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 10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**  
 12 **WESTERN DIVISION**

13  
 14 UNITED STATES OF AMERICA,  
 15 Plaintiff,  
 16 v.  
 17 ISAIAS LOPEZ,  
 18 Defendant.

Case No. 2:25-cr-00705-MEMF

**DEFENDANT'S OPPOSITION TO  
 GOVERNMENT'S MOTION *IN  
 LIMINE* #2 TO PRECLUDE ANY  
 REFERENCE TO, TESTIMONY  
 REGARDING, OR ARGUMENT  
 THAT DEFEDANT'S CONDUCT  
 WAS PROTECTED BY THE FIRST  
 AMENDMENT**

**Hearing Date: November 5, 2025  
 Hearing Time: 3:00 p.m.  
 Hon. Maame Ewusi-Mensah Frimpong**

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1 Defendant Isaias Lopez, by and through his undersigned counsels of record,  
2 Rebecca M. Abel and Kyra Nickell, hereby opposes the government’s motion in limine  
3 to preclude any preference to testimony regarding, or argument that defendant’s  
4 conduct was protected by the First Amendment.

5 This motion is based on the attached memorandum of points and authorities, the  
6 attached exhibits, all files and records in this case, and any argument presented at any  
7 hearing on this matter.

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9 Respectfully submitted,  
10 CUAUHTEMOC ORTEGA  
11 Federal Public Defender

12 DATED: October 30, 2025

By */s/ Rebecca Abel*

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15 KYRA NICKELL  
16 Deputy Federal Public Defenders  
17 Attorney for ISAIAS LOPEZ  
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1 **MEMORANDUM OF POINTS AND AUTHORITY**

2 **I. INTRODUCTION**

3 On August 8, Mr. Lopez was a member of the media, photographing a public  
4 event—a protest at the Metropolitan Detention Center of ongoing immigration  
5 enforcement actions across Los Angeles. While photographing the protestors and the  
6 officers, the government alleges Mr. Lopez assaulted one of the officers he was  
7 photographing. These are the facts that are the basis of this case. They are not only  
8 relevant, they are critical to an understanding of Mr. Lopez’ and Inspector Ranjo’s  
9 actions.

10 The government wants to preclude the defense from discussing the essential facts  
11 of the case. It “moves to preclude any reference to, testimony regarding, or argument  
12 suggesting that defendant’s conduct was protected by the First Amendment.” (Dkt. No.  
13 31 at 1.) To be clear, the defense will not argue to the jury that Mr. Lopez had a right  
14 to assault Inspector Ranjo under the First Amendment. However, Mr. Lopez’ non-  
15 assaultive conduct—his photography, his coverage of the protest, his presence there  
16 that evening—is First Amendment activity. That is both relevant and admissible. As is  
17 Inspector Ranjo’s motive for targeting Mr. Lopez. Ranjo sought out and attacked Mr.  
18 Lopez because he was photographing him—because he was engaged in First  
19 Amendment activity. The defense is entitled to present this theory of defense at trial.

20 **II. ARGUMENT**

21 Some context for the government’s motion is critical to understanding the reason  
22 for its filing. First, the defense lays out an order from this District, finding that FPS  
23 officers, including Inspector Ranjo, violated journalists’ First Amendment rights and  
24 retaliated against them. Second, the defense explains how this order, and its findings,  
25 are crucial to the defense’s theory at trial and cannot be excluded.

26 **A. The Preliminary Injunction Issued Against FPS**

27 On June 18, 2025, a group of journalists, legal observers, and protestors filed a  
28 complaint in this District alleging claims for First Amendment right of access and

1 retaliation against Federal Protective Services (“FPS”), Immigration and Customs  
2 Enforcement, and U.S. Customs and Border Protection. *L.A. Press Club v. Noem*, Case  
3 No. 2:25-CV-5563-HDV, Dkt. No. 1 (C.D. Cal. June 18, 2025). On July 18, 2025, the  
4 plaintiffs moved for a preliminary injunction on their First Amendment claims, citing,  
5 *inter alia*, “extensive record evidence” concerning the FPS’ officers response to the  
6 protests at the Roybal Federal Building and the Metropolitan Detention Ceter. *Id.*, Dkt.  
7 No. 55 at 4-8, 12-13, 30 (attached as Ex. A). On September 10, 2025, the Court (Vera,  
8 J.) granted the preliminary injunction. *Id.* His findings are notably relevant to this  
9 case, as Mr. Lopez’ case involves FPS’ response to the protest behind Roybal and  
10 MDC on August 8, 2025.

