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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID HUERTA,

Defendant.

CASE NO.: 2:25-CR-00841-SB

**DEFENDANT'S OMNIBUS
REPLY IN SUPPORT OF HIS
MOTION TO DISMISS THE
FIRST SUPERSEDING
INFORMATION**

Date: Aug. 4, 2026

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INTRODUCTION

The government's recycled opposition brief does little to address, let alone cure, the many defects on the face of the Superseding Information ("SI"). By introducing new allegations and new facts not even present in the SI, the government continues to throw theories against the wall, hoping one will allow this case to proceed. Its tactic only confirms that the charge against Mr. Huerta is an attempt to criminalize his exercise of his First Amendment rights to speak and associate in a public forum about issues of pressing societal and political importance.

There are four bases for the Court to dismiss the charge: (1) the SI fails to state the key elements of a Section 1501 crime; (2) it charges Mr. Huerta for his protected First Amendment activities; (3) it is based on Section 1501's first paragraph, which is facially overbroad; or (4) is unconstitutionally vague as applied to Mr. Huerta. Each outcome is an independent basis for dismissal. Taken together, however, they form a mandate to protect against and deter the use of criminal charges to repress free speech.

ARGUMENT

I. The SI Fails to State the Offense.

As this Court recognized by ordering the government to amend its Information, charging a protester with a crime for joining a demonstration demands a modicum of specificity. But the SI is fatally unspecific, fails to state the elements of a Section 1501 offense, and attempts to charge Mr. Huerta for his First Amendment protected activities, so it must be dismissed with prejudice.

A. The SI Fails to State the Offense with Specificity.

At each stage of this proceeding, Mr. Huerta has been "met with a different theory, or by no theory at all," of his criminal conduct. *Russell v. United States*, 369 U.S. 749, 768 (1962). The government's theories have continuously evolved, from

1 Mr. Huerta launching himself onto a van or slashing tires to blocking a Jeep or
2 ending an entire law enforcement operation. Now, the government has replaced its
3 bare-bones Information with the kitchen sink, providing a vague menu of options to
4 select from at trial. Its shifting theory of the charge is enabled by the unspecific SI.
5 This will lead to the very outcome that Rule 7 attempts to avoid. The prosecution
6 will be left “free to roam at large—to shift its theory of criminality so as to take
7 advantage of each passing vicissitude of the trial and appeal.” *Id.* This is not the
8 notice the rules, the Constitution, and this Court require.

9 The government agrees that the SI must stand on its own four corners. Opp.
10 23; see *United States v. Nukida*, 8 F.3d 665, 669 (9th Cir. 1993) (“[T]he court may
11 make preliminary findings of fact necessary to decide the legal questions presented
12 by the motion,” but may not “invade the province of the ultimate finder of fact.”).
13 And at minimum, the face of the SI must set forth sufficient facts to meet the Rule
14 7(c) notice requirements and this Court’s order requiring further specificity. ECF
15 102. The SI does the opposite: it charges every act against every officer under every
16 prohibition. While it names (in initials) two officers, it fails to “specifically identify”
17 all relevant “United States officer(s)” that Mr. Huerta allegedly obstructed and fails
18 to show how Mr. Huerta’s conduct “obstructed, or aided and abetted the obstruction”
19 of an officer, *id.* at 4. It charges Mr. Huerta under all three prohibited actions in
20 Section 1501’s first paragraph, without specifying which conduct fits within which
21 prohibition as to which officer.

22 Instead of arguing that the allegations on the face of the SI are sufficient as a
23 matter of law, the government relies on post-hoc revisions and conclusory assertions
24 in its opposition, Opp. 13, but even that does not specify *how* Mr. Huerta is supposed
25 to differentiate his acts from the acts of others when he was one man in a crowd.
26 Vague charges that conflate an individual’s acts with the crowd invite the error of
27 holding peaceful protesters responsible for unlawful acts of others and thereby risk
28

1 violating the First Amendment. *See* Mot. 22.

2 The government also argues that it is sufficient for the SI to allege that Mr.
3 Huerta obstructed S.T. and B.G.—the only two officers named in the SI. But then
4 it defends its case by alleging Mr. Huerta specifically “obstructed” *every other*
5 unnamed agent on the premises as well. Opp. 12. This ignores the Court’s order to
6 identify the officers Mr. Huerta allegedly obstructed and, even then, addresses only
7 one of the three prohibited activities it charges. *Id.* 11-13. It asserts that the “core”
8 of the SI is that Mr. Huerta “physically blocked the entrance/exit of the Warrant
9 Location, and in turn *obstructed* the federal officers using that entrance.” Opp. 13
10 (emphasis added). Nowhere does the government identify what conduct resisted
11 which agent, or what conduct opposed at all, outside of its generalized theory of Mr.
12 Huerta “resisting” or “opposing” the operation in its totality. These omissions do
13 not suffice under the statute or the Court’s order. *See* Mot. at 16.¹

