

Curriculum Vitae
Don Fleselman P# 5257
Las Vegas Metropolitan Police Department
Criminal Intelligence Section
400 S. Martin L. King Blvd. Las Vegas NV 89106
Phone number 702-828-3251/702-510-6204

EDUCATION:

Idaho State University, Pocatello, Idaho. Law Enforcement Certificate 1992
Community College of S. Nevada. AAS Criminal Justice, 2002
Police Academy, Idaho P.O.S.T, Graduated 12/1994
Police Academy, LVMPD, Las Vegas NV. Class 2/96

WORK EXPERIENCE:

Detective, Criminal Intelligence Section, Sergeant D. Heiner, April 19th, 2008- Present
Detective, Vice Section, Sergeant G. Shannon P#4111. July 2002- April 18th, 2008
Police Officer, NWAC Problem Solving Unit, Sergeant D. Densley P# 3577,
September 2001 - July 2002.
Field Training Officer NWAC, Sergeants: J. Russo P# 2043, T. Fletcher, D. Hoier, B. Primas, R.
Williams, and R. Sebby. 05/97 - 09/01
Police Officer, Field Training, Sergeant R. Wills and J. Russo P#2043 01/97 - 05/97
Police Recruit, Training Bureau, Sergeant M. Joseph, TAC officer R. Davis,
08/27/96 - 01/97
Police Officer Pocatello Police Department, Pocatello Idaho. Lt. B. Wheatley
(208)233-6100. October 3, 1994 - August 16, 1996.

WORK RELATED SKILLS:

Current Duty Assignment:

I am currently assigned to the LVMPD Criminal Intelligence Section. My current duties relate to long and short term investigations of criminal enterprises and organized crime. Most of these investigations involved Outlaw Motorcycle Gangs (OMG=s) until January 23rd, 2010 when my investigative focus was changed to Mexican Transnational Criminal Organizations and emerging organized crime.

Prior Duty Assignment:

I was assigned to the investigative squad of the LVMPD Vice Section from January 2004 through April of 2008. My squad=s primary focus was child pandering cases. We responded to every situation in Clark County Nevada involving children who were placed into the prostitution lifestyle. Each case was assigned two investigators. One detective acted as a lead investigator or case agent, the second detective had an equal role in the preliminary investigation and victim interviews and assisted as necessary in the long term follow up and case management. I was responsible for conducting both long and short term investigations to identify the adults involved in placing or encouraging the children to engage in a life of prostitution. I was often called upon to assist other Las Vegas Metropolitan Police Department units and outside law enforcement agencies with prostitution related investigations. These investigations ranged from petit larceny and identity theft to kidnapping and homicide. I conducted interviews and interrogations of juvenile and adult victims, witnesses, and suspects. When it became necessary in an investigation I prepared and executed search warrants and conducted both static and mobile surveillance. My other common duties included: cultivating and managing informants and sources of information; and conducting undercover operations and investigations for pandering and prostitution related crimes.

Relevant Work Experience:

I handled investigations for 282 juvenile prostitution victims during my assignment to the Vice investigative squad. I was assigned to the Innocence Lost task force composed of FBI agents and the LVMPD Vice investigative squad. This task force was started by the FBI to combat child prostitution trafficking in 13 original target cities which included Las Vegas Nevada. As a member of this task force I was sworn in as a Special Deputy U.S. Marshal. I have been involved in several federal child prostitution investigations since this task force started in July of 2004.

I have been case agent on several Outlaw Motorcycle Gang (OMG) investigations. I have prepared and served search warrants to support these cases. I have been a member of a federal task force regarding Outlaw Motorcycle Gang investigations that included The Bureau of Alcohol, Tobacco, and Firearms (ATF). I have managed sources of information regarding OMG=s. I have interviewed members and associates of OMG=s during investigations. I have interacted with members and associates of OMG=s while in an undercover capacity. I have attended major motorcycle rallies attended by OMG=s and associates, including: Sturgis South Dakota, the Laughlin Nevada River Run, and the Hells Angels World Run 2008 in Missoula Montana.

Instruction Experience

I have attended training for, and received certification as, an instructor from Nevada P.O.S.T.

I am a defensive tactics instructor and a Stop Stick instructor for the LVMPD.

I have been the Vice Investigations instructor for the Las Vegas Metropolitan Police Department Academy. I have instructed recruits in several academy classes.

I have instructed members of the Department of Juvenile Justice Services, Juvenile Division Deputy District Attorneys, members of the Public Defender's Office, and juvenile probation and psychological services personnel regarding juvenile prostitution in Clark County in January and February of 2005.

I presented a six hour class to the Western States Vice Investigators Association regarding the prostitution subculture and investigations in August of 2005. I instructed a similar four hour course for the California State Juvenile Officers Association on March 8th, of 2006.

On March 28th, 2006, The Innocence Lost Task Force allowed me to take part in a national roundtable meeting in Alexandria VA. At the National Center For Missing And Exploited Children (NCMEC). This roundtable included perspectives on juvenile prostitution from medical personnel, sociologists, outreach workers, and law enforcement. During the meeting I presented information on the Las Vegas Metropolitan Police Department's S.T.O.P. Program (Stop Turning Out child Prostitutes). This instruction was repeated on April 19th, 2006, in Los Angeles California during a Western States Investigators Case Coordination Meeting sponsored by the FBI and representatives of NCMEC. Both meetings resulted in gaining national perspectives, populations, and trends, in prostitution and pimp investigations.

On January 24th, 2007 I instructed a class regarding interviewing the victim of child prostitution for the National Advocacy Center in Columbia SC. The target audience included Assistant U.S. Attorneys and Federal law enforcement officers.

I currently have an eight hour Vice Investigations lesson plan on file with the LVMPD and Nevada POST. I have instructed this class for LVMPD patrol officers as in-service training.

In January 2010 I assisted with on-line prostitution investigation instruction for FBI and Task Force officers in Calverton Maryland.

I have provided instruction to LVMPD personnel regarding Outlaw Motorcycle Gangs and the OMG subculture. I have assisted with the production of other training regarding Outlaw Motorcycle Gangs.

Court Testimony:

I have testified as an expert in the prostitution subculture in several criminal trials in both Clark County District Court and Federal Court in Las Vegas Nevada.

State of Nevada v. Forrest Adams (Clark County District Court Case 07-C-231237-C)

State of Nevada v. Jerome Ford (Clark County District Court Case 07-C-239434-C)

State of Nevada v. David L. Smith (Clark County District Court Case 08-C-248073-C)

United States of America v. Quinton Williams (U.S. District Court of Nevada Court Number 2:03-CR-

046-KJD-RJJ)

State of Nevada v. Francis Cothiere (Clark County District Court Case 08-C-245579-C)

Additional Skills:

Trained in crisis negotiation.

PROFESSIONAL ASSOCIATIONS:

Western States Vice Investigators Association Nevada Representative 2003, 2004, Sgt. At Arms 2005.

Tri-State Intelligence Association, 2001-2002; 2005-2009 (OMG)

Southern California Outlaw Motorcycle Gang Investigator=s Association 2002

International Outlaw Motorcycle Gang Investigator=s Association 2005-2008

International Association Of Financial Crimes Investigators 2007

RELEVANT BOOKS READ:

1. The Road To Hell: How the Biker Gangs are Conquering Canada, By Julian Sher and William Marsden (2005)
2. Angels Of Death: Inside the Biker Gangs= Crime Empire, by Julian Sher and William Marsden (2007)
3. Under and Alone: The True Story of the Undercover Agent Who Infiltrated America's Most Violent Outlaw Motorcycle Gang, by William Queen (2007)
4. The Assimilation: Rock Machine Become Bandidos - Bikers United Against the Hells Angels, by Edward Winterhalder
5. No Angel: My Harrowing Undercover Journey to the Inner Circle of the Hells Angels, by Jay Dobyns. (2009)
6. Hells Angels: Into The Abyss, by Yves Lavigne (1996)
7. Hell's Angel: The Life and Times of Sonny Barger and the Hell's Angels Motorcycle Club, by Ralph Sonny Barger. (2001)
8. Hell's Angels: Three Can Keep a Secret If Two Are Dead, Yves Lavigne. (2000)
9. The Original Wild Ones: Tales of the Boozefighters Motorcycle Club. By Bill Hayes (2005)
10. The Pimp Game: Instructional Guide; By Mickey Royal © 1998
11. The Art of Mackin'; By Tariq (K-Flex) Nasheed © 2000
12. My Life as a Pimp; By Iceberg Slim
13. Soiled Doves, Prostitution In The Early West; By Anne Seagraves © 1994
14. The Lords of Hell; By Sarra Harris © 1967
15. Black Players: The Secret Life of Black Pimps; By Richard and Christina Milner © 1973
16. Predators: Pedophiles, Rapists, and Other Sex Offenders: Who They Are, How They Operate, and How We Can Protect Ourselves and Our Children; By Anna Salter Ph.d © 2004
17. Original Game: Interview With An Old School Player; By Darryel (White Folks) Woodson © 2005

RELEVANT DOCUMENTARY FILMS STUDIED:

1. American Pimp
2. Pimp's Up Ho's Down
3. American Pimp Raw Outtakes and The Hard Truth

SUMMARY OF TRAINING RECEIVED AND INSTRUCTION PROVIDED

<u>CLASS</u>	<u>DATE</u>	<u>HOURS</u>
Advanced Officer Skills Training (AOST) 2008 Train the Trainer	1/7/2008	7
AOST 2009 Train the Trainer	2/5/2009	8
AOST 2010 Train the Trainer	1/14/2010	4
AOST 2011 - Train the Trainer	1/12/2011	2
AOST 2012 - Train the Trainer	1/9/2012	4
Safe Motorcycle Rider Skills	5/19/2008	16
Outlaw Motorcycle Gangs	6/17/2008	8
Prostitution Investigation & Intel Gathering (Instructor)	7/10/2008	8
Introduction to Latent Print Processing	5/29/2008	2
Outlaw Motorcycle Gangs (Instructor)	1/6/2009	7
Searching Public Records	10/28/2009	14
Evidential Breath Testing Operator Recertification	9/30/2009	2
Desert Sky Radio (Train the Trainer)	6/9/2010	1
Financial Analysis and Research	1/27/2011	4
Evidential Breath Testing Operator Recertification	3/14/2012	2
Death Investigations	9/5/2012	7
Use of Force - Policy Training	6/14/2012	4
SCOPE II Inquiry	9/24/2012	1
NCIC Recertification	7/24/2012	1
Mexican Drug Cartels	11/3/2009	14
ECD Instructor Certification - Train the Trainer	1/14/2009	2
	9/19/2008	35

2011 Annual Information Only: Motorcycle Gang Assoc

Cell Phone Investigations	12/12/2008	16
Innocence Lost: Basic Online Covert Investigative Training (Instructor)	1/21/2010	24
DEA Wiretap 101	12/1/2009	8
Investigating Drug Trafficking Organization	1/29/2010	36
State of Nevada Terrorism Liaison Officer Basic Course	6/1/2011	5
High Profile Investigation and Case Management	10/20/2010	8
FBI-LEEDA/LifeLock Identity Theft Summit	12/8/2010	16
Evolution of Mexican Drug Cartels and the Escalation of Violence	12/16/2010	8
Advance Hidden Compartment Detection Course	2/25/2011	16
8th International Conf. on Asian Organized Crime and Terrorism	4/22/2011	40
Advanced Financial Investigations Training	7/14/2011	24
Enforcement Expo Las Vegas	9/2/2011	10.5
Protecting the Games Academy XXXIX (Gaming Control Board)	3/23/2012	40
Bloodstain Pattern Analysis 1	5/21/2012	1.5
Bloodstain Pattern Analysis 2	5/22/2012	2.25
Interview Techniques	6/4/2012	1.25
Intelligence Techniques for Informant Development	6/5/2012	8
Bank Secrecy Act Training	8/2/2012	24
DNA Overview and Buccal Swab Collections	2/8/2012	2
D.E.A. Concealed Trap Detection Training	1/14/2011	7
Bicycle Officer Training	1/30/1998	40
Cults, Occults, and Deviant Behavior	5/8/1998	14
FTEP Initial Certification	9/14/1999	18
	1/17/1997	4

HAZ-MAT First Responder

General Investigations Section, Investigations Internship	7/19/1999	9
Narcotics Identification	7/14/1998	2
NIK Poly Certification	1/17/1997	4.5
Search and Seizure/Forfeitures	1/21/1999	7
Search Warrant Preparation/Execution	5/13/1998	14
Traffic Radar Certification	3/23/1999	14
Police Gangs Investigations	5/19/2003	6
Police Academy Class 2-1996	1/17/1997	681.5
Wiretap Training	7/23/2003	4
Western States Vice Investigators Association Conference-2003	8/25/2003	36
Advanced Interview and Interrogation (Instructor: Carl Stincelli)	3/1/2004	14
Search Warrant Certification Course-Tactical Portion	4/15/2004	8
Basic Cyber Investigator Course	8/16/2004	8
Instructor Development Course	10/20/2004	40
Protecting Victims of Child Prostitution	10/14/2004	40
Law Enforcement Officers Flying Armed	7/8/2005	2.5
Hostage Negotiations-Five Day	3/21/2003	38.5
National Incident Management System (NIMS)	6/24/2005	2
Informant Management	10/10/2001	4
Interview and Interrogation (Instructor: Carl Stincelli)	3/28/2001	21
Killology Seminar (Presenter: Col. Dave Grossman)	1/23/2002	7.5
L.A. Clear Training	9/3/2002	2
Drug Recognition and Evaluation (DRE) Training	3/25/1998	8
	4/22/1998	8

K-9 Agitator Class

Narcotics Interdiction	10/10/2000	8
Western States Vice Investigators Association Conference-2005	8/15/2005	36
Juvenile Issues Training	4/25/2005	31
FBI-CART Image Scan System	6/8/2006	6
Contemporary Police Leadership	3/23/2006	7
Ethical Leadership	3/23/2006	7
Financial Investigative Techniques-MCTFT	2/7/2007	24
Search Warrant Preparation	4/23/2007	14
Search Warrant Certification Course-Tactical Portion	5/1/2007	5.5
LVMPD Patrol Rifle Course-Initial Certification	12/11/2006	40

Jeffrey Simpson

Santa Cruz County Sheriffs Office

Education

California State University, Chico

Lambuth University

Shasta College

Red Bluff High School

1998-2001

1997- 1 998

1994- 1 997

1990- 1 994

B.A. Geography and Planning

A. A. General Education

High School Diploma

Butte Law Enforcement Academy

Post Basic Certificate

Post Intermediate Certificate

Post Advanced Certificate

2003

2004

2006

2009

POST Certificate

Law Enforcement Training and Experience

Patrol Deputy Santa Cruz Sheriffs Office

Court Security Deputy Santa Cruz Sheriffs Office

Patrol Deputy Santa Cruz Sheriff's Office

Patrol Deputy, Alternate FTO Santa Cruz Sheriff's Office

2003-2005

2006

2007-2008

2008-2010

Currently a member of the Santa Cruz County Gang Task Force

Duties are to identify gangs, identify gang members, investigate gang-related crimes and stay current on gang activities. The task force also provides street level enforcement and intelligence gathering.

I have been involved in no less than sixty gang-related investigations for crimes including 187 PC, 245 PC, weapons and drug offenses.

I have contacted and spoken with over 100 gang members.

I have authored three gang related search warrants.

I have participated in no less than 10 gang-related search warrants.

I have participated in and helped organize Joint Agency Gang (JAG) operations.

I have attended several South Bay Gang Alliance meetings.

In addition to my formal training, I discuss gang activities and trends with members of other gang task forces, expert gang investigators and patrol officers. I also review monthly criminal gang intelligence bulletins and police reports.

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I have completed four 186.22 supplemental reports.

Gang Training

- . Basic Gang Course -Central Coast Gang Investigator Association- (7/1 0)- 8 hrs
- . Computer system relating to Gangs ..San Jose Police Department- (8/1 0)- 16 hrs
- . Gang Infiltration Through the Use of Informants- HIDE A- (8/1 0)- 8 hrs
- . La Nuestra Familia and Norteno Street Gangs- CCGIA- (9/1 0)- 8 hrs
- . LEADS training - Santa Cruz County Sheriffs Office- 4 hrs
- . Monterey Gang Task Force Conference- Various Agencies (1 0/1 0)- 13 hrs

- . Social Networking relating to Gangs- San Jose PD (1 0/1 0)- 1 hr
- . Outlaw Motorcycle Training (10/10)- WSIN- 2 hrs
- . Mexican Mafia and Sureños- CCGIA (5/11)- 8 hrs
- . Santa Cruz County Gang Academy (6/11)- 16 hrs

During this academy, I was an instructor for outlaw motorcycle gangs

- . Formal gang training -Santa Cruz County Sheriffs Office- 8 hrs
- . Field Training Officer School- 40 hrs
- . Member of the Central Coast Gang Investigator Association.

Video Training relating to Outlaw Motorcycle Gangs

1. "Behind Enemy Lines" Hells Angels MC- Gangland season 1 episode 4.
2. "Biker Wars"- Outlaw MC- Gangland season 2 episode 16.
3. "Mongols Nation"- Mongols MC- Gangland season 2 episode 21.
4. "Bandido Army"- Bandido MC- Gangland season 3 episode 31.
5. "Biker Wars 2"-Hells Angels & Mongols MC- Gangland season 4 episode 49.
6. "The Death Head"- Hells Angels MC- Gangland season 5 episode 56.
7. "Snitch Slaughter" - Vagos MC- Gangland season 6 episode 62
8. "The Filthy Few"- Hells Angels MC- Gangland season 7 episode 83.
9. "Inside Outlaw Bikers"- Hells Angels Documentary- National Geographic.

Literature related to Outlaw Motorcycle Gangs:

1. Hells Angel- Sonny Barger
2. Angels of Death- Julian Sher, William Mardsen
3. A Wayward Angel- George Wetherm, Vincent Colnett
4. No Angel- Jay Dobson
5. Bikers- Arthur Veno
6. Under and Alone- William Queen

In addition to the above listed training, I have received numerous hours of informal training from local gang experts including Roy Morales (SCSO), Mario Sulay (SCDAO), Henry Montes (SCDAO), Mike Walker (WPD), and Jorge Gilblanco (WSIN).

Curriculum Vitae

Eric Bennett

San Bernardino Police Department

I am detective, employed by the San Bernardino Police Department and have been so for 10 years. Prior to my employment with the San Bernardino Police Department I was employed with the Los Angeles Police Department for approximately 2 years. I am currently assigned to the San Bernardino Police Department narcotics unit. My prior assignment was also within the narcotics unit assigned as a Task Force Officer (TFO) with the California Department of Justice (CADOJ), Bureau of Investigation (BI), Inland Crackdown Allied Task Force (INCA). My duties included working major narcotics investigations. I have also been monitoring the movements of the Vagos Outlaw Motorcycle Gang (OMG) since April 2010. I am a member of the Southern California Outlaw Motorcycle Investigators Association, Tri-State Intelligence Association and the International Outlaw Motorcycle Gang Investigators Association. I have interviewed both full patched members and hang a rounds from within the Vagos, giving me an inside perspective on what life is like as a member. I have monitored nearly 100,000 intercepted telephone calls during a 12 month wire intercept of high ranking members of the Vagos. I have also written search warrants for houses related to the Vagos and collected historical data. I have testified as an expert as it relates to the Vagos in San Bernardino County Superior Court. I have also worked closely with seasoned OMG investigators throughout the United States, Canada and Australia. I also teach on the Vagos for the International Outlaw Motorcycle Gang Investigators Association.

**CURRICULUM VITAE
JORGE GIL-BLANCO**

Expert Qualifications:

Outlaw Motorcycle Gangs

Law Enforcement Experience and Assignments

January 1973 to September 1974
Los Angeles Police Department
Patrol Officer

September 1974 to April 1978
Sacramento Sheriff's Department
Narcotics Investigator and undercover work
Patrol Deputy
Custody Deputy
Court Security Deputy

April 1978 to July 2004
San Jose Police Department
Training Officer / Instructor
Field Training Officer
Academy Instructor
Narcotic Investigator (DEA Task Force) and undercover work
Criminal Intelligence Officer – Outlaw Motorcycle Gangs
Patrol Officer
Burglary Prevention Investigator and undercover assignments
Parks Patrol Officer
Personnel Officer (Background Investigator / Recruiter)
Narcotic Investigator and undercover assignments

November 2004 to December 2005
Dixon Police Department / Solano County Narcotic Enforcement Team
Narcotics Investigator

January 2006 to April 2009
California Department of Justice
Department of Law Enforcement / Western States Information Network
Regional Coordinator

May 2009 to July 2012
California Department of Justice
Department of Law Enforcement / Western States Information Network
Law Enforcement Coordinator/Training Coordinator

October 2012 to Present
San Mateo County Sheriff's Office
Gang Intelligence Unit
Deputy Sheriff

Specialized Training

August 2008
How to Prepare for Expert Testimony on OMG – 16 hr Course
RMIN
Phoenix, AZ

June 2002
Racial Profiling Train-the-Trainer Course
Museum of Tolerance
Los Angeles, California

July 2001
Drug Recognition Expert Course
California Highway Patrol @ Carlsbad Police Department

March 2000
Force Option Simulator Instructor Course
West Covina Police Department

February 1998
Field Training Officer Course
South Bay Regional Training Consortium

September 1996
Baltimore, Maryland
Criminal Investigative Technology, Inc.
Advanced Telephone Analysis Course

May 1996
Lincoln, Nebraska
Pen-Link Ltd.
Call Analysis Training School for Law Enforcement

March 1995
Electronic Surveillance Course
California Department of Justice

November 1991
Interview and Interrogation Techniques Course
FBI – San Francisco

June 1991
Sacramento, California
Protection of Public Officials (VIP Protection)
California State Police

November 1990
Sacramento, California
Basic Elements of Criminal Intelligence
California Department of Justice

September 1990
Sacramento, California
Drug Identification and Influence: Trainers
California Department of Justice

November 1988
San Jose, California
Background Investigations
South Bay Regional Training Consortium

Specialized Experience in Investigation of Outlaw Motorcycle Gangs

September 2012
Consulted with Riverside DA Office re Orange County HA James Bradley Case.

Consulted with San Mateo DA Office re Daly City HA Donnie Lopez Case

August 2012
Consulted with Las Vegas DA Office re Bandidos and Down & Dirty MC's re assault on Flaming Knights case.

Consulted with San Joaquin SO regarding CA Nomads homicide investigation.

June 2012
Consulted with San Joaquin SO regarding CA Nomads homicide investigation.

Monitored Alky Haulers MC event in San Mateo County.

Consulted with Santa Clara County DA re HA case (Bettencourt)

May 2012
Consulted with San Joaquin SO regarding CA Nomads homicide investigation.

Consulted with Turlock PD re HA / Norteño homicide case.

Consulted with San Diego DA regarding HA assault case (Thorsgard).

April 2012

Consulted with Clark County DA regarding HA wedding chapel case in Las Vegas.

March 2012

Consulted with San Joaquin SO regarding CA Nomads homicide investigation.

January 2012

Consulted with US Attorney's Office regarding former Ventura HA President George Christie case involving Arson of Tattoo Parlor competitors.

December 2011

Consulted with San Diego DA regarding Dago HA case involving 9 HA member and 2 Associates case re Aggravated Mayhem, Torture, Kidnap, Robbery, Auto Theft, Conceal/Sell/Withhold Stolen Vehicle, and Perjury by Declaration.

Consulted with Sonoma DA regarding Sonoma HA member Russell Lyles who was arrested for possession of a deadly weapon (whip).

November 2011

Consulted with Ventura SO regarding OC HA Michael Pena arrest for possession of a deadly weapon.

October 2011

Consulted with Kern DA regarding OC HA Michael Pena case involving stolen firearms. Reviewed evidence seized pursuant to search warrant at San Jose Hells Angels member John Gonzalez at Campbell PD.

Consulted with Sparks PD re Hells Angels vs Vagos shooting/homicide in Sparks, Nevada.

Monitored Vagos Operation Simple Green "takedown" in San Bernardino. Reviewed items of evidence as they were being processed at the command post.

September 2011

Consulted with Sparks PD, Washoe SO, and San Jose PD re Hells Angels vs Vagos shooting/homicide in Sparks, Nevada.

August 2011

Monitored search warrant service at the Sonoma Hells Angels clubhouse. Related to Lake County SO investigation of Hells Angels members Tim Bianchi, David Dabbs, Josh Johnson, and Nicolas Carillo. The investigation involved the assault of a Lake County Vagos member and an associate.

Monitored search warrant service at the Dago Hells Angels clubhouse. Related to DEA & San Diego PD investigation of Hells Angels Dago members Billy Castellano, Brian Haag, Kirtith Nielsen, Michael Ottinger, Stephen Sanders, Troy Scholder, Jason Vanmeter; Sonoma

County Hells Angels member David Dabbs; former Dago Hells Angels member Dustin Harroun; Dago Wrecking Crew president Shane Sanders; and Hawaii Wrecking Crew president Aden Stay. The various charges include: Aggravated Mayhem; Kidnap for Ransom, Reward or Extortion; Buy/Receive/Conceal/Sell/Withhold Stolen Vehicle; Torture; Robbery; Unlawful Take and Drive a Vehicle; Perjury by Declaration; and that all committed these felony offenses for the benefit of, at the direction of, and in association with a criminal street gang with the specific intent to promote, further and assist in criminal conduct by gang members within the meaning of PC 186.22(a)(1).

July 2011

Consulted with Gridley PD regarding a California Nomads Hells Angel in possession of a loaded and concealed firearm.

Monitored Mongols National Run in San Diego County.

Monitored Hells Angels Canada Run – Windsor, Ontario, Canada.

Consulted with Santa Cruz SO regarding San Jose Hells Angel in possession of a loaded and concealed firearm.

June 2011

Consulted with Lake County SO regarding a Hells Angel assault on a Vagos member.

May 2011

Monitored HA South Run - San Diego.

April 2011

Monitored Santa Cruz HA Thugs Bunny Run.

Consulted with Santa Clara County DA and Santa Clara PD on Bettencourt/Rojas Case.

February 2011

Consulted with Roseville PD regarding Vagos case.

January 2011

Consulted with Bonner County, Idaho prosecutor regarding Hermanos MC case.

Consulted with Lake County DA regarding Misfits MC case.

December 2010

Consulted with Santa Clara PD regarding officer that was arrested for providing information to Hells Angels member.

Consulted with Kern SO and DA regarding Hells Angels homicide case.

November 2010

Met with Tulare PD, reviewed evidence seized during investigation of Terrorist Threats/Domestic Violence/Gang Enhancement case involving the President of the Fresno Hells Angels charter.

October 2010

Monitored search warrant service at residence of Santa Cruz Hells Angels member who was arrested on no bail warrant for conspiracy (182 (a)(1) PC). A Santa Clara Police Officer was also arrested on the same charge.

Monitored search warrant service at the Berdoo Hells Angels clubhouse. Related to Kern County Sheriff's Office homicide investigation of Hells Angels Orange county member Mike Peña.

Reviewed evidence photos, video, and reports from Hells Angels vs Mongols assault with a deadly weapon (245 PC) incident from Los Angeles County.

September 2010

Reviewed evidence and reports from Santa Cruz Hells Angel arrest for assault, possession of steroids for sale, felon in possession of a firearm.

July 2010

Monitored Hells Angels USA Run in Gunnison, Colorado.

June 2010

Consulted with CHP regarding Hells Angels vs Mongols incident in Los Angeles County.

May 2010

Monitored Hells Angels South Run in Three Rivers, CA.

Assisted Kern County SO with Hells Angels vs Vago homicide investigation.

February 2010

Reviewed reports and consulted with Lake County Sheriff's Detectives and District Attorney re Misfit member Thomas Dudney and prospect Josh Wandrey home invasion/robbery; attempted homicide case.

Reviewed reports and consulted with Santa Cruz District Attorney's Office re Santa Cruz Vago member Thomas Froberg who was arrested after brawl with Hells Angels. Froberg was charged with Disturbing the Peace (415 PC) with a Gang Enhancement (186.22 PC). Reviewed reports and consulted with Tulare County District Attorney's Office re Mongols member Edward Aguirre who was arrested for Possession of firearms by a felon (12022(a) PC); Possession for Sale of a Controlled Substance (11379 H&S); Possession of Illegal Weapon (12020 PC); et al.

September 2009

Reviewed reports and video of aggravated assault of bar employee by Mesa (Arizona) Hells Angels member and prospect. Provided Expert Testimony on the case in Maricopa County, Arizona. (People vs Nathan Sample and Julian Cano).

March 2009

Monitored search warrants served at two Hells Angels' residences in Ventura County. There were a total of 12 search warrants served on 11 Ventura/Santa Barbara Chapter members and/or prospects. Stolen motorcycles, numerous firearms, gang indicia, and controlled substances were located at some of the locations.

August 2008

Reviewed reports of search warrants served at residences of Hells Angels Oakland President Cisco Valderrama and Sgt-at-Arms Gavan Malone. Both were arrested (along with several other non-Hells Angel members) for Cultivation of Marijuana, Possession for Sale of Marijuana, Possession of Stolen Property, Possession of numerous firearms (while committing a Felony), Possession of High Capacity Magazines, Possession of Stolen Property, and Theft of Utilities.

July 2008

Monitored search warrant served on Frisco Hells Angels Chapter clubhouse in San Francisco. Reviewed items seized from this clubhouse and two other locations; Sonoma County Hells Angels clubhouse and residence of Sonoma Hells Angels Vice-President John Nelson.

Monitored search warrant served at residence of Merced County Hells Angels President Kellon Brenton in Atwater. Reviewed items seized from this residence.
Monitored Hollister Rally.

April 2008

Monitored search warrant served on the Daly City Hells Angels Chapter clubhouse in East Palo Alto. Reviewed items seized from this clubhouse and residence of Daly City Hells Angels Sgt-at-Arms Rodney Gee.

March 2008

Monitored Hells Angels 60th Anniversary Party in San Bernardino and Yucaipa.

July 2007

Monitored Hollister, Fourth of July Rally.

Monitored search warrant served on the Berdoo Hells Angels Chapter clubhouse in San Bernardino. Reviewed items seized from this clubhouse.

December 2006

Monitored Hells Angel Berdoo Toy Run in Yucaipa.

October 2006

Monitored the Fresno County Hells Angels 15th Annual Panhead Run at the Madera Fairgrounds.

August 2006

Monitored the Top Hatter MC Central Valley Chapter party in Oakdale.

August 2006

Monitored search warrant served on the Merced County Hells Angels Chapter clubhouse in the city of Chowchilla. Reviewed items seized from this location.

July 2006

Monitored Hells Angels World Run in Cody, Wyoming.

July 2005

Monitored Hollister, Fourth of July event.

April 2002

Interviewed San Jose Police Officers and reviewed police reports from officers that were involved in conducting surveillance and arrests at the Annual Blessing of the Bikes event in San Jose.

April 2001

Interviewed San Jose Police Officers and reviewed police reports from officers that were involved in conducting surveillance of the Annual Blessing of the Bikes event in San Jose.

November 1994 to March 1998

Assigned as a cross-designated U.S. Drug Enforcement Agency (DEA) Task Force Agent (TFA). While assigned to the San Jose Resident Agency of the DEA, my main focus was the San Jose Hells Angels chapter. This investigation included both the physical and electronic surveillance of members of the club and their associates. This surveillance took place over 3 years.

November 1990 to November 1994

Assigned as a Criminal Intelligence Officer, with the San Jose Police Department. My duties consisted of gathering, correlating and analyzing information received from law enforcement agencies, both from municipal, state and federal agencies across Canada, the United States, and other international countries, regarding outlaw motorcycle gangs generally and, in particular, the Hells Angels.

From 1990 through 1998, I met and interviewed the following ex members of the Hells Angels:

- Terry Norman (ex member Winston-Salem chapter)
 - Charlie Haas interviews (ex member Sonoma chapter)
 - George Kaminski interviews (ex member and Sgt-at-Arms Monterey chapter)
 - Robert Sandy interviews (ex member and vice-president Oakland chapter)
- They confirmed the structure of the Hells Angels, their participation in criminal activities and

the meaning of certain patches and tattoos such as the Filthy Few, Dequiallo, and P.P.B.S. We also discussed the reason why they provided information to law enforcement.

From 1990 to the present, I have had the opportunity and continue to maintain contact and converse with law enforcement agents who have worked in an undercover capacity as members and/or conducted investigations of the following outlaw motorcycle gangs:

- Warlocks
- Hessians
- Vagos
- Outlaws
- Pagans
- Mongols
- Sons of Silence
- El Forasteros
- Hells Angels
- Bandidos
- Misfits
- Soul Brothers

They confirmed the modus operand of outlaw motorcycle gang members, their lifestyle and their interaction and/or warring with the Hells Angels.

I have had the opportunity to speak with Anthony Tait on a number of occasions. Anthony Tait is an ex member of the Hells Angels who became an FBI source while he was a member of the Hells Angels. Tait subsequently became the West Coast Sergeant-at-arms for the Hells Angels. In these conversations, Tait described the Hells Angels organization, structure, club business, executive role and their criminal activities.

August 1998

Hanford, California -- Provided on site comprehensive information and guidance to the Hanford Police Department at a scheduled MMA sponsored "Return to Hanford Run." There was an expected attendance of 3,000 bikers, including members of the Hells Angels and one of their puppet clubs (Scream City MC currently known as the Fresno Hells Angels).

March 1998

Pursuant to a search warrant, I assisted in a search of the Oakland Chapter of the Hells Angels Clubhouse, in Oakland, California. The Oakland Chapter is considered the "Mother Chapter" or the driving force behind the Hells Angels Organization. It is also the location where the West Coast Officer Meetings (WCOM) is normally held.

Pursuant to that search, I assisted in the seizure of computer documents, including the WCOM notes dated from January 1990 through March 1998. I was able to review all those meeting notes and various other documents that were seized. It gave me an insight into the Hells Angels organization, structure, club business, membership, ideology, and the criminal activities they are and have been involved in.

August 1996

Assisted the D.E.A. Boston office with the investigation of Gregory Domey, president of the Hells Angels Salem chapter and East Coast representative to the WCOM.

May 1996

Interviewed a cooperating individual who had been arrested for conspiracy and possession with intent to distribute 12 pounds of methamphetamine in Honolulu, Hawaii. Two other suspects that were arrested were Jay Serrano, a member of the Frisco Hells Angels and a member of a local Hawaiian outlaw motorcycle gang, the Na' Kua Ana MC.

January 1995

Assisted the California Department of Motor Vehicles (DMV) Special Operations Unit in terminating an employee for criminal misconduct. The particular employee was an officer in the Modified Motorcycle Association, San Jose Region and was also affiliated with the Jousters MC. The employee was issuing fraudulent California drivers' licenses to members of the Jousters MC, who had their drivers licenses suspended. The employee had access to vehicle registration and drivers license data base information for the State of California.

National and International Conferences on Outlaw Motorcycle Gangs-

In my capacity as an Outlaw Motorcycle Gang Expert and Instructor on Outlaw Motorcycle Gangs, I have the opportunity to attend a number of national and international conferences on the subject of outlaw motorcycle gangs, as either presenter or attendee. Generally, topics include new trends, specific information regarding outlaw motorcycle gangs, involvement in criminal activity, the meaning of old and new patches and tattoos, updates on gang membership and, in the case of international conferences, overviews of outlaw motorcycle gangs from investigators from different countries. Ex-members of outlaw motorcycle gangs are made available for a question period where investigators can ask about gang structure, gang activity, business etc. These conferences provide an opportunity to discuss outlaw motorcycle gangs with other investigators from around the world.

Specifically, of note:

October 2012

Toronto, Ontario, Canada

Criminal Intelligence Service Canada National Outlaw Motorcycle Gang Expert Witness Workshop

September 2012

Scottsdale, Arizona

International Outlaw Motorcycle Gang Investigators Association Conference

September 2011

St. Louis, Missouri

International Outlaw Motorcycle Gang Investigators Association Conference

September 2010
San Diego, California
International Outlaw Motorcycle Gang Investigators Association Conference

September 2009
Nashua, New Hampshire
International Outlaw Motorcycle Gang Investigators Association Conference

July 2009
Baltimore, Maryland
Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOGLEN)
22nd Annual Gang Information Sharing Conference

May 2009
Everett, Washington
NorthWest Outlaw Motorcycle Gang Investigators Association (NWOMGIA) Conference

March 2009
Gravenhurst, Ontario, Canada
Biker Enforcement Unit
Frontline Officer Training Conference on Outlaw Motorcycle Gangs

September 2008
Des Moines, Iowa
International Outlaw Motorcycle Gang Investigators Association Conference

February 2008
Rancho Cordova, California
16 hr Indoor Marijuana Grow Investigation Course
(Retired RCMP Instructor Les Kjemhus)

September 2007
West Palm Beach, Florida
International Outlaw Motorcycle Gang Investigators Association Conference

August 2007
Sacramento, California
California Department of Justice
Criminal Intelligence Bureau Training Conference
(2hr update on Outlaw Motorcycle Gangs)

May 2007
South Lake Tahoe, NV
Biker Investigator Association of Northern California Conference

September 2006
San Diego, California
International Outlaw Motorcycle Gang Investigators Association Conference

February 2006
Stockton, California
Outlaw Motorcycle Gang Presentation by ATF Undercover Agents
(Hells Angels; Vagos; Warlocks; Mongols)

September 2005
Laughlin, Nevada
International Outlaw Motorcycle Gang Investigators Association Conference

September 2003
Scottsdale, Arizona
International Outlaw Motorcycle Gang Investigators Association Conference

November 2001
Halifax, Nova Scotia
Canadian Outlaw Motorcycle Gang Investigators Conference

June 2000
Canada Police College, Ottawa, Ontario
Expert Witness (HA) Course

April 2000
Calgary, Alberta
Western Canada Outlaw Motorcycle Gang Workshop

November 1999
Toronto, Ontario, Canada
The Canadian Outlaw Motorcycle Gang Investigators Association Conference

September 1999
San Diego, California
International Outlaw Motorcycle Gang Investigators Association Conference

May 1999
Palm Springs, California
Southern California Outlaw Motorcycle Gang Investigators Association Conference

May 1998
Palm Springs, California
Southern California Outlaw Motorcycle Gang Investigators Association Conference

September 1997
Laughlin, Nevada
International Outlaw Motorcycle Gang Investigators Association Conference

September 1995
Quebec City, Quebec
International Outlaw Motorcycle Gang Investigators Association Conference

March 1995
Palm Springs, California
Southern California Outlaw Motorcycle Gang Investigators Association Conference

October 1994
Calgary, Alberta
Intelligence Analyst Meeting

September 1994
San Diego, California
International Outlaw Motorcycle Gang Investigators Association Conference

August 1994
Sacramento, California
California Department of Justice
Organized Crime and Criminal Intelligence Training Conference

April 1994
Sacramento, California
Western States Information Network
Outlaw Motorcycle Gang Activities Conference

May 1994
San Jose, California (Hosted/Coordinated)
Northern California Outlaw Motorcycle Gang Investigators Conference

September 1993
Chicago, Illinois
International Outlaw Motorcycle Gang Investigators Association Conference

May 1993
San Jose, California (Hosted/Coordinated)
Northern California Outlaw Motorcycle Gang Investigators Conference

October 1992
San Jose, California

Northern California Gang Investigators Association Conference

September 1992

Portland, Oregon

International Outlaw Motorcycle Gang Investigators Association Conference

August 1992

Sacramento, California

California Department of Justice

Organized Crime and Criminal Intelligence Training Conference

May 1992

San Jose, California (Hosted/Coordinated)

Northern California Outlaw Motorcycle Gang Investigators Conference

September 1991

Orlando, Florida

International Outlaw Motorcycle Gang Investigators Association Conference

Previous Outlaw Motorcycle Gang Expert Witness Qualification

2012 Riverside County Superior Court – Jury Trial – Orange County Hells Angels President James Bradley. Case #SWF1101224. (Criminal Threats; Gang Enhancements; Illegal Possession of a Firearm; Illegal Possession of Ammunition; Illegal Possession of Steroids) (Found Guilty of all charges and 186.22 (a)).

2012 San Mateo County Superior Court – Grand Jury – Daly City Hells Angels member Donnie Lopez (Shooting into Inhabited Building; Brandishing a Firearm; Gang Enhancements) (Indicted)

2012 San Diego County Superior Court – Preliminary Hearing – Hells Angels members Stephen Sanders, Billy Castellano, Jason VanMeter, Kirtith Nielsen, Michael Ottinger, and former Wrecking Machine member Shane Sanders (Kidnapping, ADW, et al, with gang enhancements) (All held to answer & bound over for trial).

2012 San Diego County Superior Court – Jury Trial – Hells Angel member Stephen Sanders (Assault with a Deadly Weapon & Gang Enhancement)(Convicted on all counts)

2012 San Diego County (Vista) Superior Court – Jury Trial – Hells Angels members Brian Haag, Eric Thorsgard and Associate John Wayne (Assault with a Deadly Weapon; Witness Intimidation; Gang Enhancement) (Hung Jury) (Thorsgard pleaded guilty to PC 245(a)(4) along with his conviction for PC 12020; Wayne pleaded no contest to battery; Haag's 136.1 count was dismissed for a felony plea to another case he had pending for PC 118).

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2012 Mohave County (Arizona) Superior Court – Jury Trial – Hells Angels members Rudolfo Martinez, Jerry Smith, Dale Hormuth, and Steve Helland (Riot and Participating in a Criminal Street Gang)(Not Guilty).

2012 United States District Court Northern District of California – Jury Trial – Mongols member Christopher Ablett (Docket Number: 3:09-cr-00749)(Murder; Violent Crimes in Aid of Racketeering Activity (VICAR); use and possession a firearm in furtherance of committing the murder)(Subpoenaed by Defense)(Convicted)

2011 Washoe County (Nevada) Superior Court – Grand Jury – Hells Angel member Cesar Villagrana, Vagos members Ernesto Gonzalez and Gary Stuart Rudnick (Murder and Second-Degree Murder with a Deadly Weapon; Affray; Carrying a Concealed Firearm; Felony Battery with a Deadly Weapon) (Indicted)

2011 United States District Court Eastern District of Washington – Evidentiary Hearing – Hells Angels Washington Nomads Sergeant-at-Arms Ricky Jenks (Felon in Possession of a Firearm)(Provided expert testimony on ongoing tensions between Hells Angels and Mongols and duties/responsibilities of Hells Angels Sergeant-at-Arms)(Judge ruled that gang testimony would be allowed at trial)(Jenks pled guilty to Felon in Possession of a Firearm)

2011 Kern County Superior Court – Jury Trial – Orange County Hells Angels member Michael "Delano" Peña & Associate Joseph Soto (187 PC; 664/187 PC; 186.22 PC)(Acquitted by jury of all counts)

2011 Lake County Superior Court – Jury Trial – Misfits member Thomas Dudney. (664/187 PC; 203 PC; 206 PC; 211 PC; 459 PC; 245(a)(2) PC; 245(a)(1) PC – 2 cts; 243(d) PC; 12022.7 PC; 12022.5 PC; All with a special gang allegation 186.22)(Convicted of all counts)

2011 Los Angeles County Superior Court – Grand Jury – Hells Angel member Jess Dyckma (664/187 PC; 186.22 PC) (Indicted)

2010 Santa Cruz County Superior Court - Jury Trial - Santa Cruz Vagos member Thomas Froberg. (415 PC; 186.22(d)) (Acquitted - Self Defense)

2010 Kern County Superior Court - Preliminary Hearing - Orange County Hells Angels member Michael "Delano" Peña. (187 PC; 664/187 PC; 186.22 PC)(Held to Answer)

2010 Clark County Superior Court (Las Vegas) – Grand Jury – Sin City Hells Angels & Associates stabbing/assault on Mongols at wedding chapel with a gang enhancement. (11 HA & 2 Associates indicted).

2010 Santa Cruz County Superior Court – Preliminary Hearing – Santa Cruz Vagos member Thomas Froberg. (415 PC; 186.22(d)) (Held to Answer).

2010 Sonoma County Superior Court – Jury Trial – Sonoma County Hells Angels Vice-

President John Nelson. (Found Guilty of Battery; Not Found Guilty of 186.22).

2009 Maricopa County (Arizona) Superior Court – Jury Trial – Mesa Hells Angels Prospect Nathan Sample (State v. Nathan Sample, CR2009-030276-002) (Sample found Guilty: Assault, Aggravated Assault, Assisting a Criminal Street Gang. The jury further found that Counts 2 and 3 were committed to further and promote the interests of the criminal street gang, Hells Angels).

2009 Fresno County Superior Court – Jury Trial – Merced Co Hells Angels President Ray Heffington (Ex-Felon possess firearm; possess loaded & concealed firearm; 186.22); members Monahan, Giannotta and Diaz (Defendants Found Guilty of Possession of loaded & concealed firearms; Not Found Guilty of 186.22).

2009 Sonoma County Superior Court – Preliminary Hearing – Sonoma Hells Angels member Michael Fenton, Associates Kevin Castro and Gerald Witherell (245(a)(1) + GBI 12022.7 + 186.22(b)(1)(c); 242 + 186.22(d)); Michael Fenton (186.22(a)). (Held to Answer)

2009 Sonoma County Superior Court – Preliminary Hearing – Sonoma Hells Angels Vice-President John Nelson (Assault with a Gang Enhancement). (Held to Answer)

2008 Contra Costa County Superior Court – Preliminary Hearing – Oakland Hells Angels member Mike Musick (Possess Machine Gun/Assault Weapon; Possess Silencer; Possess Sap Gloves; Possess 2 Concealed Knives [12020 PC]; Possess Ballpeen Hammer [12020 PC]; 186.22). (Held to Answer)

2007 Fresno County Superior Court – Preliminary Hearing – Merced Co Hells Angels President Ray Heffington (Ex-Felon possess firearm; possess loaded & concealed firearm; 186.22); Prospects Monahan and Giannotta (Possess loaded & concealed firearm; 186.22); and Hangaround Diaz (Possess loaded & concealed firearm; 186.22); Members Mendoza and Kohn ([constructive] Possess loaded & concealed firearm; 186.22). (Heffington, Monahan, Giannotta, and Diaz Held to Answer)(Kohn and Mendoza Not Held to Answer)

2004 Kings County Superior Court – Jury Trial – Fresno Hells Angels Hangaround Timothy Lobretto, assault with a deadly weapon, robbery with gang enhancement. (Found Guilty)

2003 Kings County Superior Court – Jury Trial – Fresno Hells Angels members Henry Garcia, George Tristan, David Wendt, and Robert Davis, et al, Burglary, felony grand theft, second-degree burglary, with a gang enhancement. (Found Guilty)

2002 Santa Clara County Superior Court – Motion to Suppress – Soul Brothers MC member arrested in possession of a stolen, loaded firearm at Annual Blessing of the Bikes Event (March 2002) (Suppression Motion Denied)

1998 Santa Clara County Superior Court – Jury Trial – San Jose Hells Angels Sgt-at-Arms Steve Tausan Homicide Case (Acquitted)

1998 Monterey County Municipal Court – Preliminary Hearing – Monterey Hells Angels members Robert Serrano, Danny Avila, Danny Mostkovitz, et al, Armed Robbery Case (Held to Answer)

1998 Santa Clara County Superior Court – Preliminary Hearing – San Jose Hells Angels Sgt-at-Arms Steve Tausan Homicide Case (Held to Answer)

Lectures and Presentations

I have lectured/provided training at workshops regarding the outlaw motorcycle gang phenomenon and provided overviews of club structure, club business, gang member's criminal activities, organization, identification of members etc. including for:

2012 San Mateo County Sheriff's Gang Conference – 4hr Class – Redwood City, CA
2012 Criminal Intelligence Service Canada National OMG Expert Witness Workshop – 1.5hr Presentation – Toronto, Ontario, Canada
2012 Tuolumne/Calaveras Counties LE – 4hr OMG Run Enforcement – Sonora, CA
2012 South Bay Alliance Gang Intel Meeting – 1.5hr OMG update - Redwood City, CA
2012 California Narcotics Officer Association, Region VI Training Day – Santa Barbara, CA
2012 Western Vice Investigators Association Conference – 4hr Class – Reno, NV
2012 Law Enforcement Intelligence Unit (LEIU) Conference – 2 1.5hr Classes – San Diego, CA
2012 San Jose Police Department – 4hr Class – Gang Investigation Unit Academy, San Jose, CA
2012 Ventura County Sheriff's Office – 8hr Class – Ventura, CA
2012 California Narcotics Officer Association, Region I Training Day – Alameda County, CA
2012 California Narcotics Officer Association, Region II Training Day - Rancho Cordova, CA
2011 California Narcotics Officer Association Conference - 2 4hr OMG Classes – Sparks, NV
2011 California Peace Officers Association COPSWEST Seminar – 3hr Class – Ontario, CA
2011 Chico Police Department – 8hr Class – Chico, CA
2011 California Narcotics Officer Association, Region VIII Training Day – Redding, CA
2011 San Mateo County Sheriff's Gang Conference – 4hr Class – San Mateo, CA
2011 San Jose Police/Campbell Police/Santa Clara Police – 4hr Class – San Jose, CA
2011 Tulare SO Region V Gang Conference – 4hr Class – Visalia, CA
2011 Montana FBI National Academy Alumni Course – 8hr Class – Billings, MT
2011 California Highway Patrol – Amador County – 4hr Class – Jackson, CA
2011 National Asian Peace Officers Association Conference – 4hr Class – San Diego, CA
2011 California Narcotics Officer Association, Region V Training Day – Fontana, CA
2011 California Narcotics Officer Association, Region IV Training Day – National City, CA
2011 California Narcotics Officer Association, Region IV Training Day – Escondido, CA
2011 ABC Training Conference - 2 hr Class – Sacramento, CA
2011 California Narcotics Officer Association, Region II Training Day - Rancho Cordova, CA
2011 CPOA Riverside – 8hr OMG Class – Murrieta, CA
2010 California Narcotics Officer Association Conference - 2-4hr OMG Class - Anaheim, CA
2010 Monterey Gang Task Force Conference - 4hr OMG Class - Monterey, CA
2010 California Narcotics Officer Association, Region VII Training Day - Fresno, CA
2010 International Outlaw Motorcycle Gang Investigators Association Conference, San Diego, CA

2010 Regional OMG Training - 8hr OMG Class - Yuba City, CA
 2010 Regional OMG Training - 8hr OMG Class - Gonzales, CA
 2010 California Narcotics Officer Association, Region V Training Day - Ontario, CA
 2010 ABC Training Conference - 2 hr Class - Sacramento, CA
 2010 California Narcotics Officer Association, Region VI Training Day - Ventura, CA
 2010 California Narcotics Officer Association, Region VI Training Day - San Luis Obispo, CA
 2010 San Diego Sheriff's Department (Court Security Personnel) - El Cajon, CA
 2010 California Narcotics Officer Association, Region IV Training Day - National City, CA
 2010 California Narcotics Officer Association, Region VIII Training Day - Eureka, CA
 2010 California Narcotics Officer Association, Region VIII Training Day - Redding, CA
 2010 California Narcotics Officer Association/WSIN, Region II Training Day - Sacto, CA
 2009 CPOA Solano - 6hr OMG Class - Benicia, CA
 2009 California Narcotics Officer Association Conference - 2 4hr Classes - San Francisco, CA
 2009 CPOA Riverside - 8hr OMG Class - Murrieta, CA
 2009 Strategic Training Systems International - 8hr OMG Class - Washington/Baltimore HIDTA
 2009 California DOJ, ATC Basic Intelligence Course - 2hr Gang Intel Class - South Lake Tahoe, CA
 2009 San Jose Police Academy - 6hr OMG Class
 2009 Mateo County Gang Intelligence Unit Gang Seminar - 4hr Class - San Mateo, CA
 2009 Strategic Training Systems International - 8hr OMG Class - Phoenix PD, Phoenix, AZ
 2009 Tennessee Narcotics Officer Association Conference - 4hr OMG Class - Gatlinburg, TN
 2009 International Outlaw Motorcycle Gang Investigators Association Conference - New Hampshire
 2009 Central Valley Intelligence Analyst Association Conference - 4hr OMG Class - Pismo Beach, CA
 2009 Strategic Training Systems International - 8hr OMG Class - Henderson PD, Henderson, NV
 2009 San Francisco Bay Area Gang Conference - 2hr OMG Class - Milpitas, CA
 2009 California Narcotics Officer Association, Region VIII Training Day - Redding, CA
 2009 Oregon State Police/California Highway Patrol - 8hr OMG Class - Klamath Falls, OR
 2009 California Narcotics Officer Association, Region V Training Day - Irvine, CA
 2009 California Narcotics Officer Association, Region VII Training Day - Fresno, CA
 2009 California Highway Patrol, Advanced Criminal Apprehension Program OMG Training - Sacramento, CA
 2009 Illinois Drug Enforcement Officers Conference - Two 3hr Classes - Peoria, IL
 2009 Ontario Biker Enforcement Unit / Frontline Officer Training Course, Gravenhurst, Ontario
 2009 San Jose Police Academy - 6hr OMG Class
 2009 California Highway Patrol, Advanced Criminal Apprehension Program OMG Training - Sacramento, CA
 2009 Dynamic Solutions for Justice - 8hr OMG Class - Elk Grove, CA
 2009 ABC Training Conference - 4 hr Class - Monterey, CA
 2008 Hawaii HIDTA Meeting - 4hr Class - Honolulu, HI
 2008 Riverside County Sheriff's Gang Conference - 6hr Class - Riverside, CA
 2008 San Mateo County Gang Intelligence Unit Gang Seminar - 4hr Class - San Mateo, CA
 2008 California Narcotics Officer Association Conference - 2 4hr Classes - San Diego, CA
 2008 U.S. Attorney's Eastern District Executive Summit Conference - South Lake Tahoe, CA
 2008 California Narcotics Officer Association, Region IV Training Day - El Centro, CA
 2008 San Jose Police Academy - 6hr OMG Class
 2008 Dynamic Solutions for Justice - 8hr OMG Class - San Jose, CA
 2008 Dynamic Solutions for Justice - 8hr OMG Class - San Luis Obispo, CA

2008 RMIN – How to Prepare for Expert Testimony on OMG Cases – Phoenix, AZ
2008 California Narcotics Officer Association, Region VIII Training Day – Redding, CA
2008 California Narcotics Officer Association, Region V Training Day – Tustin, CA
2008 Hollister Police Department – Run Enforcement Training – Hollister, CA
2008 Mendocino County Gang Task Force Training Day – Ukiah, CA
2008 California Narcotics Officer Association, Region IV Training Day – National City, CA
2008 San Jose Police Academy – San Jose, CA
2008 California Narcotics Officer Association, Region II Training Day – Rancho Cordova, CA
2008 California Highway Patrol, Advanced Criminal Apprehension Program OMG Training –
Sacramento, CA
2008 California Narcotics Officer Association, Region V Training Day – Cathedral City, CA
2008 Tri-State Commanders Conference – Laughlin, NV
2008 California Narcotics Officer Association, Region VIII Training Day – Eureka, CA
2008 California Narcotics Officer Association, Region IV Training Day – Ventura, CA
2008 California Narcotics Officer Association, Region IV Training Day – San Luis Obispo, CA
2008 California Narcotics Officer Association, Region I Training Day – Alameda County, CA
2007 California Narcotics Officer Association Conference – Reno, NV
2007 California Narcotics Officer Association, Region VII Training Day – Fresno
2007 International Outlaw Motorcycle Gang Investigators Association Conference
– West Palm Beach, Florida
2007 California Highway Patrol – Coastal Division Training – Santa Barbara
2007 California Highway Patrol – Golden Gate and Coastal Division Training – Salinas
2007 California Narcotics Officer Association, Region II Training Day – Stockton, CA
2007 California Highway Patrol – Mariposa Office
2007 Biker Investigator Association of Northern California Conference – South Lake Tahoe, NV
2007 San Jose Police Academy – San Jose, CA
2007 California Narcotics Officer Association, Region I Training Day – Alameda County, CA
2007 California Narcotics Officer Association, Region V Training Day – Ontario
2007 Sonoma County LE Agencies Class – Petaluma, CA
2007 California Highway Patrol – Northern Division
2007 California Highway Patrol – Valley Division
2007 California Highway Patrol – Golden Gate Division
2006 California Highway Patrol – Coastal Division
2006 California Highway Patrol – Central Division
2006 California Highway Patrol – Inland Division
2006 California Highway Patrol – Southern Division
2006 California Highway Patrol – Border Division
2006 California Narcotics Officer Association Conference – Indian Wells, CA
2006 Alaska Peace Officers Training Class – Anchorage, AK
2006 WSIN Conference – Vancouver, WA
2006 California Attorney General's Conference – Sacramento, CA
2006 San Jose Police Academy – San Jose, CA
2006 California Narcotics Officer Association, Region III Training Day – Diamond Bar, CA
2006 California Narcotics Officer Association, Region II Training Day – Rocklin PD, CA
2006 Tulare SO Gang Meeting – Visalia, CA
2006 California Narcotics Officer Association, Region V Training Day – Coachella, CA

2006 Del Norte County SO Biker Meeting – Crescent City, CA
 2006 California Narcotics Officer Association, Region I Training Day – Alameda County, CA
 2005 California Narcotics Officer Association Conference – Reno, NV
 2005 FBI District Law Enforcement Executive Gang Workshop – Sacramento, CA
 2005 California Narcotics Officer Association Region V Training Day – Diamond Bar, CA
 2005 California Narcotics Officer Association Region II Training Day – Marysville, CA
 2005 California Narcotics Officer Association Region I Training Day – Alameda County, CA
 2005 Solano County Narcotics Investigators Meeting – Benicia, CA
 2004 California Narcotics Officer Association Conference – San Diego, CA
 2004 California Narcotics Officer Association Region V Training Day – Ontario, CA
 2004 California DOJ GSET Training Class – Vacaville, CA
 2003 California Narcotics Officer Association Conference – Sacramento, CA
 2003 California Narcotics Officer Association Region VII Training Day – Fresno County, CA
 2003 California Narcotics Officer Association, Region I Training Day – Alameda County, CA
 2003 California Narcotics Officer Association, Region V Training Day – San Bernardino, CA
 2002 California Narcotics Officer Association Conference – Anaheim, CA
 2002 Central Coast Gang Investigators Conference – Monterey, CA
 2002 Western States Information Network (WSIN) Conference – Sacramento, CA
 2001 Canadian Outlaw Motorcycle Gang Investigators Conference – Halifax, NS
 2000 CISC Expert Witness (HA) Course – Ottawa, ON
 2000 Western Canada Outlaw Motorcycle Gang Workshop – Calgary, AL
 1999 Canadian Outlaw Motorcycle Gang Investigators Conference – Toronto, ON
 1999 International Outlaw Motorcycle Gang Investigators Association Conference – San Diego, CA
 1999 Southern California Outlaw Motorcycle Gang Investigators Association Conference –
 Palm Springs, CA
 1998 Southern California Outlaw Motorcycle Gang Investigators Association Conference –
 Palm Springs, CA
 1997 International Outlaw Motorcycle Gang Investigators Association Conference –
 Laughlin, NV
 1996 Provided training to Law Enforcement Agencies, in preparation for the Hollister
 Motorcycle Festival – Gilroy, CA
 1995 International Outlaw Motorcycle Gang Investigators Association Conference
 – Quebec City, Quebec
 1995 Southern California Outlaw Motorcycle Gang Investigators Association Conference
 – Palm Springs, CA
 1995 California Gang Investigators Association Conference – Santa Clara, CA
 1994 Santa Clara County Municipal Judges Retreat – Carmel, CA
 1994 Organized Crime and Criminal Intelligence Training Conference – Sacramento, CA

Ongoing and past presentations regarding outlaw motorcycle gangs –

California Highway Patrol Academy – In-service Class (2006 - 2010)
 West Valley College – Administration of Justice Course - Gangs (AJ032)
 The San Jose Police Academy
 The South Bay Regional Police Academies
 The Sacramento Sheriff's Department Training Academy (Gang Course)

Alcohol, Tobacco, and Firearms National Academy, New Professional Training (NPT/SABT) Classes, Federal Law Enforcement Training Center, Glynco, Georgia – (1999 - 2005) (5-10 times annually)

Memberships-

International Outlaw Motorcycle Gang Investigators Association (IOMGIA) –1991 (ongoing) (2008 voted on Board of Directors)

California Narcotic Officers Association (CNOA) – 1975 (Lifetime member) (2006 became Region II Chair)

Biker Investigator Association of Northern California – 2005 (ongoing) (2007 voted on Board)

California Gang Investigators Association - 2010

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3294685

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2 Richard A. Gammick
3 #001510
4 P.O. Box 30083
5 Reno, NV 89520-3083
6 (775) 328-3200
7 Attorney for Plaintiff

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE.

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR11-1718B

15 v.

Dept. No. 4

16 ERNESTO MANUEL GONZALEZ,

17 Defendant.

18
19 _____ /
20 OPPOSITION TO REQUEST FOR DISCLOSURE OF PROPOSED GANG ENHANCEMENT
21 EVIDENCE AND WITNESSES
22

23 COMES NOW, the State of Nevada, by and through RICHARD A.
24 GAMMICK, District Attorney of Washoe County, and KARL S. HALL, Chief
25 Deputy District Attorney, and files this Opposition to Request for
26 Disclosure of Proposed Gang Enhancement Evidence and Witnesses. This
Opposition is based upon the attached Points and Authorities,
supplemental argument of State's Counsel at the hearing of this
Motion, and all other pleadings and papers on file herein.

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1403

1 Points and Authorities

2 Factual and Procedural Background

3 This case arose out of a deadly brawl between two outlaw
4 motorcycle gangs ("OMG's") namely, the Hells Angels and the Vagos
5 which took place on September 23, 2011 at John Ascuaga's Nugget Hotel
6 Casino in, Sparks, Washoe County, Nevada. CESAR VILLAGRANA
7 ("VILLAGRANA") and ERNESTO MANUEL GONZALEZ ("GONZALEZ") were both
8 indicted on November 9, 2011, by a Washoe County Grand Jury on
9 various charges stemming from the brawl. The Indictment alleges that
10 VILLAGRANA committed the crimes of COUNT I. CONSPIRACY TO ENGAGE IN
11 AN AFFRAY; COUNT II. CHALLENGE TO FIGHT RESULTING IN DEATH WITH THE
12 USE OF A DEADLY WEAPON; COUNT III. BATTERY WITH A DEADLY WEAPON;
13 COUNT IV. BATTERY WITH A DEADLY WEAPON; COUNT V. DISCHARGING A
14 FIREARM IN A STRUCTURE; COUNT VI. CARRYING A CONCEALED WEAPON; and,
15 COUNT X. MURDER OF THE SECOND DEGREE. Counts II, III, IV and X
16 include an allegation that the crimes were committed to promote the
17 activities of a criminal gang pursuant to NRS 193.168. Likewise,
18 GONZALEZ was indicted on charges stemming from the fight on the
19 following charges: COUNT I. CONSPIRACY TO ENGAGE IN AN AFFRAY; COUNT
20 II. CHALLENGE TO FIGHT RESULTING IN DEATH WITH THE USE OF A DEADLY
21 WEAPON; COUNT VII. CARRYING A CONCEALED WEAPON; COUNT VIII.
22 DISCHARGING A FIREARM IN A STRUCTURE; COUNT IX. OPEN MURDER WITH THE
23 USE OF A DEADLY WEAPON; and, COUNT X. MURDER OF THE SECOND DEGREE
24 WITH THE USE OF A DEADLY WEAPON. GONZALEZ was subsequently charged
25 by way of Information filed on May 21, 2012, with MURDER OF THE FIRST
26 DEGREE, for the murder of Hells Angels president, Jeffery Pettigrew.

1 COUNTS II, IX, X and the charge of Murder of the First Degree also
2 allege the "gang enhancement" pursuant to NRS 193.168.

3 **The charges stemming from the fight at the Nugget were the product of**
4 **ongoing animosity between two OMG's.**

5 The evidence produced before the Washoe County Grand Jury
6 and produced through the discovery process in preparation for trial
7 clearly show that this fight was the product of an ongoing feud
8 between the two OMG's.¹ The evidence from local law enforcement
9 personnel will show that the majority of Hells Angels members and
10 support groups usually stay at another local casino, however, on this
11 occasion a group of Hells Angels had checked into John Ascuaga's
12 Nugget (hereinafter "Nugget") even though the Vagos OMG had planned a
13 National meeting at the Nugget. Several hundred Vagos were Nugget
14 hotel guests and attended the National meeting that had taken place
15 earlier in the evening. Hells Angels President Jeffrey Pettigrew and
16 his fellow gang members and associates were treading on Vagos turf on
17 September 23, 2011. This bold display of disrespect of the "Green
18 Nation" was dealt with in customary fashion - with a violent
19 confrontation. An interview of Hells Angels gang member Bobby Vieira
20

21 _____
22 ¹ Violent conflicts between the Vagos and the Hells Angels have occurred and been
23 documented on recently by law enforcement on several occasions. Specifically, a
24 stabbing of two Vagos in Oildale California, another stabbing incident at Starbucks
25 in Santa Cruz and a shooting incident in Yavapai County, Arizona. In January 2010,
26 Vagos and Hells Angel gang members clashed over territory at Starbucks café in
Santa Cruz, California. In August of 2010 a gunfight erupted between the Vagos and
the Hells Angels in Yavapai County; In May of 2010 a fight between the Vagos and
Hells Angels in front of the Pirate Tattoo Shop in North Chester Avenue resulted in
the stabbing of two Vagos gang members, one of which died from his wounds. Hells
Angel Gang member Michael Henry Pena was arrested for the murder but was later
found to be not guilty asserting self-defense. Also, a day after Pettigrew was
killed a Vagos gang member was shot as he rode his motorcycle East on Victorian
Avenue.

1 and Hells Angels hang around, Henry Tyrell, revealed that they had
2 been given the evil eye and "mad dogged" while checking into the
3 Nugget hotel and while walking around the casino. In the Oyster Bar,
4 less than an hour before the deadly brawl, members of the respective
5 OMG's are seen to prepare for battle as it was clear that tension
6 between the two rival gangs was high. In fact, law enforcement and
7 Nugget security were called to assist in calming the situation.

8 Based upon the fact there had been recent violent even
9 deadly confrontations between the two OMG's prior to this incident,
10 and based upon the customary conduct and codes of the OMG's, the
11 prior altercations between the various OMG's are relevant to prove
12 that the instant crimes were committed knowingly for the benefit of,
13 at the direction of, or in affiliation with, a criminal gang, with
14 the specific intent to promote, further or assist the activities of
15 the criminal gang. NRS 193.168. In an effort to avoid time
16 consuming evidentiary hearings during trial the State is requesting a
17 pre-trial ruling on the admissibility of the evidence on support of
18 the Gang Enhancement outlined herein below.²

19 **Evidence the State will introduce to prove the gang enhancement.**

20 NRS 193.168(6) provides: "In any proceeding to determine
21 whether an additional penalty may be imposed pursuant to this
22 section, expert testimony is admissible to show particular conduct,
23 status and customs indicative of criminal gangs, including, but not
24 limited to:

25
26 VILLAGRANA was in possession of video and Grand Jury transcripts of the
Laughlin brawl between the Hells Angels and Mongol OMG's.

² The State is in the process of gathering supplemental information including a list
of witnesses which will be produced in discovery in a timely fashion.

- (a) Characteristics of persons who are members of criminal gangs;
- (b) Specific rivalries between criminal gangs;
- (c) Common practices and operations of criminal gangs and members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, or particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general."

The State will prove the elements set forth in NRS 193.168 in part through evidence of the following OMG criminal activity.

1. Las Vegas Metro Police Department (LVMPD) investigation regarding the Laughlin brawl between the Hells Angels and the Mongols which occurred on or about April 27th, 2002. Las Vegas Metropolitan Police Officers expected to testify include: Detective Tom Allen, LVMPD case agent for Laughlin case, Sergeant Gary Hood and Craig Olson. These witnesses are expected to testify regarding the facts and circumstances of the deadly brawl. (Discovery will be provided upon receipt by the Washoe County District Attorney's Office)

2. Evidence provided by Las Vegas metropolitan Police Department Detective David Fieselman regarding the brawl and stabbing of Mongol gang members by Hells Angels gang members at the A Special Memory Wedding Chapel on December 8, 2008. LVMPD

1 Case Number 08-1220-2286. (Police reports detailing the
2 investigation have been provided to the defense on this case.)

