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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 ISAIAS LOPEZ,  
18 Defendant.

No. 2:25-cr-00705-MEMF  
GOVERNMENT TRIAL MEMORANDUM  
Hearing Date: Nov. 5, 2025  
Hearing Time: 3:00 p.m.  
Location: Courtroom of the Hon.  
Maame Ewusi-Mensah  
Frimpong

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21 Plaintiff United States of America, by and through its counsel  
22 of record, the First Assistant United States Attorney for the Central  
23 District of California and Assistant United States Attorneys Rahul  
24 R.A. Hari and Eric L. Mackie, hereby files its Trial Memorandum.  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant ISAIAS LOPEZ ("defendant") will soon stand trial for assault on a federal officer, in violation of 18 U.S.C. § 111(a)(1). The offense is a felony, as the evidence will show that defendant intentionally and forcibly made physical contact with a federal officer engaged in the performance of his official duties.

This is a straightforward case. On the evening of August 8, 2025, defendant approached the Roybal Federal Building and U.S. Courthouse in downtown Los Angeles, where Federal Protective Service ("FPS") officers were stationed to protect federal personnel and property. Ignoring repeated instructions to remain off restricted federal property, defendant entered the loading-dock area holding a professional-style camera and began aggressively confronting the officers assigned there. Defendant moved within inches of FPS Inspector L.R., pressed his camera toward the inspector's face, and struck him on the bridge of the nose with the camera lens. When Inspector L.R. pushed the defendant's arm away and instructed him to step back, defendant shouted "fuck you" and shoved the inspector in the chest.

The assault was captured on video and corroborated by multiple law-enforcement witnesses.

Trial is set to commence on November 10, 2025, at 8:30 a.m. before this Court.

**II. Length of Trial and Number of Witnesses**

Government Case: The government estimates that presentation of its case-in-chief will take approximately two hours, not including

1 defense's cross-examination. The government currently anticipates  
2 calling the following five witnesses in its case-in-chief<sup>1</sup>:

- 3 • FPS Inspector L.R. (victim)
- 4 • FPS Inspector William Terpstra
- 5 • FPS Inspector Gary Wilson

6 Government Exhibits: The government will seek to admit  
7 approximately 15-20 exhibits, which primarily include videos of the  
8 assault, still photos from the videos, photographs of the victim, and  
9 the camera defendant used to assault Inspector L.R.

10 Defense Case: The defense case appears to center around making  
11 this a trial about an unsupported self-defense theory and what  
12 happened after defendant's assault of Inspector L.R. - i.e., when  
13 defendant was arrested.

### 14 **III. THE ELEMENTS OF THE CRIME**

15 Defendant is charged with assault on a federal officer in  
16 violation of 18 U.S.C. § 111(a)(1).

#### 17 **A. Elements of the Offense**

18 To prevail, the government must prove each of the following  
19 elements beyond a reasonable doubt:

20 First, the defendant forcibly assaulted L.R.; and

21 Second, the defendant assaulted L.R. while L.R. was engaged in,  
22 or on account of, his official duties. Ninth Cir. Model Jury  
23 Instructions 8.1 (2022 ed.).

#### 24 **B. "Forcible Assault" Explained**

25 There is a forcible assault when one person intentionally  
26 strikes another, or willfully attempts to inflict injury on another,  
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28 <sup>1</sup> The government reserves the right to call additional witnesses  
in either its case-in-chief or rebuttal case (if any).

1 or intentionally threatens another coupled with an apparent ability  
2 to inflict injury on another which causes a reasonable apprehension  
3 of immediate bodily harm. Ninth Cir. Model Jury Instructions 8.1  
4 (2022 ed.).