14 The government proves the SI’s insufficiency when it directs Mr. Huerta to
15 review external, disputed evidence to explain Section 1501’s most critical elements.
16 *See* Opp. 13, 17-18. A charging instrument that cannot be understood without
17 extrinsic evidence is defective on its face, but even with this evidence, the SI does
18 not support the government’s theory. With respect to its new allegation (based on a
19 photo, Ex. 7) that Mr. Huerta “impeded” agent S.T. at 11:28 a.m., it attempts to
20 verify its claim by pointing to a video taken at 11:49 a.m. (thirty minutes later). Opp.
21 13. Its claims that a video shows that Mr. Huerta impeded B.G.’s vehicle, but a
22 review of its exhibit merely shows Mr. Huerta standing off to the van’s side. Ex. 3.
23 The Court should not accept the government’s contradictory and disputed assertions
24 not contained in the SI. With its attempts to backfill the SI’s fatal gaps, the

25 _____
26 ¹ The government’s citation to *United States v. Warnagiris*, 699 F. Supp. 3d 31, 41
27 (D.D.C. 2023), is inapposite, as it relates to an element of 18 U.S.C. § 231 that is
28 not present in Section 1501. *See* pp. 16-17.

1 prosecution improperly and unfairly assembles and reassembles its theory of the
2 offense only after it sees Mr. Huerta's defense.

3 **B. The SI Fails to State the Elements of the Offense.**

4 Section 1501 requires obstruction, resistance, or opposition *directly* impacting
5 a *specific officer* who, at the time of the obstruction, was *actively* executing a search
6 warrant. Mot. at 16-17; *see* 18 U.S.C. § 1501. The SI does not state these elements,
7 but the government does not dispute what the statute requires. It only disputes the
8 facts that the SI contains, but even under the government's back-filled version of SI,
9 it does not plead the elements that the government agrees are required.

10 Simply stated, the government does not rebut the plain text requirement that
11 the charged conduct directly impact an officer, rather than a location or an operation.
12 It argues only that it is "common sense" that obstructing a gate is equivalent to
13 obstructing an officer, Opp. 15, without reference to the statute itself.² The
14 government's description of Mr. Huerta's alleged crime shows the causal chain that
15 Section 1501 rejects. It states that Mr. Huerta "blocked the entrance to the Warrant
16 Location, which in turn 'obstructed, resisted, and opposed' federal agent S.T. and
17 government contractor B.G.," and "generally obstructed, resisted, and opposed *all*
18 of the government personnel involved in executing the Search Warrant by drawing
19 resources to the blocked entrance to respond to the safety concerns created, in part,
20 by defendant's conduct." Opp. 14 (emphasis added). This alleges only that Mr.
21 Huerta's protest activity blocked a gate for some unspecified time, including when

22 ² The government's attempt to revise its own SI to characterize the front gate as the
23 "only entrance and exit at the Warrant Location" is disingenuous at best. Opp. 15.
24 The SI states that it was the "primary entrance," SI 2:15, and "the only gate *being*
25 *used by law enforcement* to enter and exit the Search Warrant Location," SI 4:3-4
26 (emphasis added), not the *only* entrance or exit. And it is undisputed that there were
27 other entrances and exits to the Warrant Location that the government used that same
28 day, and that the "front gate" was closed during the majority of the protest. *See* Mot.
7.

1 no vehicles were attempting to enter or exit. And it states an attenuated theory of
2 obstruction of an *operation*, which Mr. Huerta's un rebutted arguments show is
3 insufficient under the plain text of the statute. Mot. 17.

4 Even if an allegation of attenuated obstruction is enough, the officers named
5 by the government, B.G. and S.T., were not executing the warrant. The SI could
6 have stated their activities individually, but it did not.³ It instead provides a
7 disjunctive list of potential vehicle functions, including most that are entirely
8 unrelated to search warrant execution: "remov[ing] any non-law-enforcement
9 individuals who were detained" and "transport[ing]... individuals who were
10 detained or arrested." SI 3:5-22. The government's explanation of S.T.'s purpose
11 therefore has no footing in the SI. The government has argued its claim since the
12 February hearing but still chose not to include it in the SI. A missing element cannot
13 be supplied after the fact with extrinsic evidence to fix the government's drafting, so
14 the SI remains fatally ambiguous as to S.T.

15 For B.G., the government admits that he "was tasked with transporting
16 detainees to the Federal Building for immigration purposes," but claims that "he was
17 serving a function (removal of detainees from the Warrant Location) that 'advanced'
18 the execution of the search and would have needed to have occurred regardless of
19 the immigration status of the detainees[.]" Opp. 19. But "search warrants based on
20 probable cause cover the place being searched, not the seizure of individuals." *Perez*
21 *Cruz v. Barr*, 926 F.3d 1128, 1142 (9th Cir. 2019). The limited authority provided
22 by *Michigan v. Summers* permits law enforcement "to detain the occupants of the
23 premises while a proper search is conducted," 452 U.S. 692, 705 (1981), but "*limited*
24

25 ³ During the argument for the first motion to dismiss, the government conceded B.G.
26 was transporting individuals arrested pursuant to administrative warrants. ECF 99
27 32:24-33:13. The new allegation regarding S.T. is better read as an after-the-fact
28 filler to address this error, with no SI specificity nor underlying factual support.

