

Caught in the line of fire

Woman was walking Rice's path when a Metro officer shot her while chasing an armed man; now she's suing, claiming negligence

**By CAROLYN FEIBEL
Copyright 2009 Houston Chronicle**

June 19, 2009, 5:30AM

She felt nothing but a sudden numbness in her arm. No pain, no violent push. Just a numbness, right when she heard the gunshots.

The bullet, fired by a Metro police officer on May 5, passed straight through Guadalupe Acosta's arm while she was taking her usual daily walk with another nanny around the Rice University jogging path.

Acosta was wounded as the officer shot and killed a man who was reportedly resisting arrest and wielding a knife. It was the first fatal shooting by the transit agency's law enforcement division since it was created in 1982.

At the time, Metro and Houston police refused to identify the bystander who had been shot, but Acosta shared her story with the Chronicle on Thursday.

Her attorney plans to file a lawsuit against Metro this morning, claiming officer R.L. Harrington negligently discharged his weapon in a crowded area.

"That's why I can never forget: It was Cinco de Mayo, and that day really changed my life," Acosta said.

'A lot of blood'

Acosta said she had no idea two Metro officers were chasing the man behind her on the path. Even after hearing "many" gunshots and feeling her arm go numb, she didn't make a connection until she looked down and saw blood gushing from her right upper arm. The bullet had entered through her rear shoulder and exited out the front of her biceps.

"A lot of blood, like when you open a faucet," said Acosta, 58, a professional nanny. "It was just like that. Blood just started pouring."

She said her first thought was for the toddler girl she cared for. Acosta pushed the stroller so it faced away, so the little girl wouldn't see the blood and get scared.

Acosta started wondering if she would die. She knew if she didn't do something right away, she might bleed to death.

Her friend, who had two young children in her care, started panicking.

“I said: ‘No, you can’t do that, you have to take care of these kids,’” Acosta said.

Her friend took off her blouse and tied it over Acosta’s wound. A construction worker came over to help, then a medical student. Instinctively, Acosta lifted her arm over her head. The bleeding slowed. Eventually, an ambulance took her to Ben Taub, where she was treated and questioned by a Metro police officer, she said.

Now, Acosta suffers from arm pain and numbness. She can’t close her right hand, and her fingers are weak and almost useless. She can’t drive, cut her food, or hold a pen. Acosta said she also can’t hold a baby, which means she can’t work. She said she faces months of therapy, with no guarantee that function will return.

“There is no evidence I’ve seen that this man was going to attack the officers, nor evidence he was going to attack those two ladies who were strolling three children,” said her lawyer, Randall Sorrels. “I just don’t think Metro procedures should allow officers to fire randomly in a crowded area. So, we think the officer, probably in violation of policy, negligently discharged his firearm.”

Acosta will ask for damages to cover her pain and suffering, medical expenses, lost wages and possible future loss of income because of permanent “disfigurement and physical impairment,” according to the lawsuit.

Acosta is a U.S. citizen with health insurance, but she doesn’t think she should have to pay co-payments or therapy bills from the shooting. Acosta’s husband, Santiago, is also upset that Metro never offered to help with the bills, never contacted the family after that day, and never offered any sort of apology or consolation.

They are also worried about their future, because Acosta’s income helped pay the mortgage on their house in Alief and her daughter’s college tuition.

“In a split second, it changed my life: physically, mentally, financially,” Acosta said.

Seeking information

Metro released a written statement Thursday that said: “We have real empathy for Ms. Acosta and what she experienced. Since the matter is now in litigation, we’re unable to comment further.”

Sorrels said one reason for filing the suit was simply to get information from Metro that the agency has refused to release to him.

“In this instance, when you have an innocent bystander shot, you should be coming out there and saying, ‘We’re sorry; we were saving her life.’”

“Just to give no information just is an unacceptable response,” Sorrels said.

carolyn.feibel@chron.com