

1 BILAL A. ESSAYLI
 Acting United States Attorney
 2 JOSEPH T. MCNALLY
 Assistant United States Attorney
 3 Acting Chief, Criminal Division
 PATRICK D. KIBBE (Cal. Bar No. Pending)
 4 CHRISTOPHER R. JONES (Cal. Bar. No. 343374)
 Assistant United States Attorneys
 5 General Crimes Section
 1200 United States Courthouse
 6 312 North Spring Street
 Los Angeles, California 90012
 7 Telephone: (213) 894-6482 / (213) 894-7383
 Facsimile: (213) 894-0141
 8 Email: patrick.kibbe@usdoj.gov
 christopher.jones4@usdoj.gov

9 Attorneys for Plaintiff
 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 ALEXANDRIA DEMETRIUS AUGUSTINE,
 18 Defendant.

No. 2:25-cr-678-KLS

GOVERNMENT'S MOTION IN LIMINE TO
 PRECLUDE SELF-DEFENSE

Hearing Date: October 2, 2025
 Hearing Time: 11:00 a.m.
 Location: Courtroom of the
 Hon. Karen L.
 Stevenson

19
 20 Plaintiff United States of America, by and through its counsel
 21 of record, the Acting United States Attorney for the Central District
 22 of California and Assistant United States Attorneys Patrick D. Kibbe
 23 and Christopher R. Jones, hereby files its motion in limine to
 24 preclude defendant from raising a self-defense theory at trial.

25 ///

26 ///

27

28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Defendant ALEXANDRIA DEMETRIUS AUGUSTINE ("defendant") threw the
4 metal skeleton of an umbrella at Federal Protective Service ("FPS")
5 Inspector A.G. and struck him, while Inspector A.G. was engaged in
6 his official duties. For her conduct, she has been charged with
7 violating 18 U.S.C. § 111(a)(1), assault on a federal officer or
8 employee, as well as two class C misdemeanors. The government
9 anticipates that defendant may raise an affirmative defense of self-
10 defense to the § 111(a)(1) charge at trial.¹ She should be precluded
11 from doing so.

12 For defendant to argue self-defense at trial, she is required to
13 first make an offer of proof that: (1) she did not know the victim
14 was a federal officer or employee; (2) her use of force was
15 reasonably necessary to defend herself against the victim's
16 (purported) immediate use of unlawful force; and (3) such force was
17 no more force than reasonably necessary under the circumstances. See
18 Ninth Circuit Model Jury Instruction No. 8.3 (2022 ed.).
19 Alternatively, in a "narrow range of circumstances," a defendant may
20 make an affirmative defense of self-defense against excessive force.
21 To do so, defendant must have "(1) a reasonable belief that the use
22 of force was necessary to defend [herself] against the immediate use
23 of unlawful force and (2) the use of no more force than was
24 reasonably necessary in the circumstances." United States v. Acosta-

25
26
27 ¹ Defense emailed government counsel and indicated they may seek
28 the addition of a self-defense jury instruction. Depending on
whether the Court allows it, the defense has included the Ninth
Circuit Model Jury Instruction No. 8.3 (Self-Defense) in their Joint
Proposed Jury Instructions.

1 Sierra, 690 F.3d 1111, 1126 (9th Cir. 2012) (cleaned up); United
2 States v. Urena, 659 F.3d 903, 907 (9th Cir. 2011).

3 To date, the government has not received an offer of proof as to
4 how defendant can establish a prima face case of self-defense. Nor
5 can defendant do so, given the facts as described below. Because
6 defendant is unable to establish a prima facie case that the elements
7 of self-defense against a federal officer are met, the Court should
8 preclude her from raising that affirmative defense at trial.

