

FILED
 Court of Appeals
 Division II
 IN THE WA State of Washington COURT OF APPEALS
 4/12/2019 12:15 PM

STATE OF WASHINGTON)	
)	
Respondent,)	
)	No. <u>51948-8-II</u>
v.)	
)	STATEMENT OF ADDITIONAL
JEROME J. McFIELD)	GROUND FOR REVIEW
)	
)	
Appellant.)	

I, Jerome J. McField, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

This Statement of Additional Grounds is in addition to the appeal filed by my attorney, Brett Purtzer, related to the ineffective assistance of counsel. In addition to what Mr. Purtzer has set forth, my complaint is not only the failure of Mr. McGowan to “provide” me copies of the police report, or allow me to review the police reports, my other issue is that he failed to obtain over 250 photographs and all of the discovery in this case, and, therefore, he ineffectively represented me in this matter because I did not have all of the information that was important for my consideration as to whether to plead guilty.

What is also troubling, is that when the Omnibus Order was signed, Mr. McGowan represented that discovery was complete. *See Exhibit C.* Discovery wasn’t complete because Mr. McGowan didn’t have all the photographs, and I never saw any of the photographs until recently. Importantly, he never obtained the photographs that were taken at the scene after the incident. I relied upon Mr. McGowan,

but my reliance was misplaced because I did not know all the facts in this case. As such, I was prevented from entering a knowing, intelligent and voluntary plea, and I ask the Court to allow me to withdraw my guilty plea. Please review my declaration attached hereto.

As Mr. Purtzer stated in his brief, an attorney has a requirement to adequately investigate a case. *See State v. Jones*, 183 Wn.2nd 327, 346, 352 P.2d 776 (2015). Here, it was impossible for Mr. McGowan to have properly and adequately investigated the case when he did not have the photographs of the scene to understand my actions that day when three men showed up at the house, unannounced, where I was residing. I was trapped, assaulted, maced and beat on by the three men. Then I was dragged out of the house onto the front porch and I was grabbing anything I could to defend myself. I could not call 911. All witnesses were also maced.

In the hearing, the following is what Mr. McGowan stated regarding the photographs in this case.

Q: Did you – tell us about, you know, reviewing photographs with him.

A: Well –

Q: To the best you can recall.

A: There were photographs of text messages. I call them screen shots. There were photographs of – I know that we took, I guess you could call them photos of the house and where things would have fallen. Facebook printouts. I feel like what you're looking for is where the shells were, I don't remember honestly - - I can't remember if we ever saw photos of that or not. There weren't a lot of photos involved. We were mostly worried about our witnesses.

04/17/2019 – Transcript of hearing – testimony of M. McGowan, page 52, lines 11-23.

Clearly, Mr. McGowan did not have all of the discovery and I was prejudiced because of his ineffective representation. As such, I respectfully request this Court to grant my motion to withdraw my guilty plea and grant me a trial.

Date: 4/8/19

Signature: 
JEROME J. McFIELD

DECLARATION

I, Jerome J. McField, hereby declare as follows:

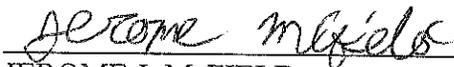
That I was represented by Matthew McGowan for the underlying case and I entered a guilty plea on July 24, 2017. Before I entered the guilty plea, I never had an opportunity to review the police reports, and, in particular, never saw the photographs that were generated as a result of the case. I did not receive those photographs until my attorney, Brett Purtzer, sent them to me on January 18, 2019. *See Exhibit A.* He obtained them directly from the Tacoma Police Department after making a public records request. *See Exhibit B.*

Mr. McGowan never obtained these photographs and I never saw the photographs, and I didn't know they existed. Based upon this failure of Mr. McGowan to obtain important evidence in my case, I received ineffective assistance of counsel and I did not enter a knowing plea, because I had no idea that (1) the photographs existed, and (2) Mr. McGowan never advised me that there would be photographs of the shooting scene. Had I known of the photographs, I would have wanted to review all of the police reports and all of the photographs for purposes of discussing the allegations in this case, and before deciding how I wanted to proceed.

Respectfully, I received ineffective assistance of counsel from Mr. McGowan because he failed to obtain all the discovery in this case. I did not enter a plea knowingly, voluntarily and intelligently with the full knowledge of all of the material generated by the police officers, including the photographs. As such, I respectfully urge this Court to grant my motion to withdraw my guilty plea and to proceed to trial in this matter.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 8 day of April, 2019 at Walla Walla, Washington.



JEROME J. McFIELD

HESTER LAW GROUP, INC., P.S.

Principals:
Monte E. Hester
Wayne C. Fricke
Brett A. Purtzer
Lance M. Hester
Casey M. Arbenz

1008 S. Yakima Avenue
Suite 302
Tacoma, Washington 98405
253-272-2157
Fax: 253-572-1441
www.hesterlawgroup.com

Reply to: Brett A. Purtzer
brett@hesterlawgroup.com

January 18, 2019

Jerome J. McField
DOC #407597
Washington State Penitentiary
1313 North 13th Avenue
Walla Walla, WA 99362

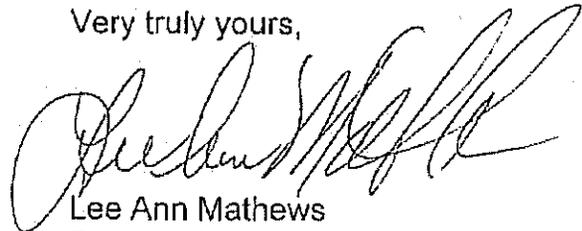
RE: State v. Jerome J. McField Cause #16-1-02651-8

Dear Mr. McField:

Enclosed you will find a copy of photographs Mr. Purtzer asked me to send to you. A copy has also been provided to your father.

Thank you.

Very truly yours,



Lee Ann Mathews
Paralegal to
BRETT A. PURTZER

:lam
Enc.

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Suite 302
Tacoma, Washington 98405
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Fax: 253-572-1441
www.hesterlawgroup.com

*Reply to: Brett A. Purtzer
brett@hesterlawgroup.com*

November 19, 2018

Tacoma Police Department
Attn: Records
3701 South Pine Street
Tacoma, WA 98409

RE: Jerome J. McField
Incident #1617100546

To whom it may concern:

I am in receipt of the police reports surrounding the above-referenced incident, however, I now need a copy of any and all photographs taken along with any audio/video records regarding the above. South Sound 911 instructed me to direct this request to you as they do not maintain any photographs.

Thank you for your attention to the aforementioned.

