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 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 13

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 v.
 17 RUSSELL GOMEZ DZUL,
 18 Defendant.

CR No. 2:25-00503-BFM

GOVERNMENT'S TRIAL MEMORANDUM

Trial Date: January 12, 2026
 Time: 8:30 a.m.
 Location: Courtroom of the
 Hon. Brianna Fuller
 Mircheff

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 21 Plaintiff United States of America, by and through its counsel
 22 of record, Assistant United States Attorney JohnPaul LeCedre, hereby
 23 files its Trial Memorandum.

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The Government respectfully requests leave of the Court to supplement or modify this memorandum as may be appropriate.

Dated: December 30, 2025

Respectfully submitted,

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Russell Gomez Dzul (hereinafter, "Defendant") is proceeding to trial on a Class A misdemeanor count for Assault on a Federal Officer or Employee, as outlined in the Information, filed in this case on June 18, 2025. (Dkt. 12).

II. STATEMENT OF FACTS¹

The government provided a cited and annotated statement of facts in its Motion in Limine to Exclude Improper Evidence. (Dkt. 68). It is substantially recounted here.

On June 7, 2025, federal agents with CBP were conducting immigration enforcement operation in Los Angeles County as part of a special enforcement detail. These included agents O.I. and L.M. whose normal duty station is several hours south of Los Angeles, near the U.S. - Mexico border. The agents were driving marked patrol vehicles and wearing uniforms or other markings that readily and publicly identified them as law enforcement. During a patrol in a residential area in the Inglewood area of Los Angeles County, the agents encountered and detained Defendant. Defendant was and is in fact undocumented and without legal right to be in the United States.

Agents detained and placed Defendant in handcuffs and into the rear passenger compartment of the vehicle. Shortly after, while the agents, who included testifying victim O.I., and testifying witness, L.M., were preparing to depart the area, a hostile crowd gathered around their marked government vehicle, menacing the agents by

¹ This reflects the anticipated evidence, not all of which will be presented at trial for the reasons set forth within this memorandum. The Government reserves the right to revise the factual summary in advance of trial.

1 yelling and throwing objects at the agents and their vehicles,
2 including causing significant damage to the vehicles. Sensing that
3 they were in danger, the agents communicated to the crowd to maintain
4 distance from their vehicles, while showing and pointing canisters of
5 pepper spray. Id.

6 To hasten their departure from the neighborhood, Agent L.M.
7 opened the right rear door of the marked CBP vehicle to allow for
8 O.I. to enter the rear passenger compartment of the vehicle, where
9 Defendant was sitting. Immediately upon doing so, Defendant attempted
10 to escape from the vehicle by shifting his body out of the open door
11 while yelling for the crowd's help. This appeared to have the effect
12 of further stoking the crowd.

13 Agent O.I. then placed his body in the threshold of the open
14 door to prevent Defendant from escaping—all while facing outward to
15 ensure the crowd did not interfere with his duties or endanger him or
16 his fellow agents. Defendant continued to push and kick O.I., at one
17 point, placing his leg between O.I.'s legs and forcibly kicking O.I.
18 in the groin area. This caused O.I. to visibly react in pain.

19 Shortly after, Agents L.M. and O.I. were able to pull Defendant
20 back into the CBP vehicle, whereupon it left the area with Defendant
21 secured. Defendant was subsequently placed into CBP custody.
22 Defendant made several statements to Agents while in the vehicle and
23 in subsequent post-arrest interviews. The government's position is
24 that those statements, while relevant to his initial detention for
25 immigration matters, is irrelevant to the charged assault and will
26 not seek to admit them into trial.

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1 **III. STATUS OF THE CASE**

2 **A. Trial Schedule**

3 Trial Date: Trial by jury has not been waived. Jury trial is set
4 to begin on January 12, 2026.

5 Estimated Time: The estimated time for the presentation of the
6 Government's case-in-chief is one day or less, exclusive of the time
7 needed for jury selection. Defendant has not indicated whether he
8 will present a case.

9 Defendant: Defendant was released on bond pending trial. (Dkt.
10 14). Separate from the instant federal criminal case, he is currently
11 in the administrative custody of immigration authorities due to his
12 lack of lawful status in the United States. The United States
13 Attorney's Office ("USAO") and Department of Homeland Security
14 ("DHS") will make necessary coordination for Defendant to personally
15 attend trial and any other required hearings. There are no other
16 defendants or related cases in this matter.

