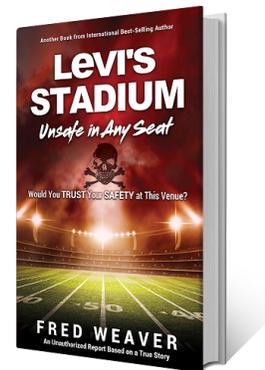


Levi's Stadium – Unsafe In Any Seat

Fred Weaver - Author
650 Castro Street, Suite 120-211
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Sunday, January 5, 2020

Sent via email:

**SUBJECT: “A sloppy or nonexistent records management system means people die.”
Case no. 19CV355432 Forty Niners Stadium Management, LLC, et al vs
City of Santa Clara, et al.**

San Francisco 49ers - Forty Niners Stadium Management Company, LLC., and Forty Niners SC Stadium Company LLC.

Al Guido - President - Al.Guido@49ers.com

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City of Santa Clara and Santa Clara Stadium Authority (SCSA)

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To each of you copied on this email, and included in this letter:

By now, most of you know I wrote a book, *Levi's Stadium Unsafe in Any Seat*.

Two of the City of Santa Clara Councilmembers received hardcover copies on October 29, 2018 via UPS earlier than everyone else. City of Santa Clara Mayor Lisa Gillmor, the rest of the four Councilmembers, City Manager Deanna Santana, and City Attorney Brian Doyle received an Amazon Kindle 'gift' copy on December 25, 2019.

I received one response in an email from Council Member Kathy Watanabe on Friday, December 27, 2019:

Mr. Weaver,

Thank you for your note. I have to decline your gift and I hope you will let the media folks that you bcc'd on the email know that too. I will be deleting your message after I send this to insure the link is deleted too.

I had planned to purchase your book or check it out from our local library. Unfortunately, none of our local libraries seem to have a copy so I will have to purchase it.

Sincerely,

*Kathy Watanabe
Councilmember, District 1
City of Santa Clara*

In a public response to Councilmember Watanabe, rest assured, my book is currently being personally delivered for free to area community libraries including junior colleges and major universities.

My book is currently also available at:

- Alexander Book Company in San Francisco
- Books Inc. in Mountain View
- Stanford Bookstore on the campus of Stanford University in Palo Alto
- Plus, all regional Bay Area bookstores and resellers are also receiving fulfillment
- And of course, Amazon and Barnes & Noble online respectively are an immediate source

Councilmember Kathy Watanabe's constitution of not wanting to receive the 'gift' of my book is admirable. Regrettably, however, Councilmember Watanabe's constitution like the rest of the City of Santa Clara Council, Mayor, City Manager and City Attorney, didn't extend to her duties as an appointed government official, when it came to responding to a valid and documented concern about security and safety at one of the City of Santa Clara's most valuable public assets.

In most communities, when there is an unsafe or dangerous situation observed and reported by a citizen, the community responds and takes action. Consider these ‘hypothetical’ examples:

- 1st Concerned Citizen:** “Hello City, I wanted to let you know the traffic light is out near the elementary grade school.”
- Community:** “Hello and Thank You for your concern. We will alert Public Safety to have some public safety officers position temporary stop signs immediately and provide traffic management until the traffic signalization issue is resolved.”
- 2nd Concerned Citizen:** “Hello City, in our neighborhood, there are drivers consistently passing a stopped school bus, with its warning signal out and flashing. I saw a couple middle school students almost get hit by one of these drivers, and there is a concern one of these students is going to get run over, seriously injured, or even killed.”
- Community:** “We appreciate your concern, and will have some officers patrol the area, and station themselves until the safety of the young students loading the bus is resolved.”

But there was a completely different response when an actual case of unsafe and dangerously inadequate security at Levi’s Stadium, was observed and on November 1, 2018 and December 16, 2018 and reported to the City of Santa Clara, and the NFL.

- 3rd Concerned Citizen:** (In Certified Communication) “Mayor Gillmor and City Council Members, I am requesting your help, for an immediate meeting this week before another Levi’s Stadium event or venue of any type takes place, which quite literally could be a matter of life or death, due to the lax and non-existent Security and Law Enforcement at this Levi’s Stadium venue. Please contact me, and I will immediately schedule myself to everyone’s availability.”
- City of Santa Clara & NFL:** No response. Instead, City of Santa Clara Police filed two false police reports in effort to coverup the incident. NFL goes dark after the concerned citizen mentions 630 pictures taken at a subsequent 49ers home game, documenting no security or police visible or patrolling any seating areas, or entry or exit areas.

Would the above ‘actual case’ and resulting ‘non-response’ be concerning or unconscionable? Most reasonable people would think so. But not the City of Santa Clara, the San Francisco 49ers entities, or even the NFL.