3 3. Evidence regarding the shootout between the Hells
4 Angels and the Vagos in Yavapai County, Arizona, on August 21,
5 2010. Investigating Detectives Les Skelton and Dave Zavos of
6 Gang and Immigration Intelligence Team Enforcement Mission
7 (G.I.I.T.E.M.) are expected to testify regarding their
8 investigation under DPS Report 2010-039100. (Police reports
9 detailing the investigation have been provided to the defense on
10 this case.)

11 4. Evidence regarding the fight between the Hells Angels
12 and Vagos in Santa Clara, California on January 27, 2010. This
13 case was documented by Santa Cruz Police Department under Case
14 Number 10S-00695. The State expects to call the following
15 Police Officers: Mark Bailey, Tom Young, Trevor Kendall, Dave
16 Albert and Brad Hillier to present evidence regarding the facts
17 and circumstances of the fight. (Police reports detailing the
18 investigation have been provided to the defense on this case.)

19 5. Evidence regarding the May 30, 2010, stabbing of Vagos
20 gang member Roger Violano by Hells Angels Gang Member Michael
21 Pena in Oildale, California under Kern County Sheriff's
22 Department Case Number SR10-14831. Detective DONA WOOD,
23 Detective JASON BALASIS, Detective KAVIN BREWER, Deputy
24 SWEARENGIN, Deputy DAMRON, Deputy CHAIDEZ, Senior Deputy HULL,
25 and Deputy KRAFT investigated the incident and are expected to
26 provide testimony regarding their investigation. (Police

1 reports detailing the investigation have been provided to the
2 defense on this case.)
3

4 As mentioned, much of the discovery regarding these alleged
5 crimes has been provided to defense counsel and the State will
6 continue to provide discovery as required by law. See NRS 174.235.

7 **Expert Witnesses**

8 The State also expects to call a representative from the
9 United States Department of Justice to explain the process, criteria
10 and requirements for identifying the Hells Angels and Vagos as OMG's.
11 The State has not yet obtained the name or curriculum vitae of the
12 witness at this time but will provide this information upon receipt.

13 Jorge Gil-Blanco is also expected to testify consistently
14 with his Grand Jury testimony regarding both the Hells Angels and
15 Vagos OMG's in support of the factors listed in NRS 193.168. Mr.
16 Gil-Blanco's curriculum vitae have been previously provided to
17 defense counsel.

18 Jeff Simpson, a member of the Santa Cruz County Gang Task
19 Force will testify regarding his background training and experience
20 with respect to OMG investigations specifically addressing the Hells
21 Angels and Vagos OMG's and the factors listed in NRS 193.168.

22 Eric Matthew Bennett, a member of the California Department
23 of Justice, Bureau of Investigation, Inland Crackdown Allied Task
24 Force is also expected to offer testimony regarding the Vagos OMG.
25 Detective Bennett will offer testimony regarding his investigation

26 ///

1 into the criminal activities of the Vagos relative to the elements of
2 the gang enhancement statute.

3 **The State's Proposed Gang Enhancement Evidence is Admissible**
4 **Evidence.**

5 NRS 193.168 (4) (b) provides that the gang enhancement
6 statute applies only when the trier of fact finds, beyond a
7 reasonable doubt, that the primary offense was committed knowingly
8 for the benefit of a criminal gang.³ The State has the burden to

9
10 ³ 193.168. Additional penalty: Felony committed to promote activities of criminal
gang; restriction on probation; expert testimony

11 1. Except as otherwise provided in subsection 5 and NRS 193.169, any person who is
12 convicted of a felony committed knowingly for the benefit of, at the direction of,
13 or in affiliation with, a criminal gang, with the specific intent to promote,
14 further or assist the activities of the criminal gang, shall, in addition to the
term of imprisonment prescribed by statute for the crime, be punished by
15 imprisonment in the state prison for a minimum term of not less than 1 year and a
16 maximum term of not more than 20 years. In determining the length of the additional
17 penalty imposed, the court shall consider the following information:

- 18 (a) The facts and circumstances of the crime;
19 (b) The criminal history of the person;
20 (c) The impact of the crime on any victim;
21 (d) Any mitigating factors presented by the person; and
22 (e) Any other relevant information.

23 The court shall state on the record that it has considered the information
24 described in paragraphs (a) to (e), inclusive, in determining the length of the
25 additional penalty imposed.

26 2. The sentence prescribed by this section:

- (a) Must not exceed the sentence imposed for the crime; and
(b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create any separate offense but provides an additional
penalty for the primary offense, whose imposition is contingent upon the finding of
the prescribed fact.

4. The court shall not impose an additional penalty pursuant to this section
unless:

- (a) The indictment or information charging the defendant with the primary offense
alleges that the primary offense was committed knowingly for the benefit of, at the
direction of, or in affiliation with, a criminal gang, with the specific intent to
promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

5. The court shall not impose an additional penalty pursuant to this section if the
primary offense is a violation of NRS 201.570.

6. Except as otherwise provided in this subsection, the court shall not grant
probation to or suspend the sentence of any person convicted of a felony committed
for the benefit of, at the direction of, or in affiliation with, a criminal gang if

1 prove, beyond a reasonable doubt that the Hells Angels and Vagos, as
2 one of their common activities, engage in felonies. See Origel-
3 Candido v. State, 114 Nev. 378, 956 P.2d 1378 (1998). The
4 approximate number of gang members who committed felonies is relevant
5 gang enhancement evidence. Id. Conclusory testimony is simply
6 insufficient to prove the gang enhancement beyond a reasonable doubt.
7 Thus, the State is required, under Nevada law, to fully develop and
8 present evidence of criminal activity engaged in by the Hells Angels
9 and Vagos OMG's. Id.

10
11
12 an additional term of imprisonment may be imposed for that primary offense pursuant
13 to this section. The court may, upon the receipt of an appropriate motion, reduce
14 or suspend the sentence imposed for the primary offense if it finds that the
15 defendant rendered substantial assistance in the arrest or conviction of any other
16 principals, accomplices, accessories or coconspirators to the crime, or of any
17 other persons involved in the commission of a felony which was committed for the
18 benefit of, at the direction of, or in affiliation with, a criminal gang. The
19 agency which arrested the defendant must be given an opportunity to support or
20 oppose such a motion before it is granted or denied. If good cause is shown, the
21 motion may be heard in camera.

22 7. In any proceeding to determine whether an additional penalty may be imposed
23 pursuant to this section, expert testimony is admissible to show particular
24 conduct, status and customs indicative of criminal gangs, including, but not
25 limited to:

- 26 (a) Characteristics of persons who are members of criminal gangs;
(b) Specific rivalries between criminal gangs;
(c) Common practices and operations of criminal gangs and the members of those
gangs;
(d) Social customs and behavior of members of criminal gangs;
(e) Terminology used by members of criminal gangs;
(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
(g) The types of crimes that are likely to be committed by a particular criminal
gang or by criminal gangs in general.

8. As used in this section, "criminal gang" means any combination of persons,
organized formally or informally, so constructed that the organization will
continue its operation even if individual members enter or leave the organization,
which:

- (a) Has a common name or identifying symbol;
(b) Has particular conduct, status and customs indicative of it; and
(c) Has as one of its common activities engaging in criminal activity punishable as
a felony, other than the conduct which constitutes the primary offense

1 On the other hand the State anticipates an objection to the
2 introduction of criminal activity asserting that the evidence is
3 cumulative. See, e.g., People v. Williams, 170 Cal.App.4th 587, at p.
4 613 (2009) (admission of cumulative gang evidence is harmless when
5 "[t]he admissible evidence overwhelmingly established defendant's
6 guilt of the substantive offenses and the truth of the gang
7 enhancement allegations"). Here, the evidence is relevant to prove
8 an element of the offense and should be admitted provided that the
9 Trial Court finds, after careful scrutiny, that the evidence is more
10 probative than prejudicial. See People v. Carter, 30 Cal.4th 1166,
11 1194 (2003).

12 The evidence sought to be introduced by the State will
13 establish that the crimes allegedly committed in the Nugget melee are
14 typical of the crimes committed by the Hells Angels and Vagos OMG's.
15 Additionally, the specific crimes set forth herein above, satisfy the
16 permissible use of "other act" evidence pursuant to NRS 48.045.
17 "Other act evidence" is admissible when used to prove: motive,
18 opportunity, intent, preparation, plan, knowledge, identity, or
19 absence of mistake or accident. NRS 48.045.

20 As stated above, the State intends to call witnesses with
21 specialized knowledge of OMG's and the activities engaged in by OMG's
22 to assist the tier of fact to understand the evidence and facts at
23 issue in this case. The witnesses listed herein have the special
24 knowledge, skill, experience, training and education and should be
25 allowed to testify regarding matters within the scope of their
26 knowledge and experience. See NRS 50.275.

1 Gary Rudnick and CS 11-67

2 Both Gary Rudnick ("Rudnick") and CS 11-67 were members of
3 the Vagos OMG. As such, they have specialized "inside" information
4 regarding the Vagos by virtue of their gang affiliation sufficient to
5 satisfy the elements of NRS 193.165. Both Rudnick and CS 11-67 are
6 fact witnesses, can and have provided relevant evidence regarding the
7 facts and circumstances of the case and should be allowed to testify
8 based upon their "specialized" knowledge and experience with the
9 Vagos OMG.

10 GONZALEZ argues that the testimony of both Rudnick and CS
11 11-67 is inadmissible as they do not fit the definition of an "expert
12 witness" pursuant to NRS 50.275. To the contrary, all relevant
13 evidence is admissible. See NRS 48.025(1). "[R]elevant evidence"
14 means evidence having the tendency to make the existence of any fact
15 that is of consequence to the determination of the action more or
16 less probable than it would be without the evidence." NRS 48.015.
17 The fact that both Rudnick and CS 11-67 were members of the Vagos OMG
18 and are percipient witnesses to the melee at the Nugget are clear
19 indications that they will provide relevant testimony regarding the
20 facts at issue. Further, as Vagos OMG members they have specialized
21 knowledge and experience regarding the elements contained within the
22 gang enhancement statute. See NRS 193.168.

23 Expert Testimony

24 The Nevada Supreme Court has held that Nevada's Statutory
25 scheme governing expert witness testimony and public policy dictate
26 that the proper measure for evaluating whether a witness can testify

1 as an expert is whether that witness possesses the skill, knowledge,
2 or experience necessary to testify. See Staccato v. Valley Hospital,
3 123 Nev. 526, 531, 170 P.3d 503, 506, (2007). There, the High Court
4 examined following non-exhaustive factors to determine whether an
5 expert witness is appropriately qualified in a case involving medical
6 malpractice: "(1) formal schooling and academic degrees, (2)
7 licensure, (3) employment experience, and (4) practical experience
8 and specialized training." Citing Hallmark v. Eldridge, 124 Nev. at
9 499, 189 P.3d at 650-51 (2008) (internal footnotes omitted). These
10 factors are typically utilized to determine whether or not a person
11 may render an opinion related to scientific testimony regarding an
12 opinion reached to a "reasonable degree of medical certainty". Id.
13 In this case, the employment experience, practical experience and
14 specialized training of the State's witnesses provide sufficient
15 assurances of reliability and to allow testimony including opinion
16 evidence regarding the particular conduct, status and customs
17 indicative of OMG's. See NRS 50.265⁴, and NRS 50.275.

18 GONZALEZ contends that the admissibility of testimony to be
19 elicited from Rudnick and CS 11-67 should be scrutinized pursuant to
20 a Daubert analysis. Daubert v. Merrell Dow Pharmaceuticals, Inc.,
21 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993). This assertion
22 is misplaced. The proper analysis regarding admissibility of their

23 ⁴ 50.265. Opinions: Lay witnesses

24 If the witness is not testifying as an expert, the witness's testimony in the form
25 of opinions or inferences is limited to those opinions or inferences which are:

26 1. Rationally based on the perception of the witness; and
2. Helpful to a clear understanding of the testimony of the witness or the
determination of a fact in issue.

1 testimony rests upon relevance of their testimony and determination
2 of specialized knowledge and experience. Consideration of both
3 witnesses extensive involvement as Vagos OMG members resolves the
4 admissibility issue in favor of the State. Moreover, the standard
5 for admissibility of expert testimony in Nevada is articulated in NRS
6 50.275, which tracks its federal counterpart, Federal Rule of
7 Evidence (FRE) 702. The Nevada Supreme Court has refused to adopt
8 the standard of admissibility set forth in Daubert v. Merrell Dow
9 Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469
10 (1993). Likewise, the Nevada Supreme Court has rejected the notion
11 that the Hallmark v. Eldridge, 189 P.3d 646(2008), decision adopted
12 the Daubert standard for admissibility inferentially. See Higgs v.
13 State, 222 P.3d 648 (2010).

14 **Criminal Histories of Rudnick and CS 11-67**

15 Regarding criminal histories and impeachment evidence, the
16 State is informed and believes that Rudnick has not been convicted of
17 a felony.

18 CS 11-67 has been convicted of two felony offenses. He was
19 also confidential source for the United States Attorney's Office and
20 provided information to law enforcement during their investigation
21 into the Vagos criminal activities which resulted in "Operation
22 Simple Green". In an effort to maintain the confidentiality of
23 personal identifying information this information will be provided to
24 the Trial Court in camera.

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26 ///

1 Police Officers Expert Testimony.

2 GONZALEZ relies upon U.S. v. Hankey, 203 F.3d 1160 (2000),
3 for the proposition that "a law enforcement officer is not permitted
4 to offer expert testimony as to gang affiliation absent personal
5 knowledge of the defendant, and personal experience of that person's
6 affiliation." See GONZALEZ's Request for Disclosure of Proposed Gang
7 Enhancement Evidence and Witnesses at page 6. ("Request for
8 Disclosure") The Hankey case supports the State's analysis regarding
9 the admissibility of opinion evidence addressing the gang enhancement
10 testimony provided by police officers. There,
11 the Hankey Court considered the following factors in determining the
12 admissibility of expert opinion testimony:

- 13 • Whether the opinion is based on scientific, technical, or
14 other specialized knowledge;
- 15 • Whether the expert's opinion would assist the trier of fact
16 in understanding the evidence or determining a fact in
17 issue;
- 18 • Whether the expert has appropriate qualifications-i.e.,
19 some special knowledge, skill, experience, training or
20 education on that subject matter.
- 21 • Whether the testimony is relevant and reliable.
- 22 • Whether the methodology or technique the expert uses "fits"
23 the conclusions (the expert's credibility is for the jury).
24 (citations omitted)

25 Id. at 1169

26 ///

1 The Hankey Court concluded that the Daubert v. Merrell Dow
2 Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469
3 (1993)⁵ factors (peer review, publication, potential error rate, etc.)
4 simply are not applicable to this kind of testimony, whose
5 reliability depends heavily on the knowledge and experience of the
6 expert, rather than the methodology or theory behind it. Id.

7 The District Court has wide discretion to allow opinion
8 testimony as part of the "gatekeeping" obligation of the trial judge
9 to ensure that any and all opinion evidence is relevant and reliable.
10 The State's proposed witnesses will provide relevant, reliable and
11 therefore admissible evidence pursuant to Nevada law.

12 **Admissibility of Gang Enhancement Evidence.**

13 The State respectfully submits that a *Petrocelli* type
14 hearing to establish relevance and probative value of the evidence
15 may be appropriate to protect the record. See Butler v. State, 120
16 Nev. 879, 102 P.3d 71 (2004). In Butler, the gang enhancement was
17 not charged as part of the substantive offense, however, evidence of
18 gang affiliation was introduced to prove motive. Id. Here, the
19 introduction of other crimes committed by the OMG's requires the
20 Trial Court to assess the State's burden of proof verses the
21 probative value and possible prejudicial effect of the evidence
22 sought to be admitted. The State respectfully suggests that the
23 Trial Court determine whether (1) the evidence is relevant, (2) it is
24 proven by clear and convincing evidence, and (3) its probative value
25

26 ⁵ United States Supreme Court in Daubert explained that any analysis pursuant to FRE
702 must focus on two overarching issues: the expert testimony's relevance and
reliability. Id. at 589, 113 S.Ct. 2786.

1 is not substantially outweighed by the danger of unfair prejudice.
2 See Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985),
3 modified on other grounds by Sonner v. State, 112 Nev. 1328, 1334,
4 930 P.2d 707, 711-12 (1996). The Court should also give an
5 appropriate cautionary instruction to the jury on the use of the
6 evidence before deliberations. Butler, supra.

7 **NOTICE OF INTENT TO SUPPLEMENT DISCOVERY AND GANG EVIDENCE.**

8 This Opposition is not intended to satisfy the discovery
9 obligations of NRS 174. 234. The State will supplement this
10 Opposition to Request for Disclosure of Proposed Gang Enhancement
11 Evidence and Witness as required by law. Id. In an effort to ensure
12 that full discovery has been completed, the State will conduct a file
13 comparison with defense counsel (assuming that defense counsel agree
14 to conduct a file comparison) to insure that the Defense has all
15 discoverable materials required by law.

16 The State will move for a continuance of the October 29,
17 2012, trial date due to the fact that all discovery has not been
18 received by the State. For example, the State anticipates receiving
19 police reports generated after the Laughlin brawl and information
20 regarding the witness representing the USDOJ. The State also
21 intends to introduce the evidence collected from CESAR VILLAGRANA's
22 home during the execution of a search warrant. Counsel for CESAR
23 VILLAGRANA has agreed to continue the October 29, 2012 hearing date
24 to December 17, 2012.

25 A motion to continue the hearing date will follow this Opposition.

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AFFIRMATION PURSUANT TO NRS 239B.030

Dated this 19th day of October, 2012.

By/s/KARL S. HALL
KARL S. HALL
23
Chief Deputy District Attorney

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I certify that I am an employee of the Washoe County

filed the foregoing with the Clerk of the Court by using the ECF

system which will send a notice of electronic filing to the

following:

MAIZIE W. PUSICH, C.D.P.D.

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DATED this 19th day of October, 2012.

/s/GAYET GUTIERREZ

GAYET GUTIERREZ

FILED

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3294668

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8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
10
11 FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,

13 Plaintiff,

CASE NO. CR11-1718B

14 vs.

DEPT. NO. 4

15 ERNESTO MANUEL GONZALEZ,

16 Defendant.
17 _____ /

18 **REQUEST FOR SUBMISSION**

19 IT IS HEREBY REQUESTED that Defendant's Second Motion to Dismiss filed on
20 October 8, 2012; the State's Opposition filed on October 12, 2012; and the Defendant's Reply
21 filed on October 19, 2012, be submitted to this court for decision.
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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 19th day of October, 2012.

JEREMY T. BOSLER
Washoe County Public Defender

By /s/ Christopher Frey
CHRISTOPHER FREY
Deputy Public Defender

By /s/ Biray Dogan
BIRAY DOGAN
Deputy Public Defender

By /s/ Maizie Pusich
MAIZIE PUSICH
Chief Deputy Public Defender

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CERTIFICATE OF SERVICE

I, LESLIE TIBBALS, hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document through inter-office mail to:

Karl Hall, Chief Deputy District Attorney
District Attorney's Office

Amos Stege, Deputy District Attorney
District Attorney's Office

DATED this 19th Day of October, 2012.

/s/ Leslie Tibbals
LESLIE TIBBALS

34

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9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
10
11 FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,

13 Plaintiff,

CASE NO: CR11-1718B

14 v.

DEPT. NO: 4

15 ERNESTO MANUEL GONZALEZ,

16 Defendant.
17 _____ /

18 **OPPOSITION TO STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES,**
19 **WRONGS OR ACTS;**
20 **AND MOTION TO STRIKE**

21 COMES NOW, the Defendant, ERNESTO MANUEL GONZALEZ, by and through his
22 attorney of record, Jeremy T. Bosler, Washoe County Public Defender, Maize Pusich, Chief
23 Deputy Public Defender, and Biray Dogan and Christopher Frey, Deputy Public Defenders, and
24 hereby opposes the State's motion to admit evidence of other crimes, wrongs or acts filed on
25 November 26, 2012. This motion is based upon the attached points and authorities and any
26 evidence and argument as may be presented at the hearing on this matter.

///

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ARGUMENT

I. PERTINENT LAW

NRS 48.045:

1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

NRS 48.035:

1. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.

2. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence.

3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its admission.

1 **II. THE STATE'S RELIANCE ON HOMICK V. STATE AND JACOBS V. STATE**
2 **IS MISPLACED**

3 **A. Homick v. State**

4 The State relies on Homick v. State, 108 Nev. 127, 825 P.2d 600 (1992) as general
5 support “[w]ith respect to the prior possession of firearms sought to be admitted in this case.”
6 State’s Motion to Admit Evidence of Other Crimes, Wrongs or Acts (hereinafter, State’s
7 Motion to Admit) at 3:22-24 (Nov. 26, 2012). The State’s general reliance on Homick is
8 misplaced.

9 The issue in Homick is whether the district court erred in admitting evidence of prior
10 bad acts. The relevant facts illustrate why the Nevada Supreme Court found no error with the
11 district court’s decision to admit the prior bad acts evidence. While the Homick opinion does
12 not specifically state that it is limited to its facts, it is a highly fact-intensive analysis that is
13 inapposite to the instant case.

14 In Homick, the defendant instructed Michael Dominguez to murder Craig Maraldo to
15 satisfy a drug debt owed to the defendant. Id. at 139, 825 P.2d at 608. A firearms expert
16 testified at trial that eight .22 caliber Remington long rifle expended cartridge casings
17 recovered from the murder scene were fired from the same weapon as six of the seven
18 expended casing found at Maraldo’s residence. Id. Dominguez also testified that on the day of
19 the murders, he saw in the defendant’s car the same .22 Ruger with silencer that the defendant
20 had loaned to Dominguez to kill Maraldo. Id.

21 The Court found no error with the district court’s admission of prior bad acts because
22 the evidence “was properly admitted to connect the Tipton murder weapon to Homick.” Id. at
23 139, 825 P.2d at 608. “The same weapon had been used in each instance, and the testimony of
24 Dominguez concerning the Maraldo and McDowell incidents was essential to understanding
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1 why the same weapon used in those shootings was also used in the murders. Moreover, the
2 testimony indicating that Homick provided cocaine to Dominguez was also relevant in showing
3 the motive for Dominguez accepting the weapon from Homick to use in the attempted murder
4 of Maraldo.” Id. Without any analysis, the Court concluded that the evidence of the prior bad
5 acts admitted by the district court satisfied the criteria in Berner v. State, 104 Nev. 695, 765
6 P.2d 1144 (1988) The criteria the Court most likely refers to in the Berner opinion is the test for
7 determining the admissibility of prior bad act evidence, such as (1) the incident is relevant to
8 the crime charged; (2) the incident is proven by clear and convincing evidence; and (3) the
9 evidence is more probative than prejudicial. Id. at 697, 765 P.2d at 1146.

11 Homick is inapposite, because the firearm was recovered, and it purportedly matched
12 the firearm used in the prior shootings. The prior shootings involved a distinctively uncommon
13 type of weapon – a .22 caliber handgun fitted with a silencer. The defendant hired the PBA
14 witness to carry out a murder. The defendant provided the PBA witness with a .22 caliber
15 handgun fitted with a silencer. The PBA witness saw the same firearm in the defendant’s car
16 the same day as the Tipton murders. The same firearm was later recovered pursuant to a
17 warranted search and introduced at the defendant’s trial. Homick, 108 Nev. at 132, 825 P.2d at
18 603. The identity of the Tipton shooter was at issue in Homick, and the matching of the casings
19 from the prior acts with those from the Tipton case, along with the eyewitness identification of
20 the same firearm in Homick’s possession provided evidence of identification of the Tipton
21 shooter as Homick. Identity of the shooter is not at issue in the instant case.

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1 **B. Jacobs v. State**

2 In Jacobs v. State, 91 Nev. 155, 532 P.2d 1034 (1975), the trial court admitted a
3 handwritten statement by the accused in which he purportedly made reference to another crime
4 where he used the same weapon. The defendant's written statement said, "I got the gun, .20
5 gauge – over and under Savage from my car and pointed it at him and he ran away." Id. at 158,
6 532 P.2d at 1036. The Court, without discussion, ruled that under NRS 48.045(2) the evidence
7 was properly admitted because it related to his possession of the same kind and type of shotgun
8 used in the commission of the murder. Id.

9
10 Similar to Homick, this case is inapposite because there, unlike here, the use of
11 evidence of prior possession of the same type of weapon and ammunition as that used in the
12 murder at issue was to establish identity of the shooter, but identity of the shooter is not at issue
13 here. Yet, the State argues that because the trial court in Jacobs admitted NRS 48.045(2)
14 evidence to show that the accused previously had possession of the weapon that was used in a
15 charged murder that the same ruling applies here. State's Motion to Admit at 4:7-9. The State
16 misreads Jacobs.
17

18 **III. THE PRIOR ACTS THE STATE ATTEMPTS TO ADMIT SHOULD BE**
19 **EXCLUDED BECAUSE THEY ARE NOT RELEVANT AND THEY ARE**
20 **MORE PREJUDICIAL THAN PROBATIVE.**

21 **A. The Gun Magazine.**

- 22 i. The 9mm gun magazine is not relevant and is more prejudicial than
23 probative.

24 The State argues that Mr. Gonzalez's possession of a Glock magazine at the airport "...
25 is relevant to prove identity in that it is some evidence that he is the shooter." State's Motion to
26 Admit at 4:21-22. Contrary to the State's claim, possessing a gun magazine has no logical
connection that Mr. Gonzalez is the shooter in this case. See NRS 48.015 (explaining that to be

1 relevant, the evidence must concern a "fact ... of consequence to the determination of the
2 action"). The State further fails to explain a non-propensity purpose for admitting the gun
3 magazine. See Bigpond v. State, 270 P.3d 1244, 128 Nev. Adv. Rep 10 (2012) ("In order to
4 overcome the presumption of inadmissibility, the prosecutor must request a hearing and
5 establish that: (1) the prior bad act is relevant to the crime charged and for a purpose other than
6 proving the defendant's propensity, (2) the act is proven by clear and convincing evidence, and
7 (3) the probative value of the evidence is not substantially outweighed by the danger of unfair
8 prejudice.").

9
10 More importantly, identity is not a relevant issue in this case because a video of the
11 incident exists, and the defense will be self-defense and defense of others. These facts should
12 proscribe the State from its attempt to admit prejudicial evidence that is not relevant.

13 The State notes that forensic analysis of the expended cartridges show that the weapon
14 used to shoot Jeffrey Pettigrew is a .40 caliber semiautomatic Glock pistol. State's Motion to
15 Admit at 4:16-18. The State also notes that the airport magazine is for a 9mm Glock pistol
16 loaded with 9mm ammunition. State's Motion to Admit at 1:24-25. The magazine and
17 cartridges taken at the airport are completely different than the magazine and cartridges that
18 would have been used in this case. Admission of the airport case will simply show that Mr.
19 Gonzalez was in possession of a Glock magazine albeit to a *different* type and kind of pistol.
20 The State's reliance on Homick and Jacobs is wrong, because in those cases evidence of prior
21 possession of the same type of weapon and ammunition as that used in the prior acts at issue
22 was to establish identity of the shooter. Identity of the shooter is not at issue here. The State
23 fails to prove the act by clear and convincing evidence, because the magazine does not match
24 the weapon used the night of the incident, and the charges were dismissed.
25
26

1 ii. The gun magazine should not be conflated with evidence of gang
2 membership.

3 The State also claims that past possession of a loaded magazine is proof of gang
4 membership. Undoubtedly, the State will continue to argue that the Vagos Motorcycle Club is a
5 gang not a club. A gun magazine found in luggage at the airport has nothing to do with gang
6 membership, nor is it even suggestive of it. Importantly, alleged gang membership does nothing
7 to support the State's attempt to admit prior bad acts evidence under NRS 48.045(2). The latter
8 is the subject of a different rule of admission, NRS 193.168, and is the subject of a separate
9 motion and hearing, and may not be presented during the trial of the primary offenses.
10

11 The State incorrectly conflates evidence of supposed gang membership with its motion
12 to admit prior bad acts. The State's argument that a loaded magazine is synonymous with gang
13 membership is without merit. Even if this was the proper venue for this claim, merely
14 possessing a loaded magazine has no bearing on whether the club commonly commits felonies,
15 a prerequisite for admissibility under the gang enhancement statute, NRS 193.168, supra. The
16 State's premise is flawed.

17 **B. The Steyr Matter.**

18 i. The State's Motion to Admit conflates evidence of other acts under NRS
19 48.045(2) with evidence of gang membership under NRS 193.168.

20 The State attempts to admit this alleged prior act as proof of gang affiliation, and the
21 degree of Mr. Gonzalez's commitment to the gang. However, the State is conflating the gang
22 enhancement to prior bad acts. This is not an independently relevant purpose under NRS
23 48.045(2). Nor is it relevant for a non-enumerated reason. See Bigpond, 270 P.3d 1244, 128
24 Nev. Adv. Rep. 10 (Evidence of other crimes, wrongs, or acts could be admitted for a non-
25 propensity purpose other than those listed in NRS 48.045(2), but the Court cautions the State
26

1 that its decision is fact specific and the use of prior act evidence should always be approached
2 with circumspection). In sum, the State is alleging this prior act as gang evidence, as such it
3 should be presented in a bifurcated hearing, if it all.

4 ii. The Steyr matter is not relevant and is more prejudicial than probative.

5
6 Moreover, this prior act is not relevant to an element of the offense. Identity is not an
7 issue, and self-protection is not motive for murder. At best, it tends to suggest Mr. Gonzalez
8 possessed a firearm. The State's claim that possessing the Steyr handgun shows opportunity by
9 virtue of his access to firearms equates to anyone who has previously possessed a firearm has
10 the opportunity to commit murder. The State stretches this argument to an illogical conclusion.
11 Because identity is not at issue, and the possession of a firearm is also not at issue, opportunity
12 or knowledge is not a relevant purpose for admission. Further, the charges against Mr.
13 Gonzalez were dismissed, and therefore the State will fail to prove this act by clear and
14 convincing evidence. Finally, admission of the Steyr matter would be more prejudicial than
15 probative.
16

17 iii. Mr. Gonzalez's alleged statement.

18 The State references a statement allegedly made by Mr. Gonzalez. State's Motion to
19 Admit at 2:13-14. However, the State fails to explain how this statement is relevant to the
20 motion at hand. Further, the statement is vague and could potentially have many meanings such
21 as the danger involved with a lone person riding motorcycles to distant locations, and staying in
22 strange places. Admission of this statement is highly prejudicial because the State intends to
23 use it as a reference to prior criminal lifestyle or gang evidence, and therefore this statement is
24 inadmissible propensity evidence. See Bigpond, 270 P.3d 1244, 128 Nev. Adv. Rep. 10.
25 Finally, this is not the appropriate motion for such an argument.
26

1 **C. February 2011 photographs.**

2 The State argues that photos of Mr. Gonzalez posing with a firearm with other men is
3 relevant to connect Mr. Gonzalez to the murder weapon is without merit. The State notes that
4 the photo depicts the men wearing Vagos t-shirts, yet admits “the evidence should be admitted
5 to prove the gang enhancement and not as RNS (sic) 48.045(2) evidence.” State’s Motion to
6 Admit at 2 fn. 1. The State fails to particularize why the photos should be admitted under NRS
7 48.045(2). Further, the State fails to prove by clear and convincing evidence that the firearm
8 depicted in the photo is one in the same used the night of the incident. However, this factor
9 would not be relevant in this case. Finally, the photos are more prejudicial than probative.
10

11 **D. Video Of Mr. Gonzalez Shooting**

12 The State claims that “[a]dmission of video showing the Defendant shooting ... is
13 relevant to show opportunity to commit the crime.” Motion to Admit 6:21-23. Here, there is no
14 such relevant connection between normal firearm possession or recreational shooting and an
15 alleged murder. The State attempts to draw too broad a generalization of NRS 48.045(2) by
16 using evidence of a video depicting a person recreationally shooting a firearm as some kind of
17 proof that Mr. Gonzalez is a highly skilled marksman capable of extraordinary abilities to shoot
18 and hit a target from a distance multiple times. The State’s argument is without merit, because
19 opportunity is simply not at issue, and therefore Mr. Gonzalez’s marksmanship is irrelevant.
20 The defense of self-defense and defense of others proscribe the State from introducing the
21 video.
22

23 Should the Court entertain the reasons given by the State, the State fails to show by
24 clear and convincing evidence that Mr. Gonzalez possesses shooting abilities unlike others. The
25 video falls short of requisite proof, because the firearm used in the video is not known, the
26

1 distance from which Mr. Gonzalez is shooting is not known, the accuracy of Mr. Gonzalez's
2 shots in the video is also not known. The State fails to prove by clear and convincing evidence
3 that Mr. Gonzalez possess some kind of unusual skill to shoot.

4 In sum, this analogy stretches reality. The State attempts to use photographs and video
5 depicting Mr. Gonzalez posing with firearms or shooting firearms as gang evidence. The
6 photos and video evidence will be used by the State to demonstrate to a jury that the defendant
7 has created a "gang tape" for others to review to become proficient murderers. Instead, the
8 photos and video truly depict Mr. Gonzalez engaging in the legal sporting activity of target
9 shooting. In other words, completely innocent conduct is now evidence of criminal behavior,
10 and thus every gun owner is now suspected to be a highly skilled marksman practicing his or
11 her craft. Therefore, the evidence is more prejudicial than probative.

12 **IV. MOTION TO STRIKE**

13 **A. Motion To Strike All References To Gang Evidence As Non-Responsive.**

14 The State has argued gang type evidence under NRS 193.168, and fused prior acts
15 evidence under NRS 48.045(2). The subject of this motion is strictly that of prior acts, and not
16 gang evidence. The purpose of this motion is to consider the factors enumerated in NRS
17 48.045(2). The State goes outside the four-corners of this motion, and attempts to admit gang
18 evidence. This motion is not the proper pleading for such argument. Therefore, the Court
19 should not entertain any references or arguments made regarding gang type evidence contained
20 in the State's Motion to Admit, and thereby strike all argument arguing such.

21 **B. Motion To Strike Mr. Gonzalez's Criminal History.**

22 The State refuses to disclose the criminal history of Mr. Gonzalez, and the criminal
23 histories of the State's case in chief witnesses. Mr. Gonzalez's Motion to Compel Discovery
24

1 (Oct. 11, 2012), and his Reply (Oct. 22, 2012) are currently pending in this Court. However,
2 the State has attached as an exhibit what appears to be a portion of Mr. Gonzalez's criminal
3 history. See State's Motion to Admit Ex. 1. By virtue, the State waives any argument against
4 not disseminating criminal histories to the defense. Moreover, the State has violated the federal
5 laws, regulations and policies it relies upon in refusing to disseminate criminal histories. See
6 State's Opposition to Gonzalez's Motion to Compel Discovery (Oct. 16, 2012).

7
8 Further, by disclosing to the public any portion of Mr. Gonzalez's criminal history is a
9 violation of Mr. Gonzalez's right to privacy. See United States DOJ v. the Reporters
10 Committee for Freedom of the Press, 489 U.S. 749 (1989) (Court held that disclosure of the
11 contents of an FBI rap sheet" to a third party could reasonably be expected to constitute an
12 unwarranted invasion of personal privacy and is, therefore, prohibited). For the purposes of
13 this motion, Mr. Gonzalez requests the Court strike from the record his criminal history,
14 because it could cause prejudice in the eyes of the community.

15 CONCLUSION

16
17 Based on the foregoing, Mr. Gonzalez opposes the admission of the State's proposed
18 other act evidence, and respectfully requests that this Court exclude from trial all the State's
19 attempts to admit the prior acts at issue.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 11th Day of December 2012.

JEREMY T. BOSLER
Washoe County Public Defender

By /s/ Christopher Frey
CHRISTOPHER FREY
Deputy Public Defender

By /s/ Biray Dogan
BIRAY DOGAN
Deputy Public Defender

By /s/ Maizie Pusich
MAIZIE PUSICH
Chief Deputy Public Defender

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CERTIFICATE OF SERVICE

I, LESLIE TIBBALS, hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document through inter-office mail to:

Karl Hall, Deputy District Attorney
District Attorney's Office

Amos Stege, Deputy District Attorney
District Attorney's Office

DATED this 11th Day of December 2012.

/s/ Leslie Tibbals
LESLIE TIBBALS

35

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7 Attorney for Defendant

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
10
11 FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,

13 Plaintiff,

CASE NO: CR11-1718B

14 v.

DEPT. NO: 4

15 ERNESTO MANUEL GONZALEZ,

16 Defendant.

17
18 **OPPOSITION TO STATE'S MOTION FOR ORDER ADMITTING GANG**
19 **ENHANCEMENT EVIDENCE AND TESTIMONY**

20 COMES NOW, the Defendant, ERNESTO MANUEL GONZALEZ, by and through his
21 attorney of record, Jeremy T. Bosler, Washoe County Public Defender, Maize Pusich, Chief
22 Deputy Public Defender, and Biray Dogan and Christopher Frey, Deputy Public Defenders, and
23 hereby opposes the State's motion to admit gang enhancement evidence filed on November 26,
24 2012. This motion is based upon the attached points and authorities and any evidence and

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1 argument as may be presented at the hearing on this matter.

2 PROCEDURAL HISTORY AND FACTS

3 A prescheduled hearing to consider the admission of the State's proposed gang
4 enhancement evidence was held on October 29, 2012. Before the hearing, the State was ordered
5 to file a written motion. See Minutes (August 31, 2012).

6
7 Mr. Gonzalez expected that the State, as the proponent of the evidence, would bring its
8 motion twenty days before the hearing in conformity with this court's pretrial order, L.C.R.
9 7(a), NRS 174.234(2), and NRS 174.295.¹ See Request for Disclosure of Proposed Gang
10 Enhancement Evidence at 2 (October 9, 2012); Reply to State's Opposition at 2-9 (October 24,
11 2012). The State failed to bring the required motion.

12 Having received no motion and no notice and no discovery, on October 9, 2012, Mr.
13 Gonzalez sought to prompt the same by filing a Request for Disclosure of Proposed Gang
14 Enhancement Evidence. See Transcript of Proceedings at 15 (hereinafter "Transcript")
15 (October 29, 2012). Although it was under order to bring its own affirmative motion, the State
16 opposed Mr. Gonzalez's Request. Opposition (October 18, 2012).

17
18 In its Opposition, the State noticed approximately twenty-one lay witnesses and three
19 purported experts. Opposition at 5-11. On October 17, 2012, and then on October 22, 2012, the
20 State produced approximately 1,200 pages of discovery. See Request at 7. The State
21 acknowledged that discovery was incomplete. See, e.g., Opposition at 4 n.2, 7, 16; Transcript at
22 20-22. Moreover, its disclosures regarding its expert witnesses were deficient. See Reply at 7;
23

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25
26 ¹ Although perhaps for different reasons, or the same, this expectation was shared by Mr. Gonzalez's co-defendant, and the court. See Transcript at 33-37 (noting that the State bore the burden and elucidating the co-defendant's expectation of a proceeding akin to a Petrocelli

1 Transcript at 16-19. The State's late-timed motion and discovery left Mr. Gonzalez with only
2 roughly five working days to prepare for the hearing. Transcript at 20.

3 Despite noticing twenty-four witnesses, "so that [Mr. Gonzalez] had an idea of who
4 was involved in the police reports that we disclosed," at the hearing, the State called only one:
5 purported gang expert Jorge Gil-Blanco. See Transcript at 25. Based on the delay in the filing
6 of the State's motion, the deficiencies in its expert disclosures, and the incompleteness and late-
7 timing of its discovery, Mr. Gonzalez moved to exclude the State's gang enhancement
8 evidence.² Reply at 7-8; Transcript at 21, 26-28.

10 The State opposed exclusion on grounds that (1) it was occupied in responding to Mr.
11 Gonzalez's other filings, (2) it had personally made efforts to gather evidence in advance of the
12 hearing, and (3) the defense did not, until two days before the hearing, agree to its offer to
13 stipulate to continue the hearing, leaving it without time to call off Jorge Gil-Blanco, who was
14 travelling from out of state for the hearing. See Transcript at 22-23.

16 The court denied Mr. Gonzalez's request for exclusion. It did so on grounds that (1)
17 there was "no necessity" for exclusion because trial was months away, (2) Mr. Gonzalez had
18 filed pleadings equating to requests for reconsideration,³ and (3) because Mr. Gonzalez left the
19

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21 hearing), 37 (confirming the court's shared expectation, regretting not filing a written order for
22 clarity's sake, and noting that "I don't have a clue what the State wants to do today").

²Mr. Gonzalez's co-defendant filed an independent motion to exclude.

23 ³Mr. Gonzalez's Request for Clarification and Supplemental Order and Second Motion to
24 Dismiss were "almost identical pleadings and ultimately seek the same relief." Order Granting
25 in Part and Denying in Part Request for Clarification of Supplemental Order and Denying
26 Second Motion to Dismiss at 2 (October 30, 2012). The State's Opposition to each filing was,
correspondingly, largely identical, and thus failed to constitute multiple efforts on the State's
part. Although the court cited its concern about the merits of Mr. Gonzalez's filings as a ground
for its decision to deny exclusion, Transcript at 30, the next day the court granted Mr. Gonzalez
his requested relief.

1 State only two days cancel Jorge Gil-Blanco's testimony.⁴ See Transcript at 29-31. Rather than
2 grant exclusion, the court fashioned another remedy.

3 The court's remedy was to allow the State to proceed with the direct examination of
4 Jorge Gil-Blanco, and to reserve the defense's cross-examination of this witness until January 8,
5 2013. See Order After October 29, 2012 Hearing (October 30, 2012). It further allowed the
6 State a second pleading opportunity regarding gang-enhancement and NRS 48.045-evidence,
7 ordering it be with "specificity" and that all relevant discovery be disclosed
8 ordering it be with "specificity" and that all relevant discovery be disclosed
9 "contemporaneously with the State's pleading." Id. at 2.

10 ARGUMENT

11 Gang evidence is character evidence and must be analyzed in conformity with NRS
12 48.045, Petrocelli v. State, 101 Nev. 46, 692 P.2d 503 (1985), and related caselaw. The
13 decision in Somee v. State, 124 Nev. 434, 1876 P.3d 152 (2008) does not dictate a different
14 analysis. Moreover, while other courts have recognized that the fact of affiliation may be res
15 gestae in select cases, prior or other gang conduct is not. It is character evidence. Here, each of
16 the State's predicates must be excluded as to Mr. Gonzalez. Additionally, the testimony of
17 Jorge-Gil-Blanco is inadmissible as developed in the record, and Mr. Gonzalez requests a
18 ruling on this issue before his cross-examination at the upcoming hearing.
19
20

21
22 ⁴The State's representation about two days lead time to cancel Jorge Gil-Blanco's testimony
23 was factually wrong. Mr. Gonzalez's counsel clarified this issue at the hearing. See Transcript
24 at 32. The defense agreed to the State's request for a stipulation to continue, not two days
25 before the hearing as represented by the State, but on Monday, October 22, 2012, seven days
26 before the hearing. Based on this, the court expressed puzzlement at the State's insistence on
going forward. Transcript at 32 ("I'm not sure why we didn't continue it at that point, but -").
Defense counsel immediately echoed the court's puzzlement by stating, "Neither am I, judge."
However, the transcript erroneously reflects defense counsel as stating, "Never mind, judge."
Transcript at 33. This wrongly suggests an acquiescence to the hearing proceeding and a waiver
of Mr. Gonzalez's objection. Mr. Gonzalez intends to correct this error by motion.

1 **I. GANG ENHANCEMENT EVIDENCE IS CHARACTER EVIDENCE AND MUST BE**
2 **ANALYZED UNDER NRS 48.045.**

3 Gang enhancement evidence is propensity evidence enshrined in a penalty statute. Its
4 admission requires pretrial scrutiny under Petrocelli. And it requires Petrocelli scrutiny even
5 more obviously when it is offered for a cross-over purpose, such as here. The passing
6 observation in Somee v. State that the gang evidence there “was not character evidence” fails to
7 alter this. 124 Nev. 434, 446 1876 P.3d 152, 160-61 (2008).

8 **A. SOME V. STATE IS NOT A CONTROLLING STATEMENT OF LAW.**

9 In Somee, the State introduced field interview cards purporting to document the
10 defendant’s admitted gang affiliation. Defense counsel objected under NRS 48.045. The district
11 court, however, admitted the evidence as relevant to the gang enhancement. On appeal, the
12 State argued the evidence was res gestae. Yet, in affirming, the Nevada Supreme Court
13 observed that the challenged evidence “was not character evidence” because it “was relevant to
14 prove the charged crime.” 124 Nev. at 446, 1876 P.3d at 160-61.

15
16 Somee is not a definitive statement of Nevada law. As an initial matter, the defense
17 argued NRS 48.045; the State argued res gestae; the district court admitted under the gang
18 enhancement statute; but the Somee court’s reasoning was that the evidence was relevant to
19 prove the substantive offense. Nothing aligns in Somee. Moreover, NRS 193.168 fails to make
20 an appearance. And the alleged holding in Somee is ambiguous.

21
22 Even though the district court admitted the evidence as relevant to NRS 193.168, the
23 gang enhancement statute was not the ground of decision in Somee. The evidence’s relevance
24 to substantive guilt on the “charged crime” was. 124 Nev. at 446, 1876 P.3d at 160-61.
25 Therefore, it remains unclear whether Somee held that gang evidence is inherently not
26

1 character evidence, or simply character evidence with an admissible purpose—enumerated or
2 non-enumerated. See Bigpond v. State, 128 Nev. 10, 270 P.3d 1244 (2012).

3 Given the ruling’s ambiguity and lack of correspondence to the arguments, and the
4 opinion’s omission of any mention of NRS 193.168, Somee did not squarely decide the
5 proposition being debated here. It therefore fails to constitute an authoritative statement of
6 Nevada law. See Mausbach v. Lemke, 110 Nev. 37, 40 n.4, 866 P.2d 1146, 1148 n.4 (1994) (an
7 opinion is not authority for a proposition not considered). Moreover, if the State’s reading of
8 Somee is accepted (as exempting gang evidence from scrutiny as character evidence), then
9 Somee appears to be at odds with the majority position nationally, see State v. High, 282 P.3d
10 1046, 1053 (Utah Ct. App. 2012) (distinguishing Somee as an outlier when construed in the
11 manner the State does here), as well as at odds with the Nevada Supreme Court’s own
12 precedent in Butler v. State, 120 Nev. 879, 102 P.3d 71 (2004) and Lay v. State, 110 Nev.
13 1189, 886 P.2d 448 (1994), both of which consider gang evidence in the context of NRS
14 48.045(2) and a Petrocelli analysis.

15
16
17 **B. GANG ENHANCEMENT EVIDENCE IS CHARACTER EVIDENCE, NOT**
18 **RES GESTAE EVIDENCE.**

19 The State asserts that gang enhancement evidence under NRS 193.168 is “[b]y
20 definition,” res gestae evidence, and therefore “analysis pursuant to Petrocelli and its progeny
21 is not the appropriate” framework. Motion at 7. This is wrong.

22 **i. Gang evidence is character evidence.**

23 The State fails to cite any supporting authority for its sweeping res gestae claim. And
24 the authority it does cite supports the contrary proposition: gang evidence is, in the first and last
25 analysis, character evidence. See Motion at 9 (citing State v. Cristobal, 282 P.3d 1064, 1065
26 (Utah Ct. App. 2012) (analyzing the admissibility of gang evidence under Utah’s analogue to

1 NRS 48.045); Butler v. State, 120 Nev. 879, 102 P.3d 71 (2004) (analyzing the admissibility of
2 gang evidence against the Petrocelli requirements).

3 As recognized in the companion case to Cristobal, to the extent that Somee holds
4 differently, Somee appears to be an outlier:

5 While Somee does provide support for the proposition that
6 evidence of a defendant's membership in a gang is not properly
7 examined under rule 404(b), the state has pointed us to no
8 authority from Utah deciding this matter. Moreover, a number of
9 jurisdictions that have considered the matter have concluded that
10 membership in a gang does constitute evidence of other crimes,
11 wrongs, or acts governed by rule 404(b). See, e.g., Hoops v.
12 State, 681 So.2d 521, 530 (Miss. 1996) ("It would be folly for
13 this Court to hold that affiliation or membership with a street
14 gang such as this one does not constitute a bad act as
15 contemplated by Miss. R. Evid. 404(b)."); Utz v.
16 Commonwealth, 28 Va. App. 411, 505 S.E.2d 380, 384 (Va. Ct.
17 App. 1998) (analyzing gang affiliation under Virginia's prior bad
18 acts standard because "a juror might associate a defendant with
19 such an affiliation as a person of bad character or someone prone
20 to aggressive or violent behavior"). But see United States v.
21 Hodges, 315 F.3d 794, 801 (7th Cir. 2003) ("Without any
22 testimony of particular prior bad acts Hodges participated in as a
23 gang member, we find that evidence of his mere affiliation with
24 the gang does not fall under Rule 404(b).").

25 State v. High, 282 P.3d 1046, 1053 (Utah Ct. App. 2012). Other states and federal circuits are
26 in accord. See State v. Embry, 2012 Wash. App. LEXIS 2552 (Wash. Ct. App. 2012) ("Gang
evidence falls within the scope of ER 404(b)" and a four-part Petrocelli-type analysis must
occur to determine admissibility); Ortiz v. State, 93 S.W.3d 79, 94 (Tex. Crim. App. 2002)
(gang membership evidence is analyzed under Rule 404(b)); United States v. Jobson, 102 F.3d
214 (6th Cir. 1996) (treating gang evidence as FRE 404(b)-evidence and reversing for failure to
give a limiting instruction); cf. State v. Peppers, 276 P.3d 148, 157-58 (Kan. 2012) (suggesting
that gang evidence would be subject to scrutiny as character evidence if the text of Kansas'
analogue to NRS 48.045 extended to "other acts").

1 The State repetitively contends that its gang evidence is “relevant” for some admissible
2 purpose, as if relevance was the only admissibility concern. See Motion at 8 (gang
3 enhancement), 9 (motive), 10 (knowledge of gang’s criminal activities.). Gang evidence, as
4 character evidence, is subject to Petrocelli scrutiny. Relevance is only one concern. The State’s
5 first instinct was to concede the same. See Opposition at 10, 15-16 (October 18, 2012).
6 Considering the balance of authority on the issue, the State’s first instinct was the correct one.

7
8 **ii. Prior or other gang conduct is not res gestae.**

9 The State claims that its “proposed witnesses cannot clearly and fairly relate the fact of
10 the fight at the Nugget nor render an opinion regarding the gang enhancement, without
11 referring to other crimes or acts indicative of the gang enhancement factors contained within
12 NRS 193.168.” Motion at 9 (emphasis added). This overstates the doctrine of res gestae.

13 The prior gang conduct of the accused or third parties is not admissible as res gestae to
14 prove guilt on a substantive offense. This contention stretches NRS 48.035(3) beyond its
15 limited scope. This doctrine is to be “construed narrowly.” Bellon v. State, 121 Nev. 436, 444,
16 117 P.3d 176, 181 (2005). And the risk of exceeding the limited scope of the evidence
17 admissible under it is reversal. Id. (reversing a first-degree murder conviction for improper
18 admission of threats under NRS 48.035(3)); see also Tabish v. State, 119 Nev. 293, 307, 72
19 P.3d 584, 593 (2003) (“descriptively separable” incidents are not res gestae).

20 In contrast to NRS 48.045-evidence, res gestae evidence is not evidence of unrelated
21 prior criminal activity, but is itself part of the corpus of the charged crime. See State v. Sublett,
22 231 P.3d 231 (Wash. Ct. App. 2010). Arguably, other Nevada enhancement statutes “by
23 definition” penalize facts intrinsic to the corpus of the crime itself. See NRS 193.161 (felony
24 committed on school property); NRS 193.162 (using a child to assist in commission of a
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1 felony); NRS 193.163 (use of handgun with metal-penetrating bullets); NRS 193.165 (use of a
2 deadly weapon); NRS 193.166 (felony committed while protection order pending); NRS
3 193.167 (elder enhancement); NRS 193.1675 (hate-crime enhancement); NRS 193.1685
4 (terrorism enhancement). But only NRS 193.168 penalizes an association. Only NRS 193.168
5 requires proof of other acts to prove the association. And therefore only NRS 193.168
6 necessarily depends on proof that is extrinsic to the crime under consideration.
7

8 Accordingly, to the extent that gang evidence implicates the prior or other acts of third
9 parties or the accused, and extends beyond the fact of affiliation, it is not *res gestae*. It is
10 character evidence. The caselaw recognizes this distinction. See, e.g., United States v. Hodges,
11 315 F.3d 794, 801 (7th Cir. 2003) (“Without any testimony of particular prior bad acts Hodges
12 participated in as a gang member, we find that evidence of his mere affiliation with the gang
13 does not fall under Rule 404(b).”); State v. Peppers, 276 P.3d 148, 157-58 (Kan. 2012).
14

15 And contrary to the State’s apparent assumption, the admissibility of the fact of
16 affiliation on *res gestae* grounds does not somehow allow for the importation of a full-scale
17 showing under NRS 193.168—including predicates—under the same exception. See State v.
18 DeShay, 669 N.W.2d 878, 887 (Minn. 2003) (“[T]he allegation that a defendant is in a gang
19 ought not to serve as a justification for extensive expert testimony regarding criminal gangs”
20 and collecting cases). Very simply, while the State may argue that Mr. Gonzalez’s affiliation
21 with the Vagos is *res gestae*, any attempt to prove the fact of his affiliation with prior or other
22 acts—his or someone else’s—triggers Petrocelli scrutiny.⁵ See Embry, 2012 Wash. App.
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25 ⁵Typically, *res gestae* is argued in tandem with NRS 48.045(2). Given its position that its
26 evidence falls outside the purview of NRS 48.045(2), the State’s commitment to *res gestae* will
cause it to forfeit other grounds of admissibility. See Bellon v. State, 121 Nev. 436, 444, 117
P.3d 176, 181 (2005). Echoing Bellon’s disapproval of the practice, other courts have simply

1 LEXIS 2552 n.12 (performing a Petrocelli-type analysis on gang evidence even though the
2 basis of admission was res gestae); Peppers, 276 P.3d at 158 (noting that res gestae is not an
3 independent basis for admission free from other evidentiary requirements).

4 **C. GANG ENHANCEMENT EVIDENCE IS A *FORTIORI* CHARACTER**
5 **EVIDENCE WHEN IT HAS A CROSS-OVER PURPOSE.**

6 The State openly contends that its gang enhancement evidence will be applied to prove
7 “identity, motive, modus operandi, specific intent, means of applying force or fear, or other
8 issues pertinent to guilt of the charged crime.” Motion at 5. A cross-over purpose on
9 substantive issues of guilt subjects this evidence to Petrocelli scrutiny. See, e.g., State v.
10 Cervantes, 2012 Wash. App. LEXIS 101 (Wash. Ct. App. 2012) (character evidence rules
11 apply when gang evidence extends beyond the mere fact of affiliation and is employed on
12 issues of guilt). Accordingly, the State’s gang evidence is not freed from normal admissibility
13 requirements merely because it is also proffered as penalty evidence.

14 **D. CONCLUSION.**

15 Even if the fact of affiliation may be res gestae in select cases, prior or other gang
16 conduct is not. It is character evidence. As such, it receives Petrocelli scrutiny. Accordingly,
17 there must be a determination whether “(1) the incident is relevant to the crime charged; (2) the
18 act is proven by clear and convincing evidence; and (3) the probative value of the evidence is
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25 refused to tolerate the prosecution’s invocation of res gestae as a way to subvert hearsay rules
26 and the more stringent requirements pertaining to character evidence. See State v. Peppers, 276
P.3d 148, 157-58 (Kan. 2012) (citing State v. Gunby, 144 P.3d 647 (2006)). Therefore, the
appropriate response to the State’s invocation of res gestae here remains a character-evidence
analysis under NRS 48.045(2) and Petrocelli.

1 not substantially outweighed by the danger of unfair prejudice.” Tinch v. State, 113 Nev. 1170,
2 1175-76, 946 P.2d 1061, 1064-65 (1997).⁶

3 **II. THE STATE’S PROPOSED PREDICATES UNDER NRS 193.168 MUST BE**
4 **EXCLUDED UNDER NRS 48.045.**

5 Applying this standard to the State’s predicates, none of the alleged prior instances of
6 gang conduct are admissible against Mr. Gonzalez.⁷

7 **A. EXHIBIT 1—COSTA MESA SWAP MEET.**

8 The State claims that this 2001 incident is relevant to proving (1) the Vagos’ bond with
9 the Mongols, (2) “their” rivalry with the Hells Angels, and (3) the “impetus for the subsequent
10 deadly brawl at the ‘Laughlin River Run’ in April of 2002.

11 The Vagos’ alleged bond with the Mongols is remarkable only for its total irrelevance
12 to this case. As a threshold matter, the Mongols are irrelevant and will remain irrelevant unless
13 and until the State can also prove the gang enhancement as to them. Moreover, “their” rivalry
14 refers to the Mongols’ rivalry with the Hells Angels; this rivalry has nothing to do with the
15 Vagos. The “impetus” behind the Laughlin brawl was not because of a Vagos-Hells Angels
16 rivalry. That was exclusively a Hells Angels-Mongols affair. The Hells Angels had no more
17 reason to attack the Mongols in Laughlin because of a rivalry with the Vagos than the Mongols
18 had reason to attack the Hells Angels in Laughlin because some of their members attended the
19 same swap meet as some Vagos a year earlier in another state.
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24 ⁶Mr. Gonzalez maintains that no gang evidence is admissible in the guilt phase of his trial and
separately moved for bifurcation. He hereby incorporates those arguments by reference in
response to the State’s contentions against bifurcation on pages 18 to 21 of its motion.

25 ⁷Exhibits 2, 6, 7, and 12 pertain exclusively to the Hells Angels. They are not probative of the
26 gang enhancement as to Mr. Gonzalez, or relevant to issues of his guilt. Whatever little
probative value these events have is substantially outweighed by the danger of unfair prejudice
to Mr. Gonzalez.

1 The State is attempting to impute a Mongols-Hells Angels rivalry to the Vagos. This
2 cannot be permitted. Tarring the Vagos with the Mongols-Hells Angels rivalry is not probative
3 of the gang enhancement as to Mr. Gonzalez, a Vago, and whatever little probative value this
4 incident has about the Hells Angels or Mongols is substantially outweighed by the danger of
5 unfair prejudice to Mr. Gonzalez. He never attended the swap meet. Moreover, he is not a
6 Mongol, and he was not in attendance in Laughlin.

8 **B. EXHIBIT 3—SAN BERNADINO FIGHT.**

9 The State claims that this assault on a supposed rival gang known as the “Coors Family
10 Skins” is relevant to show crimes “commonly committed” by the Vagos.

11 This is the only proffered basis for admission mentioned by the State; therefore, every
12 other basis for admission is waived.⁸ Yet this incident fails to meet the State’s only proffered
13 basis for admission, as there is a numerosity problem. This is the only predicate alleged
14 involving an armed assault by a Vago. No other predicate purports to prove up a similar crime.
15 Because this incident is not paired with another similar crime, the State has not pleaded
16 sufficiently numerous offenses to meet the definition of “commonly committed.” See NRS
17 193.168(7)(g) and (8)(c). This predicate is therefore probative of nothing, and can only unfairly
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24 ⁸Had the State argued that this was relevant to a gang rivalry, then the incident would not be
25 relevant unless and until it was proven that the “Coors Family Skins” met the definition of a
26 “criminal gang” under NRS 193.168. Additionally, if it cannot advance a theory of relevance
for this predicate on its own, then the State cannot allow Detective Bennett to theorize about
relevance for it. See Motion at 24:8-11 (noting that Bennett “will offer testimony . . . [as to]
how Mr. Hathorn’s case is relevant to the case at hand).

1 prejudice Mr. Gonzalez.

2 **C. EXHIBIT 4—SAN BERNADINO KILLING OF NON-AFFILIATED**
3 **CIVILIAN.**

4 The State claims this is relevant because “it is evidence of the crimes commonly
5 committed by Vagos gang members.” Motion at 24. This is the only proffered basis for
6 admission; all other rationales for admission are waived.

7 There is no gang enhancement is involved in this predicate for a reason: it involves a
8 killing that happened to be by a purported Vago, not a Vago killing for the club. Inevitably,
9 even someone who kills another person is bound to have accumulated an association during his
10 lifetime. In this instance, the man is a purported Vago.⁹ The victim, on the other hand, was non-
11 affiliated, and just a friend renting a room. To the extent the State seriously suggests by this
12 predicate that the Vagos make it a practice to team up with their wives to kill their friends and
13 neighbors, this assertion should be rejected out of hand. This incident fails meet the stated basis
14 for admission. It is a crime without a gang nexus. It has no probative value, and its admission
15 can only unfairly prejudice Mr. Gonzalez.
16

17 **D. EXHIBIT 5—LAKEPORT ATTACK ON THE VAGOS.**
18

19 The State claims that this is relevant because it “corroborates Jorge Gil-Blanco’s
20 testimony in several respects” by demonstrating (1) “the territorial nature of the Hells Angels
21 and Vagos,” (2) the “code of silence,” and (3) “rivalries” between them. Motion at 25.:26-21.
22 Corroboration of a witness’ testimony is not an independent basis for the admission of
23 character evidence. This predicate therefore lacks a legally recognized basis for admission,
24 rendering it irrelevant to these proceedings.
25
26

⁹The State will have to demonstrate his Vagos membership by clear and convincing evidence.

1 Even assuming there was a basis for its admission, the State appears to believe that the
2 incident is relevant more because of Officer Ferguson's remarks about why Burns was attacked
3 than for what Officer Ferguson actually observed. According to the State, "Office Ferguson
4 told Burns that riding through town wearing his colors likely provoked the incident with the
5 Hells Angel members." Motion at 25. This is a wholly unsupported hypothesis. Officer
6 Ferguson never appeared to witness the attack. He only viewed Burns' injuries.
7

8 Moreover, a "code of silence" in the nature of Jorge Gil-Blanco's somber description
9 must certainly be expected to demand more proof than a victim who simply fails to follow-up
10 with police. Lastly, the Hells Angels victimized the Vagos. Being attacked by bad people does
11 not make the Vagos bad people, and it certainly does not make them a gang. See In re Lincoln
12 J., 223 Cal. App. 3d 322, 330-31 (past instances of victimization are insufficient to establish
13 that the victimized group is a criminal gang). For these reasons, the predicate lacks a legal basis
14 for admission, and alternatively must be excluded as the incident's probative value is
15 substantially outweighed by the danger of unfair prejudice.
16

17 **E. EXHIBIT 8—SANTA CRUZ ATTACK ON THE VAGOS.**

18 This is another attack on the Vagos by the Hells Angels. As an instance of past
19 victimization, it is not relevant for any NRS 193.168-purpose as against Mr. Gonzalez. See In
20 re Lincoln J., 223 Cal. App. 3d at 330-31.

21 Nevertheless, the State argues that this incident is relevant to show jealousy over
22 territory and a gang rivalry. Mr. Froberg was acquitted. Thus, if anything, the State's theory of
23 relevance operates in only one direction, against the Hells Angels. Moreover, in acquitting Mr.
24 Froberg, a Santa Cruz jury must have discounted the same narrative the State is offering here.
25 Accordingly, to the extent that this incident proves anything regarding turf jealousy, it proves it
26

1 against the Hells Angels. Moreover, outside of the fact that an attack occurred, the incident
2 proves nothing about a rivalry. The probative value of Mr. Froberg's acquitted conduct is
3 substantially outweighed by the danger of unfair prejudice.

4 **F. EXHIBIT 9—KERN COUNTY ATTACK ON THE VAGOS.**

5 This is yet another attack on the Vagos by the Hells Angels. As an instance of past
6 victimization, this incident is not relevant for any NRS 193.168-purpose as against Mr.
7 Gonzalez. See In re Lincoln J., 223 Cal. App. 3d at 330-31.

8 The State argues that this incident is relevant on the issues of (1) rivalry and turf, (2) as
9 "proof of the common criminal activities punishable as a felony," and (3) motive for the
10 Nugget shooting. Motion at 29. The State's reference to the statement of Gary Rudnick is
11 meaningless as it is has yet to be admitted into evidence.

12 The Vagos are, again, victims. The relevance of this evidence therefore only operates as
13 to the Hells Angels. Moreover, gang evidence is only relevant to show motive "when the
14 evidence provides a motive for an otherwise inexplicable act," State v. Goodson, 135 P.3d
15 1116, 1124 (Kan. 2006) (cited in Peppers, 276 P.3d at 158), such as when a shooting is without
16 evidence of immediate provocation and therefore appears arbitrary, and the facts are without
17 corroboration besides imperfect eyewitness testimony. See Peppers, 276 P.3d at 157-58 (gang
18 evidence admissible on motive in an apparently random late-night shooting outside of a bar
19 with no surveillance video).

20 This is not the case here, which involved a highly-public shooting captured on video
21 showing clear acts of provocation by the Hells Angels. As this court explained in its order
22 regarding severance, the events that took place inside the Nugget are explicable by what
23 appears in the video. Order at 5-6 (August 23, 2012). Accordingly, motive is not a basis for
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1 admitting this incident, or any other item of gang evidence, and whatever little probative value
2 it has as to motive is substantially outweighed by the danger for unfair prejudice.

3 **G. EXHIBIT 10—BULLHEAD CITY ATTACK ON THE VAGOS.**

4 The Vagos are victimized again. This incident is therefore irrelevant for the reasons
5 articulated above. See In re Lincoln J., 223 Cal. App. 3d at 330-31.
6

7 Nevertheless, the State argues relevance under NRS 193.168(7)(a), and that Detective
8 Les Skelton will opine that the “crimes alleging the gang enhancement at the Nugget meet the
9 criteria set forth in NRS 193.168.” Motion at 30. To the extent that the State will have Skelton
10 pronounce that NRS 193.168 is satisfied, the State is proffering testimony that exceeds the
11 permissible scope of expert opinion. See Townsend v. State, 103 Nev. 113, 118, 734 P.2d 705,
12 708-09 (1987); Berry v. City of Detroit, 25 F.3d 1342, 1353 (6th Cir. 1994).

13 The State has undertaken the burden of demonstrating how a single barroom fight is
14 relevant to each of the NRS 193.168-factors as they relate to the Vagos. This is unlikely to
15 occur. Additionally, and most importantly, the evidence the State seeks to introduce is
16 derivative. It appears to have its original source in the interview of “Hells Angel Jerry Smith.”
17 Motion at 30. This presents two problems.
18

19 First, as discussed below, it implicates Mr. Gonzalez’s confrontation rights. Second, the
20 evidence is completely unreliable. In order to prove the gang enhancement, the State here is
21 proffering the characterizations of one purported gang member about another purported gang
22 member, who is his supposed rival. If the State’s own theorizing about a Hells Angels-Vagos
23 rivalry is to be believed, there is no reason to expect a reliable portrait of the Vagos from Jerry
24 Smith. Mr. Smith also appears to have given his interview while cooperating in an investigation
25 into a Hells Angels’ attack on the Vagos in which he may have personally faced criminal
26

1 liability. This information is not reliable, and the credibility concerns are pronounced. And if
2 there is no opportunity to cross-examine Mr. Smith, there is no clear and convincing evidence
3 of this predicate, which largely derives from his interview. In sum, this predicate is of little
4 probative value, and it can only serve to unfairly prejudice Mr. Gonzalez.

5 **H. EXHIBIT 11—YAVAPI ATTACK ON THE VAGOS.**

6 The Vagos are attacked again by the Hells Angels. This instance of victimization is
7 therefore irrelevant for the reasons identified above. In re Lincoln J., 223 Cal. App. 3d at 330-
8 31. The State, however, argues that this incident is relevant to (1) establishing a rivalry, (2) the
9 NRS 193.168 factors, and (3) Detective Skelton's opinion that the shooting at the Nugget was
10 the product of "gang warfare." Motion at 31.

