

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent for the Federal Bureau of Investigation ("FBI"), assigned to the Denver Division, Cheyenne Resident Agency in Cheyenne, Wyoming. I have been employed as a Special Agent with the FBI since 2018. As part of my training as a special agent, I attended 21 weeks of New Agent Training at the FBI Academy in Quantico, Virginia. I have received formal and informal training from the FBI regarding criminal and counterterrorism investigations. Prior to being hired as a Special Agent with the FBI, I was on active duty in the U.S. Air Force Security Forces, serving eight years overseas.

Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, 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.

Background: Events at the U.S. Capitol on January 6, 2021

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.

Identification of August GARCIA

Following January 6, 2021, the FBI published a number of BOLOs (short for “be on the lookout”), depicting various unidentified individuals suspected of committing assaults on January 6. In particular, the FBI published BOLO AFO-495, pictured below, in November 2021.

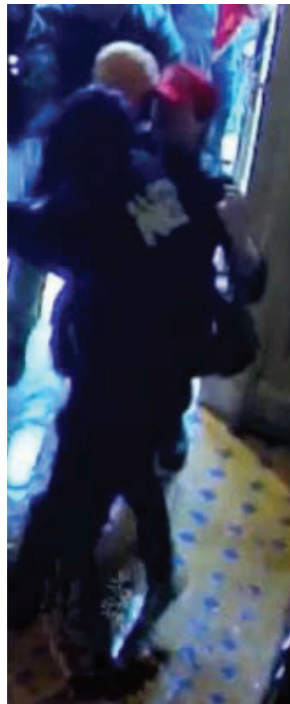


Image 1: Image published by the FBI as BOLO “AFO-495”

On November 22, 2021, the FBI received a tip from a known source, identifying the individual in BOLO AFO-495 as August Raymond Garcia (“GARCIA”) and providing images of GARCIA at the Capitol on January 6. The tipster alleged to have identified GARCIA based on open-source research.

Following receipt of this tip, the FBI conducted a review of GARCIA’s social media accounts. The photograph produced below as Image 2 matched the photograph associated with GARCIA’s LinkedIn profile.



Image 2: Photograph of GARCIA

In the course of my investigation, I have reviewed closed circuit television (“CCTV”) footage taken from inside the Capitol and identified a person matching GARCIA’s appearance in this photograph entering and remaining in the Capitol building on January 6, 2021. In the CCTV footage I reviewed, GARCIA is pictured wearing a red “MAKE AMERICA GREAT AGAIN” ballcap, occasionally with a black skullcap underneath it. He is also wearing a black leather jacket, a plaid shirt, and blue jeans and is carrying a brown messenger bag. Unlike the photograph produced as Image 2, the individual matching GARCIA’s appearance has a mustache.

On July 8, 2024, your affiant interviewed a pastor who had baptized GARCIA two weeks prior to the interviewed. Your affiant showed the pastor the images reproduced as “Image 3” below and asked him if he could identify the individual depicted in them. One of these images depicted GARCIA at the Capitol on January 6, 2021. The pastor proceeded to positively identify GARCIA in both images.



(U//FOUO) Photo result from InfoSec Ex:
infosec.exchange/@256kilobytes



(U//FOUO) Photo result from Mastodon “:
<https://mastodon.social/users/prokage/>
 Garcia @256Kilobytes@infosec.exchange”

Image 3: Images shown to GARCIA’s pastor

Later that same day, GARCIA called the Cheyenne, Wyoming FBI Resident Agency. He stated that his pastor had told him the FBI was looking for him. Your affiant advised GARCIA that the FBI wanted to ask him questions about his presence at the Capitol on January 6, 2021. GARCIA acknowledged that he was at the Capitol on January 6, 2021, but claimed that he was not part of any violence on January 6 and that he did not see anything illegal that day.

GARCIA's Activities at the U.S. Capitol

Open-source video depicts GARCIA attending the "Stop the Steal" rally, near the Ellipse, on January 6, 2021.



Image 4: Still from open-source video, with GARCIA circled in yellow

GARCIA joined the crowd in walking from the Ellipse toward the Capitol. Open-source video depicts him approaching the Capitol from the west, along Constitution Avenue.

