled through papers and other items in the Senate Chamber.



*Image 16: Photograph of **RICHTER** (red circle) sitting at a Senator's desk wielding a flagpole*

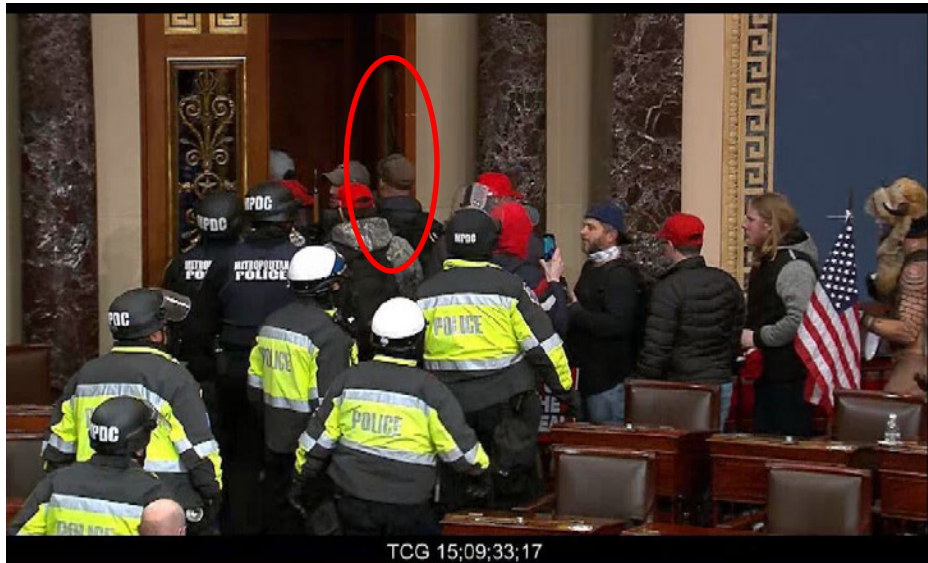


*Image 17: Screenshot of video footage showing **RICHTER** (red circle) sitting at a Senator's desk wielding a flagpole*

Eventually, officers from the Metropolitan Police Department (MPD) arrived in the Senate Chamber and cleared the rioters from the floor. **RICHTER** was one of the last rioters to be escorted out.



*Image 18: Screenshot of video footage showing MPD officers clearing rioters, including **RICHTER** (red arrow), off the Senate floor*



*Image 19: Screenshot of video footage showing MPD officers clearing rioters, including **RICHTER** (red circle), off the Senate floor*

Officers corralled the rioters out of the Capitol building. At about 3:11 p.m., **RICHTER** exited the building through the Senate Carriage Doors, still wielding his flagpole.



*Images 20 and 21: Screenshots of video footage showing **RICHTER** (red circle) exiting the Capitol building with a flagpole in hand*

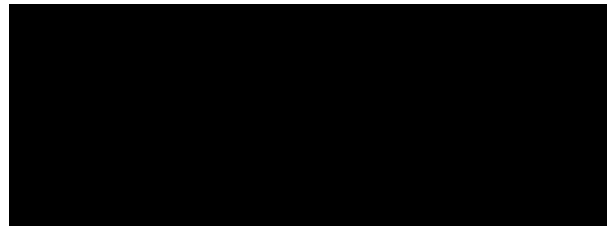
On January 8, 2021, IRWIN sent **RICHTER** a link to a news article titled, “Police release photos of Trump mob members wanted for storming Capitol.” IRWIN said, “Remember our plan.” **RICHTER** responded, “Yes. You too.”

Based on the foregoing, your affiant submits there is probable cause to believe that **JOHN RICHTER** violated 18 U.S.C. §§ 1512(c)(2) and 2, which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

Your affiant submits that there is probable cause to believe that **JOHN RICHTER** violated 18 U.S.C. § 1752(a) and (b), which make 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 function – all while using or carrying a deadly or dangerous weapon. The punishment for violating these provisions by using or carrying a dangerous weapon is imprisonment for up to 10 years. 18 U.S.C. § 1752(b)(1)(A). For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Finally, your affiant submits that there is also probable cause to believe that **JOHN RICHTER** violated 40 U.S.C. § 5104(e)(2)(A), (D), and (G) , which makes it a crime to willfully and knowingly (A) enter or remain on the floor of the House of Congress unless authorized to do so; (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.

Respectfully submitted,



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 17th day of February, 2023.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE