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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 ALEXANDRIA DEMETRIUS
 17 AUGUSTINE,

18 Defendant.

No. 2:25-cr-00678-KS

GOVERNMENT OBJECTION TO JURY
INSTRUCTIONS AND PROPOSED
INSTRUCTIONS

Trial Date: October 7, 2025
 Trial Time: 9:00 a.m.
 Location: Courtroom of the
 Hon. Karen L.
 Stevenson

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 21 Plaintiff United States of America, by and through its counsel
 22 of record, the Acting United States Attorney for the Central
 23 District of California and Assistant United States Attorneys Patrick
 24 D. Kibbe and Christopher R. Jones, hereby submit objections and
 25 proposed revisions to the jury instructions in the above-captioned
 26 case.

27 //

1 The Government respectfully reserve the right to supplement
2 these jury instructions as needed.

3
4 Dated: October 9, 2025

Respectfully submitted,

5 BILAL A. ESSAYLI
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7 JOSEPH T. MCNALLY
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Acting Chief, Criminal Division

9 /s/

10 PATRICK D. KIBBE
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12 Attorneys for Plaintiff
13 UNITED STATES OF AMERICA

14 **MEMORANDUM AND PROPOSED JURY INSTRUCTIONS**

15
16 The Government respectfully objects to the current proposed
17 instructions for Assault on a Federal Office or Employee (Court
18 Instruction 24), Self Defense (Court Instruction 25), and Reasonable
19 Self Defense (Court Instruction 26).

20 First, the Government proposes deleting Court Instruction 25,
21 Self-Defense, as this concept is covered in Court Instruction 26.

22 Second, the Government proposes modifying Court Instruction 26
23 as noted below in red. The first substantive change is to add the
24 sentence, "The law recognizes that law enforcement officers are
25 authorized to use force in carrying out their responsibilities as
26 long as the force is not excessive." This language is taken
27 directly from United States v. Celentano, 126 F.4th 680, 686 (D.C.
28 Cir. 2025) and is important to distinguish this instruction from the

1 ordinary self-defense instruction. The second substantive change is
2 to add the sentence, "An individual who is the attacker cannot make
3 out a claim of self-defense as a justification for an assault."
4 This language is taken directly from United States v. Acosta-Sierra,
5 690 F.3d 1111, 1126 (9th Cir. 2012). In the Joint Proposed Jury
6 Instructions, Defendant cited and quoted both Celentano and Acosta-
7 Sierra, but omitted these portions of the opinions. See ECF 40 at
8 22-23.

9 Third, the Government proposes incorporating the modified Court
10 Instruction 26 into Court Instruction 24. This is because Court
11 Instruction 24 lists all the elements for Assault on a Federal
12 Officer and includes definitions of those elements. Currently the
13 element of Reasonable Self-Defense is the only element that is a
14 stand-alone instruction. Alternatively, the Government proposes
15 that the definitions of each of the elements are broken out into
16 separate instructions.

17
18 COURT'S INSTRUCTION NO. _____

19 GOVERNMENT'S PROPOSED INSTRUCTION No. 24

20 The defendant is charged in Count One with simple assault on a
21 federal officer in violation of Section 111(a)(1) of Title 18 of the
22 United States Code. For the defendant to be found guilty of that
23 charge, the government must prove each of the following elements
24 beyond a reasonable doubt:

25
26 First, the defendant forcibly assaulted a federal officer,
27 namely Federal Protective Service Inspector Alexandro Gutierrez;
28

1 Second, the defendant did so while the federal officer was
2 engaged in, or on account of, his official duties.

3 Third, the defendant did not act in reasonable self-defense.
4

5 There is a forcible assault when one person intentionally
6 strikes another, or willfully attempts to inflict injury on another,
7 or intentionally threatens another coupled with an apparent ability
8 to inflict injury on another which causes a reasonable apprehension
9 of immediate bodily harm.
10

11 The test for determining whether the officer is engaged in the
12 performance of official duties is whether the officer is acting
13 within the scope of his employment, that is, whether the officer's
14 actions fall within his agency's overall mission, in contrast to
15 engaging in a personal frolic of his own. The excessive use of
16 force in the pursuit of official duty is not considered a good faith
17 performance of official duties.
18

19 The law recognizes that law enforcement officers are authorized
20 to use force in carrying out their responsibilities as long as the
21 force is not excessive.¹ The defendant acted in reasonable self-
22 defense if she reasonably believed that the force necessary for the
23

24 ¹ United States v. Celentano, 126 F.4th 680, 686 (D.C. Cir.
25 2025) ("Because the law recognizes that law enforcement officers are
26 authorized to use force in carrying out their responsibilities as
27 long as the force is not excessive, see *Wardlaw v. Pickett*, 1 F.3d
28 1297, 1302 (D.C. Cir. 1993), courts have recognized that the
affirmative defense of self-defense has limits and is generally
available only in certain circumstances, including when the law
enforcement officer has used excessive force.")

1 defense of herself against the immediate use of excessive force.
2 However, the defendant must not have used more force than appeared
3 reasonably necessary under the circumstances. In other words, the
4 Defendant's actions should be judged from the point of view of a
5 reasonable person in the defendant's position. **An individual who is**
6 **the attacker cannot make out a claim of self-defense as a**
7 **justification for an assault.²**

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9
10 Ninth Circuit Model Criminal Jury Instructions, Nos. 8.1 (2022 ed.)
11 (Assault on a Federal Officer or Employee) (18 U.S.C. § 111(a))

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21 ² United States v. Acosta-Sierra, 690 F.3d 1111, 1126 (9th Cir.
22 2012). ("For purposes of Section 111, we have recognized that an
23 individual may make out an affirmative defense of self-defense
24 against a federal law enforcement official who uses excessive force
25 in a narrow range of circumstances. See *United States v. Span*, 970
26 F.2d 573, 577 (9th Cir.1992); see also *id.* at 580 (noting that an
27 individual has a limited right to offer reasonable resistance to
28 arrest that is triggered by the officer's bad faith or provocative
conduct). To do so, however, a defendant must offer evidence to
show: "(1) a reasonable belief that the use of force was necessary
to defend himself or another against the immediate use of unlawful
force and (2) the use of no more force than was reasonably necessary
in the circumstances." *United States v. Urena*, 659 F.3d 903, 907
(9th Cir.2011) (quoting *United States v. Biggs*, 441 F.3d 1069, 1071
(9th Cir.2006)). **Moreover, an individual who is the attacker cannot
make out a claim of self-defense as a justification for an assault.
Id."**

