

**TEXAS DEPARTMENT OF PUBLIC SAFETY
Incident Report**

Employee Injury (Human Resources) Non Employee Property Damage/Injury (Office of General Counsel) Use of Force (Training) Assault on an Officer (Uniform Crime Reporting)

12/11/2009
Date of Incident

8:09 AM
Time of Incident

McManis Ranch Road and Rio Grande River, Hidalgo County
Location of Incident (address, city, county)

DPS Employee Information

Jose L. Martinez Jr.
Employee's Name

32
Age

M
M/F

12444
ID#

HP
Division

HP
Service

3
Region

A
District

1
Area

Subject, Offender, Property Owner, or Other Party Information

#	Name	M/F	Ethnicity	DL #	State	Address	Charges Filed
1	Ybarra, Patricia	F	2		TX	PO BOX 792, Elsa, TX 78543	None
2							
3							
4							

Ethnicity: 1-White, 2-Hispanic, 3-Black, 4-Asian, 5-Other

Property Damage To: Estimated Cost of Damage Description of Item(s) Damaged

Department
 Employee
1 Other Party \$14,997.00 1997 Chevrolet Astro Van VIN # 1GNDM19W1VB217577

Injury To: Indicate Severity of Injury Describe Part Injured

Employee 1 - Killed 3 - Non-incapacitating Injury
Other Party 2 - Incapacitating Injury 4 - Possible Injury

Indicate Type of Assignment for Employee

- 1 - Routine Patrol
- 2 - Criminal Investigation
- 3 - Civil Disturbance
- 4 - Security
- 5 - Warrant Service
- 6 - Off Duty
- 7 - Other _____
- 2 - One Officer Unit
- 1 - Two Officer Unit
- 3 - Investigator
- 4 - Ranger
- 5 - Non-Commissioned
- 2 - Assisted
- 1 - Alone

Indicate Type of Activity for Employee

- 8 - Traffic stop
- 2 - Motorist assist
- 3 - Responding to "Disturbance" call
- 4 - Robbery in progress / Pursuing robbery suspect
- 5 - Ambush - no warning
- 6 - Mentally deranged subject
- 7 - Outside employment
- 8 - Traffic pursuit
- 9 - Handling, transporting, custody of prisoner
- 10 - Attempting other arrest
- 11 - Investigating suspicious persons / conditions
- 12 - Burglary in progress / Pursuing burglary suspect
- 13 - Handcuffing
- 14 - Foot pursuit - approx. distance (feet) _____
- 15 - Executing warrant
- 16 - Other _____

Indicate Reason(s) for Use of Arrest / Control Tactic(s)

- Necessary to effect an arrest
- Necessary to defend reporting officer
- Necessary to defend another
- Necessary to restrain for subject's safety
- Necessary to restrain for other's safety
- Other _____

TEXAS DEPT. OF PUBLIC SAFETY
OFFICE OF GENERAL COUNSEL

JAN 21 2010

Indicate Type(s) of Arrest / Control Tactic(s) Used by Employee (check all that apply)

- Verbal Commands
- Handgun
- Shotgun
- Rifle
- Other Firearm _____
- Knife / Cutting Instrument
- Explosive
- Other Weapon _____

Weaponless

- Stunning Techniques
- Impact Weapon
- Mechanical
- Chemical Agent

Indicate Type(s) Resistance / Force Used by Suspect (check all that apply)

- Psychological Intimidation
- Verbal Non-Compliance
- Physical Non-Compliance
- Active Resistance
- Assaultive Resistance
- Threat of Serious Bodily Injury or Death

Weapon Involvement (if any)

- Handgun
- Shotgun / Rifle
- Impact Weapon
- Knife / Cutting Instrument
- Explosive
- Personal Weapons (Hands / Feet)
- Other _____

Pre-Incident Indicators (check all that apply)

- Aggressive Body Language
- Profanity, Threats, etc.
- High Levels of Anxiety
- Verbal Indicators
- Mentally Unstable

- Intoxicated
- Alcohol
- Drugs (type if known)
- Other _____

Ybarra, Patricia
RECEIVED
JAN 20 2010
TEXAS HIGHWAY PATROL

TEXAS DEPARTMENT OF PUBLIC SAFETY - PURSUIT INFORMATION

Hidalgo 3A01 12/11/09 8:09 6
1. County 2. Reg/Dist/Area 3. Date 4. Time Started 5. Duration (in minutes)

6. Video Tape? 7. Type of DPS Unit Engaging in Pursuit (Originating Unit) 8. Weather Conditions 9. Road Type 10. Road Class 11. Traffic Volume 12. Location 13. Length 14. Police Units Involved 15. DPS Units Involved

16. Suspect Vehicle Type 17. Speed of Law Enforcement Units 18. Speed of Suspect Vehicle 19. Agency Originating Pursuit 20. Initiating Event