1 to the immediate vicinity of the premises” being searched. *Bailey v. United States*,
2 568 U.S. 186, 199 (2013) (emphasis added).⁴ The government’s actions, barely
3 described on the face of the SI and supplemented in its opposition, mirror the
4 unconstitutional acts described in *Perez Cruz*, 926 F.3d at 1144: a search warrant
5 obtained to coincide with an immigration raid, with pre-planned arrests, and officers
6 detaining all employees on site, interrogating them, and driving them offsite after
7 arrests or for further detention. *Perez Cruz* held that *Summers* did not authorize
8 “detention for the purpose of obtaining answers from detainees, let alone
9 transporting detainees offsite and holding them long beyond the length of the search
10 so they can be further interrogated.” *Id.* at 1144. So, by doubling down on its
11 argument that B.G.’s moving detainees to the Federal Building was conducted as
12 part of the search warrant, it also doubles down on its own unconstitutional acts.
13 The moment the government transports someone off-site, it is an arrest, not a
14 *Summers* detention or the execution of a search warrant. An act must be
15 constitutionally part of a search to be “executing a search warrant.” Casting it as
16 “securing the search location” does not change this fact.

17 The government additionally attempts to reframe the “perimeter team”
18 guarding the gate as executing the search warrant. Opp. at 20. But while an act
19 must be constitutional to be part of the execution of a search warrant, that is a
20 necessary but not sufficient condition. The Fourth Amendment permits law
21 enforcement to reasonably secure a premises to execute a search warrant, *Yanez-*
22 *Marquez v. Lynch*, 789 F.3d 434, 471 (4th Cir. 2015), but that does not mean that
23 the officers named were “executing the search warrant” or that these officers did so
24 in this circumstance. The government does not point to a single place in the SI
25 describing the gate officers as “executing the warrant,” and it has conceded that the

26 ⁴ *Tovar v. City of Fresno*, 2007 WL 3407415, at *2 (E.D. Cal. Nov. 13, 2007),
27 involved detention just outside of a searched residence.

1 search, arrest, and perimeter teams acted separately—and only one actually
2 “executes” the search warrant.

3 With little else left, the government repeats its catch-all theory: that *all* federal
4 agents at the warrant location were executing the search warrant at *all* times. Given
5 that B.G. and others were executing administrative arrests, this cannot be true. And
6 this is not what the SI actually says. The SI states that “all of the federal
7 officers . . . present at the Search Warrant Location on June 6, 2025, were assisting
8 with the execution of the Warrant . . . and were, in fact, so doing when present at the
9 Search Warrant Location on June 6, 2025, *when the operation began.*” SI 3:22-28
10 (emphasis added). Taken as true, with the search beginning between 9-9:30 a.m.,
11 *id.* 2:21-24, this statement does not save the charge, because it cannot be disputed
12 that Mr. Huerta arrived over two hours later. SI 4:4-5. The government cannot
13 rewrite the SI in its opposition to escape this temporal limit.

14 In the government’s enlarged view, any activity occurring at the same time as
15 a search is “execution of a search warrant” (or at minimum, part of a “dual function,”
16 *see* Opp. 18), and any conduct tangentially inconveniencing an officer or an
17 operation is obstruction, resistance, and opposition of an officer. But the
18 government has forfeited any argument that the SI’s nebulous allegations state an
19 offense under the statutory structure it conceded. Executing a search can include
20 many activities, but it cannot include arrests and detentions offsite. And the
21 government’s post-hoc revisions cannot supply the essential elements the SI omits.

22 **C. The Superseding Information Charges First Amendment**
23 **Protected Activities.**

24 Even if the SI properly stated the elements of Section 1501, Mr. Huerta’s First
25 Amendment-protected activities cannot be the basis of a criminal charge. His
26 peaceful protest, picketing, and sit-ins are all protected speech under the First
27 Amendment, *Collins v. Jordan*, 110 F.3d 1363, 1371 (9th Cir. 1996), and receive
28

1 greater protection because Mr. Huerta spoke on an issue of public importance in a
2 public forum, *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982); *Berger*
3 *v. City of Seattle*, 569 F.3d 1029, 1036 (9th Cir. 2009). The SI actually describes
4 protected activity: Mr. Huerta joined a “crowd” (protest, *see* Opp. 1) in front of one
5 of the warehouse’s gates, SI 4:1-5, 26-27 (a public sidewalk, *see* Opp. 4), and that
6 he conducted a sit-in, SI 4:21, engaged in a picket line, *id.* 4:24, did not stop
7 protesting in the face of an invalid order, *id.* 5:1-7, and encouraged and associated
8 with others during a protest, *id.* 5:8-15, 21-23. This speech is presumptively
9 protected, as the government concedes when acknowledging that he acted “with the
10 intent to communicate a message.” Opp. 20. And it never rebuts that Mr. Huerta
11 cannot, under the First Amendment, be charged for peacefully protesting, even if
12 others at the protest act unlawfully.

