

# US border agents cleared of charges in murder of immigrant Anastasio Hernandez-Rojas

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Five years after the death of Anastasio Hernandez-Rojas at the hands of United States border agents, the Department of Justice (DOJ) recently announced that it is closing its investigation and clearing the agents of any charges. The news comes after years of efforts by various individuals and organizations, backed by video and eyewitness accounts of the incident, to hold the officers involved responsible for the killing.

In May of 2010, Hernandez-Rojas, 32, was detained by Border Patrol agents after attempting to cross the San Ysidro border in order to rejoin his family in San Diego. Hernandez-Rojas was the father of five US-born children, now left alone with his widow.

One of the videos of the incident shows the victim, apparently already in handcuffs, being surrounded by over a dozen agents, and then beaten with a baton and shocked with a stun gun. The horrifying scene, which resembles a gang beating or murder, elicited screams which can be heard in the video as people from a bridge overlooking the incident plead for the officers to stop.

After the beating, agents reportedly ran up to the bridge where the video had been taken and took the phones away from witnesses. The video that emerged was taken by a woman who had quickly hidden her phone at the time and then came forward some time later with the footage. In another video, the voice of the victim can be heard, over the course of several minutes, pleading for mercy from the officers.

Hernandez-Rojas had a heart attack and died two days after the beating. The initial autopsy report ruled the death a homicide. A medical examiner attributed the cause of death, heart attack, to “acute methamphetamine intoxication, preexisting heart disease, the level of physical exertion during the struggle, the electro-shocks from the taser and positional restraint.”

Prosecutors have now concluded that there is insufficient evidence to charge the agents for federal criminal civil rights charges in violation of homicide statutes. The Department of Justice commented, “[A] team of experienced federal prosecutors determined that the evidence was insufficient to pursue federal criminal civil rights charges. ... Neither accident, mistake, fear, negligence nor bad judgment is sufficient to establish a federal criminal civil rights violation.”

Maria Puga, the widow of Hernandez-Rojas, condemned the decision not to pursue the investigation, “All of us here know that they’re culpable,” she said. “They murdered my husband. Two autopsies ruled his death a homicide.”

At the same time, the Department of Justice declared that no charges would be brought against the killers of Hernandez-Rojas, Customs and Border Protection also announced that body cameras are not feasible for the agency. A San Diego petition led by Maria Puga, and signed by nearly 2,000 individuals, appealed to President Obama to order cameras as well as an administrative investigation to discipline the agents responsible for violence against immigrants. In the petition, Puga states, “[T]he agents walk free while my children suffer. They cry in their sleep and continue to ask me who is responsible for killing their father. I have no answer.”

The desperate pleas of Puga and others have again fallen on deaf ears within the political establishment. The recent decision made by the DOJ not to press charges was the official response to an earlier petition signed by nearly 20,000 individuals—in addition to letters to Congress, marches through the city, and other forms of protest.

The Justice Department statement went on to say: “Although positional restraint of Hernandez-Rojas and electro-shocks from the taser were contributory factors in

his death, there is no evidence that any of the federal agents deployed the taser or restrained Hernandez-Rojas with malice.”

Violence by Border Patrol agents and the police alike is not the exception but the norm. While officials have promoted the use of Taser guns as a “safer” alternative to firearms, their increasing use has been an integral part of escalating state repression, even while police authorities tout them in an attempt to refurbish their public image.

A recent report published by the *Los Angeles Times* focused on the use of stun guns by US Border Patrol between 2010 and 2013. In a study of 450 reports, it found that 70 people were hit with stun guns in the absence of any danger posed to the agent. It also debunked the argument that the Taser is a non-lethal weapon, as at least three people died after being stunned by agents.

A report by the Southern Border Communities Coalition found that at least 40 individuals have been killed by Customs and Border Protection since 2010. In an internal investigation of 67 shooting incidents, leaving 19 people dead, all the agents except for in three pending cases were absolved of any misconduct. Only two agents received disciplinary action.

Currently, calls to further increase border security have become a central feature of the 2016 presidential election campaign. Democratic candidate Bernie Sanders, while describing himself as a “democratic socialist,” has expressed agreement with the Obama administration on questions relating to immigration—promoting economic nationalism, protectionism and the deportation of immigrant workers. Sanders openly pits American workers against the immigrant population and has argued that open borders would make everyone in America poorer.

The most outlandish campaign demands on immigration have been made by Republican candidate Donald Trump, who calls for a tripling in the size of Immigration and Customs Enforcement (ICE), a demand that Mexico fund the building of a wall spanning the entire southern border of the US (1,954 miles in total), and an impounding of remittance payments sent from immigrants in the US to their families.

The claims made to justify such policies are groundless. Politicians from both bourgeois parties claim that increased border security is needed to prevent terrorists and criminals from crossing the border and endangering national security. In addition, an effort is made to scapegoat immigrants for drying up social services, taking

jobs away, and causing an increased tax burden on US-born workers.

The first claim is without foundation. All 19 attackers from the September 11 terrorist attacks entered the US on legal visas through legal ports of entry. Evidence has shown that despite red flags, these individuals were allowed to enter and stay in the country, in some cases even after their legal status expired. As in the recent attacks in Paris this month, officials were aware of the movements of these individuals across borders, but in each case made no attempt to stop them.

As for the second claim, recent research has revealed that there is no flood of immigrant workers into the United States. A study by the Pew Research Center found that there has been a net loss of 140,000 Mexican immigrants, leaving primarily on their own accord. The article states, “From 2009 to 2014, 1 million Mexicans and their families (including US-born children) left the US for Mexico.”

The article continues, “The slow recovery of the US economy after the Great Recession may have made the US less attractive to potential Mexican migrants and may have pushed out some Mexican immigrants as the US job market deteriorated.”

Yet the intention of the US political establishment is to further expand the repressive forces on its borders. Currently, over 21,000 Border Patrol agents, (already triple the number since the attacks on the World Trade Center in 2001), around 24,000 Customs and Border Protection officers, and around 5,000 ICE agents patrol the two US borders.

The vast majority of these agents are deployed at checkpoints or are roaming across a 100-mile-wide strip on the border with Mexico. There can be no doubt that a further buildup in these law enforcement agencies will lead to corresponding increases in deaths of immigrants attempting to cross the border.

*The authors also recommend:*

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