Very truly yours,



BRETT A. PURTZER

BAP:lam

B

HESTER LAW GROUP, INC., P.S.
1008 SOUTH YAKIMA AVE., SUITE 302
TACOMA, WASHINGTON 98405

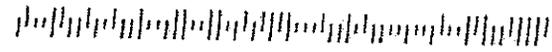
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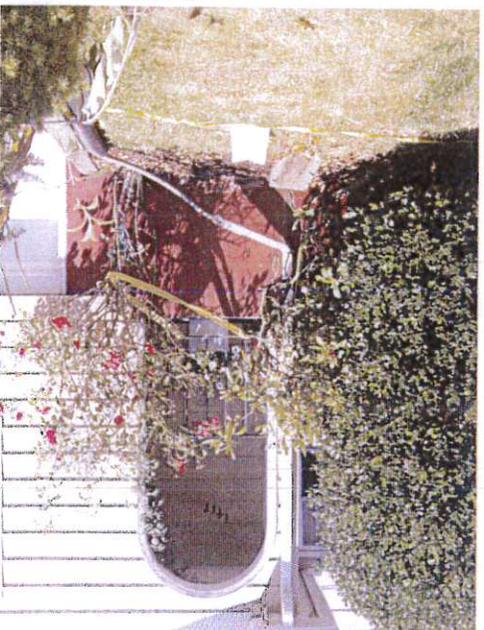
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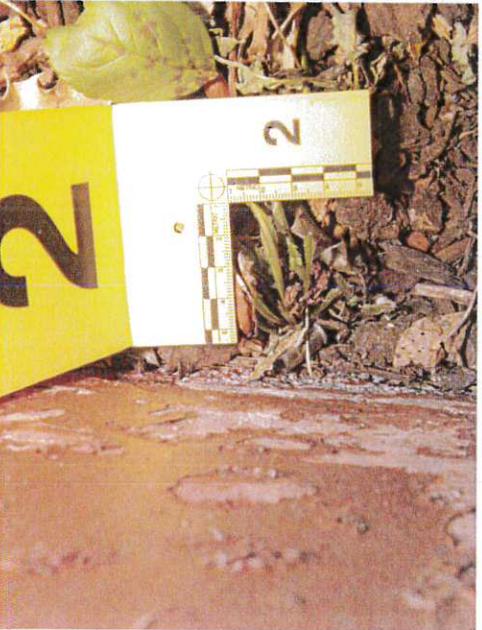
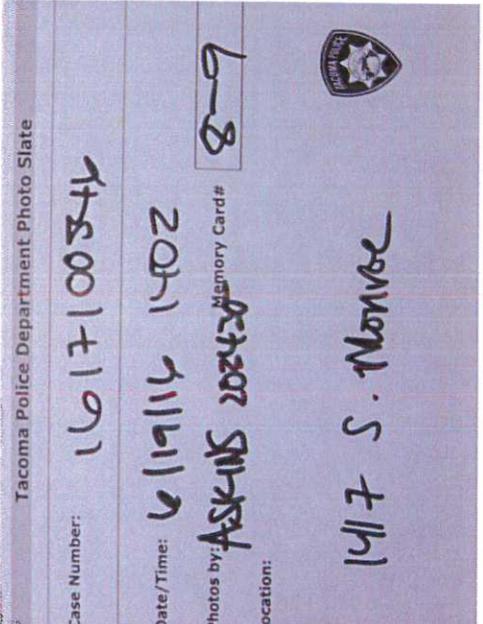
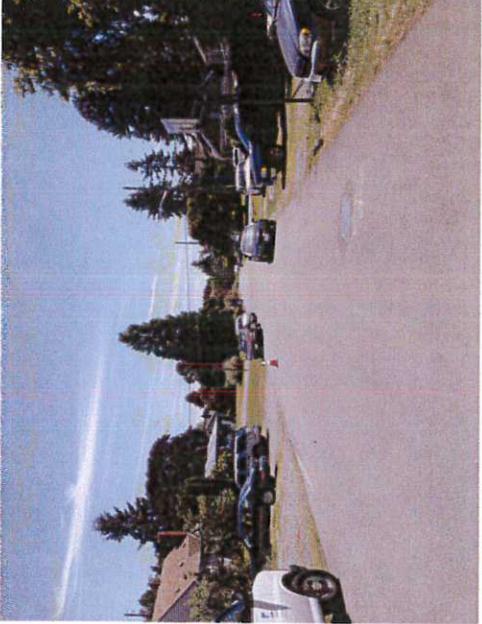
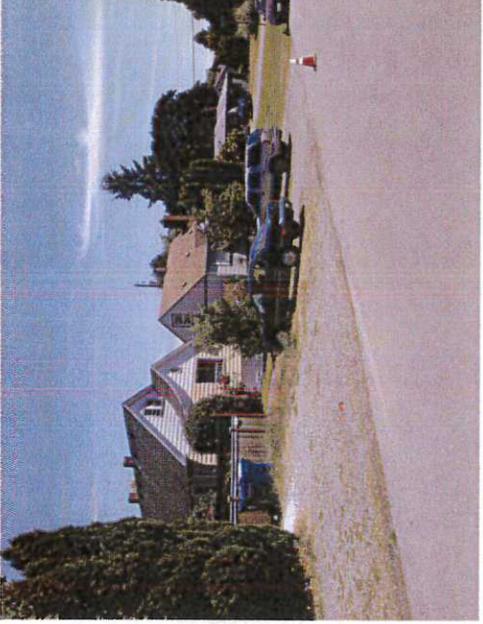
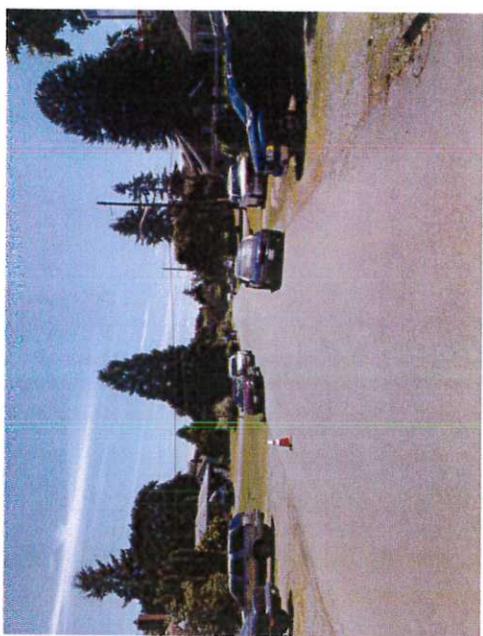
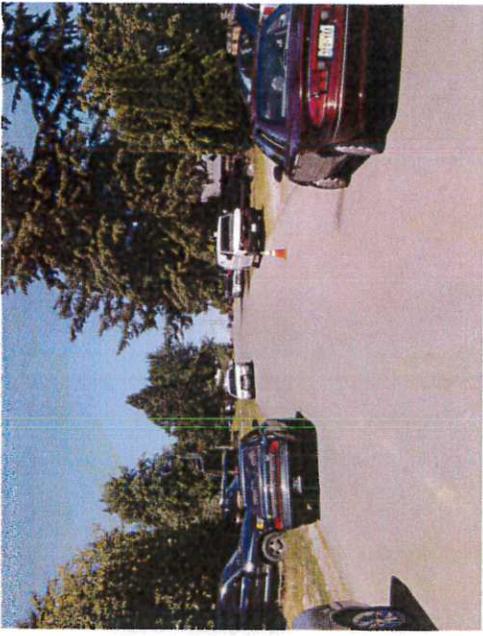

