



**American Friends  
Service Committee**



October 23, 2020

Chief David Nisleit  
San Diego Police Department  
Via Email: [dnisleit@pd.sandiego.gov](mailto:dnisleit@pd.sandiego.gov)

Dear Chief Nisleit,

In response to a fatal shooting by Border Patrol agents on Friday evening, October 23, 2020, the American Friends Service Committee and Alliance San Diego call on you and the San Diego Police Department (SDPD) to conduct an immediate, independent, and thorough investigation of the incident. Given the missteps of prior investigations, particularly in the killing of Anastasio Hernandez Rojas ten years ago by border agents in the same area, it is imperative that the SDPD follow the highest standards of a homicide investigation.

SDPD has sole jurisdiction to investigate this case for a possible homicide, not Border Patrol, not Customs and Border Protection, and not any other part of the Department of Homeland Security, including Critical Incident Investigation Teams (CIIT). SDPD should ensure that none of these agencies, nor the unions representing their members, is involved at any level of the investigation. **Any involvement or coordination with these agencies, and specifically with CIIT has the potential to corrupt the investigation and could be considered an obstruction of justice.**

Specifically, SDPD should ensure these agencies are not involved in any of the following:

- Collection or handling of any evidence
- Interaction with any potential witnesses
- Access to any autopsy or medical records
- Interviews of any agents or personnel involved in the incident

In addition, SDPD should take the following steps to collect, preserve, and protect the crime scene and all evidence in it immediately, including:

- Video or audio recordings from federally controlled devices
- Video or audio recordings from private security cameras in the area at Las Americas
- Video or audio recordings from eyewitnesses
- Video or audio recordings from agents involved, including their personal devices
- Logs of crossings at the port of entry to identify any possible eyewitnesses
- Fingerprints from agents involved
- Identification of any eyewitnesses including from the Mexican government

Furthermore, we call on SDPD to take care to do the following so as to not corrupt the integrity of a homicide investigation:

- Do not identify the decedent as the assailant in the investigation; he is the victim
- Do not make statements about the character of the decedent or the agent involved
- Do not involve any of the agencies or their unions in statements about the investigation

It is concerning that the first statement made following the incident came from the San Diego Border Patrol Chief Aaron Heitke, who is not authorized to investigate the incident of one of his own agents. The San Diego Union Tribune reported that San Diego Police Department investigators were on the scene meeting with Border Patrol representatives. That is also troubling, given what happened in the Anastasio investigation in May 2010, in which over a dozen agents beat, tasered and tortured Anastasio until he stopped breathing. Not a single agent was ever charged for this crime because the SDPD failed to protect the evidence or secure the scene that Border Patrol, CBP and other federal agents tampered with.

In the Anastasio case, Border Patrol inappropriately handled evidence, witnesses, video footage, autopsy records, hospital records, and more. In acts for which the agency is now being scrutinized by the Inter American Commission on Human Rights, federal agents destroyed evidence, disbursed witnesses, and violated the law to access medical records of the decedent. SDPD gave them access to witness interviews, investigation briefings, and information that should not have been shared with an agency whose agents were under investigation. All the while, SDPD described Anastasio as the assailant in the homicide investigation and were quick to make statements impugning his character before he had even been buried.

Please do not repeat the mistakes of the past.

Respectfully,



Pedro Rios, Director  
US-Mexico Border Program  
American Friends Service Committee



Andrea Guerrero, Executive Director  
Alliance San Diego