13 Attempting to relabel Mr. Huerta’s protest to exclude it from protection does
14 the government no good. Mr. Huerta’s protest is technically “conduct” and could
15 be “blocking” something, but it is still protected. Protest is speech even if it is
16 technically “conduct.” Mot. 20-21; *Edwards v. City of Coeur d’Alene*, 262 F.3d 856,
17 861 (9th Cir. 2001). And protests often block businesses and streets, but may do so
18 absent a valid restriction, *see* pp. 10-11, because sidewalks and streets are public
19 fora. Calling where Mr. Huerta protested a “driveway” to avoid this classification
20 changes nothing—a public sidewalk that dips down to allow cars to cross over and
21 sits on the public side of the high fence is still a public forum. *See* Opp. 4 (showing
22 two images of the driveway/sidewalk).

23 Because Mr. Huerta engaged in protected speech in a public forum, the
24 government can only restrict it for two narrow reasons: (1) that the speech falls
25 within one of the narrow, “historic and traditional categories” of speech exempted
26 from First Amendment protection, *United States v. Alvarez*, 567 U.S. 709, 717
27 (2012), or (2) that the restriction is a “reasonable restriction[] on the time, place, or
28

1 manner of protected speech, provided the restriction[] “[is] justified without
2 reference to the content of the regulated speech, that they are narrowly tailored to
3 serve a significant governmental interest, and that they leave open ample alternative
4 channels for communication of the information.” *Ward v. Rock Against Racism*,
5 491 U.S. 781, 791 (1989) (quoting *Clark v. Community for Creative Non-Violence*,
6 468 U.S. 288, 293 (1984)). None of these apply here. When the government asserts
7 that because the protest “blocked” the entrance, it lost any protection, it gets this
8 backwards. Opp. 20-21. Protest in a public forum is presumptively permissible
9 unless the government proves the above criteria. It does not.

10 The government argues that “obstruction” categorically is not protected, *id.*
11 Not so. *See Alvarez*, 567 U.S. at 717 (listing specific unprotected categories). Its
12 support is a string of cases finding that the FACE Act or other ordinances meet
13 intermediate scrutiny. Opp. 20-21 (citing *United States v. Gregg*, 226 F.3d 253, 267-
14 68 (3d Cir. 2000); *United States v. Weslin*, 156 F.3d 292, 297 (2d Cir. 1998)).⁵ That
15 the government can regulate obstruction in *certain* circumstances does not make it
16 an historical category of unprotected speech. The government then invokes watered-
17 down versions of actual historical exceptions without actually naming or analyzing
18 them. It cites *United States v. Hansen*, 599 U.S. 762, 783 (2023), for the settled
19 proposition that “speech intended to bring about a particular unlawful act has no
20 social value; therefore, it is unprotected,” but does not engage in the analysis
21 required for this exception to apply here. For good reason—speech integral to
22 criminal conduct does not apply when the speech is itself the alleged crime. *See*
23 *United States v. Sryniawski*, 48 F.4th 583, 588 (8th Cir. 2022) (“Congress may not
24

25 ⁵ It omits that the FACE Act expressly states that it does not prohibit “any expressive
26 conduct (including peaceful picketing or other peaceful demonstration) protected
27 from legal prohibition by the First Amendment to the Constitution.” 18 U.S.C.
28 § 248(d)(1).

1 define speech as a crime, and then render the speech unprotected by the First
2 Amendment merely because it is integral to speech that Congress has criminalized.
3 To qualify as speech integral to criminal conduct, the speech must be integral to
4 conduct that constitutes another offense that does not involve protected speech[.]”).
5 Here, Mr. Huerta’s protest and speech is allegedly the same conduct that the
6 government seeks to transform into a crime, so it does not qualify.⁶

7 Next, the government invokes the time, place, or manner (“TPM”)
8 framework, but does not actually satisfy it. It briefly states a “legitimate” interest,
9 access to the warrant location, but TPM restrictions must be narrowly tailored to a
10 *significant* government interest, *Ward*, 491 U.S. at 791.⁷ As the government does
11 not explain why access to one entrance of the warrant location (when others existed)
12 qualifies, and in fact forfeits any argument against Mr. Huerta’s explanation of its
13 deficiencies, it has not stated the required level of interest. Mot. 24. Even then, it
14 baldly asserts that the limitation to the driveway makes it “narrowly tailored,” and
15 that protesters can go elsewhere on the sidewalk. It does not demonstrate how
16 sectioning off the entire driveway and gate area, even when officers were not trying
17 to enter, is narrowly tailored to the government’s interest under the actual test.

18 ⁶ When it states that Mr. Huerta was “encouraging or inducing further unlawful
19 obstructive conduct,” the government may be invoking a different exception:
20 incitement. Opp. at 22. The SI does not show that Mr. Huerta’s words and actions
21 were “directed to inciting or producing imminent lawless action” nor that he was
22 “likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447
23 (1969). More protest is not “imminent lawless action.” Absent incitement, the First
24 Amendment even protects speech “tending to encourage or promote a riot.” *United*
25 *States v. Rundo*, 990 F.3d 709, 717 (9th Cir. 2021).

26 ⁷ Mr. Huerta does not concede that intermediate, rather than strict scrutiny, applies
27 to this case, as law enforcement stopped Mr. Huerta’s protest “because of
28 disagreement with the message it conveys,” *Hill v. Colorado*, 530 U.S. 703, 719
(2000). But as the government does not even meet the lesser requirements of
intermediate scrutiny, it certainly cannot meet the greater requirements of strict
scrutiny.