5 **C. Mens Rea**

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

9 **D. Self-Defense Elements, If Applicable**

10 It is a defense to the charge if (1) defendant did not know that  
11 L.R. was a federal officer, (2) defendant reasonably believed that  
12 use of force was necessary to defend oneself against an immediate use  
13 of unlawful force, and (3) defendant used no more force than appeared  
14 reasonably necessary in the circumstances. See Ninth Cir. Model Jury  
15 Instructions 8.3 (2022 ed.).

16 If defendant makes a prima facie showing of all three elements  
17 and is permitted to make a self-defense argument, the government must  
18 additionally prove at trial: (1) defendant knew that L.R. was a  
19 federal officer, (2) defendant did not reasonably believe force was  
20 necessary to defend against an immediate use of unlawful force, or  
21 (3) defendant used more force than appeared reasonably necessary in  
22 the circumstances. See id.

23 The government has moved to exclude any evidence or argument  
24 related to self-defense. (See Dkt. 30.) The motion is pending.

25 **IV. PRETRIAL MOTIONS**

26 1. Government Motions

27 Government Motions:  
28

- 1 • (1) Motion to Preclude Self-Defense Arguments (Dkt. 30).
- 2 • (2) Motion to Preclude Any Reference to, Testimony Regarding,
- 3 or Argument that Defendants Conduct Was Protected by The
- 4 First Amendment (Dkt. 31).
- 5 • (3) Motion to Preclude Irrelevant and Prejudicial Evidence
- 6 Regarding Defendant's Arrest (Dkt. 32).
- 7 • (4) Motion to Preclude Jury Nullification Evidence or
- 8 Argument (Dkt. 34).
- 9 • (5) Motion Exclude Defendants Other Protest Footage (Dkt.
- 10 35).

11 2. Defense Motions

12 Defense Motions:

- 13 • (1) Motion Requesting In Camera Review of Henthorn and Sworn
- 14 Declaration of Compliance (Dkt. 36).
- 15 • (2) Motion to Exclude Inflammatory Language and the Actions
- 16 of Non-Parties (Dkt. 37).
- 17 • (3) Motion to Compel Use of Force Materials (Dkt. 38).

18 **V. LEGAL AND EVIDENTIARY ISSUES**

19 **A. Photographs and Video Surveillance**

20 The government intends to introduce photographs and video  
21 footage at trial. Admitting a photograph or video into evidence  
22 requires that the proponent meet only a very low hurdle. "Under the  
23 Federal Rules, the witness identifying the item in a photograph need  
24 only establish that the photograph is an accurate portrayal of the  
25 item in question." People of Territory of Guam v. Ojeda, 758 F.2d  
26 403, 408 (9th Cir. 1985) (interpreting Fed. R. Evid. 901(b)(1)). The  
27 Ninth Circuit has held that "[p]hotographs are admissible as  
28 substantive as well as illustrative evidence." United States v. May,  
622 F.2d 1000, 1007 (9th Cir. 1980).

1 Photographs and videos should be admitted so long as they fairly  
2 and accurately represent the event or object in question. See United  
3 States v. Oaxaca, 569 F.2d 518, 525 (9th Cir. 1978). Notably, “the  
4 witness who lays the authentication foundation need not be the  
5 photographer, nor need the witness know anything of the time,  
6 conditions, or mechanisms of the taking of the picture.” 32  
7 McCormick on Evid. § 215 (7th ed.). Rule 901(a) simply requires that  
8 a proponent of evidence make a prima facie showing of authenticity so  
9 that a reasonable juror could find “that the item is what the  
10 proponent claims it is.” Fed. R. Evid. 901(a).

11 **B. Lay Testimony**

12 Federal Rule of Evidence 701 “permits a lay witness to give  
13 opinion testimony as long as the opinion is (a) rationally based on  
14 the perception of the witness and (b) helpful to a clear  
15 understanding of the witness’s testimony or the determination of a  
16 fact in issue.” United States v. Pino-Noriega, 189 F.3d 1089, 1097  
17 (9th Cir. 1999) (quotation marks omitted). The government  
18 anticipates eliciting testimony from its witnesses that defendant’s  
19 strike of L.R. with his camera and push were intentional - as opposed  
20 to an accident or a mere brush - based on defendant’s observable  
21 traits, including his demeanor, body movements, and the nature of the  
22 strike itself.

