

CHECK THE SHERIFF

June 14, 2023

TO: Los Angeles County Civilian Oversight Commission
Professor Sean Kennedy, Chair, Civilian Oversight Commission
Danielle Butler Vappie, Esq, Interim Executive Director, Civilian Oversight Commission
Max Huntsman, Inspector General

Via Email

RE: Investigation of Andres Guardado's Death, Policies Regarding LASD's Harassment of Surviving Families, Implementation of Transparency Ordinance, and Platforming of Violent Deputies

Recent meetings of this Commission have deepened our concerns around the Los Angeles County Sheriff's Department's (LASD) continued efforts to thwart civilian oversight and accountability. First, at this Commission's May regular meeting, we were outraged to hear how LASD handled its investigation into Andres Guardado's killing and alarmed to learn that LASD's at-best shoddy investigation if not cover-up dictated District Attorney George Gascon's (DA) decision not to prosecute sheriff's deputies Miguel Vega or Chris Hernandez. We urge this Commission to conduct an independent investigation into Andres Guardado's killing and LASD's alarming investigative practices in this case. We have requested the DA attend the upcoming COC meeting, fully investigate the deputy gang allegations in the killing of Andres Guardado, and investigate all accusations of LASD criminal conduct, as requested by the Board of Supervisors (Board) through its motion on July 27, 2021.¹

Second, we were disturbed that a sheriff's deputy involved in the shooting death of a community member was allowed to testify and ask for the public's support at this Commission's April regular meeting. This Commission should take proactive steps to ensure LASD personnel who have harmed community members are prohibited from testifying before this Commission.

Third, given LASD's continued resistance to oversight and transparency, we urge this Commission to push for the full and immediate implementation of the transparency ordinance adopted by the Board more than a year ago.²

¹ Motion by Supervisors Hilda L. Solis and Holly J. Mitchell, *Taking Action: Further Protections for Surviving Families From Law Enforcement Harassment and Retaliation* (July 27, 2021), available at [http://file.lacounty.gov/SDSI nter/bos/supdocs/160300.pdf](http://file.lacounty.gov/SDSI%20nter/bos/supdocs/160300.pdf) [hereinafter "July 27, 2021 Board Motion"].

² L.A. County Ordinance No. 2022-0011 (Mar. 15, 2022), <https://file.lacounty.gov/SDSInter/bos/supdocs/167350.pdf>.

Finally, LASD's continued failure to develop policies to stop and prevent the harassment of surviving families by LASD personnel, despite recommendations by this Commission and the Board, is unacceptable. We ask that this Commission urge LASD to immediately adopt policies prohibiting their employees from harassing families who have been directly impacted by LASD's violence and address this issue during the COC regular meeting in July.

1. This Commission Should Conduct an Independent Investigation into LASD's Killing of Andres Guardado

June 18, 2023 will mark three years since LASD deputy Miguel Vega killed 18-year-old Andres Guardado. After three years of this Commission, the Board, and members of the public asking for answers about Andres Guardado's killing, we still do not know why deputies Vega and Chris Hernandez pursued him, why Vega shot him five times in the back, whether these deputies were members or prospects of the so-called "Executioners" deputy gang, or whether evidence was compromised during LASD's homicide investigation.

Instead, the public has been asked to accept the findings of an investigation LASD conducted on itself. From an objective standpoint, LASD's investigation was riddled with issues. Witness reports held that LASD personnel took security footage and destroyed cameras following Andres Guardado's killing.³ Former Sheriff Alex Villanueva placed a security hold on Andres Guardado's autopsy, leading to the Coroner-Medical Examiner to break with the sheriff and the first coroner's inquest in 30 years.⁴ During the inquest, Mike Davis and Joseph Valencia, the detectives leading the homicide investigation, pleaded the Fifth Amendment, indicating they feared incriminating themselves.⁵ The retired justice presiding over the inquest, this Commission's Chair Sean Kennedy, and Inspector General Max Huntsman have all highlighted that the detectives' conduct is not only unheard of, but also legally unwarranted, raising serious concerns about the professionalism and integrity of LASD's investigation.⁶ These same detectives, who remained in charge of the investigation, never asked Vega and Hernandez if they were affiliated with a deputy gang, despite an LASD whistleblower's statement under oath that both deputies were seeking initiation into the "Executioners" deputy gang in the Compton station.⁷