Tacoma Police Department
Attn: Records
3701 South Pine Street
Tacoma, WA 98409

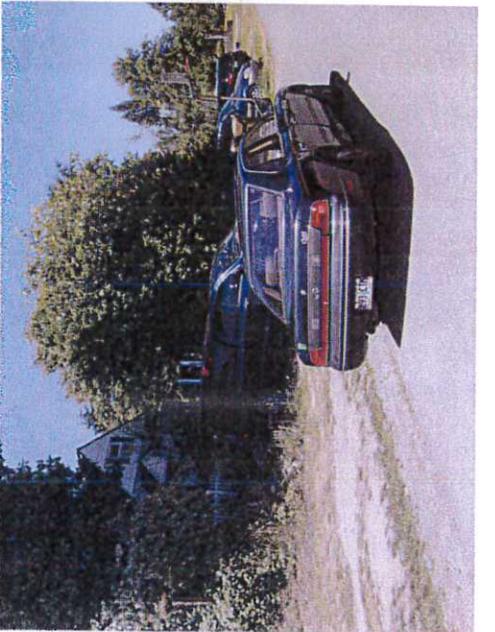
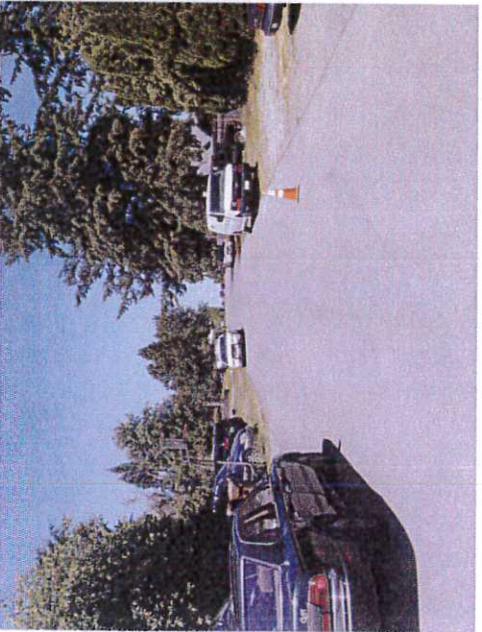
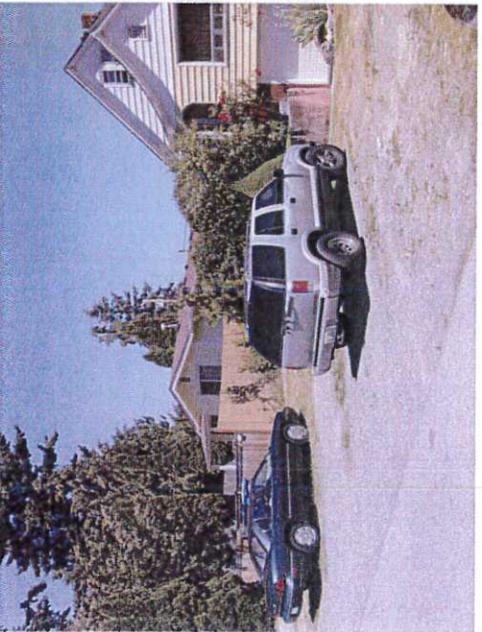
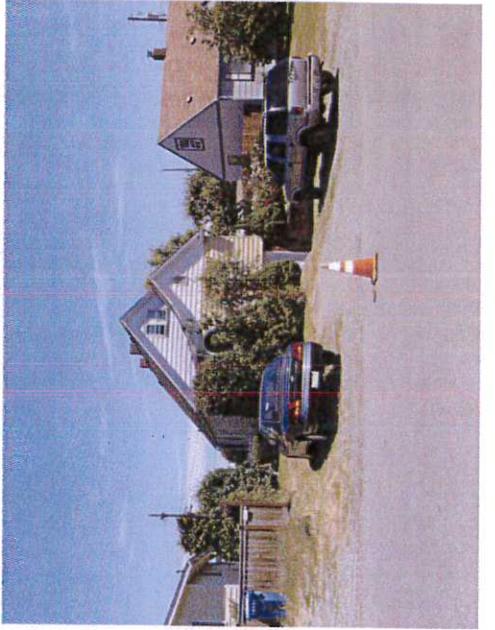
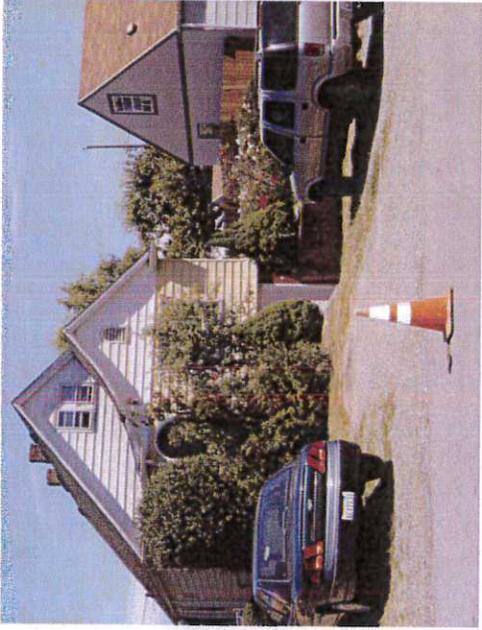
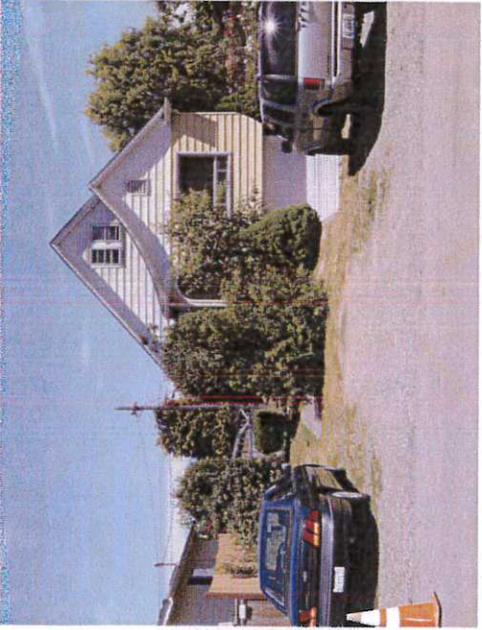
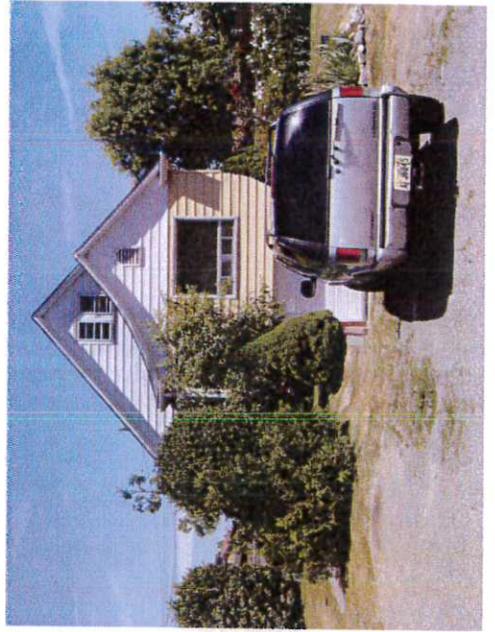