11 Yet there is no evidence that this incident was itself the product of a rivalry. The only
12 arguable evidence of a rivalry is the revelation "that both gangs were aware of the other's
13 presence"—in other words, that the Vago who was shot, and the Hells Angels member doing
14 the shooting, were neighbors. This incident fails to meet its stated bases for admission, and
15 whatever probative value it has is substantially outweighed by the danger of unfair prejudice.
16

17 **I. EXHIBIT 13—OPERATION SIMPLE GREEN**

18 The State claims that a police report relating to Operation Simple Green "substantiates"
19 the gang enhancement with "specific facts." Motion at 32:19-20. However, the State fails to
20 identify those facts. Merely attaching a police report to do the pleading's heavy lifting appears
21 to be in violation of this court's order requiring specificity. See Order After October 29, 2012
22 Hearing (October 30, 2012).
23

24 Nevertheless, the report's contents are irrelevant. Mr. Gonzalez's gun arrest resulted in
25 a dismissal, and a dismissal fails to amount to clear and convincing evidence. A mere gun arrest
26

1 is not logically probative of the gang enhancement, only unfairly prejudicial. And the seized
2 paraphernalia is cumulative of the fact of affiliation. NRS 48.035(2). Lastly, the intercepted
3 telephone conversation is inadmissible without scrutinizing the warrant documentation
4 authorizing the intercept, in addition to posing other evidentiary problems.

5
6 **J. DETECTIVE PATTON AND TYLER CLARK.**

7 The State will call these witnesses to introduce evidence gathered from Mr. Gonzalez's
8 computer, as well as evidence gathered during the execution of a search warrant at his
9 residence in California. Mr. Gonzalez continues to investigate the lawfulness of the search, and
10 anticipates filing a motion to suppress.

11 Regarding the relevance of these items, the State claims they show "gang affiliation,
12 common activities, code of conduct and practices." Motion at 33. However, an exhaustive
13 presentation of Vagos "paraphernalia" to demonstrate the simple fact of affiliation will
14 constitute undue delay, a waste of time and the needless presentation of cumulative evidence,
15 and should be excluded. NRS 48.035(2). The videos and photos, moreover, are the subject of
16 separate motion practice and, in any event, show only lawful activity with no nexus to criminal
17 pursuits. While it may be the "practice" of the Vagos to hold social gatherings, recreate with
18 other club members, and attend club events, and while these things may constitute "common
19 activities," they are not indicative of a criminal enterprise, and their relevance to the gang
20 enhancement is entirely unclear. The State's attempt to connect random items of Vagos kitsch
21 and a photo album to a criminal "code of conduct" is also a failed stretch.

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24 **K. THE STATE'S EXHIBITS VIOLATE THE RULES OF EVIDENCE AND CONFRONTATION.**

25 Rather than discover the materials to the defense through regular channels, the State has
26 filed police reports and documentation related to its predicates as exhibits to its motion. This

1 documentation is not evidence until it is admitted as evidence.¹⁰ Therefore, the State's exhibits
2 should be stricken until they clear the proper evidentiary hurdles at the upcoming hearing,
3 including, among other things, the hearsay rule.

4 Moreover, the State's gang evidence is being admitted for dual purposes: NRS 193.168
5 and on substantive issues of guilt. See Motion at 5 (notifying the cross-over purpose of the
6 State's gang enhancement evidence to assist it during its case-in-chief to prove "identity,
7 motive, modus operandi, specific intent, means of applying force or fear, or other issues
8 pertinent to guilt of the charged crime."). The State also claims that this documentation
9 "provides clear and convincing evidence" on the above issues. See, e.g., Motion at 22:18-22,
10 24:20-22, 25:17-21, 29:13-14.
11

12 These are clear signals that the State is seeking to admit this documentation for the truth
13 of its contents. Accordingly, not only is it hearsay, but it violates Mr. Gonzalez's Sixth
14 Amendment right of confrontation to the extent the contents are testimonial in nature, and the
15 out-of-court declarant is unavailable for cross-examination. See Crawford v. Washington, 541
16 U.S. 36 (2004); see also State v. Lopez-Rios, 669 N.W.2d 603, 612 (Minn. 2003) (recognizing
17 that the hearsay commonly funneled in through gang expert testimony "has Sixth Amendment
18 Confrontation Clause implications").
19

20 L. CONCLUSION.

21 Gang evidence is unquestionably prejudicial. See, e.g., State v. Embry, 2012 Wash.
22 App. LEXIS 2552 (Wash. Ct. App. 2012) ("Courts consider evidence of gang affiliation
23 prejudicial."). The State's predicates all fail to meet their proffered bases for admission, see
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26 ¹⁰For this reason, none of the State's predicates can be considered proven by clear and
convincing evidence until the supporting evidence is lawfully admitted.

1 State v. Wade, 989 P.2d 576, 579 (Wash Ct. App. 1999) (merely incanting a character-evidence
2 exception “will [not] open wide the courtroom doors to whatever evidence may be offered in
3 [its name]”), and otherwise fail scrutiny under NRS 48.045(2) and Petrocelli. If this court
4 declines bifurcation, these predicates must be excluded.

5
6 **III. THE STATE HAS NOT YET SATISFIED NRS 193.168.**

7 The State appears to assume it has already made a satisfactory showing that the Vagos
8 are a criminal gang under NRS 193.168 when it cites to United States v. Fabel, 312 Fed.Appx.
9 932, 935 (9th Cir. 2009) and references the testimony of Jorge Gil-Blanco and Detective Eric
10 Bennett, and the statement of Gary Rudnick. See Motion at 6-7.

11 None of these witnesses have been cross-examined, and the court specifically declined
12 to admit Rudnick’s statement (“Exhibit I”) at the October 29, 2012, hearing. See Minutes
13 (November 27, 2012). Thus, there is no competent proof in the record satisfying NRS 193.168
14 as it relates to Mr. Gonzalez. Moreover, while there is no restriction on citing Fabel in a federal
15 court, see FRAP 32.1, the opinion is unpublished and fails to constitute authority here. Cf. SCR
16 123 (unpublished orders are not precedent and shall not be cited as authority).

17
18 **IV. JORGE GIL-BLANCO’S TESTIMONY IS INADMISSIBLE AS TO MR.**
19 **GONZALEZ UNDER THE PROPER LEGAL STANDARD FOR THE**
20 **ADMISSIBILITY OF GANG EXPERT TESTIMONY.**

21 The State claims that Daubert has no significance in analyzing the admissibility of gang
22 expert testimony because it is non-scientific. Motion at 12. This is wrong.

23 Regardless of whether expert testimony is scientific or non-scientific, the court’s
24 gatekeeping function is the same. And thus the same overarching considerations of
25 admissibility apply. To be admissible under NRS 50.275, non-scientific expert testimony must
26

1 (1) be qualified, (2) assist the trier of fact, and (3) be limited in its scope. See Higgs v. State,
2 126 Nev. 1, ___, 222 P.3d 648, 658 (2010).

3 Contrary to the State's claim that Daubert's reliability factors somehow do not apply in
4 cases of non-scientific expert testimony,¹¹ the United States Supreme Court and the Advisory
5 Committee on the Federal Rules of Evidence have suggested precisely the opposite. See
6 Kumho Tire Co. v. Carmichael, 119 S. Ct. 1167, 1175 (1999); FRE 702, Notes of Advisory
7 Committee on 2000 amendments (noting that Kumho recognized the application of Daubert in
8 analyzing the admissibility of non-scientific expert opinion). Even the State perceives why its
9 position is incorrect when it acknowledges that the admissibility analysis regarding expert
10 opinion under Nevada's flexible approach is "case specific."¹² Motion at 13.

11 Applying this standard to the testimony of Jorge Gil-Blanco as developed by the State at
12 the October 29, 2012, hearing, his testimony must be excluded on the following grounds: (1) he
13 is not qualified to opine regarding the Vagos, (2) his testimony fails the assistance prong
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17 ¹¹The State attempts to distinguish Higgs because NRS 193.168 was not at issue there, and
18 "[u]nlike in Higgs, the proposed testimony the State seeks to admit provides substantial support
19 of the proposed gang enhancement evidence," citing People v. Miranda, 121 Cal.Rptr.3d 231
20 Motion at 12, 13. The latter claim is circular to begin with, and the State's citation of Miranda
21 is irrelevant under Nevada law since expert opinion is inadmissible when it purports to embrace
22 the ultimate issue of a defendant's mens rea. See Townsend v. State, 103 Nev. 113, 118, 734
23 P.2d 705, 708-09 (1987); see also Pineda v. State, 120 Nev. 204, 214 n.30 88 P.3d 827, 835
24 (2004) (gang expert's opinion regarding defendant's mental processes properly excluded as
25 beyond the scope of admissible expert testimony).

26 ¹²Nevada's flexible approach employs a non-exclusive list of factors governing admissibility of
expert opinion. These factors are modeled after but not confined to those outlined in Daubert:
(1) whether the expert's technique or theory can be or has been tested--that is, whether the
expert's theory can be challenged in some objective sense, or whether it is instead simply a
subjective, conclusory approach that cannot reasonably be assessed for reliability; (2) whether
the technique or theory has been subject to peer review and publication; (3) the known or
potential rate of error of the technique or theory when applied; (4) the existence and
maintenance of standards and controls; and (5) whether the technique or theory has been
generally accepted in the scientific community. 509 U.S. 579 (1993).

1 because it is not based on an identifiable methodology, ascertainable foundation, or reliable
2 data, and (3) the Vagos, unlike the Hells Angels, are beyond his scope of expertise. As the
3 court indicated, the State's direct examination of Jorge Gil-Blanco is complete. See Order After
4 October 29, 2012 Hearing at 1 n.1 (October 30, 2012). Accordingly, Mr. Gonzalez respectfully
5 requests a ruling on the admissibility of Jorge Gil-Blanco's opinion as it relates to him before
6 conducting his cross-examination on January 8, 2012.

8 **A. QUALIFICATIONS AND SCOPE.**

9 Jorge Gil-Blanco is not qualified to render an expert opinion regarding the Vagos, and
10 the opinion he rendered regarding the Vagos at the October 29, 2012, hearing was beyond the
11 scope of his stated expertise. This is supported by an inspection of his Powerpoint presentation
12 and the testimony regarding his credentials.

13 The Powerpoint is a Hells Angels project, exclusively. It is based on his impressions
14 from conversations with unascertainable hearsay sources:

16 This is something I put together based on individuals that I've
17 spoken to, members, former members of the Hells Angels,
different outlaw motorcycle gangs, other investigators.

18 Transcript at 48. Moreover, while Jorge Gil-Blanco was assigned between 1990 and 1994 to
19 work "outlaw motorcycle gangs," and assisted the DEA, that four-year period two decades ago
20 pertained "specifically" to the Hells Angels. Transcript at 40. The majority of his court
21 appearances are "specifically" for the Hells Angels. Transcript at 42.

22 The only credentials regarding the Vagos is his affiliation with two biker investigator
23 groups and his experience "teach[ing] classes" and "assisting local agencies." Transcript at 41.

24 The mere fact of his professional associations, teaching experience, and assistance to local
25 agencies fails to qualify Jorge Gil-Blanco to render an opinion about the Vagos specifically.
26

1 And, notably, his opinion regarding the Vagos consisted of only two components: (1) a facile
2 equivalence with the Hells Angels, see, e.g., Transcript at 50 (rules and regulations), 52, 57
3 (structure), 53 (patch) and (2) assessments that are readily available to a juror through fact
4 witnesses (e.g., difference between a two-piece and a three-piece patch). His testimony
5 regarding the Vagos must therefore be excluded. See United States v. Hall, 93 F.3d 1337, 1343
6 (7th Cir. 1996) (when expert testimony duplicates a jury's knowledge it should be excluded
7 under FRE 403 to avoid unduly influencing the jury); see also State v. DeShay, 669 N.W.2d
8 878, 888 (Minn. 2003) (same); State v. Lopez-Rios, 669 N.W.2d 603, 612 (Minn. 2003)
9 (same); EEOC v. Beauty Enters., 361 F. Supp. 2d 11, 15 (D. Conn. 2005) (same).

11 **B. ASSISTANCE.**

12 Jorge Gil-Blanco's testimony must also be excluded because it lacks an identifiable
13 methodology or an ascertainable foundation, and because it depends upon data that assume the
14 truth of the conclusion the State has called upon him to reach.

16 **i. Methodology.**

17 Absent a methodology, Jorge Gil-Blanco's testimony is less acceptable than the expert
18 testimony that was excluded in State v. DeShay, 669 N.W.2d 878, 886 (Minn. 2003), which at
19 least proceeded from an identifiable, though flawed, set of gang criteria. His opinion does not
20 derive from a theory or technique. It is not grounded in the social sciences. And the seemingly
21 proprietary concepts Jorge Gil-Blanco employs about club structure have no reference points in
22 a generally accepted body of knowledge or field of learning.

24 **ii. Foundation.**

25 Rather, his opinion appears to be solely the product of a collection of impressions, and
26 his subjective interpretation of those impressions. The actual sources of these impressions are

1 not readily ascertainable. They simply consist of conversations with former members of the
2 Hells Angels and other investigators. See Transcript at 48. And police reports from gang
3 investigations. The foundation for his opinion cannot be discerned with any precision, and
4 therefore his opinion must be excluded as to Mr. Gonzalez. Cf. OWBR LLC v. Clear Channel
5 Communs., Inc., 266 F. Supp. 2d 1214, 1230 (D. Haw. 2003) (permitting testimony over
6 challenge it lacked foundation and was conclusory because the data upon which opinion was
7 formed was identifiable and ascertainable).

9 Several objections were made about the lack of foundation for Jorge Gil-Blanco's
10 opinion regarding the Vagos, and each was overruled. See Transcript at 51, 57; see also
11 Transcript at 78-79. These objections were overruled on grounds that "he's testified that he's
12 been involved in both clubs, in investigating the clubs, he's a board member of the national
13 association and he's got 30 years of experience with motorcycle clubs." Transcript at 51. "So to
14 the extent that" Jorge Gil-Blanco had "knowledge," this court "allow[ed him] to testify to it."
15 Transcript at 51. But the fact of Jorge Gil-Blanco's memberships in investigative organizations
16 and his non-descript assistance to local agencies fail to offer a foundation for him to render an
17 "expert" opinion on whether the Vagos are a criminal gang.

19 **iii. Data.**

20 Finally, the data that Jorge Gil-Blanco relies upon (police reports in gang
21 investigations) already assumes the conclusion that the State has called upon him to reach—
22 that the Vagos are a criminal gang. Therefore, Jorge Gil-Blanco is not adding value to fact
23 witnesses; he appears to be simply parroting them. This is improper. See, e.g., Hall, 93 F.3d at
24 1343; DeShay, 669 N.W.2d at 886 ("T]he state should not be permitted to launder inadmissible
25
26

1 hearsay evidence, turning it into admissible evidence by the simple expedient of passing it
2 through the conduit of purportedly “expert opinion.”).

3 **C. JORGE GIL-BLANCO’S TESTIMONY AS DEVELOPED AT THE**
4 **HEARING IS LEGALLY INSUFFICIENT AS TO MR. GONZALEZ AND**
5 **EXHIBITED A DISQUALIFYING BIAS.**

6 The State’s direct examination of Jorge Gil-Blanco failed to elicit an opinion that the
7 Vagos are a “criminal gang.” It therefore failed to elicit even the predicate for an opinion on
8 whether Mr. Gonzalez acted for a criminal gang’s benefit. Cf. In re Lincoln J., 223 Cal. App.
9 3d 322, 327 (Cal. Ct. App. 1990) (proof that group is a criminal gang is a threshold requirement
10 to proving active participation in a criminal gang).

11 The State’s direct examination similarly failed to elicit testimony that Mr. Gonzalez was
12 even part of the Vagos membership. This is in contrast to Villagrana and Pettigrew, both of
13 whom were identified by Jorge Gil-Blanco as members of the Hells Angels. See Transcript at
14 76-77; see In re Lincoln J., 223 Cal. App. 3d 322, 330 n.4 (Cal. App. 2d Dist. 1990)
15 (suggesting that identifying an accused as a gang member at the time of the offense is a basic
16 predicate to the relevance of gang testimony).

17 In addition to failing to cover two basic predicates under NRS 193.168 as to Mr.
18 Gonzalez, Jorge Gil-Blanco appeared to demonstrate a personal animus towards Mr.
19 Gonzalez’s co-defendant—and, by implication, Mr. Gonzalez—when he addressed Mr.
20 Villagrana personally while testifying. See Transcript at 60-61. Any open exhibition of
21 personal hostility by an expert toward a party should be considered a basis to exclude them.
22

23 **D. JORGE GIL-BLANCO’S OPINION MUST BE STRICKEN AS IMPOPERLY**
24 **EMBRACING AN ULTIMATE ISSUE.**

25 Under NRS 193.168(1), before liability can be assigned for the gang enhancement, the
26 jury must render a verdict on whether one acted “knowingly for the benefit of, at the direction

1 of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist
2 the activities of the criminal gang." This is an ultimate issue.

3 Therefore, inquiry on this issue is improper. See Townsend v. State, 103 Nev. 113, 118,
4 734 P.2d 705, 708-09 (1987). After the court independently inquired about Jorge Gil-Blanco's
5 opinion, the State launched into the following inquiry:

6
7 Mr. Hall: I was going to ask about his opinion as to whether or
not this crime was committed for the benefit of a criminal gang.

8 ...

9 Q: Do you have an opinion on that, based on your training and
experience and knowledge of these two gangs?

10 A: Yes, I do.

11 Q: And what is your opinion?

12 A: That yes, on both sides it was committed for the benefit of the
respective gangs.

13 Transcript at 118. This drew a Townsend objection by Mr. Gonzalez, but the court reserved its
14 ruling. See Transcript at 119-120.

15 Although experts may generally embrace ultimate issues, see NRS 50.295, Townsend v.
16 State established that this proposition is not without its limits. 103 Nev. 113, 118, 734 P.2d 705,
17 708-09 (1987) (expert testimony improper when "it transcended the test of jury enlightenment
18 and entered the realm of fact-finding that was well within the capacity of a lay jury."). In
19 Townsend, the probativeness of the expert opinion there was obvious since the crime at issue
20 was a secretive sexual assault on a child in which the child-victim was the only percipient
21 witness. Regarding this highly-public shooting captured on video, Jorge Gil-Blanco's opinion
22 offers nothing for a jury that the video cannot already provide.

23
24 His opinion simply duplicates a finding that lay jury could arrive at on its own. See
25 Townsend v. Benzie County, 2002 U.S. Dist. LEXIS 7072, 12-13 (W.D. Mich. Apr. 12, 2002).
26 And it amounts to fact-finding on Mr. Gonzalez's ultimate mens rea, which is the jury's

1 province, and thus an inadmissible area of expert assessment. See Pineda v. State, 120 Nev.
2 204, 214 n. 30 (Nev. 2004); United States v. Matthews, 312 F.3d 652, 664 (5th Cir. 2002)
3 (“[M]ens rea [is] a classic criminal law finding reserved for the jury.”).

4 **E. CONFRONTATION.**

5 Gang expert testimony by its nature directly implicates the Sixth Amendment’s
6 Confrontation Clause. See Crawford v. Washington, 541 U.S. 36 (2004); see also State v.
7 Lopez-Rios, 669 N.W.2d 603, 612 (Minn. 2003) (recognizing that the hearsay commonly
8 funneled in through gang expert testimony “has Sixth Amendment Confrontation Clause
9 implications”); People v. Hill, 191 Cal. App. 4th 1104 (Cal. App. 1st Dist. 2011).

10 Because the foundation for his opinion as to the Vagos is largely unascertainable, or
11 otherwise derived from the testimonial hearsay of declarants unavailable for cross-examination,
12 Jorge Gil-Blanco’s opinion must be excluded on confrontation grounds.

13 **V. MR. GONZALEZ JOINS HIS CO-DEFENDANT’S ARGUMENTS.**

14 Mr. Gonzalez hereby joins the arguments of his co-defendant to the extent they
15 supplement his own or add new and equally applicable grounds for relief.

16 **CONCLUSION**

17 Based on the foregoing, the State’s proposed predicates and the testimony of Jorge Gil-

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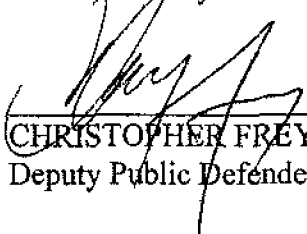
1 Blanco must be excluded.

2 AFFIRMATION PURSUANT TO NRS 239B.030

3 The undersigned does hereby affirm that the preceding document does not contain the
4 social security number of any person.

5
6 DATED this 11th Day of December, 2012.

7 JEREMY T. BOSLER
8 Washoe County Public Defender

9 By 
10 CHRISTOPHER FREY
11 Deputy Public Defender

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7 Attorney for Plaintiff

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
9
10 IN AND FOR THE COUNTY OF WASHOE

11 * * *

12 THE STATE OF NEVADA,

13 Plaintiff,

Case No. CR11-1718B

14 v.

Dept. No. 4

15 ERNESTO MANUEL GONZALEZ,

16 Defendant.

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REPLY IN SUPPORT OF STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES
WRONGS OR ACTS, AND OPPOSITION TO DEFENDANT'S MOTION TO STRIKE

COMES NOW, the State of Nevada, by and through RICHARD A. GAMMICK, District Attorney of Washoe County, and AMOS STEGE, Deputy District Attorney, and hereby submits the attached Points and Authorities in Reply in Support of State's Motion for Order Admitting Gang Enhancement Evidence and Testimony filed under Washoe County District Court case numbers CR11-1718B.

This reply is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

1 POINTS AND AUTHORITIES

2 Defendant argues that the Jacobs rationale does not apply.
3 Jacobs v. State, 91 Nev. 155, 532 P.2d 1034 (1975). Indeed, he
4 misreads Jacobs to stand for proposition that the firearms evidence
5 was introduced to prove identity alone. The court noted it was
6 properly admitted to "relate his possession of a shotgun which was
7 the same kind and type used in the commission of [the instant
8 murder]". At 157, 1036. Put another way, the other act placed the
9 same "kind and type" of murder weapon in the Defendant's hands. The
10 Court never limited the holding to "identity", instead it affirmed
11 using the other act to tie Jacobs to the same or similar murder
12 weapon.

13 Similarly, Homick v. State is not limited to "identity".
14 Homick v. State, 108 Nev. 127, 825 P.2d 600 (1992). In Homick the
15 Court affirmed the other act evidence in order to "connect the Tipton
16 murder weapon to Homick". Id. at 139, 608.

17 POSING WITH A GLOCK & GLOCK MAGAZINE

18 Defendant claims that identity is not an issue in this
19 case. To the contrary, identity is an issue in every case. The
20 video surveillance does not capture the killing of Pettigrew in "big
21 screen" fashion. The State must always prove identity. One way to
22 prove identity is the testimony of the witnesses. Another way is to
23 show that the Defendant has possessed the actual murder weapon or
24 firearms similar to the murder weapon. It is true that the murder
25 weapon has not been recovered. As such, the State can introduce
26 other acts evidence placing the Defendant in possession of a either

1 the murder weapon or one very similar to it. The Defendant is posing
2 with a Glock in the months prior to the murder at some sort of gang
3 get-together. Is it so incredible that at another gang get-together
4 at the Nugget in September of 2011 he had the same Glock? For that
5 reason, it is permissible other act evidence that is no more
6 prejudicial than, for example, the gang attire the Defendant is
7 wearing during the incident and found in his possession when he was
8 arrested. This evidence is some evidence of a connection between the
9 Defendant and the murder weapon. Finally, the Defendant should not be
10 able to benefit from destroying or hiding the evidence (the murder
11 weapon) by arguing that the Glock in his possession is not the murder
12 weapon.

13 All Glock pistols operate in the same manner regardless of
14 caliber. Placing a loaded Glock magazine in the Defendant's
15 possession shows his familiarity with the functioning of a Glock. It
16 explains why he is skilled with the weapon- he is familiar with it.
17 Contrary to the Defendant's argument, the magazine is simply of a
18 different caliber. It is of the same type (semiautomatic pistol) and
19 kind (Glock style). Similar to the other act related to the video of
20 the Defendant firing a pistol, it shows that the Defendant is adept,
21 skillful, and has familiarity with a certain style of firearm. As a
22 matter of habit, having owned a 9mm Glock it is likely that he would
23 choose a weapon familiar to him (a .40 Glock) later in time.

24 **VIDEO**

25 To say that the Defendant's marksmanship is not at issue is
26 not accurate. The issue in every criminal case, including murder, is

1 the Defendant's state of mind. Certainly all of the parties are
2 familiar with arguments equating the marksmanship of the accused with
3 his criminal intent. The evidence shows that the killing of
4 Pettigrew was the result of good marksmanship. Defendant was able to
5 shoot at least 5 times into the back of Pettigrew very quickly. He
6 was able to avoid Villagrana, who was standing next to Pettigrew at
7 the time. He did not shoot any bystanders in the crowded casino.
8 The video explains why. Even though we don't know the distance of
9 the shooting, we can tell that the skill displayed by the Defendant
10 are beyond average. Specifically, he holds the firearm with a a
11 proper grip, he exhibits trigger control, and he is able to return
12 the firearm to firing position rapidly.

13 STEYR

14 This other act shows that the Defendant travels with a
15 concealed pistol in fear of the danger created by the rivalry between
16 the Vagos and other motorcycle gangs. The reason he carries the
17 weapon is because of his gang lifestyle and the repercussions it
18 creates with others. His knowledge of the violent or deadly nature
19 of this rivalry is directly relevant to the instant case. Admission
20 of this act (including Defendant's statement) directly disproves any
21 claim of surprise, disbelief, or accident that the Nugget melee
22 turned deadly.

23 Remarkably, the Defendant claims that possession of a
24 firearm is not at issue. To the contrary, possession of a firearm is
25 an element of the charges, including Count I and the carrying a
26 concealed weapon charge (Count VII). That the Defendant is making

1 overtures at conceding identity and the use of the murder weapon is
2 inapposite. The State must prove every element beyond a reasonable
3 doubt. Previously illegal possession of a firearm is some evidence of
4 knowledge or lack of mistake as to Count VII.

5 **MOTION TO STRIKE**

6 First, the Court itself sought guidance as to the overlap
7 of gang evidence and other acts evidence. That is why the instant
8 motion addresses the gang aspects of the bad acts. Naturally, there
9 is overlap between what a defense attorney could call bad act as
10 opposed to gang evidence. Indeed Gonzalez' opposition to the State's
11 gang evidence claims those acts should be in this motion. Factually,
12 there is an overlap between gang evidence and other act evidence
13 because the Defendant IS IN A GANG. The motion to strike should be
14 denied.

15 The Defendant's assertions regarding his criminal history
16 must also be rejected. The criminal history attached to the motion
17 is limited to Santa Clara County local criminal history, not an FBI
18 history. It is unclear how reference to the dismissal of one case
19 and the conviction of two traffic tickets would cause prejudice in
20 the "eyes of the community" when the Defendant is charged with
21 murder.

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1 CONCLUSION

2 For the above-stated reasons, the State's motion should be
3 granted.

4 AFFIRMATION PURSUANT TO NRS 239B.030

5 The undersigned does hereby affirm that the preceding
6 document does not contain the social security number of any person.

7 Dated this 18th day of December, 2012.

8
9 RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

10
11 By /s/ Amos Stege

12 AMOS STEGE
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Chief Deputy District Attorney
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DATED this 18th day of December, 2012.

/s/DANIELLE RASMUSSEN
DANIELLE RASMUSSEN

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9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE.

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR11-1718

15 v.

Dept. No. 4

16 CESAR VILLAGRANA (A),
17 and
18 ERNESTO MANUEL GONZALEZ (B),
19 Defendant.

20 _____ /
21 MOTION REQUESTING LEAVE OF COURT TO SUPPLEMENT GANG ENHANCEMENT
22 DISCOVERY (LAKE COUNTY INCIDENT)

23 COMES NOW, the State of Nevada, by and through RICHARD A.
24 GAMMICK, District Attorney of Washoe County, and AMOS STEGE, Deputy
25 District Attorney, and moves this Honorable Court for leave to
26 supplement gang enhancement discovery. This Motion is made in good
faith and not for purposes of delay or inconvenience.

Background

27 A "Gang Enhancement Evidence" hearing was set to address the
28 issue of the gang enhancement evidence and proposed witnesses the State
29 seeks to introduce pursuant to NRS 193.168 on October 29, 2012. At

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1 that time, Jorge Gil-Blanco was examined by the State and cross
2 examination was continued until January 8, 2013. On October 30, 2012
3 this Court issued an Order indicating that further briefing was
4 necessary before proceeding with the continued hearing. The Court
5 ordered that the State file a motion to admit such evidence on or
6 before November 26, 2012. The Order stated that "the State must plead
7 with specificity the evidence it seeks to introduce in its case in
8 chief pursuant to NRS 193.168 and/or NRS 48.045. Any discovery the
9 State seeks to introduce in its case in chief related to NRS 193.168
10 and/or NRS 48.045 must be disclosed contemporaneously with the State's
11 pleading or prior." (See October 30, 2012 Order).

12 **Supplemental Evidence - LAKE COUNTY JUNE 2011**

13 During the Grand Jury proceedings, Jorge Gil-Blanco presented
14 a PowerPoint presentation detailing the history of conflict between the
15 Hells Angels and the Vagos. See generally, GJT at 255. A copy of his
16 presentation was admitted into evidence at the grand jury proceedings.
17 The presentation listed the 2011 Lake County fight between Hells Angels
18 and Vaogs as part of the history of conflict between the groups. Mr.
19 Gil-Blanco also presented a PowerPoint presentation during his
20 testimony on October 29, 2012. A copy of the presentation is admitted
21 as Exhibit J. During that presentation he discussed the same incident.
22 The incident was also discussed during the testimony of Lt. Jason
23 Ferguson of the Lakeport (CA) Police Department. The previously filed
24 motion seeking

25 ///

26 ///

1 admission of gang evidence is hereby supplemented with the attached
2 exhibit. See Exhibit 1. Video of the incident is also hereby
3 referenced and will be disclosed to the Defendants upon receipt.
4

5 AFFIRMATION PURSUANT TO NRS 239B.030

6 The undersigned does hereby affirm that the preceding
7 document does not contain the social security number of any person.

8 Dated this 23rd day of January, 2013.
9

10 RICHARD A. GAMMICK
11 District Attorney
12 Washoe County, Nevada
13

14 By /s/ Amos Stege
15 AMOS STEGE
16 9200
17 Deputy District Attorney
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26 0123CR111718A&B6

1 CERTIFICATE OF SERVICE BY E-FILING

2 I certify that I am an employee of the Washoe County
3 District Attorney's Office and that, on this date, I electronically
4 filed the foregoing with the Clerk of the Court by using the ECF
5 system which will send a notice of electronic filing to the
6 following:

7
8 RICHARD A. SCHONFELD
9 CHESNOFF & SCHONFELD
10 520 FOURTH STREET
11 LAS VEGAS, NEVADA 89101

12
13 DATED this 23rd day of January, 2013.

14
15 /s/DANIELLE RASMUSSEN
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Exhibit 1

Exhibit 1



LAKE COUNTY SHERIFF'S OFFICE

Page 1

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200
INFORMATION REPORT

C11060074

Printed by RND

Offenses		Description	Fel/Misd	Date Occurred	Time Occurred	Date Printed
245 (A)(1) PC		FORCE/ADW NOT FIREARM:GBI LIKELY	Felony	6/4/2011	1315 - 1354	1/18/2013
243 (D) PC		BATTERY W/SERIOUS BODILY INJURY	Felony	Date Reported	Time Reported	Time Printed
186.22 (D) PC		CRIM ST GANG:WITH PUB OFFENSE CO	Felony	6/4/2011	1324	10:23:21
Related Cases						Incident #
						110604098
Location			Beat	Area	Disposition	Dispo Date
Konocti Vista Casino, 2755 Mission Rancheria Rd, Lakeport, CA 95453			5A	5A	Cleared by Complaint-Adult	6/4/2011
Location Type	Location of Entry	Method of Entry	Point of Entry	Alarm System	Means of Attack (Robbery)	
Other Public Premise						
Victim Name		Drivers License	Cell Phone	Email		
Perkin, Kristopher Kelley						
Residence Address		Residence Phone	DOB	Age	Sex	Race
					M	W
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
			6'2"	180	BRO	BRO
Assistance Rendered/Victim Disposition			Transporting Agency	Means of Attack (Assaults)		
Other				Physical/Strong Arm (GBI)		
Description of Injuries			Other Information			
Reporting Party		Drivers License	Cell Phone	Email		
Konocti Vista Casino						
Residence Address		Residence Phone	DOB	Age	Sex	Race
2755 Mission Rancheria Rd, Lakeport, CA 95453		707 262 1900				
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
Suspect Arrested		Action Taken	Charges			
Carrillo, Nicolas Felipe		BOOKING	245 (A)(1) PC, 243 (D) PC, 186.22 (D) PC			
Residence Address		Cell Phone	DOB	Age	Sex	Race
					M	H
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
			5'9"	235	BRO	BRO
Identifying Features		Residence Phone	Drivers License	Arrest Number		
Scars: LT KNEE Speech: Clear Build: Average Complexion: Clear Facial Hair: Gotee				68576		
Status		Vehicle Make and Model	License/State	Vehicle Type		
No.	Status/Disposition	Property Description		Value	Val Recovered	Val Damaged
		(Property listed on separate page)				
Solvability Factors						
072 Victims Physical Evidence Suspect Description Suspects						
Prepared By		Date	Assisted By	Approved By	Date	
S0324 - Frace, Gary		6/4/2011		S0086 - Davidson, Andy	4/17/2012	
Routed To		Date	Routed To	Date	Notes	
DA-walkthru by 420		6/16/2011	Sonoma DA - per 420	10/11/2011		
420 - electronic copy		6/20/2011	Washoe Co. DA Office	1/18/2013		
FBI per 420		7/14/2011				

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LAKE COUNTY SHERIFF'S OFFICE

Page 2

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200
INFORMATION REPORT

CI 1060074

Printed by RND

Suspect Johnson, Josh Leo		Action Taken	Charges 245 (A)(1) PC, 243 (D) PC, 186.22 (D) PC			
Residence Address [REDACTED]		Cell Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height 5'6"	Wt 155	Hair BLN	Eyes BRO
Identifying Features Tattoos: ENGLAND ON R FOREARM, SKULL W WINGS ON R ARM, HELLS ANGELS ON CHEST Speech: Clear Build: Average Complexion: Clear Facial Hair: None		Residence Phone [REDACTED]	Drivers License [REDACTED]		Arrest Number	
Suspect Dabbs, David Daniel		Action Taken	Charges 245 (A)(1) PC, 243 (D) PC, 186.22 (D) PC			
Residence Address [REDACTED]		Cell Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height 6'1"	Wt 225	Hair BRO	Eyes BLU
Identifying Features		Residence Phone [REDACTED]	Drivers License [REDACTED]		Arrest Number	
Suspect Bianchi, Timothy Robert		Action Taken	Charges 245 (A)(1) PC, 243 (D) PC, 186.22 (D) PC			
Residence Address [REDACTED]		Cell Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height 5'6"	Wt 200	Hair BRO	Eyes BRO
Identifying Features Scars: LFT LEG 15 IN SCARTattoos: RT ARM HELLS ANGEL TAT. RT ARM TAT ITALIAN TAT AND YAT PRIDE, Speech: Clear Build: Average Complexion: Clear Facial Hair: None		Residence Phone [REDACTED]	Drivers License [REDACTED]		Arrest Number	
Victim Name Burns, Michael Anthony		Drivers License [REDACTED]	Cell Phone [REDACTED]	Email		
Residence Address [REDACTED]		Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height 6'1"	Wt 290	Hair BLK	Eyes HAZ
Assistance Rendered/Victim Disposition Refused Aid		Transporting Agency	Means of Attack (Assaults) Physical/Strong Arm (GBI)			
Description of Injuries Other Major Injury		Other Information				
Mentioned Beland, James Francis		Drivers License [REDACTED]	Cell Phone [REDACTED]	Email		
Residence Address [REDACTED]		Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height 5'11"	Wt 178	Hair GRY	Eyes GRN
Mentioned Birge, Christina		Drivers License [REDACTED]	Cell Phone [REDACTED]	Email		
Residence Address [REDACTED]		Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex F	Race W
Business Name and Address [REDACTED]		Business Phone [REDACTED]	Height [REDACTED]	Wt [REDACTED]	Hair [REDACTED]	Eyes [REDACTED]

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INFORMATION REPORT

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Mentioned Bochman, Jennifer	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex	Race
Business Name and Address		Business Phone	Height 5'6"	Wt 130	Hair BRO	Eyes GRN
Mentioned	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age 2	Sex	Race
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
Mentioned Burns, Leayla Marie	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex F	Race W
Business Name and Address		Business Phone	Height 5'	Wt 103	Hair BLK	Eyes HAZ
Mentioned	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex F	Race W
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
Mentioned	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex M	Race W
Business Name and Address Konecti Vista Casino		Business Phone	Height 5'9"	Wt 200	Hair BRO	Eyes BRO
Mentioned Genetec	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex	Race
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
Mentioned Gil-Blanco, Jorge	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex M	Race
Business Name and Address Western States Info Network		Business Phone	Height	Wt	Hair	Eyes
Mentioned	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex M	Race
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes

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INFORMATION REPORT

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Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'9"	Wt 140	Hair BRO	Eyes BRO	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race B	
Business Name and Address Konociti Vista Casino	Business Phone [REDACTED]	Height 6'4"	Wt 255	Hair BLK	Eyes BRO	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex F	Race [REDACTED]	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height [REDACTED]	Wt [REDACTED]	Hair [REDACTED]	Eyes [REDACTED]	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'7"	Wt 160	Hair BRO	Eyes BLU	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race I	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'10"	Wt 245	Hair BLK	Eyes BRO	
Mentioned Menke, Travis SRPD	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race [REDACTED]	
Business Name and Address Konociti Vista Casino, 2755 Mission Rancheria Rd, Lakeport, CA 95453	Business Phone [REDACTED]	Height [REDACTED]	Wt [REDACTED]	Hair [REDACTED]	Eyes [REDACTED]	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'8"	Wt 190	Hair BLN	Eyes GRN	

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INFORMATION REPORT

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Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email [REDACTED]			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race B	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'8"	Wt 215	Hair BLK	Eyes BRO	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email [REDACTED]			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W	
Business Name and Address S [REDACTED]	Business Phone [REDACTED]	Height [REDACTED]	Wt [REDACTED]	Hair [REDACTED]	Eyes [REDACTED]	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email [REDACTED]			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex M	Race W	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height [REDACTED]	Wt [REDACTED]	Hair [REDACTED]	Eyes [REDACTED]	
Mentioned [REDACTED]	Drivers License [REDACTED]	Cell Phone [REDACTED]	Email [REDACTED]			
Residence Address [REDACTED]	Residence Phone [REDACTED]	DOB [REDACTED]	Age [REDACTED]	Sex F	Race W	
Business Name and Address [REDACTED]	Business Phone [REDACTED]	Height 5'3"	Wt 135	Hair BRO	Eyes BLU	

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**LAKE COUNTY SHERIFF'S OFFICE**

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INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
1	Evidence	1 Medical Report - MEDICAL REPORT			
2	Evidence	1 Cd - UNTITLED CD FROM CASINO			
3	Evidence	1 Cd - DISC FROM CASINO TITLED "FACESHOTS"			
4	Evidence	1 Dvd - CASINO SECURITY FOOTAGE CONVERTED FROM .G36 TO .AVI TITLED			
5	Evidence	1 Cd - DISC TITLED D1			
6	Evidence	1 Cd - DISC TITLED D2			
7	Evidence	1 Cd - DISC TITLED D3			
8	Evidence	1 Cd - DISC TITLED D4			
9	Evidence	1 Cd - DISC TITLED D5			
10	Evidence	1 Cd - DISC TITLED D6			
11	Evidence	1 Cd - DISC TITLED D7			
12	Evidence	1 Cd - DISC TITLED D8			
13	Evidence	1 Cd - DISC TITLED D9			
14	Evidence	1 Cd - DISC TITLED D10			
15	Evidence	1 Cd - DISC TITLED D11			
16	Evidence	1 Cd - DISC TITLED D12			
17	Evidence	1 Cd - DISC TITLED D13			
18	Evidence	1 Cd - DISC TITLED D14			
19	Evidence	1 Cd - DISC TITLED D15			
20	Evidence	1 Cd - DISC TITLED D16			
21	Evidence	1 Cd - DISC TITLED D17			
22	Evidence	1 Cd - DISC TITLED D18			
23	Evidence	1 Cd - DISC TITLED D19			
24	Evidence	1 Cd - DISC TITLED D20			
25	Evidence	1 Cd - DISC TITLED D21			
26	Evidence	1 Cd - DISC TITLED D22			
27	Evidence	1 Cd - DISC TITLED D23			
28	Evidence	1 Cd - DISC TITLED D24			
29	Evidence	1 Cd - DISC TITLED D25			
30	Evidence	1 Cd - DISC TITLED D26			
31	Evidence	1 Cd - DISC TITLED D27			
32	Evidence	1 Cd - DISC TITLED D28			
33	Evidence	1 Cd - LEAYLA BURNS INTERVIEW ON 06/06/2011			
34	Evidence	1 Maps - TWO MAPS OF THE CASINO			
35	Evidence	1 Cd - DUANE GONZALES INTERVIEW ON 06/20/2011			
36	Evidence	1 Cd - ROBERT HOSKINS INTERVIEW ON 06/21/2011			
37	Evidence	1 Cd - PENNI WHITE INTERVIEW ON 06/21/2011			

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INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
38	Evidence	1 Cd - JOHN MEYER INTERVIEW ON 06/21/2011			
39	Evidence	1 Cd - JOE ROVETI INTERVIEW ON 07/12/2011			
40	Evidence	1 Cd - TODD FLAHERTY INTERVIEW ON 07/12/2011			
41	Evidence	1 memorex cd-R - Perkin, Kristopher intv 7-18-11			
42	Evidence	1 Documents - DOCUMENTS FROM THE FBI			
43	Evidence	1 Black Bag / Briefcase - "Red & White Sonoma Co" on bag. Contains misc paperwork for "Sonoma County Productions"			
44	Evidence/Returned To Owner	1 Motorola Flip Cellular phone - Charger included in bag (K78UQA67DQ)			
45	Evidence	1 Edd Pay Notifica - Johnson's EDD Payment Notification with "2413 Rock Creek"			
46	Evidence	1 29 Palms Intallation Pass ID Card			
47	Evidence	1 Dog Tags - "Josh" "USA 2011"			
48	Evidence	1 Black Belt and Buckle - Hells Angels buckle and belt			
49	Evidence	1 Black Leather Vest - "Sonoma Co" "Prospect"			
50	Evidence	1 Black Leather Vest - "Vice President" "N.Y.C." "Hells Angels"			
51	Evidence	1 Red & White Hells Angels Patches - "Randers" "Nomads" "AFFA" "101 Mob" etc			
52	Evidence	1 Hame Newsletter			
53	Evidence	1 USA Passport			
54	Evidence	1 Comcast Bill - Utility bill with Johnson's name and "2413 Rock Creek" address			
55	Evidence	1 Silver Cd - "Hells Kitchen" - Music			
56	Evidence	1 Silver Cd - "Birthday" - Photos			
57	Evidence	2 Tax returns - 2 folders labeled "2008" and "2010" tax returns			
58	Evidence/Returned To Owner	1 White & Black Apple A1303 Iphone - with cover (BCGA1303A)			
59	Evidence/Returned To Owner	1 White Apple A1332 Iphone (BCG-E2380A)			
60	Evidence	1 Black Dell Desm Computer tower (9S5TB91)			
61	Evidence/Returned To Owner	1 Silver Sony DCR-TRV30 Camcorder (321038)			
62	Evidence	1 Black Sony DVM60 Cassette tape - "A"			
63	Evidence	1 Black Sony DVM60 Cassette tape - "B"			
64	Evidence	1 Black Sony DVM60 Cassette tape - "C"			
65	Evidence	1 Radio Shack Mini Dv Cassette tape			
66	Evidence	1 White Plastic case - Plastic case with 3 drawers containing multiple Hells Angels stickers and Johnson misc items			

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INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
67	Evidence	1 Silver Cd - photos of item 66			
68	Evidence	1 Scandisk Adapter - "E"			
69	Evidence	1 Scandisk 2 gb Sd - "F" with adapter			
70	Evidence	1 Silver Cd - "Sonoma County Productions" Paperwork scanned from item 43			
71	Evidence	1 Silver Cd - Photos of Johnson's residence and evidence during the service of the search warrant			
72	Evidence	1 Cd - taken out of item #66. had a "gangland" label on cover			
73	Evidence	1 Silver Cd - Audio file from conversation with Jennifer and audio file from conversation with Josh			
74	Safekeeping	1 Green U.s. Currency - \$660.00 located in item #43			
75	Evidence	1 Black & Red Vest - Black vest with red lining taken from closet of master bedroom			
76	Evidence	1 Black & Red Vest - Black vest with red lining. Gold pins on front. Living room coat closet.			
77	Evidence	1 Document - HAMC Active & Continuing Matters. Attorney Client Priveledge. Liveing Room			
78	Evidence	1 Documents - Miscellaneous paper work seized from desk in living room.			
79	Evidence	1 Pink & Black Fuji Film JX250 Digital Camera - With battery, no memory card. Seized from coat rack behind fr door living room. (OSB9629)			
80	Evidence	1 Aiptek D20-V58 Camcorder - No battery, top it desk drawer in living room. (BK170191966)			
81	Evidence	1 Black Iessentials Unk Camera - Top RT desk drawer in living room (UNK)			
82	Evidence	3 Books - Books on Hells Angels			
83	Evidence	1 Magazine - Graffiti, Guns, Girls and Ganja magazine from under cabinet in living room.			
84	Evidence	1 Dvd-R - Compact disc with Hells Angel underworld Montreal from desk in living room.			
85	Evidence	1 1439 Xbox 360 - Game platform with red thumb drive from living room. (066588403808)			
86	Evidence	1 Grey & Silver Compaq J07M04000 Laptop - Series: PP2040. Desk in living room.			
87	Evidence	1 Emachines W3650 Computer Tower - Desk in living room (CGM8510015298)			
88	Evidence	1 Red & White Sign - Sign with white lettering "Hells Angels Way 81" handwriting on back.			
89	Evidence	1 Ruger 10/22 Rifle - .22 Cal. From closet in Living Room. (238-06318)			
90	Evidence	1 White & Red T-Shirt - White with red lettering "Red and White SUpporter" size XS. Bedroom dresser in children's room.			

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
91	Evidence	1 White & Red T-Shirt - Sonoma Co Marin Run, size Adult small. Found in 2nd drawer of wicker dresser in children's room.			
92	Evidence	1 Black Lg Unk Cell phone - Dresser in master bedroom (UNK)			
93	Evidence	1 Black & Silver Iphone MC086LL Cell phone - With "Support Nick" red & wht sticker & pink case. From nt stand west side mastbedrm (8K940RAB7SJ)			
94	Evidence	1 Red Apple MB918LL I-Pod - With red and white Hells Angels sticker. From shelf in master bedroom. (5U842HN15BF)			
95	Evidence	1 Scandisk - Adapter and 2GB micro in clear case.			
96	Evidence	1 Sd Adapter - Micro SD Adapter			
97	Evidence	1 Black & White Composition Book - With Joel Dough Boy Silya on Front.			
98	Evidence	1 Play Station 3 - Master Bedroom (CG174276744-CECH-2001A)			
99	Evidence	1 Xbox 360 - Master Bedroom (20477537 1305)			
100	Evidence	1 Black Tom Tom Gps - With power cord & red case. From shelf living room. (RX3409C06069)			
101	Evidence	1 White Usb - USB recording device in Red bag (5C620D-J1R19)			
102	Evidence/Destroyed	1 I-Phone			
103	Evidence	1 Sprint Lg L1670 Cell phone - With charger. from top of black cabinet on North wall in LR PDT0980850)			
104	Evidence	1 Apple MC086LL I-Phone - Has crack in face from living room couch (1C945WON7SJ)			
105	Evidence	1 Hells Angels Wine Bottle - With Death Head label Portugal. From Living Room.			
106	Evidence	1 Brown Mug - With letters HAMC & Death Head. Living room "Shrine"			
107	Evidence	1 Silver Flask - Metal Flask with 2-11-05 engraved & Hells Angels Sonoma Co. From Living Room.			
108	Evidence	1 Paper Weight - Clear rectangular shape with Death Head and "Filthy Few". Living Room "Shrine"			
109	Evidence	1 Compact Disc - "There Goes the neighborhood" Living room "Shrine"			
110	Evidence	1 Photo - Photo of 3 HA members found on "Shrine" in living room.			
111	Evidence	1 Placard - Wood placard with Death Head presented Nick Carrillo. Living room "Shrine"			

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**LAKE COUNTY SHERIFF'S OFFICE****1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200**
INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
112	Evidence	1 Photo - 2 males 1 in white and 1 in grey. Photo Frame in grey. From living room "Shrine"			
113	Evidence	20 Patches - Multiple patches from "Shrine" in living room (20 total)			
114	Evidence	1 Pins - 4 pins from living room "Shrine"			
115	Evidence	1 Card - Hells Angels membership card. Living room "Shrine"			
116	Evidence	1 Gold Ring - With Death Head & Hells Angels Sonoma Co. Living room "Shrine"			
117	Evidence	3 Bottles - 20ML glass bottles that had liquid similar to alcohol all had "81 Support" on label. LR			
118	Evidence	26 Photo - Color photographs from living room			
119	Evidence	5 documents/Paper - from master bedroom			
120	Evidence	1 Silver Apple A1047EMC1969C Computer - From Rec room (NONE)			
121	Evidence	1 Plaque - Wood Plaque with ball peen hammer and name Jos "Golden Boy" Johnson engraved. From E/wall in Rec Room			
122	Evidence	1 Plaque - Wood plaque with name Nick Carillo engraved, from E/wall Rec Room			
123	Evidence	1 Photo collage - From E/wall in Bar			
124	Evidence	1 Photos - Bundle of photos in off white envelope - from cabinet under bar			
125	Evidence	1 Coaster - Glass coaster with photo inside taken from cabinet under bar			
126	Evidence	1 Files - Group of files from top drawer taken from filing cabinet in weight room. Spec. Mstr has some			
127	Evidence	1 Notes - Notes on eight sheets of paper taken from locker E/side weight room			
128	Evidence	1 Documents - White envelope full of documents taken from locker E/side of weight room			
129	Evidence	1 Sign - Filthy Few San Jose sign taken from locker E/side weight room			
130	Evidence	1 Flyer - Law Enforcement intelligence flyer taken from E/side of weight room			
131	Evidence	1 Document - Legal document with black binding taken from W/side weight room filing cabinet bottom			
132	Evidence	1 Flyer - Wanted flyer dated 6/2/06 - Posted in bar area on center post			
133	Evidence	1 Samsung Galaxy Tab - taken from bed in Rec Room (full serial # MEID HEX APPLE0000024585F66 (0000024585F66)			
134	Evidence	1 Apple MC608LL iphone - With white Speck cover taken from bed in Rec Room (69042YH4A45)			

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INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
135	Evidence	1 Hewlett Packard 647Z Computer - Hewlett Packard Pavillion CPU, Taken from upstairs bedroom (GFAM44130614A)			
136	Evidence	1 Cd - CD Labeled photos from Steve Bowen '05 taken from behind the bar			
137	Evidence	1 Cd - CD containing photos of Clubhouse taken by E. Porter			
138	Evidence	1 memorex cd-R photos - photos taken at 1022 Stanislaus wy, Carrillo, Nicolas residence			
139	Evidence	1 T Shirt - HELLS ANGEL FILTHY FEW T SHIRT BIANCHI'S GARAGE			
140	Evidence	1 Scrapbook - SCRAPBOOK WITH HA PHOTOS/DOCS BIANCHI FAMILY ROOM			
141	Evidence	1 Speck Cell Phone - SPECK CELL PHONE (IPHONE STYLE PHONE) BIANCHI FAMILY ROOM ON COUCH			
142	Evidence	1 Vest - HELLS ANGELS COLORS VEST BIANCHI DINING TABLE CHAIR			
143	Evidence	1 Address Book - HA ADDRESS BOOK W/MISC PAPERS LEFT INSIDE VEST POCKET OF BIANCHI HA A VEST			
144	Evidence	1 Card - HA MEMBERS CARD FROM BIANCHI'S WALLET DINING TABLE			
145	Evidence	1 Cdl - CDL TIMOTHY BIANCHI WALLET DINING TABLE			
146	Evidence	3 Knives - QTY 3 KNIVES W/SHEATH PLASTIC DISPLAY CASE BY DINING TABLE BIANCHI RESIDENCE FIELD STREAM AND BUCK			
147	Evidence	1 Patches - MISC HELLS ANGEL PATCHES FROM PLASTIC DISPLAY CASE BIANCHI			
148	Evidence	1 Patches - PLASTIC CONTAINER W/MISC HELLS ANGEL PATCHES AND BAG OF PATCHES FROM BIANCHI WOOD SAFE			
149	Evidence	4 Photos - QTY 4 PHOTOS OF HELLS ANGELS BIANCHI WOOD SAFE			
150	Evidence	1 Book - "CASH" BOOK FROM BIANCHI WOOD SAFE			
151	Evidence	1 Paperwork Cd's - MISC PAPERWORK AND QTY 2 CD'S RELATED TO PATCHES BY BIANCHI COMPUTER ER KITCHEN AREA			
152	Evidence	1 Dell Computer - DELL CPU BIANCHI KITCHEN AREA PRODUCT KEY # JMB93 HVX6PJ473C KDGWK DGWK GJPCY			
153	Evidence	1 2" Bla Sturm & Ruger Lcrigbla Firearm - STURM RUGER 38 SPEC REVOLVER BIANCHI CLOSET MASTER <small>R BEDROOM FOUND LOADED W/5 ROUND WINCHESTER 38 CAL 1540153271</small>			

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INFORMATION REPORT - PROPERTY

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ID No.	Status/Disposition	Property Description	Value	Val Recovered	Val Damaged
154	Evidence	1 Ammunition - BAG OF MISC AMMUNITION BIANCH SAFE MASTER BEDROOM CLOSET			
155	Evidence	1 40 S W Winchester Ammunition - PARTIAL BOX WINCHESTER 40 S W AMMO BIANCHI CLOSET MASTER R BEDROOM			
156	Evidence	2 Cam Corders - QTY 2 CAMCORDERS 1 SHARP VIEWCAM 1 UNK BRAND BIANCHI CLOSET MASTER STER BEDROOM			
157	Evidence	1 Indieia - PG@E BILL BIANCHI MASTER B EDROOM			
158	Evidence	3 Replica Grenades - QTY 3 REPLICA HAND GRENADES BIANCHI FAMILY ROOM			
159	Evidence	2 Cell Phones - QTY 2 CELL PHONES 1 - SAMSUNG 1 MOTOROLA BIANCH MIDDLE CONSOLE TRUCK			
160	Evidence	1 Patches - MISC HELLS ANGEL PATCHES TOP OF BED SPARE BEDROOM BIANCHI			
161	Evidence	1 Cd - PHOTOS OF BIANCHI RESIDENCE AND TRUCK 8-25-11			
162	Evidence	1 memorex cd-R intvs - 8-25-11 intvs w/ Carrillo, Leona & Carrillo, Nicolas			
163	Evidence	1 Scene Sketch - BIANCHI RESIDENCE 1400 TECHNOLOGY LN #1112 PETALUMA CA 8/25/11			
164	Evidence	1 Sketch - Sketch of HA Clubhouse			
165	Evidence	1 yellow paper - Hand drawn sketch of residence 1022 Stanislaus wy in Santa Rosa			
166	Evidence	1 Cd - INTERVIEW WITH BIANCHI			
167	Evidence	1 Memorex Cd-R main camera - clip shown to Dr. Shifflett			
168	Evidence	1 Memorex Cd-R - intvs w/ Sheridan, Birge, Dr. Shifflett			
169	Evidence	1 Form - Envelopes and Request for Video Analysis f orm			
170	Evidence	1 Cd - CD from LVMPD of Konocti Vista Videos of incident			
171	Evidence	1 Declaration - DECLARATION OF CUSTODIAN OF MEDICAL RECORDS			

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**LAKE COUNTY SHERIFF'S OFFICE**

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

NARRATIVE

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RSO-274**Attachments****Request for Video Surveillance**

On 06/04/11, at approximately 1324 hours, I was driving marked LSCO patrol vehicle RSO 274 with an active MAV unit. At approximately 1325 hours, I responded to the Konocti Vista Casino for a report of a physical altercation.

I arrived on scene at approximately 1328 hours and saw one Hells Angels motorcycle club prospect and approximately six full patch members walking from the conference hall of the casino. Security Officer Joseph Rovetti contacted me in the parking lot of the casino. Rovetti told me the victim of the altercation was leaving the casino property in a green SUV and the two Hells Angels that were involved in the altercation had left the area in an unknown direction. I contacted Deputy White and provided him with the information. Deputy White contacted the victim near the intersection of Mission Rancheria Road and Soda Bay Road. See Deputy White's supplemental report for further details.

I contacted Security Officer Octavio Martinez in front of the casino. He told me an unknown male, later identified as Michael Burns, walked up to a full patch member of the Hells Angels motorcycle club and pushed him with his shoulder. Several minutes later, Burns fell to the ground and was attacked by several Hells Angels members. Martinez did not know the reason why or could not explain why Burns fell. He told me it appeared Burns and the members of the Hells Angels were in a physical fight.

I contacted Jonathan Nelson, who was wearing a full patch Hells Angels motorcycle club vest, in the parking lot of the casino. He told me nothing happened, he did not see anything and they were leaving the area. While I was speaking to Nelson, Deputy White told me the victim was uncooperative and only said he received his injuries by falling on the ground. Deputy White told me the victim was identified as Michael Burns, a validated member of the Vagos motorcycle club. I know from my training and experience that the Hells Angels and the Vagos are rivals and do not get along.

Deputy Cook arrived on scene and assisted me. We entered the conference area of the casino to check the area for any further problems. When I returned to the parking lot the Hells Angels had left the casino property.

On 06/04/11, at approximately 1542 hours, I responded to the Konocti Vista Casino to review the video surveillance.

Upon reviewing the surveillance, I saw what appeared to be two unknown full-patched Hells Angels follow Michael Burns, a known Vagos, into the foyer of the casino. I saw one of the unknown Hells Angels walked up to Burns and punch him. Due to the camera angle, I was not able to see where Burns was hit. Burns and another unknown male physically fought with the two Hells Angels. After several seconds, several more unknown Hells Angels joined in the fight. Burns was knocked to the ground and repeatedly kicked and punched in what appeared to be his head. After several minutes, the fight stopped and the unknown Hells Angels walked away. I saw legs and feet on the floor but was unable to identify the person on the ground. Based on the video I believe the person on the floor of the casino was Burns.

Prepared By:

S0324 FRACE, GARY

Date:

6/4/2011

Approved By:

S0052 BROOKS, STEVE

Date:

6/5/2011

1490

**LAKE COUNTY SHERIFF'S OFFICE**

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

NARRATIVE

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C11060074

Burns did not move for approximately one minute. He then stood up and walked out of the casino with no assistance. The surveillance shows Burns in front of the casino with a large amount of blood on his face wearing Vagos shirt and a green hat.

I am unable to identify the Hells Angels in the video.

I am closing this case as NO COMPLAINT, due to the victim being uncooperative and unwilling to the provide information about the incident.

Case Closed: No Complaint

Prepared By:

S0324 FRACE, GARY

Date:

6/4/2011

Approved By:

S0052 BROOKS, STEVE

Date:

6/5/2011

1491

**LAKE COUNTY SHERIFF'S OFFICE**1220 MARTIN STREET LAKEPORT, CA 95453 707.262.4200
SUPPLEMENT 1

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C11060074

RSO-268**Attachments:**

Vehicle's DMV Printout-(scanned)
Burns's Driver License Printout-(scanned)
Perkin's Driver License Printout-(scanned)

Narrative:

On 06/04/2011, I responded to Konocti Vista Casino for a report of physical fight. Central Dispatched advised possibly 4 to 5 Hells Angles were involved.

Deputy Frace advised a possible victim had left the scene in a green Chevy Tahoe and requested I stop the vehicle if I located it. At approximately 1329 hours, as I approached the intersection of Soda Bay Rd. and Mission Rancheria Rd., I saw a vehicle matching the description. I exited my patrol vehicle and contacted the occupants inside the vehicle, (License Plate #6RSM891). As the driver, later identified as Kristopher Perkin, rolled down his window I noticed the passenger, later identified as Michael Burns, was bleeding from the face. Burns had major injury to the right side of his face, his right eye was swollen and was barley able to open it. He had several lacerations to his face which he was bleeding from. I requested medical personnel responded to my location.

Burns told me he was ok and said he slipped and fell. Burns told me he did not want to been seen by medical and would be fine. I asked Burns if medical could at least evaluate him. Burns again said he did not want to be seen by medical. Burns told me several times he slipped and fell due to the weather. When asked about his injuries, Burns said he slipped due to the wet ground and sustained his injuries from striking a vehicle as he was falling.

Burns statement was inconstant with his injuries. Deputy Frace advised there were not any victims at his location. Due to Burns being uncooperative and no other victims present who were willing to pursue criminal charges, I returned their identification and allowed them to leave. As they were leaving Sgt. Davidson requested I detain them until he arrived. By this time Perkin was driving north on Soda Bay Rd., towards the city of Lakeport. I was able to catch up to the vehicle Perkin was driving. Perkin pulled over at the intersection of Soda Bay Rd. and Hopland 175. Sgt. Davidson spoke to Burns. Once they were done talking, I proceeded to the casino to assist the on scene deputies.

I took no further action.

Case Closed-No Complaint

Prepared By:
S0322 WHITE, WALTER

Date:
6/4/2011

Approved By:
S0052 BROOKS, STEVE

Date:
6/5/2011

1492

**LAKE COUNTY SHERIFF'S OFFICE**

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1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

SUPPLEMENT 2

C11060074

RSO-210**Attachments:**

None

Narrative:

On 06/04/2011, at approx. 1325 hours, I responded to Konocti Vista Casino for a physical fight. Central Dispatched advised four to five males, possible Hells Angels were involved in the altercation.

While en-route, Deputy Frace advised that the victim was leaving the scene in a green Chevy Tahoe. Deputy White contacted the victim near the intersection of Mission Rancheria Road and Soda Bay Road. Deputy White requested medical personnel be dispatched to the scene.

I arrived on scene at approximately 1331 hours. Deputy White advised he did not need my assistance at his location, so I proceeded to the casino. As I pulled up to the casino, I saw approximately five to six full patch Hells Angels members speaking to Deputy Frace. As I approached, I heard one of the Hells Angels members, Jonathan Nelson, state they were leaving and they would not be causing any problems. Deputy Frace and I watched the Hells Angels members walk toward the casino parking lot.

Deputy Frace and I entered the conference area of the casino to check the area for any further problems. When we returned to the parking lot, the Hells Angels had left the casino property.

See Deputy Frace's and Deputy White's reports for further details.

Case Closed By No Complaint

Prepared By:

S0360 COOK, ELVIS

Date:

6/5/2011

Approved By:

S0086 DAVIDSON, ANDY

Date:

6/5/2011

1493

**LAKE COUNTY SHERIFF'S OFFICE**1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200
SUPPLEMENT 3

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C11060074

Attachments:
Property receipt

On 06/06/2011, at approximately 1100 hours, I was on duty with the Lake County Sheriff's Office, assigned to the Investigations Division. Leayla Burns voluntarily came to the Main Office and spoke with Sergeant John Gregore and I in an interview room. Leayla Burns is the wife of the victim in this case, Michael Burns. I recorded our conversation using my digital recorder. I later made a CD copy of the recording and booked it into evidence at the Main Office.

Sergeant Gregore and I told Leayla that we were assisting with the investigation of this case and needed cooperation from her and Michael. She told us that she was not present at the casino when the assault occurred, so she couldn't provide us with a first person account of the event. She did say that she saw Michael before he went to the casino and he wasn't wearing Vagos "colors" and he was only going there for the tattoo convention.

Leayla stated that she was upset about all the media attention this case had drawn. She felt that the media attention had put her family in a lot of danger. Leayla told Sergeant Gregore and I that she and Michael would not be cooperating with the investigation, because they were extremely fearful of retaliation. Leayla stated that she had a girlfriend (NFI) that was present at the casino at the time of the assault, but didn't think that she would cooperate with law enforcement in fear of retaliation.

Case Pending.Prepared By:
S0277 DREWREY, JOHNDate:
6/6/2011Approved By:
S0146 GREGORE, JOHNDate:
6/15/2011

1494

**LAKE COUNTY SHERIFF'S OFFICE**

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1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

SUPPLEMENT 4

C11060074

Attachments:

None

On 06/06/2011, at approximately 1602 hours, I arrived at Konocti Vista Casino to collect a copy of the security surveillance video regarding this incident. I spoke with Security Supervisor James Beland. He informed me the Reservation's council had declined the request to provided Lake County Sheriff's Office with a copy of the surveillance video. Beland could not tell me the reason why.

Beland stated they would provide a copy of the surveillance video to the District Attorney's Office or with a warrant. I informed Sgt. Paulich and Detective Sgt. Gregore about what Beland had told me.

Case Pending

Prepared By:

S0409 BARRETO, MAURICIO

Date:

6/6/2011

Approved By:

S0019 RIVERA, CHRIS

Date:

6/8/2011

1495

**LAKE COUNTY SHERIFF'S OFFICE**1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200
SUPPLEMENT 5

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C11060074

Attachments:

PDF File Containing: - (Scanned)

- Affidavit for Search Warrant
- Medical Records
- Search Warrant
- Property / Evidence Form

Supplemental Report

On 06/08/11, Sergeant Gregore asked me to obtain the medical records, if any, regarding Michael Burns, as a result of this incident.

I reviewed the narrative and the supplemental reports in this case. Based on the reports, I authored the attached search warrant. The warrant was signed 06/08/11, by Judge Arthur Mann commanding the release of Burns' medical records from Sutter Lakeside Hospital created between the dates, 06/04/11, and 06/08/11.

At approximately 1150 hours, I spoke with Cindy Farr, an employee at Sutter Lakeside Hospital working in the records department. I presented her with the warrant and received the attached medical records.

The records, in summary, stated Burns admitted himself into the Emergency Department on 06/05/11, at 2257 hours. Burns' chief complaint was being assaulted on 06/04/11, at the Konocti Vista Casino and was suffering from a right swollen eye, swollen mouth, nasal fracture, and other wounds. I was not able to read all of the writing on the report describing Burns' injuries. Within the report, it stated Burns was kicked in the face while being assaulted. Refer to the medical report for additional information.

I could not read the Practitioners Signature at the end of the report. On the bottom right of the pages stated Steven Shifflett was the admitting and attending physician.

I later booked the medical records into an evidence locker at the LCSO Main Office.

Case Pending:

Prepared By:	Date:	Approved By:	Date:
S0292 MOORE, BENJAMIN	6/8/2011	S0146 GREGORE, JOHN	6/9/2011

1496

**LAKE COUNTY SHERIFF'S OFFICE**

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

SUPPLEMENT 6

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Attachments:

Johnson DL (scanned)
Johnson CII (scanned)
Carrillo DL (scanned)
Carrillo CII (scanned)
Bianchi DL (scanned)
Bianchi CII (scanned)
Dabbs DL (scanned)
Dabbs CII (scanned)
Johnson Cal Photo page (scanned)
Carrillo Cal Photo page (scanned)
Bianchi Cal Photo page (scanned)
Dabbs Cal Photo page (scanned)
Carrillo Tattoo printouts from SRPD Wojcik (3pgs) (scanned)

On 6/7/2011, Sheriff Rivero notified me that he had obtained a copy of the surveillance video from the Konocti Vista Casino. Sheriff Rivero told me that there was video of Michael Burns being assaulted, as well as several videos of Hells Angels inside the casino before and after the assault on Burns. Sheriff Rivero obtained isolated video screen shots of four Hells Angel members that he believed were responsible for the assault on Burns. These were recorded on two CD's.

