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 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ERIN PETRA ESCOBAR and  
 NICK ELIAS GUTIERREZ,

17 Defendants.  
 18

No. 2:25-cr-00656-AB

GOVERNMENT'S MOTION *IN LIMINE* TO  
 PRECLUDE SELF-DEFENSE ARGUMENTS;  
 EXHIBIT 1

Trial Date: March 30, 2026  
 Hearing Time: 9:00 a.m.  
 Location: Courtroom of the  
 Hon. Andre Birotte

19 Plaintiff United States of America, by and through its counsel  
 20 of record, the First Assistant United States Attorney for the Central  
 21 District of California and Assistant United States Attorneys William  
 22 Kanellis and Lloyd Masson, hereby submits this motion in limine to  
 23 preclude defendants from raising a self-defense theory at trial.

24 The parties have conferred regarding the substance of this  
 25 motion. ERIN ESCOBAR's and NICK GUTIERREZ's counsel have indicated  
 26 that they oppose this motion.  
 27  
 28



**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

On July 17, 2025, defendants ERIN ESCOBAR and NICK GUTIERREZ forcibly assaulted Federal Protective Service (FPS) inspectors while they were performing their official duties around the Roybal Federal building (Roybal). Counts One and Two of the Indictment charged ESCOBAR and GUTIERREZ, respectively, with assault on a Federal official, in violation of 18 U.S.C. § 111(a). Count Three charged GUTIERREZ with violating sections 111(a) and (b) of the statute because he inflicted bodily injury upon another FPS inspector.

The United States anticipates that at trial, the defendants may attempt to raise an affirmative defense of self defense to these charges. They should be precluded from doing so. For either defendant to argue self-defense, they must first show that they (1) reasonably believed that the use of force was necessary to defend themselves against the immediate use of unlawful force, and (2) used no more force than reasonably necessary in the circumstances. See Ninth Circuit Model Crim. Jury Instruction No. 8.3 (2022 ed.). Neither defendant has proffered such proof with respect to any of the charged counts, and the facts do not support it. Accordingly, this Court should preclude the defendants from arguing that they acted in self-defense, including in voir dire and opening statements.

**II. FACTUAL BACKGROUND**

Evidence shows that the assaults underlying Counts One, Two and Three were unprovoked and initiated by GUTIERREZ and ESCOBAR.

Surveillance video makes evident, and witnesses will testify at trial, that ESCOBAR was defacing parking barriers at the entrance to

1 Roybal in violation of 18 U.S.C. § 1361. See United States v.  
2 Kincade, 379 F.3d 813, 846 (9th Cir. 2004) ("spray painting graffiti  
3 on a government building" violates section 1361).

4 Exhibit 1 shows that, after she defaced the Federal property,  
5 ESCOBAR crossed to a tent on the opposite side of the street. FPS  
6 inspectors, including B.M., followed ESCOBAR across the street to  
7 detain her. These FPS inspectors were dressed in FPS uniforms and  
8 were equipped with law enforcement protective gear and weapons,  
9 including bullet proof vests, tasers, and side-arms.

10 As FPS inspectors approached ESCOBAR, GUTIERREZ, who minutes  
11 before had stood near ESCOBAR as she defaced Roybal's parking gate,  
12 put down his bullhorn and rushed toward FPS inspector B.M. GUTIERREZ  
13 attempted to grab the shoulder straps of FPS inspector B.M.'s  
14 bulletproof vest, blocking him from ESCOBAR.

15 Seeing GUTIERREZ's assault of FPS inspector B.M., other FPS  
16 inspectors ran to his aid and attempted to subdue GUTIERREZ. During  
17 the ensuing scuffle, GUTIERREZ fell onto the ground. Surveillance  
18 video shows - and witnesses will testify - that GUTIERREZ resisted  
19 FPS efforts to subdue him and wildly kicked his legs. At one point,  
20 GUTIERREZ kicked FPS inspector R.S. in the chest. The force of this  
21 kick caused FPS inspector R.S. to fall backwards onto his hand, and  
22 severely dislocate his ring finger.

23 The third assault happened after FPS inspectors had subdued and  
24 detained ESCOBAR. Surveillance video shows two FPS inspectors  
25 escorting ESCOBAR towards the holding cell at 300 N. Los Angeles Street.  
26 Witnesses will testify that, while FPS Inspectors were transporting  
27

1 ESCOBAR, she audibly filled her throat with saliva and spit in the face  
2 of FPS inspector C.C.

3 As discussed below, FPS's actions that day were reasonable and  
4 lawful, and supply no basis for a self-defense argument.