17 **B. Witnesses & Exhibits**

18 The Government has filed its Witness List, dkt. 70, and expects
19 to call the following two witnesses during its case-in-chief:

- 20 • Agent O.I², United States Customs and Border Protection
21 ("CBP") (victim); and
22 • Agent L.M., CBP

23 The Government respectfully requests leave to update this list,
24 if necessary, in advance of its case-in-chief. The Government may
25 call additional witnesses in rebuttal, depending on whether

26 _____
27 ² The parties have stipulated to a protective order to refer to the
28 main anticipated government witnesses in this case as "O.I." and "L.M." in
public filings for the reasons set for in their stipulated request for and
the protective order itself. Dkts. 66, 67.

1 Defendants call any witnesses, and on the testimony such witnesses
2 give.

3 The Government has also filed its Exhibit List, dkt. 75, and
4 will seek to admit approximately five exhibits, which will include
5 body camera video excerpts, social media video excerpts, a photo, and
6 a map.

7 **C. Discovery**

8 The United States has complied with its discovery obligations
9 under Federal Rule of Criminal Procedure 16, Brady v. Maryland, 373
10 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972), the
11 Jencks Act (18 U.S.C. § 3500), and all other applicable authorities.
12 All known discoverable material, including exculpatory and
13 impeachment information, has been disclosed. The government will
14 continue to supplement as required.

15 **D. Pretrial Motions**

16 The parties litigated and resolved pretrial motions during the
17 pretrial conference on Wednesday, November 12, 2025. Defendant filed
18 two pretrial motions: 1) A motion to suppress post-arrest evidence on
19 both Fourth and Fifth Amendment bases, dkt. 43, and 2) a motion to
20 compel purported Grand Jury Transcripts in this case. Dkt. 44. The
21 government opposed both and did not file any pretrial motions.

22 With respect to the Motion to Suppress, the government filed its
23 opposition on October 16, 2025. (Dkt. 50). The Court issued its
24 ruling on November 21, 2025. (Dkt. 65). The Court found that the
25 initial interaction constituted an unlawful arrest; however, it also
26 found that the alleged assault constituted an intervening
27 circumstance that attenuated the unlawful arrest. Dkt. 65 (Minute
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1 Order) at pp. 5-6. While the Court found that the Miranda advisements
2 given to Defendant following his arrest were sufficient, the Court
3 found it unnecessary to rule whether the statements were excludable
4 as fruit of the poisonous tree, as the government had indicated to
5 the Court that it did not intend on introducing any of the statements
6 during its case in chief. Id. at pp. 9-10.

7 With respect to the Defendant's Motion to Compel Production of
8 Grand Jury Transcripts, the Government filed an opposition on October
9 16, 2025. (Dkt. 49). The Court issued its ruling on November 14,
10 2025, denying the motion. (Dkt. 64).

11 **E. Motions In Limine**

12 The government has filed three motions in Limine:

- 13 1) Motion to Exclude Improper Evidence and Argument
14 Challenging the Legality of the Detention, dkt. 68;
15 2) Motion to Exclude Improper Evidence and Argument
16 Regarding Immigration Policy, dkt. 72; and
17 3) Motion to Exclude Reference to Defendant's Interviews,
18 dkt. 74.

19 Defendant has filed oppositions to the first of the two, and a
20 non-opposition to the government's third motion in limine. Defendant
21 has not filed any motions in limine.

22 **IV. CHARGED STATUTES AND ELEMENTS**

23 Defendant is charged in the single-count Information with Simple
24 Assault on a Federal Officer, in violation of 18 U.S.C. § 111(a)(1).
25 That statute makes it crime when someone "forcibly assaults, resists,
26 opposes, impedes, intimidates, or interferes with any person
27 designated in section 1114 of this title [officers and employees of
28

1 the United States] while engaged in or on account of the performance
2 of official duties." When the acts constitute "simple assault," as
3 charged here, the maximum term of imprisonment is one year. 18 U.S.C.
4 § 111(a)(2).

5 **A. Elements of the Offense**

6 The elements of the offense are: (1) Defendant forcibly
7 assaulted O.I.; and (2) Defendant assaulted O.I. while O.I. was
8 engaged in, or on account of, his official duties.

9 If defense makes a prima facie showing of a claim of self-
10 defense against excessive force, the Government must prove that
11 Defendant did not act in reasonable self-defense.

12 **B. Mens Rea**

13 Section 111 is a general intent crime in the Ninth Circuit, and
14 no intent to injure is required to prove this offense. United States
15 v. Sanchez, 914 F.2d 1355, 1358 (9th Cir. 1990).

