



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



December 3, 2020

Rod Castro-Silva
Acting County Counsel
Office of County Counsel
500 West Temple Street, 6th floor
Los Angeles, California 90012

Dear Mr. Castro-Silva:

CORONER'S INQUEST OF NOVEMBER 30, 2020

This letter is in regard to the Coroner's Inquest (Inquest) which took place on November 30, 2020. We wish to summarize the issues leading up to this Inquest and during the proceeding.

In addition, we request your office, the Hearing Officer, the Los Angeles County Sheriff's Department's (Department) Homicide Bureau (Homicide) and the Department of Medical Examiner/Coroner (DMEC) meet formally prior to all future Inquests. The purpose of these meetings will be to review the issues, scope of the Inquest, order of proceeding, and to prevent the issues that occurred during this Inquest.

In an effort to build a stronger relationship with your office and ours, we urge your office to include and work more closely with the subject matter experts in the Department in preparation for the next Inquest. This will ensure a more valuable and efficient process for the public's benefit. Furthermore, we are wholeheartedly supportive of this proceeding and hope that Inquests continue to be conducted by the DMEC, at the beginning of a death investigation.

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As you are well aware, the Department's Detective Division made multiple requests to your office on numerous occasions prior to November 30, 2020, to assist with outstanding conflicts prior to the Inquest. However, despite the Department's repeated requests for separate counsel to advise about evidentiary and testimonial issues during the Inquest, the request was dismissed by your office as unnecessary. What resulted were the unresolved conflicts that surfaced repeatedly throughout the hearing. Unfortunately, witnesses had no alternative, but to seek their own private legal counsel for this unprecedented action. Additionally, due to the short timeline for witnesses to prepare and the unwillingness of DMEC to reschedule the hearing, witnesses followed the advice of private counsel to assert their constitutional rights. This was completely avoidable had the Department been consulted as to the format and substance of the hearing, and had the Department, or at least the witnesses, been afforded County Counsel as repeatedly requested.

From the start, the Department recognized the purpose of the Inquest, (as defined by statute), is to determine the mode (homicide, suicide, accidental, natural, or undetermined), manner (cause of death) and circumstances of the death in question, and acknowledge the value of the hearing. However, in this case DMEC had already determined the mode and manner of death, prepared and published a report regarding the circumstances attendant to the death, as well as the autopsy report and publicly listed the case as "closed" months prior to this Inquest.

In fact, the completed autopsy report has been made a part of the criminal investigation and was prepared for the District Attorney's review. It is counter-intuitive to conduct an Inquest into a death that DMEC has already closed and completed. Clearly this was not the intent of the California legislature when they empowered the state's coroners with the abilities to conduct an Inquest.

By moving forward on this Inquest, in this particular case, in the fashion it was conducted, DMEC is calling into question the validity of their own completed autopsy report and its conclusions. It is inferring more investigation should have been done before the final determination of mode and manner.

The Inquest serves to undermine the confidence of the public and the criminal justice system in the ability of the DMEC's office to make these determinations alluding to a lack of confidence in their own work.

It should be noted, no one from DMEC contacted the investigating detectives to ascertain additional information or resolve unanswered questions, since the day of the autopsy exam. Despite the lack of contact, the DMEC concluded its investigation, closed the case, and published the mode and manner of death.

Had the goal of the Inquest been to reveal vital details of the investigation, the Department and its subject matter experts should have been consulted at length regarding the witnesses, evidence and relevant issues, prior to the start of the hearing.

Instead, a subpoena was issued for historical (5 years) citizen complaints at Compton Sheriff's Station and numerous other overbroad documents, irrelevant to the purpose of the hearing. Instead, a witness who had no part in the event and subsequent investigation was erroneously served with a subpoena.

During the Inquest, a "journalist" was called to testify and an interview was played during the proceeding, which was subsequently proven to be completely fabricated, yet presented to the public as factual and relevant. Had we been consulted, or the Hearing Officer permitted to review documents in evidence prior to the hearing, the interview would never have been presented as "evidence" during the hearing.

