

Sending a Message in San Francisco

Posted At : May 16, 2014 3:43 PM | Posted By : Rick Bernardi

Related Categories: Cyclist fatalities

by Rick Bernardi

In America, we like to imagine that our lives have value. That we count. That we are somebody. That, great or small, we have rights. It's right there in our Declaration of Independence, after all: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

We also like to imagine that we are a nation of laws. And that we hold justice in deep regard. That our rights and our very lives are sacred and inviolable, and that if our rights are violated, that those responsible, great or small, will be brought to justice and held accountable for their actions. We imagine that we will have justice.

Well, that's what they tell us, anyway. But none of that is true. Let me tell you about [Amelie Le Moullac](#), and you will understand.

It was the morning of August 14, 2013, just after 7 A.M. Amelie Le Moullac, 24, was riding her bike to work, on Folsom Street in San Francisco. But at the intersection with 6th street, her ride ended and her life was cut short when a driver operating a big rig made a right turn onto 6th street, running over Amelie as he made his turn.

It was a classic "[right hook](#)," one of the most common types of collisions between motorists and cyclists. Sometimes it happens when a driver passes a cyclist, and then makes a sudden right turn, across the cyclist's path of travel, causing the cyclist to crash into the turning vehicle. If you've ever ridden a bike, imagine making a sudden right turn in front of the car in the lane next to you and you get the idea. Other times, it happens when the driver is next to the cyclist and turns. Picture making a right turn into the car in the lane next to you. Either way, a cyclist who is being right hooked is in extreme danger, and the driver who is right-hooking the cyclist is breaking the law.

That's what happened to Amelie Le Moullac. So you'd think that when Le Moullac was right-hooked, and her life was taken from her, something would have come of it.

Think again. This is America, Land of Life, Liberty, and our Sacred Rights. This is America, a Nation of Laws and Justice.

This is America.

So the first thing that happened was an investigation. American-style, of

course, [not one of those investigations they conduct in the Netherlands](#), where the authorities actually attempt to determine what happened, and perhaps even more importantly, how to prevent it from happening again. The San Francisco Police Department announced that they were investigating the collision, but had [no plans to submit the case to the district attorney](#) for potential charges. It was as if they had arrived at the scene, saw that a cyclist was involved, and already determined the outcome. Move along now, nothing to see here.

And just in case people didn't get the message, it was reinforced a week later, when San Francisco Police Sergeant Richard Ernst showed up at a Safe Streets Rally and Memorial for Le Moullac and two other cyclists who had recently been killed in traffic. Blocking the bike lane with his cruiser, even though there was an empty parking space adjacent to his vehicle (and thus, forcing cyclists to leave the lane and merge with motor vehicle traffic at the Safe Streets Rally), Sgt. Ernst [confronted the mourners and traffic safety advocates](#), telling them that he was "making the point that bicyclists need to move around" cars parked in bike lanes. In case you're missing it, Sgt. Ernst was stopping by Le Moullac's memorial to say that Le Moullac had caused her own death by passing the truck on the right.

Classy.

Leah Shahum, Executive Director of the [San Francisco Bicycle Coalition](#), took the brunt of Sgt. Ernst's "Traffic Safety Lesson": "He then told me explicitly that he 'would not leave until' I 'understood' that 'it was the bicyclist's fault.' This was shocking to hear, as I was told just a day ago by Commander [Mikail] Ali that the case was still under investigation and no cause had yet been determined," Shahum wrote in a report about the incident.

About that investigation: By this time, the San Francisco Police Department had announced that there was no video of the crash. But following Sgt. Ernst's chest-thumping display of victim-blaming at Le Moullac's memorial, the San Francisco Bicycle Coalition decided to do a little investigating of its own; Marc Caswell, SFBC Program Manager at the time, surveyed local businesses, asking if they had any video cameras that might have captured what happened the morning of August 14. And sure enough, within 10 minutes, Caswell had [found what he was looking for](#)—an auto body business at the intersection had a security camera with footage of the entire incident. More disturbing: [SFPD investigators had never even bothered to check with local businesses before announcing that there was no video](#). "He had the time to come harass us at a memorial, but he didn't have the time to see if anyone had footage of this incident," Shahum [told](#) the San Francisco Bay Guardian.

Well, the SFPD now had a public relations disaster of near-epic proportions on its hands. Ten days later, San Francisco Police Chief Greg Suhr issued a public apology for Sgt. Ernst's behavior, the same day that SFPD investigators announced the results of their investigation: The driver was at fault in the crash, for making an illegal right turn in front of Le Moullac. Under California law, the driver was required to yield to Le Moullac and then merge into the bike lane before turning—all of which he had failed to do.