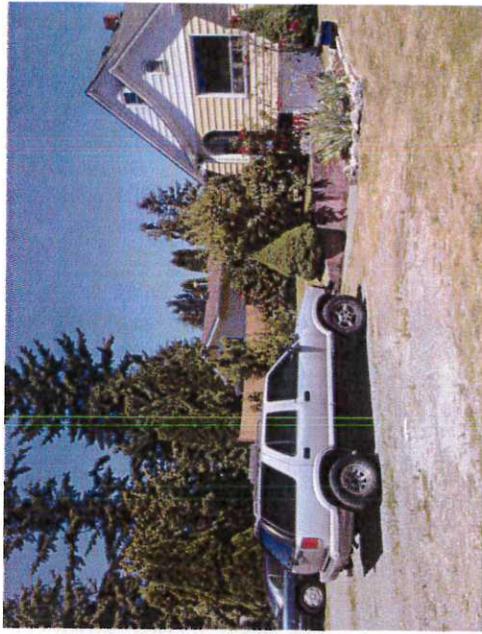
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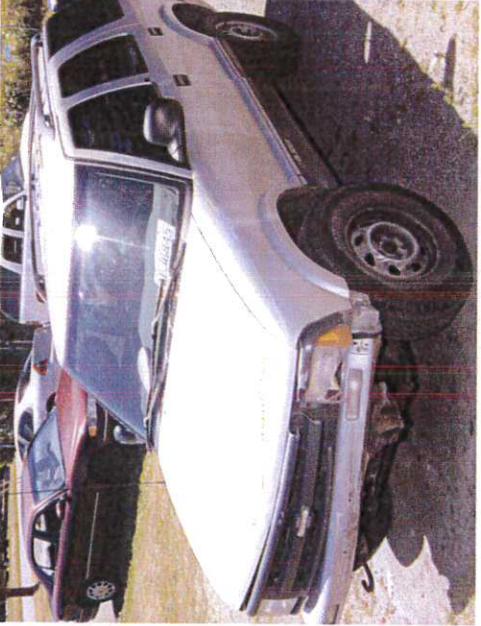
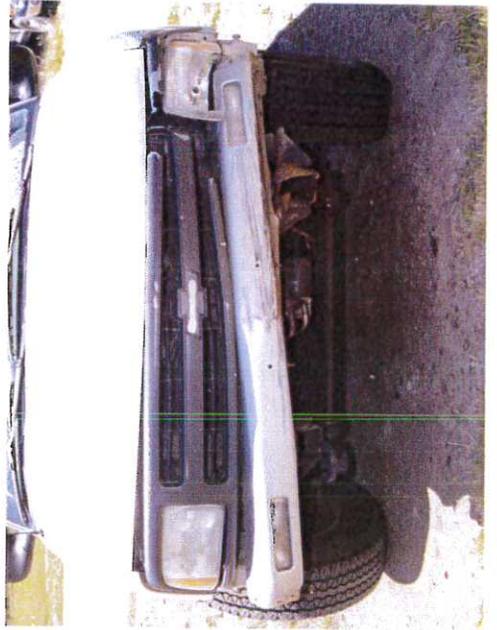
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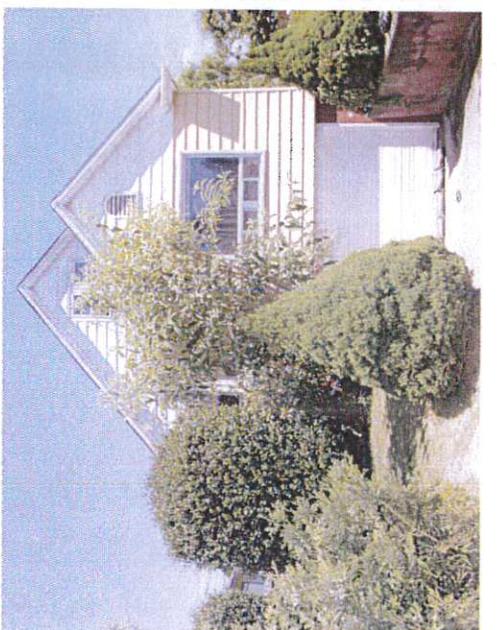
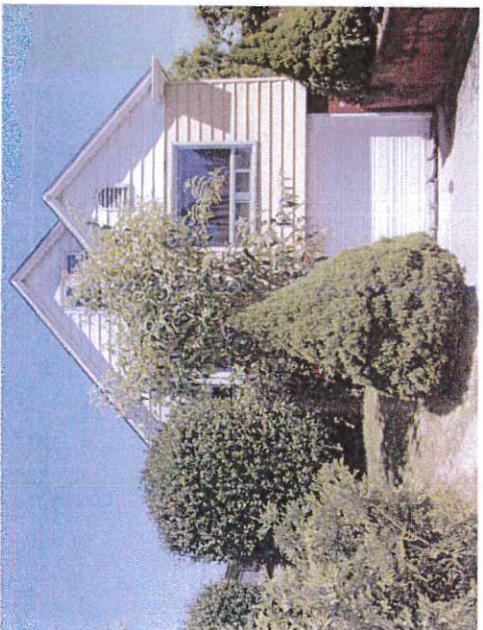
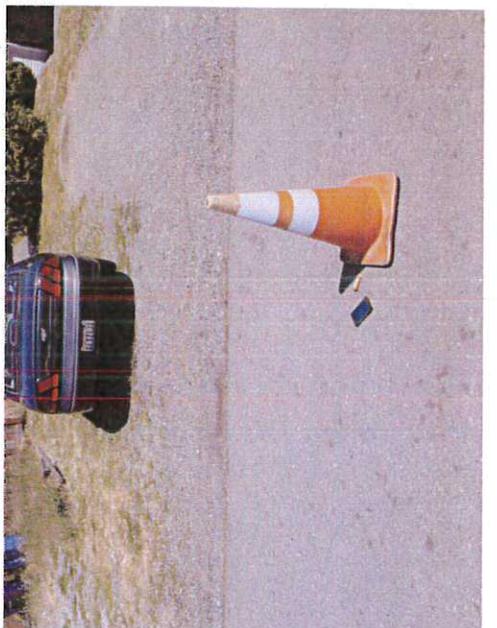
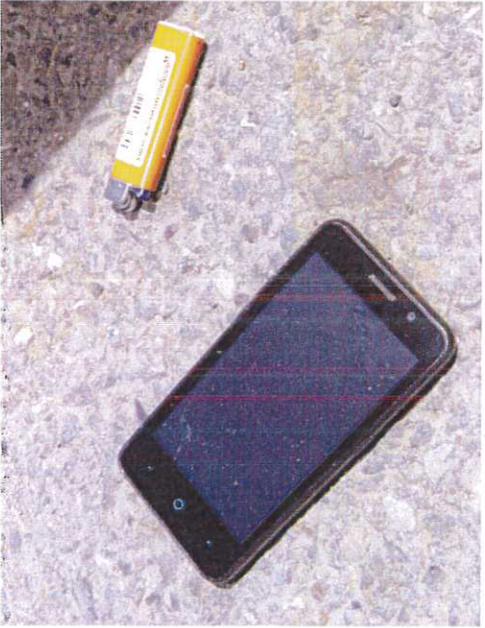


