

### STATEMENT OF FACTS

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) currently assigned to the Denver Division, Grand Junction Resident Agency. As such, I am an investigative or law enforcement agent of the United States authorized under Title 18, United States Code, Section 3052, that is, an officer of the United States who is empowered by law to conduct investigations, to make arrests, and to collect evidence for various violations of federal law. I have been employed as a Special Agent of the FBI since February 2004.

2. I have experience in conducting investigations involving financial fraud, public corruption, drug trafficking, violent crimes, gangs, crimes aboard aircraft, cyber-related matters, and other violations of federal law. Through my experience and training, I have become familiar with activities of individuals engaged in illegal activities, to include their techniques, methods, language, and terms.

3. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

4. This affidavit is being submitted for the limited purpose of securing a Criminal Complaint and Arrest Warrant. I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are necessary to establish probable cause to believe that violations of federal law have been committed.

5. The information contained within the affidavit is based on my training and experience, as well as information imparted to me by other law enforcement officers involved in this investigation.

### **Background**

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

**Avery MacCracken's Participation in the Events of January 6, 2021**

12. During the course of the investigation into the events of January 6, 2021, law enforcement obtained video and photographic footage capturing the events at the Capitol. Among the individuals in the footage was a white male who was observed in physical altercations with uniformed police officers on the U.S. Capitol grounds. The identity of the individual was initially unknown and was labeled as AFO-387, for cataloguing purposes. A photograph of the individual identified as AFO-387 is below:



*Photo 1: AFO-387*

13. The FBI published the photo of AFO-387 on its public website in an effort to identify the individual. As detailed below, several members of the public provided information regarding the identity of the person depicted in AFO-387.

14. Telluride, Colorado is a small, mountain town situated in the high Rocky Mountains of western Colorado. Due to its small population and tight-knit community, the majority of the local residents are known to each other. Furthermore, local law enforcement in the town is comprised of the Telluride Marshal's Office (TMO) and the San Miguel County Sheriff's Office (SMCSO), both relatively small agencies. Deputies of TMO and SMCSO are very familiar with the local resident population, especially with those that they have frequent contact with.

15. Tipster-1, a local Telluride resident, contacted Sheriff Bill Masters of SMCSO in Telluride, Colorado to report that after he/she reviewed images from the public FBI website as well as another public website, called the Sedition Hunters ([www.seditionhunters.org/387-afo-covereddragon/](http://www.seditionhunters.org/387-afo-covereddragon/)), he/she recognized the identity of the individual depicted in AFO-387. Tipster-1

advised that the individual on the FBI and Sedition Hunters websites under the AFO-387 identifier appeared to be Avery MacCracken, whom he/she recognized from the community.

16. Tipster-1 did not make his/her identification based on the photograph posted to the FBI website alone, but based its identification on additional images of the individual depicted in AFO-387 that included pictures where the individual's face was not obstructed (these images were not posted by the FBI, but were publicly posted on the Sedition Hunters website).

17. In reviewing the images from the Internet pages that Tipster-1 provided, Sheriff Masters separately recognized the male individual and identified him as Avery MacCracken. Sheriff Masters has been in law enforcement in Telluride for more than 40 years. He has known Avery MacCracken to reside in the Telluride area on and off for most of that time period as well. As such, Sheriff Masters knows MacCracken extremely well, with numerous and frequent contacts by himself personally, and by his deputies. Sheriff Masters made particular note that MacCracken, as a resident of the community, is oftentimes homeless and lives out of his vehicle. He further explained he has seen MacCracken dressed in the very same clothes on multiple occasions in Telluride, as depicted in the FBI and Sedition Hunters websites. Sheriff Masters also noted that one picture of the subject on the Sedition Hunters website depicts the subject standing on the sidewalk in front of two buildings. He recognized the doors to the New Sheridan Bar and next to it, the San Miguel County Courthouse, located on the downtown street in Telluride, Colorado. The picture referenced by Sheriff Masters is on the far right of the image below:

Please contact the FBI or your local law enforcement.. Please DO NOT post names social media.

# DO YOU KNOW THIS PERSON?

**FBI 387-AFO  
#CoveredDragon**

**@SEDITIONHUNTERS**

**fbi.gov/wanted/capitol-violence**

Photo 2 - <https://seditionhunters.org/387-af0-covereddragon/>

18. I captured a photo of the same downtown area in Telluride from an open source mapping website for comparison purposes. I have also been to Telluride many times in my official and personal capacities and am familiar with the buildings referenced.



