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EDITORIAL

THE OPINION OF THE WEEKLY

Steinle case: A complete miscarriage of justice

With the news last week that a U.S. magistrate has dismissed the family's lawsuit against the federal government, the Kate Steinle case continues to be a disheartening display of injustice.

Imagine you're walking along a pier in San Francisco, a bullet comes out of nowhere and someone is killed — your child, your significant other, your friend or yourself. The story grabs national headlines, even becoming a presidential campaign talking point.

And nothing happens. No one is held accountable, criminally or civilly. No new laws on the books inspired by this preventable tragedy.

Unfortunately, despite all of the cable news spotlight and chatter from politicians, it's looking more and more each day like that will be the outcome here. No true justice for Steinle and her family.

The story is all too familiar in Pleasanton by now. The Amador Valley High alum then living in San Francisco was fatally shot at 32 years old when a bullet struck her in the chest while walking on Pier 14 with her father on July 1, 2015.

The man charged with Steinle's murder was acquitted of all serious charges by a San Francisco jury on Nov. 30, 2017, not guilty findings that sent shockwaves through Pleasanton.

We criticized the verdict with restraint at the time in an Editorial that urged, "Let's channel our frustration" — hoping Steinle's death and the inhumane verdict could somehow inspire positive change. Oh, were we wrong.

Looking back, three key points seemed to define the criminal investigation:

- The gun was held by Jose Ines Garcia Zarate, a middle-aged, undocumented Mexican immigrant with multiple felony convictions and deportations in his past (and who had been released from San Francisco Jail custody weeks earlier under the city's sanctuary policy once local prosecutors opted not to file charges for an outstanding drug warrant).

- The gun was the secondary duty weapon of an out-of-state U.S. Bureau of Land Management ranger, who placed the firearm in a backpack under the seat of his SUV while in San Francisco with his family. The vehicle was broken into and the gun stolen four days before the shooting (though not by Zarate).

- The fatal bullet actually ricocheted off the ground before striking Steinle in the chest.

After following the case, it's almost impossible to believe Zarate



Kate Steinle

wasn't found guilty and incarcerated for an extended period. First-degree murder seemed like a long shot, but surely second-degree murder was proven, or at the very

least manslaughter.

San Francisco prosecutors argued Zarate intentionally fired the gun in his possession, but the jurors instead took to heart the far-fetched story presented by the defense.

The public defender contended Zarate found a bundle of cloth under a bench, picked it up, felt like something was wrapped inside and then suddenly, bang. He then realized it was a gun that fired, so he fled the area and tossed the gun in the Bay.

Even if you believe that's how he obtained the gun, by happenstance in that instant, it was unreasonable to conclude this gun just went off of its own volition, firing toward a crowd while in Zarate's hands but not caused by him. It's also difficult to believe a man with that history of felony convictions wouldn't know a gun as soon as he felt it.

But the prosecution (having no witness to Zarate pulling the trigger) didn't do enough to counteract the tall tale, and the jury bought it.

The jury did find Zarate guilty of being a felon in possession of a firearm, but a California appeals court last September tossed that verdict because trial Judge James Feng failed to instruct the jurors on "momentary possession" doctrine that could have absolved him.

Make no mistake: The only person who was in the wrong place at the wrong time that day was Kate Steinle.

That's also true of the federal ranger, though some question criticizing him.

Society depends on all gun owners to be responsible with their weapons in the interest of public safety; for law enforcement officers it should be paramount.

Bad things can happen when guns get into the wrong hands.

But on that day in 2015, BLM Ranger John Woychowski tried to casually hide a federal firearm, not in a secured lockbox, but stuffed in a backpack under the seat. A loose backpack in a car attracts criminals in many communities, even Pleasanton, but especially in a big city like San Francisco.

That's not to imply the ranger was in any way criminally responsible for Steinle's death, but his poor decision

— his professional negligence — directly contributed to it.

Steinle's parents, Jim Steinle and Elizabeth Sullivan, tried to hold the federal government responsible for the ranger's actions. Unfortunately, on Jan. 6, U.S. Magistrate Joseph Spero dismissed their lawsuit, ruling the gun theft was too far away in distance and time for the BLM to be held liable for causing the shooting.

We disagree, and believe the Steinle parents should have had their full day in court.

Of course, we also thought they should have been given the chance to argue their case against the city of San Francisco and former sheriff Ross Mirkarimi over the sanctuary city policy culpability, but Spero tossed that part of the parents' claim back in 2017.

With Steinle's slaying generating so much national attention, there was hope the case would result in legislation to help prevent such tragedies in the future.

Members of both political parties talked the talk, but failed to walk the walk.

The House of Representatives in June 2017 passed "Kate's Law," a Republican bill to increase punishments for criminal offenders who re-enter the country illegally after deportation. It was a largely partisan vote, though 24 Democrats, including local Rep. Eric Swalwell, voted in favor.

But the legislation never advanced out of the Republican-controlled Senate.

Kate's Law seemed like a commonsense bill to us; we're disappointed in never gained traction.

As did a bill reintroduced last July by northern Tri-Valley Congressman Mark DeSaulnier (D-Concord), legislation also inspired by Steinle's death to mandate all federal agencies to implement rules to help prevent law enforcement officers' service weapons from being lost or stolen.

DeSaulnier's bill has failed to advance in the Democratic-controlled House.

The lack of legislative action is hard to fathom, especially since now-President Donald Trump invoked Steinle's death and her memory as a rallying cry for his immigration policy and border wall proposals on the campaign trail before his election in November 2016.

It appears those words were little more than a talking point to stoke the fire. When the Republicans pulling the strings really want something done during the Trump era, they find a way.

At least he has talked about the

case. Democratic candidates were hardly considering serious policy changes inspired by Steinle in the presidential race four years ago, and it's hard to imagine her name even crossing the minds of any Dems vying in the 2020 campaign (unless you count the four months Swalwell was a declared candidate).

Zarate has been scheduled for a trial in federal court this month on two criminal charges of being an ex-felon and an undocumented immigrant in possession of a gun in relation to the Steinle case. Forgive us if we expect nothing more than time-served or some other slap on the wrist.

Kate Steinle's case is among the most disturbing miscarriages of justice, from top to bottom, for Pleasanton in the nearly two decades that the Weekly has been in publication.

We're sorry, Kate. We're sorry we couldn't do more to help your story effect change. We're sorry your adopted hometown, your state and your country didn't do more for you and your family. Then again, sorry only goes so far. ■

LETTERS

RE: Last week's Tim Talk

Tim Hunt, I live in the Stoneridge neighborhood. I read with interest your report ("Tim Talk: Shaping new neighborhood around Stoneridge Mall" on Jan. 10) on all of the possible upcoming changes to the mall, housing in south parking and the Office Max center on Springdale Avenue.

I take extreme exception with your description of the "under-performing" shopping center. It is not under-performing!

All businesses have lost their leases and the center is a ghost town. We can see the writing on the wall. This has been planned for years. The Encore dance lost their lease years ago for what reason? Then the blood bank took the space and now they are gone.

Encore had a extremely wonderful costume rental department that we all sorely miss. Did you know that the owners had to sell all of the precious costumes as they had no space in their other store in Walnut Creek? So sad.

No, this center was always busy and vibrant. This is all calculated by owners and/or developers. I especially miss my personal liquor store for a quick bottle of wine and the dear owner, Benny.

Call it what you want, progress or greed, but please never call it "under-performing. That is an insult to the many businesses that have served us well.

—Joanne Eddy