On 6/8/2011, Sheriff Rivero and I went to the Sonoma County Sheriff's Department to meet with members of the MAGNET (Multi Agency Gang Enforcement Team) Gang Task Force. Officer Shawn Harvey of the California Highway Patrol, Sergeant Dave Pedersen with Sonoma County SO, Sgt Ray Navarro and Greg Wojcik with Santa Rosa PD were some of the MAGNET members present to review the footage. Officer Harvey and other members of MAGNET were able to identify the four Hells Angels members that were directly involved in assaulting Burns as Josh Johnson, David Dabbs, Nicholas Carrillo and Timothy Bianchi. They were also able to provide me with their full names, dates of birth and other identifying information. I was only able to briefly view the video at that time as there appeared to be a great deal of footage on the discs.

On 6/9/2011, Detective Curran obtained the driver's license information, criminal history information, and Cal Photo identification photographs for the primary suspects involved in assaulting Burns. I confirmed the suspects' identities using the Cal Photo information that Detective Curran obtained. See attached information.

The original video surveillance and still photo CD's were written using a proprietary media player that was not readily compatible with standard video players. This made viewing, or copying the videos difficult. Detective Ben Moore was able to convert the files into an AVI format that was compatible

Prepared By:

S0146 GREGORE, JOHN

Date:

6/9/2011

Approved By:

S0031 MACEDO, CHRIS

Date:

6/15/2011

1497

**LAKE COUNTY SHERIFF'S OFFICE**

1220 MARTIN STREET LAKEPORT, CA 95453 707.262.4200

SUPPLEMENT 6

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C11060074

with Windows Media Player. The main CD containing the video files held 28 separate videos of different times and camera angles from the Konocti Vista Casino surveillance system. The originals and a copy of the converted CD's were booked into evidence by Detective Moore. Detective Moore copied each video onto a separate disc. The individual videos were labeled D-1 through D-28 to ease in identification.

There were 28 separate videos from the casino surveillance cameras from varying times throughout the day on Saturday, June 4th, 2011. Several of the videos taken earlier in the day were used to identify the four main suspects in the altercation. I was able to confirm the subjects' identities on the video by using video images from before and after the altercation, by matching clothing from the videos, and by using known tattoo information provided to me by Sgt. Dave Pederson from the Sonoma County Sheriff's Department and Detective Greg Wojcik from the Santa Rosa Police Department.

As mentioned previously, the suspects were initially identified by members of MAGNET, including Officer Harvey. In the videos, Dabbs is seen wearing a white short sleeved shirt, a black vest with the Hells Angels top rocker, the death's head logo in the center, and the California bottom rocker. He was wearing blue jeans, white shoes and had what appeared to be black gloves in his right rear pocket. Dabbs had tattoos covering both of his arms. The Cal Photo picture I obtained on Dabbs was taken 2/9/2011 and did appear to confirm his identity.

Bianchi was shown in the video wearing a black jacket, with similar Hells Angels logos, white shoes, and a white/grey shirt that appeared untucked with the bottom 3-4 inches hanging below his jacket. From the videos, it appeared that Bianchi may have had the sleeves of his jacket pulled up near his elbows. His Cal Photo picture was taken 11/19/2010, and appeared to confirm his identity.

Johnson was shown in the video wearing a white short sleeved shirt, with black vest with Hells Angels patches on the rear similar to Dabb's vest. In one video, one of the front patches appears to say "Vice President". Johnson's Cal Photo picture was taken 11/24/2009 and appeared to confirm his identity.

Carrillo was shown wearing, a black beanie, a black -shirt, black pants and a black vest with the Hells Angels patches. He was also wearing distinctive black and white shoes. Carrillo is known to have a tribal arm band tattoo midway down his left forearm, and a death's head type tattoo on his right forearm. In the video, the person identified as Carrillo appears to have the same tattoos as those provided by MAGNET. The Cal-Photo picture taken 1/13/2006 and also appears to confirm his identity.

The video (D1) showed Burns entering the casino on June 4th, at 1316:07 hours. Burns was wearing a green A's baseball hat a black shirt and pants. Burns had, "I Bleed Green", in green lettering on the front. The video (D20) at 1318:02 hours showed Burns in the banquet area and showed that the back of Burns' shirt had "Vagos" "Lake County", in green lettering surrounding some type of logo. At 1319:13 hours (D20) Burns is seen walking into the banquet room and past Dabbs. Dabbs walks in the direction that Burns initially approached from and at 1320:00 hours (D2), Dabbs passes by Burns again as Burns is looking at a display.

At 1321 hours (D5), Dabbs and Carrillo can be seen walking in front of the main entrance inside the

Prepared By:
S0146 GREGORE, JOHN

Date:
6/9/2011

Approved By:
S0031 MACEDO, CHRIS

Date:
6/15/2011

1498

**LAKE COUNTY SHERIFF'S OFFICE**

1220 MARTIN STREET LAKEPORT, CA 95453 707 262 4200

SUPPLEMENT 6

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casino, and it appears that Dabbs is waiting by the entrance doors inside the casino. At 1321:11 hours (D12), Johnson is talking to Bianchi in the banquet room. At 1321:50 hours (D12), Johnson, Bianchi, Dabbs and Carrillo are all briefly seen together in the banquet room before Dabbs and Bianchi walk back towards the main entrance. Johnson and Carrillo follow.

At 1321:52 hours (D14), Burns and Perkin exit the banquet area and move towards the exit. Dabbs and Bianchi follow them. Dabbs is seen walking past Burns and Perkin as they enter the foyer. Dabbs enters the foyer through a further set of doors. Bianchi follows behind Burns. At 1322 hours (D1), Bianchi punches Burns to the head or upper torso area. Burns, Bianchi and Perkin grapple and Dabbs kicks at Perkin. Burns grabs Bianchi by the head and those two, along with Perkin, fall to the ground. At 1322:16 hours (D1), Johnson and Carrillo join in the fight. Johnson pulls Perkin to the ground. Dabbs is seen kicking and stomping Burns head and upper body. Carrillo punches Perkin numerous times to the head, while Johnson kicks him at least once in the head. Dabbs is seen repeatedly kicking and stomping Burns in the head and/or upper torso. Bianchi then climbs on Burns and punches him numerous times to the head and/or upper torso. At one point, Perkin is removed from the fight by security and Dabbs is seen keeping the security staff from intervening in the fight by pushing them back with his arm. By 1323 hours, the fight has ended and Burns is still on the ground. At 1323:13 (D18), Dabbs leaves the foyer and appears to follow and watch Perkin who is still being confronted by security inside the casino. Dabbs can be seen putting his gloves on in one of the views.

At 1323:20 hours (D12) Carrillo and Bianchi walk past the Hells Angel booth and another subject wearing a Hells Angel's vest signals to the person standing at the booth. After the hand signal, the person, wearing a red sweat type shirt and black vest, immediately started packing up the items. On the wall behind the table was a large banner with the words "Hells Angels Sonoma County" The video at 1324:37 hours (D12) shows Dabbs and Johnson after the fight as they re enter the banquet area.

In additional videos, subjects in Hells Angels clothing packed up the booth and left the Casino within a few minutes of the fight ending. In the video (D21), Burns can be seen in front of the casino with what appears to be blood and several lacerations and abrasions to his face. Refer to videos for additional.

I found no video evidence that showed that Burns had any physical contact with any Hells Angel prior to him being assaulted. Both Burns and Perkin were kicked in the head during the assault and Burns head was stomped on several times. Burns suffered lacerations and broken bones to his face as a result and I believe that great bodily injury was likely. I request that Dabbs, Johnson, Bianchi and Carrillo all be charged with violations of 245(a)(1) PC, assault with a deadly weapon; and 243 (D) PC, battery with serious bodily injury. Refer to supplemental report by Detective Walsh for additional information.

I know that Burns was allegedly recently assaulted in Lakeport by suspected Hells Angels members. I request that the normal bail amounts be raised to at least \$500,000 each as I believe that the subjects have the means to immediately post bail on a lesser amount. Per Dabbs CH, he shows a history of charges in connection with Extortion and dissuading a witness from Nevada. I also believe that Burns and his family face a very significant risk of retaliation as soon as arrests are made in connection with this case.

Prepared By:

S0146 GREGORE, JOHN

Date:

6/9/2011

Approved By:

S0031 MACEDO, CHRIS

Date:

6/15/2011

1499



LAKE COUNTY SHERIFF'S OFFICE

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SUPPLEMENT 6

C11060074

Case closed: Complaint.

Prepared By:
S0146 GREGORE, JOHN

Date:
6/9/2011

Approved By:
S0031 MACEDO, CHRIS

Date:
6/15/2011

1508

from experience that paramedics often cut a victim's clothing off instead of removing the clothing to prevent further injury. I located several items on the scene that had Hells Angels logos on them. I located a vinyl black pouch near the saddlebag that had the Hells Angels death head logo in white. Next to the black pouch I located a white tee shirt with a Hells Angels logo on it. On the gas tank section of the motorcycle I noticed multiple Hells Angels stickers including the death head and the words Hells Angels. I located a black skull cap-type motorcycle helmet that was approximately fifteen feet from where Villagrana was lying. On the back of this helmet was a white and red Hells Angels sticker. Based on my training, experience and the facts of this investigation, I believe Cesar Villagrana is a member of the Hells Angels Outlaw Motorcycle Gang. I collected the vest, helmet, pouch and tee shirt as evidence of gang membership. Deputy Gonzales booked these items into Sheriff's property.

Next to where the vest had been lying, Deputy Gonzales located an orange and black colored Verizon Casio cellular phone. Due to the proximity to where the Villagrana had been lying, I believe this cellular phone belonged to Villagrana. Inside the black skull cap motorcycle helmet I found the keys to the motorcycle and an Apple Ipod Touch. Based on the Ipod being inside the helmet and with the keys, I believe this Ipod belonged to Villagrana. I know from my experience that in addition to music, Apple Ipods also can store photographs, video and voice recordings. I collected the cell phone and the Ipod and they are being held at the SCCGTF office property room.

As I was leaving the accident scene, I noticed a motorcycle park in a nearby parking lot approximately thirty yards from the accident. The rider took off his helmet and began walking towards the CHP officers still on scene. I recognized the rider from prior investigations as Christopher Hecht. Hecht was wearing a black vest that had the three piece Hells Angels patches on it. I know from prior investigations that Hecht is a documented member of the Hells Angels and the president of the Santa Cruz Chapter. I know from prior investigations that when Hells Angels members are in trouble, other Hells Angels members respond to assist.

An arrest warrant has been requested for the defendant in Santa Cruz County for possession of

a concealed unregistered firearm, active participation in a criminal street gang and the gang enhancements.

On 3-23-11, I reviewed a Field Interview Card (FI) that was filled out on Villagrana. This FI card was filled out by Officer Croucher, whom I know to be a sworn peace officer employed by the San Jose Police Department, on 11-5-10 during a traffic enforcement stop. On the FI card, Officer Croucher noted that Villagrana wore Hells Angels support tee shirt and had various Hells Angels support stickers on the crank case cover to the motorcycle which was a 2002 Harley Davidson with a California license plate of 16E6615. This was the same motorcycle involved in the accident on 3-17-11.

From my training and experience I know that the Hells Angels Outlaw Motorcycle Gang is a gang as defined in 182.22 PC. I know section 186.22(f) PC defines a gang as having has three or more members, a common identifying name, sign/symbol, and whose members have collectively or individually engaged in a pattern of criminal gang activity as defined in section 186.22(e) PC.

From my training and experience, I know that outlaw motorcycle gang members are required to follow guidelines and criteria for belonging to their outlaw motorcycle gang. I know from my training that the Hell's Angels are a worldwide organization. The gang has chapters throughout the United States and several other countries, with a mother chapter in Oakland, California. I know the Hells Angels have a constitution and bylaws, which dictate the structure of the organization, its rules of conduct and membership, and the function of responsibilities of gang officers. Each chapter has a president, vice president, secretary/treasurer and sergeant at arms. Members are expected to pay dues not only to their local chapter, but that chapter is required to pay dues to the mother chapter. Entrance into the Hell's Angels' organization requires submission of an application, detailing personal information about the applicant including name, address, arrests, convictions and prison terms. After being accepted as a potential member (prospect), the candidate serves a period of probation, during which time he is scrutinized for his ability to follow the direction of gang members. It is only after

passing this probationary period the new member is given and allowed to display the full, three piece patch.

From my training and experience I know that members of the Hell's Angels commit acts of violence in order to bolster and support the criminal purposes of the organization and enhance the criminal dominance of the gang and the status of its' members. I know that members of the Hells Angels have been contacted by law enforcement and found to have had concealed weapons, including firearms, both on their persons and vehicles.

It is my opinion that evidence of Outlaw Motorcycle Gang membership or affiliation is important, as it may corroborate the crimes alleged in this case where the defendant mentioned in this affidavit is believed to be an active member of the Hells Angels criminal street gang. I believe the items described in this affidavit are not normally disposed of and that they will therefore likely still be found in the locations or on the persons to be searched.

From my training and experience, I know that people who possess firearms also tend to possess items that are used for these firearms including: ammunition, ammunition boxes, carrying cases, cleaning kits, holsters and receipts. In this investigation, the firearm possessed was a .40 cal handgun. Seizure of said items would tend to show that a person was in possession of that firearm.

I know from my training and experience that suspects may possess indicia bearing their name or address at their residences. People in general receive correspondences at their residences and place of work. Such correspondences usually include, but are not limited to: telephone bills, utility bills, rental agreements, rent receipts, personal letters, business papers, photographs and canceled mail envelopes. Such items tend to reflect the identity of person(s) in control of and having dominion over the residence, and as such, the items found therein. Likewise, documents which are commonly found in motor vehicles, such as vehicle ownership/registration documents, vehicle insurance papers and gasoline purchase receipts, will identify the person(s) in control of the vehicle and its contents. Seizure of such indicia may tend to show a connection to a location where evidence of a crime is

discovered.

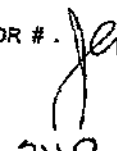
I know from my training and experience that most gang members keep (A) photographs and photograph albums containing: (1) themselves and/or other fellow gang members who are posing and wearing gang clothing which may indicate gang identity or affiliation, (2) gang members or associates posing with weapons, particularly firearms, which are often used for criminal activities, and (3) gang members or associates posing at locations which are known to be specific gang hangouts; (B) newspaper clippings tending to relate details or reference to any crime or crimes of violence as it is my experience that gang members occasionally maintain scrapbooks or newspaper articles which describe crimes committed by or against their gang; and (C) and address books, lists of or single references to, addresses or telephone numbers of persons who may later be determined to belong to or to be affiliated with any street gangs, since it is my experience that gang members frequently maintain the current phone numbers or addresses of fellow gang members, often identified by their moniker as opposed to their given name, with whom they associate. Seizure of such indicia may tend to show a suspect's active participation in a criminal street gang.

It is my experience that outlaw motorcycle gang members often maintain clothing that identifies them with the Hells Angels criminal street gang. Members of the Hells Angels tend to have clothing that displays the Hells Angels name or logo. These items include: tee shirts, sweatshirts, jackets, vests and hats. I know from experience that Hells Angels gang members often possess paraphernalia to include: objects bearing the Hells Angels name or death head logo; drawings or miscellaneous writings regarding or evidencing gang membership; or objects or graffiti depicting gang members' names, initials, logos, monikers slogans; or containing mention of street gang membership affiliation, activity, or identity; any paintings, drawings, photographs, or photograph albums depicting persons, gang members' names, initials, logos, monikers, or slogans; or containing mention of street gang membership affiliation; or which may depict items sought and/or believed to be evidence in the case being investigated with this Warrant, or which may depict evidence of any criminal activity; any

newspaper clippings tending to relate details or reference to any crime of violence or association to the Hells Angels Outlaw Motorcycle Gang; and any address books, lists, or single references to addresses or telephone numbers of persons who may later be determined to belong to or be affiliated with any street gangs. Seizure of such indicia may tend to show a suspect's active involvement in a criminal street gang.

Based on my training and experience, I know that gang members often possess cellular phones. I know that cellular phones can store pictures of other gang member, symbols of their gang affiliation, and lists with associated contact information of their fellow gang members. I know that in addition to voice communication, people using cellular phones to facilitate criminal activity can communicate with each other by sending text messages and/or e-mail messages, which can and frequently are stored in the electronic data of the cell phone handset. I believe a review of the text messages and/or e-mail messages stored in the suspect's cell phone in this investigation will provide investigative leads and evidence relevant to this ongoing criminal investigation. Cellular phone and electronic devices can store the equivalent of hundreds of pages of information. When the user wants to conceal evidence, he or she often stores it in random order or under deceptive file names. This requires a searching authority to examine all the stored data to determine what the data is or represents. This process is extremely time and labor intensive, depending on the volume of data stored, and it would be impractical to attempt this kind of search on site, as searching cellular phones and electronic storage devices for evidence is a highly technical process requiring expert skill and properly controlled environment. However, seizure and subsequent search of such media may tend to show a suspect's involvement in the crime or the suspect's active participation in a criminal street gang.

Based on my training and experience, I know that people who participate in criminal street gangs often possess gang writings, music, photographs, drawings, rosters and communications with other gang members. I know these items are valued and kept as prized possessions to enhance



themselves in the gang, take pride in their gang and to show rival gang members in disputes. I know these writings, music, drawings, photographs, rosters and communications are often stored in digital form on computer hard drives, CD's DVD's, flash drives, USB devices, MP3 players, and other electronic storage devices. I know computers hard drives have multi gigabyte hard drives that can store the equivalent of thousands of pages of paper. Because of the vast amount of time that would be required to examine this amount of information, it would not be feasible to conduct the examination at the search premises. I believe searching these items will provide information that would be beneficial to the investigation to show gang affiliation. This information may also tend to show a suspect's active participation in a criminal street gang.

I know from my training and experience that searching, seizing and analyzing the above requested items will provide information corroborating the belief that Cesar Villagrana was in possession of the firearm on 3-17-11, is an active member of the Hells Angels and in good standing with the gang.

On 3-18-11, I conducted a DMV license check on Villagrana and his address was listed as 6870 Rosanna St in Gilroy since 3-3-11. On the FI and traffic citation filled out by Officer Croucher on 11-5-10, Villagrana's address was listed as 6870 Rosanna St in Gilroy. On 3-31-11, Sgt Roy Morales, whom I know to be a sworn peace officer employed by the County of Santa Cruz, viewed this location and saw a blue colored Chevrolet pick-up parked in the driveway. The license plate, California 5D59172, came back registered to Cesar Villagrana at 6870 Rosanna St in Gilroy. I find there is a reasonable likelihood that Villagrana resides at 6870 Rosanna St in Gilroy and has access to the residence, any outbuildings, trailers or vehicles on the cartilage of the property under the control of the occupants of 6870 Rosanna St in Gilroy CA.

Your affiant requests permission to search the residence at 6870 Rosanna St in Gilroy CA; further described as a single family, single story dwelling with a white colored exterior with light brown trim. The numbers 6870 are attached vertically to the right side of the front door and are black in color.

The roof is a tan colored composite material. The front door is covered by a black metal security gate. There is an attached garage on the right side of the dwelling.

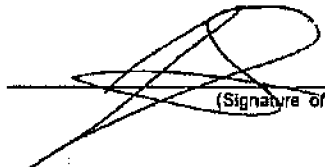
I, Deputy Jeff Simpson, Santa Cruz County Sheriff's Office, being sworn, declares under penalty of perjury that the facts and information contained within this statement of Probable Cause are true and correct, and on the basis of these facts and information, I have probable cause to believe, and do believe, that the property described above is lawfully seizable pursuant to California Penal Code Section 1524, as indicated above, and is now located at the locations set forth above.

I pray that a Search Warrant be issued based upon the aforementioned facts, for the seizure of said property, or any part thereof, between the hours of 7:00 A.M. and 10:00 P.M., good cause being shown thereof, and the same be brought before this Magistrate or retained subject to the order of the court, or of any court in which the offense(s) in respect to which the property of things taken, triable, pursuant to Section 1536 of the Penal Code.

Items attached and incorporated by Reference: YES ☐ NO ☐


I certify (declare) under penalty of perjury that the foregoing is true and correct.

Executed at Santa Cruz, California

 _____, 1 day of APRIL, 2011, at 1020 A.M./P.M.
(Signature of Affiant)

Reviewed by: CHARLES BAJM ELECTRONICALLY 31 day of MARCH, 2011, at 303 A.M./P.M.
(Signature of Deputy District Attorney)

(Printed Name of Deputy District Attorney)


JUDGE
4/1/11

SW11-091

RETURN AND INVENTORY ON SEARCH WARRANT

STATE OF CALIFORNIA,

COUNTY OF SANTA CRUZ

I the undersigned, make this Return to the attached Search Warrant.

I received said Warrant on the 1st day of April 2011, and under its authority, on the 6th day of April, diligently searched the premises, described therein, and there I discovered the following items and do hereby make an inventory of the same:

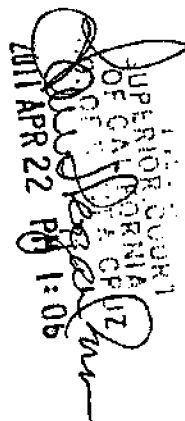
See attached Evidence and Photographic Reports under Santa Cruz County Sheriff's Office case number 11-2482 JLS-01, Items 1 through 16 and JLS-01 Photographs A through A.

I, Deputy Jeff Simpson the officer by whom this Warrant was executed, do swear that the above inventory contains a true detailed account of all the property taken by me on the Warrant.


Deputy Jeff Simpson

Subscribed and sworn to before me
this 28th day of April, A.D. 2011


Judge of the Superior Court

2011 APR 22 PM 1:06
SUPERIOR COURT
OF CALIFORNIA
COUNTY OF SANTA CRUZ


1322

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SANTA CRUZ COUNTY SHERIFF-CORONER
EVIDENCE AND PHOTOGRAPHIC REPORT

THIS IS REPORT

REPORT AREA

GILROY

Page ____ of ____

Day	Date	T/Arrived	T/Completed	Weather	Offence	Scene No.	Case No.
WED	4/6/11	0905 hrs		SUNNY	186.22 PC	1LS-01	11-2482

CSI Officer	Deputies	Suspect
	GONZALES SIMPSON	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Place of Seizure
6870 ROSANNA ST
GILBERTICA

☐ R/P ☐ Victim ☒ Suspect DOB: 6/1/75

NAME & ADDRESS: Phone No.

VILLALBA, CESAR
6870 ROSANNA ST
GILROY, CA

Work Requested		
F = Develop	H = Hold	P = Property
A = Analyze	L = Latents	C = CSI
D = Destroy	R = Return to Owner	
Y = Coroner	Z = Other _____	

[illegible]

HARD COPY - PROPERTY / SOFT COPY - RECORDS
SHF-0316 [REV. 2/05]

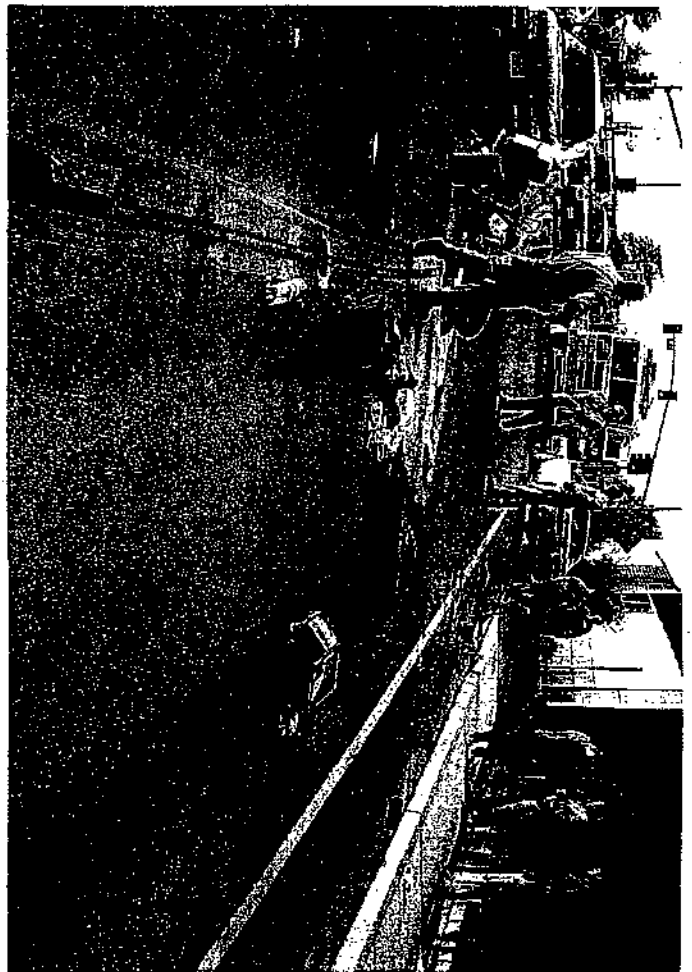
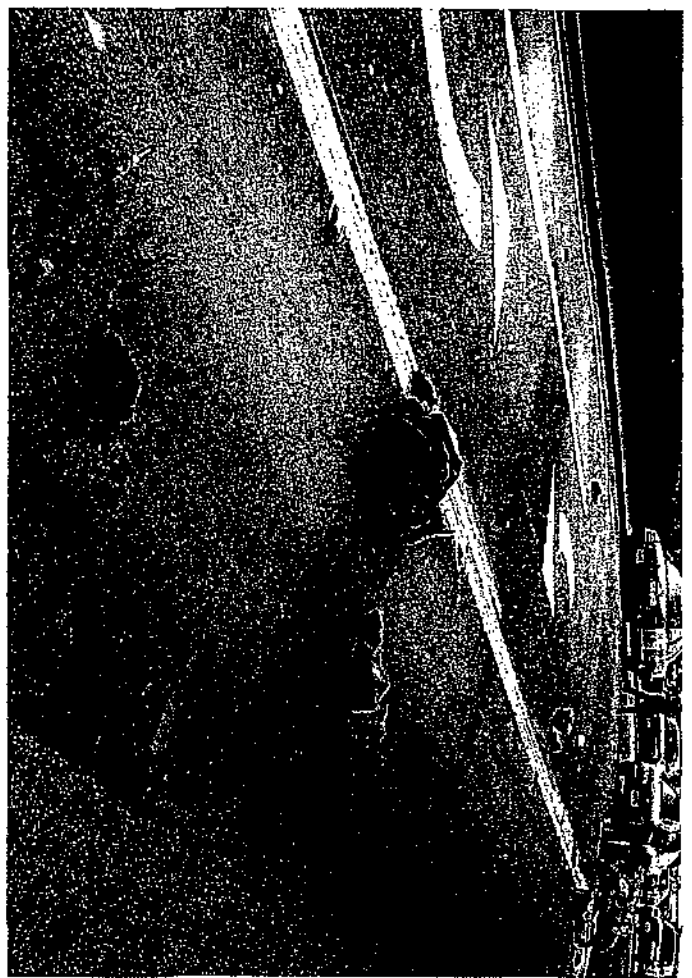
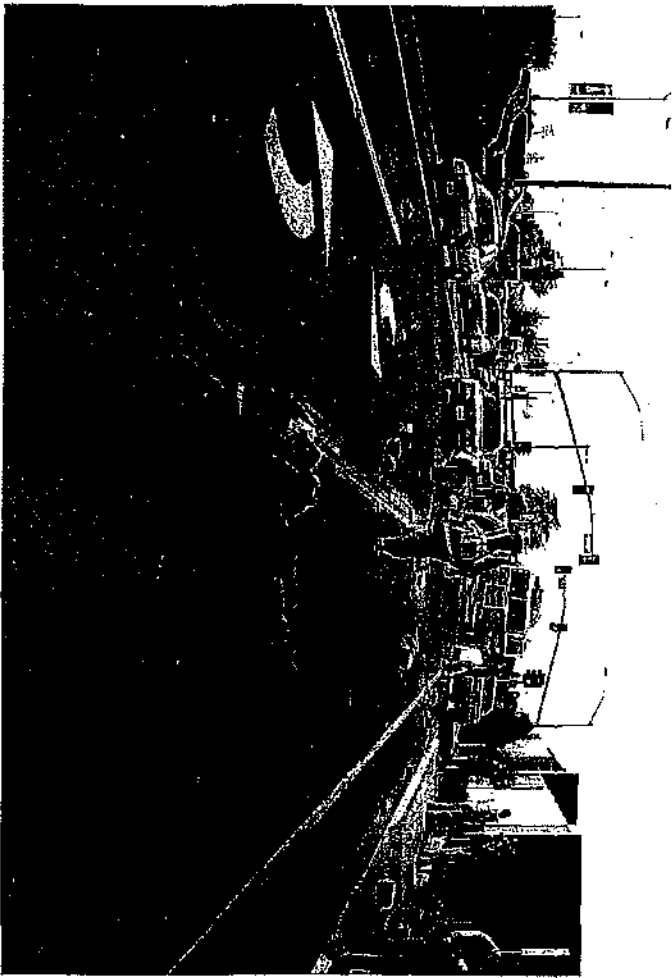
(SIDE ONE)

REPORTING DEPUTIES

GONZALES 89/11962

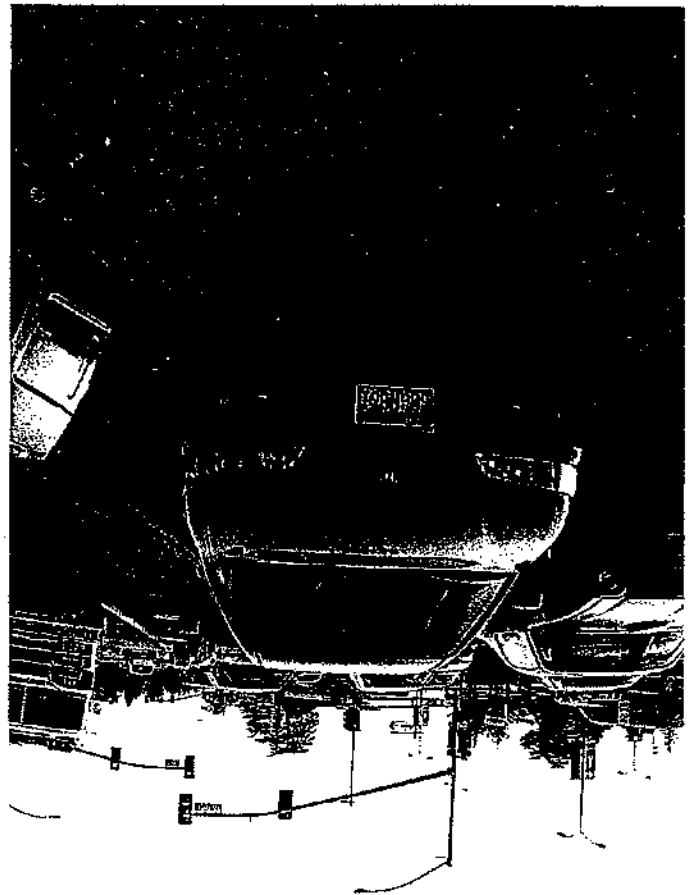
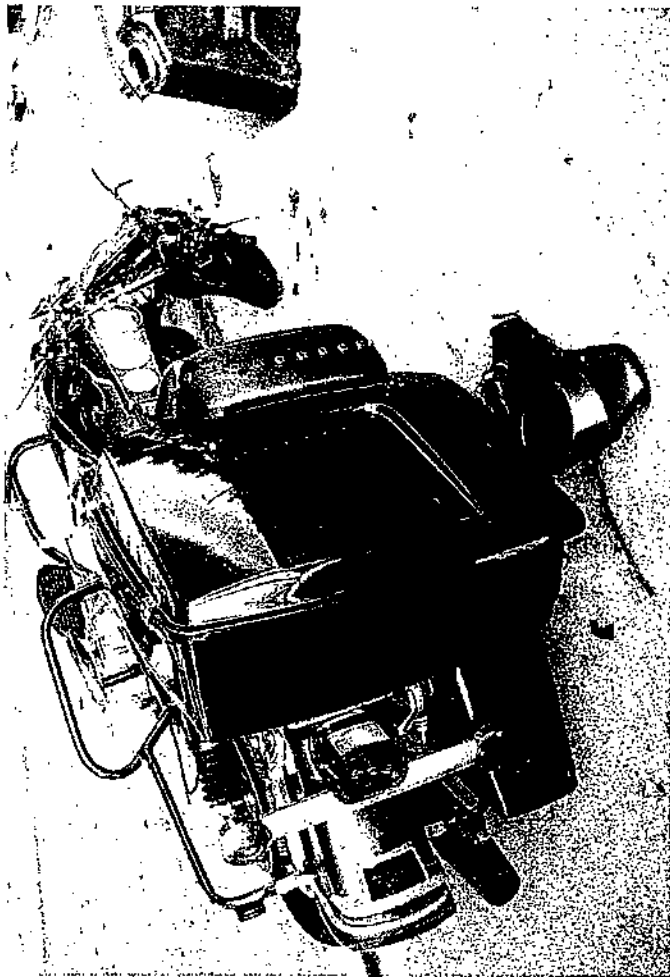
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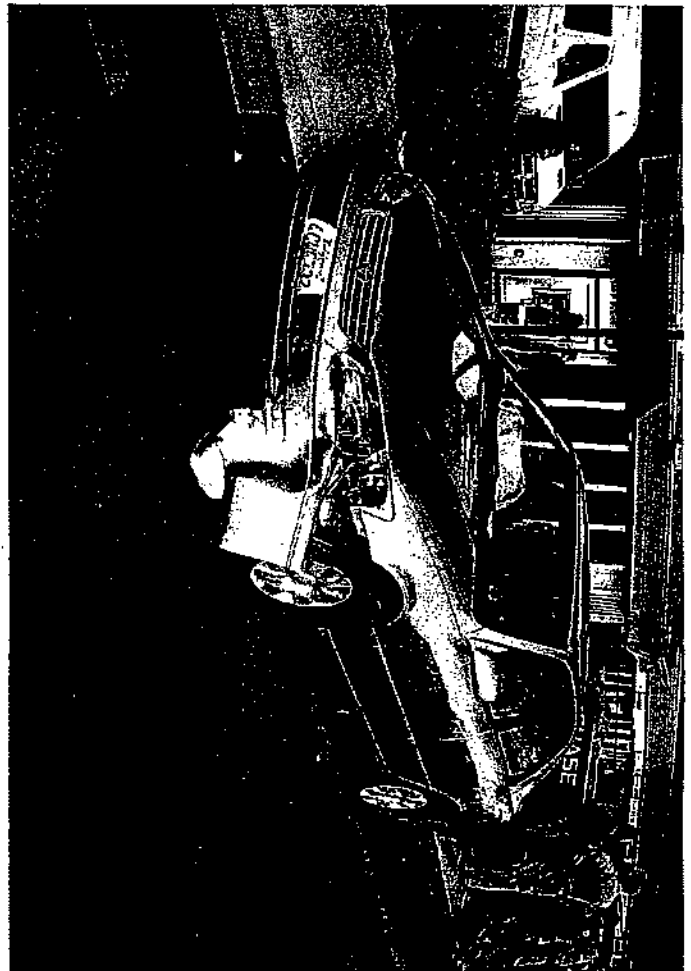
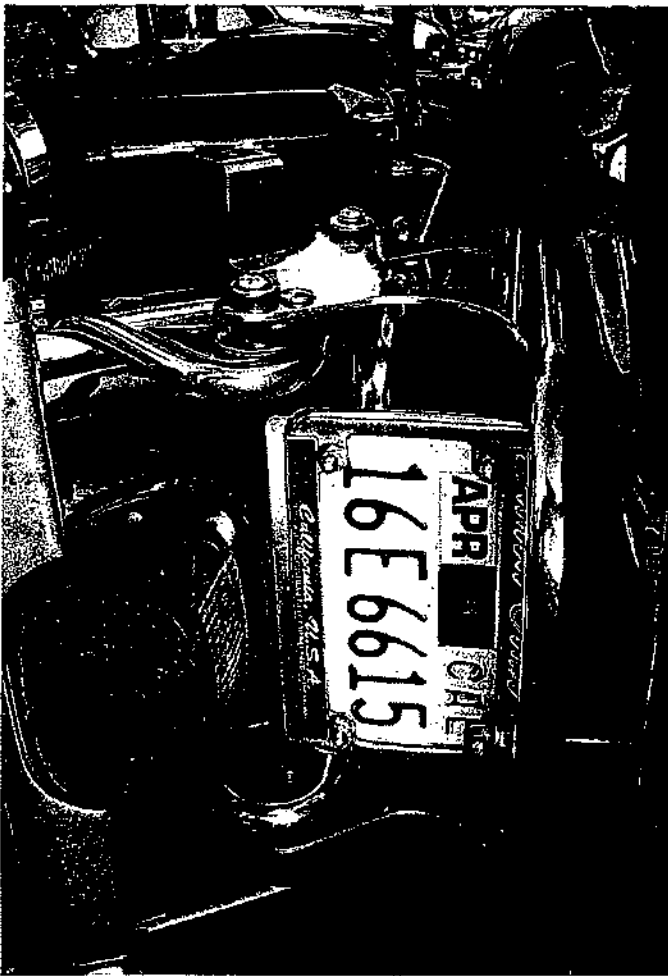
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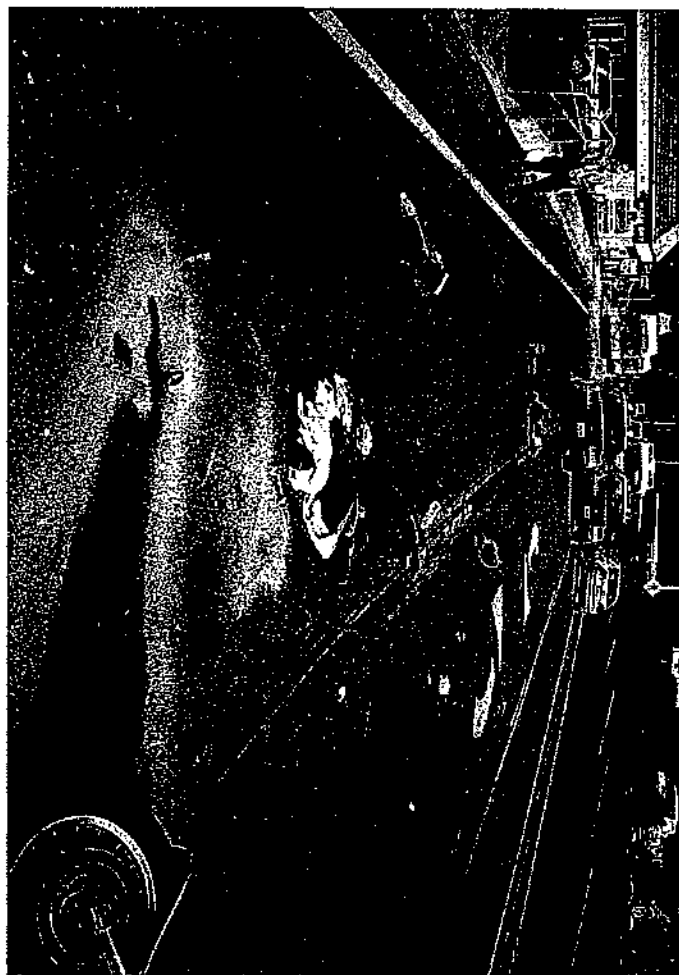
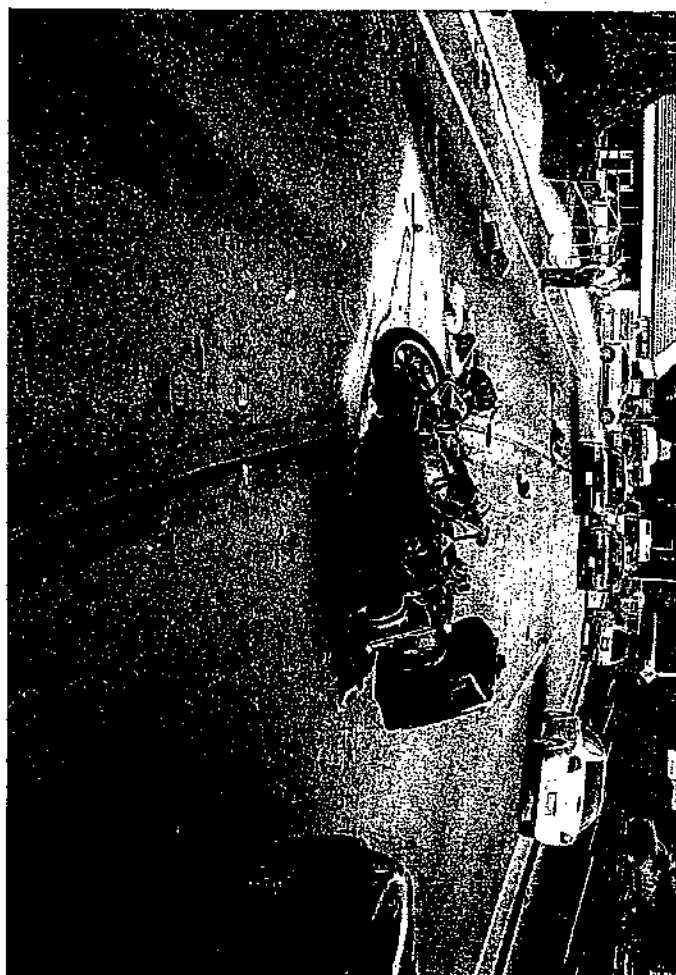
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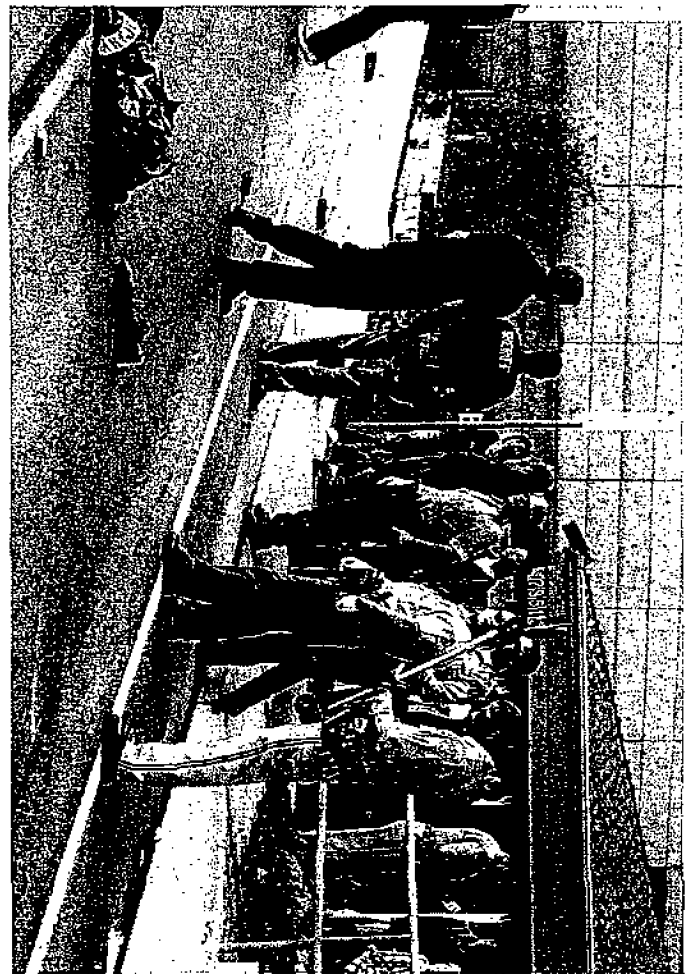
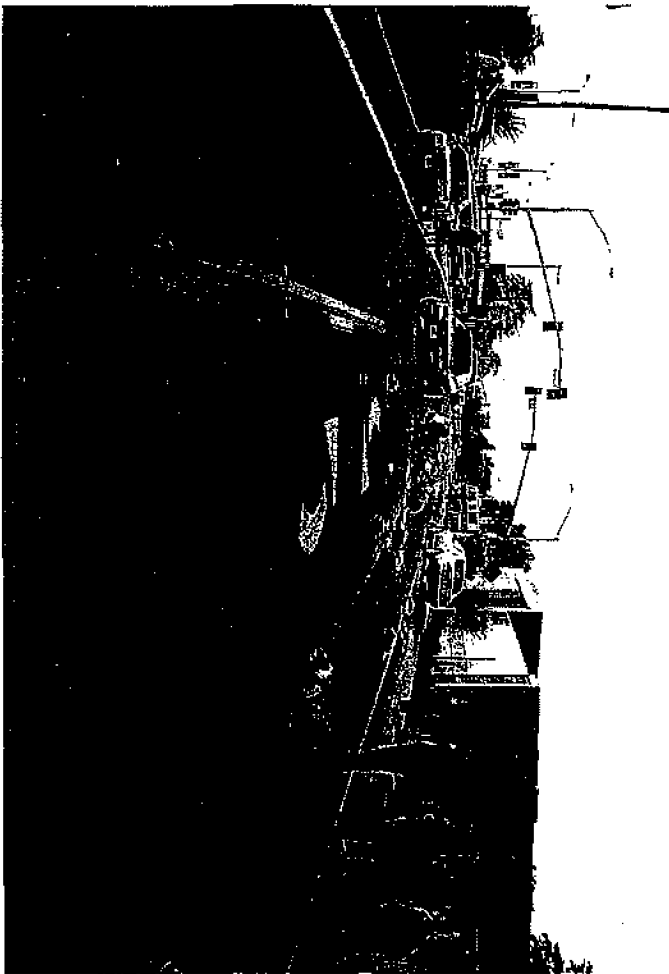
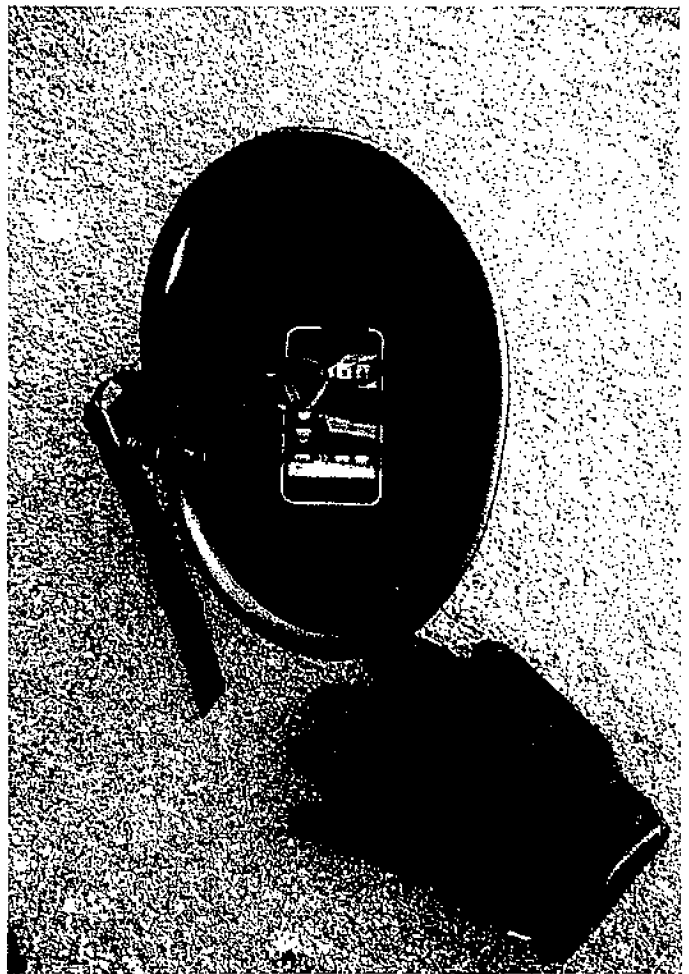


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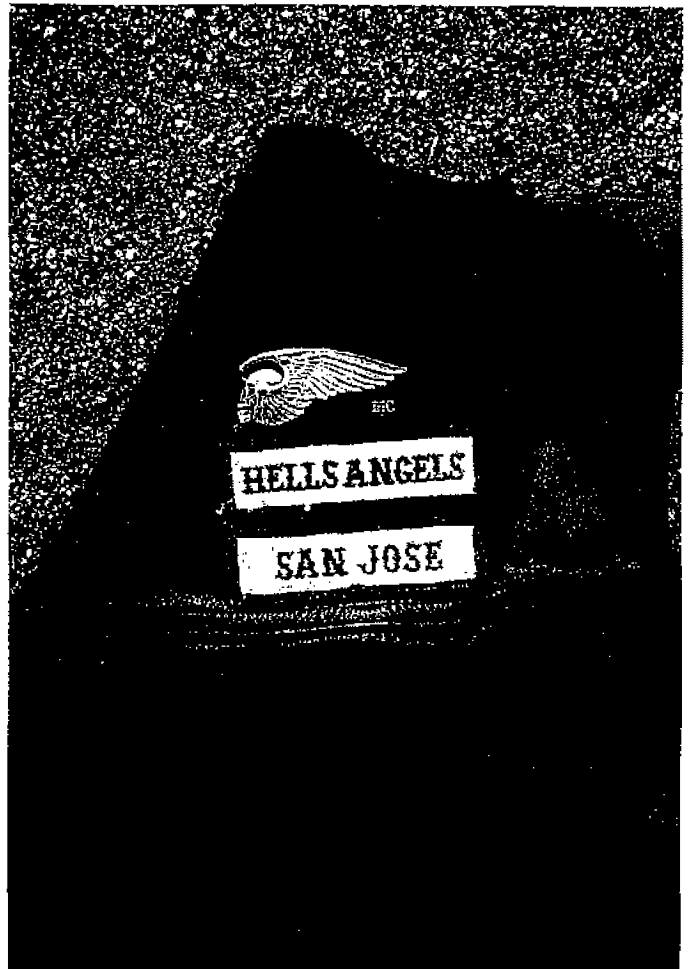


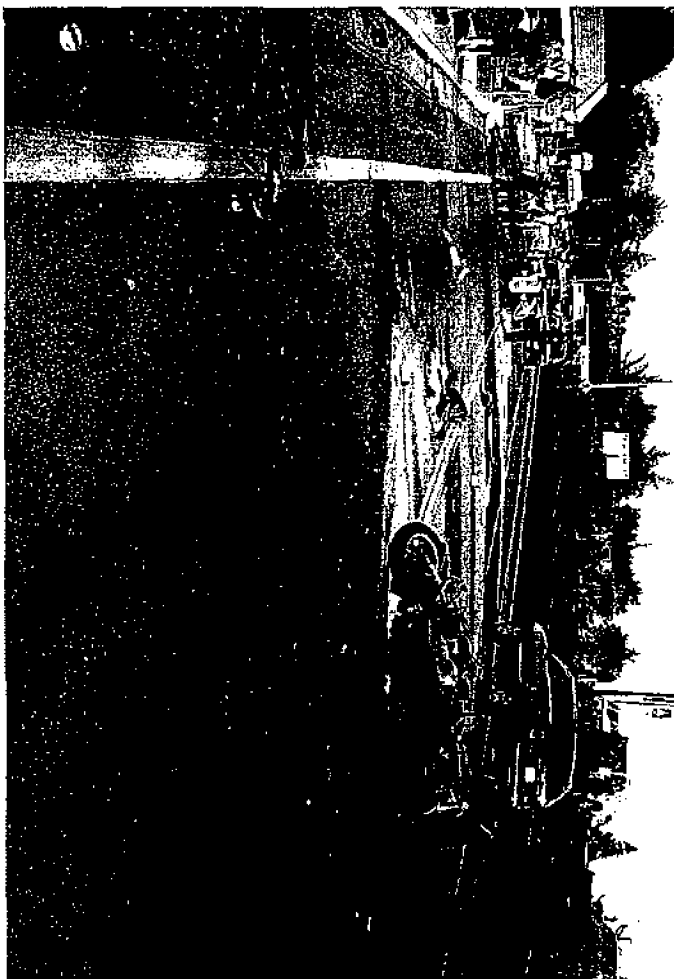
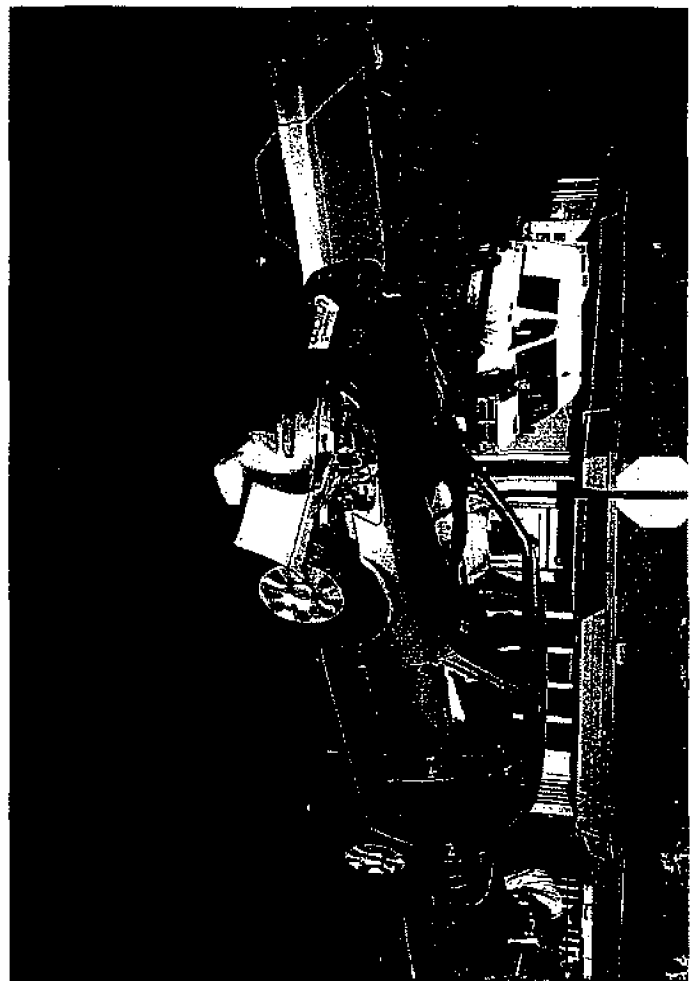


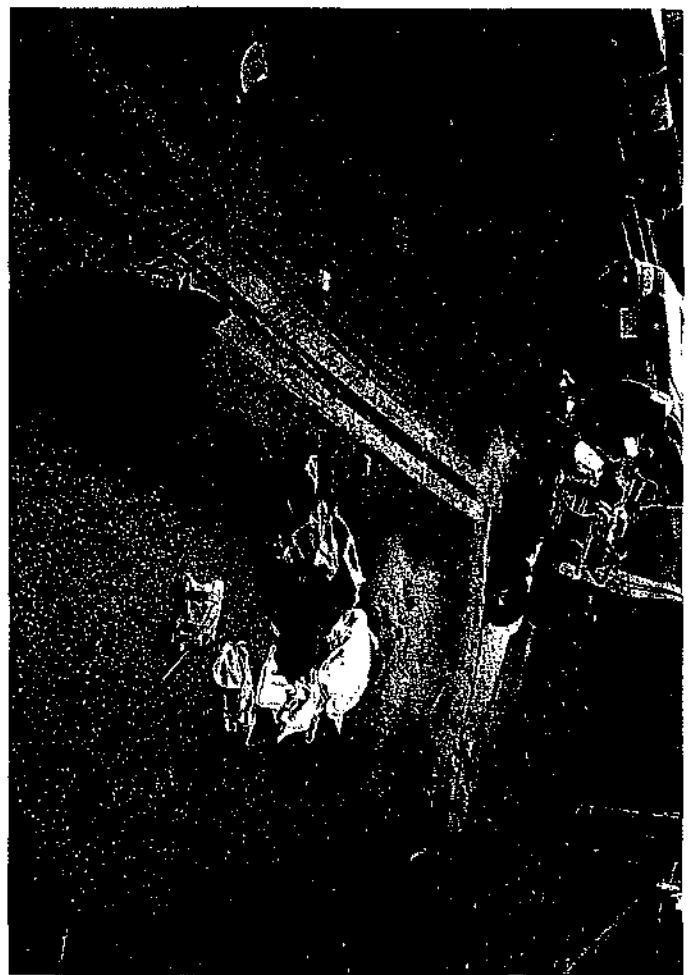


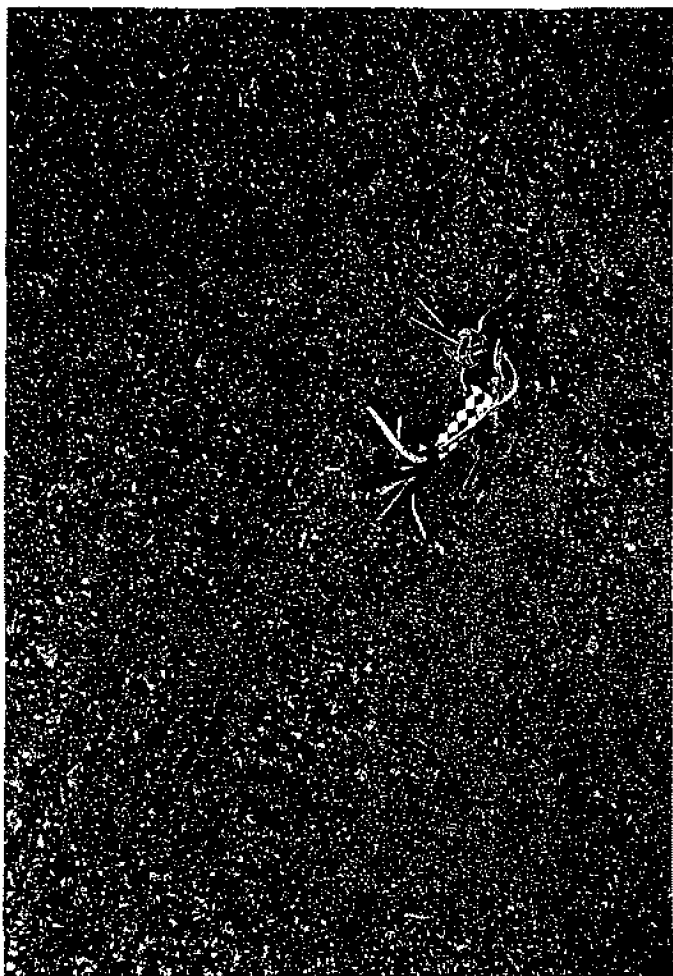
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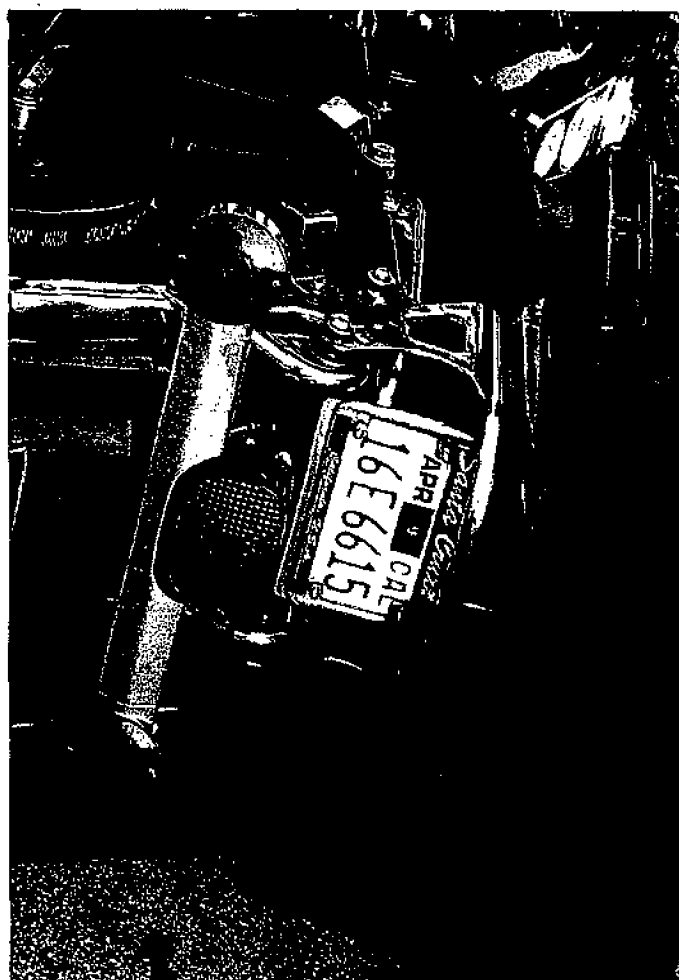
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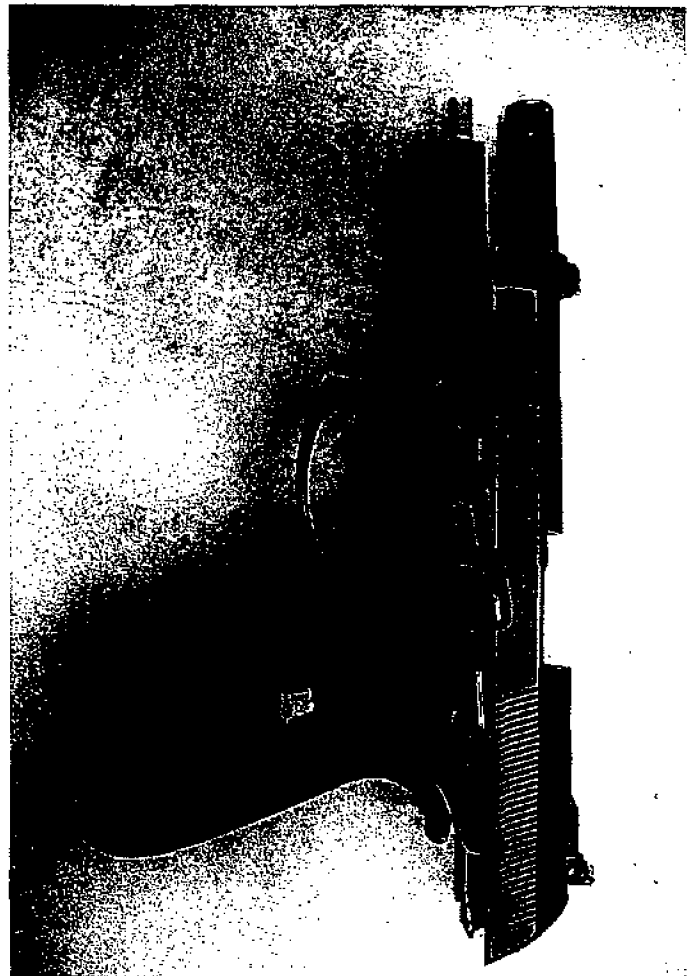
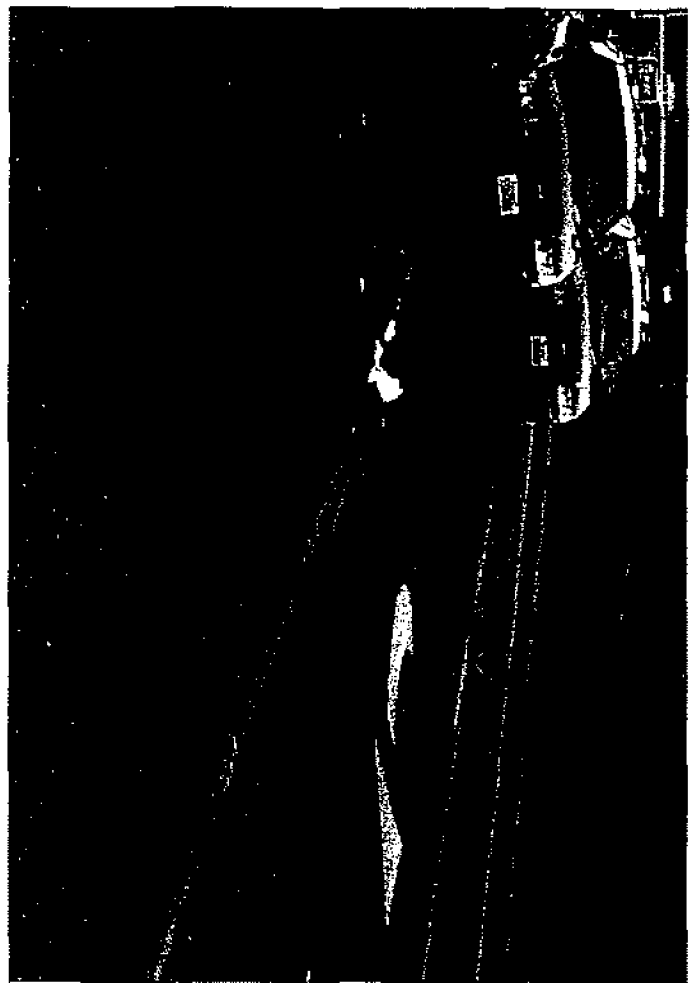






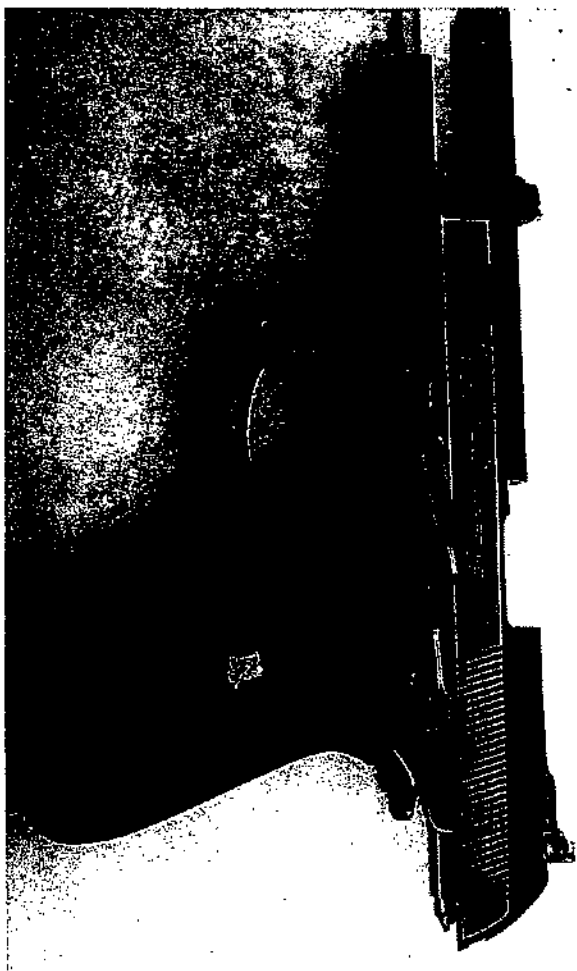
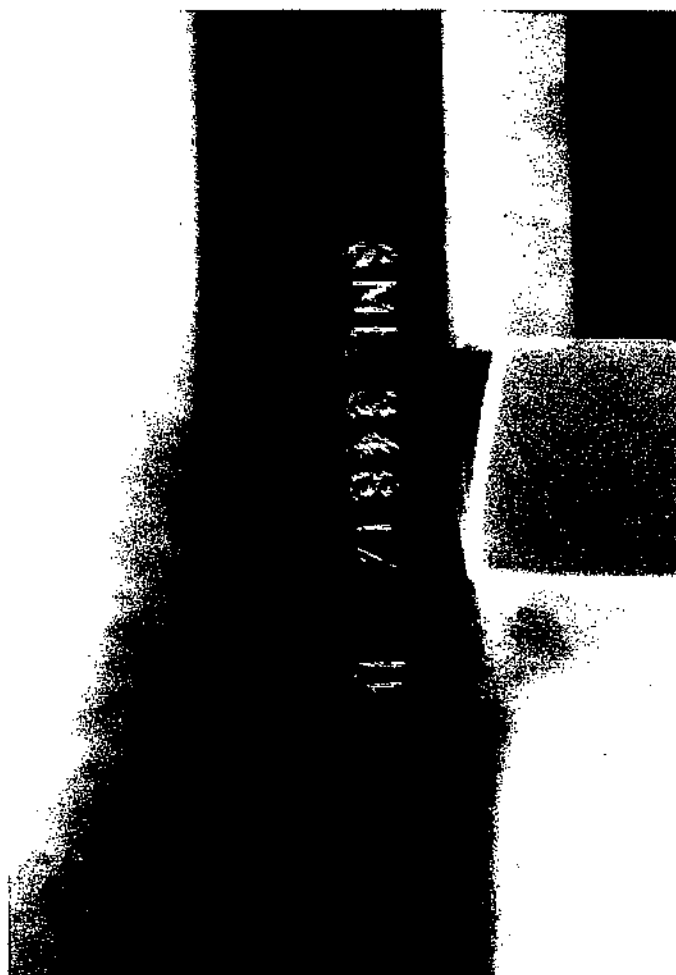
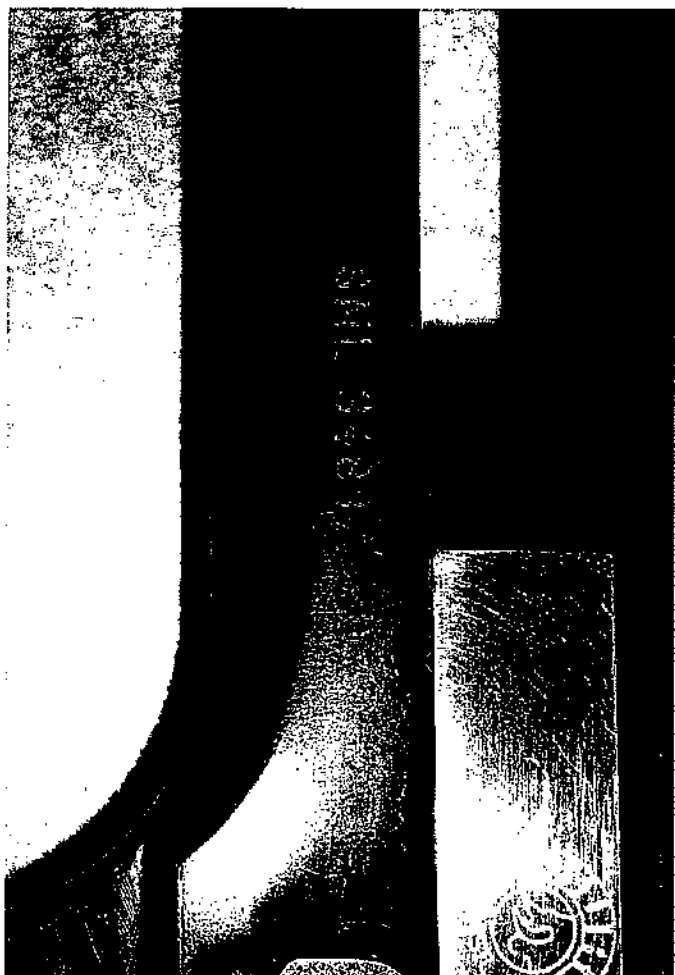