1 Nor could it. Valid TPM restrictions are prospective and subject to neutral
2 criteria, providing speakers with specific guidance on any restrictions. This often
3 takes the form of an obvious triggering condition and a fixed boundary; for example,
4 the restrictions in *Schenck v. Pro-Choice Network Of W. New York*, 519 U.S. 357,
5 376 (1997), *Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 770 (1994), and
6 *Hill*, 530 U.S. at 707, each imposed specific spatial limitations outside pre-identified
7 locations. But the triggering condition for Section 1501 is an officer serving or
8 executing a warrant, not a place or person the government can pre-identify without
9 giving away its operation. In Mr. Huerta's case, there were no visual or obvious
10 cues that the driveway was off-limits or that it needed to be kept clear all the time
11 for law enforcement use. Mr. Huerta had no notice that this portion of the sidewalk,
12 at any specific time, was off limits.

13 This restriction also left no adequate alternative channel, because the
14 "restriction" existed only once the officers decided they needed, in one specific
15 moment, to use the driveway. Because Section 1501 is pinned to individual officers,
16 not locations, it functions like the "floating buffer zones" the Court struck in
17 *Schenck*, 519 U.S. at 377-78, which "burden[ed] . . . much more speech than [their]
18 terms prohibit[ed]" by forcing protesters to anticipate the movements of the people
19 and vehicles they needed to avoid. It would provide a standardless, discretionary
20 power to decide which protests to shut down, which is the antithesis of a permissible
21 TPM regulation. *See Forsyth County v. Nationalist Movement*, 505 U.S. 123, 130-
22 33 (1992).⁸

23 Finally, the government has forfeited any justification for a dispersal order, as
24 required by its SI. The SI alleges that Mr. Huerta "obstructed, resisted, and opposed"

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26 ⁸ Even this is questionable, as the SI allegations regarding fears for officer safety and
27 the ultimate conclusion of the operation due to the protest could have occurred even
28 if the protest was elsewhere.

1 by allegedly failing to obey law enforcement commands to clear the driveway. SI
2 5:1-7. These commands are the type of protest-dispersal orders that are subject to
3 First Amendment requirements. Mot. 22-24. The government does not rebut, and
4 therefore forfeits, that those orders were not supported by a significant government
5 interest, and that Mr. Huerta was properly exercising his constitutional rights when
6 he did not comply.

7 With the proper law set out, the SI charges Mr. Huerta for his lawful, protected
8 First Amendment activity, which cannot be a crime.

9 **II. Section 1501 Is Facially Overbroad in Violation of the First**
10 **Amendment.**

11 Section 1501's first paragraph sweeps in a wide swath of protected speech,
12 including criticisms and peaceful protest of law enforcement activity. Mr. Huerta's
13 own arrest, as well as the few applications of the statute throughout history, reveal
14 its unconstitutional overbreadth. The Supreme Court has already found that a similar
15 statute, prohibiting "in any manner oppos[ing], molest[ing], abus[ing] or
16 interrupt[ing] any policeman in the execution of his duty," was overbroad in
17 violation of the First Amendment, because the terms "oppose" and "interrupt"
18 criminalized far too much protected speech against law enforcement. *See City of*
19 *Houston v. Hill*, 482 U.S. 451, 467 (1987). This Court should follow this binding
20 precedent and strike Section 1501's similar first paragraph, forbidding non-forcible,
21 non-threatening, and non-violent obstruction, resistance, and opposition, from the
22 statute.

23 **A. Section 1501's Plainly Legitimate Sweep Covers Protected**
24 **Speech.**

25 Verbal criticism and non-verbal protest are both speech protected by the First
26 Amendment. *See* Mot. 20-22. Section 1501's three operative verbs—obstruct,
27 resist, and oppose—sweep in both verbal and non-verbal protected speech under
28

1 their plain meaning, meeting the first requirement of overbreadth. *See* Mot. 26.

2 The government affirms that overbreadth challenges are properly brought
3 when a law targets “speech” or “conduct necessarily associated with speech (such
4 as picketing or demonstrating).” Opp. 23 (quoting *Virginia v. Hicks*, 539 U.S. 113,
5 124 (2003)). It concedes that the term “opposes” contains “multiple meanings,”
6 including non-forcible and non-physical opposition, Opp. 24, and that at least at “the
7 margins,” the term obstruct can as well, *see id.* (quoting *United States v. Pugh*, 90
8 F.4th 1318, 1330 (11th Cir. 2024)). It agrees that the difference between Section
9 1501’s first paragraph and second paragraph is critical to this inquiry, and that the
10 second paragraph covers physical force and violence, while the first paragraph
11 covers “non-violent,” nonforcible activities. *See* Opp. 27-28. And it does not
12 address—and therefore concedes—that the second paragraph’s coverage of
13 “assault” specifically includes unprotected speech, including true threats and
14 fighting words. *See United States v. Sommerstedt*, 752 F.2d 1494, 1496 (9th Cir.
15 1985), *as amended*, 760 F.2d 999 (9th Cir. 1985) (defining “assault” under Section
16 1501’s second paragraph, and 18 U.S.C. § 111), and that conflating Section 1501’s
17 two paragraphs would render one superfluous.