5 **III. ARGUMENT**

6 **A. Legal Standard**

7 (1) Self Defense Claims Are Limited

8 Where a Federal law enforcement official is involved, a  
9 defendant may offer an affirmative defense of self-defense only under  
10 a "narrow range of circumstances." United States v. Acosta-Sierra,  
11 690 F.3d 1111, 1126 (9th Cir. 2012). To invoke this defense, a  
12 defendant must first offer evidence to show "(1) a reasonable belief  
13 that the use of force was necessary to defend himself or another  
14 against the immediate use of unlawful force and (2) the use of no  
15 more force than was reasonably necessary in the circumstances." Id.  
16 (quoting United States v. Urena, 659 F.3d 903, 907 (9th Cir. 2011)).

17 These criteria should be viewed within the context of the Ninth  
18 Circuit's admonition that, "an individual who is the attacker cannot  
19 make out a claim of self-defense as a justification for an assault."  
20 Acosta-Sierra, 690 F.3d at 1126 (citation omitted). Together, these  
21 precedents teach that, if GUTIERREZ and/or ESCOBAR initiated the  
22 assault on FPS inspectors, they may not justify their conduct by  
23 claiming that it was done in self defense.

24 Ninth Circuit Model Instruction 8.3 sets forth two potential  
25 self-defense theories to assault on a Federal official. The first is  
26 that the defendant did not know the victim was a federal officer.  
27 Ninth Circuit Model Crim. Jury Instructions, No. 8.3 (2022 ed.).

1 This is not a plausible defense in this case, given that all FPS  
2 inspectors involved in detaining ESCOBAR and GUTIERREZ were in FPS  
3 uniforms and protective gear. The second self-defense theory is that  
4 "the defendant reasonably believed that use of force was necessary to  
5 defend oneself against an immediate use of unlawful force[.]" Id.  
6 This defense is also implausible here, as both ESCOBAR and GUTIERREZ  
7 knew that FPS inspectors were lawfully attempting to detain ESCOBAR  
8 for defacing Federal property.

9 (2) Defendants Must First Make A Prima Facie Case

10 Before a defendant may present a self-defense theory to the  
11 jury, he must present to the Court a prima facie showing that there  
12 is sufficient evidence for a jury to sustain the defense. While this  
13 prima facie burden is not high, a defendant must still offer  
14 "evidence upon which the jury could rationally sustain the defense."  
15 United States v. Houston, 648 F.3d 806, 816 (9th Cir. 2011); United  
16 States v. Jackson, 726 F.2d 1466, 1468 (9th Cir. 1992). A "mere[]  
17 scintilla" of evidence will not be sufficient to warrant the  
18 instruction. United States v. Hurtado-Enriquez, 1998 WL 152743 at \*1  
19 (9th Cir. 1998) (quoting Jackson, id.).

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

1 has opined, requiring this threshold prima facie case for each  
2 element of an affirmative defense effectively guards against “wasting  
3 valuable trial resources.” United States v. Bailey, 444 U.S. 394,  
4 417 (1980).

5 **B. Defendants Cannot Make a Prima Facie Case for Self-Defense**

6 In this case, neither defendant can make this prima-facie  
7 showing - i.e., that they reasonably believed force was necessary to  
8 defend against the immediate use of unlawful force.

9 First, the FPS conduct in this case was entirely and apparently  
10 lawful. With respect to ESCOBAR’s assault in Count One, FPS  
11 inspectors, dressed in uniforms, detained ESCOBAR for defacing  
12 Federal property. Surveillance video shows two FPS inspectors  
13 carrying ESCOBAR by the arms to the holding facility as she applied  
14 her weight to slow their movement. These FPS inspectors were acting  
15 entirely within the scope of their legal authority when ESCOBAR  
16 intentionally spit in the face of FPS inspector C.C. Spitting is not  
17 a self-defense measure; to the contrary, it is a paradigmatic  
18 violation of section 111(a). See United States v. Stoddard, 407 F.  
19 App’x 231, 234 (9th Cir. 2011) (“Spitting . . . involves the type of  
20 non-injurious physical contact contemplated by § 111(a)’s felony  
21 provision”). Since these uniformed FPS inspectors were obviously  
22 acting within the scope of their authority, no self-defense  
23 instruction is warranted. See United States v. Johnson, 480 Fed.  
24 App’x. 437, 438-39 (9th Cir. 2012) (affirming trial court’s refusal  
25 to permit a self-defense instruction where circumstances made evident  
26 that plain-clothed FBI agents were Federal officers).