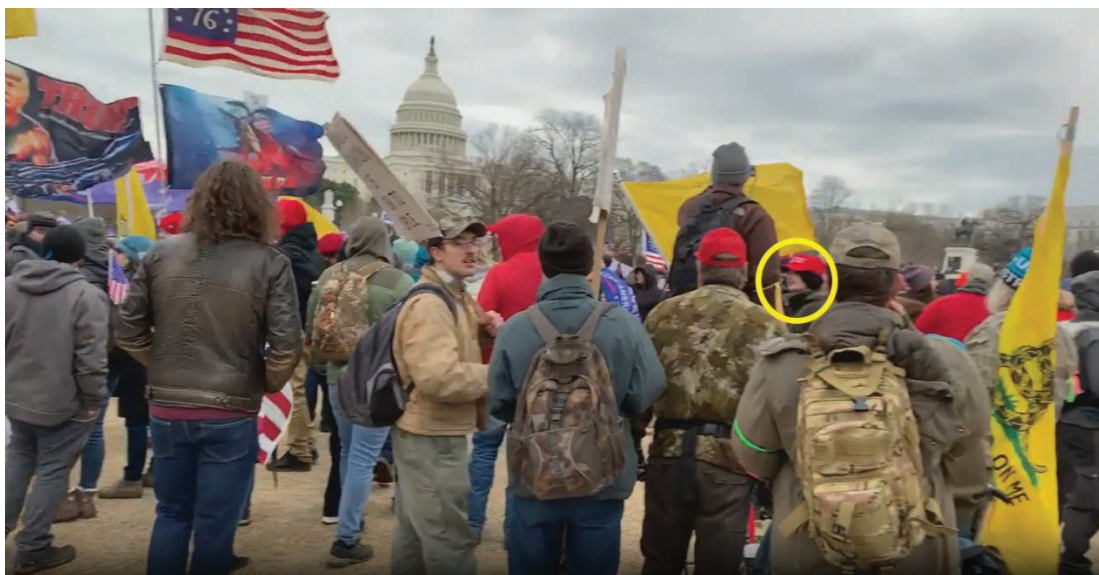


Image 5: Still from open-source video, with GARCIA circled in yellow

Eventually, GARCIA reached the Capitol's West Plaza, where open-source video depicts him near the northwest stairs. While near the base of these stairs, GARCIA can be seen holding a bag of what appear to be zip-ties.



Image 6: Still from open-source video, with GARCIA circled in yellow

GARCIA later made his way to the Capitol's Upper West Terrace, where a large crowd of rioters had gathered after the police were forced to retreat from the West Plaza. Open-source video depicts GARCIA standing just outside a fire exit door referred to as the Parliamentarian Door. In the video, GARCIA can be seen watching as another rioter repeatedly rams an object against the door, in an apparent attempt to break through the door.



Image 7: Still from open-source video, with GARCIA circled in yellow

The other rioter eventually succeeded in shattering a window in the Parliamentarian Door and subsequently reached through the broken window to open the door. During this time, GARCIA stood just behind the other rioter and, once the door was opened, patted him on the back. GARCIA then held the door open as he and other rioters began to enter the building.



Image 8: Still from one open-source video, with GARCIA circled in yellow



Image 9: Still from one open-source video, with GARCIA circled in yellow

GARCIA's First Breach of the U.S. Capitol Building

CCTV footage shows a small group of police officers attempting to prevent rioters from gaining entry to the building, but, at approximately 2:42 p.m., GARCIA was one of the very first rioters to breach the Capitol via the Parliamentarian Door. In the CCTV footage, GARCIA can be seen charging at a USCP officer, wrapping his arms around the officer's body, and pushing the officer back several feet down the hallway.