*Photo 3 - Google maps - street view of Colorado Avenue in downtown Telluride, CO*

19. Another response to the FBI's wanted page and Sedition Hunters photos came from Chief Marshal Josh Comte, Telluride Marshal's Office. Chief Comte reviewed both the photos from the FBI website, as well as the Sedition Hunters website, and compared them to each other. He stated that he recognized the subject as a man named Avery MacCracken, a member of the Telluride community. Deputies of the Telluride Marshal's Office have had numerous interactions with MacCracken, including Chief Comte dealing personally with him. Chief Comte also recognized the clothing of MacCracken in the referenced photos as the same identifiable clothes that are frequently worn by MacCracken in Colorado.

20. This clothing includes a red hat, blue jacket with a logo on the chest, white shorts over dark leggings, and boots:



Known image of MacCracken

MacCracken Clothing on Jan. 6, 2021

21. On December 2, 2021, Chief Comte again observed MacCracken walking his dog in Telluride; MacCracken was wearing the same identifiable clothing: red hat, blue jacket, white shorts with black stripe on the sides, and black leggings.

### **Assault on Federal Officers**

22. On January 6, 2021, Washington, D.C. Metropolitan Police (MPD) Officer J.G. was assigned on a protective, police line at the United States Capitol Building grounds. He was wearing police-issued clothing and was identifiable as a police officer. Officer J.G. was also

wearing a police-issued body worn camera (BWC) that was activated, capturing video footage of interactions during this assignment.

23. During the civil unrest that ensued, a male individual (AFO-387) – later identified as Avery MacCracken, as set forth above – approached Officer J.G. and engaged in physical contact, assaulting Officer J.G. with pushes, shoves, and a strike to the face. Specifically, MacCracken punched Officer J.G. with his closed fist in the right cheek, causing a cut to the face under his right eye. Officer J.G. took a selfie-pic of his injuries and provided self-aid; he did not seek other medical care.



24. Officer J.G.'s BWC footage was provided to the FBI and reviewed. I have reviewed the pertinent portions of the BWC video and captured images from the video to present herein. A portion of the video footage depicts the individual in AFO-387, identified as MacCracken as set forth above, approaching the police line and specifically Officer J.G. While approaching, MacCracken clinched his fists in a fighting manner, and then engaged in assaulting Officer J.G., by pushing, tugging, and striking him in the face.



25. Standing next to MPD Officer J.G. was MPD Officer H.F. BWC Footage was also obtained from Officer H.F., which pertinent portions I have reviewed. As MacCracken moved along the police line, he also physically engaged with assaulting Officer H.F. The assault is characterized by pushing, shoving, grabbing Officer H.F.'s arm/elbow and possibly striking him. The BWC footage of Officer J.G. depicts some of the assault on Officer H.F. as well as the BWC footage of Officer H.F.



**Travel of MacCracken from Colorado to Washington, D.C**

26. Although MacCracken is considered a transient with no permanent place of residence, he has been known to “reside” in the Telluride, Colorado area for several years. His vehicle is registered in the State of Colorado and he has a Colorado driver’s license. I have reviewed travel records pertaining to MacCracken on or around the dates before and after January 6, 2021. MacCracken purchased airfare and on January 3, 2021, traveled via commercial air from Montrose, Colorado to Washington D.C. MacCracken then returned to Colorado on January 9, 2021, via commercial air, departing Washington, D.C. and arriving at Montrose, Colorado. Montrose Regional Airport is the closest commercial airport to Telluride.

**Federal Violations Committed**

27. Based on the foregoing, I submit there is probable cause to believe that MacCracken violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; (4) knowingly engages 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.

28. I believe there is probable cause to believe that MacCracken violated 18 U.S.C. §§ 111(a)(1) and (b) - which makes it a crime to forcibly assault or interfere and aid or abet such a forcible assault or interference, with any person designated in section 1114 of this title 18 while engaged in or on account of the performance of official duties.

29. Your affiant submits there is also probable cause to believe that MacCracken violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

30. I submit there is probable cause to believe that MacCracken 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.

Respectfully submitted,



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Alex J. Zappe  
Special Agent  
Federal Bureau of Investigation

Submitted, attested to, and acknowledged by reliable electronic means on December 10, 2021:

HONORABLE ROBIN M. MERIWEATHER  
UNITED STATES MAGISTRATE JUDGE