16 **V. PENALTIES**

17 A Class A misdemeanor under Title 18 of the U.S. Code is
18 punishable by a maximum of one year of imprisonment to be followed by
19 a one-year period of supervised release; five years of probation; a
20 fine of \$100,000 or twice the gross gain or gross loss resulting from
21 the offense, whichever is greatest; and a mandatory special
22 assessment of \$25.

23 **VI. LEGAL AND EVIDENTIARY ISSUES**

24 The Government will not exhaustively recite every legal issue in
25 this case below but seeks to identify the issues below in order to
26 foster efficiency and transparency of legal issues during this trial.

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1 **A. Recorded Statements by Defendant**

2 As outlined above and during prior hearings, the government will
3 not seek to admit any recorded statements by Defendant, other than
4 his incidental exhortations on the body camera during his detention.
5 The government contends, and details within its Motion in Limine at
6 dkt. 74, that Defendant's statements regarding his immigration status
7 and reason for fleeing, are irrelevant to any of the elements of the
8 charged offense. The defense has filed a non-opposition to that
9 motion. (Dkt. 78).

10 **B. Recordings Must be Played in Open Court**

11 All duly admitted recorded conversations must be played in open
12 court. Allowing jurors to take into the jury deliberation room
13 recorded conversations that were not played in open court is
14 structural error requiring automatic reversal if a defendant objects
15 to allowing the jurors to have the unplayed calls in the jury room.
16 United States v. Noushfar, 78 F.3d 1442, 1444-46 (9th Cir. 1996), as
17 amended, 140 F.3d 1244 (9th. Cir. 1998). Accordingly, if the jury
18 wishes to hear playback of a recording during deliberations, then
19 such playback must occur in open court with all parties present and
20 the entire requested recording must be played back.

21 **C. Transcripts of Recordings**

22 The body camera video and social media video are largely in
23 English and depict commands and exhortations by agents and local
24 civilians. Recorded yelling and verbal commands care not hearsay to
25 provide context for the situation or Defendant's actions and to
26 explain the effect on the listener. Fed. R. Evid 801(c).

1 For English-only recordings, the recording itself is the
2 evidence, and a transcript of the recording may be provided to the
3 jury in open court and/or streaming on the screen as the recording
4 exhibit is played, as an aid in following the conversation on the
5 recording. The Government intends to provide the jury, the Court, and
6 the defense with transcripts of the excerpted conversations as aids
7 in following the conversations. English-language transcripts will not
8 be admitted into evidence, nor will they be allowed to be taken into
9 the jury room. The transcripts will be provided to the jury for any
10 playback of recordings during trial or deliberations.

11 **D. Photographs and Maps**

12 The United States intends to introduce photographs of the
13 various individuals and locations relevant to the case. Photographs
14 are generally admissible as evidence. See United States v. Stearns,
15 550 F.2d 1167, 1170-71 (9th Cir. 1977). Photographs should be
16 admitted so long as they fairly and accurately represent the event or
17 object in question. United States v. Oaxaca, 569 F.2d 518, 525 (9th
18 Cir. 1978). The Ninth Circuit has held that “[p]hotographs are
19 admissible as substantive as well as illustrative evidence.” United
20 States v. May, 622 F.2d 1000, 1007 (9th Cir. 1980).

21 The Government also may display maps obtained from Google Earth
22 (or a similar source) as demonstratives to aid the jury in
23 understanding where and how the charged transactions occurred. The
24 maps will be authenticated by law enforcement officers who were
25 percipient witnesses as to the area the maps depict as they were
26 present in the depicted area surveilling the transaction when it
27 occurred.

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1 The admission of demonstrative evidence such as maps that
2 assists the understanding of the trier of fact is a matter committed
3 to the sound discretion of the trial court. United States v. Turner,
4 528 F.2d 143, 167-68 (9th Cir. 1975). The Court may properly admit
5 maps from Google Earth because they are not hearsay, especially when
6 a witness familiar with the area testifies about them. United States
7 v. Lizarraga-Tirado, 789 F.3d 1107, 1109 (9th Cir. 2015). The Court
8 may also take judicial notice of maps, including on-line maps and
9 satellite images. See United States v. Perea-Rey, 680 F.3d. 1179,
10 n.11 (9th Cir. 2012).³

11 **E. Duplicates**

12 "A duplicate is admissible to the same extent as an original
13 unless a genuine question is raised about the original's authenticity
14 or the circumstances make it unfair to admit the duplicate." Fed. R.
15 Evid. 1003; see also United States v. Smith, 893 F.2d 1573, 1579 (9th
16 Cir. 1990).