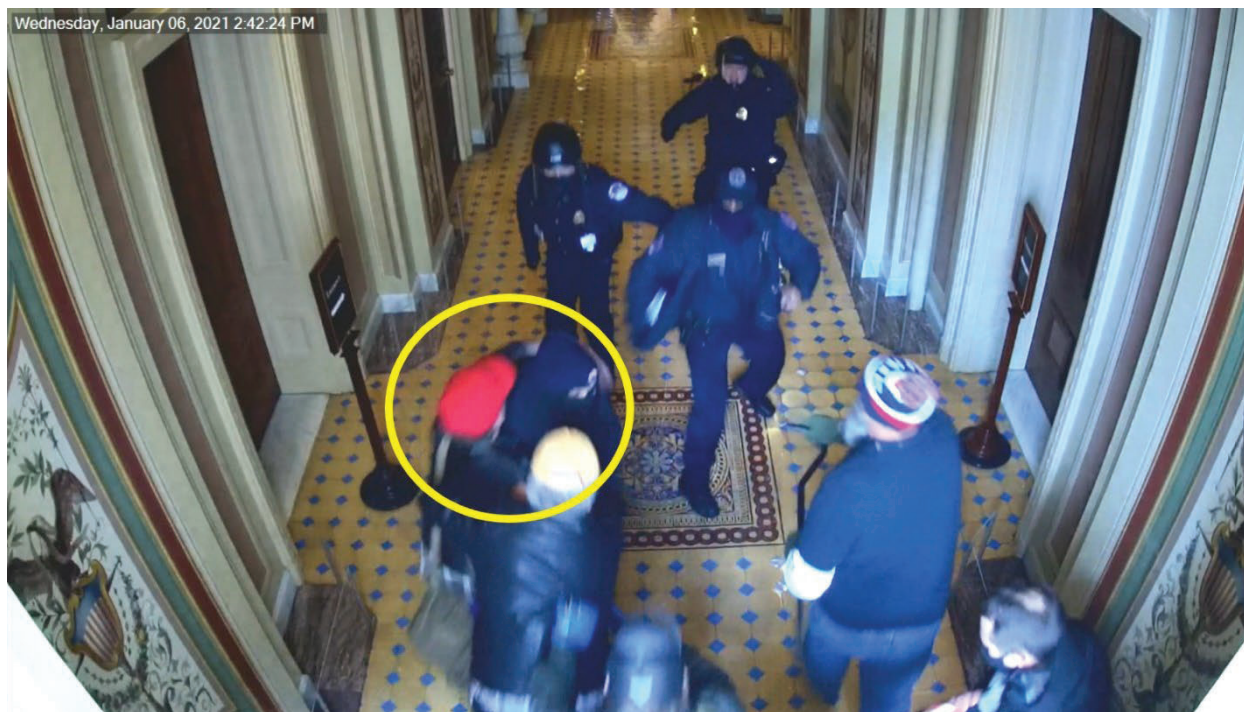


Image 10: Screenshot of Capitol CCTV, with GARCIA circled in yellow



Image 11: Screenshot of Capitol CCTV, with GARCIA circled in yellow

With his arms still wrapped around the officer's body, GARCIA can then be seen pulling the officer backward, against a wall.



Image 12: Screenshot of Capitol CCTV, with GARCIA circled in yellow

The officer can then be seen pulling away from GARCIA. At this point, with his arms no longer wrapped around the officer's body, GARCIA can be seen extending his arms and pushing against the officer's chest.