One of the reasons is that the City of Santa Clara, the San Francisco 49ers, and the NFL want to ‘de-couple’ from the ugly facts related to their ‘go-to’ use of the Santa Clara Police for security at Levi’s Stadium.

And the City of Santa Clara, the San Francisco 49ers, and the NFL don’t want their court documented exposure and involvement with the ex-Chief of Police, Mike Sellers and his Santa Clara Police having been recently been named in three Personal Injury Lawsuits for violating

Santa Clara, San Jose and other citizens constitutional rights. As documented in two of those lawsuits, Chief of Police, Mike Seller's Police Officers kicked down doors of residents, without legal search warrants on three separate occasions. Chief Mike Sellers insisted his officers acted responsibly. Chief Mike Sellers also gave an interview with *People* magazine stating, "Our officers' actions were fully within the law and in accordance with accepted police practices."

The courts thought otherwise.

During two of the separate illegal entries search without a warrant which occurred at one Santa Clara home, multiple Constitutional Rights of the home's residents were violated. The judge in the case awarded the residents \$500,000.

During another one of the illegal entries the Santa Clara Police injured and broke one of the resident's leg when the Santa Clara Police violently threw a woman through a doorway inside her home. The woman was later paid \$6.7 million dollars in a court settlement.

After a \$6.7 million-dollar settlement for one of the City of Santa Clara Police Department's excessive force lawsuits, City Attorney Brian Doyle confirmed, "there was no dispute that the plaintiff sustained a broken ankle in the course of the (City of Santa Clara Police) entry to the plaintiff's home without a warrant."

Less than five months after unconstitutionally kicking down the second of two local residents' front doors without a warrant, and use of excessive force breaking a woman's leg, the Santa Clara Police Officers Association wrote a September 2, 2016 letter to the San Francisco 49ers and its CEO Jed York. Achieving a height of hypocrisy, the SCPOA summarize their letter at the end by stating, "The men and women of the Santa Clara Police Officers Association are sworn to protect the rights of ALL people in the United States, a duty we take very seriously.

Chief Sellers and Santa Clara Police Officers Association apparently don't realize this is the age of the internet where news stories and even court cases they are involved in, reveal the contradiction and hypocrisy in their statements.

To everyone copied on this email, and also as a letter attachment, you might want to reference and read two of these three filed lawsuits fully explaining these illegal actions. You can find each of these Complaints on my Author's website, on the Resource page. My Author's website is: www.UnsafelnAnySeat.com

Look for:

Moneeb, Ikram and Ikram v City of Santa Clara, Mike Sellers, et al., United States District Court (ND CA 2015), Case no. 5:15-cv-01987-NC

<https://unsafelnanyseat.com/wp-content/uploads/2019/05/Complaint.First-Amended.FILED-Doc.-25.pdf>

and:

Danielle Harmon v. City of Santa Clara, City of Santa Clara Police Chief Mike Sellers, et al., United Stated District Court (ND CA 2016) Case no. 5:16-cv-04228-EJD

<https://unsafeinanyseat.com/wp-content/uploads/2019/03/160727-Danielle-Harmon-v-City-of-Santa-Clara-et-al-Complaint-for-Damages.pdf>

Fast forward to today, where in the **Case no. 19CV355432 Forty Niners Stadium Management, LLC, et al vs City of Santa Clara, et al.**, there are really only 2 (two) Plaintiffs / Defendants:

- City of Santa Clara/ Santa Clara Stadium Authority
- San Francisco 49ers entities

Mathematically speaking, these two entities would be considered rather 'binary'.

But there are actually 4 (four) groupings of individuals contributing to all the chaos involving the issues at Levi's Stadium, for which the above case acts as a vehicle to our discussion:

- Once again, the City of Santa Clara/ Santa Clara Stadium Authority
- And repeating also, the San Francisco 49ers entities
- But included in this mix are the City of Santa Clara Police
- And let's not forget the NFL

Mathematically speaking again, these four groupings above are variables in an 'equation', or in other words, a situation or problem in which several factors must be taken into account.

There is also a related math term called 'common denominator' and once again, mathematically speaking, in this equation the problem at hand includes the common denominator of 'Levi's Stadium'.

