

CPM files claim for family of San Francisco man killed with stolen police gun

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Tears welled in Mayra Perez's eyes as she recalled the night her son came home from work bleeding to death. He had just been shot twice — once in the chest and once in the right hip — but still had the power to stagger down the street to his home in San Francisco's Mission District.

"I can't get that image out of my head," Perez said Wednesday, with her daughter translating from Spanish. "It's still really fresh."

What the mother didn't know at the time was that her son, 23-year-old Abel Esquivel, was killed by a bullet from a police officer's gun — but the cop didn't pull the trigger.

An investigation revealed the .38 caliber Smith and Wesson revolver used in Esquivel's killing had been stolen from an off-duty San Francisco police officer's vehicle. The officer didn't know the gun was gone until after the shooting, according to the city's police union.

Six months after Esquivel's death, the family gathered at the Cotchett, Pitre & McCarthy law firm in Burlingame to announce a legal claim filed Wednesday against the city of San Francisco and its police department. The claim is the first step in filing a lawsuit against a public agency.

Esquivel's death drew attention not only because a stolen police officer's weapon was used in his killing, but also because one of the three suspects was wearing an ankle monitor ordered by federal immigration officials.

The shooting was the latest incident in which a stolen law enforcement officer's gun was used in a Bay Area killing.

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In 2015, a gun stolen from a U.S. Bureau of Land Management agent's car along San Francisco's Embarcadero was used in the killing of Kate Steinle on Pier 14. A few months later, a gun stolen out of an ICE agent's car in San Francisco was used to kill Antonio Ramos, 27, an Oakland muralist taking a picture of his artwork.

"Unfortunately, this failure to secure weapons foreseeably results in the loss of life," said Alison Cordova, an attorney representing Esquivel's family. "We saw it with Kate Steinle. We saw it with Antonio Ramos, and now we've seen it again with Abel Esquivel, and enough is enough."

Cabuntala left the loaded gun unattended in the car outside of a lockbox and not in the trunk, Cordova wrote in the claim. What's more, the department also didn't provide Cabuntala with "sufficient locked containers" and failed to train its officer how to properly security and store guns, she said.

On Wednesday, Esquivel's family was joined by staff from the Central American Resource Center, where Abel Esquivel worked as an intern before his death. His sister, Jennifer Esquivel, said the family's goal is to stop similar incidents from occurring.

"We just want to make sure that justice gets served for my brother," Esquivel said. "This has happened far too often and we want this to become some kind of precedent for the future, so maybe things can change and officers can be accountable for their mistakes.

The police department has said it opened an internal investigation into the matter and revealed that the stolen gun was Cabuntala's personal firearm and he was off duty when it was taken from his personal vehicle Aug. 12. The department declined to say where the vehicle was parked and where the officer stored the gun.

The San Francisco city attorney's office said it had not yet seen the claim Wednesday morning.

"What's clear is that Mr. Esquivel's death was a tragedy, and we are heartbroken for his family," said John Coté, a spokesman for city attorney Dennis Herrera. "But our office also has a legal responsibility to San Francisco's taxpayers. Based on what we know now, the city is not liable for his death under the law."

The San Francisco Board of Supervisors passed an ordinance in February 2016 requiring firearms left unattended in vehicles to be stored in trunks or in lock boxes affixed to the vehicle.

The law, introduced by former Supervisor David Campos, applies to both civilians and law enforcement officials.

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The San Francisco Police Department's policy requires officers to keep their gun on them when on duty, and when they are forced to leave the firearm in an unattended vehicle they must secure the weapon in the locked trunk or in a lockbox out of view.

Sen. Jerry Hill, D-San Mateo, authored a state bill signed into law in 2016 that requires law enforcement to lock up their guns in unattended vehicles.

Hill called on the San Francisco district attorney's office to charge Cabuntala with an infraction shortly after the attack.

The shooting occurred around 2 a.m. on Aug. 15, when Esquivel walked home from a late-night shift at a grocery store in the Mission. One block from his mother's home at 26th and South Van Ness Avenue, attorneys said, he was confronted and shot.

"After being shot, Abel attempted to make it home to his mother, staggering down the block while dying and struggling to take every step — not even knowing who shot him or why," Cordova wrote.

Police later arrested Erick Garcia Pineda and Daniel Cruz, both 18, and Jesus Perez-Araujo, 24, on charges including murder... *(To read the entire article, please click [HERE](#))*