

4. On February 4, 2009, I was working "dog watch" from 8:15 p.m. until 6:15 a.m. with my partner Officer Newman. We were in a marked squad car, squad 421, and in full uniform, working patrol.

5. At about 12:30 a.m. on February 5, 2010, we were involved in a suspicion person stop at Golden Valley Road and Morgan Avenue North. The stop involved two civilian vehicles, which were parked nearly across the street from each other.

6. While on patrol, we make a suspicious person stop. As we turned the corner onto Morgan from Golden Valley Road, we saw a Chevy Malibu parked directly across the street from a Chevy Suburban SUV. We saw a male occupant from the Malibu making a hand-to-hand transaction with the driver of the SUV. There were a total of six individuals involved. We parked our squad in between the Malibu and SUV so as to keep all suspects in view, and had our spot lights activated.

7. Dispatch sent a backup squad, and another squad with Officers Conner and Garbisch stopped to assist. Conner and Garbisch parked their squad behind the SUV facing north-bound and directly east of our squad car. At that point in time, all six civilians were detained.

8. While conducting our investigation, I heard dispatch air that another squad car was pursuing a stolen vehicle. At that time, I was running north-bound across Golden Valley Road back toward the initial scene of the present suspicious person stop and back toward my squad car. I was coming from the area where I believed that the detained persons may have ditched evidence relating to suspicious person call.

9. As I was running back to my squad car, I first heard dispatch air that a squad was following a stolen vehicle and heard that their location was at West Broadway and Newton Avenue.

10. At the time, I recall thinking how close the call was to our location, and then I immediately heard the sirens, which caused me to run back to the suspicious person location to possibly assist in the pursuit.

11. As I ran back to my squad, I heard the officers air that they were now heading south-bound on Morgan Avenue North. At about the very same moment I looked up and saw the headlights from the stolen vehicle, heard the siren, and saw the emergency lights of the squad car following behind.

12. As the stolen vehicle approached south-bound on Morgan, there was no other escape route onto which it could have turned. It could only have stopped or proceeded in my direction and go directly through myself and the squad cars parked at the scene.

13. The driver of the stolen vehicle did not appear to be hesitating or slowing down. The driver of the stolen vehicle continued in our direction, angled his vehicle toward Officer Garbisch. Garbisch was standing between the frame of his squad car and the squad's car door on the driver's side.

14. At this point in time, I was standing directly behind my squad car, squad 412, and across from Officer Garbisch. The driver of the stolen vehicle was driving into the space between my squad car and Garbisch's squad car. I observed him angle the stolen vehicle directly at Officer Garbisch. Garbisch had nowhere to go and could not get out of the path of the oncoming stolen vehicle. He could not escape.

15. Seeing that Garbisch had no visible means of escape, and fearing he might be severely injured or killed, I fired my weapon at the driver of the stolen vehicle. I believed if I did not take this action, Officer Garbisch could have been killed.

16. At the time I first fired, I could see Garbisch was in between the frame of his squad car and the squad's open driver's door and that if the driver of the stolen vehicle struck the door of Garbisch's squad, it would have crushed Garbisch.

17. After I fired my weapon, I saw the driver of the vehicle go back into his seat and then come forward again. His vehicle appeared to slightly hesitate and then I heard it accelerate again toward Garbisch.

18. At this point, Garbisch was still positioned between his squad's frame and the open car door. I saw Garbisch jump off the ground onto the floorboard of his squad car in an attempt to save himself from being killed. I fired my weapon at the stolen vehicle again because the driver continued to flee south-bound through the officers and directly toward Garbisch's squad car's door. I saw the stolen car hit the door of Garbisch's squad and continued south-bound on Morgan.

19. The driver got out of the stolen vehicle and the vehicle continued unoccupied south on Morgan, through Golden Valley Road, and then came to a stop after it struck a parked vehicle.

20. I attempted to get on the air and report that shots were fired and request medical support, but was unable to get on the air.

21. Then, I approached the driver with my gun drawn while Officer Garbisch placed him in handcuffs, because I believed he was still a threat until he was handcuffed.

22. At the scene, I was relieved by other officers, and went to sit in the front of Sergeant Christopher Pickhardt's squad. I remained in the squad car until I was transported to Hennepin County Medical Center to provide a urine sample for testing according to departmental policy. The results of the chemical test showed the absence of drugs or alcohol in my system.

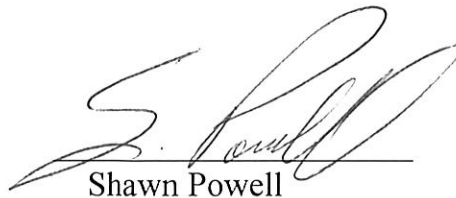
23. After being cleared at Hennepin County Medical Center, I was transported to the City Hall, where my duty weapon was recovered and I was transported back to the Fourth Precinct.

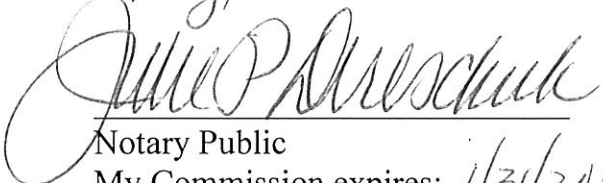
24. On or about February 11, 2009, I met with Sergeant Porras and Sergeant Kjos and described the incident.

25. I, as well as other witnesses, provided sworn testimony to a Hennepin County Grand Jury that convened in December 2009, at which time the Grand Jury returned a finding of "No Bill," indicating that my use of force did not violate the law.

Further Affiant sayeth naught.

Subscribed and sworn to
before me this 29th day
of May, 2013.


Shawn Powell


Notary Public
My Commission expires: 1/31/2017

[Seal]