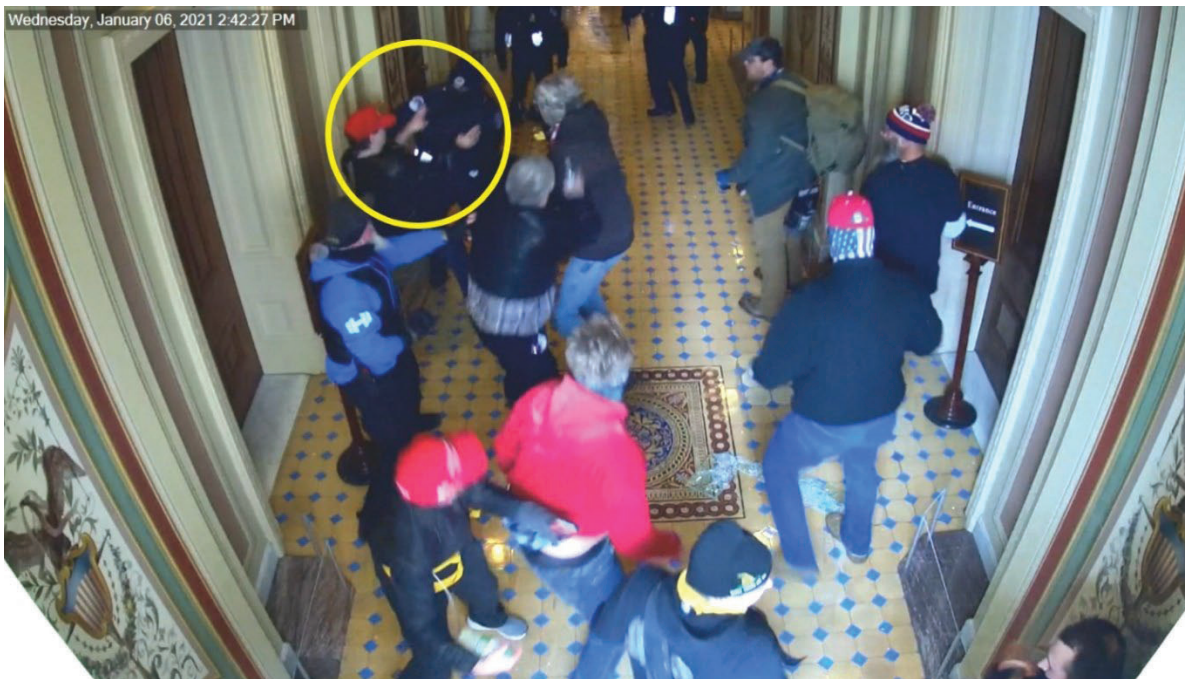


Image 13: Screenshot of Capitol CCTV, with GARCIA circled in yellow

After this point, the officer was able to break free from GARCIA and join the other USCP officers, who formed a line blocking the path down the hallway and further into the Capitol building.

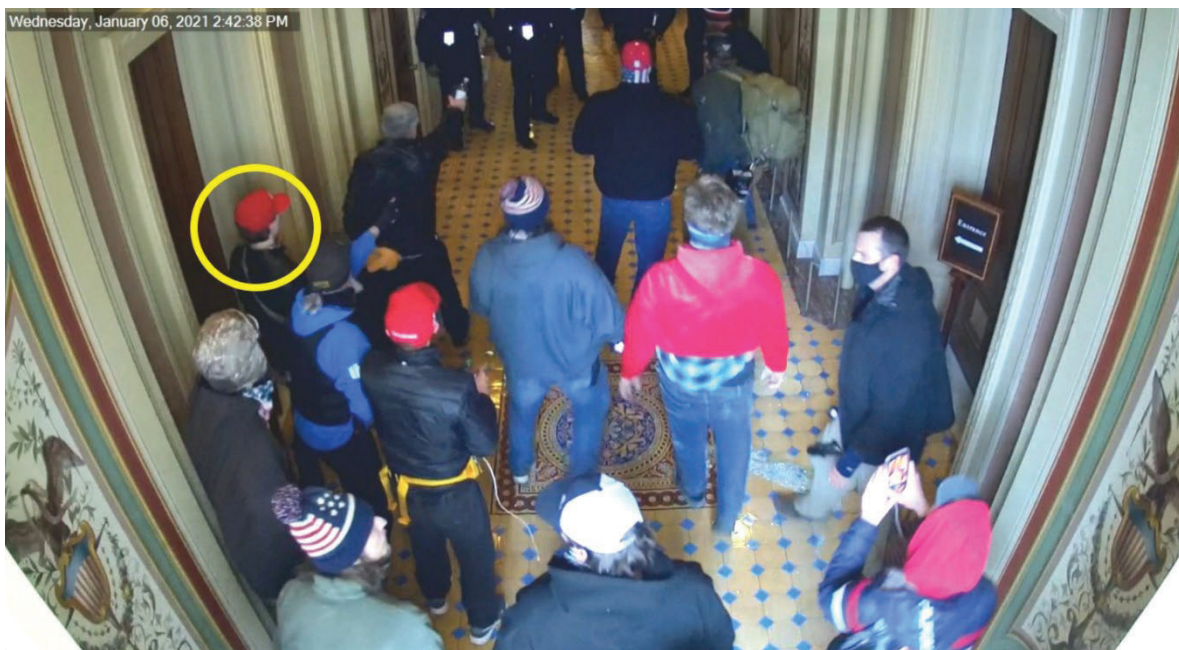


Image 14: Screenshot of Capitol CCTV, with GARCIA circled in yellow

Within a few seconds, however, the crowd of rioters, including GARCIA, surged forward and confronted the police line. In open-source video from this time, the crowd can be heard chanting “USA, USA.” At times, GARCIA can be seen emphatically pointing his finger at members of the police line.



Image 15: Open-source photograph, with GARCIA circled in yellow

Eventually, at approximately 3:01 p.m., CCTV footage shows GARCIA exiting the Capitol building through the Parliamentarian Door—the same door through which he entered 19 minutes earlier.