Deputies Vega and Hernandez have been tied to multiple disciplinary and use of force claims.⁸ Both deputies were named in a lawsuit relating to a 2019 incident where a man, who

³ See, e.g., Nicole Levin, *LA Sheriff's Department Attacks Protesters in Compton*, KNOCK LA, (June 23, 2020), <https://knock-la.com/la-sheriffs-department-attacks-protesters-compton-732bcd93c0c8/>.

⁴ Frank Stoltze, *Inquest Into Deputy's Fatal Shooting of Andres Guardado: Both Deputies, 2 Detectives Plead the 5th*, LAIST, (Nov. 30, 2020, 1:24 PM), <https://laist.com/news/coroner-inquest-andres-guardado-deputy-shooting-deputies-detectives-5th-amendment>.

⁵ *Id.*

⁶ Letter from Sean Kennedy, COC Chair, to Sheriff Luna (May 10, 2023), available at <https://file.lacounty.gov/SDSInter/bos/supdocs/ChairLettertoLunareGuardado5.10.2023.pdf>.

⁷ Kate Cagle, *Whistleblower Testifies Deputy Who Shot Gardena Teen Was "Chasing Ink"*, SPECTRUM NEWS 1, (Aug. 30, 2020, 9:03 AM), <https://spectrumnews1.com/ca/la-west/public-safety/2020/08/30/whistleblower-testifies-deputy-who-shot-gardena-teen-was--chasing-ink-->.

⁸ Deputy Vega was previously suspended from LASD for making false statements during an investigation. He had three complaints lodged against him, one for unreasonable force and two for being discourteous. Keri Blakinger, *Ex-deputies involved in Guardado shooting indicted federally in separate abuse case*, L.A. TIMES, (Apr. 13, 2023 at

claimed the deputies planted a gun on him, was mauled by an LASD canine during the arrest.⁹ Most recently, Vega and Hernandez were federally indicted for conspiracy, witness tampering, falsifications of records, and deprivation of rights, relating to their kidnapping of 24-year-old Jesus Alegria three months before the killing of Andres Guardado.¹⁰ Andres Guardado would still be alive today had LASD effectively investigated and disciplined Vega and Hernandez for either of these two incidents, but they chose not to. We cannot trust this same department to do better now, regardless of the recent leadership change.

Indeed, in addition to LASD's conduct during this investigation, statements from Assistant Sheriff Holly Francisco and Sheriff Robert Luna at this Commission's May meeting left us with absolutely no confidence in LASD's findings. We echo Inspector General Huntsman's sentiment that expecting LASD to effectively and properly investigate itself is a fool's errand. Indeed, time and time again, LASD has proven the truth that the police can't police themselves. It is impossible to have faith in the findings of LASD's investigation given the department's history of obfuscating the truth and dodging oversight. LASD's investigation into Andres Guardado's killing is at best inadequate and at worse a cover-up of the murder of an 18-year-old by members or prospects of a deputy gang.

Nevertheless, the DA solely relied on LASD's investigation to decide whether to prosecute deputies Vega and Hernandez. The DA has the power, the resources, and the opportunity to conduct additional investigation into this case, especially the deputy gang allegations. The DA's office could have asked the question LASD refused to ask: whether Vega and Hernandez were affiliated or seeking affiliation with a deputy gang at the time of Andres Guardado's killing. Instead, despite the deputy gang allegations or the concerning decision of the two lead detectives to assert their Fifth Amendment rights during the coroner's inquest, the DA accepted LASD's investigation at face value, without any further inquiry. The DA undeniably understands the implications of these detectives' silence. Accepting LASD's fraught investigation as adequate to relieve a deputy from further inquiry or prosecution incentivizes LASD to continue to conduct subpar and corrupt investigations.