11 First, Judge Vera noted the importance of journalists to cover the immigration  
12 protests across Los Angeles. Judge Vera started just where Mr. Lopez’ case begins: “In  
13 the wake of this summer’s immigration raids across Southern California, the world  
14 watched as protests multiplied. As expected, members of the press did what they have  
15 always done: positioned themselves at the scene to report on, record, photograph, and  
16 observe these events of immense public importance.” *Id.* at 2. The Court found this  
17 conduct was undisputably protected by the First Amendment. “Newsgathering,  
18 observing government conduct, and protest are each considered paradigmatic protected  
19 activities.” *Id.* at 27.

20 The Court then addressed the plaintiffs two specific First Amendment claims:  
21 retaliation and right of access. Addressing the claim that federal officers retaliated  
22 against the plaintiffs due to their First Amendment activity, Judge Vera held “the  
23 avalanche of evidence before the Court—along with federal officials’ statements—  
24 suggests that federal agents acted pursuant to a common and widespread practice of  
25 violating the First Amendment rights of journalists, legal observers, and protestors.”  
26 *Id.* at 33. Addressing specifically FPS’ response to protests at MDC, he cited evidence  
27 that “the actions of law enforcement sometimes appeared targeted at individuals  
28 filming the agents,” like Mr. Lopez. *Id.* at 5; *see id.* at 30 (citing “the extensive record

1 evidence that federal officers repeatedly targeted journalists”). He further found that  
2 federal officers “excessive and indiscriminate response evinces strong and persuasive  
3 evidence of retaliatory intent.” *Id.* at 29. He found persuasive that U.S. Secretary of  
4 Homeland Security Kristi Noem, who is the chief of the FPS officers, “ratified  
5 Defendants’ practice of meeting First Amendment protected activities with force” in  
6 her repeated public statements sanctioning violence against photographers and  
7 videographers. *Id.* at 34 & n.28.

8 Second, Judge Vera addressed the claim that the federal officers abridged  
9 journalists’ right of access to protests. *Id.* at 34. The Court found that the streets and  
10 sidewalks where the journalists were attacked were traditional public fora. *Id.* at 35.  
11 “[T]he public has a strong interest in ensuring access for the press” to cover the federal  
12 agents and the “operation of its government.” *Id.* at 35-36. Just as Mr. Lopez was  
13 doing, Judge Vera received mountains of evidence that “journalist . . . Plaintiffs were  
14 peacefully observing protestors’ interactions with law enforcement.” *Id.* Directly  
15 relevant here, Judge Vera held that—contrary to Inspector Ranjo’s actions—the Court  
16 was not “convinced that dispersing journalists is essential to maintaining public safety.”  
17 *Id.* at 36.

18 After finding substantial evidence of both First Amendment claims, the Court  
19 found a preliminary injunction was necessary because federal agents continued to  
20 “use[] retaliatory force against journalists.” *Id.* at 38. The injunction included several  
21 terms one of which is most relevant here. The Court enjoined federal agents, including  
22 the FPS officers involved in Mr. Lopez’ case, from: “Dispersing, threatening, or  
23 assaulting any person whom they know or reasonably should know is a Journalist or  
24 Legal Observer (as defined below) unless Defendants have probable cause to believe  
25 that the individual has committed a crime unrelated to failing to obey a dispersal  
26 order.” *Id.* at 43. A journalist is defined as, inter alia, a person “carrying professional  
27 gear such as professional photographic equipment.” *Id.* at 44.