Based on the video provided by the San Francisco Bicycle Coalition's own informal investigation, SFPD investigators had now decided to submit the case to District Attorney George Gascón's office. There, incriminating video in hand, prosecutors would decide whether to press criminal charges against the driver. And sure enough, prosecutors looked at the evidence and reached the conclusion that Alcantar had violated the law when he made the right turn that ended Le Moullac's life.

Maybe Amelie would find justice after all.

No. This is America. Think again. This week, some nine months later, we finally heard the results of the prosecutor's investigation. "Unfortunately, with the evidence presented, we are unable to prove this case beyond a reasonable doubt," [said Alex Bastian](#), a spokesman for San Francisco District Attorney George Gascón.

Let that sink in. The D.A.'s office had video footage of the crash. After watching the video, police investigators and the D.A.'s office had both reached the conclusion that the driver was at fault in the crash. And yet the D.A.'s office didn't think it could convince a jury that it was the driver, and not the cyclist, who was at fault. It was as if the D.A. was saying that no jury would convict a driver, even with video footage of the crash.

[Well, maybe he was on to something.](#)

And why should we be surprised? The SFPD appeared to have decided who was at fault the moment they arrived on the scene and saw that a cyclist was involved. (Hint: They didn't think that it was the driver who was at fault). They didn't even bother to ask the five businesses at the intersection if they had any video footage, before announcing that there was no video footage. A SFPD Sergeant made a point of blaming the cyclist at her own memorial. And it wasn't the first time that San Francisco Police Officers had [blamed the cyclist](#) when a motorist was at fault. In fact, the evidence indicated that [blaming the victim was standard operating procedure](#) for many San Francisco Police Officers.

And the D.A.'s office? When [a cyclist ran down an elderly pedestrian](#) in a crosswalk in 2012, District Attorney George Gascón filed a felony vehicular manslaughter charge. Three weeks before Le Moullac's fatal collision, [the D.A. announced](#) that the cyclist, Chris Bucchere, had avoided a jail sentence by pleading guilty to the felony charge. And it wasn't the first conviction of a San Francisco cyclist. In 2012, [Randolph Ang](#) accepted a similar plea deal after he ran down an elderly pedestrian in a crosswalk and was charged with misdemeanor vehicular manslaughter.

[Gascón noted](#) that Bucchere's conviction "was the most serious obtained against a bike rider in a fatal accident across the country," and that if Bucchere had not agreed to the felony conviction, prosecutors would have gone to trial on the felony charge. Gascón said his goal was to "send a message" to cyclists that "cyclists need to understand that they're held accountable to the same standard as anybody else operating any other type of vehicle."

Except if that were true, the cyclists would likely [never have been charged](#), let alone prosecuted. In fact, the D.A. was holding cyclists to a much higher standard of behavior than drivers.

Some might say, "wait a minute, the cyclists ran red lights." Yes, they did, which meant they were violating the right of way of the pedestrians who they hit and killed. Just like the drivers who right-hooked the cyclists violated the right of way of the cyclists they hit and killed. So when cyclists were prosecuted for killing pedestrians (which is exactly what should have happened, by the way), and drivers weren't being prosecuted for killing pedestrians and cyclists alike, it's plain to see that cyclists were being held to a much higher standard of behavior than drivers—despite the fact that drivers were responsible for virtually all traffic fatalities in the city.

So when Gascón had video evidence and a chance to "send a message" to drivers who kill, and he did nothing, the message he sent to drivers was a very different message than the one he sent to cyclists: Dangerous drivers will not be held accountable.

And with that kind of message from the D.A., and a Pavlovian "blame the victim" reflex in the police department, why should we expect a jury to find a dangerous driver guilty? Why should we expect the driving public to be more careful?

So the driver who took Amelie Le Moullac's life will never be brought to justice. He will never be held accountable for taking a human life. Nor were the drivers who took the lives of Diana Sullivan and Dylan Mitchell, the other two cyclists right-hooked and killed in San Francisco that year.

Yes, Le Moullac's family will look for justice in a civil trial. But that will be between the family and a faceless insurance company. The driver will never have to answer for Amelie Le Moullac's life. He will never have to appear in court. He will never have to face her family and tell them he is sorry. He will never pay a penny in fines or restitution. He will never spend a day in jail. He will never lose even a minute of his driving privileges. He will continue to drive as if nothing had ever happened.

Because this is America, and that is American traffic justice.