1           Regarding GUTIERREZ's assault underlying Count Two, surveillance  
2 video shows that GUTIERREZ voluntarily set down his megaphone and,  
3 unprovoked, rushed to thwart FPS inspector B.M.'s effort to detain  
4 ESCOBAR. No government employee had even approached GUTIERREZ, or  
5 otherwise given him any justification to interfere with FPS's effort  
6 to detain ESCOBAR. Surveillance video shows GUTIERREZ standing next  
7 to ESCOBAR as ESCOBAR defaced Federal property, so GUTIERREZ plainly  
8 knew that these uniformed FPS inspectors were engaged in their  
9 official duties when seeking to detain ESCOBAR. Nothing about FPS's  
10 attempt to detain ESCOBAR was unlawful, and GUTTIEREZ otherwise has  
11 no basis to claim his interference with FPS's efforts were in self  
12 defense. See Hurtado-Enriquez, 1998 WL 152743 at \*1 (affirming  
13 denial of self-defense instruction where Federal officers were  
14 "wearing their uniforms with the standard badges and agency insignia  
15 [during] their altercation with [defendant]").

16           As for the assault underlying Count Three, surveillance video  
17 shows uniformed FPS inspectors lawfully attempting to subdue  
18 GUTIERREZ after he assaulted FPS inspector B.M. See United States v.  
19 McNeal, 765 F. App'x 193, 194 (9th Cir. 2019) (defendant "foreclosed  
20 from presenting a theory of self-defense because he preemptively  
21 attacked"). Evidence shows GUTIERREZ wildly kicking his legs while  
22 FPS inspectors attempted to restrain him. All FPS conduct in this  
23 case was an apparent, lawful exercise of FPS authority by uniformed  
24 FPS inspectors, and a reasonable response to defendants' aggression.  
25 McNeal, 765 F. App'x at 194; cf. United States v. Morton, 999 F.2d  
26 435, 438 (9th Cir. 1993) (self defense instruction may be warranted  
27 where "a federal agent has failed to identify herself prior to the  
28

1 assault, and her identity or authority was not otherwise apparent")  
2 (emphasis added). GUTIERREZ initiated the assault against an FPS  
3 inspector and resisted a lawful arrest by uniformed FPS inspectors.  
4 No self-defense instruction is warranted for Count Three. Hurtado-  
5 Enriquez, 1998 WL 152743 at \*1; Acosta-Sierra, 690 F.3d at 1126.

6 Finally, a separate reason exists for excluding this defense:  
7 allowing a self-defense theory to be presented to the jury in these  
8 circumstances could mislead the jury and waste judicial resources.  
9 The prima-facie requirement that a defendant explain to the Court how  
10 each element of the defense would be met exists precisely to prevent  
11 such misuse of trial time. Bailey, 444 U.S. at 417. Where the  
12 undisputed evidence shows that a defendant was the aggressor, and  
13 reflects uniformed Federal employees engaged in the exercise of their  
14 official duties, no reasonable jury could find that these defendants  
15 acted in lawful defense of themselves.

#### 16 **IV. CONCLUSION**

17 None of the three assaults on Federal officers in this case  
18 permit the introduction of an argument of self defense. The  
19 surveillance video in this case shows that GUTIERREZ initiated the  
20 events underlying Counts Two and Three, voluntarily rushing toward  
21 FPS inspectors to interfere with their attempt to detain ESCOBAR, and  
22 then resisting their efforts to subdue him and kicking. ESCOBAR spit  
23 in the face of one of two FPS inspectors escorting her to a holding  
24 cell. Accordingly, the United States respectfully requests that the  
25 Court preclude defendants from arguing or presenting argument or  
26 evidence of self-defense at trial.

**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for the United States of America, certifies that this brief contains 1779 words, which complies with the word limit of L.R. 11-6.1.

Dated: March 11, 2026

Respectfully submitted,

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