Moving forward, we still need a thorough investigation into deputies Vega and Hernandez as well as detectives Davis and Valencia. We need transparency into how these two deputies with significant disciplinary violations were allowed to remain at their jobs patrolling the community where they would go on to pursue and kill Andres Guardado. We need transparency around why the detectives, who under LASD's recently updated policy would have been removed from this investigation, were allowed to remain on the case. Until these investigations are performed, it is impossible to know the truth about Andres Guardado's killing. Therefore, we urge the Commission to conduct an independent investigation and continue to seek the truth into the events surrounding Andres Guardado's killing and LASD's investigation and disciplinary actions. The DA should also use the office's resources to conduct a proper investigation into Andres Guardado's killing, including the deputy gang allegations.

7:46 P.M.), <https://www.latimes.com/california/story/2023-04-13/sources-ex-deputies-involved-in-andres-guardado-shooting-indicted-in-unrelated-case>.

⁹ *Id.*

¹⁰ *Id.*

2. This Commission Should Prohibit Deputies with Misconduct History Against the Public from Testifying at Commission Meetings

At this Commission's April meeting, Sergeant Michael Mabee testified about the merits of tasers. Mabee has allegedly shot three people during his time with LASD. One of his victims, Ignacio Ochoa, was unarmed and riding his bike to the store when Mabee shot and killed him.¹¹

It is unacceptable for LASD to send employees who have killed or otherwise abused community members to testify as experts before this Commission. It is insensitive and traumatizing to impacted families and individuals. The purpose and credibility of this body is undermined when it platforms killer deputies. The Commission should be proactive and prohibit LASD personnel who have harmed community members from testifying at Commission meetings.

3. This Commission Should Push for LASD's Full and Immediate Adoption of the Board's Transparency Ordinance

On March 15, 2022, the Board adopted Ordinance No. 2022-0011.¹² Prior to adopting this transparency ordinance, the Board had also taken important steps to increase transparency around LASD.¹³ The transparency ordinance requires the disclosure of publicly available records systematically, proactively, and immediately in an easily searchable format, once the records are disclosable. The ordinance also shifts the responsibility for publishing records pursuant to SB 1421, as well as responding to California Public Records Act (CPRA) requests, away from LASD and towards County Counsel.

Nevertheless, more than a year after the adoption of the transparency ordinance, LASD has not created a website to facilitate public access to records legally entitled to the public and continues to refuse California Public Records Act (CPRA) requests. LASD — whether under the advice of County Counsel or outside counsel — has continued to withhold information from records that must be released through extensive and illegal redactions. Additionally, shifting responsibility from LASD to County Counsel must also come with greater certainty that the County will take the proper steps to ensure that all the information to which the public is entitled is in fact released to the public — rather than continue to illegally conceal public records and force disclosure through costly litigation.

Therefore, we urge this Commission to inquire into the status and progress of the adoption of this transparency ordinance. The Commission should help ensure prompt and full operation of the transparency ordinance. It should also request regular updates on County

¹¹ See inLeauge Press, *Justice 4 Ignacio Ochoa – Killed by LA County Sheriff 5/14/13*, YOUTUBE, (May 14 2023), https://www.youtube.com/watch?v=z_TBa4V8leU.

¹² See L.A. County Ordinance No. 2022-0011, *supra*, note 2.

¹³ See Motion by Supervisors Holly J. Mitchell and Hilda L. Solis, *Meeting the Sheriff's Department's Obligations Under SB 1421* (Feb. 15, 2022), <https://file.lacounty.gov/SDSInter/bos/supdocs/166314.pdf>; Motion by Supervisors Holly J. Mitchell and Hilda L. Solis, *Increasing Transparency Through Access to Peace Officer Records* (May 18, 2021), <https://file.lacounty.gov/SDSInter/bos/supdocs/158358.pdf#search=%22sb%201421%22>; July 27, 2021 Board Motion, *supra* note 1.