18 These concessions are dispositive. Read together, and in contrast to Section
19 1501’s second paragraph, the first paragraph’s three verbs therefore only cover
20 verbal speech (opposition and resistance to police officers), and non-violent, non-
21 threatening, and touch-free conduct directed at law enforcement.⁹ This subsumes all

22 ⁹ As described in *United States v. Giampino*, 680 F.2d 898, 902 (2d Cir. 1982), the
23 first paragraph has “no mention of force, nor use of a verb that connotes the use of
24 force, nor any logical reason why such obstruction, resistance, or opposition cannot
25 occur without force.” *Id.* Notably, “force” in the context of 18 U.S.C. § 111, as
26 relevant to *Giampino*’s analysis, implies no touching at all. *E.g. United States v.*
27 *Alsondo*, 486 F.2d 1339, 1345 (2d Cir. 1973) (lifting a hand as though to shove, and
28 actual shoving, are “both acts sufficient to constitute a crime under section 111”)

1 First Amendment-protected activity, and is parallel to *City of Houston*, where all
2 “species of physical assault” are covered under the latter half of the statute, and
3 therefore are separated from the analysis. Opp. 25 (quoting *City of Houston*, 842
4 U.S. at 460).

5 Understanding that the first paragraph covers substantial protected speech, the
6 government rewrites it. It collapses “obstruct, resist, and oppose” into a single
7 meaning that renders the last two words entirely superfluous, and injects the word
8 “physical” where it does not exist. Opp. 24-25. To do so, it relies on the wrong
9 dictionary definitions, *compare*, e.g., Mot. 28 (citing the Oxford English Dictionary
10 definition for “obstruct” specifically for “law”), *with* Opp. 24 (citing the OED
11 definition for “obstruct” for “an opening, thoroughfare, waterway, etc.” and “a
12 physical action or movement.”); from the wrong time periods, *compare* Mot. 27
13 (citing historically appropriate definitions for 1791), *with* Opp. 24 (citing the
14 definition of “obstruct” from 1963 and 2004). These definitions are not persuasive.
15 *See* Scalia & Garner, *Reading Law: The Interpretation of Legal Texts* 70 (2012).

16 The context of the three verbs supports the proper understanding that
17 “obstruct, resist, and oppose” are not confined to physical actions. The government
18 cites *People v. Vasquez*, 465 Mich. 83, 90 (2001), to argue that “oppose” is restrained
19 to physical acts, but misreads the case. *Vasquez* found a physical limitation only
20 because “obstruct, resist, oppose” were listed in the *same* sentence as “assault, beat,
21 wound.” *See id.* But Section 1501 separates “assault, beat, wound” into a different
22 paragraph. Mot. 29. In this circumstance, “obstruct, resist, and oppose” have been
23 found *not* to have a physical limitation. *See King v. Ambs*, 519 F.3d 607, 611 (6th
24 Cir. 2008).¹⁰

25 While this Court may impose a limiting construction to avoid constitutional

26 ¹⁰ *Pugh* applies the wrong definitions for obstruct and addresses a different three-
27 word string. 90 F.4th at 1330.

1 infirmities, it may do so “only if it is ‘readily susceptible’ to such a construction.”
2 *Reno v. ACLU*, 521 U.S. 844, 884 (1997). Courts cannot “‘rewrite a . . . law to
3 conform it to constitutional requirements.” *Id.* at 884-85 (quoting *Va v. Am.*
4 *Booksellers Assn., Inc.*, 484 U.S. 383, 397 (1988)). Nor can it render words
5 superfluous.

6 The government also asks the Court to revise Supreme Court precedent. The
7 government’s reading of *City of Houston*, to apply only to the term “interrupt,” is an
8 extraordinary stretch. The opinion’s text distinguishes between the two words, and
9 treats them as separately abhorrent to free speech, going as far as to state that “[t]he
10 freedom of individuals verbally to oppose or challenge police action without thereby
11 risking arrest is one of the principal characteristics by which we distinguish a free
12 nation from a police state.” *Id.* at 462-63. *Interruption* is not always a criticism or
13 a challenge, but *opposition* is. The government twists the opinion to suit its
14 narrative, but its arguments find no footing in the actual text.

15 Next, the government argues that *City of Houston* does not reach expressive
16 conduct, did not consider whether “oppose” could apply to unprotected speech, and
17 exempted any and all obstruction from its holding. Its first two points make Section
18 1501’s first paragraph more analogous to *City of Houston*’s overbroad ordinance,
19 not less. In *City of Houston*, the Supreme Court excluded any definitions of the
20 terms that covered “physical assault,” “fighting words,” and “disorderly conduct,”
21 as preempted by other statutes. Opp. 25, n.10 (quoting *City of Houston*, 482 U.S. at
22 462 n.10). Here, the first two prohibitions, as the government concedes, fall into
23 Section 1501’s second paragraph, not its first. And Section 1501 does not cover
24 disorderly conduct at all. Separating “obstruct, resist, oppose” from “assault, beat,
25 wound” here has the same effect as the *City of Houston* preemption separating
26 “oppose, molest, abuse or interrupt” from “assault” or “strike.” The only relevant
27 portions both statutes encompass are acts that do not require touching, force, threats,
28

1 or physical acts.