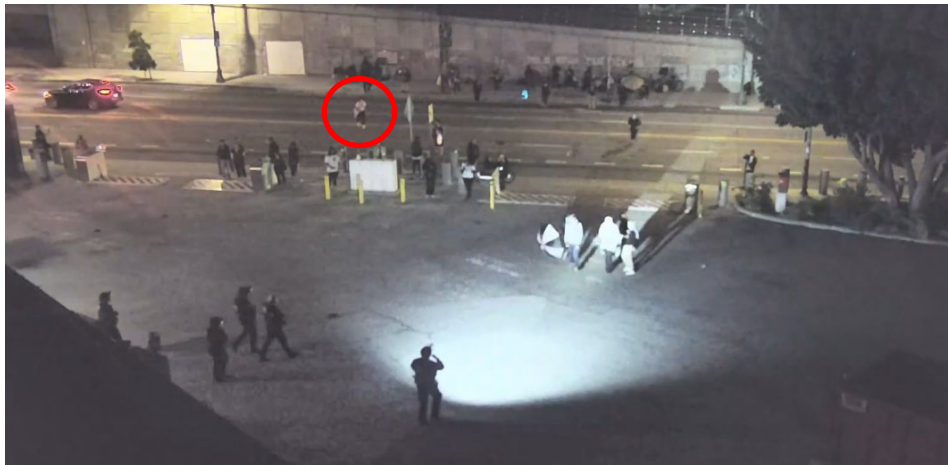
9 **II. STATEMENT OF FACTS**

10 Throughout July 24, 2025, protestors were gathered near the
11 Roybal Federal Building and Courthouse, including the "apron" area of
12 the loading dock on Alameda Street. FPS inspectors repeatedly warned
13 protestors, including defendant, not to enter federal property.
14 Despite this, protestors continued to trespass onto federal property,
15 including to write graffiti on the ground.

16 At approximately 11:20 pm, a group of protestors came on to the
17 apron. One of the protestors shone a high-intensity flashlight at
18 FPS officers. FPS inspectors approached the group of protestors and
19 ordered them to leave federal property. As the inspectors were
20 attempting to move the protestors off federal property, defendant ran
21 across the street and sidewalk onto federal property, as illustrated
22 below.

23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Gov't Ex. A - Roybal Surveillance Footage (Defendant circled in red)

After running onto federal property, defendant opened an umbrella between the inspectors and the group of protestors. FPS Inspector A.G. approached defendant, and defendant pushed her umbrella toward him.



Gov't Ex. B - Social Media Footage (Defendant pushing umbrella toward Inspector A.G.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Inspector A.G. grabbed the umbrella, tearing the fabric away.



Gov't Ex. C - Social Media Video (Inspector A.G. grabbing umbrella fabric)

Defendant then threw the remaining metal skeleton of the umbrella at Inspector A.G., striking him in his arm and chest.



Gov't Ex. D - Social Media Video (Defendant throwing metal umbrella frame at Inspector A.G.)



Gov't Ex. E - Social Media Video (Inspector A.G. attempting to block the metal umbrella frame from hitting him)

III. ARGUMENT

A. Defendant Must Proffer Prima Facie Evidence for Each Element of Self-Defense.

"If a defendant cannot proffer legally sufficient evidence of each element of an affirmative defense, then he is not entitled to present evidence in support of that defense at trial." United States v. Cramer, 532 F. App'x 789, 791 (9th Cir. 2013) (upholding order excluding self-defense theory at trial when defense proffer was insufficient to meet elements as matter of law); see also United States v. Biggs, 441 F.3d 1069, 1071 (9th Cir. 2006) (discussing requirement defendant proffer elements of self-defense before trial).

Defendant must put forth "evidence upon which the jury could rationally sustain the defense." United States v. Houston, 648 F.3d 806, 816 (9th Cir. 2011) (upholding preclusion of affirmative defense of duress based on insufficient proffer). Here, defendant cannot proffer prima facie evidence of any of the three required elements of

1 self-defense, let alone all of them as required by the model
2 instruction.

3 The elements for self-defense set forth in the Model Ninth
4 Circuit Jury Instructions, 8.3 Assault on Federal Officer or
5 Employee—Defenses are: (1) the defendant did not know that the victim
6 was a federal officer or employee; (2) the defendant reasonably
7 believed that use of force was necessary to defend oneself against an
8 immediate use of unlawful force; and (3) the defendant used no more
9 force than appeared reasonably necessary in the circumstances. See
10 Ninth Circuit Model Criminal Jury Instructions, No. 8.3 (2022 ed.).