1 **B. Mr. Lopez’ defense relies on the First Amendment.**

2 With the backdrop of this preliminary injunction which found that FPS violated  
3 journalists’ First Amendment rights, the government moves to exclude the defense  
4 from referencing the First Amendment at all at trial—in opening, cross-examination, or  
5 closing. As noted, the defense does not intend to argue that his allegedly assaultive  
6 conduct is protected by the First Amendment. However, the defense is entitled to  
7 provide context for why Mr. Lopez was present at the protest, why Inspector Ranjo  
8 approached and attacked him, and why Inspector Ranjo used unlawful force.

9 A defendant has the right to argue a theory of defense supported by evidence at  
10 trial and any reasonable inferences therefrom. *United States v. Miguel*, 338 F.3d 995,  
11 1003 (9th Cir. 2003). This is especially true at closing argument, where the defense is  
12 given wide latitude in its “presenting a theory of the case.” *United States v. Ibarra*, No.  
13 23-1282, 2024 WL 2746747, at \*1 (9th Cir. May 29, 2024) (citing *United States v.*  
14 *Hernandez-Meza*, 720 F.3d 760, 765 (9th Cir. 2013)); *Conde v. Henry*, 198 F.3d 734,  
15 739 (9th Cir.1999) (“denying an accused the right to make final arguments on his  
16 theory of the defense denies him the right to assistance of counsel”). Specifically,  
17 limitations on closing argument that leave counsel “unable to frame and give content to  
18 the core of his defense” are improper and require reversal. *United States v. Kellington*,  
19 217 F.3d 1084, 1101 (9th Cir. 2000).

20 The defense is entitled to argue to the jury that Mr. Lopez had a non-nefarious  
21 purpose for being at the protest on August 8. He was there to act as a photographer, to  
22 document the protest, and to observe and document the officers’ response. As Judge  
23 Vera made plain, these actions are quintessential First Amendment activity. Even more  
24 relevantly, consistent with Judge Vera’s order, the defense intends to argue that  
25 Inspector Ranjo “targeted [] individuals filming the agents,” namely, Mr. Lopez. Ex.  
26 A, *L.A. Press Club v. Noem*, Case No. 2:25-CV-5563-HDV, Dkt. No. 55 at 5 (C.D. Cal.  
27 Sept. 10, 2025). Then, just as in the preliminary injunction order, Inspector Ranjo  
28 retaliated against Mr. Lopez for his First Amendment protected activity by engaging in

1 an “excessive and indiscriminate response” to his photography. *Id.* at 29. Ranjo did  
2 not like being photographed, did not like the press capturing his actions, so he got  
3 angry, he retaliated. He acted with hate and with force against Mr. Lopez for his  
4 undisputably legal activity: covering the officers who are supposed to protect us. The  
5 defense must be permitted to present its full defense to the jury, including the factual  
6 and contextual basis for Mr. Lopez’ presence at the protest and the reasons that Ranjo’s  
7 actions are unlawful.

8 Consistent with Model Instruction No. 5.10 on self-defense, the government  
9 must prove beyond a reasonable doubt that Inspector Ranjo did not use “unlawful  
10 force.” Ninth Cir. Mod. Jury Instr. No. 5.10. Unlawful force includes force that is  
11 taken in retaliation for a defendant’s First Amendment activity. *See Ford v. City of*  
12 *Yakima*, 706 F.3d 1188, 1195 (9th Cir. 2013), abrogated on other grounds by *Nieves v.*  
13 *Bartlett*, 587 U.S. 391 (2019) (“Police officers have been on notice at least since 1990  
14 that it is unlawful to use their authority to retaliate against individuals for their  
15 protected speech.”). Because actions taken in retaliation for First Amendment activity  
16 are by definition unlawful, the fact that Mr. Lopez’ non-assaultive conduct was  
17 protected by the First Amendment is directly relevant to the charged offense. The  
18 defense must be permitted to argue that Inspector Ranjo’s actions were unlawful,<sup>1</sup>  
19 consistent with case law, and thus Mr. Lopez’ responsive force was reasonable.