For discussion purposes, let's review the **Cross Complaint filed by the City of Santa Clara, Case no. 19CV355432 Forty Niners Stadium Management, LLC, et al vs City of Santa Clara, et al.**

You can reference and download the 174 page electronically filed court case under the Resource 'tab' on my Author's website: <https://unsafeinanyseat.com/wp-content/uploads/2020/01/Santa-Clara-Stadium-Authoritys-Cross-Complaint-against-Forty-Niners-Stadium-Management-Company-LLC-Case-No-19CV355432.pdf>

And let's consider **how** this Cross Complaint comes into play with the four groupings of individuals contribution to the chaos involving issues at Levi's Stadium:

(The following are abstracts from **Cross Complaint filed by the City of Santa Clara, Case no. 19CV355432 Forty Niners Stadium Management, LLC, et al vs City of Santa Clara, et al.**)

1. The June 15, 2016 Grand Jury report revealed and learned from interviews with the City Manager Deanna Santana, and Stadium Authority Counsel Brian Doyle, significant lack of understanding of Stadium Authority operational and financial details by these individuals responsible for its management. The response to most questions was consistently, "I don't know." (reference Exhibit B, page 4 of 13)
2. Jim Mercurio the appointed manager of Stadium Manager, 49er's entities, is under investigation for violation of conflict of interest laws, with respect to two contracts the Stadium Manager had entered. (reference page 10 of Complaint)
3. Over the past two years, the non-NFL events booked by the Stadium Manger (49ers entities) have resulted in little or no net revenue for the Stadium Authority (City of Santa Clara).

4. "Public Safety Plan" is adopted by the City of Santa Clara/Stadium Authority in consultation with the City's Chief of Police and StadCo (49ers entities), describing procedures for security and public safety, during a reasonable period before and after NFL games. (reference page 7 of Exhibit A - Stadium Management Agreement)
5. Standard of Care. Operate the Stadium as a quality NFL entertainment facility. (reference page 17 of Exhibit A - Stadium Management Agreement)
6. Ownership of Documents. Stadium Manger (49ers entities) shall retain copies of incident reports and data, collect security information, and NFL Event drive data. (reference page 29 of Exhibit A - Stadium Management Agreement)
7. Confidentiality of Proprietary Information. The parties hereto acknowledge certain records and information...will be proprietary and will place the Stadium at a competitive disadvantage if disclosed to competitors and potential users of the Stadium.

Let's also review the most recent **June 18, 2019 Civil Grand Jury of Santa Clara County Report:**

You can reference and download this 18-page document under the Resource 'tab' on my Author's website: <https://unsafeinanyseat.com/wp-content/uploads/2020/01/190618-CGJ-City-of-Santa-Clara-Final-Report.pdf>

(The following are abstracts from the **June 18, 2019 Civil Grand Jury of Santa Clara County Report**)

8. "The City of Santa Clara is in the midst of Silicon Valley with all of the area's technical acumen and resources available. However, the 2018-19 Santa Clara County Civil Grand Jury found the City's recordkeeping to be disorganized and its staffing levels inadequate to process CPRA (California Public Records Act) requests in compliance with the requirements of the law." (reference page 3)
9. "Through the CPRA, accessing public records from government agencies to monitor "the people's business" should be simple, responsive and without significant delays. However, the Grand Jury found that obtaining public records from the City is a time-consuming and difficult chore." (reference page 3)
10. **First CPRA Request** - December 3, 2018. (reference page 7)
11. Upon arrival at City Hall, the Grand Jury was shown numerous boxes containing all types of contracts and invited to sort through the boxes and view the documents.
12. The City stated they lacked a record management system to identify and locate City documents.
13. City staff was unresponsive to multiple requests to meet, forcing the Grand Jury to seek legal assistance to facilitate the interviews.
14. **Second CPRA Request** - February 6, 2018.
15. The Grand Jury made a second CPRA request focusing on three specific General Services contracts and the purchasing process used in entering into these contracts. These contracts were not obscure agreements but involved contractual dealings between the City and the Stadium Authority.
16. After almost three months of seeking purchasing and procurement records, the Grand Jury still could not get a complete set of documents that should have been easily retrievable and disclosed.
17. Due to the City's non-responsiveness to its CPRA requests after three months, the Grand Jury concluded that its investigation into the City's procurement process had become futile.