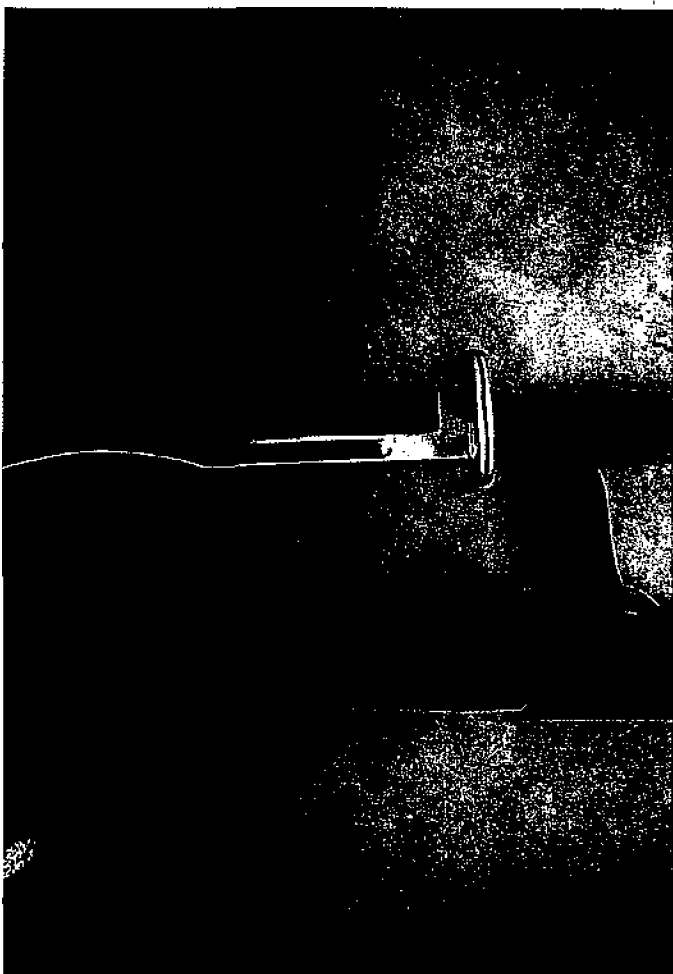
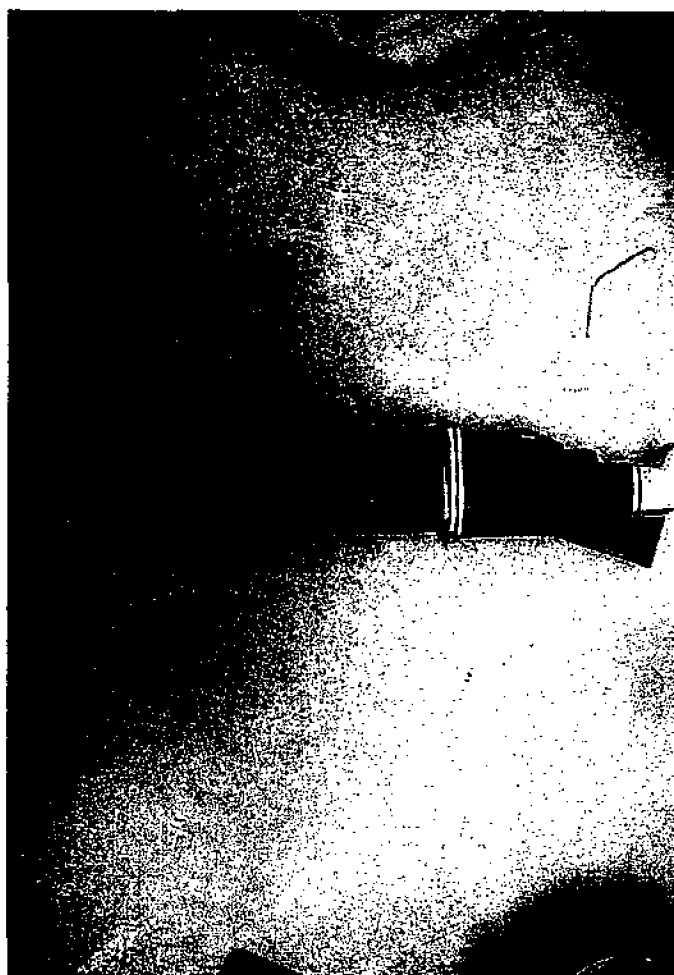
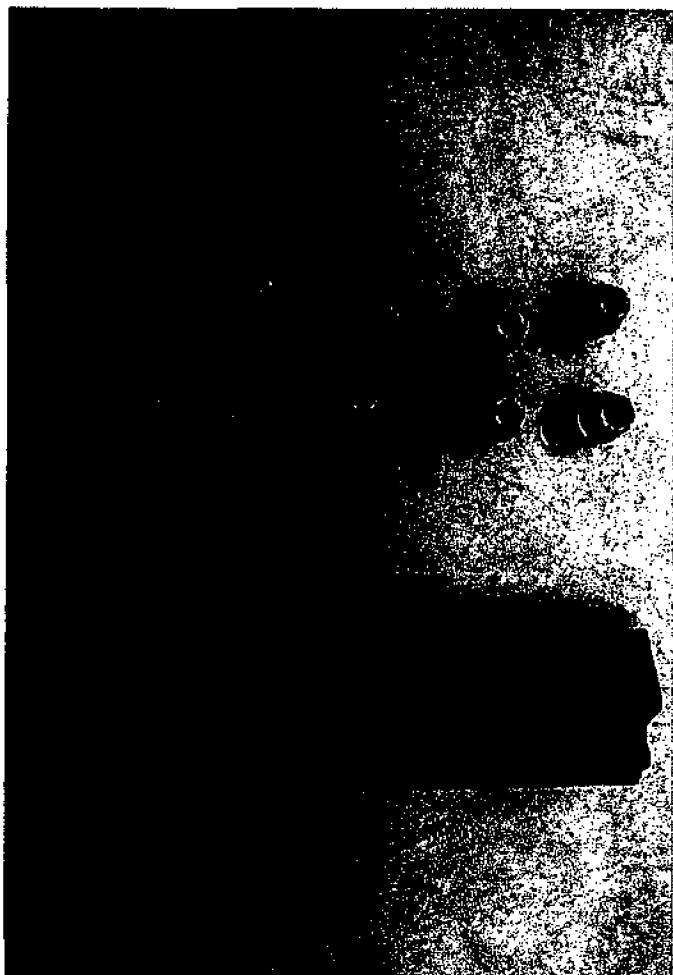
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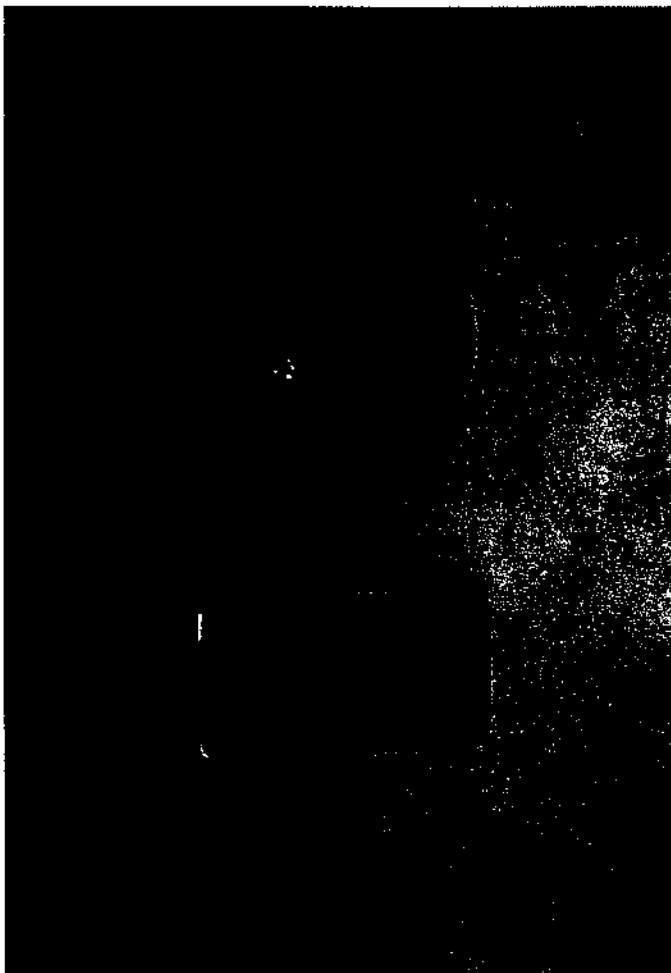
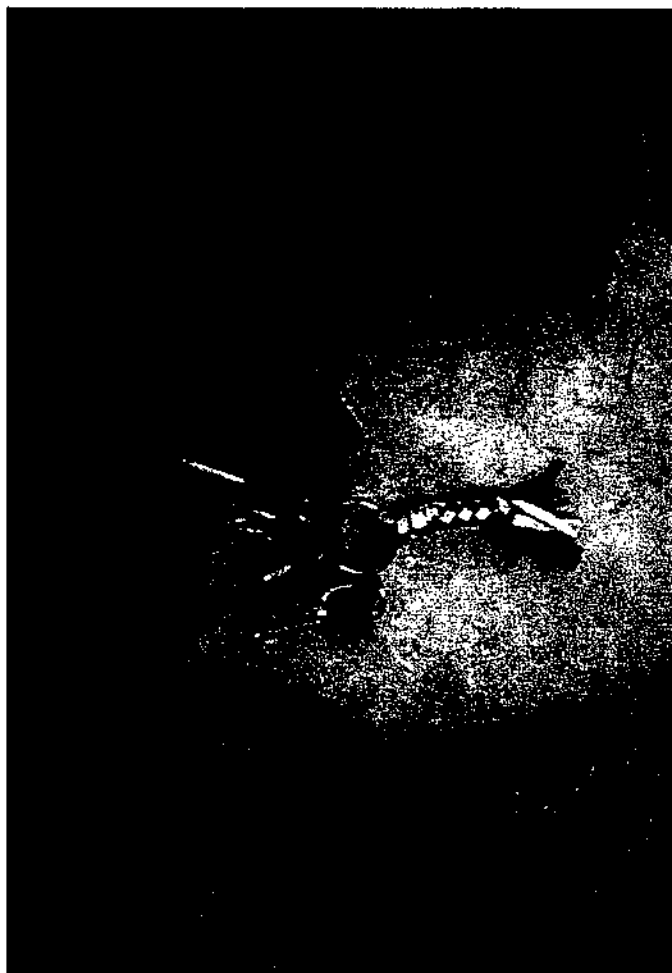
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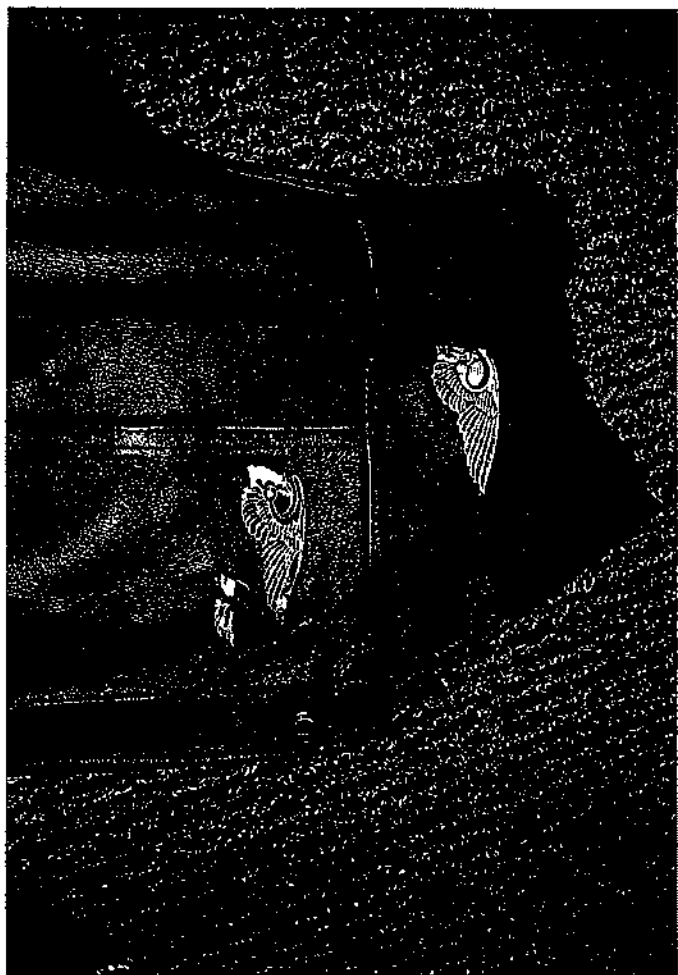
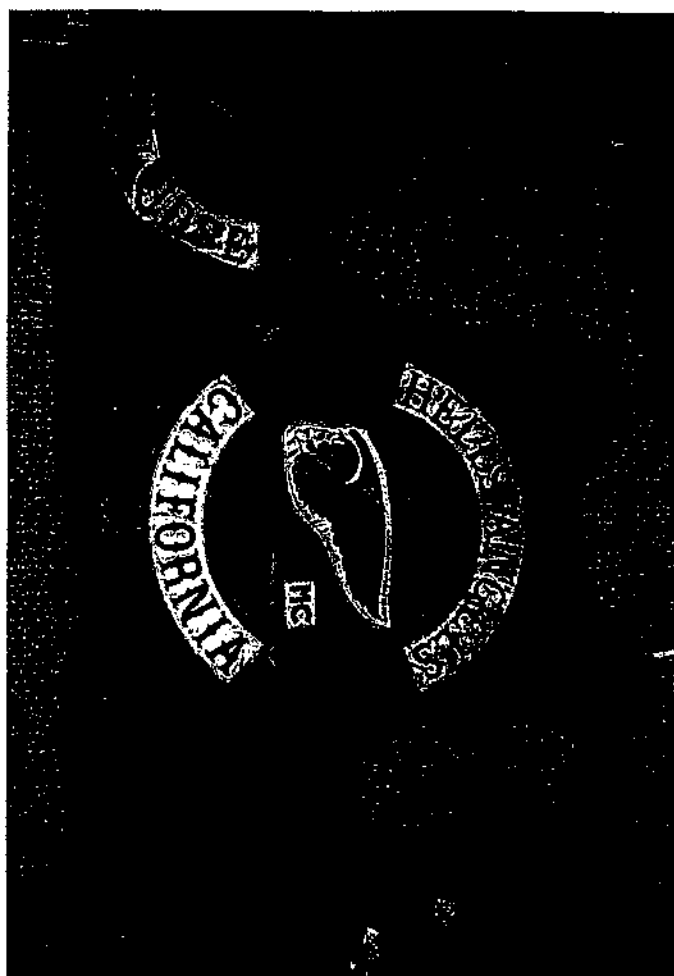


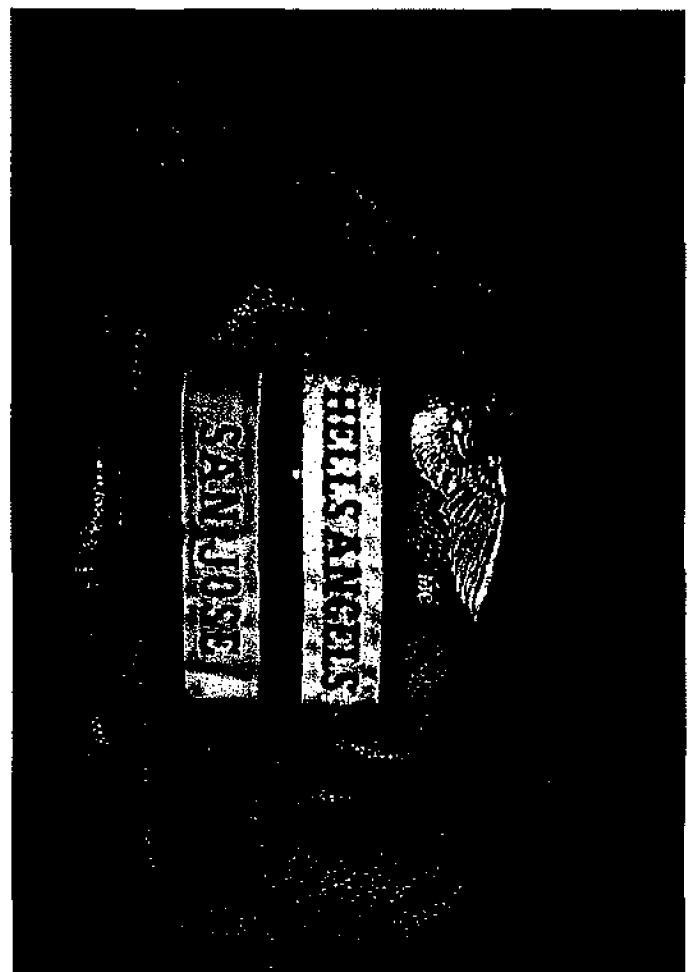
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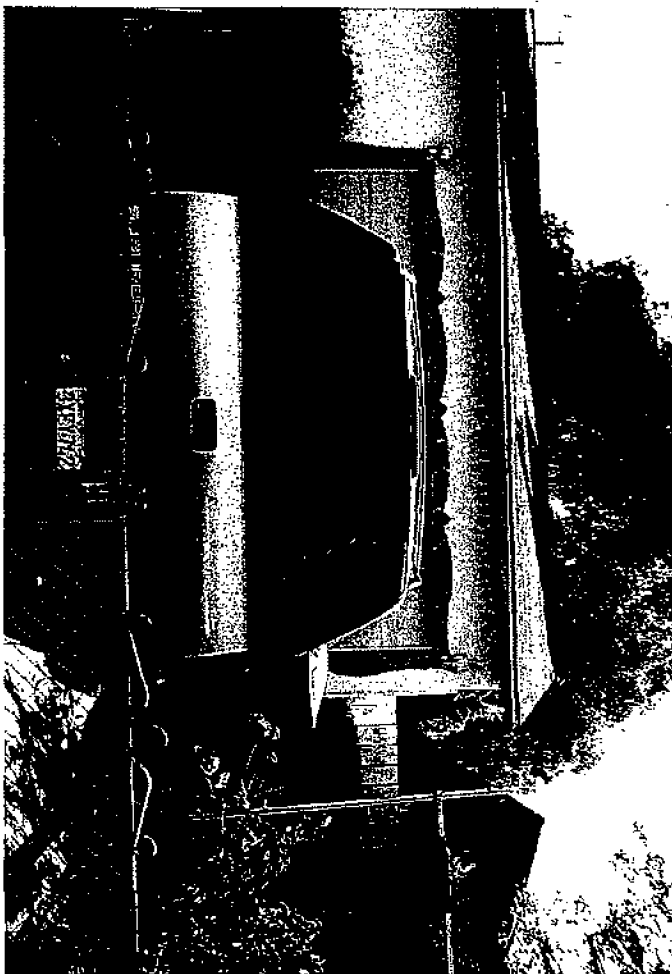
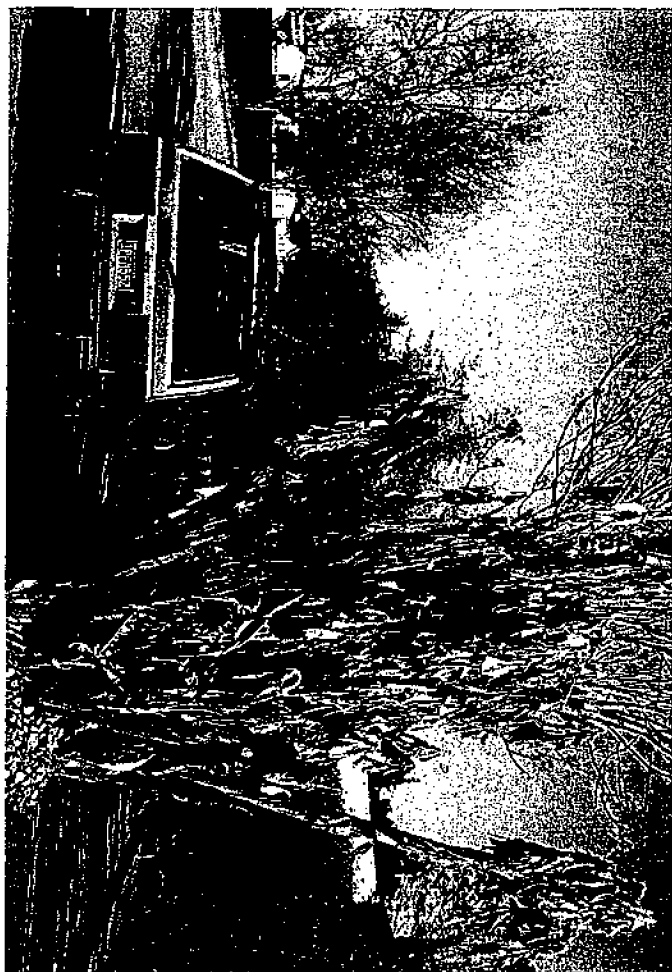
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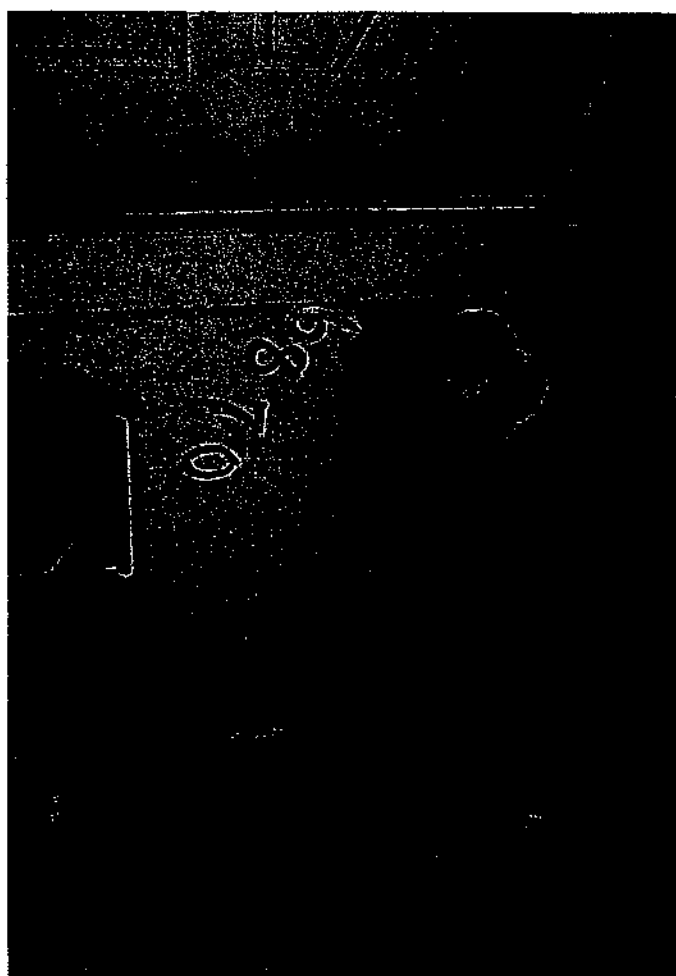
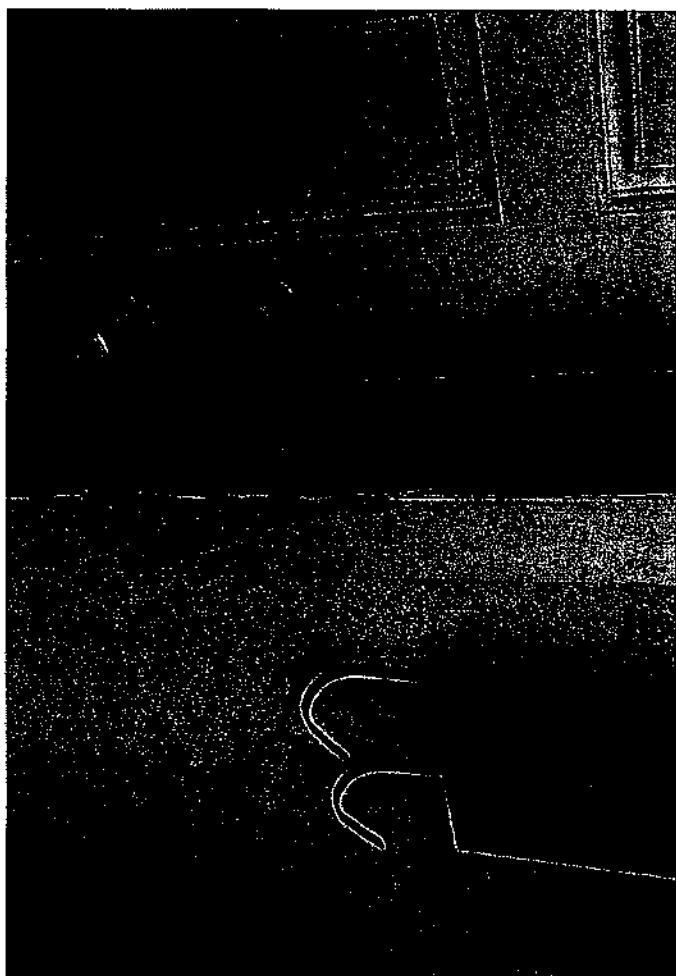
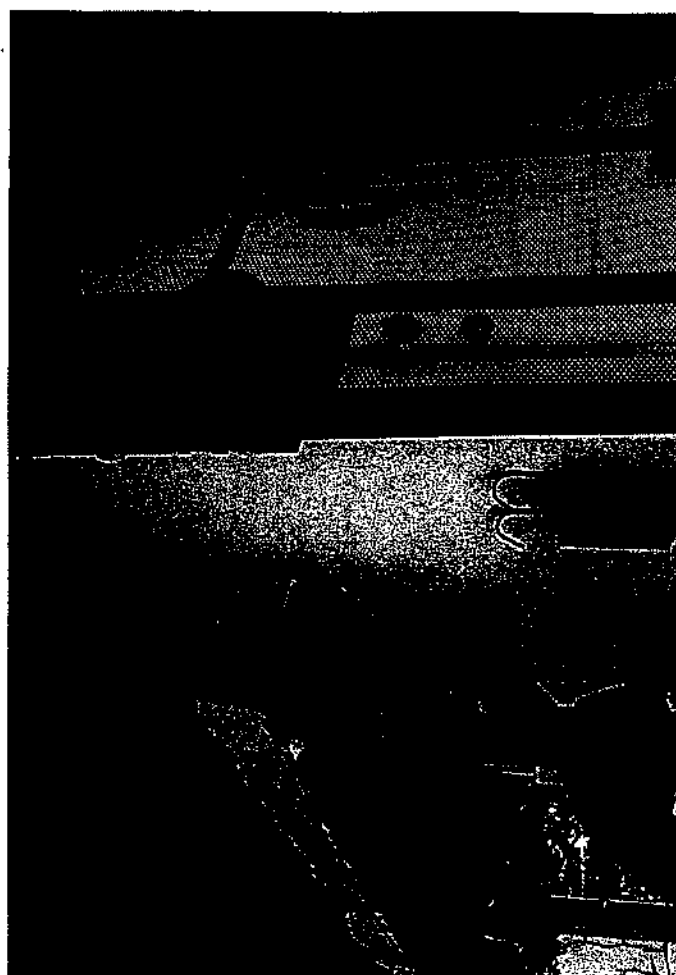
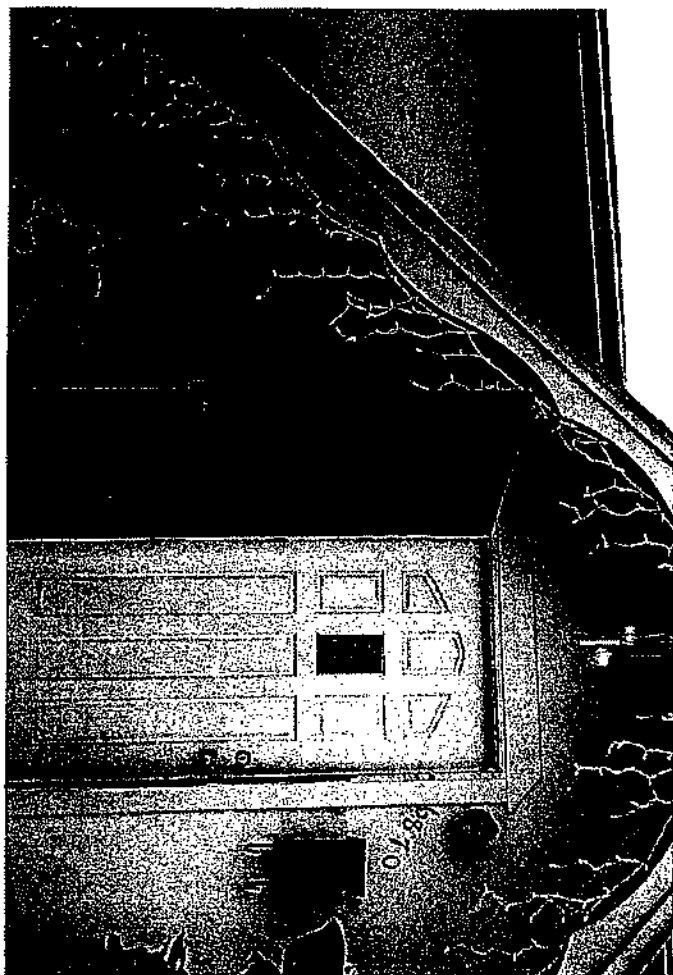


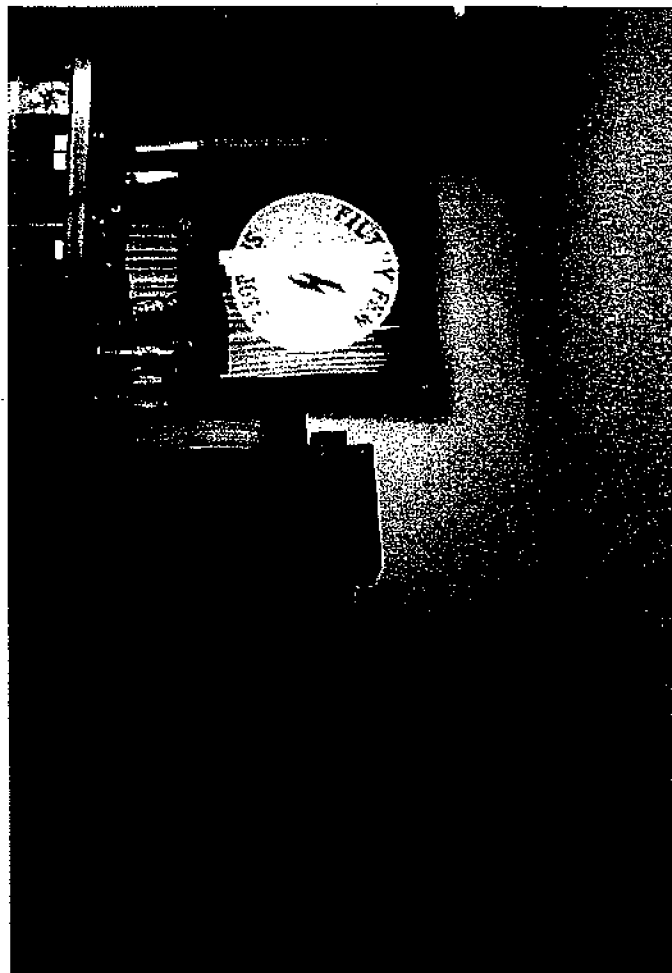






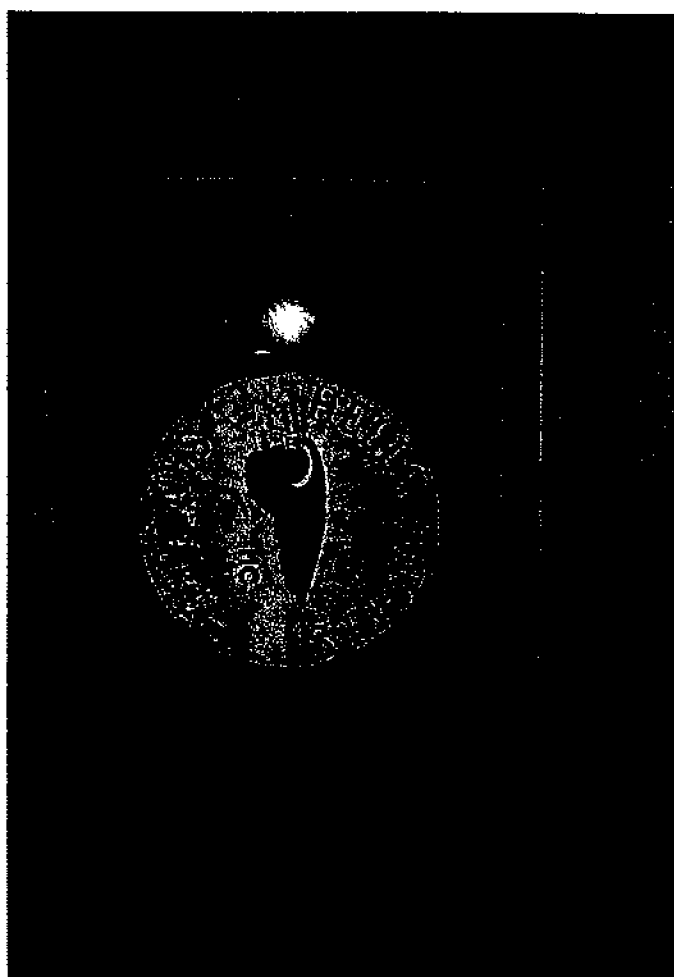


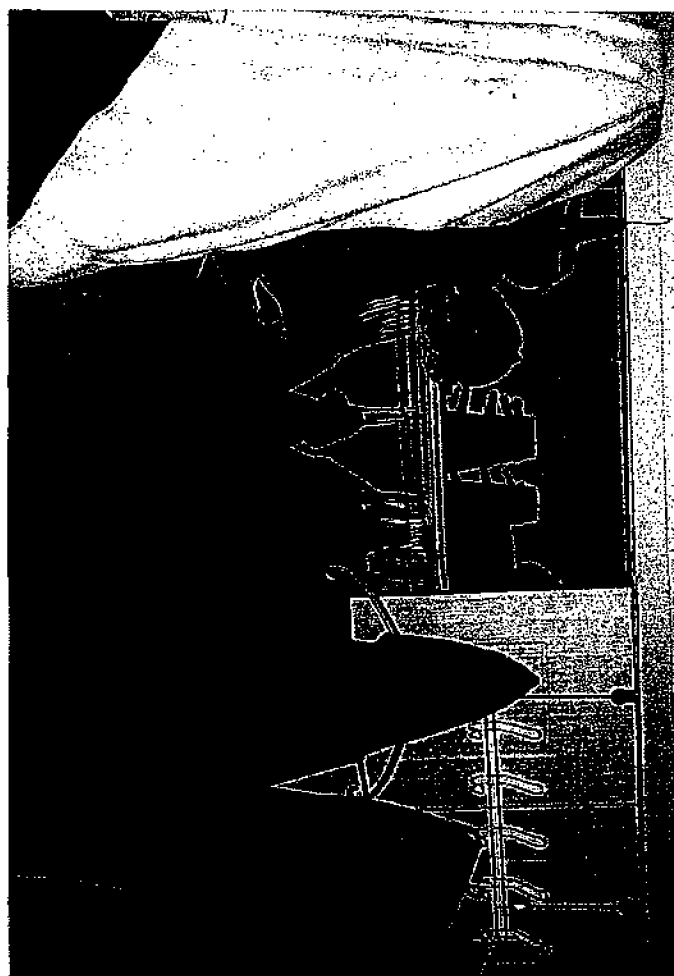
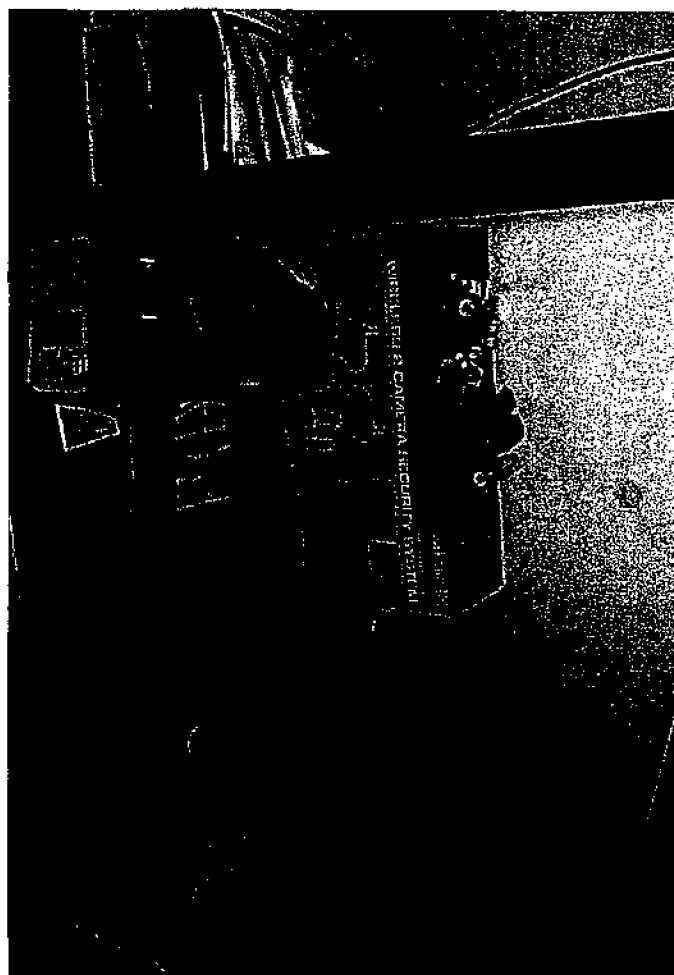
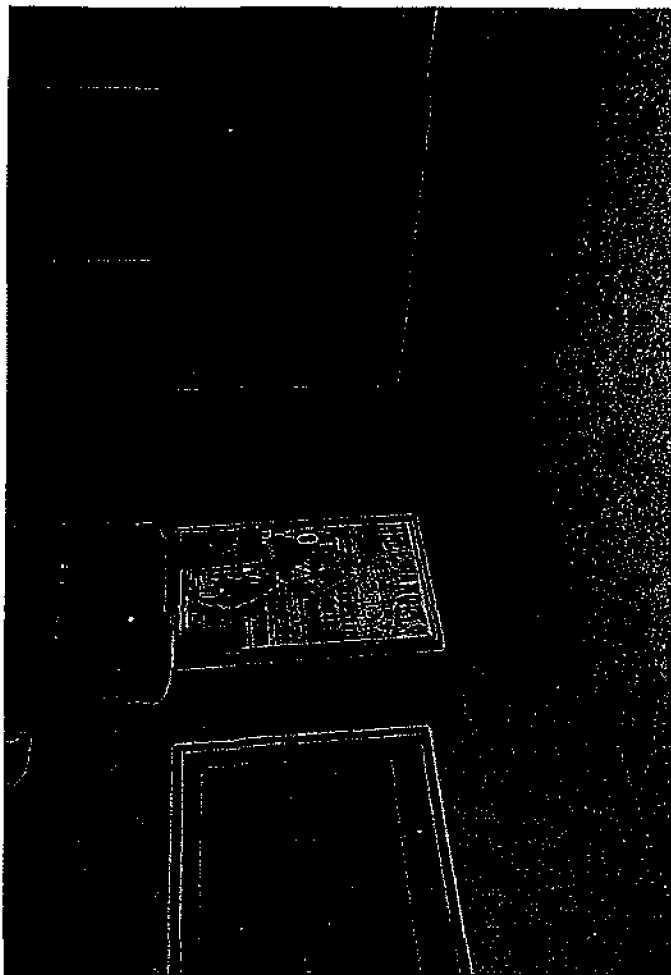


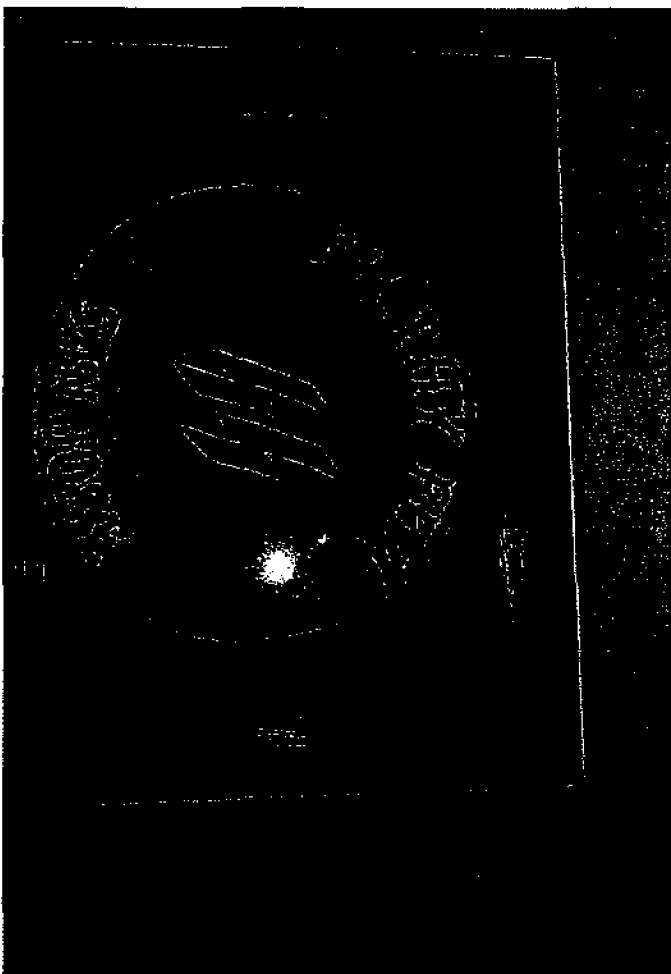
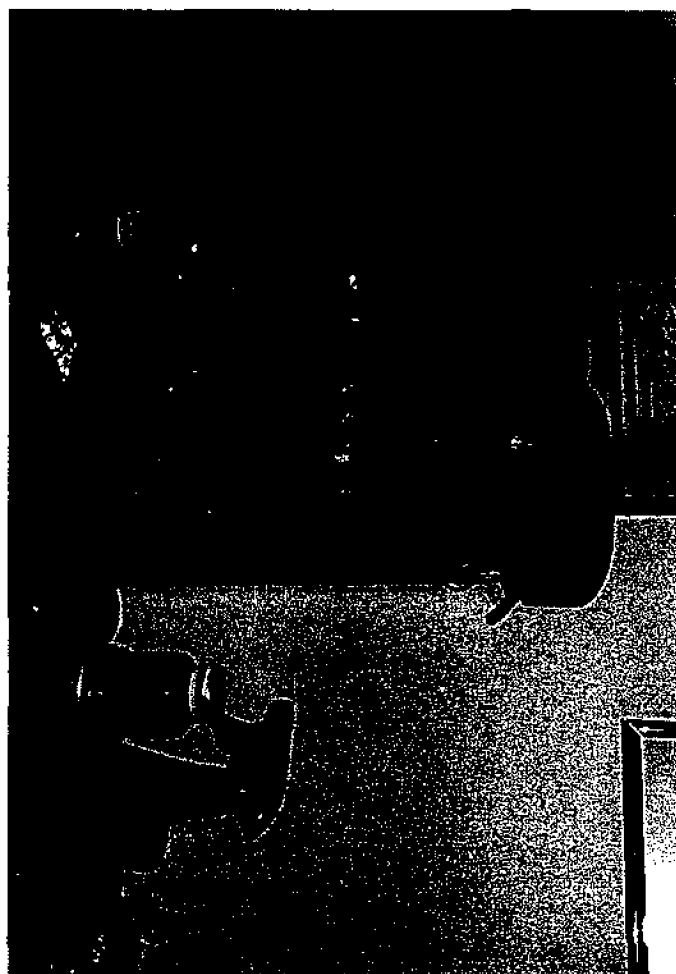
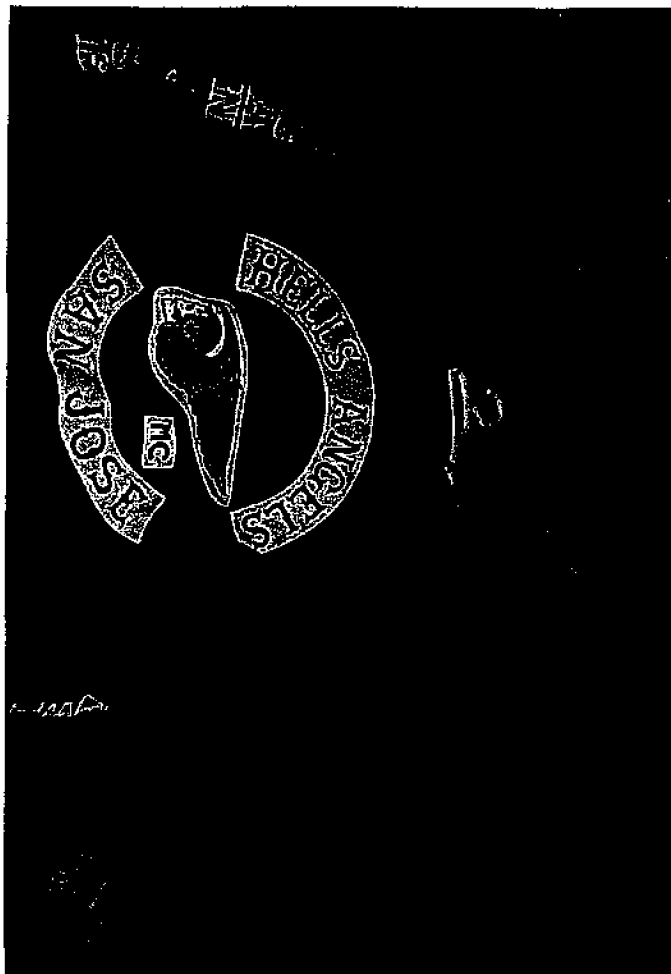


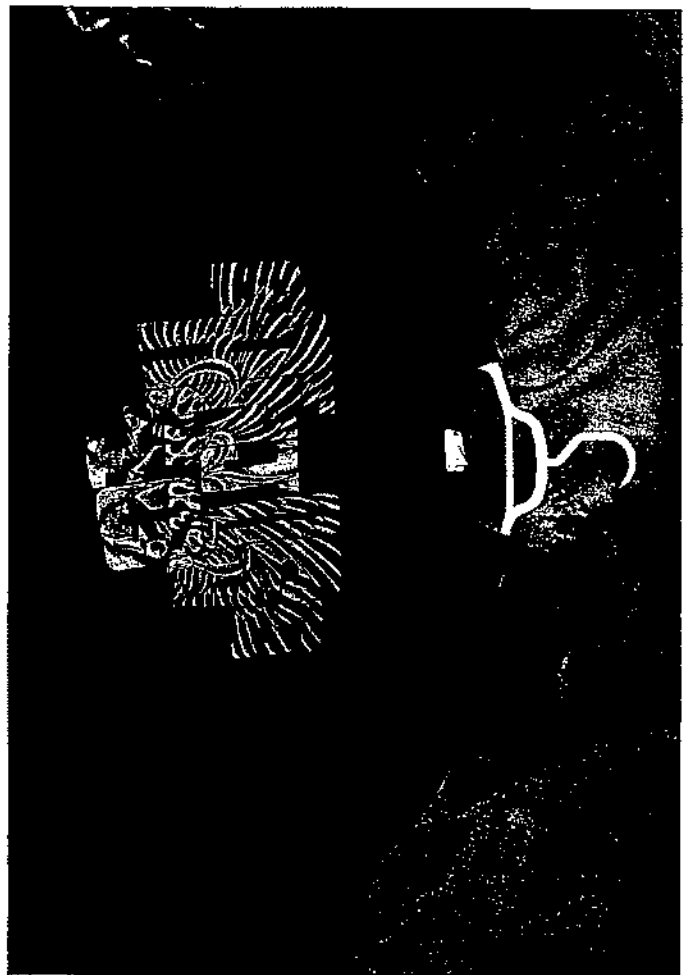
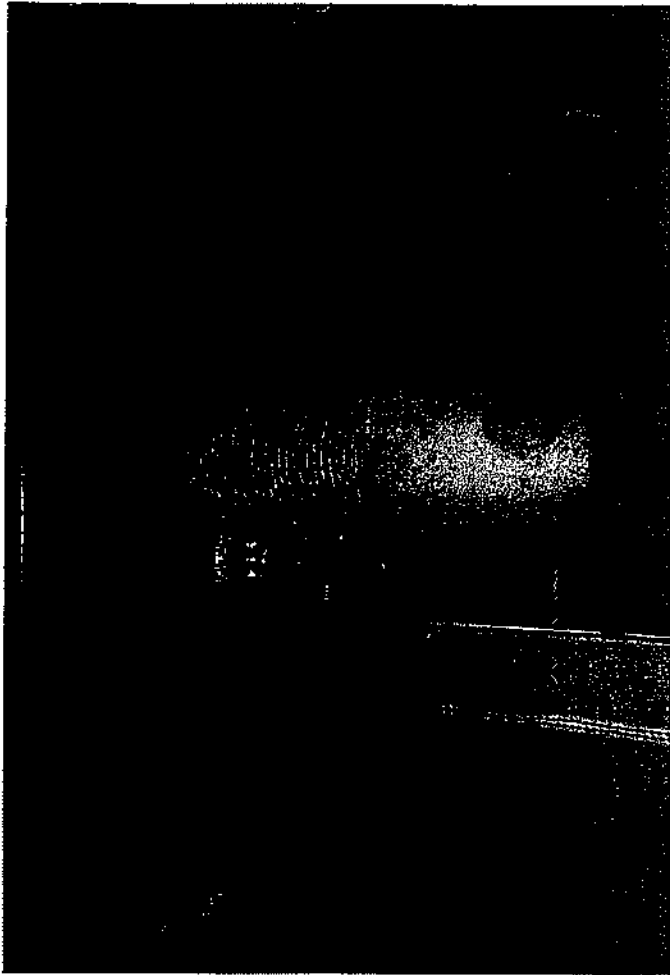
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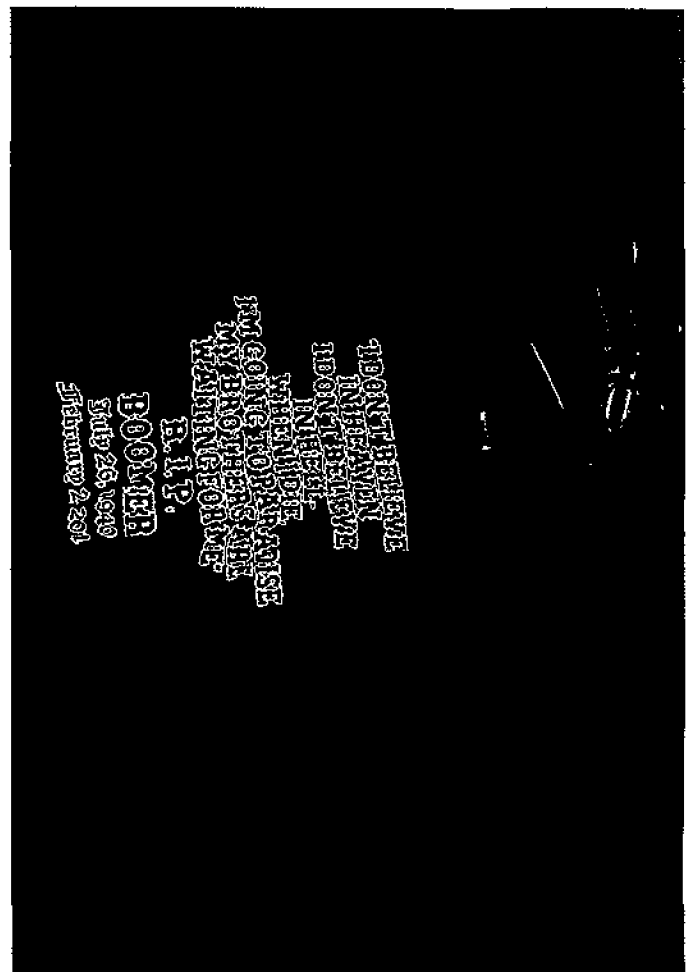
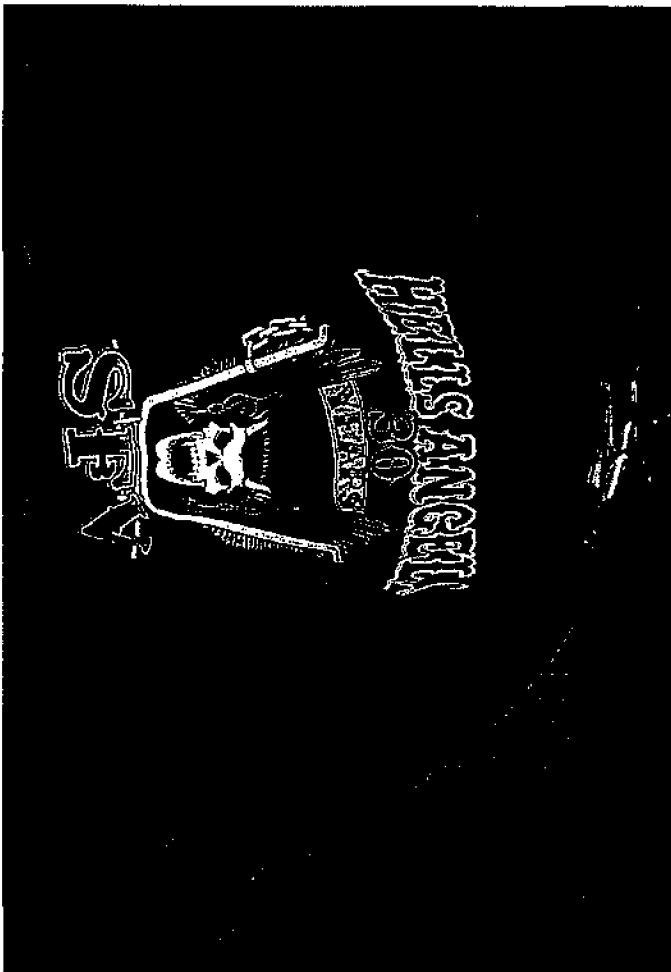
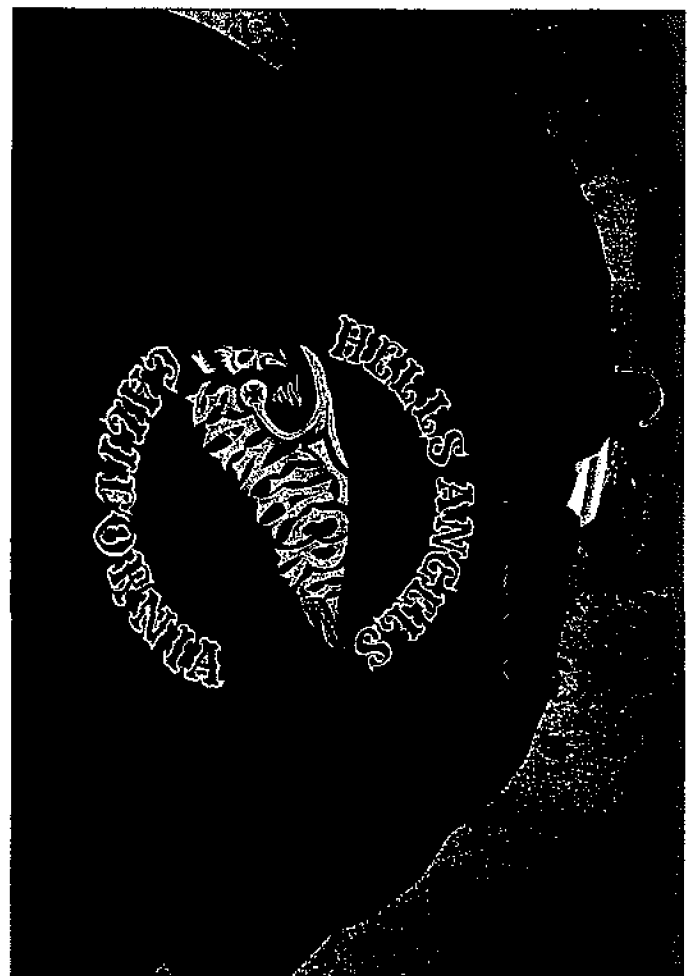
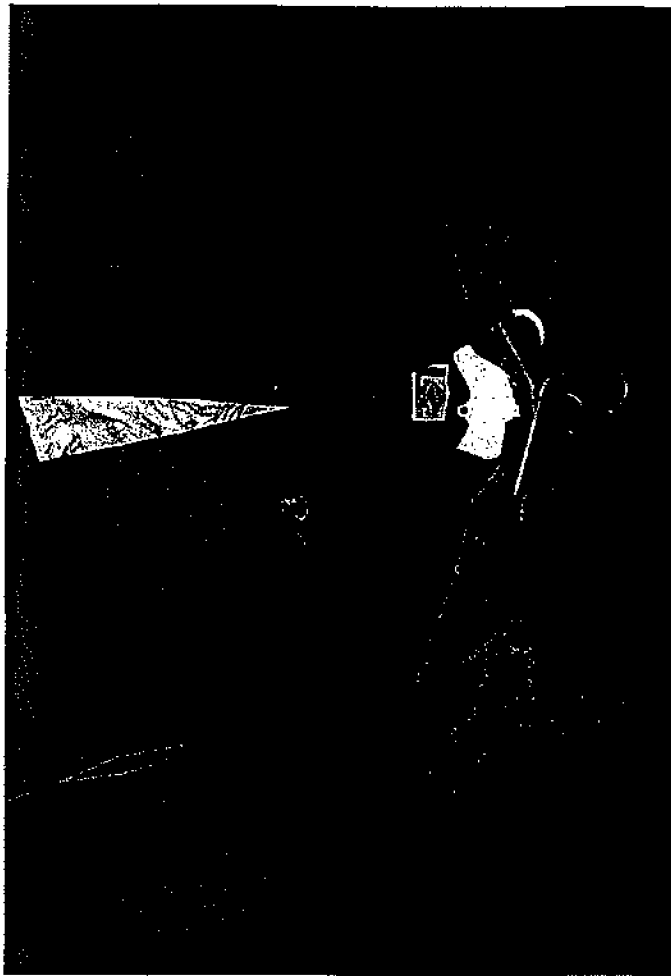
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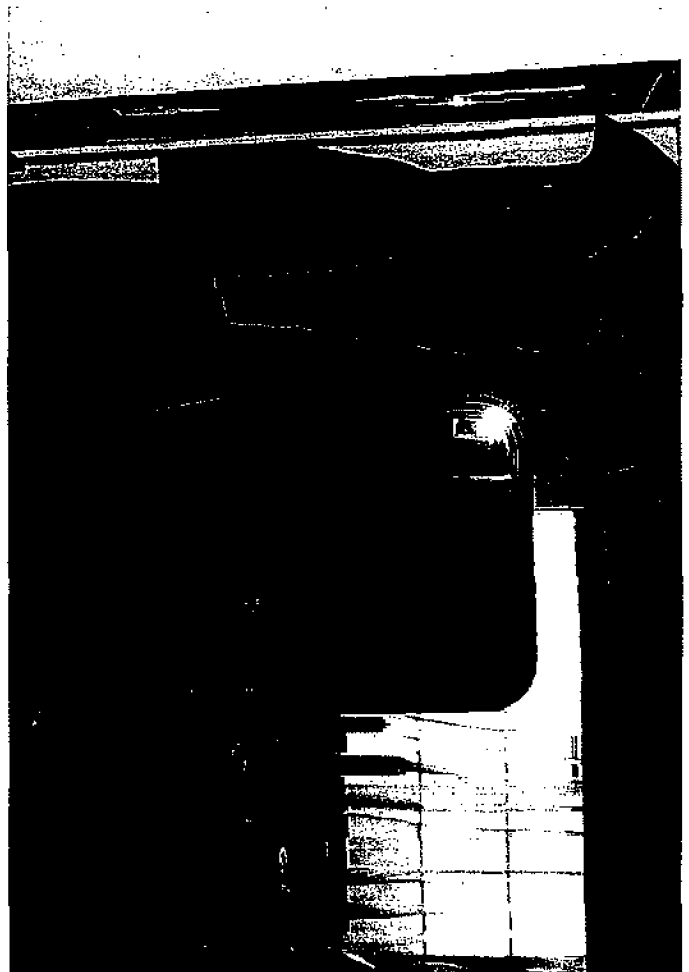
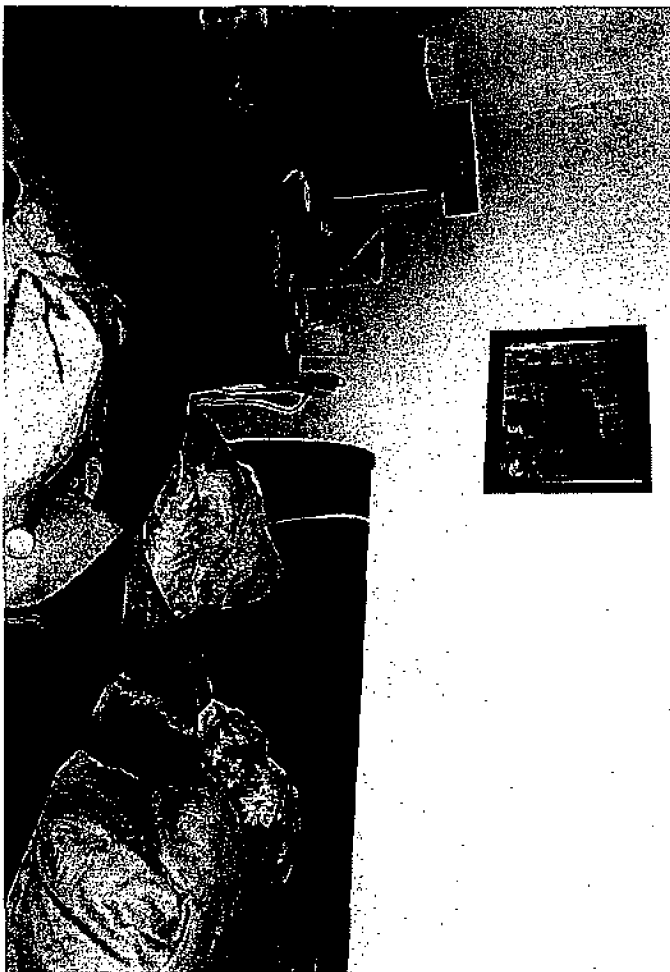
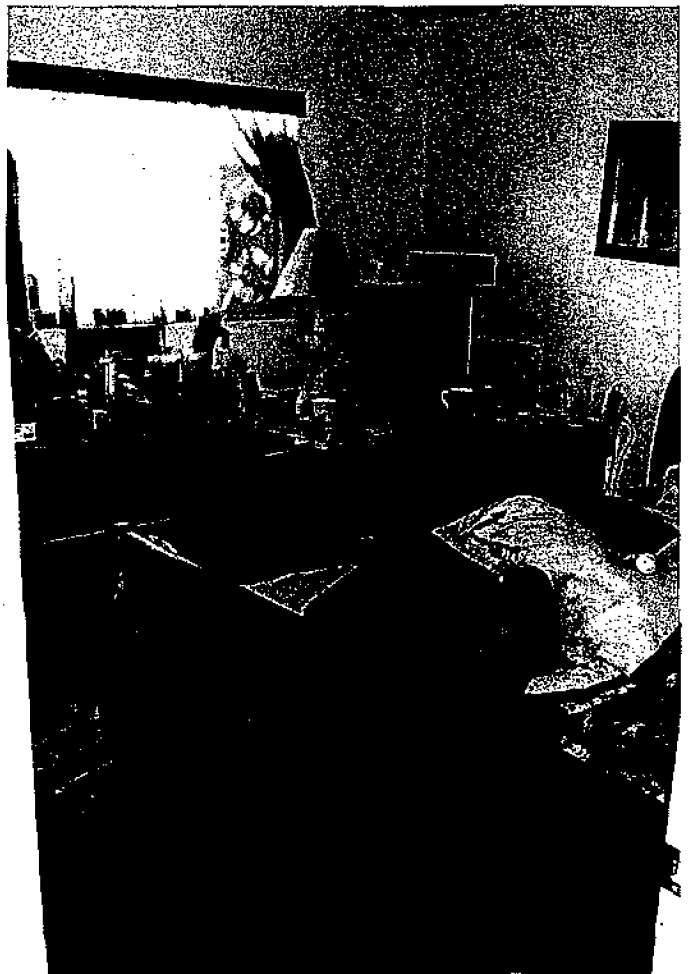