21. Terminating Event 22. Forcible Stop Technique (If used) 23. Forcible Stop Technique Used By 24. Property Damage Resulting From Use of Forcible Stop Technique Sustained By

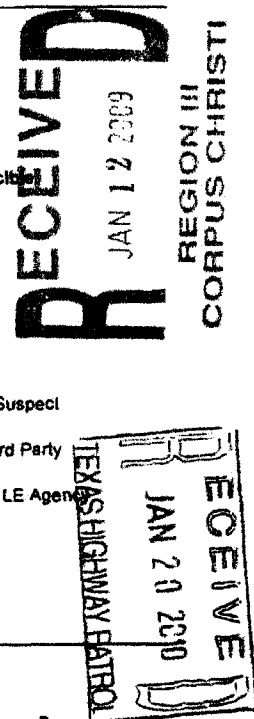
25. Arrest Data 27. Crash Involved 28. Injuries (Show Number and Severity of Injuries) 29. Property Damage (Estimate)

26. DPS Drivers and ID # Involved in Pursuit
Martinez, Jose L. 12444
28. Injuries (Show Number and Severity of Injuries)
29. Property Damage (Estimate)

30. Remarks: On 12-11-09 at about 8:03 am, Tpr. J. Martinez observed US Border Patrol in pursuit of a white Chevy van south on FM 493 approaching US 281 Military Rd. Trooper Martinez activated the patrol car's emergency lights and siren and assisted Border Patrol with the pursuit. The van turned east on US 281 Military Rd. and then south on McManis Ranch Rd. The driver of the van then drove the van into the Rio Grande River, where he swam across the river into Mexico. The driver was not apprehended. The van was loaded with bundles of Marihuana.

Reporting Trooper Martinez, Jose Luz ID# 12444 Date 12/11/09
Sergeant Victor Santa Ana Date 12-24-09 Lieutenant Arturo dela Garza, Lt Date 01/07/10
Captain Juan Rodriguez, Jr. Date 1-16-10
Major/Commander Major James Sanders Date 1-16-10

INSTRUCTIONS FOR COMPLETING THIS FORM ARE ON THE REVERSE SIDE



Employee's Description of Incident:

On 12-11-09 at about 8:09 am, Trooper Jose Martinez observed US Border Patrol units with emergency lights activated traveling westbound on US281 Military Hwy. Trooper Martinez then observed the Border Patrol units traveling northbound on FM 493 from US 281 Military Rd. Trooper Martinez followed the units and later made contact with the Border Patrol agents at the intersection of FM 493 and Vetrees Rd. Trooper Martinez was informed that US Border Patrol Agent Ricardo Alaniz was in pursuit of a suspected drug smuggling vehicle (white Chevy van) southbound on FM 493 approaching Vetrees Rd. The fleeing vehicle was a white Chevrolet Astro Van with Michigan Registration. Trooper Martinez observed the suspect vehicle traveling south bound on FM 493 at a high rate of speed, and a US Border Patrol Unit pursuing it with the emergency lights activated without the siren. Trooper Martinez also observed the US Border Patrol helicopter assisting on the pursuit with the siren on. Trooper Martinez activated his unit's emergency lights and siren and assisted Border Patrol with the pursuit. Trooper Martinez followed the Border Patrol unit during the pursuit (Trooper Martinez did not take the lead on the pursuit). The van traveled southbound on FM 493 to US 281 Military Highway. The Van turned eastbound on US 281 Military and then southbound on McManis Ranch Road towards the Rio Grande River. The Van approached the Rio Grande River where the driver drove it down the river bank into the water. Investigation later revealed that driver intentionally drove the van into the river to elude law enforcement officers and try to save the marihuana being carried inside the van. Once the van was in the water the driver exited the van and swam across the river into Mexico. Trooper Martinez observed approximately eight male subjects waiting for the driver of the van on the Mexican side of the river. Trooper Martinez did not observe any weapons being carried by the eight male subjects. The van remained submerged in the river for approximately three hours until it was extracted by All Ways Towing. The tow truck driver was unable to attach the chain to the van's frame because it was under water. The tow truck driver broke the van's side windows (with the Border Patrol Agent's consent) to tie the chains to the van's roof to be able to pull it out of the river. As a result of the technique used by the tow truck driver the van sustained extensive damage to its roof. The van sustained total loss damage due to being completely submerged in the water for approximately three hours. After the van was pulled out of the Rio Grande River US Border Patrol Agents removed large bundles from inside the passenger compartment. The bundles were confirmed to be 1,300 pounds of marihuana by US Border Patrol Agents. Investigation is on going by DEA Agents.

Trooper's Copy



Employee's Signature

12/21/2009

Date

Supervisor's Investigation of Incident:

(Detail your evaluation of the employees actions, any action taken, and any recommended action)

On 12-11-09 at about 8:30 am, I Sergeant Santa Ana was called via cell phone by Trooper Jose Martinez Jr. regarding a pursuit in which he assisted US Border Patrol Agents.