Counsel's compliance with the CPRA, including an update on pending litigation and litigation-related costs.

4. This Commission Should Facilitate LASD's Timely Adoption of Policies to Stop and Prevent the Harassment of Surviving Families

Since 2019, this Commission has acknowledged and condemned LASD's harassment of families who have lost loved ones to LASD violence. Both this Commission and the Board directed investigations which confirmed what directly impacted families have been telling this Commission at every opportunity: that members of LASD continue to harass and retaliate against families who seek truth and accountability and speak out against LASD. The harassment these families have faced is not a series of isolated events, but rather an ongoing problem indicative of the dangerous and adversarial culture LASD embraces. LASD's egregious behavior continuously traumatizes these families, interrupting their ability to properly grieve and lead healthy lives.

This Commission and the Board have urged LASD to implement a policy forbidding the harassment of surviving families. On December 17, 2020, this Commission unanimously adopted a motion moved by Commissioner Robert Bonner with the following language:

“For the Los Angeles County Sheriff's Department (LASD) to develop a policy forthwith regarding the treatment of family members and their next of kin who have lost loved ones as a result of Use of Force (UOF) by a department employee. The developed policy should encourage respect for family members who have lost loved ones and forbid harassment of them.”¹⁴

On July 27, 2021, the Board by motion requested LASD, “in collaboration with County Counsel, Office of Inspector General, and the Sheriff Civilian Oversight Commission, to develop and adopt a policy regarding memorial sites and vigils involving victims of deputy-involved shootings and killings within 90 days.”¹⁵ Yet, to this day, LASD has not adopted any policy which prohibits the harassment of surviving families. As a result, families have continued to suffer under the harassment of LASD deputies.

Thus, we urge this Commission to advocate with LASD to immediately adopt meaningful policies to stop and prevent the harassment of families, as well as the proactive measures necessary to implement these policies. Building on the recommendations from this Commission and the Board, we ask that policies also include the following non-exhaustive list of protections: preventing deputies from disrupting, destroying, surveilling, disturbing or distracting from vigils and memorials; prohibiting surveillance, intimidation, and unnecessary interactions with surviving family members, either online or in person, including but not limited to following family members, parking, or idling vehicles outside of their homes or places of work, filming family members, interacting or observing family members' personal social media accounts or

¹⁴ [L.A. Cnty. Civilian Oversight Comm'n. Motion: Develop a Policy – Treatment of Family & Next of Kin \(Dec. 17, 2020\)](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/dd3c57c9-4963-4dd2-9d17-32892cc5dfe7/Motion-RequestingHarassmentPolicy12.17.2020.pdf), <https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/dd3c57c9-4963-4dd2-9d17-32892cc5dfe7/Motion-RequestingHarassmentPolicy12.17.2020.pdf>.

¹⁵ July 27, 2021 Board Motion, *supra* note 1.

any social media pages created in memorial of their loved ones; and specifically preventing interactions with minors in these families, so that children can feel safe walking to school and in the community. Deputies should be reminded that they have a duty to intervene, and that if they witness this type of harassment and do not report it, they too can be disciplined.¹⁶

This Commission should act immediately and advocate for LASD to adopt policies to protect these families who time and time again choose to bravely speak out against LASD, risking their own personal safety and mental health to make Los Angeles a safer county for their families and neighbors.

We greatly appreciate the Commission taking our recommendations as we continue to fight for real transparency, accountability, and oversight of LASD. Despite new leadership, the department's culture of secrecy and obstinance remains. We encourage the Commission to push harder against the department's ongoing attempts to subvert accountability and transparency, and to center the experiences of the communities who continue to be harmed by LASD.

Sincerely,

Check the Sheriff Coalition

¹⁶ L.A. Sheriff Dept. Pol'y Manual §3-01/030.14 Duty to Intervene (2023) *available at* <https://pars.lasd.org/Viewer/Manuals/10236/Content/18852?showHistorical=True>.