



Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
211 W. Temple St.
Los Angeles, CA
90012

22 September 2020

Dear Sheriff Alex Villanueva

USE OF LETHAL FORCE AGAINST DIJON KIZZEE BY LOS ANGELES COUNTY SHERIFFS DEPUTIES AND THE ARREST OF MEDIA CORRESPONDENT JOSIE HUANG

Amnesty International is writing to you to convey its deep concern about the shooting of Dijon Kizsee, a 29-year-old Black man, on 1 September 2020 by two deputies of the County of Los Angeles Sheriff's Department (LASD). We urge your office to undertake a prompt, thorough, independent and impartial investigation into the circumstances on the use of lethal force in this case and to keep the family and representatives of Dijon Kizsee updated on the investigation's progress.

Amnesty International is concerned about the lawfulness of the shooting involving the LASD deputies. The incident occurred at approximately 3:15 pm after LASD deputies spotted Dijon Kizsee riding a bicycle and attempted to stop him for an alleged, unknown violation of vehicle codes. Dijon Kizsee then dropped the bicycle and fled down Budlong avenue with the deputies in pursuit. The deputies intercepted him approximately one block away and following a brief scuffle in which Dijon Kizsee allegedly punched one of the deputies. As he turned to flee, Dijon Kizsee allegedly dropped a jacket he was carrying and a firearm was exposed when it fell to the ground. According to the LASD statement, the deputies claim that Dijon Kizsee attempted to reach for the firearm when the deputies shot and killed him. A grainy video of the encounter shows a physical altercation between Dijon Kizsee and the deputies before he tries to get away and falls to the ground. At that point, the two deputies open fire multiple times. The video does not show whether Dijon Kizsee attempted to reach for the weapon as LASD claims. The LASD has not confirmed how many times officers fired their weapons, but local witnesses claimed to have heard at least ten and as many as fifteen gunshots, while others claim that there were as many as 18-20 shots fired. The LASD deputies have been removed from the field during an internal investigation, being conducted by the LASD.

The UN Human Rights Committee is the expert body established under the International Covenant on Civil and Political Rights (ICCPR) to monitor implementation of this core human rights treaty. The USA ratified the ICCPR in 1992. In its General comment 6 on the right to life under the Covenant, the Committee stated that "The deprivation of life by the authorities of the State is a matter of the utmost gravity" and that states must take measures to prevent arbitrary killing by their own security forces. Such measures are set out in the United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principle 9 of which states:

"Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event,

intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life” (emphasis added).

Therefore, if the force is unavoidable, it must be no more than is necessary and proportionate to achieve the objective, and law enforcement must use it in a manner designed to minimize damage or injury, must respect and preserve human life and ensure medical aid is provided as soon as possible to those injured or affected. The investigation may show what imminent threat Dijon Kizzee could have presented in those few seconds between when he began running from the officers and the time his life was taken, however from the facts available now, it does not appear that the use of so many gunshots was “strictly unavoidable in order to protect life.”

Amnesty International seeks your assurance that the investigation into this incident will conform to the highest standards for investigating officer-involved shootings, and that all relevant evidence, including any official and bystander videos of the incident, medical records and witness testimony, will be made available to it. The family and representatives of Dijon Kizzee should be updated on the progress of the investigation throughout. We urge that a report of the findings be made public as soon as possible, with information on the scope of the investigation, procedures and methods used to evaluate evidence, as well as conclusions and recommendations. We also seek your assurance that any officer found responsible for unlawful use of force will be held accountable in disciplinary and criminal proceedings as appropriate.

Accountability is also an essential part of redress. Under international law, anyone whose rights have been violated has the right to remedy. In a case involving death or grave injury in custody or as a result of lethal force, the family has that right to remedy. The UN Human Rights Committee has stated:

Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. ... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant...

Where the investigations referred to [above] reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as ... summary and arbitrary killing...

In 2020 alone, LASD deputies have intentionally used lethal force at least 17 times. In 2019, California updated its use of lethal force statute following the death of Stephon Clark in Sacramento in 2018¹. The law now requires law enforcement to use lethal force only as a “necessary” response to a threat – not merely when it would be “objectively reasonable” – in defence of human life. This change also brought California’s law in line with US Supreme Court precedent under *Tennessee v. Garner*, 471 US 1 (1985), that prohibits the use of deadly force unless it is necessary to prevent the escape of a fleeing felon and the officer has probable cause to believe that the suspect poses a significant threat of violence to the officer or the community. Finally the law requires that the use of

¹ California Act to Save Lives, AB 392, Chapter 170 (2019), amending California Penal Code §§196 & 835(a).

deadly force in each situation be viewed through the totality of the circumstances, including the conduct of the officer leading up to the incident, a standard which goes beyond current US constitutional requirements² which uses the “reasonable officer” standard. It is important that investigators look at the actions of both the LASD deputies as well as those of Dijon Kizzee to ensure that officers did not unnecessarily create a situation where lethal force was then needed, specifically whether a pursuit was warranted for a vehicle violation of someone riding a bicycle, though the amount of shots taken still draw concern over the degree of force that was used in this incident.

Finally, we would also like to express our concern about the recent arrest of KPCC reporter, Josie Huang, who was covering an LASD press conference related to the recent shooting of two LASD deputies at St. Francis Medical Center on the evening of 12 September. Josie Huang was present at the hospital in her official capacity as a member of the media, with badges clearly identifying her status. She was violently arrested while filming the arrest of a protester, while clearly and repeatedly informing LASD deputies that she was a member of the media with KPCC. Her phone, which was video recording the incident, appeared to be deliberately damaged by LASD deputies after it fell to the ground during the course of her arrest. She was held in LASD custody for five hours and charged with obstructing justice. Publicly released video clearly captured the entire incident and disputes the statements by LASD that she did not have identification noting her role as a member of the media or that she was ordered to leave the area before she was detained and arrested. Journalists and members of the media have an important role to play in documenting police actions and protests. Amnesty International is calling on your office to immediately drop all charges against Josie Huang and to make public the results of the LASD investigation into her arrest without delay.

I thank you for your serious consideration of our concerns and look forward to your response.

Yours sincerely,



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² *Graham v Connor* 490 US 386 (1989)