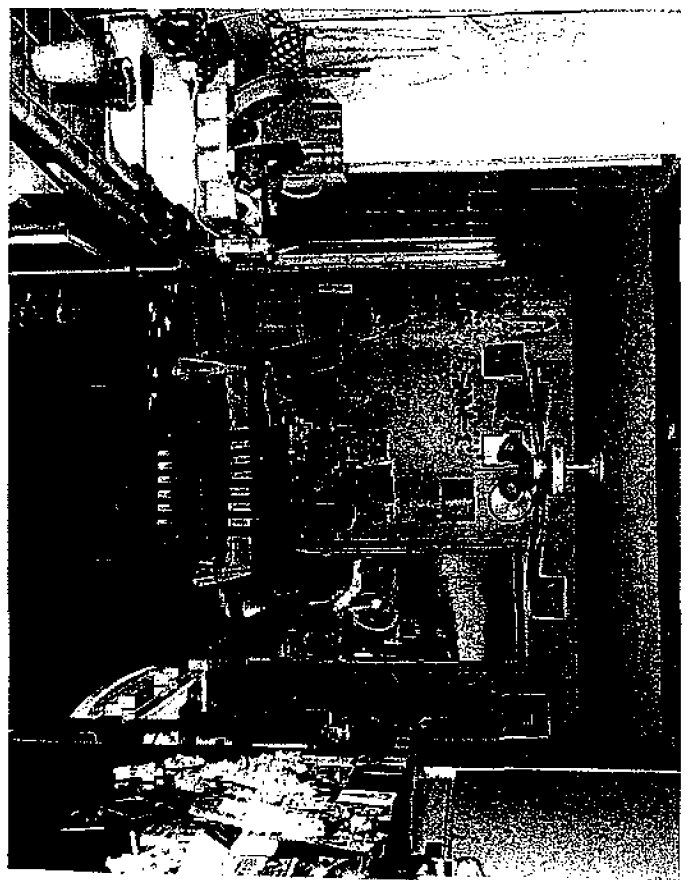
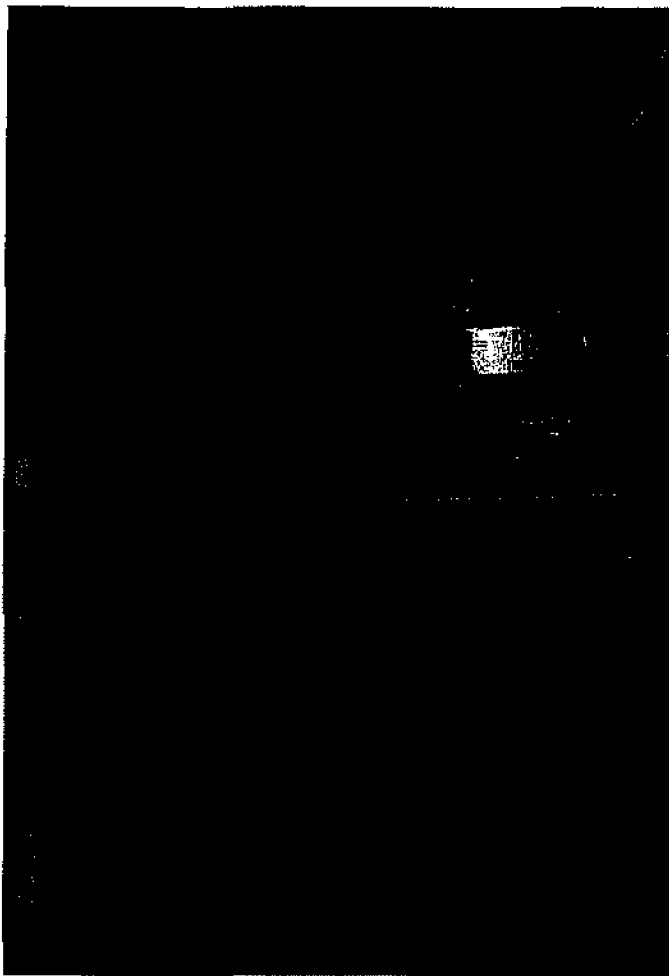


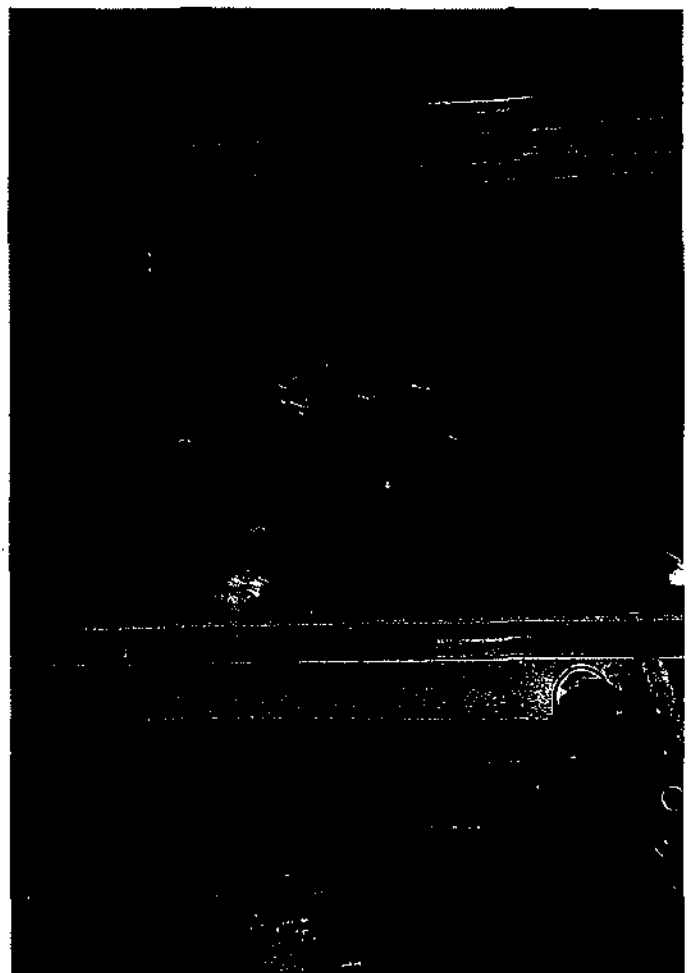
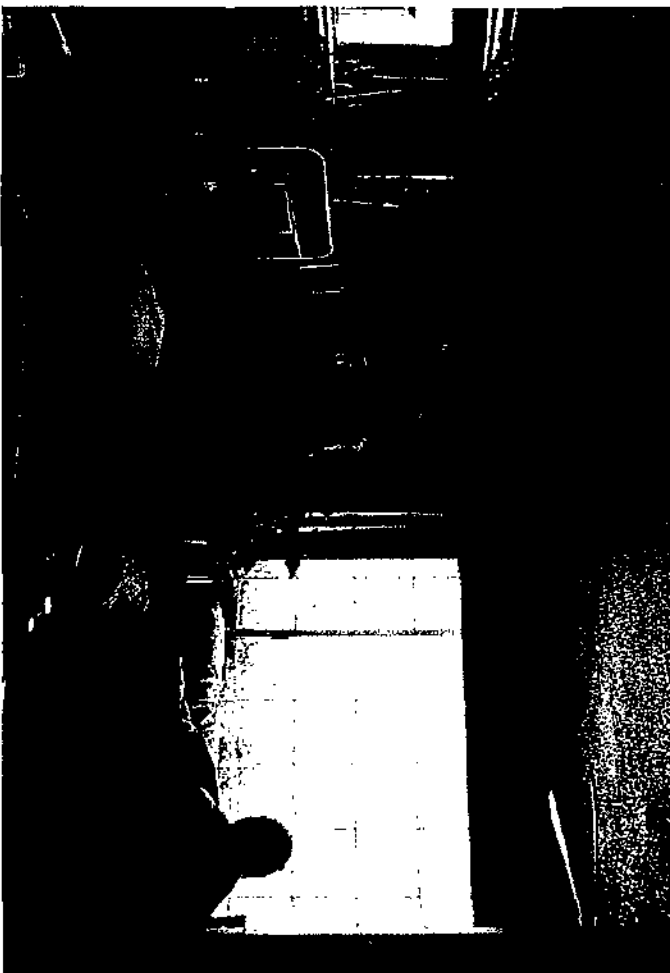
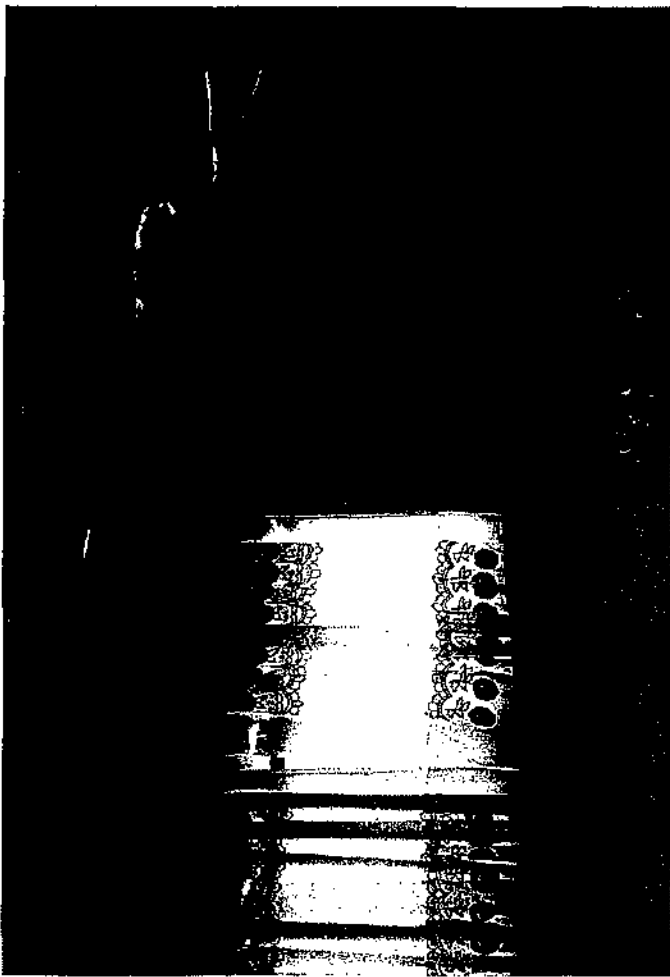


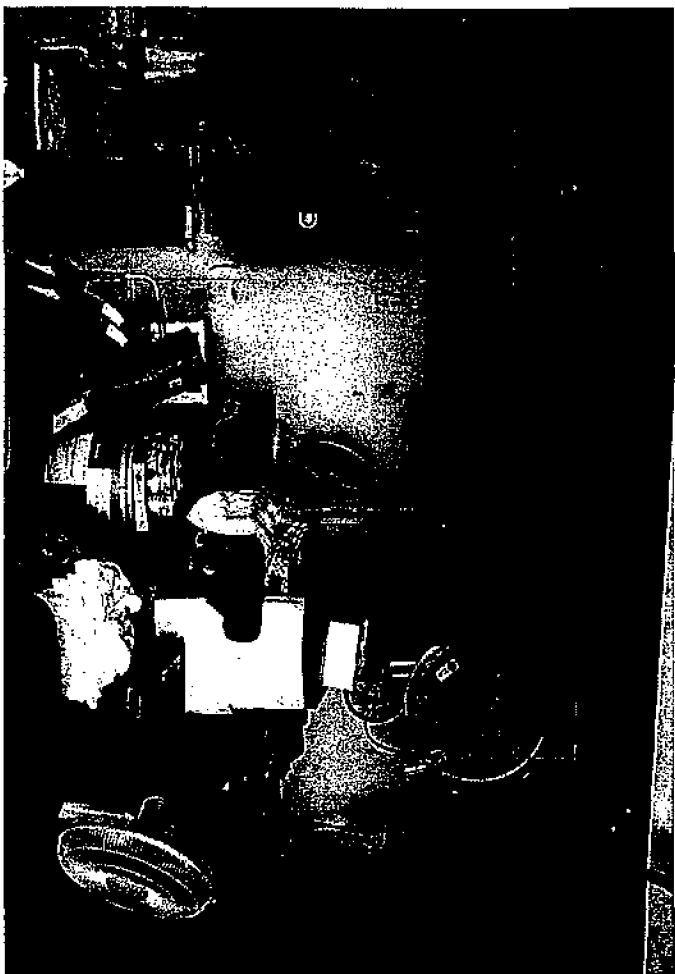
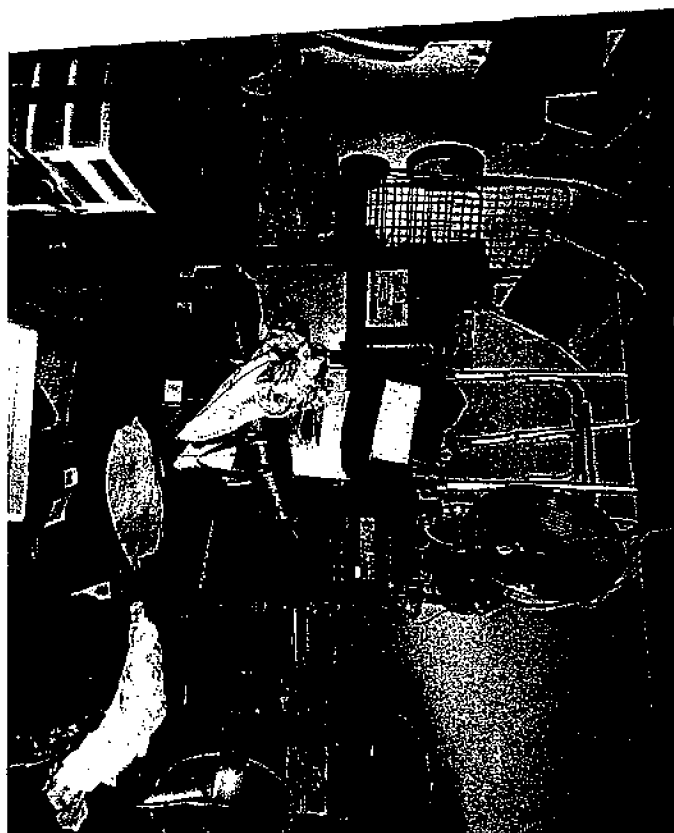
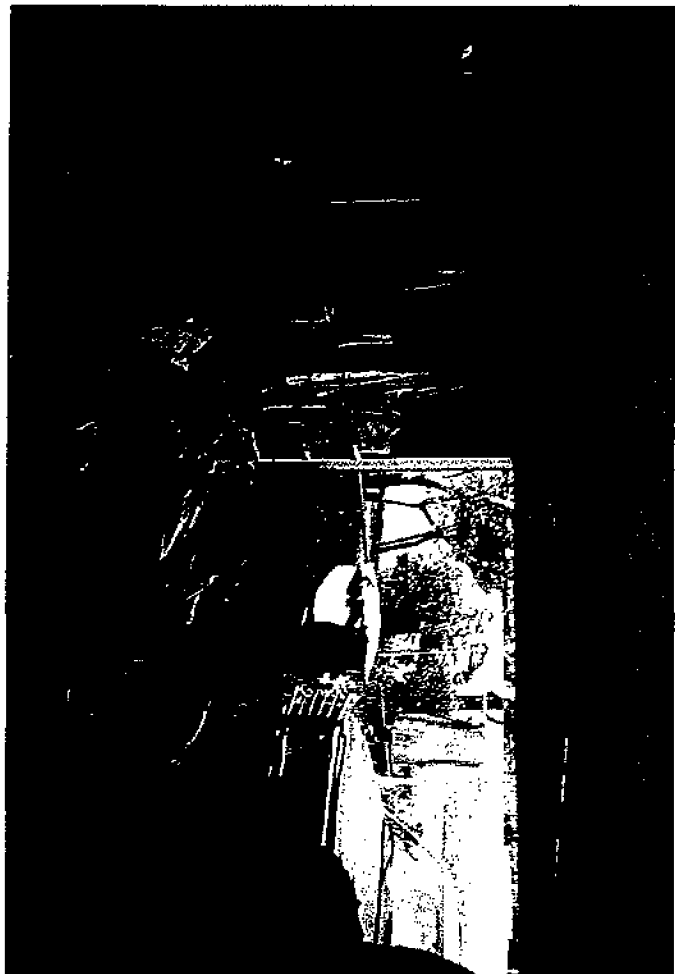


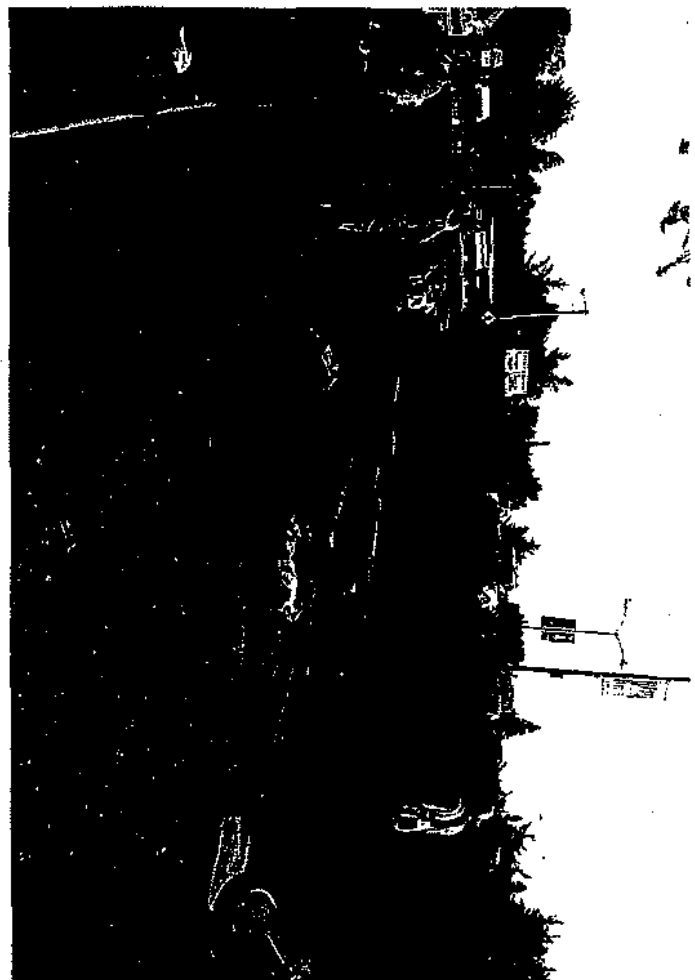
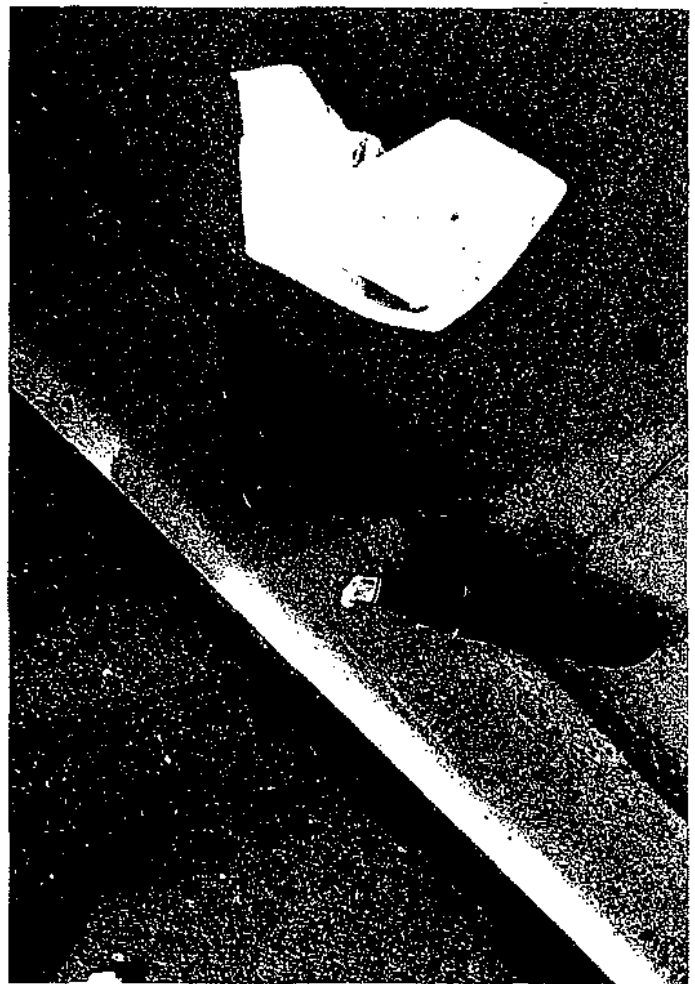
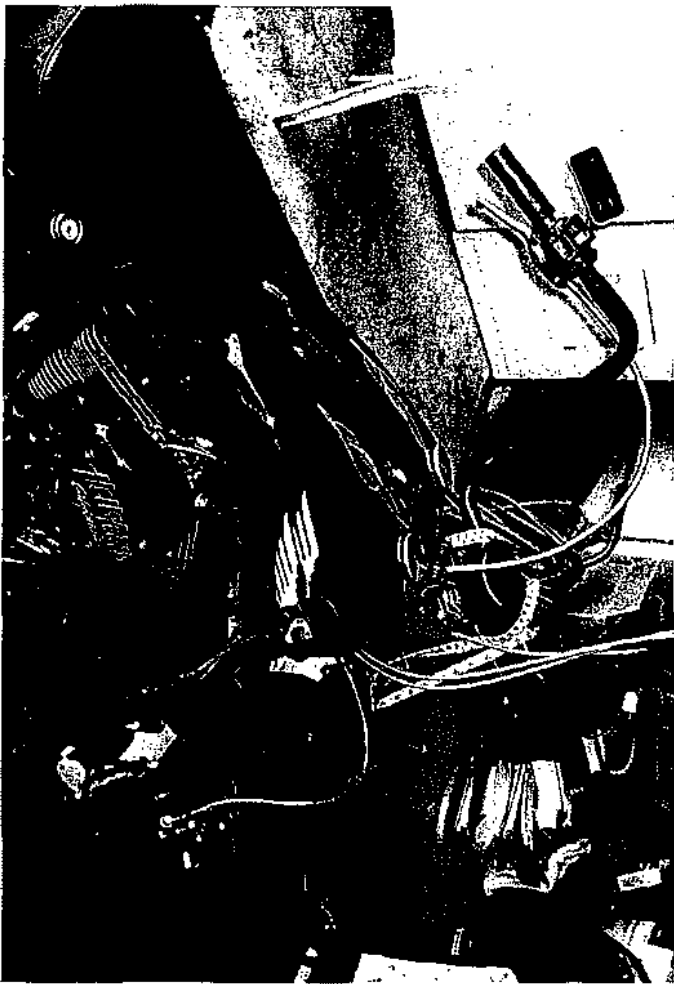


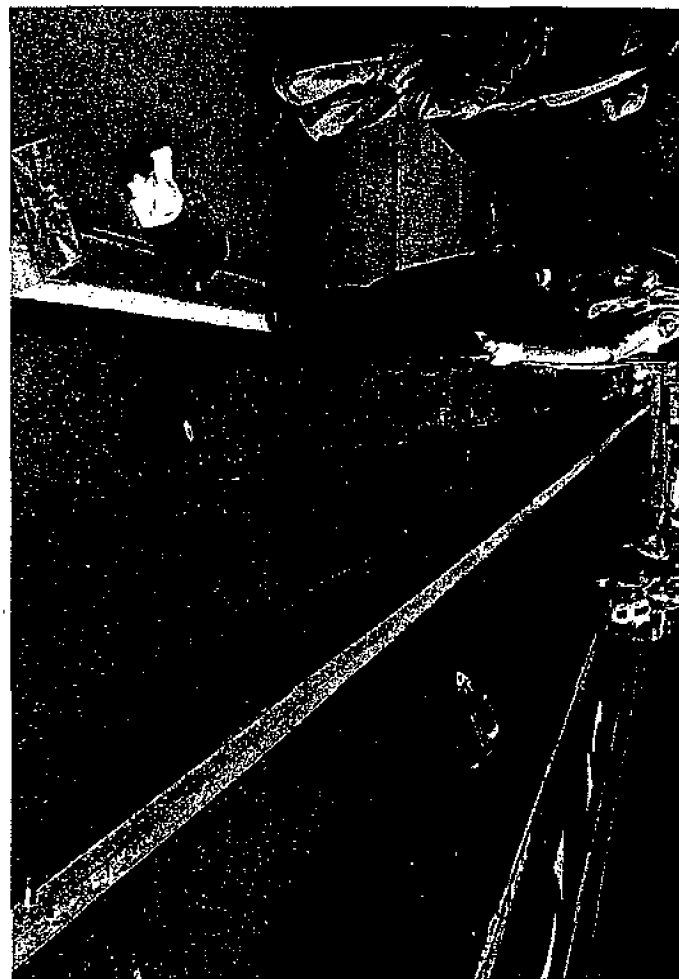
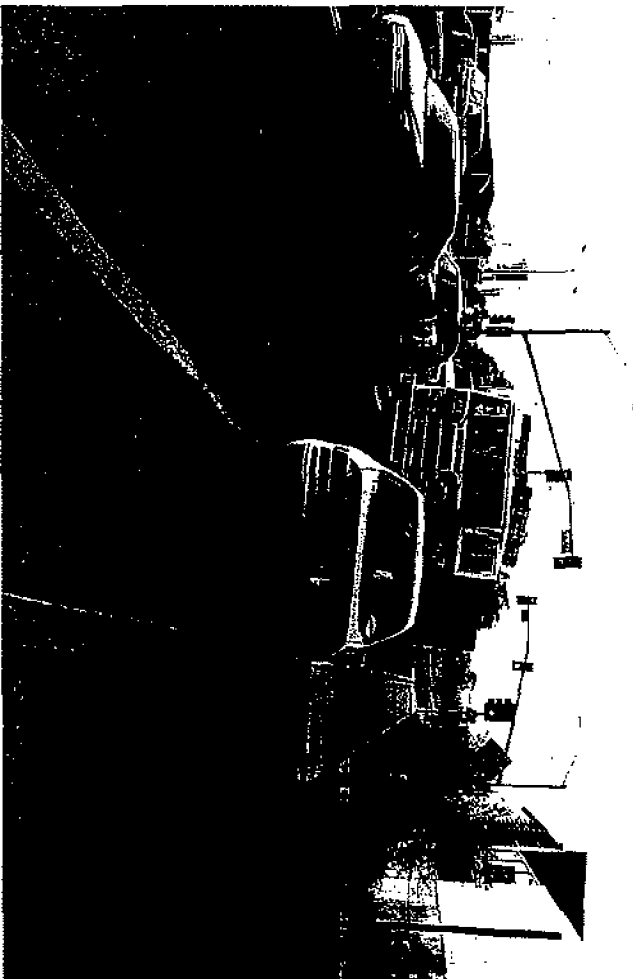
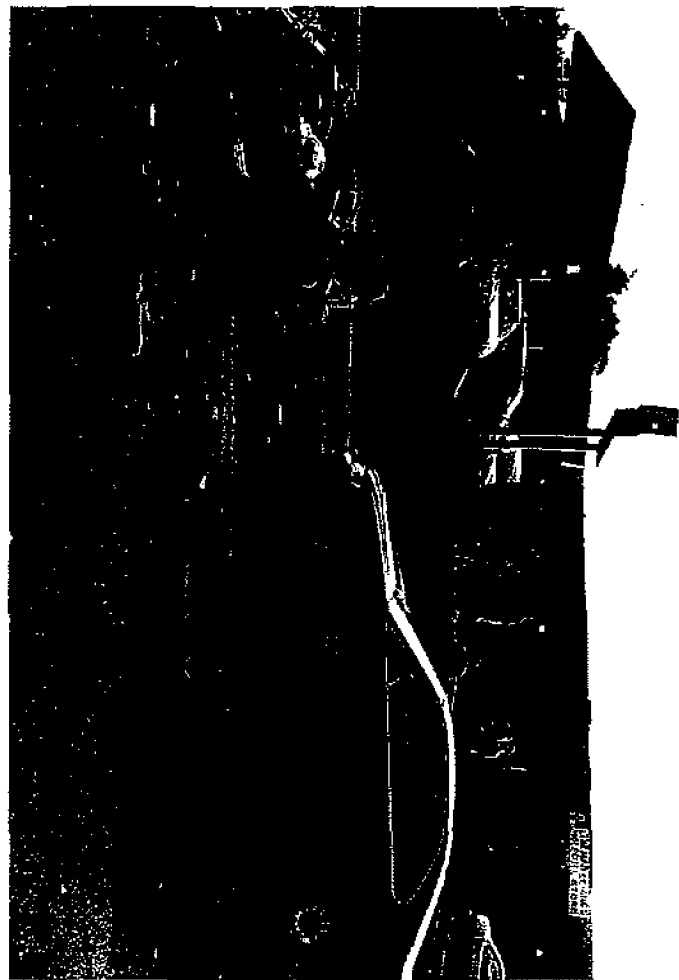
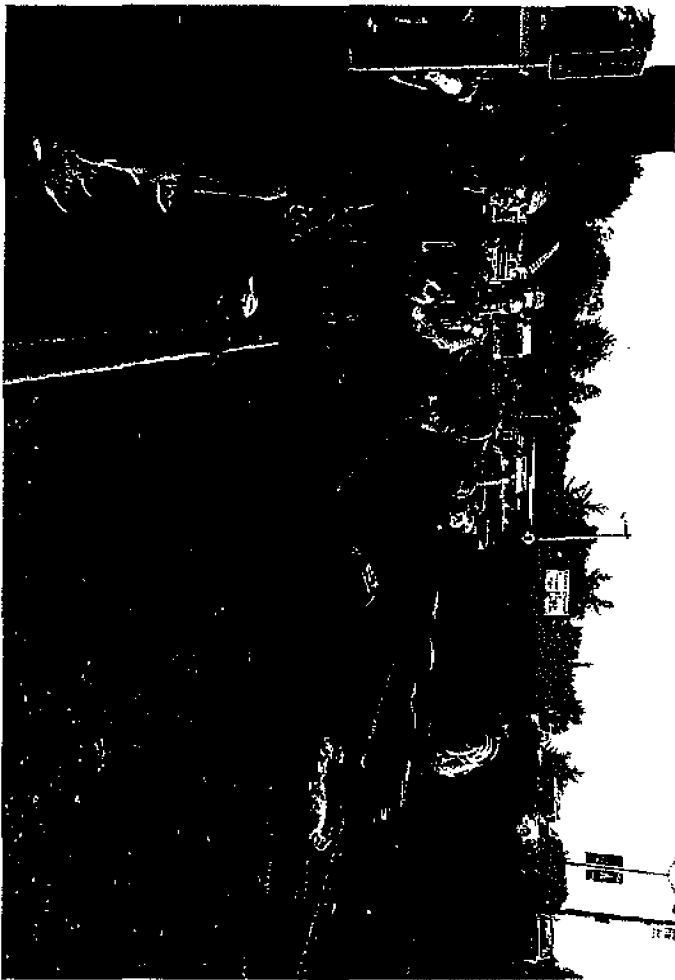






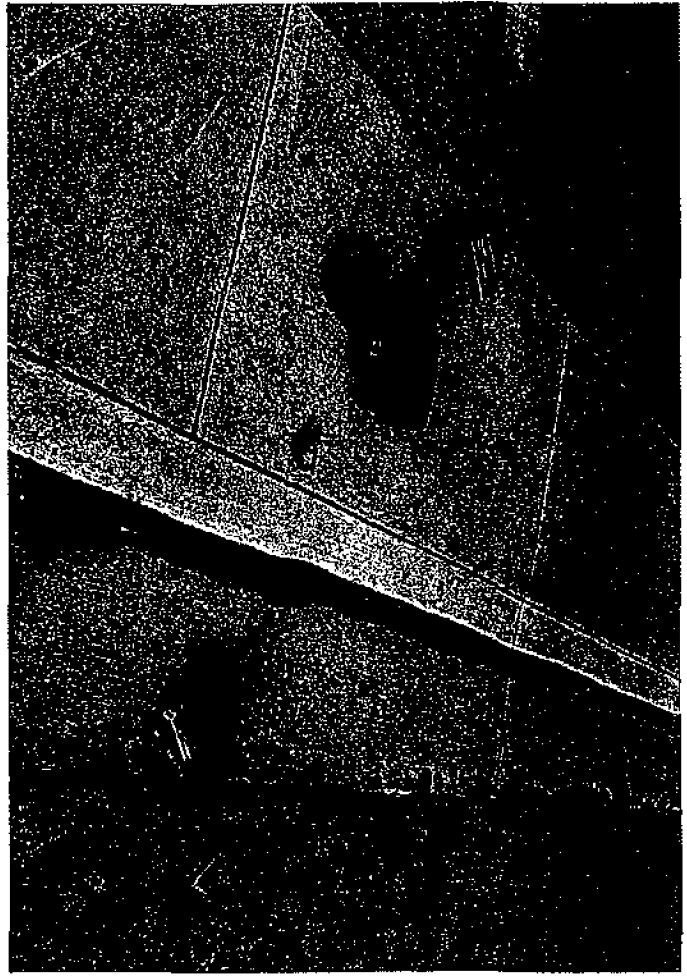
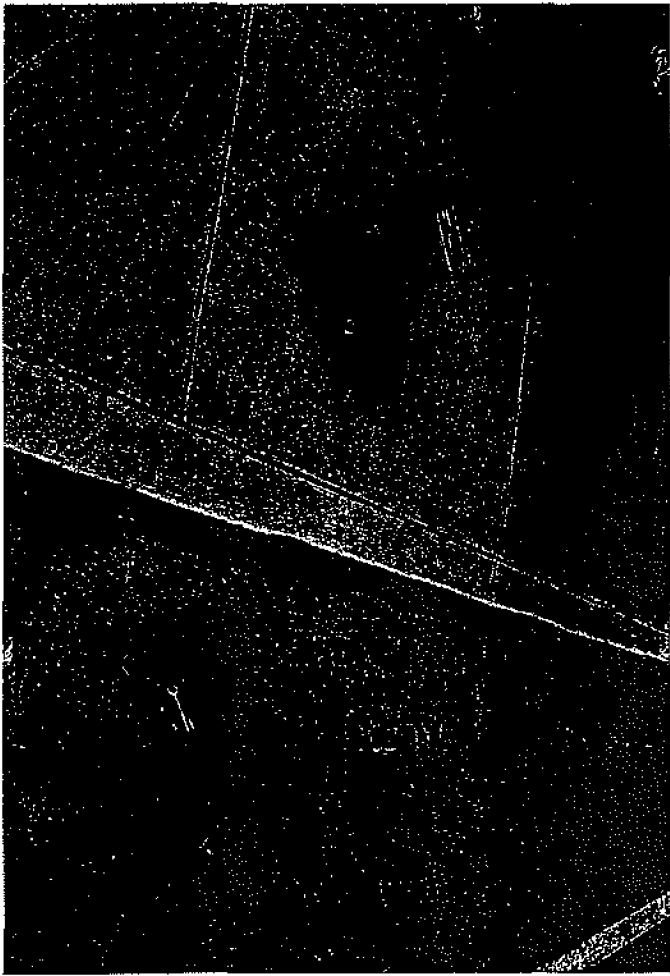






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FILED

Electronically

11-26-2012:12:08:42 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3366076

EXHIBIT 13

EXHIBIT 13

(355

State of California
Department of Justice
Division of Law Enforcement
BUREAU OF INVESTIGATION
Investigation Report

INVESTIGATION TITLE: OPERATION SIMPLE GREEN TAKEDOWN		INVESTIGATION NUMBER: BNE-RJ2011-00087
INVESTIGATION REQUESTED BY: SSAC DAVE KING		TYPE OF REPORT: PROGRESS REPORT
CASE ASSIGNED TO: BENNETT, ERICK MATTHEW	PERSON REPORTING: BENNETT, ERICK MATTHEW	REPORT NO: 76
TYPE OF CRIME/INCIDENT: PENAL CODE	CASE ASSIGNED SUPERVISOR: HALES, TIM	DATE OF REPORT: 05/11/2012
CROSS REFERENCE NO(s): BNE-RJ2010-00044		

SUMMARY:

On May 11, 2012, I was assigned to the California Department of Justice, Bureau of investigation, Inland Crackdown Allied Task Force. This is a gang supplemental report for the Washoe County District Attorney's Office.

DETAILS OF THE INVESTIGATION:

Training and Experience:

I am employed by the San Bernardino Police Department and have been so for 10 years. Prior to my employment with the San Bernardino Police Department I was employed with the Los Angeles Police Department for approximately 2 years. I am currently assigned to the San Bernardino Police Department narcotics unit as a Task Force Officer (TFO) with the California Department of Justice (CADOJ), Bureau of Investigation (BI), Inland Crackdown Allied Task Force (INCA). My duties include working major narcotics investigations. I have also been monitoring the movements of the Vagos Outlaw Motorcycle Gang (OMG) since April 2010. I am a member of the Southern California Outlaw Motorcycle Investigators Association, Tri-State Intelligence Association and the International Outlaw Motorcycle Gang Investigators Association. I have interviewed both full patched members and hang arounds from within the Vagos, giving me an inside perspective on what life is like as a member. I have monitored nearly 100,000 intercepted telephone calls during a 12 month wire intercept of high ranking members of the Vagos. I have also written search warrants for houses related to the Vagos and collected historical data. I have also worked closely with seasoned OMG investigators throughout the United States, Canada and Australia. I also taught a 2-hour training block on the Vagos for the International Outlaw Motorcycle Gang Investigators Association.

Synopsis:

On September 23, 2011, at approximately 2325 hours, a shooting erupted on the Casino floor of the John Ascuaga Nugget Hotel in the City of Sparks, County of Washoe, State of Nevada. A fight ensued between members of the Hells Angels Motorcycle Gang and members of the Vagos

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Motorcycle Gang. A member of the Hells Angels was killed and two members of the Vagos were shot. The shooter was later identified as Ernesto "Romeo" GONZALEZ founder of the Nicaragua Chapter of the Vagos.

I have been monitoring the movements of the Vagos for the last 26 months, I know that there has been numerous confrontations between the Vagos and Hells Angels, both documented and undocumented.

The following incidents I am aware of; late May 2010, confrontation between a Hells Angels member, vago member and prospect in Oildale California where the Vagos prospect was stabbed and killed.

On August 21, 2010 the Vagos and Hells Angels were involved in a shooting in Arizona where numerous rounds were fired and subjects were shoot.

On September 4, 2010 near Hollister California a confrontation between the Hells Angels and Vagos occurred at a bar.

On September 5, 2010 in Williams Arizona, Andrew "Hulk" LOZANO was with at least 3 other members of the Vagos when they were confronted by the Hells Angels. During intercepted telephone calls LOZANO was overheard asking for help from other Vagos and further stated that he only had 3 weapons and 40 rounds of ammunition.

On November 7, 2010 through intercepted telephone calls I learned of the arrest of Adan "Adam" VIDANA and other Vagos members during a motorcycle run near Rocky Point after an altercation with a Hells Angels support club.

On April 16, 2011 a Vagos members was beat up by numerous members of the Hells Angels in Lake County California. An intercepted telephone call was monitored between Pastor "Tata" PALAFOX (International President of the Vagos) and John "Rocky" SIEMER (International President of the Nomad Chapter of the Vagos) where SIEMER stated, "we need to beat a few of them (Hells Angels) down here then" PALAFOX said "yeah."

I have been in contact with Sparks, Nevada police detectives and have viewed an interview they conducted with Gary "Jabbers" RUDNICK. I also viewed the video surveillance of the night of the shooting and assisted with interviews in the Southern California area.

After reviewing the interview with RUDNICK, I learned that an unofficial meeting occurred involving several members of the San Jose Chapter, Inland Empire Chapter, Los Angeles Chapter, PALAFOX and Albert "Dragon-Man" PEREZ (International Sergeant at Arms) to include Ernesto GONZALEZ and RUDNICK. This meeting occurred following an all member meeting in a conference room at the Nugget Casino. During the all member meeting an incident was brought up

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involving members of the Inland Empire (IE) Chapter of the Vagos. The IE members were confronted by the Hells Angels off the 99 freeway on the way up to Reno on the 23rd of the September. The information I heard is that members of the Hells Angels pointed shotguns at the Vagos members and told them to remove there cuts (Vests) and put them away while they were on the 99 freeway. The Vagos members complied.

The side meeting was done to discuss this incident and several prior incidents involving the Hells Angels in San Jose and Vagos in the San Jose area. Also during the interview with RUDNICK he indicated that PALAFOX gave the "green light" on Jethrow to take care of the problem. I also learned during the interview that GONZALEZ agreed to carry out the "green light" on Jethrow as GONZALEZ has had problems with Jethrow in the past. Jethrow was the president of the San Jose Chapter of the Hells Angels.

I viewed the surveillance video and it does appear that GONZALEZ is keeping a close watch on the movments of Jethrow through the evening. Just prior to the fight between RUDNICK and Jethrow you can clearly see a member of the Vagos putting on gloves as if they knew something was going to occur. Also on the surveillance video just prior to the fight you can clearly see members of the Hells Angels walk past several members of the Vagos with no problem. The problem did not occur until Jethrow was seen in the surveillance video. I also observed RUDNICK talk to another Vagos member and then RUDNICK waves the group of Vagos Ol' Ladies (VOL) to leave as if he knew a problem was going to happen.

Target Subject:

Ernesto GONZALEZ-Date of Birth (04-23-1958)-I know from my training, experience and knowledge of my investigaiton that GONZALEZ is a founding member of the Nicaraguan Chapter of the Vagos and has been a member of the San Jose Chapter of the Vagos and spent time in Hawaii. GONZALEZ goes by the moniker of "Romeo" and during our wire interception used cell phone number 415-760-3446. This was also the same cell phone number used to track his movements after he was identified as the shooter through a court order. When GONZALEZ was arrested he was found to be in possession of a Vagos vest with the Nicaragua bottom rocker and a cell phone with the number above.

I learned of an arrest of GONZALEZ by the San Jose Police Department on February 13, 2010. I reviewed the police report and noticed that GONZALEZ was wearing a Vagos vest, black and green Vagos t-shirt, green long sleeve shirt, blue jeans and black boots. GONZALEZ was also riding a 2009 Harley Davidson motorcycle bearing California license 19S5150. During the traffic stop officers located a stolen handgun, switch blade and metal knuckles. GONZALEZ was placed under arrest for various California penal code charges. I also noticed that GONZALEZ was in possession of the following, Vagos vest/cut, a sticker with "FUCM" in green on the back of the helmet, a silver ring with the "Vagos" emblem, a green and white poker chip with "MF" on one side and 22 on the opposite, a green patch with "We give what we get", and a Vagos Pendent with "San Jose: inscribed

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on the back. I know from my training and experience that that the "FUCM" is a clothing line operated by Justin BARRETTO, President of the San Fernando Valley Chapter of the Vagos, and the company is "FUCM THREDZ". The business is located at 6643 Lankershim Blvd in the City of North Hollywood and County of Los Angeles. The business also has an internet site. The "MF" stands for "motherfucker" and is the equivalent to the 1% diamond often seen in the outlaw motorcycle gang world. The "22" is for the letter "V" which is the 22nd letter of the alphabet. The San Jose Vagos pendent represents the charter area and the "We give what we get" is exactly what it says.

I also reviewed the statement of GONZALEZ. GONZALEZ spontaneously stated, "I ain't gonna lie, I carry that for protection casue of my lifestyle." This statement appeared to make reference to the possession of the handgun and GONZALEZ being a member of the Vagos. Later GONZALEZ was read his rights and agreed to speak with the officer. During the interview GONZALEZ indicated that he had been threatened although he would not say by who. GONZALEZ was asked if by the Hells Angels and he did not want to say. GONZALEZ further stated that he carried the weapon to defend himself if he was attacked.

From May 2010 to May 2011 the INCA task force monitored nearly 100,000 intercepted telephone calls. The following is a synopsis of intercepted telephone calls related to GONZALEZ.

On November 17, 2010, at approximately 1615 hours, Charles "Riverside Charlie" VADEN received an incoming telephone call from Robert "Chicago Bob" LAGUARDIA on 951-892-9422 from 909-228-1539. VADEN was identified as the President of the Riverside chapter of the Vagos and helps LAGUARDIA with Vagos patches. LAGUARDIA has been identified as the International storekeeper of the Vagos. The following is a synopsis of the intercepted telephone call.

VADEN said that he had talked to ROMEO regarding the "Nicaraguan stuff", adding that he (Romeo) had made the deposit and he would faxed over the deposit slip. VADEN said that they (Romeo and others) would be getting 10 centers, 10 Nicaraguans and 10 Coloso (ph/ area in Nicaragua); VADEN said \$100 for the centers and Nicaragua and \$25 for the Coloso's bottom rocker for their area.

VADEN said that he (Romeo) would be writing down the spelling for both things, adding that LAGUARDIA possibly would get it before he leaves tonight since he (Romeo) needed to go to his office first. VADEN asked if it was possibly that it could leave on or before December 2nd. LAGUARDIA said he could try. VADEN thanked LAGUARDIA and mentioned that he told him (Romeo) that it was going to be close but they would try.

LAGUARDIA told VADEN to make sure Orlando rides if he goes. VADEN said okay and asked if his (Orlando) wife could come. LAGUARDIA said yeah. VADEN said he just wanted to make sure.

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VADEN said he would talk to LAGUARDIA tomorrow for sure during the day. LAGUARDIA said okay.

On November 28, 2010, at approximately 1221 hours Pastor "Tata" PALAFOX made an outgoing telephone call to a subject only identified as "Nick" from 909-835-5655 to 916-760-7134. PALAFOX is the International President of the Vagos. The following is a synopsis of the intercepted telephone call.

Parties greeted. PALAFOX asked what NICK was doing. NICK said he was trying to get stuff done, adding that one of the reasons why he had called PALAFOX was because he heard a rumor that they (Vagos) started up in Nicaragua, and Romeo had gone down there. PALAFOX said right. NICK asked if he (Romeo) just put the guys together and was all done. PALAFOX said yeah, adding they were all his relatives. NICK said he knew that, because he had asked Romeo to let him know in case he (Romeo) needed some help. PALAFOX said they (Vagos) were going to plan a trip down there (Nicaragua), hopefully this summer. NICK said cool. NICK asked if they opened under their (NICK and PALAFOX's) ends, Vagos, or Nomads. PALAFOX said under as Vagos, that they were all the same, adding he (PALAFOX) was trying to get away from the Nomad thing. NICK said he understood. NICK asked if he (Romeo) was going to move down there (Nicaragua). PALAFOX said no, that he (Romeo) was just going to travel there (Nicaragua), every 4 months. NICK asked if to oversee. PALAFOX said yeah.

NICK asked what else was going on with PALAFOX. PALAFOX said nothing much, and asked if NICK was coming down next weekend. NICK said he had not heard a word, nor told been told about it. NICK asked what was going on. PALAFOX said they (Vagos) would have the Christmas party next week. NICK asked where it would be at. PALAFOX said where they (Vagos) voted at, in Fontana. NICK asked at what time. PALAFOX said it would be from 2:00 to 6:00; and the following day, they (Vagos) would have the National Toy Run rain or shine.

PALAFOX said if NICK stayed at the hotel, where NICK always do, he (NICK) would be right in the epicenter. NICK said okay.

PALAFOX asked for NICK to call around Mexico, to see if those guys wanted to come out for Saturday. NICK said he would call and make some inquiries and calls on that. PALAFOX said they (Mexico guys) should have a couple of guys coming out. NICK said he would call and try to get a hold of Fernie (ph), and a few other guys. PALAFOX told NICK to tell them (Fernie and others) to leave all the politics at home for that day, and everything else. NICK said it sounded good. PALAFOX said to have a bite to eat, and listen to some music; but nothing else. NICK asked what about if it rained. PALAFOX said rained or shined, it would be done. NICK said it was good.

NICK asked PALAFOX about Canada, and added that he heard they (Vagos) had something in

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Canada. PALAFOX said no. NICK said it was then a lie. PALAFOX said that (Canada) had to be a big decision from everybody. PALAFOX and NICK joked about NICK moving to Canada.

NICK said he received a message from Chief and that he (Chief) really wanted to talk to him (PALAFOX). PALAFOX said he would go visit him (Chief) later on today. PALAFOX told NICK that he texted Chief and would told him (Chief) he would see him at the end of the day. NICK asked how everything else was with PALAFOX. PALAFOX said it was good, and told NICK that he would be at the solo Angel toy run. NICK asked if that was sometime on the 18th or 19th. PALAFOX said yes. NICK said he would let PALAFOX know if he (NICK) was not traveling. PALAFOX said okay.

NICK asked if PALAFOX had decided to let NICK take apps (Possibly referring to applications for the club), because there were a couple of guys that wanted to apply. PALAFOX said he would talk to NICK in person, but was not too fond of the idea of having Nomads out there (possibly Mexico). PALAFOX explained that American ones (Nomads) were cool, but that Mexico was a different mentality, and knows what would happen there. NICK asked if he could get a couple. PALAFOX asked if NICK wanted an elder chapter when they (guys) come out of the chapter after doing a couple of years that would be okay. NICK said they would talk about it. PALAFOX said that he was trying to get rid of the Nomad status people back East. NICK agreed. PALAFOX asked if NICK would be here next week. NICK said yes and would make a reservation for Saturday. PALAFOX said okay.

On December 27, 2010, at approximately 1629 hours, John "Quickie" JUAREZ made an outgoing telephone call to a subject identified only as "Max" from 417-459-2667 to 510-533-8984. JUAREZ has been identified as a long standing member of the Nomad Chapter of the Vagos and is credited with starting the Missouri chapters of the Vagos. The following is a synopsis of the intercepted telephone call.

MAX said he was just returning JUAREZ' call and asked for the xxx support hood sweatshirt and said he was going online and pay for it. MAX said if JUAREZ could ship them both together would be great. JUAREZ said sure. MAX said he could not wait to wear it and drive around Oakland with that because there was no other like it. JUAREZ said that was right. MAX said he was going to send some pictures to and then his mother found some pictures from runs in the 70's and said he was going to make copies and send the originals to JUAREZ. MAX said he was thrilled that he was able to get in touch with the shit he grew up with.

JUAREZ said Romeo who just started a chapter in Nicaragua now lived around MAX's area. JUAREZ said he was going to give MAX's number. MAX said he would love to ride with other people. MAX said he knew about Vagos having some people in Santa Cruz, and San Jose. MAX said if JUAREZ could hook him up with anyone he was fine with it and said he would love to go riding with some people. Conversation about people in Oakland being ass holes continued, which it was not the same in Arizona or California. Conversation about the same continued.

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JUAREZ said he would give Wayne from Santa Cruz MAX's number. JUAREZ said Wayne from Santa Cruz and said the court hearing was over and their guy was found innocent. MAX said that was good. JUAREZ said the brother took a knife hammer and beats him with it, all three of them guys start running down the street like little girls, and his brothers did not say shit and in court they were crying when they found out that they were going to prison the rest of their lives. Conversation about the Oakland rides. MAX talked about the Latino clubs who show themselves not like the other clubs. MAX said he was going to send the payment and asked JUAREZ to mail them out to him. JUAREZ said he was going to print them right now and would mail tomorrow. MAX said he was going to mail the pictures. JUAREZ said okay.

On December 27, 2010, at approximately 1841 hours, JUAREZ received an incoming telephone call from Ernesto "Romeo" GONZALEZ on 417-459-2667 from 415-760-3446. The following is a synopsis of the intercepted telephone call.

JUAREZ asked ERNESTO to open a facebook account. JUAREZ said he had about 200 brothers in facebook and was only for family and people he knew. JUAREZ said he had a guy (Max) in Oakland whose father was a Vago a long time ago, JUAREZ said he (Max) did not like the Feather Heads and he told him (Max) that he would hook him up with one of his brothers, Romeo (ERNESTO) and have him call him. JUAREZ said he hooked him (Max) with Popeye. ERNESTO said Popeye was good people, but was not sure about his crew. JUAREZ said he wanted him (Max) to help Popeye build his chapter, if he could. JUAREZ said he did not want all Mexicans in San Jose. ERNESTO laughed. Conversation about JUAREZ being fine with Popeye's crew, such a Booboo.

ERNESTO asked for the number. JUAREZ said his name was Max Garcia and the number was 510-533-8984. Conversation about Popeye's crew was tight with Byron and Don the big boy. JUAREZ said Wayne was doing the best he could in Santa Cruz. Conversation about Wayne continued.

On Febraury 7, 2011, at approximately 1211 hours, PALAFOX received an incoming telephone call from GONZALEZ on 909-835-5655 from 415-760-3446. The following is a synopsis of the intercepted telephone call.

ERNESTO identified himself as ROMEO from San Jose. Greetings between both parties. ERNESTO said he was with Cesar and Caesar had given him (ERNESTO) the message in regards to a contact that PALAFOX wanted ERNESTO to contact when they (ERNESTO and others) got into Costa Rica. PALAFOX said yeah, yeah. PALAFOX said they (Possibly Vagos) have a brother over there that is in a motorcycle club over there. PALAFOX said he thinks that the brother in Costa Rica works for Viking (PH) and makes the (U/I) and that they might know him. ERNESTO said you never know and added that they (ERNESTO and others) get there on the 20th and by the 23 or 22 they are going to take a trip to into Costa Rica and then what they were (Audio glitch) (U/I) like Harley Davidson and just go around he city. PALAFOX tole ERNESTO to meet the brother because it was a brothers brother. ERNESTO said he could do that and that all he (ERNESTO) needed was number and name

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and they (ERNESTO and others) could take care of that. PALAFOX said okay. ERNESTO asked if he (PALAFOX) wanted ROMEO to (U/I) for that info. PALAFOX said yeah and asked if this was his number. ERNESTO said yeah. PALAFOX said he would call him (ERNESTO) later on with the info.

On February 9, 2011, at approximately 1646 hours JUAREZ received an incoming telephone call from GONZALEZ on 417-459-2667 on **415-760-3446**. The following is a synopsis of the intercepted telephone call.

ROMEO said he got a question for JUAREZ. JUAREZ said yeah. ROMEO said there was a club in Nicaragua called "Cuervos" (literally Crows), adding they (Cuervos) had invited them (ROMEO and others) and got to know them (Crows) and stuff like that. ROMEO went on saying that on he was on his Facebook, and was checking his shit, when he saw this guy, the Cuervos, that it says....then said he did not know if it was nothing, but they (Cuervos) copied the "Vago Forever, Forever Vago." ROMEO then added they (Cuervos) had put CFFC. JUAREZ said that was pretty much for everybody, and called ROMEO "carnal" (literally brother). ROMEO said yeah, and JUAREZ confirmed.

JUAREZ said he should make some (implying patches) that says, "Vagos Por Vida, Por Vida Vagos" (literally Vago Forever, Forever Vagos). ROMEO said yeah, and JUAREZ said they used to have some, and to keep it real. JUAREZ went on saying like the "Mundos Verdes" (literally Green World) that JUAREZ sold to Mexicans. ROMEO agreed and said he was bringing some (Mundos Verdes) down. JUAREZ asked where ROMEO got them from and ROMEO said from Mexicali, and then said, George. JUAREZ said those were terrible, and ROMEO said those were the only ones he got. JUAREZ went on saying he was making them for him (George), and he (George) was trying to copy them. ROMEO laughed, and said he (George) had said they (George and others) could not do them (patches) anymore, and he (ROMEO) got the last 10. JUAREZ said he could make them (patches) all day long. ROMEO asked if true. JUAREZ said yeah. ROMEO said he would check that out, and then asked if it was then nothing (regarding Cuervos using CFFC), and JUAREZ concurred. ROMEO asked if he should response. JUAREZ said no, not even respond. ROMEO said it was hard, but okay.

ROMEO asked if JUAREZ knew where they (Cuervos) got it (CFFC leyend) from. JUAREZ said every club in America wear them, and ROMEO asked if true. JUAREZ said yes. JUAREZ then said Outlaws Forever, Forever Outlaws; Bandidos Forever, Forever Bandidos, and ROMEO said it was right.

ROMEO said he wanted to flip that club (Cuervos), and JUAREZ asked if true. ROMEO said yeah, and JUAREZ said okay. Parties said goodbye.

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The above intercepted telephone calls clearly indicate that Ernesto "Romeo" GONZALEZ is a member of the Vagos motorcycle gang, founded the Nicaraguan chapter of the Vagos and utilizes cell phone number 415-760-3446. GONZALEZ is known by members throughout the club to include the International President of the Vagos, Pastor "Tata" PALAFOX.

Gang History:

The Vagos Outlaw Motorcycle Gang is a criminal street gang as defined in Penal Code Section 186.22(f) in that it consists of more than three members; it is engaged in the commission of one or more criminal acts enumerated in Penal Code Section 186.22(e) and it has common name, i.e. Vagos, with common identifying symbols, i.e. Loki, the Norse God of Mischief. Members of the Vagos Outlaw Motorcycle Gang both individually and collectively have engaged or are engaging in a "pattern of criminal gang activity" within San Bernardino County.

The following is a history of the Vagos Outlaw Motorcycle Gang. The Vagos Outlaw Motorcycle Gang was formed in San Bernardino County in the mid 1960's. The Vagos started at 8th and Davidson and later moved to 11th and L street. The Vagos originally started as a family club in the mid 1960's. In the late 1960's the Vagos were 13 miles from Bakersfield when they were ambushed by another gang. At this point the Vagos moved to a 1% club. The term Vagos means vagabond or wanderer.

During the time period of becoming the Vagos, an incarcerated member created a drawing of Loki, the Norse God of Mischief. This symbol was made into a patch and sewn on denim vests or "cuts", which is what outlaw motorcycle gang members call their vest. This was the common symbol adopted by the Vagos that all members in good standing would wear. The Vagos adopted the color green as the background for the lettering on their cuts. Each outlaw motorcycle gang is associated to a color. The Vagos are known for calling themselves the "Green Nation."

As the Vagos grew in membership, chapters formed in other counties throughout southern California, to include Riverside and Los Angeles. Today there are Chapters in numerous states, Canada, Germany, Puerto Rico, Nicaragua, Australia and Mexico with a membership estimated at well over 400.

Throughout the history of the Vagos, there have been many criminal acts associated to or committed by members to benefit the gang. This pattern of criminal activity include but are not limited to murder, robbery, vehicle theft, manufacturing and sales of controlled substances, identity theft, and theft. There have been several members convicted of committing crimes at the direction of or to directly benefit the gang. The Vagos use fear and intimidation to gain power.

The US Department of Justice has concluded that the Vagos Outlaw Motorcycle Gang is criminal organization and the Vagos have been deemed a criminal street gang in California Superior Court.

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Predicates:

On **January 21, 2010**, in San Bernardino County Superior Court case FVI701578, **John LOZA**, an admitted member of the Vagos Outlaw Motorcycle Gang was convicted of Murder, a violation of Penal Code section 187(a).

On **March 2, 2010**, in San Bernardino County Superior Court case FVI1000059, **James RONGEY**, an admitted member of the Vagos Outlaw Motorcycle Gang was convicted of Possession for Sales of Marijuana, a violation of Health and Safety Code Section 11359, Possession of Stolen Property, in violation of Penal Code Section 496(a) and the Gang Enhancement pursuant to Penal Code section 186.22 (a) and/or 186.22(b)(1) was admitted and/or found true. (Penal Code Section 186 (e)(1))

On **March 18, 2009**, in San Bernardino County Superior Court case FVI900483, **Scott HATHORN**, an admitted member of the Vagos Criminal street Gang, was convicted of an Assault with a Deadly Weapon, a violation of Penal Code section 245(a)(1) and the Gang Enhancement pursuant to Penal Code section 186.22(a) and/or 186.22(b)(1) was admitted and/or found to true. (Penal Code section 186 (e)(1))

Opinion:

Based on my training, experience and knowledge of the Vagos, I know that a charter member or nomad member can not call a "green light" on another member of a rival motorcycle gang. I have spoken with members within the club both formally and informally and this is what I have learned. I know that members of the Vagos can protect themselves if they are attacked by another club. I also know that if an order was given, it would have to come from the International officers, more specifically the International President and/or the International Sergeant at Arms.

After reviewing the surveillance video and listening to the interview with RUDNICK it appears as if there was a bigger plan in place. I notice on the video a member putting on gloves just before the incident and waving the Vagos ol' ladies out of the area. I also noticed that GONZALEZ seems to be watching the movements of Jethrow in different parts of the surveillance video up to and including just prior to the shooting.

It is my opinion that GONZALEZ is an active member of the Vagos Outlaw Motorcycle Gang and committed this murder to benefit and further the status of the Vagos.

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PHYSICAL DESCRIPTION:

A. Subjects:

NONE

B. Other(s):

NONE

VEHICLE(S):

NONE

LOCATION(S):

NONE

TELEPHONE(S):

NONE

ATTACHMENT(S):

NONE

SIGNATURE:	DATE:	APPROVAL SIGNATURE:	DATE:
PRINTED NAME: BENNETT, ERICK MATTHEW		PRINTED NAME: HALES, TIM	

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TITLE: POLICE OFFICER	TITLE: SPECIAL AGENT SUPERVISOR
REPORT DISSEMINATION:	

EXHIBIT 14

EXHIBIT 14

Detective Les S. Skelton
SERIAL #4953
HIRE DATE AZ DPS – 9/ 1994
HIRE DATE AVONDALE PD 8/1992

ASSIGNMENT HISTORY

- ❖ 1/04 – present Assigned to the State Gang Task Force (GIITEM).
- ❖ 1/01 – 1/04 Assigned to patrol the metro west Phoenix freeways.
- ❖ 8/96 – 1/01 Assigned to the Vehicular Homicide Unit.
- ❖ 12/94 – 8/96 Assigned to patrol metro central Phoenix freeways.
- ❖ 9/94 – 12/94 Assigned to the AZ DPS Advanced Academy as a lateral officer.
- ❖ 5/93 – 9/94 Patrol officer / various squads with the Avondale Police Department.
- ❖ 8/92 – 5/93 Attended the Glendale Police Academy for Avondale Police Department.

EDUCATION

- ❖ Glendale Community College (63 credit hours)
- ❖ Rio Salado Community College (9 credit hours)
- ❖ Mesa Community College (6 credit hours)

PROFESSIONAL DEVELOPMENT

- ❖ 09/12 Attended/hosted the 2012 IOMGIA conference in Scottsdale, AZ.
 - Biker 101 & 102, undercover operations, intel gathering, enforcement traffic stops, undercover panel, MMA & outlaw biker gangs, Operation Simple Green.
- ❖ 09/11 Attended the 2011 IOMGIA conference in St. Louis, MO.
 - Biker 101 & 102, source management, courtroom security & intel gathering, biker enforcement/stops.
- ❖ 09/10 Attended the 2010 IOMGIA conference in San Diego, CA.
 - Biker 101, informant management, Bandido massacre, courtroom security & intel gathering, biker enforcement/stops.
- ❖ 12/08 5 day homicide/forensic death investigation conference
 - Cold case investigations, crime scene management, crime scene processing, crime scene reconstruction, bloodstain patterns, domestic homicide.
- ❖ 3/08 GIITEM Gang school
 - Gangnet, history of gangs, Hispanic gangs, tattoo recognition, black gangs, white supremist, prison gangs, Indian gangs. (Courses I taught were-Outlaw Motorcycle Gangs, Internet & Gangs, Redaction of Personal Information.
- ❖ 9/07 Attended the 2007 IOMGIA conference in Florida. Courses included:
 - Undercover operations as an OMG, Hells Angels, Outlaws, Bandidos, Pagans information, Harley Davidson identification, Expert Witness Testimony and Internet searches.
- ❖ 11/06 5 day Homicide investigation seminar in Las Vegas, NV.

- ❖ 4/06 National Incident Management System (NIMS IS-00700)
- ❖ 5/05 Advanced Reid Techniques of Interviewing and Interrogation (Reid and Associates)
- ❖ 5/05 Reid Techniques of Interviewing and Interrogation (Reid and Associates)
- ❖ 1/05 Subconscious Communication for Detecting Danger
- ❖ 6/04 FAA for Law Enforcement Officers Flying Armed
- ❖ 5/04 Semi Automatic Rifle School/Tactical Carbine
- ❖ 4/03 Basic Investigator School-CI Transitional School. Courses included:
 - Authoring a search warrant, undercover operations, risk assessment, narcotic identification, crime scene preservation, critical incident management, prosecution and defense, interview and interrogation, financial crimes, computer forensics and use of informants.
- ❖ 7/02 Basic Computer Seizure
- ❖ 6/01 Field Training Instructor School
- ❖ 9/00 General Instructor School Refresher
- ❖ 5/99 Practical Homicide Investigation (Vernon Geberth)
- ❖ 8/98 Traffic Occupant Protection Strategies
- ❖ 7/98 Applied Physics for the Traffic Accident Investigator (IPTM)
- ❖ 5/98 Forensic Medical Investigation (Dr. Mary Dudley)
- ❖ 9/97 Pursuit Driving EVOC, Alameda County Sheriff's Office, California
- ❖ 6/97 Traffic Accident Reconstruction (IPTM)
- ❖ 5/97 Advanced Traffic Accident Investigation (IPTM)
- ❖ 12/96 General Instructor Certification
- ❖ 5/96 Critical Accident Investigation (Goodwin & Assoc, Inc.)
- ❖ 2/96 Highway Drug Interdiction Advanced Phase I, II & III

PROFESSIONAL INSTRUCTION BY YEAR/HOURS

Areas of instruction include: Redaction of Personal Information from the Internet, Outlaw Motorcycle Gangs (OMG), Gang Trends, Background Investigations, Search Warrant Preparation, Blood Draws and Surveillance Techniques. Approximate hours;

- ❖ 2011 95 hours of instruction
- ❖ 2010 107 hours of instruction
- ❖ 2009 92 hours of instruction
- ❖ 2008 96 hours of instruction
- ❖ 1/08 Redaction of Personal Information presented to Executive Staff for 2008 AOT
- ❖ 2007 58 hours of instruction
- ❖ 8/07 Speaker for the 2007 Executive Gang Summit II, "Gang Trends."
- ❖ 11/07 OMG and Redaction instruction at Chandler Gang School
- ❖ 2006 94 hours of instruction
- ❖ 6/06 OMG instruction Tucson gang conference
- ❖ 8/06 Redaction instruction Laughlin gang conference.
- ❖ 2005 70 hours of instruction
- ❖ 2004 23 hours of instruction
- ❖ 2003 17 hours of instruction.
- ❖ 2002 10 hours of instruction.
- ❖ 2002 Years prior not documented.