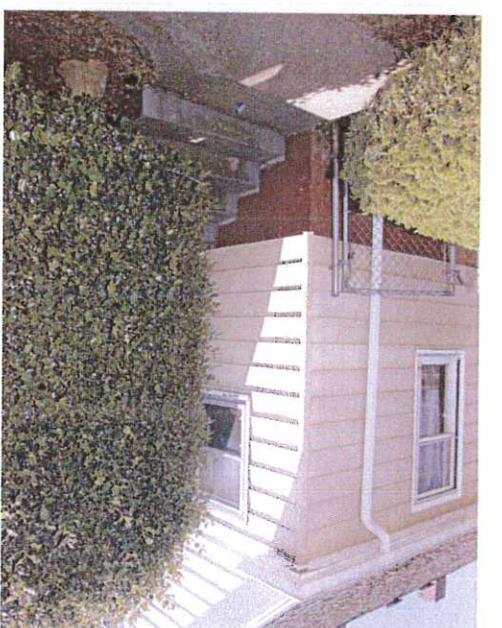
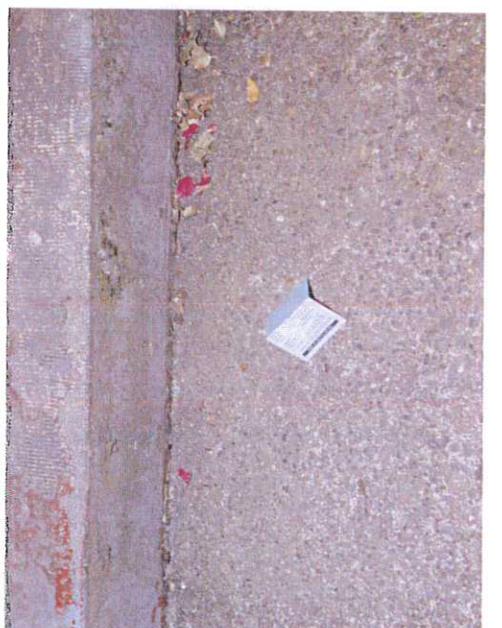
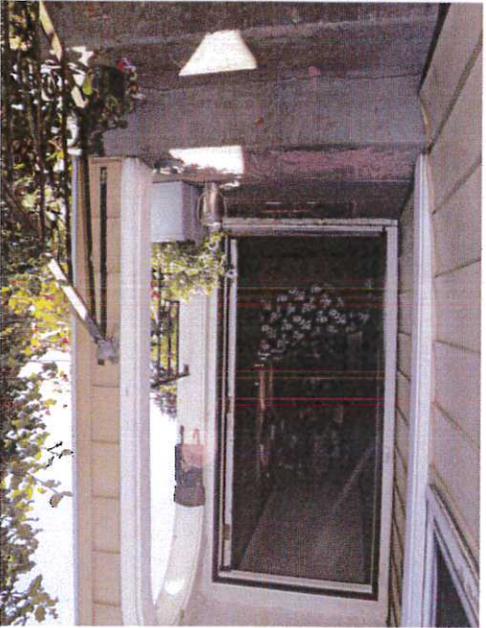
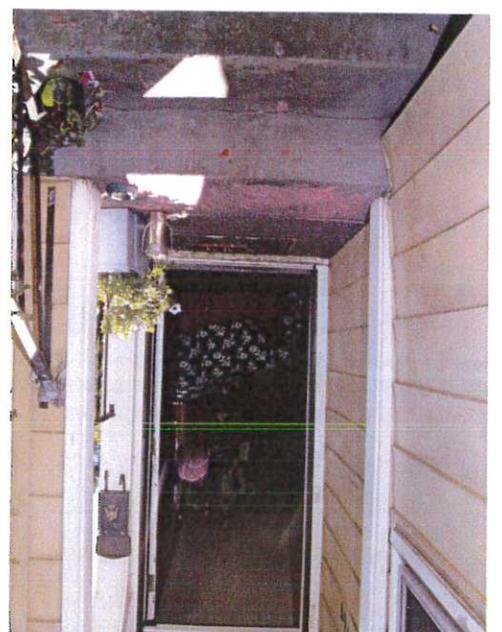


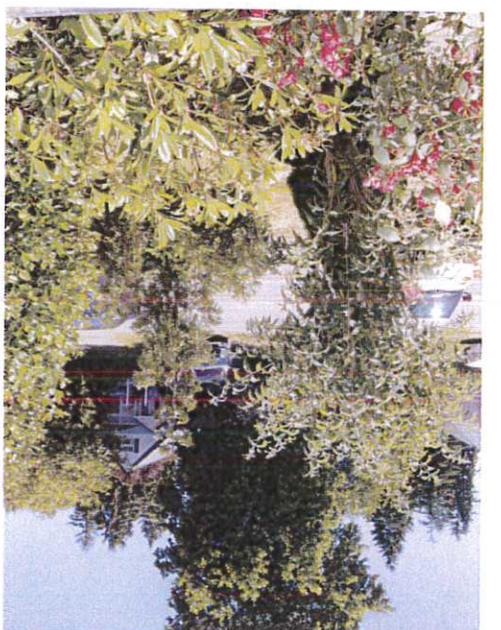
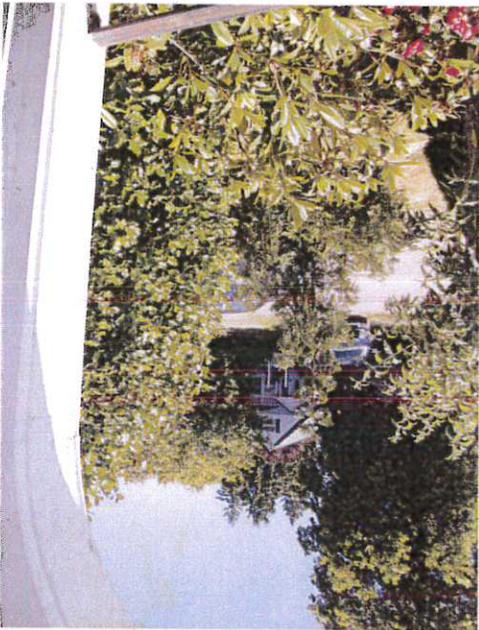