2 The government's third point references the Supreme Court's recognition that
3 certain types of physical obstruction *could* be constitutionally criminalized, *see id.*
4 at 462, n.11. But that recognition simply recognizes the well-established points that
5 the government can regulate speech if it meets the right level of scrutiny, and that a
6 law with legitimate applications can still be facially overbroad. As the Supreme
7 Court clarified, "[a]lthough that person might constitutionally be punished under a
8 tailored statute that prohibited individuals from physically obstructing an officer's
9 investigation, he or she may not be punished under a broad statute aimed at speech."
10 *Id.*

11 Ultimately, *City of Houston* makes two dispositive points that mandate
12 Section 1501's first paragraph's overbreadth. First, to "oppose" a law enforcement
13 officer includes protected verbal speech, and when isolated from words requiring
14 physical force or threats, statutes prohibiting opposition, even in a string of
15 potentially ambiguous words, are facially overbroad. Second, a statute that prohibits
16 substantial protected activities, along with some unprotected activities, is still
17 unconstitutional. The Supreme Court affirmed that statutes that rely on law
18 enforcement to draw the lines between expressive and non-expressive activities are
19 extremely suspect and stated that it has "repeatedly invalidated laws that provide the
20 police with unfettered discretion to arrest individuals for words or conduct that
21 annoy or offend them." *City of Houston*, 482 U.S. at 465.

22 The government's comparator statute, 18 U.S.C. § 231, instead provides
23 more evidence of overbreadth.¹¹ Courts upholding this statute focused on two
24 elements that Section 1501 lacks: (1) the requirement of "any act" to "impede,

25
26 ¹¹ In response to the remainder of Mr. Huerta's comparator statutes, the government
27 simply states that they do not cover "physical obstruction . . . without the use of
28 force." Opp. 27, n.6. This proves Mr. Huerta's point entirely.

1 obstruct, or interfere,” which narrows it to non-verbal activity, *see United States v.*
2 *Phomma*, 561 F. Supp. 3d 1059, 1068 (D. Or. 2021); and (2) the requirement that
3 the act occur during “a civil disorder,” which cabins it to actions taken during violent
4 or dangerous circumstances, *see United States v. Mechanic*, 454 F.2d 849, 853 (8th
5 Cir. 1971). These textual qualifiers narrow Section 231(a)(3), not its use of the term
6 “obstruct.” *Accord United States v. Wood*, No. 20-cr-56, 2021 WL 3048448, at *7
7 (D. Del. July 20, 2021); *United States v. Grider*, 617 F. Supp. 3d 42, 51 (D.D.C.
8 2022).

9 Like in *City of Houston*, the scienter requirement of Section 1501 does not
10 save the statute. “[S]peech does not necessarily lose its constitutional protection
11 because the speaker intends it to [oppose] an officer, nor would an intent requirement
12 cabin the excessive discretion the ordinance provides to officers.” *City of Houston*,
13 482 U.S. at 469 n.18. *See United States v. Atkinson*, 232 F.3d 897, at *1 (9th Cir.
14 2000) (“A defendant’s view as to the unconstitutionality or invalidity of the law is
15 irrelevant to the issue of willfulness.” (citing *Cheek v. United States*, 498 U.S. 192
16 (1991))). Nor will it help speakers or law enforcement interpret the line between
17 speech and criminal conduct. Rather, it would incentivize law enforcement to
18 criminalize the content of speech: that in opposition to, rather than in support of,
19 federal officers’ service or execution of federal court writs and orders.

20 The government’s analogies to the FACE Act are entirely inapposite. The
21 FACE Act is limited to uses of force, true threats, and physical obstruction, for which
22 it provides a specific definition. 18 U.S.C. § 248(e)(4) (prohibiting physical
23 obstruction that “render[s] impassable ingress to or egress” of certain facilities). It
24 does not contain a word as inherently viewpoint based as “oppose.” And courts have
25 found that, while “the Act might incidentally affect some conduct with protected
26 expressive elements, such as peaceful but obstructive picketing,” it survived
27 intermediate scrutiny. *Norton v. Ashcroft*, 298 F.3d 547, 552 (6th Cir. 2002). The
28

1 government does not show that Section 1501 meets this same standard.

2 The plain meaning of Section 1501's first paragraph reaches significant
3 amounts of protected speech, without limitations or tailoring, so the government's
4 revisions must be rejected.

5 **B. Section 1501's Plainly Legitimate Sweep Includes**
6 **Substantial Protected Activities.**

7 First Amendment overbreadth challenges are a "singular context" where
8 "even a law with 'a plainly legitimate sweep' may be struck down in its entirety."
9 *Moody v. NetChoice, LLC*, 603 U.S. 707, 723 (2024). "[T]he overbreadth doctrine
10 instructs a court to hold a statute facially unconstitutional even though it has lawful
11 applications, and even at the behest of someone to whom the statute can be lawfully
12 applied." *Hansen*, 599 U.S. at 769. To determine whether a statute is substantially
13 overbroad, "a law's unconstitutional applications must be realistic, not fanciful, and
14 their number must be substantially disproportionate to the statute's lawful sweep."
15 *Id.* Mr. Huerta has made this showing. In the government's interpretation, the
16 constitutional application of the statute reaches no further than "physical blocking"
17 of an officer executing a search warrant "without the use of force," Opp. 27 n.6,
18 which excludes any actions that touch an officer, physical acts that would threaten
19 to touch an officer, and unprotected verbal speech, such as true threats, as those fall
20 within the ambit of the second paragraph. In the remaining scope of the statute's
21 first paragraph, Mr. Huerta has shown that the breadth of the terms obstruct, resist,
22 and oppose (covering substantial protests, expression, and protected speech that
23 opposes and resists an officer) is more substantial than the remaining minimal
24 unprotected conduct.