23 **C. Defendant’s Statements**

24 Under the Federal Rules of Evidence, a defendant’s statement is  
25 admissible only if offered against her; a defendant may not elicit  
26 his own prior statements. See Fed. R. Evid. 801(d)(2)(A); United  
27 States v. Fernandez, 839 F.2d 639, 640 (9th Cir. 1988) (per curiam).  
28 To permit otherwise would place a defendant’s statements “before the

1 jury without subjecting [herself] to cross-examination, precisely  
2 what the hearsay rule forbids." United States v. Ortega, 203 F.3d  
3 675, 682 (9th Cir. 2000) (holding that the district court properly  
4 barred defendant from seeking to introduce his exculpatory post-  
5 arrest statements through cross-examination of government agent);  
6 United States v. Cunningham, 194 F.3d 1186, 1199 (11th Cir. 1999)  
7 ("[A] defendant cannot attempt to introduce an exculpatory statement  
8 made at the time of his arrest without subjecting himself to cross  
9 examination.").

10 When the government admits some of a defendant's prior  
11 statements, the door is not thereby opened to the defendant to put in  
12 all of his out-of-court statements. This is because, when offered by  
13 defendant, the statements are still inadmissible hearsay. See Fed. R.  
14 Evid. 801(d)(2); see also United States v. Burreson, 643 F.2d 1344,  
15 1349 (9th Cir. 1981); United States v. Willis, 759 F.2d 1486, 1501  
16 (11th Cir. 1985) (defendant's exculpatory statement inadmissible when  
17 offered by defense).

18 Similarly, a defendant's exculpatory statements are not  
19 admissible under Federal Rule of Evidence 106, the "rule of  
20 completeness." Evidence that is inadmissible is not made admissible  
21 by invocation of the "rule of completeness." See United States v.  
22 Collicott, 92 F.3d 973, 983 (9th Cir. 1996) (hearsay not admissible  
23 notwithstanding Rule 106). As the Ninth Circuit noted in Ortega, a  
24 defendant's non-self-inculpatory statements are inadmissible hearsay  
25 even if they were made contemporaneously with other self-inculpatory  
26 statements. Ortega, 203 F.3d at 682 (citing Williamson v. United  
27 States, 512 U.S. 594, 599 (1994)). The "rule of completeness" may  
28 require that all of a defendant's prior statements be admitted only

1 where it is necessary to explain an admitted statement, to place it  
2 in context, or to avoid misleading the trier of fact. See, e.g.,  
3 United States v. Marin, 669 F.2d 73, 84 (2d Cir. 1982). The doctrine  
4 does not, however, require introduction of portions of a statement  
5 that are neither explanatory of, nor relevant to, the admitted  
6 passages. See Ortega, 203 F.3d at 682-683; Marin, 669 F.2d at 84.  
7 The burden is on the defendant to identify a basis for admitting  
8 additional portions of the defendant's prior statement. United  
9 States v. Branch, 91 F.3d 699, 729 (5th Cir. 1996).

10 The government will be admitting statements made by defendant.  
11 A defendant's out-of-court statement is admissible if offered against  
12 him by the government. Fed. R. Evid. 801(d)(2)(A).

13 **D. Scope of Cross-Examination of Defendant**

14 If the defendant testifies at trial, he waives his right against  
15 self-incrimination, and the government will cross-examine him on all  
16 matters reasonably related to the subject matter of his testimony.  
17 See, e.g., Fitzpatrick v. United States, 178 U.S. 304 (1971) ("The  
18 defendant cannot assert a self-incrimination privilege 'on matters  
19 reasonably related to the subject matter of his cross-  
20 examination.'"); United States v. Black, 767 F.2d 1334, 1341 ("What  
21 the defendant actually discusses on direct does not determine the  
22 extent of permissible cross-examination or his waiver. Rather, the  
23 inquiry is whether 'the government's questions are reasonably  
24 related' to the subjects covered by the defendant's testimony.")  
25 (internal quotations and citation omitted).