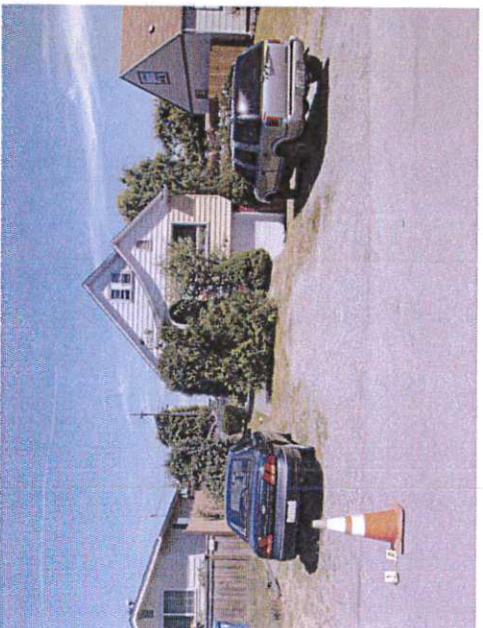
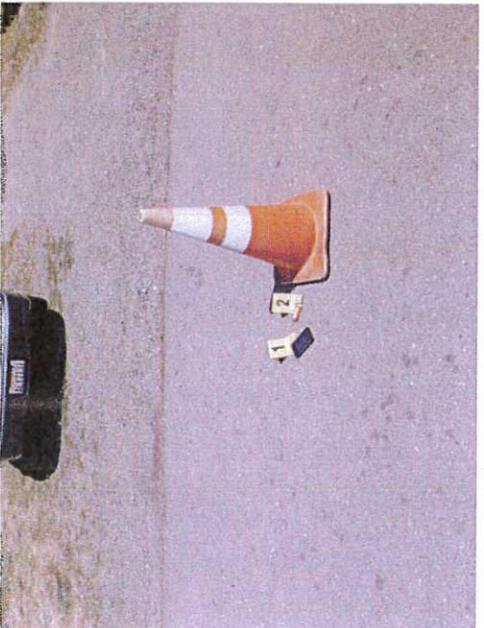
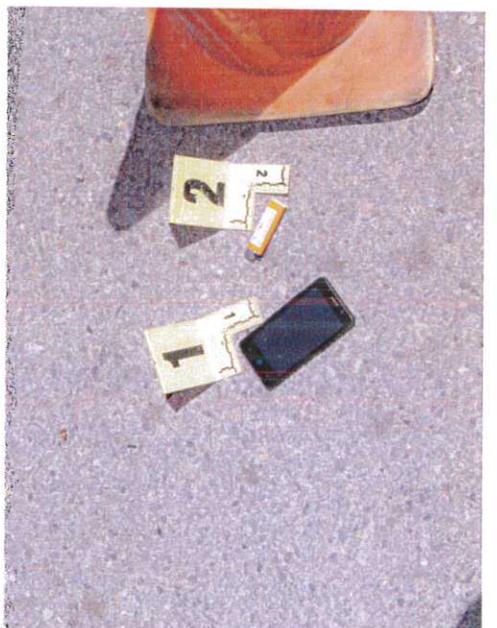
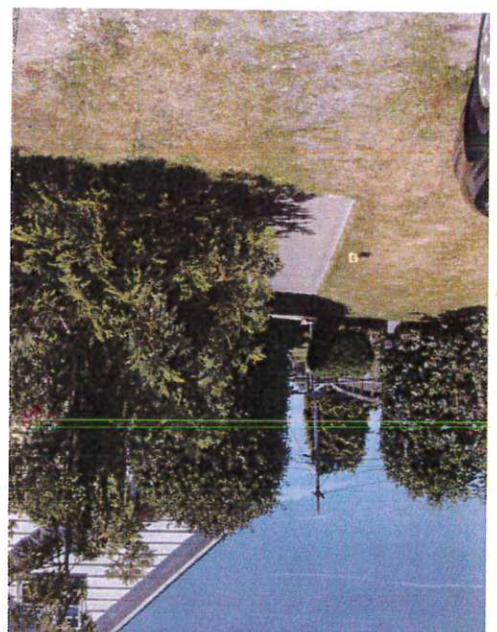