25 Assessment of actual applications of a statute is not required to assess the
26 substantiality of overbreadth, *see, e.g., Rundo*, 990 F.3d at 720 (analyzing substantial
27 overbreadth on the text of the statute alone), and charges and prosecutions under
28

1 Section 1501 are extremely rare. Still, Mr. Huerta has identified more than enough
2 applications of Section 1501 to verbal speech to demonstrate that, more frequently
3 than not, Section 1501's first paragraph is applied to speech, not "physical
4 blocking." As the government admits, *United States v. Carpenter*, No. 09-cr-00271,
5 2012 WL 292480, at *2 (W.D. La. Jan. 31, 2012), *aff'd*, 500 F. App'x 331 (5th Cir.
6 2012); *Coleman v. United States*, 268 F. 468, 469 (6th Cir. 1920); *Avery v. King*,
7 110 F.3d 12, 13 (6th Cir. 1997) all charged the respective defendants for their verbal
8 speech.¹² The government only identifies one case of actual "physical blocking,"
9 *United States v. Peifer*, 474 F. Supp. 498, 500 (E.D. Pa. 1979), *aff'd*, 615 F.2d 1354
10 (3d Cir. 1980), and one case of passive resistance, *United States v. Brakke*, 934 F.2d
11 174, 177 (8th Cir. 1991), that are charged under Section 1501's first paragraph and
12 unrelated to expressive activity. To the extent that it tries to use *Sparks v. United*
13 *States*, 90 F.2d 61, 62 (6th Cir. 1937), and the force-related charges in *Coleman*,
14 both were charged under Section 1501's first paragraph.¹³

15 The government does not even analyze whether the breadth of the statute is
16 sufficiently substantial; it just asserts that it is not. But by its text, its historical
17 application, and the charge against Mr. Huerta, Section 1501's first paragraph
18 sweeps in substantial protected speech and must be struck from the statute.

21 ¹² The government misreads the historical application of Section 1501 to the non-
22 violent speech of Theodore Parker and Sherman Booth as using force, when the
23 historical record shows that—despite the indictment's use of the legal fiction "force
24 and arms"—the two were indicted under Section 1501 for encouraging protest, not
25 forcible acts. See Paul Finkelman, *Slavery in the Courtroom*, 116 (1983); Earl M.
26 Maltz, *Slavery, Federalism, and the Constitution: Ableman v. Booth and the*
27 *Struggle over Fugitive Slaves*, 56 Clev. St. L. Rev. 83 (2008).

28 ¹³ The difference between charges and convictions is irrelevant to these examples of
overbreadth, as the pertinent question is how the government applies the statute, not
how a jury will interpret it.

III. Section 1501 Is Void for Vagueness.

Due Process and the First Amendment require that “regulated parties should know what is required of them so they may act accordingly,” and that statutes provide “precision and guidance” to ensure “that those enforcing the law do not act in an arbitrary or discriminatory way.” *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). “When speech is involved, rigorous adherence to those requirements is necessary to ensure that ambiguity does not chill protected speech.” *Id.* at 253-54. As it provides none of these safeguards, and chills protected speech, Section 1501’s first paragraph is fatally vague as applied to Mr. Huerta. Mot. 35-37.

In response to Mr. Huerta’s alternative showing that Section 1501’s terms cover enough protected speech to render their application arbitrary and opaque, the government simply rehashes disputed facts and declares that Mr. Huerta committed a crime, so the statute cannot be vague. That is not the standard, and Mr. Huerta has sufficiently shown otherwise, *see* pp. 1-11. Though the government argues that the scienter requirement fixes these issues, it provides no more protection here than it does in the overbreadth analysis. *See* pp. 17. And Mr. Huerta’s demonstration of arbitrary enforcement, through Special Agent Ryan Ribner (the officer that targeted and arrested Mr. Huerta), and through evidence of systemic arbitrary enforcement, is relevant and telling. Officers across the country are arresting and charging protesters for little more than their speech, and Section 1501’s fatal vagueness gives them that tool. The Court should find that the statute is unconstitutionally vague, as applied to Mr. Huerta’s conduct, in violation of the First and Fifth Amendments.

CONCLUSION

For the foregoing reasons, Mr. Huerta respectfully requests that this Court dismiss the SI with prejudice.

1 Dated: July 6, 2026

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Mr. Huerta, certifies that this brief contains 6,618 words, which complies with the word limit set by this Court, *see* Order, ECF 120, dated July 3, 2026.

Dated: July 6, 2026

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