On 12-21-09, I Sgt. Victor Santa Ana, reviewed Trooper Jose Martinez' HQ-45 and pursuit video. Trooper Martinez assisted Border Patrol in a pursuit with a white Chevy van traveling southbound on FM 493 approaching US 281 Military, after he was advised that the vehicle was suspected of drug smuggling. During the pursuit, the suspect driver intentionally drove the vehicle into the Rio Grande River in an attempt to elude police and in an attempt to take the load of contraband back in to Mexico. The suspect was able to successfully escape into Mexico. Border Patrol recovered approximately 1,300 pounds of Marihuana from the interior of the van. Border Patrol took custody of the marijuana and the white Astro van.

Recommendation: After reviewing the pursuit video, I noticed that Trooper Martinez followed policy by activating his patrol unit's emergency lights and siren through out the pursuit. I also notice that Trooper Martinez remained the second unit on the pursuit, leaving the US Border Patrol Agent that initiated the pursuit as the lead unit. The end results of this pursuit were the direct result of the negligence of the driver, who refused to comply with Law Enforcement actions to come to a stop and his negligence in the operation of his vehicle. The driver intentionally attempted to elude police while transporting marihuana and intentionally drove his vehicle into the Rio Grande River. No further action recommended.

RECEIVED
JAN 12 2009

Major James Sanders

REGION III
CORPUS CHRISTI



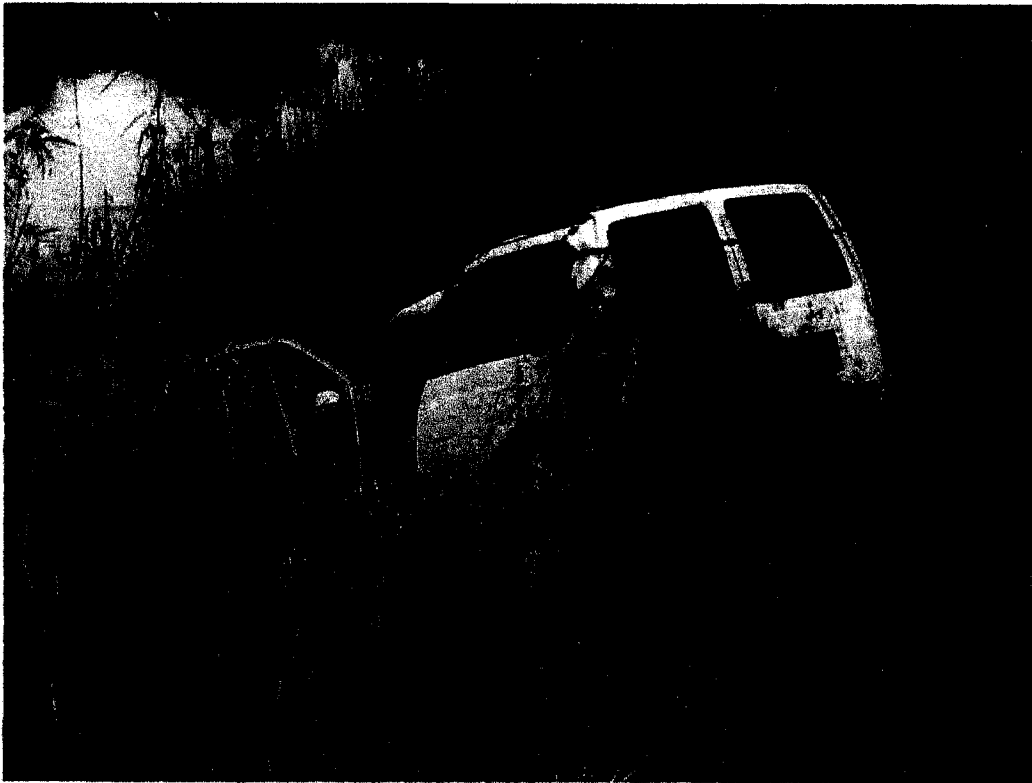
Supervisor's Signature

12/21/2009

Date



VIEW OF ASTRO VAN PARTIALLY SUBMERGED IN THE RIO GRANDE RIVER



REAR VIEW OF ASTRO VAN BEING EXTRACTED FROM RIVER



LEFT SIDE VIEW OF ASTRO VAN



VIEW OF MARIHUANA BUNDLES INSIDE OF ASTRO VAN



RIGHT SIDE VIEW OF ASTRO VAN



FRONT VIEW OF ASTRO VAN



VIEW OF MARIHUANA BUNDLES INSIDE ASTRO VAN



VIEW OF FICTITIOUS MICHIGAN LP



LEFT FRONT VIEW OF ASTRO VAN