26 The scope of cross-examination is within the discretion of the  
27 trial court. Fed. R. Evid. 611(b). The defendant has no right to  
28 avoid cross-examination on matters that call into question his claim

1 of innocence. United States v. Mehrmanesh, 682 F.2d 1303, 1310 (9th  
2 Cir. 1982); United States v. Miranda-Uriarte, 649 F.2d 1345, 1353-54  
3 (9th Cir. 1981). The government, however, may introduce evidence  
4 should defendant "open the door." See United States v. Alexander, 48  
5 F.3d 1477, 1488 (9th Cir. 1995), as amended on denial of reh'g (Apr.  
6 11, 1995) ("When a defendant takes the stand and denies having  
7 committed the charged offense, he places his credibility directly at  
8 issue.").

9 **E. Affirmative Defenses and Reciprocal Discovery**

10 Defendant has not given notice of his intent to rely on any  
11 defense of entrapment, mental incapacity, alibi, or any other  
12 affirmative defense outside of self-defense, despite the government's  
13 request for such notice of intent. Therefore, to the extent  
14 defendant may attempt to rely on such a defense, the government  
15 reserves the right to object and to move to preclude the defendant  
16 from asserting such a defense. The subject of self-defense is  
17 currently being litigated before this Court.

18 Rule 16 of the Federal Rules of Criminal Procedure creates  
19 certain reciprocal discovery obligations on the part of defendants to  
20 produce three categories of materials that they intend to introduce  
21 as evidence at trial: (1) documents and tangible objects; (2) reports  
22 of any examinations or tests; and (3) expert witness disclosure.  
23 Rule 16 imposes on defendants a continuing duty to disclose these  
24 categories of materials. Fed. R. Crim. P. 16(b)(1)(A), (b)(1)(C),  
25 and (c). In those circumstances where a party fails to produce  
26 discovery as required by Rule 16, the rule empowers the district  
27 court to "prohibit that party from introducing the undisclosed  
28 evidence," or it may "enter any other order that is just under the

1 circumstances." Fed. R. Crim. P. 16(d)(2)(C) and (D). To the extent  
2 defendant may attempt to introduce or use any evidence at trial that  
3 he has not produced to the government, such documents should be  
4 excluded. See Taylor v. Illinois, 484 U.S. 400, 415 (1988)  
5 (defendant's failure to comply with, or object to, government's  
6 discovery request before trial justified exclusion of unproduced  
7 evidence).

8 If defendant serves defense discovery on the government mid-  
9 trial, the government further seeks leave from the Court to have  
10 adequate time to review the provided discovery, run necessary  
11 criminal background checks, and request offers of proof from the  
12 defense as to any previously undisclosed witnesses.

13 To date, defendant has produced no reciprocal discovery.

14 **F. Jury Nullification**

15 The government also reserves the right to object to any evidence  
16 and/or argument introduced for the purpose of jury nullification,  
17 including concerning punishment, the actions of law enforcement both  
18 after defendant's arrest and at other protest events, or national  
19 immigration policy and its effect on the community and/or  
20 individuals. A defendant has no right to present evidence relevant  
21 only to such a defense. United States v. Powell, 955 F.2d 1206, 1213  
22 (9th Cir. 1992); Zal v. Steppe, 968 F.2d 924, 930 (9th Cir. 1992)  
23 (Trott, J., concurring) ("[N]either a defendant nor his attorney has  
24 a right to present to a jury evidence that is irrelevant to a legal  
25 defense to, or an element of, the crime charged.").

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