Image 16: Screenshot of Capitol CCTV, with GARCIA circled in yellow

GARCIA's Second Breach of the U.S. Capitol Building

Just five minutes later, however, GARCIA breached the Capitol building for a second time. CCTV footage shows him entering the building through the Senate Wing Door at approximately 3:06 p.m. At the time of his entry through this door, shattered glass was visible on the floor and wooden furniture was strewn about the foyer.

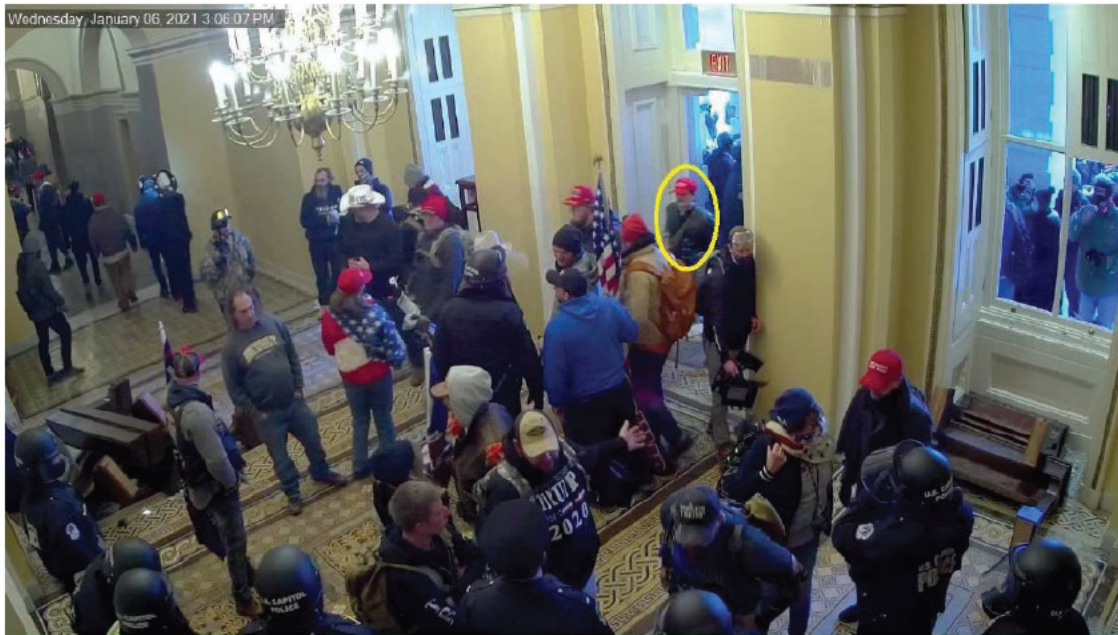


Image 17: Screenshot of Capitol CCTV, with GARCIA circled in yellow

From the Senate Wing Door, CCTV footage then shows GARCIA walking south in the direction of the area of the Capitol known as the “Crypt.” On the way to Crypt, GARCIA walked by a number of offices, reception rooms, and other private room. Open-source video footage depicts GARCIA kicking against the door of one of these rooms.



Image 18: Screenshot of open-source video, with GARCIA circled in yellow

GARCIA also entered a room with windows looking out to the Upper West Terrace. While there, open-source video depicts rioters drinking from a bottle. A rioter shown standing next to GARCIA can be heard saying “you want a shot?” and GARCIA can be seen responding to this rioter.



Image 19: Screenshot of open-source video, with GARCIA circled in yellow

CCTV footage then depicts GARCIA enter the Crypt at approximately 3:09 p.m., and open-source video footage shows him walking through the Crypt as other rioters chant “WHOSE HOUSE? OUR HOUSE.”

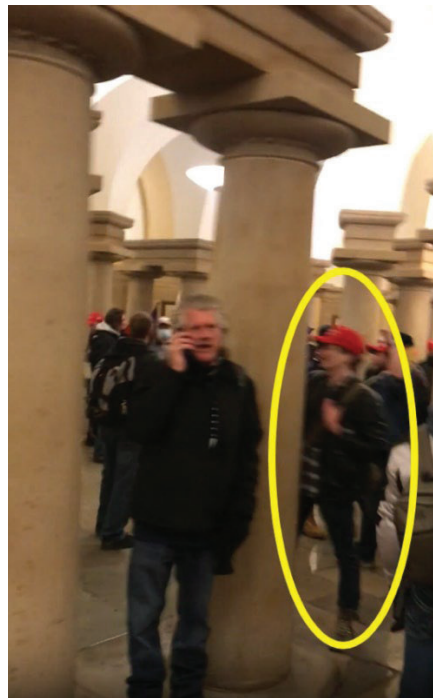


Image 20: Screenshot of open-source video, with GARCIA circled in yellow

At approximately 3:12 p.m., GARCIA exited the Crypt. CCTV footage shows him walking north, in the direction of the Senate Wing Door.