17 **F. Admission of Past Recollections Recorded**

18 To the extent that any Government witness's memory does not
19 fully capture the events relevant to the instant charge, the
20 government may seek to refresh the witness's present recollection
21 using his past recollections recorded and made or adopted when the
22 information was fresh in the witness's memory. To the extent that a
23 witness's prior written statements do not in fact refresh his

24 ³ Under Federal Rule of Evidence 902, certain items of evidence are
25 self-authenticating. Federal Rule of Evidence 902(5) (Official
26 Publications) covers "[a] book, pamphlet, or other publication purporting
27 to be issued by a public authority." The United States Geological Survey
28 maintains a United States National Map at website address
<http://viewer.nationalmap.gov/viewer/>. Maps from this website are self-
authenticating. The maps from this website can be used to verify the
accuracy of the maps the government is offering.

1 recollection, the Government may seek to have such statements read
2 into evidence as recorded recollections, pursuant to Federal Rule of
3 Evidence 803(5). See, e.g., United States v. Orm Hieng, 679 F.3d
4 1131, 1143 (9th Cir. 2012) (holding that a report prepared by a
5 detective who testified that it accurately reflected his knowledge
6 and was made when it was fresh in his mind fell “comfortably within
7 the exception for recorded recollections” pursuant to Fed. R. Evid.
8 803(5)). Since the authors of any such statements will be available
9 for cross-examination by the defense, their admission will not
10 violate defendant’s confrontation rights under Crawford. Crawford v.
11 Washington, 541 U.S. 36, 60 n.9 (2004) (“Finally, we reiterate that,
12 when the declarant appears for cross-examination at trial, the
13 Confrontation Clause places no constraints at all on the use of his
14 prior testimonial statements”).

15 **G. Cross-Examination of Defendant**

16 The Government is unaware whether Defendant intends to testify
17 at trial. If Defendant does testify, the Government should be
18 permitted fully to cross-examine him because a defendant who
19 testifies at trial waives his right against self-incrimination and
20 subjects himself to cross-examination concerning all matters
21 reasonably related to the subject matter of his testimony. See Ohler
22 v. United States, 529 U.S. 753, 759 (2000) (“It has long been held
23 that a defendant who takes the stand in his own behalf cannot then
24 claim the privilege against cross-examination on matters reasonably
25 related to the subject matter of his direct examination.”). A
26 defendant has no right to avoid cross-examination on matters which
27 call into question his claim of innocence. United States v. Miranda-
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1 Uriarte, 649 F.2d 1345, 1353-54 (9th Cir. 1981). The scope of a
2 defendant's waiver is co-extensive with the scope of relevant cross-
3 examination. United States v. Cuozzo, 962 F.2d 945, 948 (9th Cir.
4 1992).

5 **H. Agent at Counsel Table**

6 Under Rule 615, investigative agents are permitted to sit at
7 counsel table throughout the trial even though the "agent is or may
8 be a witness" because his or her "presence may be extremely important
9 to government counsel, especially when the case is complex or
10 involves some specialized subject matter." Rule 615, Notes of
11 Committee on the Judiciary, Senate Rpt. No. 93-1277.

12 **I. Jury Nullification**

13 The Court should exclude any evidence or argument relating to
14 any possible jury nullification defense. It is well-established that
15 a defendant does not have a right to a jury nullification
16 instruction. United States v. Powell, 955 F.2d 1206, 1213 (9th Cir.
17 1992). Having no right to seek jury nullification, defendant has no
18 right to present evidence relevant only to such a defense. Zal v.
19 Steppe, 968 F.2d 924, 930 (9th Cir. 1992) (Trott, J., concurring)
20 ("[N]either a defendant nor his attorney has a right to present to a
21 jury evidence that is irrelevant to a legal defense to, or an element
22 of, the crime charged. Verdicts must be based on the law and the
23 evidence, not on jury nullification as urged by either litigant.").
24 And, in any event, under Federal Rules of Evidence 401 and 403, such
25 arguments or evidence are not relevant to any valid defense to the
26 offense charged and will unnecessarily confuse the issues and mislead
27 the jury.

