

2024-00048

CHEROKEE COUNTY SHERIFF'S OFFICE

DATE: 9/18/2024

ALLEGATION/INQUIRY/COMMENDATION-REPORT FORM

I. Information Source:

Name: Martin Garcia Jr. Race: _____ Sex: M Age: _____ Date of Birth: _____

Address: 550 Riverstone Pkwy Apt A113 City: Canton Zip: 30114

Home Phone: _____

Business Phone: Cell: [REDACTED]

II. Deputy/Civilian Employee Information:

Name: Carlos Rubio Rank: Sergeant I.D.#: 16374
Division: Reserve Unit Number: 903

Name: _____ Rank: _____ I.D.#: _____
Division: _____ Unit Number: _____

III. Location of Incident:

Interstate 575 Southbound, south of Marble Quarry

Date: 09/13/2024 Time: 9 AM Case Number: N/A

IV. Description of Incident: ☒ Allegation ☐ Inquiry ☐ Commendation

Martin Garcia Jr. alleges a Cherokee Sheriff's Office (CSO) patrol vehicle caused his accident due to the CSO patrol vehicle coming to a complete stop on I-575. Garcia admitted that the officer did have his emergency lights activated when he began to slow down on the interstate while the officer was looking for a road hazard. When the officer located the hazard, he came to a complete stop. This caused Garcia's vehicle and the vehicle in front of Garcia to go off the roadway. Garcia then struck the center guard rail causing disabling damage to his vehicle. Garcia advised prior to the officer getting back in his vehicle, the officer looked over in his direction, but failed to check on him. Garcia wasn't sure, but he feels he and the officer made eye contact prior to the officer getting back into his patrol vehicle and leaving the scene. Garcia feels the officer should have checked on him prior to leaving the scene of an accident.

V. Witness Information:

Name: N/A Address: _____ City: _____

Home Phone: _____

Business Phone: _____

Name: _____

Address: _____

City: _____

Home Phone: _____

Business Phone: _____

VI. Person Taking Report:

Name: David Barone

Rank: Lieutenant

Division: OPS Shift: Days

Badge Number: 276

VII. Supervisor's Comments/Recommendations:

I explained to Garcia that due to him being behind a patrol vehicle which had its emergency equipment activated, it is his responsibility to operate his vehicle at a speed that would allow him to come to a stop prior to striking a fixed object. I told him the CSO will not accept responsibility for his single vehicle accident. I then explained a supervisor will look into the reason why the officer did not check on him prior to departing the scene. Upon review of AXON, the operator of the patrol vehicle has been identified as being Sergeant Carlos Rubio.

VIII. Allegation/Inquiry/Commendation Information:

How A/I/C Received: ☐ Telephone ☐ Written Form ☒ Personal Contact

A/I/C Referred to: Oak Grove Precinct Acting Commander

☐ A/I/C Resolved on Initial Contact ☐ Allegation/Inquiry Withdrawn

IX. Documentation Attached: ☐ Incident Report ☐ Written Statement ☒ Other

X. Division Commanders Review:

(Signature)

(Date)

☐ No further Action Required.

☐ Refer to _____ for further investigation.

☐ Recommend Formal Commendation.

Additional Comments:

- ☐ **Sustained:** The evidence is sufficient to prove the allegations.
- ☒ **Not Sustained:** The evidence is insufficient to either prove or disprove the allegations. *CPD*
- ☐ **Exonerated:** The evidence shows that the incident occurred and was lawful or proper.
- ☐ **Unfounded:** The evidence shows that the allegation is false or not factual.
- ☐ **Policy Failure:** The evidence is sufficient to show that the incident occurred, but was a result of flawed policy or procedures.

XI. Service of Employee

I hereby certify that the allegations have been discussed and described to me. I have received a copy of the Employee Rights Form and acknowledge that I understand these rights.

✓ [Signature]
Employee Signature
[Signature]
Witness Signature

9/19/24
Date
09-19-24
Date

XII. Notification of Findings

I understand that the investigating officer has the duty to inform me of the outcome of this investigation (sustained, not sustained, exonerated, unfounded, or policy failure) and I hereby certify and affirm that he / she has done so. I further understand that the investigating officer is merely a finder of fact and will not determine if adverse disciplinary action will be taken.

✓ [Signature]
Employee Signature
[Signature]
Witness Signature

9/19/24
Date
09-19-24
Date

Distribution: Division Commander
Internal Affairs



Memorandum Cherokee Sheriff's Office

To: Lt. Barone
From: Sgt. M Creeden
Date: 18 SEP 2024
Subject: Sgt. Carlos Rubio Allegation

On September 18th, 2024 I received notification of an allegation filed against Sgt. Rubio. The complaint was recorded by Lt. Barone, then forwarded to me. Upon speaking with Sgt. Rubio he stated he did stop for a road hazard on I-575 and activated his emergency lights. He stated he did not observe anyone crash their vehicle during this, but a few cars did swerve to go around him. He stated after he removed the object out of the roadway, he got back into his vehicle and continued driving.

I contacted the complainant, Martin Garcia, after conducting my review. Martin stated he still felt Sgt. Rubio looked over at his vehicle but was not certain. He also stated he felt Sgt. Rubio may have been speeding just prior to turning on his emergency lights and "slamming on his breaks" I reviewed the speed on Sgt. Rubio's AXON Dash camera, and it does not appear he exceeds 63 MPH (per the camera) in a 70 MPH zone. It does not appear he was speeding, nor does it appear he drove unsafe. When he cut his emergency lights on it does appear he was about 50 feet from the object in the roadway, and gradually slowed. Granted this is on the interstate and if other drivers are distracted they will have to break quickly due to an emergency vehicle now occupying both lanes of the interstate momentarily.

It is of my opinion that Sgt. Rubio did not drive unsafe, and he did not see a crash, or he would have stopped to check on the welfare of that person. I believe Sgt. Rubio activated his emergency lights in a reasonable amount of distance prior to coming to a complete stop to give drivers behind him ample time to stop.

Sergeant Michael Creeden #834