11 First, defendant cannot establish she did not know Inspector
12 A.G. was an FPS officer. Defendant was protesting immigration
13 enforcement, Inspector A.G. was located on federal property at the
14 Roybal Building, and there were many FPS agents at the scene, all in
15 roughly the same fully marked, distinctive uniform as Inspector A.G.
16 This is not a case of mistaken identity, and defendant cannot
17 reasonably argue she was unaware of Inspector A.G.'s status.

18 Second, defendant cannot establish that she reasonably believed
19 she needed to use force to "defend" herself -- Inspector A.G. did not
20 attack defendant or threaten her "immediate" well-being. As
21 explained above, defendant affirmatively ran across the street onto
22 federal property and deliberately opened an umbrella between the
23 inspectors and a group of protestors. Without any physical
24 provocation, defendant pushed her umbrella towards Inspector A.G.
25 After he tore the fabric off the umbrella, defendant threw the
26 remaining metal skeleton of the umbrella at A.G. and struck him in
27 the arm and chest. Defendant cannot reasonably argue that she
28 thought she needed to defend herself against Inspector A.G.; if

1 defendant had simply not instigated the encounter by running across
2 the street and throwing her umbrella at Inspector A.G., nothing would
3 have happened to her. See also United States v. Acosta-Sierra, 690
4 F.3d at 1126 (an objective standard, rather than a subjective one,
5 applies to the requirement that there be a reasonable belief that
6 self-defense was necessary). Instead, defendant deliberately ran
7 toward Inspector A.G., pushed her umbrella at him, and then threw the
8 metal skeleton at him after he responded to her initial provocation.

9 Third and last, defendant cannot establish that she used no more
10 force than what appeared reasonably necessary under the
11 circumstances. Again, after Inspector A.G. tore the fabric from her
12 umbrella, she could have simply walked off federal property or not
13 thrown the skeleton of her umbrella at him. Instead, she decided to
14 retaliate. Her actions were neither reasonable nor necessary under
15 the circumstances.

16 **B. Defendant Cannot Establish Prima Facie Evidence of the**
17 **Elements of Self Defense from Excessive Force.**

18 An individual may make out an affirmative defense of self-
19 defense against a federal law enforcement official who uses *excessive*
20 force in a "narrow range of circumstances." Acosta-Sierra, 690 F.3d
21 at 1126. Only in those "narrow circumstances" a defendant need not
22 establish she was ignorant the victim was a federal officer or
23 employee. See United States v. Ornelas, 906 F.3d 1138, 1148 (9th
24 Cir. 2018). Defendant must, however, still offer evidence to show
25 "(1) a reasonable belief that the use of force was necessary to
26 defend [herself] against the immediate use of unlawful force and
27 (2) the use of no more force than was reasonably necessary in the
28

1 circumstances." Acosta-Sierra, 690 F.3d at 1126 (cleaned up); United
2 States v. Urena, 659 F.3d 903, 907 (9th Cir. 2011).

3 To the extent defense is raising a self-defense-against-
4 excessive-force theory, it also lacks prima facie evidence. As
5 detailed above, there is nothing in the record to suggest Inspector
6 A.G. used unlawful excessive force against defendant. See United
7 States v. Span, 75 F.3d 1385-86, 90-91 (9th Cir. 1996) (finding
8 ineffective assistance of counsel where defense attorney failed to
9 raise excessive force defense after witnesses observed marshals
10 engage in disproportionate force against defendant). Therefore,
11 defendant cannot make a prima facie case that she was under a
12 reasonable belief that the use of force was necessary to defend
13 herself against the immediate use of unlawful force from Inspector
14 A.G. Likewise, defendant cannot show that throwing the skeleton of
15 her umbrella at Inspector A.G. was reasonably necessary, let alone
16 reasonably necessary to defend against excessive force, let alone
17 against force that she provoked.

18 **IV. CONCLUSION**

19 In sum, the Ninth Circuit permits two forms of self-defense -
20 (1) ignorance of the official status of the person assaulted (United
21 States v. Feola, 420 U.S. 671, 686 (1975)), and (2) an excessive
22 force defense (Span, 75 F.3d at 1389). Defendant cannot make out a
23 prima facie case for either defense. The government respectfully
24 requests that this Court preclude defendant from presenting this
25 affirmative defense at trial.