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 13 2014 11:44 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

★ ★ ★ ★ ★

ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

_____ /

APPELLANT'S APPENDIX, VOLUME VI

**APPEAL FROM JUDGMENT AFTER
JURY TRIAL AND SENTENCING**

Second Judicial District
State of Nevada

THE HONORABLE CONNIE J. STEINHEIMER, PRESIDING

Richard F. Cornell, Esq.
Attorney for Appellant
150 Ridge Street
Second Floor
Reno, NV 89501
775/329-1141

Washoe County District Attorney's Office
Appellate Division
Attorney for Respondent
1 Sierra St., 7th Floor
Reno, NV 89501
775/337-5750

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No. 64249

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13	Reply in Support of Motion to Dismiss Indictment or in the Alternative Petition for Writ of <i>Habeas Corpus</i>	4-06-12	418-429
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15	Motion to Join to Balance of Co-Defendant Cesar Villagrana's Petition for Writ of <i>Habeas Corpus</i>	6-11-12	434-436
16	Opposition to Defendant Gonzalez' Motion to Partially Join in Co-Defendant Cesar Villagrana's Writ of <i>Habeas Corpus</i> and Motion to Compel	6-14-12	437-440
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County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY: 03/18/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE # 01 INVOLVEMENT ☒ Submitted to Property
TYPE G GUN E Evidence ☒ Evidence SYSTEM # 3 ☒ In Custody
QUANTITY 1 NCIC CODE COLOR
BRAND TAURUS MODEL PT101
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY
**FIREARM CAT. Semi Automatic TYPE Pistol MAKE Taurus BY
CALIBER 40 BARREL 4 ACTION D MODEL PT101
COMMENTS MAGAZINE AND AMMUNITION REMOVED FROM GUN FOR SAFETY. FINISH BLK
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE 1.1102482-003 CUSTODY DATE 03/21/2011
LOCATION GUNROOM

CR REFERENCE # 02 INVOLVEMENT ☒ Submitted to Property
TYPE Z MISC.-MAGAZINE E Evidence ☒ Evidence SYSTEM # 4 ☒ In Custody
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS AMMUNITION REMOVED FROM MAGAZINE AND BOOKED SEPARATELY
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE 1.1102482-004 CUSTODY DATE 03/21/2011
LOCATION 32EC

CR REFERENCE # 03 INVOLVEMENT ☒ Submitted to Property
TYPE Z MISC.-AMMUNITION E Evidence ☒ Evidence SYSTEM # 5 ☒ In Custody
QUANTITY 10 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS 10X .40 CAL ROUNDS OF AMMUNITION
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE 1.1102482-005 CUSTODY DATE 03/21/2011
LOCATION 32EC

CR REFERENCE # 04 INVOLVEMENT ☒ Submitted to Property
TYPE Z MISC.-FOLDING KNIFE E Evidence ☒ Evidence SYSTEM # 6 ☒ In Custody
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS KNIFE TAPED SHUT FOR SAFETY
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE 1.1102482-006 CUSTODY DATE 03/21/2011
LOCATION 32EC

000022

1251

282



County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY: 03/19/2011 by 11982 GONZALES, ANTHONY

CR REFERENCE # 05 INVOLVEMENT ☒ Submitted to Property
TYPE R RADIO/STEREO-APPLE IPOD E Evidence
QUANTITY 1 NCIC CODE
BRAND APPLE
SERIAL
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS HOLD IN EVIDENCE FOR PENDING SEARCH WARRANT
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-007
LOCATION CUSTODY DATE

☒ Evidence SYSTEM # 7
☐ In Custody PROP.ROOM #
COLOR
MODEL
OAN
AGENCY
AGENCY BY
DISPOSITION
BY
CUSTODY DATE

CR REFERENCE # 06 INVOLVEMENT ☒ Submitted to Property
TYPE O OFFICE EQUIPMENT/CELL PHONE E Evidence
QUANTITY 1 NCIC CODE
BRAND CASIO
SERIAL
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS HELD IN EVIDENCE FOR PENDING SEARCH WARRANT
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-008
LOCATION CUSTODY DATE

☒ Evidence SYSTEM # 8
☐ In Custody PROP.ROOM #
COLOR ONG
MODEL
OAN
AGENCY
AGENCY BY
DISPOSITION
BY
CUSTODY DATE

CR REFERENCE # 07 INVOLVEMENT ☒ Submitted to Property
TYPE Z MISC.-RED BANDANAS/KEYCHAIN E Evidence
QUANTITY 0 NCIC CODE
BRAND
SERIAL
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS 2X RED BANDANAS
1X RED/WHITE KEYCHAIN
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-009
LOCATION 32EC CUSTODY DATE 03/21/2011

☒ Evidence SYSTEM # 9
☒ In Custody PROP.ROOM #
COLOR
MODEL
OAN
AGENCY
AGENCY BY
DISPOSITION
BY
CUSTODY DATE

CR REFERENCE # 08 INVOLVEMENT ☒ Submitted to Property
TYPE K CLOTHING-HELLS ANGELS SAN JOSE VEST/T-SHIRT E Evidence
QUANTITY 0 NCIC CODE
BRAND
SERIAL
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS 1X HELLS ANGELS VEST
1X HELLS ANGELS VALLEJO T-SHIRT
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-010
LOCATION 32EC CUSTODY DATE 03/21/2011

☒ Evidence SYSTEM # 10
☒ In Custody PROP.ROOM #
COLOR
MODEL
OAN
AGENCY
AGENCY BY
DISPOSITION
BY
CUSTODY DATE

1252

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY: 03/18/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE #	09	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 11	<input checked="" type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-HALF-HELMET			
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00		DATE	AGENCY	
RECOVERED	VALUE \$0.00		DATE	AGENCY	BY
COMMENTS	HALF HELMET WITH HELLS ANGELS STICKER ON BACK			DISPOSITION	
	<input type="checkbox"/> Disposed		DATE	BY	
	<input type="checkbox"/> Hold		DATE	CUSTODY DATE	03/21/2011
TAG			BAR CODE	1.1102482-011	
LOCATION	32EC				

CR REFERENCE #	10	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 12	<input checked="" type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-BUCK KNIFE IN SHEATH			
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00		DATE	AGENCY	
RECOVERED	VALUE \$0.00		DATE	AGENCY	BY
COMMENTS				DISPOSITION	
	<input type="checkbox"/> Disposed		DATE	BY	
	<input type="checkbox"/> Hold		DATE	CUSTODY DATE	03/21/2011
TAG			BAR CODE	1.1102482-012	
LOCATION	32EC				

CR REFERENCE #	A	INVOLVEMENT	<input type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 13	<input type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-DIGITAL PHOTOGRAPHS			
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00		DATE	AGENCY	
RECOVERED	VALUE \$0.00		DATE	AGENCY	BY
COMMENTS	ATG-01			DISPOSITION	
	<input type="checkbox"/> Disposed		DATE	BY	
	<input type="checkbox"/> Hold		DATE	CUSTODY DATE	
TAG			BAR CODE		
LOCATION					



County of Santa Cruz
Sheriff's Office
INCIDENT REPORT

1102482

REPORT NUMBER

AGENCY CAD EVENT 19623 RELATED CASES CHP 2011030118
CLASSIFICATION 12025(b)(6) PC POSSESSION OF CONCEALED UNREGISTERED HANDGUN
MAJOR VIOLATION 12025(b)(6) PC STATUS CASE OPEN
DISPOSITION WARRANT REQUESTED
OFFENSES 12025(b)(6) PC POSSESSION OF CONCEALED UNREGISTERED HANDGUN
186.22(a) PC PARTICIPATE IN CRIMINAL STREET GANG

REPORTED 03/10/11 17:47 THU OCCURRED 03/10/11 17:47 THU TO 03/10/11 17:47 THU

LOCATION 7851 SOQUEL DR
ON: SOQUEL DR AT: APTOS RANCHO RD

PREMISE CITY APTOS 95003 BEAT 8 SUB BEAT 8-4 NBRH.WATCH

NATURE ☐ Computer Used ☐ Hate/Bias ☐ Child Abuse ☐ Arson
☐ Alcohol Related ☐ Officer Assault ☐ Domestic Violence ☐ Meth
☐ Drug Related ☐ Senior Citizen ☐ Taser ☐ Graffiti
☒ Gang Related ☐ Juvenile ☐ School ☐ Cultivate Marj
☐ Agriculture ☐ Warrant Request ☐ Prescription Meds

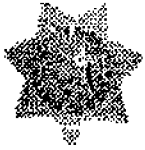
OFFICER 10304 SIMPSON, JEFFREY
APPROVED 05141 MORALES, ROY

REPORT FILED 03/18/11 00:00
APPROVAL DATE 03/18/11 15:22

SYNOPSIS A loaded handgun was found near a victim of a motorcycle crash. The motorcycle rider was a member of the Hells Angels criminal street gang. CHP investigated the traffic accident and the Sheriff's Office investigated the handgun. Investigation found the firearm was not registered.

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**County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT**

1102482

REPORT NUMBER

NARRATIVE

SUPPLEMENT DATE 04/06/2011
APPROVAL DATE 04/10/2011

OFFICER 11962 GONZALES, ANTHONY
OFFICER 01393 SULAY, MARIO

REFERENCES:

Refer to Master Report

Refer to Det. Simpson's Supplemental Report

NARRATIVE:

On 4/6/11 I was assigned to the Santa Cruz County Gang Task Force. I responded to the Gilroy Police Department to assist in the execution of a search warrant and arrest warrant for Cesar Villagrana (A1). After receiving a briefing regarding the execution and mechanics of the operation, I drove with Det. Simpson to 6870 Rosanna St. in Gilroy, the Villagrana residence. I was wearing full SCCGTF BDU uniform.

After entry had been made and the residence was secured I was tasked with primarily assisting Det. Simpson in conducting the search of Villagrana's bedroom and documenting items that were seized. After Det. Simpson had identified the items for seizure, I completed the Santa Cruz County E&PR. I later reviewed the list of items seized with Villagrana and left a copy of the E&PR with the copy of the search warrant at the residence.

After completion of the search warrant I helped collect the items and later book them into Sheriff's Property. As part of this process I reviewed twenty-six (26) re-writable cd-r's that were found in Villagrana's top dresser drawer. While several of the discs were unable to be opened, I was able to open files from six of the discs. The information contained in these files was mostly related to the Laughlin shooting in 2002. These files contained court transcripts of the grand jury hearings including witness names, juror names and examinations by the grand jury.

The other files that were opened contained wiretap transcripts, wiretap recordings, ATF ops documentation and ATF reports involving the use of confidential informants and undercover agents. On the heading of some of these pages were phone numbers, cellular phone numbers and fax numbers along with names of ATF agents involved in the investigations. After reviewing the footage I notified WISN representative Jorge Gilblanco of the findings, and Sgt. Morales notified Special Agent Ciccone of ATF to confirm that these items are documented as being released for public record.

After reviewing the discs I assisted Det. Simpson in the booking of all items of evidence to be submitted to Sheriff's Property as evidence, all photographs were submitted to Sheriff's CSI as evidence.

CONCLUSION:

Information only.

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

NAMES: 04/08/2011 by 11982 GONZALES, ANTHONY

CR REFERENCE #	01	SYSTEM #	9	INVOLVEMENT	<input type="checkbox"/> Juvenile <input checked="" type="checkbox"/> Arrestee	<input type="checkbox"/> Non-Disclosure <input checked="" type="checkbox"/> TYPE Individual
NAME	VILLAGRANA, CESAR N.M.N					
ADDRESS	8870 ROSANNA ST GILROY, CA 95020					
ALT. ADDRESS						
DOB	06/01/1975	AGE	35	SSN		
DL NO	B5413695	CA		FBI ID		
LOCAL ID				STATE ID		
DESCRIPTION	SEX M	RACE H	HAIR BLK	EYES BRO	HEIGHT 602	WEIGHT 300
CAUTION						ETHNICITY H
EMPLOYER						PHONE (831)
OCCUPATION	ADDRESS					RES. STATUS R
GANG	HELLS ANGELS					
COMMENTS						
ADDITIONAL INFO						

1256

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY: 04/08/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE # 01 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE O OFFICE EQUIPMENT/CELL PHONE E Evidence SYSTEM # 15 PROP.ROOM #
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS TAKEN FROM VILLAGRANA BED
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE I.1102482-015 CUSTODY DATE
LOCATION

CR REFERENCE # 02 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE J JEWELRY/PRECIOUS METAL E Evidence SYSTEM # 17 PROP.ROOM #
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS VARIOUS HELLS ANGELS RINGS TAKEN FROM SMALL CABINET ON TOP OF DRESSER
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE I.1102482-017 CUSTODY DATE
LOCATION

CR REFERENCE # 03 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE Z MISC.-MANILA ENVELOPES CONTAINING VARIOUS ITEMS OF HELLS ANGELS PARAPHERNALIA E Evidence SYSTEM # 18 PROP.ROOM #
QUANTITY 7 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS ALL ENVELOPES TAKEN FROM TOP DRESSER DRAWER
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE I.1102482-018 CUSTODY DATE
LOCATION

CR REFERENCE # 04 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE Z MISC-CROWN ROYAL BAG CONTAINING 26 CD-R DISCS E Evidence SYSTEM # 20 PROP.ROOM #
QUANTITY 26 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE AGENCY
RECOVERED VALUE \$0.00 DATE AGENCY BY
COMMENTS TAKEN FROM TOP DRESSER DRAWER-REVIEWED AT SCCGTF OFFICE
☐ Disposed DATE DISPOSITION
☐ Hold DATE BY
TAG BAR CODE I.1102482-020 CUSTODY DATE
LOCATION

1257

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY: 04/08/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE #	05	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 21	<input type="checkbox"/> In Custody PROP.ROOM #
TYPE	K	CLOTHING-HELLS ANGELS BEANIES			
QUANTITY	3	NCIC CODE		COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$.00	DATE		AGENCY	
RECOVERED	VALUE \$.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM 2ND DRESSER DRAWER				
	<input type="checkbox"/> Disposed	DATE		DISPOSITION	
	<input type="checkbox"/> Hold	DATE		BY	
TAG		BAR CODE	I.1102482-021	CUSTODY DATE	
LOCATION					

CR REFERENCE #	06	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 22	<input type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-CHROME HELLS ANGELS M/C SIDE COVERS			
QUANTITY	0	NCIC CODE		COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$.00	DATE		AGENCY	
RECOVERED	VALUE \$.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM 2ND DRESSER DRAWER				
	<input type="checkbox"/> Disposed	DATE		DISPOSITION	
	<input type="checkbox"/> Hold	DATE		BY	
TAG		BAR CODE	I.1102482-022	CUSTODY DATE	
LOCATION					

CR REFERENCE #	07	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 23	<input type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-HELLS ANGELS ROSTER/PHONE LIST/CORPORATE AGREEMENTS			
QUANTITY	0	NCIC CODE		COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$.00	DATE		AGENCY	
RECOVERED	VALUE \$.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM TOP DRESSER DRAWER				
	<input type="checkbox"/> Disposed	DATE		DISPOSITION	
	<input type="checkbox"/> Hold	DATE		BY	
TAG		BAR CODE	I.1102482-023	CUSTODY DATE	
LOCATION					

CR REFERENCE #	08	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property E Evidence	<input checked="" type="checkbox"/> Evidence SYSTEM # 24	<input type="checkbox"/> In Custody PROP.ROOM #
TYPE	Z	MISC.-HELLS ANGELS DVD			
QUANTITY	0	NCIC CODE		COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$.00	DATE		AGENCY	
RECOVERED	VALUE \$.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM TOP DRESSER DRAWER				
	<input type="checkbox"/> Disposed	DATE		DISPOSITION	
	<input type="checkbox"/> Hold	DATE		BY	
TAG		BAR CODE	I.1102482-024	CUSTODY DATE	
LOCATION					

1258

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY 04/06/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE # 09 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE Z MISC.-IPOD TOUCH CASE E Evidence SYSTEM # 25 PROP.ROOM #
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS TAKEN FROM SHELF NEXT TO DRESSER, MATCHES IPOD TOUCH FOUND AT SCENE OF ACCIDENT
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-025 CUSTODY DATE
LOCATION

CR REFERENCE # 10 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE K CLOTHING-RED BANDANAS E Evidence SYSTEM # 26 PROP.ROOM #
QUANTITY 4 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS RED BANDANAS FOUND ON SHELF NEXT TO DRESSER
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-026 CUSTODY DATE
LOCATION

CR REFERENCE # 11 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE K CLOTHING-VARIOUS HELLS ANGELS ITEMS OF CLOTHING E Evidence SYSTEM # 27 PROP.ROOM #
QUANTITY 20 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS TAKEN FROM CLOSET OF VILLAGRANA'S BEDROOM
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-027 CUSTODY DATE
LOCATION

CR REFERENCE # 12 INVOLVEMENT ☒ Submitted to Property ☒ Evidence ☐ In Custody
TYPE Z MISC.-HELLS ANGELS FOREARM PROTECTORS E Evidence SYSTEM # 28 PROP.ROOM #
QUANTITY 0 NCIC CODE COLOR
BRAND MODEL
SERIAL OAN
LOSS VALUE \$0.00 DATE
RECOVERED VALUE \$0.00 DATE
COMMENTS TAKEN FROM VILLAGRANA'S CLOSET
☐ Disposed DATE
☐ Hold DATE
TAG BAR CODE 1.1102482-028 CUSTODY DATE
LOCATION

1259

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County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY 04/08/2011 by 11962 GONZALES, ANTHONY

CR REFERENCE #	13	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> In Custody
TYPE	Z	MISC.-HELLS ANGELS "FILTHY FEW" FRAMED TEXTILE BANNER	E Evidence	SYSTEM # 29	PROP.ROOM #
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00	DATE		AGENCY	
RECOVERED	VALUE \$0.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM WALL OF VILLAGRANA'S BEDROOM			DISPOSITION	
	<input type="checkbox"/> Disposed	DATE		BY	
	<input type="checkbox"/> Hold	DATE		CUSTODY DATE	
TAG		BAR CODE	I.1102482-029		
LOCATION					

CR REFERENCE #	14	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> In Custody
TYPE	Z	MISC.-HELLS ANGEL'S MONTEREY CHAPTER RUN POSTER	E Evidence	SYSTEM # 30	PROP.ROOM #
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00	DATE		AGENCY	
RECOVERED	VALUE \$0.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM BEDROOM WALL OF VILLAGRANA'S BEDROOM			DISPOSITION	
	<input type="checkbox"/> Disposed	DATE		BY	
	<input type="checkbox"/> Hold	DATE		CUSTODY DATE	
TAG		BAR CODE	I.1102482-030		
LOCATION					

CR REFERENCE #	15	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> In Custody
TYPE	Z	MISC.-PERSONAL INDICIA FOR VILLAGRANA	E Evidence	SYSTEM # 31	PROP.ROOM #
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00	DATE		AGENCY	
RECOVERED	VALUE \$0.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM VARIOUS LOCATIONS IN HIS BEDROOM			DISPOSITION	
	<input type="checkbox"/> Disposed	DATE		BY	
	<input type="checkbox"/> Hold	DATE		CUSTODY DATE	
TAG		BAR CODE	I.1102482-031		
LOCATION					

CR REFERENCE #	16	INVOLVEMENT	<input checked="" type="checkbox"/> Submitted to Property	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> In Custody
TYPE	Z	MISC.-BROWN LEATHER HOLSTER WITH RED BANDANA	E Evidence	SYSTEM # 32	PROP.ROOM #
QUANTITY	0		NCIC CODE	COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00	DATE		AGENCY	
RECOVERED	VALUE \$0.00	DATE		AGENCY	BY
COMMENTS	TAKEN FROM INSIDE GARAGE AT RESIDENCE			DISPOSITION	
	<input type="checkbox"/> Disposed	DATE		BY	
	<input type="checkbox"/> Hold	DATE		CUSTODY DATE	
TAG		BAR CODE	I.1102482-032		
LOCATION					



County of Santa Cruz
Sheriffs Office
INCIDENT REPORT

1102871

REPORT NUMBER

AGENCY SCSO CAD EVENT RELATED CASES CITATION # S-159807
CLASSIFICATION 11364(a)H&S POSSESSION OF PARAPHERNALIA
MAJOR VIOLATION 11364(a)H&S STATUS CASE CLOSED
DISPOSITION PROSECUTION RECOMMENDED
OFFENSES 11364(a)H&S POSSESSION OF PARAPHERNALIA
12500(a)VC UNLICENSED DRIVER
B/W-F LOCAL BENCH WARRANT FELONY

REPORTED 03/30/11 01:02 WED OCCURRED 03/30/11 01:02 WED TO 03/30/11 00:00

LOCATION ON: HIGHWAY 1 AT: HIGHWAY 17

PREMISE

CITY SANTA CRUZ BEAT SUB BEAT NBRH.WATCH

NATURE ☐ Computer Used ☐ Hate/Bias ☐ Child Abuse ☐ Arson
☐ Alcohol Related ☐ Officer Assault ☐ Domestic Violence ☐ Meth
☒ Drug Related ☐ Senior Citizen ☐ Taser ☐ Graffiti
☐ Gang Related ☐ Juvenile ☐ School ☐ Cultivate Marj
☐ Agriculture ☐ Warrant Request ☐ Prescription Meds

OFFICER 02950 FENSTER, DEREK
APPROVED 11052 MEDINA, MITCHELL

REPORT FILED 04/03/11 00:00
APPROVAL DATE 04/04/11 00:00

SYNOPSIS

This report documents the cite and release of an adult male for possession of drug paraphernalia.

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102871

REPORT NUMBER

NARRATIVE

SUPPLEMENT DATE 04/11/2011
APPROVAL DATE 04/11/2011

OFFICER 02950 FENSTER, DEREK
OFFICER 05695 CLARKE, JOSEPH

On 4-4-2011, at about 3:57 PM, I contacted security at Shoreline Middle School on 17th Avenue. I explained to security that I had located a speaker with the word "Shoreline" written on it. I further explained, that the person who was in possession of the speaker when I located it, Trisha Hodges, told me that she found the speaker near the trash dumpster at Green Acres Elementary School. I showed the speaker to security, who confirmed that it had at one time been the property of Shoreline Middle School. Security told me that the speaker was part of a large amount of E-waste that was to be recycled, and had been stored outdoors at Green Acres Elementary School. Security said that although the speaker was not meant to be free for the taking by whomever came across it, they did not want any prosecution for theft or related charges. Security requested that I destroy the speaker.

I booked the speaker into Sheriff's Office Property to be destroyed.

End of report.

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County of Santa Cruz
Sheriffs Office
INCIDENT REPORT

1102482

REPORT NUMBER

AGENCY CAD EVENT 19623 RELATED CASES CHP 2011030118
CLASSIFICATION 12025(b)(6) PC POSSESSION OF CONCEALED UNREGISTERED HANDGUN
MAJOR VIOLATION 12025(b)(6) PC STATUS CASE OPEN
DISPOSITION WARRANT REQUESTED
OFFENSES 12025(b)(6) PC POSSESSION OF CONCEALED UNREGISTERED HANDGUN
186.22(a) PC PARTICIPATE IN CRIMINAL STREET GANG

REPORTED 03/10/11 17:47 THU OCCURRED 03/10/11 17:47 THU TO 03/10/11 17:47 THU

LOCATION 7851 SOQUEL DR
ON: SOQUEL DR AT: APTOS RANCHO RD

PREMISE
CITY APTOS 95003 BEAT 8 SUB BEAT 8-4 NBRH.WATCH

NATURE ☐ Computer Used ☐ Hate/Bias ☐ Child Abuse ☐ Arson
☐ Alcohol Related ☐ Officer Assault ☐ Domestic Violence ☐ Meth
☐ Drug Related ☐ Senior Citizen ☐ Taser ☐ Graffiti
☒ Gang Related ☐ Juvenile ☐ School ☐ Cultivate Marj
☐ Agriculture ☐ Warrant Request ☐ Prescription Meds

OFFICER 10304 SIMPSON, JEFFREY
APPROVED 05141 MORALES, ROY

REPORT FILED 03/18/11 00:00
APPROVAL DATE 03/18/11 15:22

SYNOPSIS

A loaded handgun was found near a victim of a motorcycle crash. The motorcycle rider was a member of the Hells Angels criminal street gang. CHP investigated the traffic accident and the Sheriff's Office investigated the handgun. Investigation found the firearm was not registered.

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County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT

1102482
REPORT NUMBER

NARRATIVE

SUPPLEMENT DATE 04/08/2011
APPROVAL DATE 04/10/2011

OFFICER 10304 SIMPSON, JEFFREY
OFFICER 01393 SULAY, MARIO

SUPPLEMENTAL REPORT

Over the past week, I have conducted follow-up investigation regarding this case and the suspect Cesar Villagrana. During the original investigation, I determined Villagrana was a member of the Hells Angels Motorcycle Club, a criminal street gang as defined in 186.22(f) PC. On 3-31-11, I authored a search warrant for Villagrana's residence at 6870 Rosanna St in Gilroy for gang paraphernalia. On 4-1-11, Honorable Judge Almquist signed the search warrant. On 4-5-11, SCCGTF Inspector Sulay walked through an arrest warrant on Villagrana for 12025 PC and 186.22 PC.

On 4-6-11, myself and SCCGTF officers Sulay and Gonzales met with Gilroy Police to assist us with the service of the search and arrest warrant. We met with members of Gilroy PD's Anti Crime Team (ACT), including Sgt Deras and officers Roccaforte, Remmick, Guerin and Rocha. At approximately 0900 hrs, we served the search warrant. Sgt Deras knocked on the front door and announced "Gilroy PD, search warrant, open the door." Approximately thirty seconds later, Villagrana answered the door and was detained in handcuffs. Officers entered the residence and contacted Villagrana's parents, Miguel Reynoso and Catalina Reynoso. Both Miguel and Catalina were PAT searched and I had them sit, not handcuffed, in the living room.

Once the house was cleared, I met with Villagrana and explained the search and arrest warrant. Villagrana told me he would not speak to me without an attorney. I did not question Villagrana regarding this case. I provided Villagrana with a copy of the search warrant which he had me give to Miguel.

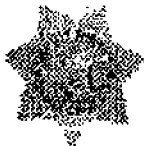
The house was a single story, single family residence with three bedrooms and an attached garage. I found the bedroom nearest the front of the residence to be Villagrana's. The bedroom next to it belonged to Miguel's other son, also named Miguel Reynoso. The back bedroom was Miguel and Catalina's. Prior to searching, I took numerous digital photographs of the residence.

I determined the front bedroom was Villagrana's from the large amount of indicia that I located inside it, including: Villagrana's wallet with his CDL, a Kaiser insurance card in Villagrana's name, several medication bottles in Villagrana's name, numerous paperwork with Villagrana's name on them and Villagrana told me it was his bedroom.

Inside Villagrana's bedroom, I located a large amount of Hells Angels paraphernalia. Hanging on the north side wall was a "Filthy Few San Jose" banner in a wood frame. Next to it on the same wall was a red banner in a black frame that had the words "Hells Angels San Jose and the death head logo. Next to the Hells Angels banner was a frame that contained nine cards that contained the name Hells Angles or Hells Angels art work including the death head. Hanging on the east wall was a framed poster for the December 10, 2010 Hells Angels Monterey Toy Run. This poster appeared to have nine autographs on it from other Hells Angles members including "Big Wickle, Gary, Chris, Lil Rick and Jack. I believed these were Hells Angels members due to most have HAMC (Hells Angles Motorcycle Club) written into or next to the name. I took several photographs of these framed banners. I collected the Filthy Few

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**County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT**

1102482

REPORT NUMBER

NARRATIVE

banner and the Toy Run poster and booked them into Sheriff's Property.

Hanging inside the closet, I found approximately forty shirts/sweatshirts that had Hells Angels writing or artwork on them. I photographed these items and collected the following twenty shirts:

1. White tee shirt with the following writing: "1st Anniversary Hells Angels Los Angeles, September 2008 and the death head.
2. Black tee shirt with: Hells Angels MC, United States and the death head.
3. Same black tee shirt as #2.
4. Black tee shirt with: In loving memory of Papa, Frisco, with the death head.
5. Black tee shirt from the 2003 New Hampshire World Run, including Hells Angels writing and death head.
6. White tee shirt, same as #1.
7. Red sweatshirt with the following writing: San Jose 40, Jim Elrite 35 years, Jimmy Arnett 15 years, Hells Angels San Jose and the death head.
8. Red tee shirt for 2010 Brass Knuckle Run.
9. Black tee shirt with Hells Angels MC Richmond with the death head.
10. Black tee shirt with Hells Angels MC on front and AFFA on back.
11. Black tee shirt with the following writing on front: "I dont believe in heaven I dont believe in hell-when I diem I'm going to paradise my brothers are waiting for me" RIP Boomer July 26, 1940 February 2, 2011. Hells Angles MC Forever and death head on back.
12. Blue tee shirt with Hells Angels MC Frisco on front and HA art work on back.
13. Black tee shirt with Hells Angels MC New York and death head.
14. Gray tee shirt with Hells Angels NC N.Sacto, AFFA, LONESOME, TONY PONI, LEONARD, ERIC, HANGTOWN on front and Hells Angels Sacramento with death head on back.
15. Black tee shirt with Hells Angels 30 years SFV on front.
16. White tee shirt with Parker, AZ, South Run 2009 on front and Hells Angels MC Forever with death head on back.
17. Black tee shirt with Williams, AZ, South Run 2007 on front and Hells Angels MC Forever with death head on back.
18. White tee shirt with Hells Angels West Coast on front and Hells Angels 2010 North Run on back.
19. Black collared shirt with Hells Angels MC California and death head on back.
20. Red collared shirt with Hells Angels Santa Cruz California and death head on back.

Also in the closet, sitting on the top self was a gray baseball cap with "Hells Angels 20 years Vallejo" and the death head on the front. On the top shelf of the closet, I found two leather wrist guards with the death head stamped on them. I collected these guards and booked them into Sheriff's Property.

Deputy Gonzales and I searched the dresser in the bedroom. In the top drawer we located the following items:

1. An Apple Ipod Touch case. This was the type case an Ipod comes from the store in. I know from experience that Ipod cases have the serial number for the Ipod that was sold in it. This case had the following serial number: 9C926SA5201. This serial number matched the serial number for the Ipod Touch that I found at the scene of the accident. I photographed and booked this case into Sheriff's Property.
2. Seven manilla envelopes. Two contained numerous Hells Angels patches. Three contained

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**County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT**

1102482

REPORT NUMBER

NARRATIVE

numerous Hells Angles stickers. One contained business cards, several with Villagrana's name on them. One contained four Hells Angels bandanas. All these items were photographed and booked into Sheriff's property.

3. Two silver metal motorcycle crankcase covers with the following logo: Hells Angels MC San Jose and the death head. I photographed and booked these into Sheriff's property.

4. A purple Crown Royal velvet liquor case that contained numerous CD's. Refer to Deputy Gonzales supplemental report for information on what was on these CD's.

5. Three watch caps, two red, one black that had Hells Angels name or logo on them. I photographed and booked these into property.

6. Four red bandanas. I also found approximately five other red bandanas that I did not collect.

7. Two two page roster sheets for Hells Angels members. I photocopied these rosters as evidence and booked the originals into Sheriff's Property. Also with the rosters were two Hells Angels Motorcycle Corporation agreement contacts. These contacts were not filled out. I photocopied these forms and booked the originals into Sheriff's Property.

On top of the dresser was a jewelry box that contained approximately 15 Hells Angels rings. I collected nine of these rings from the box, a gold death head belt buckle and two death head patches and an Hells Angles logoed card. I booked these items into Sheriff's Property.

I collected several items of indicia that was located on the bedroom TV case. These items included an envelope that was address to Villagrana at 6870 Rosanna St in Gilroy. I also took several photographs of indicia that was in the bedroom.

On the coffee table was were two hand written notes from a male believed to be Tom Schmidt. In these notes, Schmidt talks about needing money, taking some of the "stuff" and making six times as much, and wanting to come out and transport the stuff instead of mailing it. I booked these notes into property. Also on the coffee, I located an Express Mail envelope. Inside the envelope was a photograph that included Villagrana with two other Hells Angels members and a had written note from "Tom" stating he wants to set up a pipeline and make some real money. The envelope was addressed Johnny Glenn at 681 Parkdale Dr in Campbell from Tom Schmidt at 23 Edge Hill Rd in Wappingers Falls NY. I contacted the New York State Troopers and forwarded them the information regarding Schmidt and possible drug trafficking.

In the garage, Inspector Sulay found a brown leather hand gun holster. It appeared to be designed for a revolver. This was found on a bench inside a hard hat. Near the holster (approximately two feet) was a red bandana with "45" in black on it. I photographed these items and booked them into Sheriff's Property. Also in the garage was a black motorcycle with the CA license plate of 16H7558. It had modified Hells Angels death head stickers on the tank and a Hells Angels California sticker on the crankcase. The license plate came back to a 1998 Harley to Villagrana at 6870 Rosanna St in Gilroy. I took several photographs of this motorcycle.

I arrested Villagrana for his warrant out of Santa Cruz County. Villagrana told me he wanted to be booked on the warrant at the Santa Clara County Jail. I transported Villagrana to the Gilroy Police Department and turned him over to Sgt Deras to be booked.

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**County of Santa Cruz
Sheriffs Office
SUPPLEMENTAL INCIDENT REPORT**

1102482

REPORT NUMBER

NARRATIVE

END OF REPORT.

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County of Santa Cruz
Sheriff's Office
SUPPLEMENTAL INCIDENT REPORT

1102482

REPORT NUMBER

PROPERTY 04/08/2011 by 10304 SIMPSON, JEFFREY

CR REFERENCE #	A	INVOLVEMENT	<input type="checkbox"/> Submitted to Property	<input type="checkbox"/> Evidence	<input type="checkbox"/> In Custody
TYPE	Z	DIGITAL PHOTOGRAPHS	P Photo	SYSTEM # 16	PROP.ROOM #
QUANTITY	0	NCIC CODE		COLOR	
BRAND				MODEL	
SERIAL				OAN	
LOSS	VALUE \$0.00	DATE		AGENCY	
RECOVERED	VALUE \$0.00	DATE		AGENCY	BY
COMMENTS	DIGITAL PHOTOGRAPHS OF SEARCH WARRANT LOCATION AND SIEZED ITEMS.				
	<input type="checkbox"/> Disposed	DATE		DISPOSITION	
	<input type="checkbox"/> Hold	DATE		BY	
TAG		BAR CODE		CUSTODY DATE	
LOCATION					

1268

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FILED
Electronically
11-26-2012:12:08:42 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3366076

EXHIBIT 12

PART 4

EXHIBIT 12
PART 4

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TRAFFIC COLLISION REPORT

CHP 555 CARS PAGE 1 (REV 11-08) OPI 065

PAGE 1 OF 11

SPECIAL CONDITIONS		NUMBER OF VEHICLES INVOLVED 1	DRIVER'S SEX M	CITY UNINCORPORATED	JUDICIAL DISTRICT SANTA CRUZ	LOCAL REPORT NUMBER 2011030118	
		NUMBER KILLED 0	DRIVER'S RACE BLK	COUNTY SANTA CRUZ	REPORTING DISTRICT 21	DAY OF WEEK THURSDAY	TOW AWAY <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
LOCATION	COLLISION OCCURRED ON: SOQUEL DR				MO 03/17/2011	DAY 1746	TIME (2400)
	MILEPOST INFORMATION:				GPS COORDINATES LATITUDE 36.97868° LONGITUDE -121.90742°		PHOTOGRAPHS BY: 32 DIGITAL PHOTOS
	AT INTERSECTION WITH: <input checked="" type="checkbox"/> OR 200 FEET SOUTH OF APTOS RANCHO RD				STATE HWY REL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		TAKEN BY SGT JACKSON 14885
PARTY 1	DRIVER'S LICENSE NUMBER B5413695	STATE CA	CLASS C	AIR BAG P	SAFETY EQUIP. W	VEH. YEAR 2002	MAKE / MODEL / COLOR HD UNKNOWN BLK
DRIVER	NAME (FIRST, MIDDLE, LAST) CESAR VILLAGRANA				OWNER'S NAME VILLAGRANA CESAR		LICENSE NUMBER 16E6615
PEDESTRIAN	STREET ADDRESS 6870 ROSANNA ST				OWNER'S ADDRESS 6870 ROSANNA ST GILROY CA 95020		STATE CA
PARKED VEHICLE	CITY / STATE / ZIP GILROY CA 95020				DISPOSITION OF VEHICLE ON ORDER OF: <input checked="" type="checkbox"/> OFFICER <input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
BI-CYCLIST	SEX M	HAIR BLK	EYES BRN	HEIGHT 6-02	WEIGHT 280	DATE OF BIRTH 06/01/1975	YEAR 0
OTHER	HOME PHONE NONE				BUSINESS PHONE NONE		VEHICLE IDENTIFICATION NUMBER: 1HD1DBV312Y637565
INSURANCE CARRIER NONE		POLICY NUMBER		VEHICLE TYPE 62		DESCRIBE VEHICLE DAMAGE UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MAJOR <input checked="" type="checkbox"/> ROLL-OVER <input type="checkbox"/>	
DIR OF TRAVEL S		ON STREET OR HIGHWAY SOQUEL DR		SPEED LIMIT 25		SHADE IN DAMAGED AREA MOTORCYCLE - FRONT	
PARTY 2	DRIVER'S LICENSE NUMBER A1898816	STATE CA	CLASS C	AIR BAG M	SAFETY EQUIP. G	VEH. YEAR 1994	MAKE / MODEL / COLOR HOND CIVIC RED
DRIVER	NAME (FIRST, MIDDLE, LAST) CRAIG JAMES PRENTICE				OWNER'S NAME CRAIG JAMES PRENTICE		LICENSE NUMBER 6CGN361
PEDESTRIAN	STREET ADDRESS 162 SEARIDGE CT APT N				OWNER'S ADDRESS 162 SEARIDGE CT APT N		STATE CA
PARKED VEHICLE	CITY / STATE / ZIP APTOS CA 95003				DISPOSITION OF VEHICLE ON ORDER OF: <input type="checkbox"/> OFFICER <input checked="" type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
BI-CYCLIST	SEX M	HAIR BRN	EYES GRN	HEIGHT 6-03	WEIGHT 190	DATE OF BIRTH 05/24/1971	YEAR W
OTHER	HOME PHONE (831)332-4322				BUSINESS PHONE NONE		VEHICLE IDENTIFICATION NUMBER: 1HGCD7130RA022060
INSURANCE CARRIER ESURANCE		POLICY NUMBER PACA002914033		VEHICLE TYPE 01		DESCRIBE VEHICLE DAMAGE UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input checked="" type="checkbox"/> MAJOR <input type="checkbox"/> ROLL-OVER <input type="checkbox"/>	
DIR OF TRAVEL S		ON STREET OR HIGHWAY SOQUEL DR		SPEED LIMIT 25		SHADE IN DAMAGED AREA TRUCK	
PARTY 3	DRIVER'S LICENSE NUMBER D9683515	STATE CA	CLASS C	AIR BAG L	SAFETY EQUIP. G	VEH. YEAR 98	MAKE / MODEL / COLOR TOYT CAMRY GLD
DRIVER	NAME (FIRST, MIDDLE, LAST) CAMERON MARIE OPLAND				OWNER'S NAME OPLAND STEVEN MALCOLM		LICENSE NUMBER 4CWF732
PEDESTRIAN	STREET ADDRESS 2410 TROUT GULCH RD				OWNER'S ADDRESS 416 GRANT ST SANTA CRUZ CA 95060		STATE CA
PARKED VEHICLE	CITY / STATE / ZIP APTOS CA 95003				DISPOSITION OF VEHICLE ON ORDER OF: <input type="checkbox"/> OFFICER <input checked="" type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
BI-CYCLIST	SEX F	HAIR BRN	EYES HSL	HEIGHT 5-05	WEIGHT 140	DATE OF BIRTH 05/17/1990	YEAR W
OTHER	HOME PHONE (831)334-7419				BUSINESS PHONE NONE		VEHICLE IDENTIFICATION NUMBER: JT2BF22K2W0138254
INSURANCE CARRIER STATE FARM		POLICY NUMBER 1631809E2205A		VEHICLE TYPE 01		DESCRIBE VEHICLE DAMAGE UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MAJOR <input checked="" type="checkbox"/> ROLL-OVER <input type="checkbox"/>	
DIR OF TRAVEL N		ON STREET OR HIGHWAY SOQUEL DR		SPEED LIMIT 25		SHADE IN DAMAGED AREA TRUCK	
PREPARED BY D. TANGUAY 019781				DISPATCH NOTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A		REVIEWER'S NAME B. BOLES	
						DATE REVIEWED 4/4/11	

1270

207

301

DATE OF COLLISION (MO. DAY YEAR) 03/17/2011				TIME(2400) 1746		NCIC # 9720		OFFICER I.D. 019781				NUMBER 2011030118						
WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY('X' ONE)				INJURED WAS ('X' ONE)					PARTY NUMBER	SEAT POS.	AIR BAG	SAFETY EQUIP.	EJECTED	
				FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER						
<input type="checkbox"/>	<input type="checkbox"/>	35	M	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	1	P	W	1
NAME / D.O.B. / ADDRESS CESAR VILLAGRANA (06/01/1975) 6870 ROSANNA ST GILROY CA 95020																		
(INJURED ONLY) TRANSPORTED BY: AMR / CALSTAR																		
TAKEN TO: VALLEY MEDICAL CENTER																		
DESCRIBE INJURIES: LACERATIONS TO LT AND RT KNEE, UNKNOWN HEAD INJURIES.																		
<input type="checkbox"/> VICTIM OF VIOLENT CRIME NOTIFIED																		
<input checked="" type="checkbox"/>	1	56	M	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
NAME / D.O.B. / ADDRESS CARLOS GOROSTIETA (02/09/1955) 105 PEBBLE BEACH WAY APTOS CA 95003																		
TELEPHONE (831)688-2403																		
(INJURED ONLY) TRANSPORTED BY:																		
TAKEN TO:																		
DESCRIBE INJURIES:																		
<input type="checkbox"/> VICTIM OF VIOLENT CRIME NOTIFIED																		
<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
NAME / D.O.B. / ADDRESS																		
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(INJURED ONLY) TRANSPORTED BY:																		
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DESCRIBE INJURIES:																		
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TELEPHONE																		
(INJURED ONLY) TRANSPORTED BY:																		
TAKEN TO:																		
DESCRIBE INJURIES:																		
<input type="checkbox"/> VICTIM OF VIOLENT CRIME NOTIFIED																		
<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
NAME / D.O.B. / ADDRESS																		
TELEPHONE																		
(INJURED ONLY) TRANSPORTED BY:																		
TAKEN TO:																		
DESCRIBE INJURIES:																		
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NAME / D.O.B. / ADDRESS																		
TELEPHONE																		
(INJURED ONLY) TRANSPORTED BY:																		
TAKEN TO:																		
DESCRIBE INJURIES:																		
<input type="checkbox"/> VICTIM OF VIOLENT CRIME NOTIFIED																		
<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
NAME / D.O.B. / ADDRESS																		
TELEPHONE																		
(INJURED ONLY) TRANSPORTED BY:																		
TAKEN TO:																		
DESCRIBE INJURIES:																		
<input type="checkbox"/> VICTIM OF VIOLENT CRIME NOTIFIED																		
PREPARED BY: D. TANGUAY																		
I.D. NUMBER: 019781																		
MO. DAY YEAR: 03/17/2011																		
REVIEWER'S NAME																		
MO. DAY YEAR																		

12972

STATE OF CALIFORNIA
SKETCH DIAGRAM

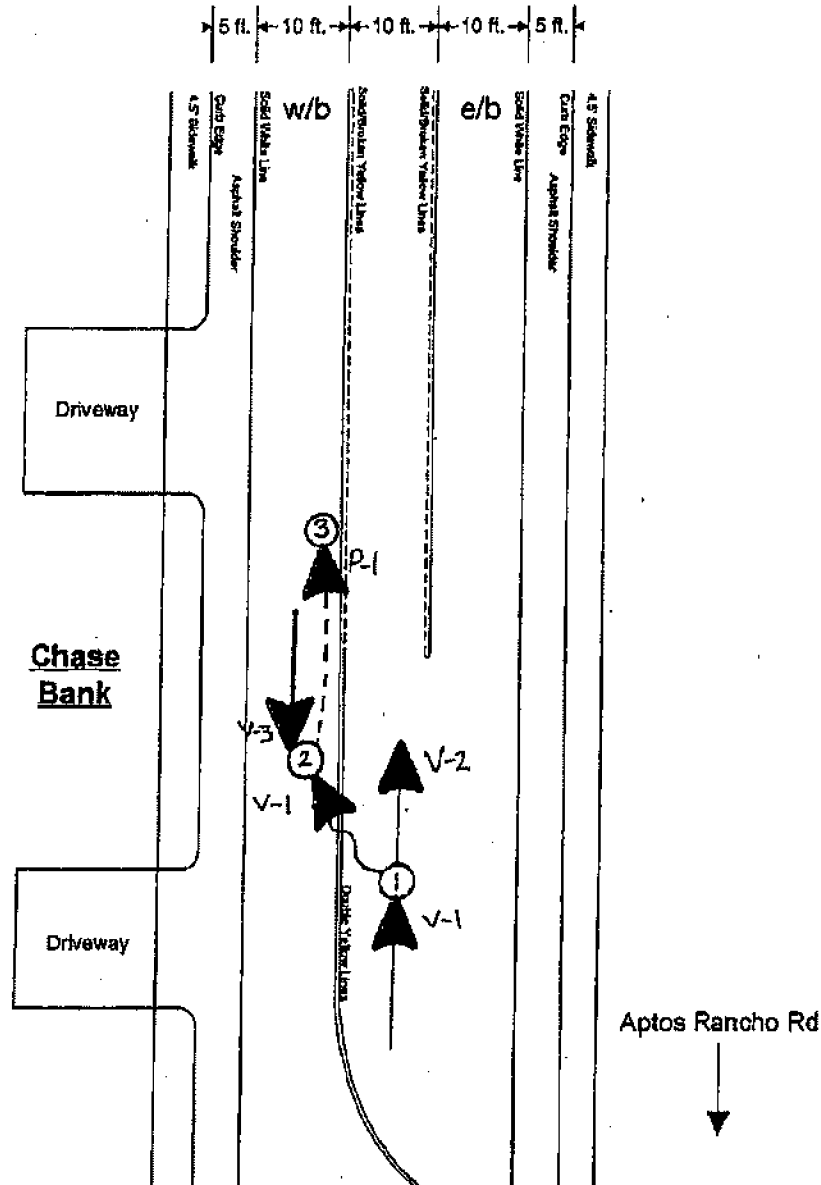
CHP 535 Page 4 (Rev. 8-97) OPI 042

PAGE 4 OF 11

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

ALL MEASUREMENTS ARE APPROXIMATE AND NOT TO SCALE UNLESS STATED (SCALE=)

Soquel Drive



PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
H. Holden	014788	03/17/2011		

1273

202

STATE OF CALIFORNIA
FACTUAL DIAGRAM

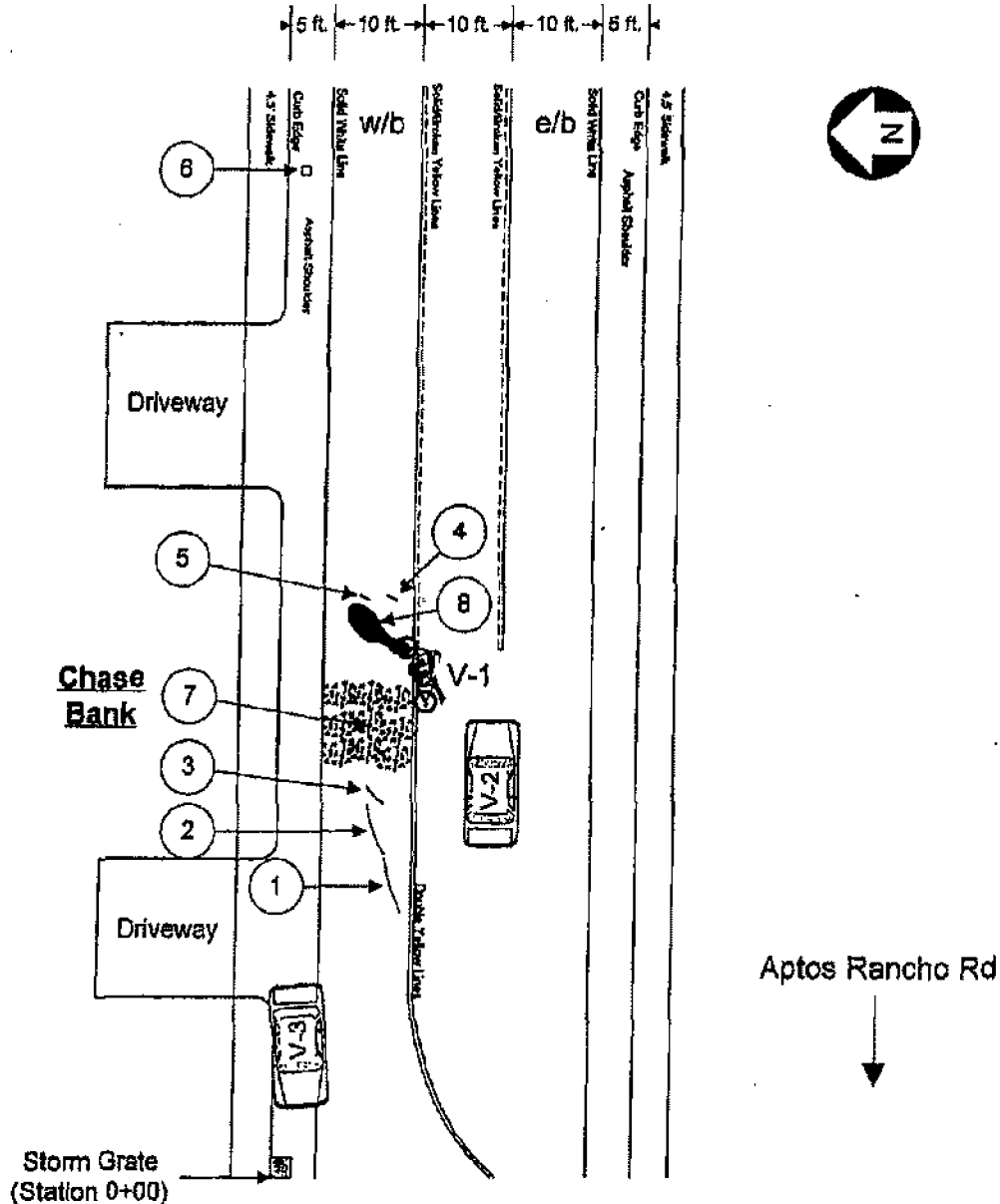
CHE 555 Page 4 (Rev. 8-97) OPI042

PAGE 5 OF 31

DATE OF INCIDENT 03/17/2011	TIME 1746	NCIC NUMBER 9720	OFFICER I.D. 019781	NUMBER 2011030118
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ALL MEASUREMENTS ARE APPROXIMATE AND NOT TO SCALE UNLESS STATED (SCALE=)

Soquel Drive



PREPARED BY H. Holden	I.D. NUMBER 014788	DATE 03/17/2011	REVIEWER'S NAME	DATE
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1274

2011

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D. NUMBER
03/17/2011	1746	9720	019781 2011030118

1 Physical Evidence Legend

2

3 **Station Line:** A station line was utilized to gather measurements of physical evidence for this
 4 traffic collision. The station line was established along the north curb edge of Soquel Drive.
 5 Station 0+00 was located from the west edge of a storm grate located along the north road edge
 6 of Soquel Drive and 111 feet east of the east road edge prolongation of Aptos Rancho Road. The
 7 station line increases in value as it proceeds in an easterly direction. All measurements were
 8 taken at right angles to the station line and were obtained by rolatape.

9

10 Vehicle Points of Rest:

11 Vehicle #1 (V-1, Harley Davidson)

- 12 • Front Wheel located 14 feet right of station 0+58
- 13 • Rear Wheel located 17 feet right of station 0+52

14

15 Vehicle #2 (V-2, Honda)

- 16 • Left Front Wheel located 21 feet right of station 0+47
- 17 • Left Rear Wheel located 21 feet right of station 0+39

18

19 Vehicle #3 (V-3, Toyota)

- 20 • Right Front Wheel located 6 inches right of station 0+10
- 21 • Right Rear Wheel located on the station line at station 0+19

22

23 Physical Evidence Description:

- 24 1. Scrape on roadway
- 25 2. Scrape on roadway
- 26 3. Scrape on roadway
- 27 4. Gouge in roadway
- 28 5. Gouge in roadway
- 29 6. Left side mirror from V-2
- 30 7. Debris field (approx 10' in diameter)
- 31 8. Fluid leak from V-1

32

33 Physical Evidence Location:

- 34 1. Begin 14 feet right of station 0+29; End 12 feet right of station 0+35
- 35 2. Begin 12 feet right of station 0+35.5; End 12 feet right of station 0+41
- 36 3. Begin 12 feet right of station 0+41; End 10 feet right of station 0+43
- 37 4. Begin 13 feet right of station 0+63.5; End 12 feet right of station 0+64
- 38 5. Begin 10 feet right of station 0+63.5; End 9 feet right of station 0+64
- 39 6. Located 2 feet right of station 1+11
- 40 7. Center located 5 feet right of 0+50
- 41 8. Begin 14 feet right of station 0+58; End 5 feet right of station 0+63

42

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
H. Holden	014788	03/17/2011		

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205

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

FACTS:**NOTIFICATION:**

On 03-17-2011, at approximately 1747 hours, I received a call from Monterey Communications Center (MCC) advising of a motorcycle traffic collision with ambulance in route on Soquel Dr at State Park Dr. I arrived on scene at 1754 hours.

All times, speeds, and measurements in this investigation are approximations. Measurements were taken by rolatape and footpace. Roadway lane directions and alignment, as noted in this report, may not reflect true compass north.

SCENE:

This collision occurred on Soquel Dr, just east of the intersection with Aptos Rancho Rd, in an unincorporated area of Santa Cruz County. Soquel Dr is an east-west roadway. Soquel Dr at this location is a two lane road paved with asphalt-concrete. Soquel Dr eastbound at this location is transitioning to a designated left turn median lane and an eastbound traffic lane. The eastbound and westbound traffic lanes are 10 feet in width separated by a solid and broken yellow line. The left turn median lane is 10 feet wide. The eastbound lane is bordered on the south by a solid white line, a 5 foot asphalt shoulder and a 6 inch raised concrete curb. The westbound lane is bordered on the north by a solid white line, a 5 foot asphalt shoulder and a 6 inch raised concrete curb. Soquel Dr at this location is controlled by a 25 mph speed limit. This collision occurred during daylight hours. The roadway surface was dry, and no visual obstructions were noted or claimed. Refer to Factual Diagram for additional information.

PARTIES:

Party #1 (P-1) (Villagrana): was contacted at the scene, while being attended to by AMR Paramedics and later at Valley Medical Center. P-1 was identified by his Photo California Driver License. P-1 was identified as the driver of Vehicle #1 (V-1) (Harley Davidson) by Party #2 (P-2) (Prentice), Party #3 (P-3) (Opland) and Witness #1 (W-1) (Gorostieta). P-1 sustained lacerations to his left and right knee and unknown head injuries from the collision.

Vehicle #1 (V-1) (Harley Davidson): was located at the scene, on its right side, facing in an easterly direction partially within the center left turn lane, and the westbound traffic lane of Soquel Dr. V-1 had sustained major damage to the entire front half of the vehicle. No prior mechanical defects were observed or claimed.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
D. TANGUAY	019781	03/17/2011		

12576

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DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

PARTIES: (continued)

Party #2 (P-2) (Prentice): was contacted at the scene. P-2 stated he was the driver of Vehicle #2 (V-2) (Honda) at the time of the collision. P-2 was identified by his valid California Driver License.

Vehicle #2 (V-2) (Honda): was located at the scene. V-2 was on its wheels, facing in an easterly direction, within the eastbound lane of Soquel Dr. V-2 sustained minor damage to its rear bumper and left front door. No prior mechanical defects were observed or claimed.

Party #3 (P-3) (Opland): was located at the scene. P-3 stated she was the driver of Vehicle #3 (V-3) (Toyota) at the time of the collision. P-3 was identified by her valid California Driver License.

Vehicle #3 (P-3) (Toyota): was located at the scene. V-3 was on its wheels, facing in a westerly direction, on the westbound shoulder and partially within the westbound traffic lane of Soquel Dr. V-3 sustained moderate damage to its front bumper, and left fender.

PHYSICAL EVIDENCE:

Refer to Factual Diagram and Physical Evidence Legend.

OTHER FACTUAL INFORMATION:

Santa Cruz County Sheriff's Office Deputies were the first Emergency Personnel to arrive on scene. I arrived on scene and located a handgun and two knives on the concrete sidewalk being attended to by a Deputy. The Deputies related to me the handgun belonged to Party #1 (P-1) (Villagrana). I retrieved the weapon and identified it as a Beretta handgun. Upon my inspection of the Beretta I observed it had a loaded magazine and the chamber was empty. I secured the Beretta, a folding knife and a fixed blade buck knife in the trunk of my patrol vehicle. I turned the weapons over to Deputy Jeff Simpson #D47 at the scene. Deputy Simpson also took possession of miscellaneous personal items of P-1. Santa Cruz Sheriff's Office is handling the applicable criminal charges, case #11-2482.

Durring an inventory of Vehicle #1 (V-1) (Harley Davidson) no vehicle insurance was located.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
D. TANGUAY	019781	03/17/2011		

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

1 STATEMENTS:

2
3 **Party #1 (P-1) (Villagrana):** was interviewed at Valley Medical Center on 03-17-2011, and
4 stated he was driving Vehicle #1 (V-1) (Harley Davidson) eastbound on Soquel Dr at an
5 unknown speed. P-1 related he could not remember the collision or how the collision
6 occurred. P-1 stated he had not consumed any alcohol or drugs prior to driving.

7
8 **Party #2 (P-2) (Prentice):** was contacted at the scene and related he was driving Vehicle
9 #2 (V-2) (Honda) eastbound on Soquel Dr. P-2 stated he was traveling at about 5 mph,
10 with his left turn indicator on, preparing to make a left turn. P-2 observed Vehicle #1 (V-1)
11 (Harley Davidson) in his rear view mirror approaching at a high rate of speed. V-2 came to
12 a stop and P-2 felt an impact to the rear of V-2. P-2 observed Party #1 (P-1) (Villagrana)
13 become ejected from V-1 and continue in an easterly direction and collide with the
14 roadway. V-1 continued in a easterly direction and collided with the front of Vehicle #3 (V-
15 3) (Toyota).

16
17 **Party #3 (P-3) (Opland):** was contact at the scene. P-3 stated she was driving Vehicle #3
18 (V-3) (Toyota) at the time of the collision. P-3 related she was traveling westbound on
19 Soquel Dr at approximately 25 mph. P-3 stated she observed V-2 stopped in the left turn
20 lane. P-3 observed Vehicle #1 (V-1) (Harley Davidson) traveling eastbound directly
21 towards V-2 swerve and collide with the rear of V-2 then swerve directly into the path of V-
22 3. P-3 stated she did not have time to apply V-3's brakes and the front of V-3 collided with
23 V-1. P-3 immediately pulled to the right shoulder.

24
25 **Witness #1 (W-1) (Gorostieta):** contacted at the scene and later interviewed by phone on
26 03-20-2011. W-1 stated he was traveling westbound on Soquel Dr, and was stopped in the
27 left turn lane at the intersection with Aptos Rancho Rd. W-1 stated he was stopped at the
28 limit line facing a red light. W-1 related the eastbound traffic was heavy and there were
29 vehicles to his left traveling at a slow rate of speed in stop and go traffic. W-1 stated there
30 were vehicles stopped in the eastbound traffic lane of Soquel Dr at the limit line to the west
31 of the intersection; they appeared to be waiting for traffic to clear so they could proceed
32 through the intersection. W-1 observed Vehicle #1 (V-1) (Harley Davidson) traveling
33 eastbound on Soquel Dr, at approximately 25 mph approaching the intersection with Aptos
34 Rancho Rd. V-1 was traveling eastbound in the left turn lane to the west of the
35 intersection, passing vehicles that were stopped in the eastbound lane. V-1 traveled east
36 through the intersection directly towards W-1's vehicle. V-1 swerved to the right and split
37 the traffic lane, traveling between W-1's vehicle and a vehicle that was in the eastbound
38 lane just east of the intersection. W-1 turned around and observed V-1 collide with the rear
39 of Vehicle #2 (V-2) (Honda). V-1 then collided with Vehicle #3 (V-3) (Toyota).

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PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
D. TANGUAY	019781	03/17/2011		

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DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

OPINIONS AND CONCLUSIONS:**SUMMARY:**

Party #1 (P-1) (Villigrana) was driving Vehicle #1 (V-1) (Harley Davidson) eastbound on Soquel Dr at an unknown speed. Party #2 (P-2) (Prentice) was driving Vehicle #2 (V-2) (Honda) eastbound on Soquel Dr at approximately 5 mph, in stop and go traffic, directly in front of P-1. Party #3 (P-3) (Opland) was driving Vehicle #3 (V-3) (Opland) westbound on Soquel Dr at approximately 25 mph, to the east of P-1 and P-3. Due to P-1's unsafe speed he collided with the rear of V-2. V-1 continued in an easterly direction into the westbound traffic lane of Soquel Dr. V-1 collided with the front of V-3. P-1 was ejected from V-1 and continued in an easterly direction and collided with the asphalt roadway. V-1 sustained major damage to the entire front half of the vehicle. V-2 sustained minor damage to the rear bumper and left door and mirror. V-3 sustained moderate damage to its front bumper, left front fender. After the collision, V-1 came to rest on its left side, facing in an easterly direction partially within the westbound traffic lane and the left turn lane. After the collision V-2 came to rest on its wheels, within the eastbound traffic lane facing in an easterly direction. After the collision V-3 came to rest on its wheels, on the westbound shoulder and partially within the westbound traffic lane of Soquel Dr, facing in a westerly direction.

The Summary was established by party statements and the physical evidence.

AREAS OF IMPACT (AOI):

A station line was utilized to gather measurements of physical evidence for this traffic collision. The station line was established along the north curb edge of Soquel Dr. Station 0+00 was located from the west edge of a storm grate located along the north road edge of Soquel Dr and 111 feet east of the east road edge prolongation of Aptos Rancho Rd. The station line increases in value as it proceeds in an easterly direction. All measurements were taken at right angles to the station line and were obtained by rolatape.

AOI #1 (V-1 vs. V-2) was located approximately 17 feet right of Station Line position 0+38.

AOI #2 (V-1 vs. V-3) was located approximately 13 feet right of Station Line position 0+53.

AOI #3 (P-1 vs. Asphalt Roadway) was located approximately 13 feet right of Station Line position 0+63.

The AOI was determined by statements, and the physical evidence.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
D. TANGUAY	019781	03/17/2011		

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DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
03/17/2011	1746	9720	019781	2011030118

1 CAUSE:

2
3 Party #1 (P-1) (Villagrana) caused this collision by driving in violation of California Vehicle
4 Code section 22350 which states in part: No person shall drive a vehicle upon a highway
5 at a speed that is greater than is reasonable or prudent having due regard for weather,
6 visibility, the traffic on the highway, and in no event at a speed which endangers persons or
7 property. P-1 was driving V-1 at a speed greater than conditions would allow, and
8 subsequently collided with the rear of V-2.

9
10 The Cause was established by statements, and physical evidence.

13 RECOMMENDATIONS:

14
15 I recommend that a copy of this report be forwarded to the Santa Cruz County District
16 Attorney's office for review and the subsequent prosecution of Cesar Villagrana, for the
17 following offenses:

- 18
19 1) 22350 VC – Unsafe Speed: (Infraction)
20 2) 16028(c) VC – Proof of financial responsibility: (Infraction)
21
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PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
D. TANGUAY	019781	03/17/2011		

1280

10-309-0952

11/5/10

SAN JOSE POLICE DEPARTMENT

☐ MISDEMEANOR

CITATION NO.

NOTICE TO APPEAR

☒ traffic
☐ non-traffic

No. J 3270504

DATE OF VIOLATION

11 15 10

TIME

2:53 PM

DAY

THU

DAY OF WEEK

S M T W T F S

CASE NUMBER

10-309-0952

NAME (FIRST, MIDDLE, LAST)

CESAR VILLAGRANA

COURT'S RESPONSIBILITY (MAY, JUNE, F, 10/1)

ADDRESS

6870 ROSANNA ST

CITY

GILROY

STATE

CA

ZIP CODE

95020

☐ JUVENILE (JUNE MAY)

()

DRIVER'S NO.

B5413695

STATE

CA

MISC

C

COMMERCIAL

☐ YES ☒ NO

AGE

35

BIRTHDATE

4 11 175

SEX

M

HAIR

BR

EYES

BR

HEIGHT

6 2

WEIGHT

200

RACE

H

OTHER DESCRIPTION

VEHICLE REG. NO. OR VIN

1GE LLL15

STATE

CA

☐ COMMERCIAL VEHICLE

(MAY, JUNE, § 1071000)

YR. OF VEH.

02

MAKE

H/D

MODEL

EL-6

DOOR/C

2

COLOR

BLK

EVIDENCE OF FINANCIAL RESPONSIBILITY

EXPIRED, INCORRECT CARD

☐ HAZARDOUS MATERIAL

(MAY, JUNE, § 105)

REGISTERED OWNER OR LESSEE

☒ SAME AS DRIVER

ADDRESS

☒ SAME AS DRIVER

CITY

STATE

ZIP CODE

CONNECTIONABLE VIOLATION (MAY, JUNE, § 10510)

CITATIONS (MAY, JUNE)

MISDEMEANOR OR

VIOLATION (MAY, JUNE)

YES

☐

NO

☒

CODE AND SECTION

271.51 (A) VC

DESCRIPTION

MODIF. EXH. (LAW)

M 1

☒☐

16020 (A) VC

NO INSURANCE

M 1

☐☐

M 1

☐☐

M 1

SPEED APPROX

20

RE. MAX. SPD.

40

VEH. LANE

0

SAFE

0

☐ RADAR☐ LASEP

BIAT

71

N

LOCATION OF VIOLATION(S)

AT CAMDEN P. FREE

LANE NO.

2

W

↓

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COMMENTS (WEATHER, ROAD, AND TRAFFIC CONDITIONS)

CLR, DRY, MODERATE

☐ ACCIDENT

S

☐ VIOLATIONS NOT COMMITTED IN MY PRESENCE, DECLARED ON INFORMATION AND BELIEF

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

C. Croucher

40 FT

7 11

ARRESTING OR CITING OFFICER

BADGE NO.

DATES OFF

1

1

DATE

NAME OF ARRESTING OFFICER'S SUPERVISOR (FROM CHARGING OFFICER)

BADGE NO.

DATES OFF

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED

BELOW.

Signature

WHEN: DAY

DATE

11 16 11

TIME

11 AM 12 PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

WHERE:

☐ CRIMINAL SUPERIOR COURT

100 W. Hedberg St.

San Jose, CA 95110

(408) 808-8800

☐ JUVENILE MISC.

840 Guadalupe Parkway

San Jose, CA 95110

(408) 278-5007

☒ TRAFFIC COURT

1085 Homestead Rd.

Santa Clara, CA 95050

(408) 556-3000

☐ TO BE RETURNED

FOR COURT USE ONLY

DL0291

FOR COURT USE ONLY


Not to be used for any purpose other than for the purpose of the citation.

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07-5839

9/18/07

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Incident Report		07-5839	Supplement No ORIG
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer SNOW, HANK
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information

Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No ORIG	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated				
Location 1300 FIRST ST #A			City GILROY	ZIP Code 95020	
Rep Dist C027/	Area 1	Beat 2	From Date 09/18/2007	From Time 21:50	
Officer S07209/SNOW, HANK			Assignment Team 5	Entered by S07209	RMS Transfer Successful
Approving Officer B07605		Approval Date 01/30/2008		Approval Time 10:54:32	
# Offenses 1	Offense 245(A)(1) PC FEL	Description ADW NOT F/ARM OR FOR	Complaint Type		
# Offenses 2	Offense 242 PC	Description BATTERY	Complaint Type		
# Offenses 3	Offense 417(A)(1) PC	Description EXHIBIT DEAD WEAPON/	Complaint Type		

Person Summary

Inv	Inv No	Type	Name	MNI	Race	Sex	DOB
ARR	1	I	CARRASCO, BENJAMIN DANIEL	66794	H	M	11/24/1975
ARR	2	I	VILLAGRANA, CESAR	27345	H	M	06/01/1975
VIC	1	I	DELCASTILLO, SCOTT	225671	W	M	06/28/1980
VIC	2	I	DELCASTILLO, NOEL SCOTT	94251	W	M	09/11/1963
VIC	3	I	WILLIAMS, CHRISTOPHER	154932	W	M	10/13/1963

Summary Narrative

Suspects punched victims, hit them over the head with a table and a cane, and brandished a knife at them.

