

MOTION BY SUPERVISOR MARK RIDLEY-THOMAS

SEPTEMBER 1, 2020

ENSURING A TRANSPARENT AND INDEPENDENT INVESTIGATION INTO THE SHOOTING DEATH OF ANDRES GUARDADO

In the wake of the murder of George Floyd, and far too many others since then, demands for accountability of law enforcement have escalated. The disturbing trend within law enforcement to thwart oversight and transparency of internal investigations threatens to further erode the public’s trust that justice will be served. This circumstance must not be tolerated. On June 18, 2020, Miguel Vega, a deputy of the Los Angeles County (County) Sheriff’s Department (LASD), shot 18-year old Andres Guardado five times in the back, at close range, killing him. Deputy Vega has indicated in his statement that he approached Mr. Guardado after Mr. Guardado dropped a gun as instructed and laid down as ordered. However, Deputy Vega’s statement was taken by LASD investigators a month after Mr. Guardado’s killing, and only after the LASD had concluded there was no video record of the final moments of Mr. Guardado’s life.

It is beyond troubling that the investigation of Mr. Guardado’s killing has been conducted by LASD under a deliberate cloud of secrecy. In this time when reform should bring more transparency rather than less, LASD insists that it should be trusted to investigate itself. Although state and County law provide for civilian monitoring, LASD has strongly and repeatedly resisted the efforts of public officials to conduct

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proper oversight, not only as it relates to Mr. Guardado's killing but also as to multiple other violations by LASD personnel. Last summer, LASD abruptly shut down the Office of Inspector General's (OIG) computer terminals that provided access to LASD's discipline records. Since then, LASD has repeatedly refused to allow the OIG to fulfill a critical part of its mission, to actively monitor the largest law enforcement agency in the nation.

In 2018, California Governor Gavin Newsom signed Senate Bill 1421, the Right to Know Act. As a result of the bill, Penal Code section 832.7 was amended to require transparency in police shootings. Under the new law, reports must be made public unless a public agency can justify that an interest in secrecy is stronger than the public's right to know. Under the circumstances described above, and weeks after the shooting, the County's Chief Medical Examiner-Coroner released the autopsy of Mr. Guardado in compliance with Penal Code section 832.7. Predictably, LASD publicly condemned the release of the autopsy and insisted that secrecy was critical until the conclusion of its investigation, yet soon thereafter, held a press conference to release selected evidence, including video footage. In addition, LASD made allegations of crimes that occurred previously at the location without any indication of a nexus to the Andres Guardado investigation.

The Board of Supervisors (Board) has formally called for transparency in the Andres Guardado case (*Ensuring a Timely and Independent Investigation of the Death of Andres Guardado; Ridley-Thomas, June 23, 2020*) as well as in all cases where the police agencies police themselves. In addition, other local jurisdictions have called for an independent investigation with no success. Recognizing that the Right to Know Act has not been consistently followed, the state legislature is considering new laws to again call for transparency (AB 1185 (McCarty)) (*Support AB 1185 (McCarty) – Sheriff Oversight Board; Solis/Kuehl, July 7, 2020*) and to require

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outside investigations of local police shootings by state agencies (AB 1506). This Board must not sit by and allow the County's law enforcement department to entrench itself in deeper secrecy and traditional patterns of behavior that profoundly harm not only vulnerable communities but the entire justice system.

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

- 1) Direct the Chief Medical Examiner-Coroner, pursuant to Government Code section 27491, to conduct an inquest into the circumstance, manner, and cause of the death of Mr. Andres Guardado, or provide an explanation to the Board of Supervisors (Board) why such an action is not warranted. Such an inquest should employ the Chief Medical Examiner-Coroner's subpoena power to preserve a reliable record of the investigative steps taken by the Los Angeles County Sheriff's Department (LASD) as to the circumstance, manner, and cause of the death, even if LASD requires those documents to be kept secret pursuant to Government Code section 27498(b) which may be invoked "when such inquest pertains to a death caused by a police officer."
- 2) Direct County Counsel, in consultation with the Office of Inspector General (OIG), to report back to the Board on the feasibility of ensuring that any County task force comprised of members from local law enforcement agencies tasked with investigating police shootings, such as that proposed by the Sheriff, be overseen by a civilian public official and in a manner that increases transparency rather than restricts it.
- 3) Direct County Counsel, in consultation with the OIG, to report back to the Board in writing in 10 days with the feasibility of initiating litigation against LASD for violating the law by failing to allow oversight of police investigations.

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(CG/DV)