20 Similarly, the government must prove beyond a reasonable doubt that at the time  
21 of the offense, Inspector Ranjo was engaged in his “official duties.” Ninth Cir. Mod.  
22 Jury Instr. No. 8.1. If, instead of performing a lawful function, Inspector Ranjo was  
23 motivated by retaliatory animus against Mr. Lopez’ First Amendment protected  
24 conduct, the defense must be permitted to argue he was not engaged in his “official  
25 duties.” *See United States v. Span*, 970 F.2d 573, 581 (9th Cir. 1992) (affirming an  
26 instruction that indicated an officer was performing “official duties” if he was engaged  
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28 <sup>1</sup> Contrary to the government’s argument, the lawfulness of Inspector Ranjo’s actions is a question for the jury, not the Court, as evidenced by the jury instruction.

1 in a “good faith performance of their duties”). Because First Amendment retaliation is  
2 also relevant to the element of “official duties,” it cannot be excluded from trial.

3 For these reasons, Mr. Lopez’ protected First Amendment activity is highly  
4 relevant to the elements of the offense that Mr. Lopez must defend against at trial. Mr.  
5 Lopez must be permitted to offer a complete explanation for his own actions and those  
6 of Inspector Ranjo; both of which are directly informed by the First Amendment.

7 **C. Mr. Lopez’ defense does not violate Rule 403.**

8 The First Amendment is not confusing, nor is retaliation. These are basic  
9 principles incumbent in our constitution. And, juries are routinely permitted to  
10 consider these issues in criminal cases. *See, e.g., United States v. Freeman*, 761 F.2d  
11 549 (9th Cir. 1985). Regardless, our system of justice relies on a jury to decide  
12 whether Inspector Ranjo used unlawful force. Thus, it trusts that juries will be able to  
13 decide questions of law like these in all self-defense cases. There is nothing unique or  
14 unusual about this case and the defense should not be hampered or hamstrung in its  
15 arguments in the extraordinary ways suggested by the government.

16 The government argues that Rule 403 is violated because a First Amendment  
17 argument is “likely to mislead the jury by suggesting that the government is  
18 prosecuting defendant for his political views rather than for his physical assault of an  
19 officer.” (Dkt. No. 31 at 4.) The defense need not say anything about the motive for  
20 the prosecution (although Judge Vera’s order certainly suggests such a suggestion  
21 would not be misleading). But, Inspector Ranjo’s motive is certainly relevant, and  
22 discussing it at trial is the opposite of misleading, it is central. *See Mueller &*  
23 *Kirkpatrick*, Fed. Evid. § 4:13 Reasons for exclusion—Unfair prejudice (4th ed. July  
24 2025) (noting the relevance of “the state of mind of the victim . . . if self-defense were  
25 an issue because then the victim's attitude would bear on the question whether he  
26 started the affray” (internal parentheticals omitted)).

27 Nor is raising First Amendment retaliation “subtle nullification.” (Dkt. No. 31 at  
28 5.) To the contrary, it asks the jury to decide questions central to the case. Was

1 Inspector Ranjo engaged in the good faith performance of his official duties? Did  
2 Inspector Ranjo use unlawful force? The defense is entitled to present the jury with its  
3 theory for how it should answer those questions—just as the government is entitled to  
4 present theirs. Doing so is not nullification, it is ensuring “the defense ha[s] a fair  
5 chance to argue the evidence.” *United States v. Brown*, 859 F.3d 730, 736 (9th Cir.  
6 2017) (“[P]reventing a defendant from arguing a legitimate defense theory constitutes  
7 structural error” requiring reversal of the conviction).

### 8 III. CONCLUSION

9 For the foregoing reasons, the government’s motion in limine #2 to preclude any  
10 reference to the First Amendment should be denied.

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13 Respectfully submitted,

14 CUAUHTEMOC ORTEGA  
15 Federal Public Defender

16 DATED: October 30, 2025

17 By /s/ Rebecca Abel

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