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1 The government has addressed this issue at length in its Motion
2 in Limine to Exclude Evidence Regarding the Legality of Defendant's
3 Detention / Arrest, dkt. 68, and its Motion to Exclude Evidence or
4 Argument Regarding Immigration Policy, dkt. 72. Because of the
5 subject matter involved in this case, there is significant risk for
6 jury nullification or distraction from the charged offense. The
7 government asks the Court to address those issues outlined in its
8 Motions in Limine

9 **J. Jury Consideration of Potential Sentence**

10 It is an "established axiom that it is inappropriate for a jury
11 to consider or be informed of the consequences of their verdict."
12 Shannon v. United States, 512 U.S. 573, 578 (1994) (internal
13 quotations omitted). The jury's duty is to determine their verdicts
14 based solely on the evidence and the law as instructed by the Court;
15 sentencing is the exclusive province of the Court. References by
16 Defendants to potential punishments—including the applicable
17 mandatory minimum—would serve no legitimate purpose and would only
18 invite jury nullification. Such commentary risks unfair prejudice,
19 confusion of the issues, and a verdict based on sympathy, rather than
20 law. Ultimately, lawyers "should refrain from argument which would
21 divert the jury from its duty to decide the case on the evidence by
22 injecting issues broader than the guilt or innocence of the accused
23 under the controlling law or by making predictions of the
24 consequences of the jury's verdict." United States v. Young, 470 U.S.
25 1, 9, no. 7 (1985) (citing ABA Standard for Criminal Justice 4-7.8).

1 **K. Objections in the Presence of the Jury**

2 For the same reasons as above, parties should refrain from
3 making misconduct or discovery related objections in front of the
4 jury. Such tactics serve no evidentiary purpose and improperly
5 suggest to the jury that the Government has withheld information or
6 otherwise acted in bad faith. These insinuations are highly
7 prejudicial, risk confusing the jury, and encroach on matters
8 reserved to the Court. Any discovery disputes or claims of misconduct
9 should be raised outside of the presence of the jury to ensure a
10 fair, orderly, and efficient trial.

11 **L. Reciprocal Discovery and Affirmative Defenses**

12 Defendant has not produced to the Government any reciprocal
13 discovery to which the government may be entitled under Rules 16(b)
14 and 26.2 of the Federal Rules of Criminal Procedure. Therefore, to
15 the extent defendants attempt to introduce or use any documents at
16 trial that he has not produced, or seeks to rely on an undisclosed
17 affirmative defense, the government reserves the right to object and
18 to request that the Court exclude those undisclosed documents or
19 affirmative defense. See United States v. Young, 248 F.3d 260, 269-70
20 (4th Cir. 2001) (upholding exclusion under Rule 16 of audiotape
21 evidence defendant did not produce in pretrial discovery where
22 defendant sought to introduce audiotape on cross-examination of
23 government witness not for impeachment purposes, but as substantive
24 "evidence in chief" that someone else committed the crime).

25 In addition, Defendants also have not provided the Government
26 with any information regarding the witnesses they intends to call at
27 trial. The Government needs the opportunity to evaluate permissible
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1 impeachment material, in order to properly cross-examine those
2 witnesses, and the Government does not wish to delay the trial by
3 requesting avoidable recesses. In order to eliminate the need for the
4 government to request a brief recess after the direct testimony of
5 any of the defense witnesses, the Government asks that the Court
6 require Defendants to provide the Government with any information
7 necessary to collect potential impeachment material, including the
8 full name and birthdate of any witnesses (for purposes of conducting,
9 e.g., criminal history inquiries) at the outset of the defense case.

10 **M. Notice of Affirmative Defense**

11 Defendant has indicated an intent to pursue a self-defense
12 theory but has provided no substantive offer of proof supporting it.
13 Self-defense in a prosecution under 18 U.S.C. § 111 requires evidence
14 from which a reasonable jury could find that Defendant reasonably
15 believed he faced an immediate use of excessive force by the officer
16 threatening serious bodily harm, and that he used no more force than
17 necessary in response. Comment to Ninth Circuit Model Crim Jury
18 Instr. 8.3; United States v. Urena, 659 F.3d 903, 907 (9th Cir.
19 2011). There is no right to resist an unlawful arrest alone. United
20 States v. Span, 970 F.2d 573, 579-80 (9th Cir. 1992).

21 **N. Defense Witness Subpoenas and Prospective Motion to Quash**

22 Defendant has notified the government that it intends to call as
23 many as eleven agents as witnesses in its defense. Most of the named
24 witnesses are non-percipient or otherwise duplicative of the
25 anticipated testimony to be offered by the government. The government
26 has agreed to accept its subpoenas on behalf of the federal agents;

1 however, it reserves the right to move to quash the subpoenas for any
2 legally acceptable reason.

3 **VII. CONCLUSION**

4 The Government respectfully requests leave to file such
5 supplemental memoranda as may become necessary during trial
6 preparation and trial.

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