18. The Grand Jury learned that the City currently has no city-wide process or written procedures in place for complying with CPRA requests.
19. **Third CPRA Request** - April 3, 2019. (reference page 19)
20. The Grand Jury decided to test the City's CPRA compliance with a third request on April 3, 2019.
21. This request sought three items: the missing payment documents and routing sheets that had not been provided in response to the second request, and copies of the City's CPRA tracking logs for the past year.
22. On April 10, 2019, the City responded to the third CPRA request, stating it had records responsive to the request and again invoked a 14-day extension contending the request was "voluminous" and citing the need to search for and collect the requested records from field facilities. The Grand Jury had obtained two of the three items five days earlier on April 5, 2019, during a visit to City Hall. At that visit it turned out the missing payment documents and routing sheets were stored at the City Clerk's Office and Finance Department, not at field facilities. These two items were produced within minutes. Moreover, the entire request consisted of only three items totaling seven pages plus five logs. The Grand Jury's third request was not "voluminous."
23. City staff gave the Grand Jury repeated excuses for the City's failure to produce requested documents in a timely manner.
24. **Conclusions.** (reference page 11)
25. The City's disorganized recordkeeping is hindering its ability to do the people's business in a transparent fashion.
26. The City has acknowledged its shortcomings in complying with CPRA requests, and that its efforts during the past 18 months to address the CPRA management have been unsuccessful. Not having a functional records management system in place to locate public records is an unacceptable excuse for noncompliance with the CPRA.

So, to everyone copied on this email and letter, **why so much focus on the two Civil Grand Jury Reports, and what does a sloppy or nonexistent records management system mean?**

I explain it in my book, ***Levi's Stadium Unsafe in Any Seat***. And the explanation is...people die!

Yes, you read that correctly. "A sloppy or nonexistent records management system means people die."

Observe for yourselves the example I explain in my book, where I reference the horrific fire that occurred December 2, 2016, at the "Ghost Ship" in the Oakland (California). Thirty-six (36) people lost their lives and many others were seriously injured.

You can reference the ongoing multi-causation Ghost Ship Civil Lawsuit under the Resource 'tab' on my Author's website:

<https://unsafeinanyseat.com/wp-content/uploads/2019/08/IN-RE-Ghost-Ship-Fire-Litigation-Master-Complaint-Superior-Court-for-County-of-Alameda-Case-no.-RG16843631-2017.pdf>

And also notice the correlation between the Ghost Ship fire and Item # 1 & 12 above, **"The June 15, 2016 Grand Jury Report revealed and learned from interviews with the City Manager Deanna Santana, and Stadium Authority Counsel Brian Doyle, significant lack of understanding**

of Stadium Authority operational and financial details by these individuals responsible for its management. The response to most questions was consistently, "I don't know." And within the June 18, 2019 Grand Jury Report "the City stated they lacked a record management system to identify and locate City documents."

It should also be noted that during Deanna Santana's tenure at the City of Oakland, similar to her current role with the City of Santa Clara, she had administrative oversight and was the 'boss' of the Building, Police, Fire and Planning Departments. On December 2, 2016, in Oakland, California, a fire broke out in an 'artist collective' warehouse, known as Ghost Ship. A total of 36 people were killed in the fire, the deadliest in the history of Oakland. Multiple factors contributed to these completely preventable deaths, including negligence by the City of Oakland's own Building Inspectors, Police, Fire, and Planning Departments. Police and Fire officials warned that the warehouse was a fire hazard but did not follow through on enforcing the codes already in place. The City of Oakland's Planning Director revealed that the building had not been inspected for three decades. (*IN RE Ghost Ship Fire Litigation Master Complaint, RG16843631, 2017, Alameda County*) and (*Levi's Stadium Unsafe in Any Seat*)

As reported in a December 7, 2016 East Bay Express article, "Oakland Firefighters Say Their Department Is So Badly Managed, Ghost Ship Warehouse Wasn't Even in Its Inspection Database." "When firefighters attempted to pull records for Ghost Ship from their own fire-prevention bureau's files, they discovered nothing. "It's not even in the system, one firefighter said."

Deanna Santana, currently the City Manager for the City of Santa Clara, and Santa Clara Stadium Authority Executive Director, was City Administrator for the City of Oakland during this period of negligence when Building, Police, Fire and Planning Departments, under Santana's management, were not enforcing the codes nor maintaining accurate files, which, if enforced under Santana's watch, would ultimately have saved 36 innocent lives. (reference page 71, 72 of *Levi's Stadium Unsafe in Any Seat*)

So does anyone reading this think, "A sloppy or nonexistent records management system means people die?"

To everyone copied on this email and letter, please digest the attached information, and feel free to reference additional information at my Author's website: www.UnsafeInAnySeat.com or maybe even consider reading my book, *Levi's Stadium Unsafe in Any Seat*.

Each of you can own it in less than five minutes if you choose the Kindle version available at Amazon. As a note, there is an added benefit of the Kindle version of my book, as most of the 142 citations and references in the Source/Bibliography, are hyperlinked to the references in my book.

https://www.amazon.com/Levis-Stadium-Unsafe-Any-Seat-ebook/dp/B07Z9GP1HZ/ref=tmm_kin_swatch_0?encoding=UTF8&qid=&sr=

Remember to print out and save this email/letter because you will need to reference this when I send you the next email/letter.

Until then...

Fred Weaver

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