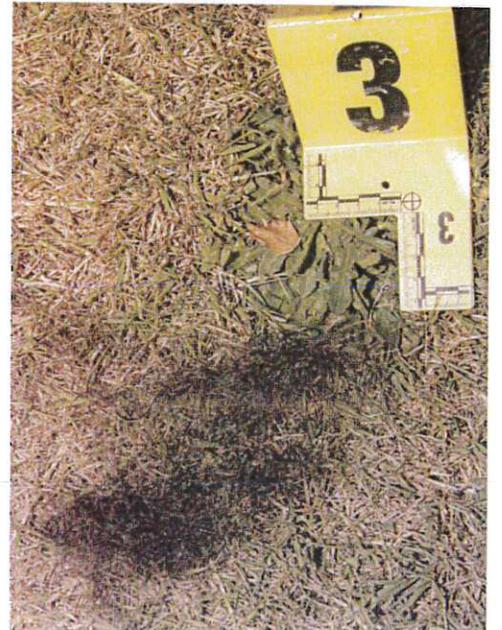
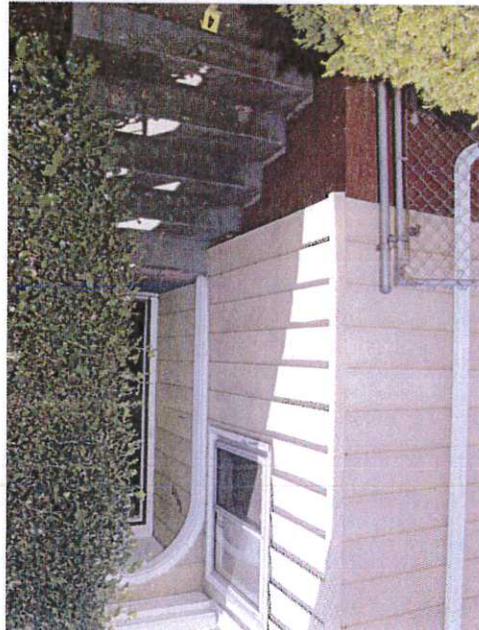
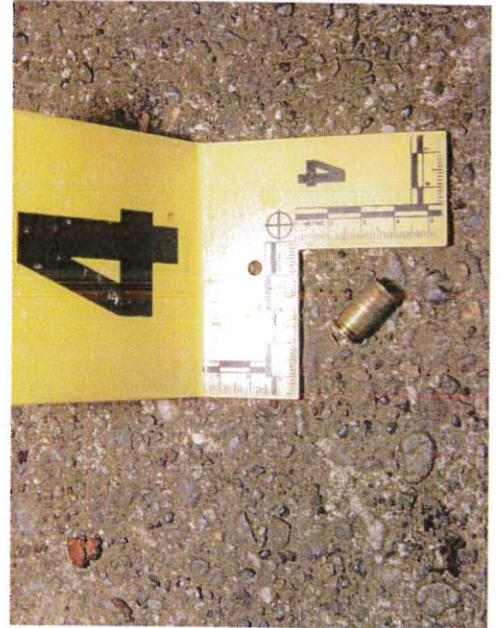
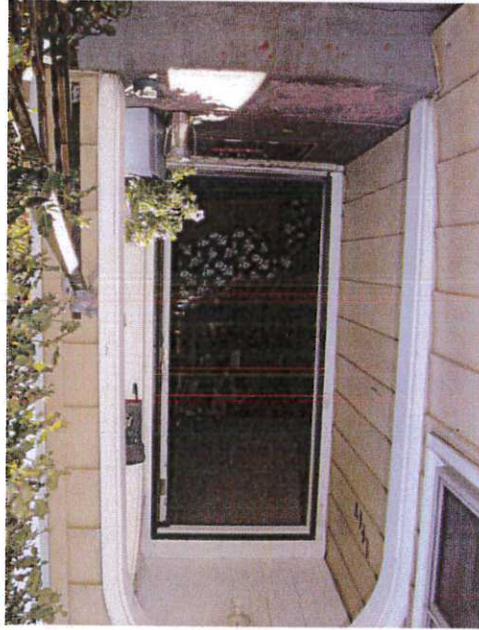
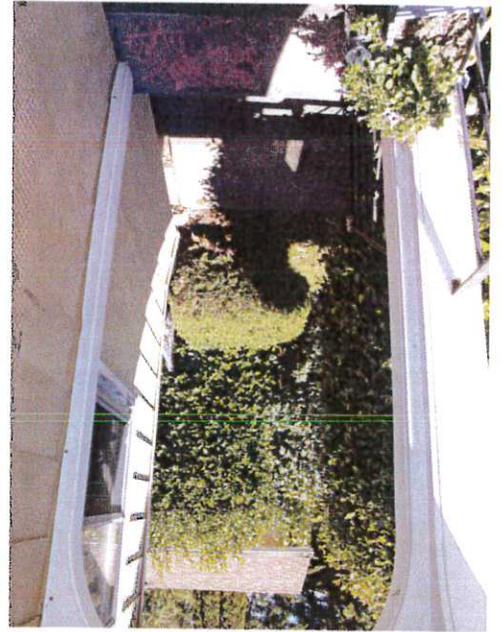
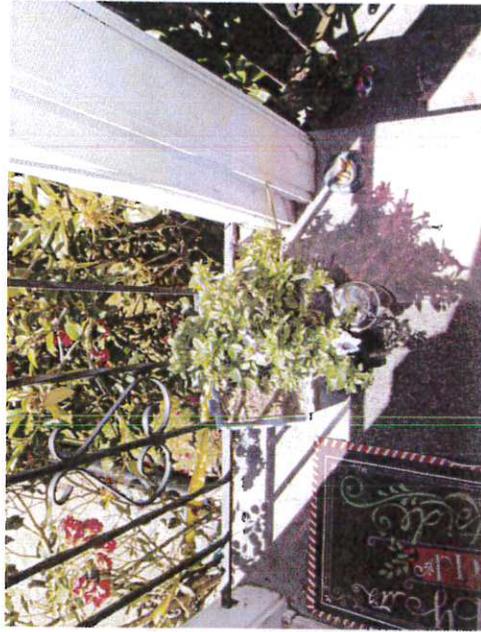


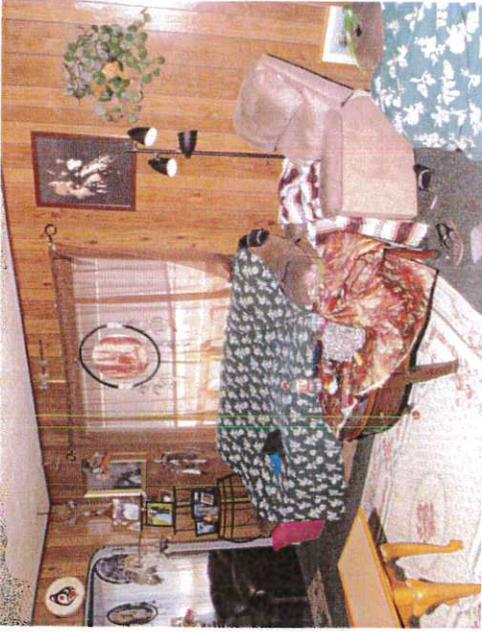
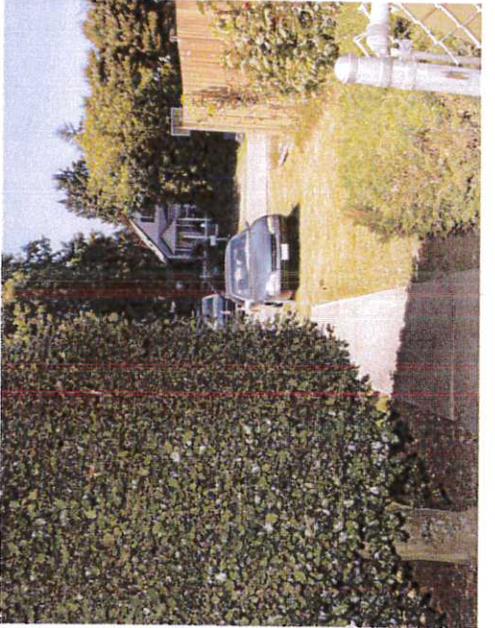
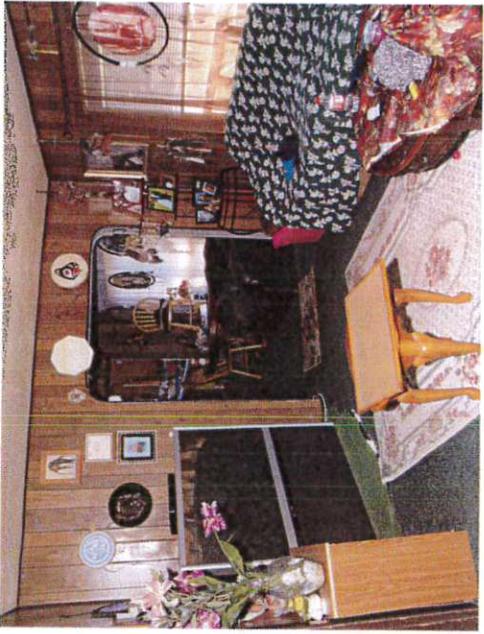
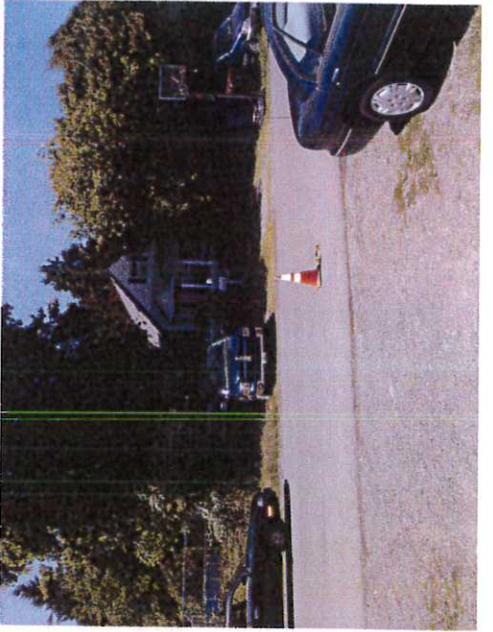