The witness list was purposely kept from the Department, despite the fact we are the primary investigative agency responsible for the criminal investigation in this case. Instead, only hints as to the identity of witnesses were provided. The Department is vested in the success of this proceeding, so the secrecy of the witnesses was counter-productive and detrimental to the potential criminal case pending.

Even though the Department was invited to submit questions to be asked by the Hearing Officer, the Department was not allowed to know the identity of the witnesses who were to be questioned. Had the Department been consulted by DMEC, we could have provided information and guidance toward identifying witnesses who could provide relevant, reliable testimony regarding the incident. We want to be part of this process and its success.

During an initial meeting with your office regarding the proposed Inquest, we were repeatedly assured the Hearing Officer would be questioning the witnesses directly. It was not until days prior to the hearing when we learned a County Counsel attorney would be posing the questions. We were assured

the attorney would simply be a proxy for the Hearing Officer and that the Hearing Officer would be creating the questions, only to have the lawyer present them. However, this obviously was not the case.

‘Two questions posed by Deputy County Counsel Michael Miller to Valencia raised the specter of trouble within the investigation. Miller asked Valencia whether department supervisors had told him he was under investigation in connection with the death of Guardado, and whether anyone he’d worked with on the inquiry had been removed from the investigation.

Valencia refused to answer.’

-LAist November 30, 2020

By the exchange between Deputy County Counsel Michael Miller and Detective Joseph Valencia, it was clear counsel was formulating his own questions and soliciting answers that had nothing to do with determining the mode (the purported goal of this Inquest) and manner of death. Additionally, some of these questions violated protections afforded through the Peace Officers Bill of Rights Act (POBRA).

Mr. Miller also inferred there was “trouble within the investigation” and raised the question about an internal investigation related to the death of Mr. Guardado. Both items are without merit or foundation, but still put forward by Mr. Miller. It was discouraging to have a member of your office questioning their very own clients in this forum, in what appeared to be an effort to impeach their own client’s testimony, which would potentially be used later in a trial setting (criminal and/or civil). These unfounded accusations served to fuel the fires of distrust and were even commented on publically by United States Representative Maxine Waters (43rd District).

As you are well aware, the Department’s Homicide Bureau investigates cases to be presented to the Office of the District Attorney, wherein they make the determination if charges against the deputies involved may occur. The case integrity relies heavily on the testimony and investigation of the Department’s detectives.

Consequently, if the Inquest process continues to use County Counsel to question the detectives, it could potentially damage any criminal cases the detectives bring forward to the Office of the District Attorney which

encompass a deputy involved in a shooting. Are we conducting the Inquest in such a way it could defeat a potential criminal case later? Furthermore, it is unfortunate our personnel were forced to seek the aid of their union labor representatives for legal counsel in this process, when it was completely avoidable had we all met and worked out any issues prior to the Inquest.

Finally, going forward we strongly recommend County Counsel maintain their trusted advisory role for all County departments, allowing the Inquest management to fall on DMEC or the Hearing Officer alone. Otherwise a conflict will occur and cause the need for conflict counsel to be appointed.

This conflict and others throughout the hearing could have been avoided if we had been consulted about the overall process of the Inquest. To begin anew, and partner in this process going forward, we renew our offer to meet with DMEC and your office to address the remaining issues and organize a cohesive public presentation. As the Hearing Officer continues to review the documents in evidence, deficiencies from the first day of the hearing will become more obvious.

Our ultimate goal is to forge a partnership within our County family between the Department, your office, and DMEC to create an Inquest that the public trusts and will rely upon for bringing information and transparency in a timely manner.

We look forward to working with your office on these efforts. Please contact my office to discuss at your convenience.

Sincerely,

ALEX VILLANUEVA, SHERIFF



TIMOTHY K. MURAKAMI
UNDERSHERIFF