Handwritten: Santa Cruz

RELEASED TO DA BAUM

BY C2553

DATE 05/22/2011 16:49

Report Officer S07209/SNOW, HANK	Printed At 05/22/2011 16:49	Page <u>1</u> of <u>4</u>
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Incident Report						07-5839		Supplement No ORIG	
GILROY POLICE DEPARTMENT									
VICTIM 1: DELCASTILLO, SCOTT									
Involved	Inv No	Type	Name				MNI	Race	Sex
VICTIM	1	Individual	DELCASTILLO, SCOTT				225671	WHITE	MALE
DOB	06/26/1980	Age	27	Juvenile?	No	Height	6'00"	Weight	240#
						Hair Color	BROWN	Eye Color	BROWN
Means of Attack						OTHER DANGEROUS WEAPON			
Extent of Injury			Dom Violence						
ABRASIONS/CONTUSIONS			NO						
Type	Address						City	State	
HOME	7640 SUNNY DALE						GILROY	CALIFORNIA	
ZIP Code									
95020									
Phone Type	Phone No				Phone Type	Phone No			
CELL	(209) 769-2507				HOME	(408) 842-0807			
VICTIM 2: DELCASTILLO, NOEL SCOTT									
Involved	Inv No	Type	Name				MNI	Race	Sex
VICTIM	2	Individual	DELCASTILLO, NOEL SCOTT				94251	WHITE	MALE
DOB	09/11/1963	Age	44	Juvenile?	No	Height	6'05"	Weight	240#
						Hair Color	BROWN	Eye Color	BROWN
Means of Attack						OTHER DANGEROUS WEAPON			
Extent of Injury			Dom Violence						
ABRASIONS/CONTUSIONS			NO						
Type	Address						City	State	
HOME	7460 SUNNY DALE						GILROY	CALIFORNIA	
ZIP Code									
95020									
Phone Type	Phone No				Phone Type	Phone No			
CELL	(209) 769-1840				HOME	(408) 842-0807			
VICTIM 3: WILLIAMS, CHRISTOPHER									
Involved	Inv No	Type	Name				MNI	Race	Sex
VICTIM	3	Individual	WILLIAMS, CHRISTOPHER				154932	WHITE	MALE
DOB	10/13/1963	Age	43	Juvenile?	No	Height	6'00"	Weight	230#
						Hair Color	BROWN	Eye Color	BROWN
Means of Attack						Extent of Injury		Dom Violence	
KNIFE						NO VISIBLE INJURY		NO	
Type	Address						City	State	
HOME	1970 COUNTDOWN WY						GILROY	CALIFORNIA	
ZIP Code									
95020									
Phone Type	Phone No								
CELL	(408) 836-7997								
Modus Operandi									
Suspect Action									
INJURY INFLICTED									
Crime Code(s)									
ASSAULTS									
Narrative									

Original 07-5839 Cpl. Hank Snow

On 09/18/07 at about 2151 hours officer's were dispatched to Claddaugh's Bar regarding an in progress fight. Four to five persons were said to be inside fighting and throwing chairs. Radio updated responding units that off-duty San Jose PD Officers were on the scene and had initiated a high-risk felony contact on the participants. The first officers began arriving to the scene at about 2153 hours, and advised the remaining responding officers could reduce their mode of emergency response.

I arrived at about 2156 hours. Officers Lemus, Hollar, Rocha, Guerin, Remmick, and Sgt. Deras were already on scene. Each officer was taking statements from various witnesses and/or collecting evidence as appropriate. ARR-1 CARRASCO and ARR-2 VILLAGRANA were detained in front of the restaurant. VIC-1 Scott DELCASTILLO and VIC-2 Noel DELCASTILLO had both suffered head injuries. Fire and Paramedics were enroute to assist them. VIC-1 Scott DELCASTILLO was laying on the patio in front of the restaurant, and VIC-2 Noel DELCASTILLO was seated on a bench a few feet from the patio. WILLIAMS, who had initially telephoned 911, was standing by waiting to speak with us. Inside the bar there were numerous tables and chairs over turned. Officers Garcia and Griffith also soon arrived to assist with processing the case.

We were able to piece together the sequence of events as they were related by multiple witnesses: ARR-1

Report Officer	DATE Printed At	Page 3 of 4
S07209/SNOW, HANK	05/22/2011 15:49	

Incident Report	07-5839	Supplement No ORIG
GILROY POLICE DEPARTMENT		

Narrative

CARRASCO punched VIC-1 Scott DELCASTILLO in the face. ARR-2 VILLAGRANA picked up a table and hit VIC-1 Scott DELCASTILLO in the head with it. ARR-1 CARRASCO struck VIC-2 Noel DELCASTILLO in the head with a cane. Several witnesses intervened to break up the fight, and all combative parties subsequently exited the bar. While outside ARR-2 VILLAGRANA pulled out a large knife. VIC-1 Scott DELCASTILLO re-entered the bar in an apparent attempt to flee. ARR-2 VILLAGRANA began to re-enter after him, and ARR-1 CARRASCO raised his cane above his head and also started to re-enter the bar. VIC-3 WILLIAMS warned ARR-2 VILLAGRANA that he telephoned the police. ARR-2 VILLAGRANA, while holding the knife in his hand, looked at VIC-3 WILLIAMS and menacingly stated: "You snitch!" Off duty San Jose PD officers, who are outside at the time, intervened- detaining ARR-1 CARRASCO and ARR-2 VILLAGRANA at gun point.

I admonished ARR-1 CARRASCO at the scene regarding Miranda. He invoked and was not interviewed.

VIC-1 Scott DELCASTILLO was life flighted to a regional trauma care center for medical treatment. He was admitted for care, and is expected to recover.

VIC-2 Noel DELCASTILLO was treated by paramedics at the scene. He declined any further medical treatment.

VIC-3 Williams was not injured.

ARR-1 CARRASCO was taken to St. Louise Hospital for a medical clearance due to a pre-existing injury. He was later transported to county jail.

ARR-2 VILLAGRANA was also taken to St. Louis to be treated for a head injury. He was later transported to county jail.

Refer to supplemental reports by Officers Guerin, Garcia, Griffith, Lemus, Rocha, Hollar, Remmick, and Sgt. Deras for additional information.

Request the DA file complaint against ARR-1 CARRASCO for violations of 245 (a)(1)PC, and 242 PC.

Request the DA file complaint against ARR-2 VILLAGRANA for violations of 245 (a)(1) PC, and 417 (a)(1) PC.


CONTROLLED DOCUMENT	
RELEASED TO DA	
BY	Printed At
DATE	05/22/2011 16:49
DO NOT DUPLICATE	

Report Officer	607209/SNOW, HANK	Page 4 of 4
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Incident Report						07-5839		Supplement No ORIG	
GILROY POLICE DEPARTMENT									
ARRESTEE 1: CARRASCO, BENJAMIN DANIEL									
Involvement ARRESTEE		Inv No 1		Type Individual		Name CARRASCO, BENJAMIN DANIEL		MNI 66794	
Race HISPANIC/LATIN		Sex MALE		DOB 11/24/1975		Age 31		Juvenile? No	
Height 5'11"		Weight 210#		Hair Color BROWN		Eye Color BROWN			
Type HOME		Address 7850 HANNA ST				City GILROY		State CALIFORNIA	
ZIP Code 95020									
Type OPERATOR LICENSE		ID No B3835567				OLS CALIFORNIA			
Type SOCIAL SECURITY NUMBER		ID No 365-59-8432							
Phone Type CELL		Phone No (408) 717-2467							
Relationship RELATIVE		Name CARRASCO, EVANGELINE							
Address 8195 WESTWOOD DR #3						City GILROY		State CALIFORNIA	
ZIP Code 95020		Phone Type HOME		Phone No (408) 847-0345					
Involvement ARRESTED		Arrest Type ARRESTED		Arrest Date 09/18/2007		Arrest Time 22:15:00		Book Date 09/18/2007	
Book Time 22:15:00		Status BOOKED		Dispo FELONY					
Arrest Location FIRST ST						City GILROY		Other Booking No 07066395	
Place of Birth CALIFORNIA									
Charge 245(A)(1) PC FEL				Level F		Charge Literal ADW NOT F/ARM OR FOR			
Charge 417(A)(1) PC				Level M		Charge Literal EXHIBIT DEAD WEAPON/			
Charge 242 PC				Level M		Charge Literal BATTERY			
ARRESTEE 2: VILLAGRANA, CESAR									
Involvement ARRESTEE		Inv No 2		Type Individual		Name VILLAGRANA, CESAR		MNI 27345	
Race HISPANIC/LATIN		Sex MALE		DOB 06/01/1975		Age 32		Juvenile? No	
Height 6'01"		Weight 300#		Hair Color BROWN		Eye Color BROWN			
Type HOME		Address 6870 ROSANNA ST				City GILROY		State CALIFORNIA	
ZIP Code 95020									
Type OPERATOR LICENSE		ID No D0413695				OLS CALIFORNIA			
Phone Type CELL		Phone No (408) 656-6609							
Mark Type SCAR, HEAD		Mark Code SCARS							
Description BACK OF HEAD									
Involvement ARRESTED		Arrest Type ARRESTED		Arrest Date 09/18/2007		Arrest Time 22:15:00		Book Date 09/18/2007	
Book Time 22:15:00		Status BOOKED		Dispo FELONY					
Arrest Location FIRST ST						City GILROY		Other Booking No 07066392	
Place of Birth CALIFORNIA									
Charge 245(A)(1) PC FEL				Level F		Charge Literal ADW NOT F/ARM OR FOR			
Charge 417(A)(1) PC				Level M		Charge Literal EXHIBIT DEAD WEAPON/			
<div style="text-align: center;"> <p>CONTROLLED DOCUMENT</p> <p>RELEASED TO DA</p> <p>BY _____</p> </div>									
Report Officer 807209/SNOW, HANK						Date Printed At 05/22/2013 16:49		Page 2 of 4	

Incident Report		07-5839	Supplement No 0001
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer GARCIA, ERIC
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information

Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0001	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated				
Location 1300 FIRST ST #A			City GILROY	Rep Dist C027/ /	Area 1
Boat 2	Officer G00672/GARCIA, ERIC	Assignment Team 5	Entered by G00672	Assignment Team 3	RMS Transfer Successful
Approving Officer S01720	Approval Date 09/19/2007	Approval Time 10:26:39			

VICTIM 1: DELCASTILLO, SCOTT

Involvement VICTIM	Inv No 1	Type Individual	Name DELCASTILLO, SCOTT			MNI 225671		
Race HISPANIC/LATIN	Sex MALE	DOB 06/28/1980	Age 27	Juvenile? No	Height 6'00"	Weight 240#	Hair Color BROWN	Eye Color BROWN
Manner of Attack HANDS, FEET AND FISTS (medical attention)/OTHER DANGEROUS WEAPON								
Extent of Injury STICHES REQUIRED		Dom Violence NO						
Type HOME	Address 7460 SUNNYDALE			City GILROY		State CALIFORNIA		

ZIP Code
95020**Modus Operandi**Crime Code(s)
ASSAULTS**Narrative****SUPPLEMENTAL REPORT**

E. Garcia #G00672

CR# 07-5839

9/18/07

On 9/18/07 at about 2150 hours, I responded to a bar fight at 1300 First St. GPD Communications advised me that several subjects were inside the bar throwing tables and chairs at each other.

I arrived on scene and saw a male bleeding from the right side of his face. I asked the victim his name and he verbally told me his name was Scott DelCastillo. When I spoke to DelCastillo he had a strong odor of an alcoholic beverage emitting from his person. When he spoke his words were slurred. I saw DelCastillo had a small laceration to his right eye lid.

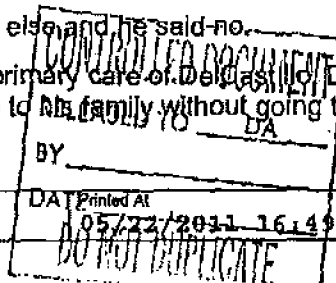
I asked DelCastillo for a statement and he told me the following:


DelCastillo said he was inside the bar when SUS-1 Benjamin Carrasco came up to him and hit him once in the face above his right eye. DelCastillo said he was then hit by something else but he couldn't remember what it was. DelCastillo said he was hit on his right arm as well.

I asked Del Castillo if he could remember anything else and he said no.

Gilroy Fire responded to the scene and took over primary care of DelCastillo. DelCastillo signed a against medical advice (AMA) form and was released at the scene to his family without going to the hospital.

Report Officer G00672/GARCIA, ERIC	DATE Printed At 05/22/2011 16:49	Page 1 of 1
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Incident Report		07-5839	Supplement No 0002
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer HOLLAR, RYAN
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information						
Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0002	Reported Date 09/18/2007	Reported Time 21:30	CAD Call No 072610158	
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated					
Location 1300 FIRST ST #A	City GILROY	Rep Dist C027/	Area 1			
Beat 2	Officer H05710/HOLLAR, RYAN	Assignment Team 3	Enlisted by H05710	Assignment Team 3	RMS Transfer Successful	
Approving Officer S01720	Approval Date 09/19/2007	Approval Time 10:28:57				

WITNESS 1: DELCASTILLO, RENE									
Involvement WITNESS	Inv No 1	Type Individual	Name DELCASTILLO, RENE				MNI 61098		
Race HISPANIC/LATIN	Sex FEMALE	DOB 12/26/1964	Age 42	Juvenile? No	Height 5'01"	Weight 105#	Hair Color BROWN	Eye Color BROWN	
Type HOME	Address 7460 SUNNY DALE WY					City GILROY	State CALIFORNIA		
ZIP Code 95020									
Type OPERATOR LICENSE	ID No C1784284				OLS CALIFORNIA				
Phone Type HOME	Phone No (408) 842-0807								

Modus Operandi
Crime Code(s) ASSAULTS

Narrative

On 9/18/07 at approx. 2145 hrs, GPD units responded to the Claddaugh, 1300 First St #A, regarding an in progress fight. While en route, we were advised that off duty San Jose PD officers were holding one subject at gunpoint. Upon arrival, Officer Lemus detained one subject in handcuffs, while Officer Rocha detained a second.

I observed a male subject, later identified as VIC#2, Noel Del Castillo, lying on the ground in the patio area. VIC#2 was in a semi-fetal position, and was bleeding from his head.

I contacted WIT#5, Rene Del Castillo, the wife of VIC#2. Rene appeared to be intoxicated. Her eyes were bloodshot and watery and her speech was slurred. Rene stated that she and her husband, Noel, her son, Scott, and his girlfriend, Crystal Cole, were inside the Claddaugh restaurant having dinner. Scott was approached by a subject later identified as ARR#2, Cesar Villagrana. The two got into a verbal argument, however was not physical at this point. As the argument continued, Scott was struck in the face by ARR#1, Benjamin Carrasco. The argument continued, and several people, including Scott's father, Noel, attempted to break up the argument. Rene stated that Scott began to back away from Carrasco and Villagrana. At that point, Carrasco and Villagrana turned their attention to Noel and began assaulting him. Rene stated that Villagrana struck Noel in the head with a knife, however she was unable to describe the knife to me. At that time, Scott, Noel, Carrasco and Villagrana began to fight inside the bar. The fight left the interior of the restaurant, and continued outside. All parties were detained by the off duty officers until GPD arrived.

No further information was provided by this witness.


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Report Officer H05710/HOLLAR, RYAN	Printed At DATE 05/22/2011 16:49	Page 1 of 1
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Incident Report		07-5839	Supplement No 0003
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer ROCHA, JUAN
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information

Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0003	Reported Date 09/18/2007	Reported Time 21:50	CAO Cell No 072610158
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated				
Location 1300 FIRST ST #A	City GILROY	Rep Dist C027/	Area 1		
Beat 2	Officer R04194/ROCHA, JUAN	Assignment Team 3	Entered by R04194	RMS Transfer Successful	
Approving Officer S01720	Approval Date 09/19/2007	Approval Time 10:33:33			

WITNESS 2: TELLERDAY, KELSIE

Involvement WITNESS	Inv No 2	Type Individual	Name TELLERDAY, KELSIE				MNI 231462	Race WHITE
Sex FEMALE	DOB 08/26/1987	Age 20	Juvenile? No	Height 5'01"	Weight 98#	Hair Color BROWN	Eye Color BROWN	
Type WORK/BUSINESS		Address 1300 FIRST ST #A					City GILROY	
State CALIFORNIA		ZIP Code 95020						
Phone Type BUSINESS		Phone No (408) 848-5050						
Employer/School CLAUDAUGH8			Position/Grade WAITRESS					
Location 1300 FIRST ST #A			City GILROY			State CALIFORNIA		
ZIP Code 95020		Phone Type BUSINESS		Phone No (408) 848-5050				

WITNESS 3: VALLES, DANIEL

Involvement WITNESS	Inv No 3	Type Individual	Name VALLES, DANIEL				MNI 105559	
Race HISPANIC/LATIN	Sex MALE	DOB 05/05/1953	Age 54	Juvenile? No	Height 5'10"	Weight 210#	Hair Color BROWN	Eye Color GREEN
Type WORK/BUSINESS		Address 1300 FIRST ST #A					City GILROY	
State CALIFORNIA		ZIP Code 95020						
Type OPERATOR LICENSE		ID No A0930815			OLS CALIFORNIA			
Phone Type BUSINESS		Phone No (408) 848-5050						
Employer/School CLAUDAUGH8			Position/Grade BARTENDER					

WITNESS 4: BENSON, LESLIE

Involvement WITNESS	Inv No 4	Type Individual	Name BENSON, LESLIE				MNI 146364	Race WHITE
Sex FEMALE	DOB 02/26/1958	Age 49	Juvenile? No	Height 5'05"	Weight 130#	Hair Color BROWN	Eye Color BROWN	
Type WORK/BUSINESS		Address 1300 FIRST ST #A					City GILROY	
State CALIFORNIA		ZIP Code 95020						
Phone Type BUSINESS		Phone No (408) 848-5050						

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Incident Report	07-5839	Supplement No 0003
GILROY POLICE DEPARTMENT		
Employer/School CLAUDAUGHS		
Modus Operandi		
Crime Code(s) ASSAULTS		
Narrative		

On 09/18/07 at about 2145 hours, Officers were dispatched to 1300 First St. #A for a call of a fight. While en-route dispatch advised there was an off-duty San Jose Police Officer holding one of the suspect's at gun point.

I arrived on scene and immediately contacted (S#1) Benjamin Carrasco. Carrasco was prone out on the ground and I detained him in handcuffs. I asked Carrasco to tell me what had happened, but told me he wanted his lawyer. I explained to Carrasco that he was not under arrest, but that I just wanted to know what had happened. Carrasco again replied by telling me he wanted his lawyer, so I stopped questioning Carrasco.

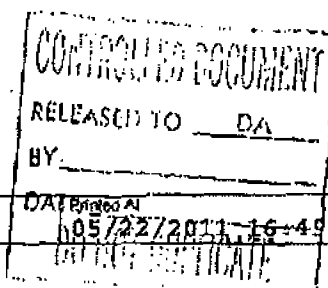
I then contacted (W#2) Kelsie Tellerday and (W#3) Daniel Valles, who provided me with very similar statements. Both Tellerday and Valles are employees at the establishment. They said, (S#2) Cesar Villagrana and (V#1) Scott Del Castillo were at the bar having drinks. Villagrana bought Del Castillo a shot of liquor. Villagrana and Del Castillo began to exchange words and curse at each other. They couldn't tell exactly what they were saying, but they could tell they were arguing. Tellerday and Valles said an unknown Hispanic male, came out of nowhere and punched Del Castillo in the face. They said Del Castillo began trying to fight with Villagrana and the Hispanic male. They told me that Del Castillo's friends were trying to hold him back. Villagrana and Del Castillo continued to curse at each other. They both said a large fight then broke out in middle of the restaurant.

Tellerday told me Villagrana began to throw chairs and tables at the persons he was fighting with. Tellerday and Valles said everyone was punching everyone. It was then that Tellerday went and called 9-1-1. Tellerday and Valles had no further information.

I then spoke with (W#4) Leslie Benson, who is one of the owners of the establishment. I asked Benson if there were any security cameras in the restaurant, she said there was. Benson said the cameras were on and recording, but she did not know how to retrieve the footage. Benson said it was ok for an IT employee to respond to the restaurant and try to retrieve the footage. Benson had no further information.


The description of the Hispanic male, given to me by Tellerday and Valles matched the description of Carrasco. I had them separately do a infield line-up of Carrasco. Valles immediately said Carrasco was not the subject that had punched Del Castillo. Tellerday also said she was positive that Carrasco was not the subject who punched Del Castillo.

No further information.



Report Officer
R04194/ROCHA, JUAN

Page 2 of 2

Incident Report		07-5839	Supplement No 0004
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer LEMUS, NOEL
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information

Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0004	Reported Date 09/18/2007	Reported time 21:50	CAD Call No 072610158
Nature of Call Assaults - Aggravated		Location 1300 FIRST ST #A			
City GILROY	Rep Dist C027/	Area 1	Beat 2	Officer L02036/LEMUS, NOEL	
Assignment Team 5	Entered by L02036	Assignment Team 5	RMS Transfer Successful	Prop Trans Stat Pending	Approving Officer S01720
Approval Date 09/19/2007					
Approval Time 12:12:52					

WITNESS 1: COLE, CRYSTAL

Involvement WITNESS	Invl No 1	Type Individual	Name COLE, CRYSTAL			MNI 231459	Race WHITE
Sex FEMALE	DOB 01/04/1983	Age 24	Juvenile? No	Height 4'03"	Weight 145#	Hair Color BROWN	Eye Color BROWN
Type HOME	Address 19359 S. PALM AV.				City DOB PALOS	State CALIFORNIA	
ZIP Code 93620							
Type OPERATOR LICENSE	ID No B9588853	OLS CALIFORNIA					
Phone Type CELL	Phone No (209) 261-0219	Phone Type HOME	Phone No (209) 392-8721				

Property

Item 1	Involvement EVIDENCE FELONY - INJURY T/C'S	In Custody? Yes	Tag No 50542
Description digital photos of knife mini cdr		Type A	
Cat PHOTOGRAPHS (AS EVIDENCE)	Article PHOTOS	Brand DIGITA	
Item 2	Involvement EVIDENCE FELONY - INJURY T/C'S	In Custody? Yes	Tag No 50540
Description FIXED BLADE KIFE 11' OVERALL WITH A 6' BLADE		Type A	
Cat OTHER (only if cannot categorize articles)	Article KNIFE	Brand LARUE	Model CPMS30V
		# Pieces 1	

Modus Operandi

Crime Code(s) ASSAULTS

Narrative

07-5839

Lemus

Supplemental Investigation

On 09-18-07 at approximately 2145 hours, I was dispatched to 1300 First St. (The Claddagh Irish) on a report of several subjects fighting. While en route, GPD Communications advised the subjects inside the bar were throwing chairs and tables at each other.

I arrived on scene at about 2150 hours. I saw an off duty GPD Officer (Hieu La) with his weapon drawn at a subject, later identified as ARR #1 Cesar Villagrana. Villagrana was prone on the ground and I detained him in handcuffs in the patio area. La told me he prone Villagrana because he was chasing subjects in the bar with a knife. The knife was removed from Villagrana and was embedded into the ground by the planter near the front

Report Officer L02036/LEMUS, NOEL	Printed At 09/22/2011 16:49	Page 1 of 2
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Incident Report	07-5839	Supplement No 0004
GILROY POLICE DEPARTMENT		

Narrative

door. Villagrana had head and facial injuries. I asked Villagrana if he needed emergency medical aid. He told me he did not. I asked him what had happened and he replied, "I'm not a rata homes."

I recovered the knife and placed it in my patrol vehicle. The knife is described as a fixed blade knife 11" overall with a 6" long blade. I later transported the knife to GPD where I photographed it, made copies of the photos and placed them in the case file. The CD-R was booked into GPD evidence.

I made contact with W#1 CRYSTAL COLE who was assisting her boyfriend, V#1 Scott Del Castillo. She provided me with the following statement.

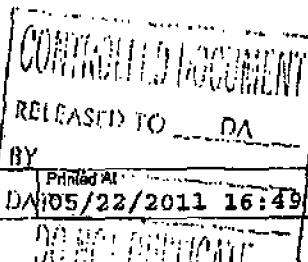
STATEMENT OF W#1 CRYSTAL COLE:

W#1-Cole told me she, Del Castillo and other family members were eating in the restaurant before the incident occurred. She and Del Castillo went to the bar to have a "shot" each. Before they got to the bar, ARR#2 Carrasco stood in front of them blocking their path and punched Del Castillo once in the face with a closed fist. Cole who was in front of Del Castillo, turned around and pushed Del Castillo out of the way and into the back room. Cole said she removed Del Castillo out of the area so that Carrasco would not continue to hit him. Once in the back of the room, Carrasco's friend ARR#2 Villagrana picked up a bar metal table and threw it at Del Castillo hitting him in the head. At that time, Cole took Del Castillo to the back room and stayed there with him. Cole said after this incident, she heard a lot of commotion near the bar but she was unable to see what was going on. She just wanted to keep Del Castillo away from the area to prevent further incident. Cole further said nothing was said during the fight. She also said Del Castillo nor her knew of Carrasco or Villagrana before the incident.

Cole did not provide me with any additional information.


End.

Report Officer L02036/LEMUS, NOEL	Printed At DA 05/22/2011 16:49	Page 2 of 2
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Incident Report		07-5839	Supplement No 0005
GILROY POLICE DEPARTMENT			
	Address	Reported Date	
	7301 HANNA ST	09/18/2007	
	City, State Zipcode	Nature of Call	
	GILROY, CA 95020	ASSAULT A	
	Address 2	Officer	
		GUERIN, GEOFFREY	
	Phone Number		
	408-846-0300		
	Fax Number		
	408-846-0339		

Administrative Information							
Agency	Report No	Supplement No	Reported Date	Reported Time	CAD Call No		
GILROY POLICE DEPARTMENT	07-5839	0005	09/18/2007	21:50	072610158		
Status	Nature of Call						
REPORT TO FOLLOW	Assaults - Aggravated						
Location	City	Rep Dist	Area				
1300 FIRST ST #A	GILROY	C027 /	1				
Beat	Officer	Assignment	Entered by	Assignment	RMS Transfer		
2	G04826/GUERIN, GEOFFREY	Team 5	G04826	Team 3	Successful		
Approving Officer	Approval Date	Approval Time					
801720	09/19/2007	12:14:03					

Modus Operandi

Crime Code(s)
ASSAULTS

Narrative

07-5839

Guerin

On 9-18-07 at 2145hrs GPD Officers were sent to 1300 First Street for a report of a large fight. Upon arrival I contacted Cesar Villagrana who had been handcuffed and was bleeding from his head.

I asked Villagrana if he needed emergency medical aid. He told me he did not. I asked him what had happened and he replied, "Nothing, what are you talking about". I told him his head was bleeding and I wanted to make sure he was all right. He said he was fine. I asked him why his head was bleeding. He said, "I fell off my motorcycle".

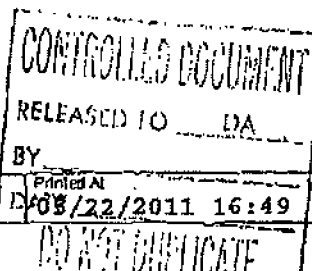
I again asked Villagrana what had happened. He said, "Am I under arrest or what?" I told him that he was not yet under arrest, just detained. He said, "well I'm not going to say shit, you can talk to my lawyers".

I noted Villagrana was wearing a black leather vest with two black and red patches that read, "San Jose" and "Prospect". I know, based on my training and experience that this jacket and patches are commonly worn by probationary members of the Hells Angels Motorcycle Club, a known criminal street gang/Outlaw Motorcycle Gang.

Villagrana was transported to SLRH for medical evaluation.


No additional information.

END



Report Officer	Printed At	Page 1 of 1
G04826/GUERIN, GEOFFREY	09/22/2011 16:49	

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Incident Report		07-5839	Supplement No 0006
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer REMMICK, DOUGLAS
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information							
Agency GILROY POLICE DEPARTMENT		Report No 07-5839	Supplement No 0006	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158	
Status REPORT TO FOLLOW		Nature of Call Assaults - Aggravated					
Location 1300 FIRST ST #A				City GILROY	Rep Dist C027 /	Area 1	
Beat 2	Officer R02941/REMMICK, DOUGLAS			Assignment Team 3	Entered by R02941	Assignment Team 3	RMS Transfer Successful
Prop Trans Stat Pending	Approving Officer 901720		Approval Date 09/19/2007	Approval Time 12:15:51			

Property			
Item 1	Involvement EVIDENCE FELONY - INJURY T/C'S	In Custody? Yes	Tag No 50541
Description wood cane		Type A	
Cat OTHER (only if cannot categorize article)		Article CANE	# Pieces 1

Modus Operandi	
Crime Code(s) ASSAULTS	
Narrative	

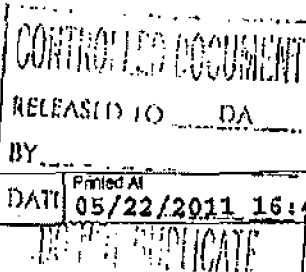
Officer: Remmick

Supplemental case 07-5839


On 9-18-07 at 2145 hours GPD units were dispatched to 1300 First St for a report of a fight. Upon I initially made contact with a subject on the ground later identified as V-Del Castillo with a facial injury. I attempted to get information from V-Del Castillo but he was in and out of consciousness and unable to speak to me. Gilroy Fire treated the victim and he was later air lifted to a San Jose hospital.

My focus was then directed toward a subject later identified as AR-Villagrana. He was already handcuffed and the paramedics were treating him. He was treated at the scene and transported to the hospital for a medical clearance.

I responded to the hospital behind the ambulance that had AR-Villagrana. While I was at the hospital AR-Carrasco was also brought in for a medical clearance. While at the hospital Corporal Snow directed me to collect AR-Carrasco cane. I collected the cane and placed it into evidence.



Report Officer R02941/REMMICK, DOUGLAS	Printed At 05/22/2011 16:49	Page 1 of 1
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Incident Report		07-5839	Supplement No 0007
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer GRIFFITH, BOBBY
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information							
Agency GILROY POLICE DEPARTMENT		Report No 07-5839	Supplement No 0007	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158	
Status REPORT TO FOLLOW		Nature of Call Assaults - Aggravated					
Location 1300 FIRST ST #A				City GILROY	Rep Dist C027/	Area 1	
Beat 2	Officer G09450/GRIFFITH, BOBBY			Assignment Team 5	Entered by G09450	Assignment Team 5	RMS Transfer Successful
Approving Officer S01720		Approval Date 09/19/2007		Approval Time 12:19:00			
Admitt Re-Probable Cause Yes							
Modus Operandi							
Crime Code(s) ASSAULTS							
Narrative							

Officer B. Griffith
07-5839 Supplemental Report

REPORT:

On 9-18-07 at about 2145 hrs GPD Officers responded to 1300 First St (Claddaugh Irish Pub) on a report of a fight where the patrons were throwing tables and chairs at each other.

Upon my arrival I contacted (VIC#3) Christopher Williams, the original reporting person who called 9-1-1 on his cellular telephone. The following is what Williams told me. It should be noted during the entire interview Williams kept telling me that (VIC#1) Scott DelCastillo had a bad past, but he would never tell me what his past was.

WILLIAMS STATEMENT:

The Delcastillo family and he (Williams) were eating at the Claddaugh, as Williams was their real-estate agent. While they were eating, (VIC#1) Scott Delcastillo went to the bar with his girlfriend, (WIT#1) Crystal Cole. The next thing Williams sees is Scott fighting with (SUS#2) Cesar Villagrana, whom Williams did not know but later ID'ed him while he was handcuffed outside waiting to be transported to the hospital. Williams stated that he did not see Villagrana enter the restaurant nor did he know who he was with. Williams ran over to the bar to break up the fight. As he did this (SUS#2) Benjamin Carrasco, whom Williams did not know but later ID'ed him outside while he sat on the ground handcuffed, punched Williams on his left cheek/eye. Williams yelled out that he was going to call the police. Williams dialed 9-1-1 on his cellular telephone. After he hung up with the dispatcher Williams ran back over to the fight and saw Villagrana. Villagrana had a knife in his right hand, looked at Williams and said, "You fucking snitch." Williams became fearful of Villagrana and ran away. Williams could not provide further information.

I took Williams outside and had him look at Villagrana and Carrasco, who were both handcuffed and located away from each other. Williams identified both subjects as previously described in his statement.

After I was finished with Williams I saw (VIC#2) Noel Delcastillo being loaded into an ambulance. I learned that no one interviewed him, as he had been unconscious. Noel was going to be flown to San Jose Regional Hospital. I enter the ambulance and briefly spoke with Noel.

STATEMENT FROM NOEL DELCASTILLO:

Report Officer G09450/GRIFFITH, BOBBY	Printed At DA 05/22/2011 16:49	Page 1 of 2
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Incident Report	07-5839	Supplement No 0007
GILROY POLICE DEPARTMENT		
Narrative		

His son (VIC#1) Scott walked to the bar and was punched by (SUS#1) Carrasco, whom Noel did not name but described him as the subject with a walking cane which turned out to be Carrasco based on all the Interviews, for no apparent reason. Noel ran over to help Scott. As Noel pulled Carrasco off of Scott, Carrasco punched Noel and started hitting Noel with his cane on his head. The next thing Noel remembers is being loaded into the ambulance, as he had been knocked out. Noel did not know why the fight started and could not provide anything else.

Noel was transported to Saint Louise Hospital and then flown by Cal-Star to San Jose Regional Hospital.

I later helped complete the Affidavit for Villagrana. I also had Villagrana and Carrasco's criminal histories checked. I gave those criminal histories to Cpl. Snow.


DISPOSITION:

Attach to original report.

EOR

Report Officer G09450/GRIFFITH, BOBBY	Printed At DA 05/22/2011 16:49	Page 2 of 2
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Incident Report		07-5839	Supplement No 0008
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer DERAS, JOSEPH
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information							
Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0008	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158		
Status INVESTIGATE	Nature of Call Assaults - Aggravated		Location 1300 FIRST ST #A				
City GILROY	Rep Dist C027/	Area 1	Beat 2	From Date 09/18/2007			
Officer D09696/DERAS, JOSEPH			Assignment Team 5	Entered by D09696	Assignment Team 5	RMS Transfer Successful	
Prop Trans Stat Pending	Approving Officer S01720	Approval Date 09/19/2007		Approval Time 12:22:41			
Property Report Use Yes							

WITNESS 1: PICKENS, JAMES							
Involvement WITNESS	Invl No 1	Type Individual	Name PICKENS, JAMES	MNI 231467	Race WHITE	Sex MALE	
Type WORK/BUSINESS		Address 201 W. MISSION ST			City SAN JOSE		
State CALIFORNIA		ZIP Code 95110					

WITNESS 2: LYNCH, JOHN							
Involvement WITNESS	Invl No 2	Type Individual	Name LYNCH, JOHN	MNI 231464	Race WHITE	Sex MALE	
Type WORK/BUSINESS		Address 201 W. MISSION ST			City SAN JOSE		
State CALIFORNIA		ZIP Code 95110					
Phone Type BUSINESS		Phone No (408) 277-4631					

WITNESS 3: DRAGO, MICHAEL							
Involvement WITNESS	Invl No 3	Type Individual	Name DRAGO, MICHAEL	MNI 231465	Race WHITE	Sex MALE	
Type WORK/BUSINESS		Address 201 W. MISSION ST			City SAN JOSE		
State CALIFORNIA		ZIP Code 95110					
Phone Type BUSINESS		Phone No (408) 277-4631					

WITNESS 4: LA, HIEU							
Involvement WITNESS	Invl No 4	Type Individual	Name LA, HIEU	MNI 231466			
Type WORK/BUSINESS		Address 201 W. MISSION ST.			City SAN JOSE		
State CALIFORNIA		ZIP Code 95110					
Phone Type BUSINESS		Phone No (408) 277-4631					

Property							
Item 1	Involvement EVIDENCE FELONY - INJURY T/C'S			In Custody Yes	Doc No 50543		
Description MINI DISC OF PHOTOS OF CRIME SCENE, VICTIMS, ETC							
Qty PHOTOGRAPHS (AS EVIDENCE)			Article PHOTOS	# Pieces 1	BY BY		
Report Officer D09696/DERAS, JOSEPH				Printed At 05/22/2011 16:49		Page 1 of 3	

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Incident Report	07-5839	Supplement No 0008
GILROY POLICE DEPARTMENT		
Modus Operandi		
Crime Code(s) ASSAULTS		
Narrative		

On September 18, 2007 at about 2145 hours I responded to 1300 First St. This was regarding a fight where off-duty police officers had detained some individuals at gun point.

When I arrived, I found four San Jose Police Officers standing near several subjects who were on the ground. I did not see anyone with their weapons drawn. Some of the officers had their badges exposed and they told me who they were. I asked them for the identification. They complied and provided it to me.

Gilroy Police Officers handcuffed two subjects who were nearby. I left the officers to survey the scene. I found three parties who were bleeding and in need of medical attention. I advised Communications and requested EMS to respond.

When I looked at the parties more closely, I noted that one of them, later identified as Cesar VILLAGRANA was wearing a leather vest. This vest had the bottom 'rocker' of 'California' and another smaller patch of MC on it. I am familiar with this type of vest and the patches on it. I have previously been assigned as a full time investigator on the Anti-Crime Team. I have attended numerous training classes on bona fide outlaw motorcycle gangs, I have been a member of the International Outlaw Motorcycle Gang Investigators Association, the Central Coast Gang Investigators Assoc. and I have provided in-service/advanced officer training to California Peace officers. I have read numerous publications regarding outlaw motorcycle gangs, their methods of operation, clothing culture etc. I have spoken with federal agents who have infiltrated to the Hells Angels and their rivals, the Mongols' outlaw motorcycle gangs. I immediately recognized the patches described as that of a 'prospect' member of the Hells Angels.

VILLAGRANA was intoxicated and uncooperative. He was swearing at the EMS personnel who trying to render aid to him. He was bleeding from abrasions on his face and remained uncooperative throughout.

I tried to speak with Noel DELCASTILLO. He was unresponsive and appeared to have been knocked unconscious. He was bleeding from his nose and face area.

I met with the witnesses (SJPD). I asked them to tell me what happened. They told me that they had been inside the Claddaugh restaurant. They noticed VILLAGRANA enter the restaurant. They also noticed that he was wearing the Hells Angels prospect patches on his vest. They saw a large knife in a sheath hanging from his belt as well. Shortly thereafter they left the restaurant and went outside. One of the officers recently purchased a new car and they were all looking at it.

They heard a commotion inside the bar. They were in the parking lot at this time. They looked toward the bar. A male and a female came outside and left quickly. They saw the subject that they previously noticed as the Hells Angels' prospect, throwing tables and chairs inside the bar. They saw this subject, VILLAGRANA stomping on someone wearing a black shirt (Scott DELCASTILLO) with his feet and fighting with that person.

They decided to stay where they were and participate as 'good witnesses'. However, Scott DELCASTILLO came outside of the restaurant via the east doors. He was bleeding. VILLAGRANA followed DELCASTILLO outside. VILLAGRANA was holding a large knife in his hand as he came outside. He was saying things to the victim. The victim was clearly trying to stay away from VILLAGRANA.

The group of officers did not know if DELCASTILLO had been stabbed or not. DELCASTILLO ran back into the restaurant via the west doors as if he was trying to hide or find shelter. VILLAGRANA was going to go after him. Almost simultaneously, another subject appeared. He was identified as Benjamin CARRASCO. He was carrying a cane over his head. It appeared to the group of officers that he was a friend of VILLAGRANA's and was going to assist him in assaulting DELCASTILLO.

Officer Hieu La #3811 drew his firearm and identified himself as a police officer. He ordered the suspects to drop their weapons and told them to get down onto the cement. The suspects complied. Officer M. Drago #3889 called the police from his cellular telephone. One of these officers was able to retrieve a police baton from his vehicle and held onto it in the event he needed it to quell the incident.

Report Officer D09696/DERAS, JOSEPH	Printed At 05/22/2011 16:49	Page 2 of 3
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BY

Printed At

05/22/2011 16:49

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1300

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Incident Report	07-5839	Supplement No 0008
GILROY POLICE DEPARTMENT		
Narrative		

I asked them if the second suspect, CARRASCO was walking with a limp or if it appeared that he needed assistance in walking. They said that he was walking, 'pretty good' and it was apparent that he was determined to be a part of the incident. Both suspects complied with the officers' demands. They took the knife from VILLAGRANA and kept it with them until they told us where they placed it (next to them in a small garden). This was later secured and placed into evidence.

I later had the occasion to speak with Sgt. R. Foster of the San Jose Police Dept. He is the officers' supervisor. He told me that he had been at the Claddagh earlier with the group. He was present when VILLAGRANA arrived. He said that they all commented on the subject and his vest. They also noticed a large knife in a sheath on his belt. However, Sgt. Foster left the restaurant prior to this incident. Following that conversation, I spoke with Lieutenant E. Kong from the San Jose Police Dept. We discussed what took place and the actions that the officers took. Lt. Kong told me that the officers were writing a police report and gave me SJPD case # 07-261-1208.

While surveying the crime scene, I noticed that the restaurant was in disarray. There were numerous over turned tables, chairs, salt/pepper shakers on the floor and broken (small) tabletop advertisements. When I retrieved my camera later on, I returned to the interior to take photo's of the scene. The area described had been cleaned up and the tables replaced etc. I took several photo's of the area and the suspects, victim's etc. I later placed that original photo disc into evidence.

I was advised by officers at the scene that there was surveillance cameras operating at the time of the incident. The management was unable to retrieve the footage for us at the time. This will be available at a later time.

I was the watch commander for the evening and was given updates by the officers present as to what their respective witnesses/victims told them. I directed the two suspects to be taken to the hospital for a medical clearance. MSO Sullivan later handled that and the pair was lodged in the County Jail.


That concluded my involvement in the case.
end jhd9696

CONTROLLED DOCUMENT	
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RY	Printed At 05/22/2011 1674
DATE	NO FOR RELEASE

Report Officer D09696/DERAS, JOSEPH	Page 3 of 3
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1301

331

Incident Report		07-5839	Supplement No 0009
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer CALLAHAN, JIM
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information

Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0009	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated				
Location 1300 FIRST ST #A.			City GILROY	Rep Dist C027 /	Area 1
Seal 2	Officer C00771/CALLAHAN, JIM		Assignment Team 5	Entered by C00771	Assignment Anti-Crime Team
RMS Transfer Successful	Approving Officer F09993	Approval Date 09/20/2007	Approval Time 02:35:52		

Modus Operandi

Crime Code(s)
ASSAULTS

Narrative

J. Callahan # C0771

As a result of this investigation, I checked the files of the Gilroy Police Department and located 2 field interview cards for SU Cesar VILLAGRANA. On 6/10/07 and again on 6/15/07, VILLAGRANA was observed wearing clothing as described in this case. Specifically, a black leather vest with red and white colored "California" lower rocker and red and white colored patches which read, "San Jose" and "Prospect". On 06/10/07, VILLAGRANA was in the company of another unknown male subject who was also wearing clothing supporting the Hells Angels. This subject was wearing a hat with the numerals "81" on the front. These numbers signify the letters "H" and "A" and are commonly used in Hells Angels logos, web-sites and printed material. I know that a "prospect" is a person who is seeking full membership in the motorcycle club. I also know that the Hells Angels M/C are a documented criminal street gang.


CONTROLLED DOCUMENT
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BY _____

Report Officer C00771/CALLAHAN, JIM	Printed At DATE 05/22/2011 16:49	Page 1 of 1
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DO NOT REPRODUCE

1302

227

Incident Report		07-5839	Supplement No 0010
GILROY POLICE DEPARTMENT			
	Address		Reported Date
	7301 HANNA ST		09/18/2007
	City, State Zipcode		Nature of Call
	GILROY, CA 95020		ASSAULT A
	Address 2		Officer
		CALLAHAN, JIM	
Phone Number			
408-846-0300			
Fax Number			
408-846-0339			

Administrative Information							
Agency	Report No	Supplement No	Reported Date	Reported Time	CAD Call No		
GILROY POLICE DEPARTMENT	07-5839	0010	09/18/2007	21:50	072610158		
Status	Nature of Call						
REPORT TO FOLLOW	Assaults - Aggravated						
Location	City	Rep Dist	Area				
1300 FIRST ST #A	GILROY	C027/ /	1				
Beat	Officer	Assignment	Entered by				
2	C00771/CALLAHAN, JIM	Anti-Crime Team	C00771				
Assignment	RMS Transfer	Prop Trans Stat	Approving Officer	Approval Date			
Anti-Crime Team	Successful	Pending	G00661	09/26/2007			
Approval Time							
14:36:14							

Property			
Item	Involvement	In Custody?	Tag No
1	EVIDENCE FELONY - INJURY T/C'S	Yes	50603
Description			Typ
audio interview w/DELCASTILLOS			A
Cat	Article		
DATA PROCESSING EQUIPMENT	CD		

Modus Operandi	
Crime Code(s)	
ASSAULTS	
Narrative	

J. Callahan # C00771

On 09/20/07 at 0830 hrs. I received a telephone call from SAS Bob Cooke from the Department of Justice, San Jose office regarding observation he made while off-duty on the night of 9/18/07. SAS Cooke said that he was eating at Ninja Sushi on First Street in Gilroy at approx 2030 hrs. and observed two male subjects at the bar at that location. The Ninja Sushi bar is approx 1/2 mile from The Claddagh Bar and Grill. He noticed that one subject was wearing a Hells Angels "prospect" vest and the other was wearing a t-shirt which said "Support Red and White" which he recognized as Hells Angels related clothing. He said that the "Big guy" with the vest was wearing a large knife, carried in a sheath suspended from his belt. SAS Cooke said that the two subjects were loud and boisterous while in the bar but left without incident after having a few drinks.

On 9/20/07 at 1600 hrs, I met with Noel DelCastillo, Rene DelCastillo and Scott DelCastillo at their home in Gilroy for a secondary interview. The interview was recorded and the audio CD is entered into GPD evidence.

During the interview, I confirmed each person's clothing description to aid in identifying them in the restaurant's surveillance videos. Rene told me that she was wearing a black leather jacket with a white "Planet Hollywood" patch on the back. She said that Crystal Cole (her son's girlfriend) was wearing a black leather Harley-Davidson jacket. Rene said that she lent this jacket to Crystal and she showed each of them to me.

Noel was wearing a black golf shirt and tan "Dockers" shorts. Scott was wearing a black button-front shirt and green "Dockers" shorts and sandals.

I asked Noel and Rene if they knew any of the subjects involved. Neither said that they had ever seen the subjects before. I asked if they knew how the fight got started and Noel told me that his family had just finished eating and were waiting to box the remainder of their food when something started with his son (Scott). They said that the smaller of the two subjects (Carrasco) "came out of nowhere" and hit Scott in the side of the face. Noel said that "Cesar" (Villagrana) then told Carrasco that the police had been called and instructed him to leave. An argument started and Villagrana started fighting with Scott. Noel said that Villagrana had a knife and that he

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C00771/CALLAHAN, JIM	09/22/2011 16:49	2 of 2

DO NOT DUPLICATE

1303

333

Incident Report	07-5839	Supplement No 0010
GILROY POLICE DEPARTMENT		
Narrative		

grabbed Villagrana to prevent him from "sticking Scotty." Noel said that at one point, "while the guy was on the ground", he grabbed the sheath on Villagrana's belt and saw that it was empty and concluded that Villagrana must have the knife in his hand.

I asked Noel if he saw Villagrana throwing tables and chairs and he said that this happened while Villagrana was fighting with Scotty. At one point, Rene said that she even picked up a chair, "to get the guy off of Scotty."

Noel said that Carrasco went outside and got a cane or a stick and he's the one who "I think hit me in the head with it." Noel said that this happened outside the front door of the bar as "we were trying to leave."

Noel said that after they exited the bar, "the little guy" ran up to him with a stick or a cane and started hitting him. Noel said that he was trying to protect himself and he was hit in the head, hand, and wrist with the cane. His injuries included a broken bone in his right hand, a broken nose and a orbital bone over his left eye. He was transported to San Jose Regional Hospital for treatment and later seen by Dr. Bennetts in the City of Monterey. He provided a medical records release for both facilities.


I asked Noel and Rene if they had heard any comments made regarding the Hells Angels. They said that they did not but remember hearing something about "Mongrels". Rene said that she heard this while Scott and Villagrana were arguing before the fight broke out. She said that she was later told that "Mongrels" are a rival motorcycle gang with the Hells Angels. Rene told me that no one in her family has any ties or associations to a motorcycle gang and no one even rides or owns motorcycles.

I then interviewed Scott DelCastillo who said that he did not want to talk to me for fear of being labeled as a "rat". Scott said that he is scheduled for jail time in an unrelated matter and is worried about retaliation while in-custody. I told him that I would note his desire in the police report. I asked Scott if he knew the subjects involved and he said that he has never seen them before. Scott said that they were talking at the bar and had done a shot of tequila together. They were talking about growing up in Gilroy and then he was "blind sided" by some guy. After this Scott said that he "was upset and wanted to go outside and fight him but didn't". Scott said that he and his girlfriend tried to get outside through the back door but an "undercover officer" stopped them. Scott denied any membership in a gang and other than the fact that Villagrana was wearing a Hells Angels jacket there was no mention of gang relations. Scott was later seen by Dr. Bennetts and received 8 stitches above his eye.

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1304

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Incident Report		07-5839	Supplement No 0011
GILROY POLICE DEPARTMENT			
	Address 7301 HANNA ST		Reported Date 09/18/2007
	City, State Zipcode GILROY, CA 95020		Nature of Call ASSAULT A
	Address 2		Officer CALLAHAN, JIM
	Phone Number 408-846-0300		
	Fax Number 408-846-0339		

Administrative Information							
Agency GILROY POLICE DEPARTMENT	Report No 07-5839	Supplement No 0011	Reported Date 09/18/2007	Reported Time 21:50	CAD Call No 072610158		
Status REPORT TO FOLLOW	Nature of Call Assaults - Aggravated						
Location 1300 FIRST ST #A			City GILROY	Rep Dist C027/	Area 1		
Beat 2	Officer C00771/CALLAHAN, JIM			Assignment Anti-Crime Team	Entered by C00771		
Assignment Anti-Crime Team	RMS Transfer Successful	Prop Trans Stat Pending	Approving Officer G00661		Approval Date 10/10/2007		
Approval Time 15:43:02							

Property							
Item 1	Involved EVIDENCE FELONY - INJURY T/C'S			In Custody? Yes	Tag No 50759		
Description VIDEO FROM BAR				Type A			
Cat OTHER (only if cannot categorize article)	Article VIDEO	Brnd DVD	# Pieces 3				

Modus Operandi							
Crime Code(s) ASSAULTS							
Narrative							

J. Callahan # C0771

I was able to review the video which was provided by the management of the Claddagh Bar and Grill. This video is from 3 cameras which are mounted on the ceiling of the bar and is complete with audio. The various DVDs are retained in evidence. There is no camera mounted outside.

The video showed that the involved parties greeted each other and shaking hands on the west side of the bar at 2133 hrs. (This time is imprinted on the video and may not coincide with the GPD CAD time).

At 2136 hrs, Scott DelCastillo became involved in an argument with Cesar Villagrana. Benjamin Carrasco becomes involved as does both Noel DelCastillo and Rene DelCastillo. Christopher Williams appeared to be watching the argument.

One minute later, the argument became more agitated and there is mention of the police being called. Villagrana is heard to say, "Let's go outside" which appeared to be in the context of a challenger to fight.

During this same time frame, Carrasco is observed throwing a single punch with his right hand which hit Scott DelCastillo above the right eye. Carrasco "flips off" Scott and walked toward the west exit door of the bar.

Immediately after Scott is hit, Noel and Rene DelCastillo start to argue with Villagrana. Villagrana, who was previously mentioned as wearing a Hell's Angels "prospect" vest, pointed to the Hell's Angels patch on the front left side of his vest. Rene Delcastillo is heard to say, "I don't give a shit about that" and "you're garbage, you're just garbage." At this point, all parties had the opportunity to leave the bar but chose to stay and continue the altercation.

At 2139hrs, Carrasco is back in the bar and challenged Scott DelCastillo to "go outside", again a challenge to fight. The argument between the parties continued and Scott and Villagrana are separated by Chris Williams. Carrasco picked up a chair, held it in front of him, and was confronted by Rene DelCastillo. He then put the chair

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Incident Report	07-5839	Supplement No 0011
GILROY POLICE DEPARTMENT		
Narrative		

down and walked toward the door. Scott DelCastillo is heard to say, "outside, bitch."

At 2141 hrs, Carrasco re-entered the bar through the east door and again became involved in the argument. Villagrana held Carrasco off and pushed him toward the exit. Villagrana is heard to say, "Benny, go home...get the fuck out of here." He repeated this several times.

Villagrana is confronted by Williams, Noel and Rene DelCastillo. Villagrana asks, "What did I do?" He is answered by Williams who replies, "No, you didn't do nothing. Your pussy friend hit him for no good reason" and "you know what, you didn't do anything, you just let it happen and you were happy about it."

At 2142 hrs, Villagrana is confronted by Scott, Noel and Rene DelCastillo, Williams and Scott's girlfriend Crystal Cole. Again, Villagrana asked, "What did I do?" Cole stepped in between Scott DelCastillo and Villagrana, facing Villagrana. Cole slapped Villagrana in the face and Villagrana responded by saying, "Don't touch me." Cole pushed Villagrana with both of her arms, pushing him with enough force to move him backwards. Williams stepped in between the two to break-up this altercation as does the bartender Valles.

At this point Villagrana picked up a bar table and attempted to throw it at the group. It appeared that the table is too heavy and Villagrana tossed it aside. He then picked up a bar stool and threw the stool at Scott DelCastillo. Villagrana is heard to say, "I'll fucking kill you, mother fucker." Villagrana charged Scott and grabbed him next to the bar. Rene DelCastillo moved into the fight and said, "Get off him, you fucking asshole." She is seen picking up a bar stool, swinging it over her head, striking at Villagrana.

Noel DelCastillo grabbed Villagrana around the neck and Crystal Cole also moved into the fight. Noel is able to pull Villagrana to the ground and Scott follows, saying, "get up bitch." At this point, Scott is no longer defending himself but starts attacking Villagrana. Scott is on top of Villagrana and the bartender is yelling, "let him go." Scott is seen punching Villagrana numerous times in the head. Rene DelCastillo picked up a bar stool, swings it above her head, striking downward at Villagrana's head. She repeated this a second time.

The bartender and Williams attempt to pull Scott DelCastillo off of Villagrana and Valles is heard to say, "Scotty, here come the cops." At this point Scott is still punching Villagrana who is attempting to get up off of the floor. Rene DelCastillo is seen kicking Villagrana and Noel DelCastillo is seen holding Villagrana down while Scott is punching him.

Villagrana is able to get back up to his feet and the altercation moves outside through the bar's east exit doors.

I note that while watching the entire video, all of the subjects had numerous opportunities to discontinue the altercation and walk away. Instead, they chose to remain and fight.

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1306

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STATE of CALIFORNIA, COUNTY of SANTA CRUZ,
SEARCH WARRANT and AFFIDAVIT

Deputy Jeff Simpson swears under oath that the facts expressed by him/her in the attached and incorporated Statement of Probable Cause are true and that based thereon he/she has probable cause to believe and does believe that the articles, property, and persons described below are lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below, and are now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.


 (Signature of Affiant)

HOBBS SEALING REQUESTED: ☐ YES ☒ NO
 NIGHT SEARCH REQUESTED: ☐ YES ☒ NO

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF SANTA CRUZ: proof by affidavit, under penalty of perjury, having been made before me by Deputy Jeff Simpson that there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below by "☒"(s), in that:

- ☐ it was stolen or embezzled;
- ☐ it was used as the means of committing a felony;
- ☐ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- ☒ It tends to show that a felony has been committed or that a particular person has committed a felony;
- ☐ it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- ☐ there is a warrant to arrest the person;
- ☐ a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

You are Therefore COMMANDED to SEARCH:

Cesar Villagrana, a Hispanic male adult, born 1 June 1975, approximately six feet two inches tall, weighting approximately two hundred eighty pounds with black hair and brown eyes.

6870 Rosanna St, Gilroy California: further described as a white colored single story, single family dwelling with light brown colored trim. The numbers 6870 are the color black and attached vertically to the right of the front door. The front door has a metal security screen in front of it.

AND the attachments and appurtenances thereto, including the surrounding grounds and any yards, basements, garages, carports, storage areas and sheds, mailboxes, outbuildings and trash containers assigned to the above-described premises; and all containers therein and thereon which could contain any of the items sought;

AND the Casio Verizon cellular phone and Apple Ipod touch which are currently being stored at the Santa Cruz Gang Task Force property room.

AND ALL VEHICLES which are driven by, occupied by, under the control of, owned by, or registered to **Cesar Villagrana** wherever said vehicle(s) is found in Gilroy, California;

For the FOLLOWING PROPERTY or PERSON(s):



1. Any and all tattoos appearing on the body of Cesar Villagrana which may be photographed;
2. Any evidence of street gang membership or affiliation with any street gang. Said paraphernalia to include but not limited to any reference to the Hells Angels motorcycle club or other motorcycle clubs; items are to include gang related clothing; any drawings or miscellaneous writings regarding or evidencing gang membership; or graffiti or objects depicting gang members' names, initials, monikers, slogans; or containing mention of street gang membership affiliation, activity, or identity; any paintings, drawings, photographs, or photograph albums depicting persons, gang members' names, initials, logos, monikers, or slogans; or containing mention of street gang membership affiliation; or which may depict items sought and/or believed to be evidence in the case being investigated with this Warrant, or which may depict evidence of any criminal activity; any newspaper clippings tending to relate details or reference to any crime of violence or association to Hells Angels or other motorcycle clubs; and any address books, lists, or single references to addresses or telephone numbers of persons who may later be determined to belong to or be affiliated with any street gangs;
3. Articles of personal property tending to establish the identity of persons in control of the above-described premises and vehicles where property and evidence sought under this search warrant may be found, including, but not limited to: utility company receipts, rental receipts, mail envelopes, photographs, miscellaneous bills, keys, personal identification documents, vehicle ownership and/or registration documents, and vehicle insurance papers;
4. To answer and/or record all telephone calls (residential and/or cellular), to seize answering machines, cellular phones and to record and return incoming messages during the service of this search warrant; cellular telephones and electronic pagers; voice mail messages and any electronically stored data, including but not limited to, the assigned cellular telephone number, e-mail address, names and/or nicknames and associated telephone numbers listed in the "Phone Book" or "Contacts", dates, times and telephone numbers of recent call activity, text messages, photographs and videos in any cellular telephones seized, cellular phone statements / bills;
5. All documents concerning illegal gang activities, including, but not limited to, Hells Angels motorcycle club or other outlaw motorcycle clubs. "Document" or "Documents" means any and all records and information whether drafts or finished versions, originals or annotated or non-identical copies, however and by whomever created, produced or stored (manually, mechanically, electronically or otherwise) including, but not limited to, books, papers, files, notes, police reports, correspondence, electronic files, electronic mail, telephone bills, messages or logs, notes of conversations or meetings, contacts, agreements, calendars, date books, diaries, computer programs, tape recordings, compact disks (CD's), diskettes, disk packs or other electronic media and other storage devices.

"Concerning" means relating to, referring to, describing, evidencing or constituting.

Affiant may remove all computer systems and computer hardware located on the premises for an off-site examination.

6. Any firearms or firearm related items including, but not limited to: ammunition, carrying cases, cleaning kits, firearm or ammunition receipts;
7. Examination and search, by a law enforcement officer or within a law enforcement computer forensic lab, of all of the above cellular telephones, computers and components and items of property for files, documents, data, data images, software, deleted files, system configurations, dates and times, emails, unallocated and slack space. And additionally, to search for electronic ledgers, plans, letters, text messages, emails, and other evidence related to this investigation.

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Affidavit and attached and incorporated Statement of Probable Cause were sworn to as true and subscribed before me on this 1 day of APRIL, 2011, at 11:11 A.M. 1PM. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signature]
(Signature of Magistrate)

HOBBS SEALING APPROVED: ☐ YES ☒ NO
NIGHT SEARCH APPROVED: ☐ YES ☒ NO

Judge of the Superior Court of California, County of Santa Cruz, Dept. 5

JEFF ARMOUR
(Magistrate's Printed Name)

2011 APR 22 PM 11:09
SUPERIOR COURT
COUNTY OF SANTA CRUZ
JUDGE JEFF ARMOUR

STATE of CALIFORNIA, COUNTY of SANTA CRUZ,
ATTACHED and INCORPORATED
STATEMENT OF PROBABLE CAUSE

I, Deputy Jeff Simpson, am at all times mentioned herein, your affiant. Your affiant states that the facts in support of the issuance of this search warrant are as follows: I have been employed as a Deputy Sheriff for the County of Santa Cruz since August 2003. I have worked as a uniformed patrol deputy for over five years, including two years as a Field Training Officer. I have worked as a court security bailiff for one year. I possess an advanced certificate issued by the California Commissions of Peace Officer Standards and Training (POST). I am currently assigned as a detective on the Santa Cruz County Gang Task Force (SCCGTF). One of the functions of the SCCGTF is to investigate gang related crimes within the County of Santa Cruz.

During my career, I have investigated over fifty gang-related crimes. In addition, I have investigated numerous firearm-related crimes including possession of concealed firearms, possession of loaded firearms, felons in possession of firearms/ammunition, assaults with firearms, attempt homicides and homicides. My involvement in these investigations has included: initial response to the scene, evidence review and interpretation, review and analysis of police reports documenting various phases of the investigation, interviewing of suspects, victims and witnesses, completion of court orders for phone records, and completion of search warrants for evidence. Many of the firearm-related crimes that I have investigated have led to the arrest and conviction of the suspect.

During the course of my career, I have contacted over 75 criminal gang members and affiliates in both formal and informal circumstances. I have spoken with victims, witnesses and community members that are familiar with the criminal gang culture. I am aware of the pattern of criminal gang related crimes that include homicide, assault with deadly weapons, intimidation, theft/robbery and narcotic sales. I have received over fifty hours of formal gang related training some of which dealt with Hispanic prison and street gangs.

In August 2010, I attended the Basic Gang Investigations course through the Central Coast

Gang Investigator Association. This course provided information on prison gangs, street gangs, identification of gang members/associates, investigations of gang related crimes and laws related to gang crimes. This was an eight hour course.

In August 2010, I attended a training course called Violent Gang Infiltration Through the Use of Informants presented by the Contra Costa County District Attorney's Office and the Contra Costa County Sheriffs' Office. This course provided a case study of how Informants can be used to infiltrate criminal street gangs and investigate their criminal activities. This was an eight hour course.

In September 2010, I attended a training course called La Nuestra Familia and Norteno Street Gangs through the Central Coast Gang Investigator Association. This course focused on the formation of the prison gang La Nuestra Familia and its influence on Norteno street gang members and their criminal activities. This was an eight hour course.

In October 2010, I attended a training conference called the Gang Survival Conference presented by the Monterey County Joint Agency Task Force. This conference included training regarding officer safety regarding gang contacts, the use of cyberspace to investigate gang crimes, court preparation for gang crimes and outlaw motorcycle gangs. This was a sixteen hour conference.

In addition, I have received training in gang investigation and identification from Sgt Roy Morales and Inspector Mario Sulay, both of whom I know to be employed as peace officers by Santa Cruz County. I also know both of them to be gang experts in the County of Santa Cruz. I routinely review gang-related field interview cards and gang-related crime reports. During my career, I have identified numerous gang members. I have participated in multiple Joint Agency Gang (JAG) operations in Santa Cruz County. JAG is a multi-agency directed street enforcement task force concentrating on investigating gang related crimes and identifying and contacting gang members and associates having influence in Santa Cruz County. In addition, I have conferred with criminal street gang investigators and experts on numerous formal and informal occasions regarding gang investigations and gang issues.

I am currently assisting in the investigation of a possession of a concealed unregistered handgun (penal code section 12025(b)(6)) that occurred on 3-17-11 at 7851 Soquel Dr in the County of Santa Cruz. The original incident is documented in Santa Cruz County Sheriff's Office case number 11-02482. The following is a summary of my review of this crime report and the follow-up investigation conducted by the SCCGTF:

On 3-17-11 at approximately 1747 hrs, Santa Cruz County Sheriff patrol deputies were dispatched to assist the California Highway Patrol (CHP) with a traffic accident that had just occurred on Soquel Dr in Aptos. The accident was reported to CHP as a vehicle versus a motorcycle and the motorcyclist flew sixty feet and was on the ground. A further update from dispatch reported the motorcyclist had a handgun. Deputies Jalon Harris and Chuck Beckman, whom I know to be sworn peace officers employed by the County of Santa Cruz, arrived a few minutes later and secured the handgun from a witness who was on scene. The motorcycle was a black Harley Davidson with a California license plate of 16E6615. Dispatch conducted a records check on that license plate and it came back registered to a 2002 Harley Davidson motorcycle. The registered owner was Cesar Villagrana at 6870 Rosanna St in Gilroy CA. Deputy Beckman identified the motorcyclist as Cesar Villagrana from a Department of Motor Vehicles photograph. Villagrana was lying injured on Soquel Dr and was treated by paramedics.

Deputy Harris interviewed the witness who found the gun. The witness showed Deputy Harris the spot where he found the handgun. Deputy Harris found this location to be approximately four feet from the damaged motorcycle and twenty to thirty feet from where Villagrana was lying. The area where the handgun was found was near several items of debris that appeared to have come from the motorcycle's hard-sided saddlebag. These items of debris were a small blue pouch with mechanical tools which was approximately two feet from where the handgun was found and a black pouch which was approximately one foot from where the handgun was found. The saddlebag was now lying on the ground approximately five feet from the motorcycle with its top door open. When Deputy Harris obtained the handgun from the

witness, he found the gun had a magazine loaded in it and the safety was off.

I arrived on scene at approximately 1803 hrs. At this time Villagrana was being loaded into an ambulance. I found the motorcycle was in the middle of Soquel Dr near Aptos Rancho Rd. The motorcycle was lying on its left side. The front of the motorcycle was facing southeast. The motorcycle had severe front end damage and debris spread across Soquel Dr for approximately twenty feet. Most of the debris appeared to have come out of the right side saddlebag, which looked to have broken off from the motorcycle during the accident and was lying in the middle of Soquel Dr around five feet south of the motorcycle. I believed the saddlebag lying in the street was from off the motorcycle as the motorcycle was now missing its right side saddlebag and the one on the street resembled the saddlebag that was still attached to the left side of the motorcycle. This saddlebag was a hard-style, approximately two feet long, six inches wide and one foot tall. The debris included a cloth bag with clothing and hygiene products, two small cloth bags with automotive tools inside, a black skull cap style helmet, and a foot long "Mag" flashlight that was inside a white sock. The rest of the debris was mainly broken parts from off the motorcycle. The vehicle that the motorcycle struck as part of the accident was a gold colored sedan. This vehicle had sustained driver side front end damage. I did not see any of that vehicle's doors/trunk open and it did not appear any items came from out of the interior during the accident.

I met with Officer Tanguay, whom I know to be a sworn peace officer employed by the California Highway Patrol. Officer Tanguay told me that he was going to be conducting the primary CHP investigation into the cause of the traffic accident. Officer Tanguay told me the handgun was now in his possession and locked in the trunk of his patrol vehicle which was parked on scene. Officer Tanguay and I went over to his patrol car where he turned over possession of the handgun to me. When I obtained the handgun from Officer Tanguay, I found it was unloaded with no magazine attached and the slide locked back. Officer Tanguay told me when he obtained the handgun from Deputy Harris, he removed the magazine and racked the slide back to unload it. Officer Tanguay told me when he did this,

he found no round in the chamber of the gun and he saw the magazine had several rounds in it. Officer Tanguay also provided me with the magazine for the handgun.

The handgun was a black semi-automatic Taurus. The model number was PT 101 AF and the serial number was SML 34817 D. The caliber was .40 S&W. I later unloaded the magazine that had been in the handgun and found it had ten .40 S&W rounds inside. The handgun was considered loaded under 12031(g) PC due to having a loaded magazine attached. This handgun was capable of being concealed on a person or vehicle. Deputy Anthony Gonzales, whom I know to be a sworn peace officer employed by the County of Santa Cruz, conducted a records check on the Taurus handgun's serial number through Sheriff's Records. Deputy Gonzales found the handgun returned as not registered. Based on the location where the handgun was found and its close proximity to the saddlebag and debris, I believe the handgun came from the saddlebag, was loaded and had been concealed and was in possession of Villagrana. Under 12025(b)(6) PC it is a felony for a person not listed with the Department of Justice as the registered owner of a firearm which is capable of being concealed, to be in possession of that firearm.

On the street where Villagrana had been lying and treated by paramedics, I located a black leather vest with Hells Angels patches on it. These patches included: On the back of the vest along the top was a white patch with "Hells Angels" in red writing. On the middle of the back of the vest was the Hells Angels' death head patch. On the bottom of the back was a white patch with "California" in red writing. On the front of the vest on the bottom left side was a white patch with "San Jose" in red writing. I know from training and experience that this vest is commonly referred to as a "cut" and it affiliates the subject wearing the vest as a member of the Hells Angels. If the back of the vest or cut has these three patches: Hells Angels, death head and a state name, it identifies the subject as a full patch member. The vest found at the accident scene identified Villagrana as being a full patch member of the Hells Angels. I believed Villagrana had been wearing this vest at the time of the accident as it had been cut at the top shoulder strap area on both sides by the paramedics. I know