Image 21: Screenshot of Capitol CCTV, with GARCIA circled in yellow

At approximately 3:15 p.m., GARCIA exited the Capitol building through a broken window next to the Senate Wing Door. Between his two entries, GARCIA spent a total of approximately 29 minutes inside the Capitol building on January 6, 2021.

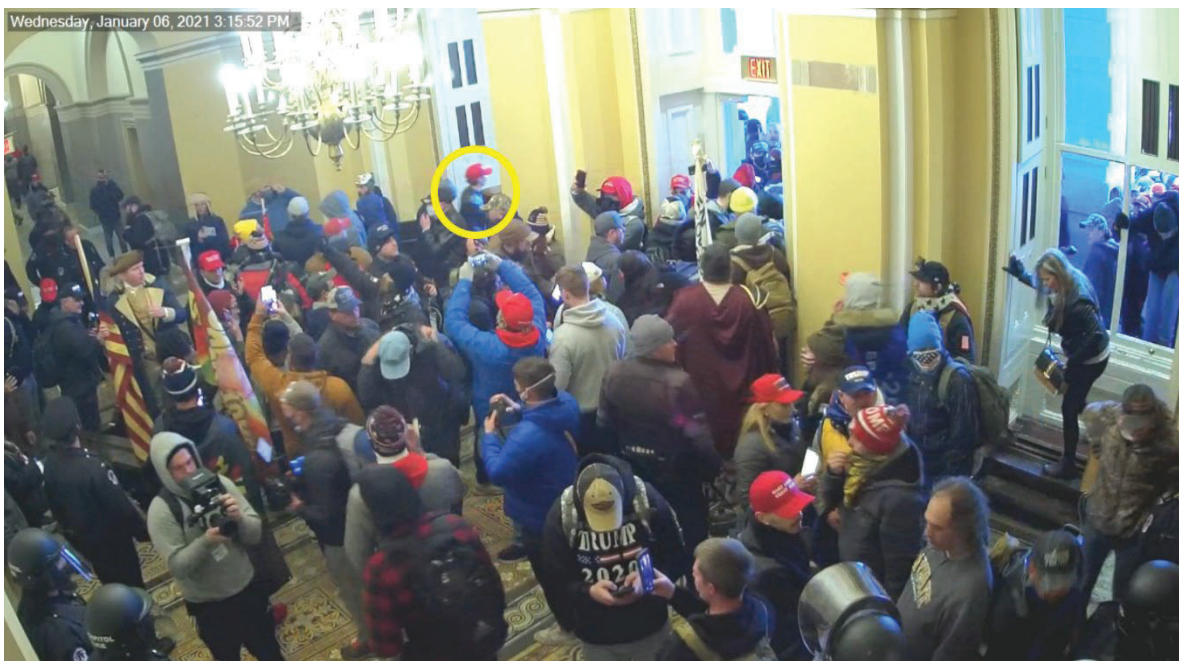


Image 22: Screenshot of Capitol CCTV, with GARCIA circled in yellow

Probable Cause Conclusions

Based on the foregoing, your affiant submits that there is probable cause to believe that GARCIA 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 Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.

Your affiant also submits that there is probable cause to believe that GARCIA violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of Title 18 while engaged in or on account of the performance of official duties, where such acts involve physical contact with the victim or the intent to commit another felony. Persons designated within section 1114 of Title 18 include federal officers and include any person assisting an officer or employee of the United States in the performance of their official duties.

You affiant further submits that there is probable cause to believe that GARCIA 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; (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; and (4) knowingly engage in any act of physical violence against any person and property in a restricted building and grounds. 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.

Lastly, your affiant submits that there is probable cause to believe that GARCIA violated 40 U.S.C. §§ 5104(e)(2)(D), (F), 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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



[Redacted]
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 6th day of September, 2024.

Moxila A. Upadhyaya
U.S. MAGISTRATE JUDGE