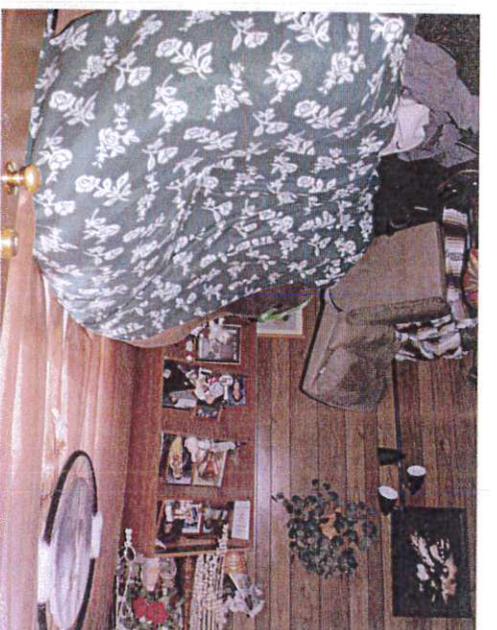
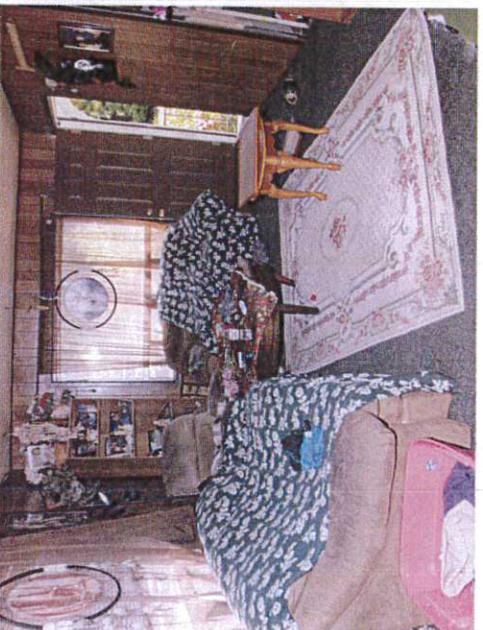
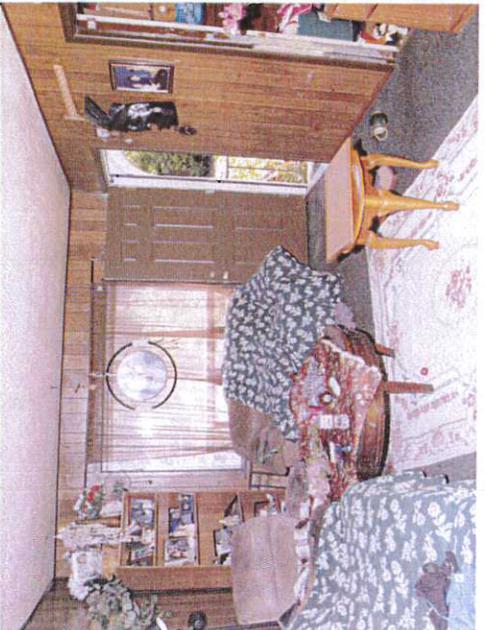
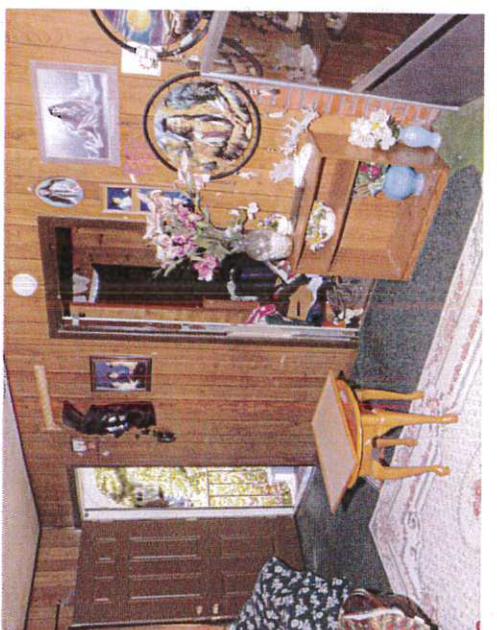
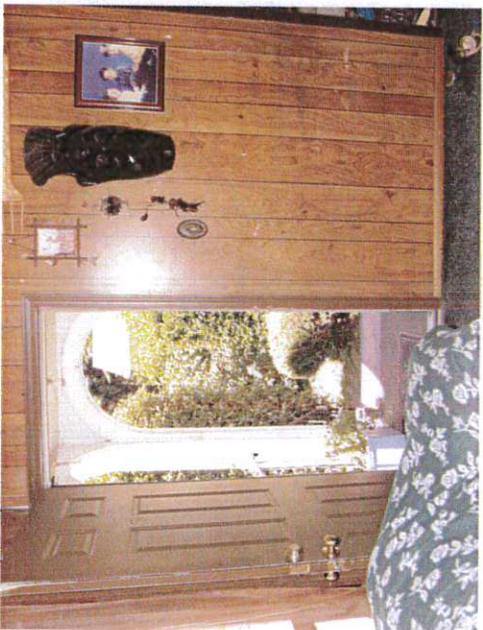
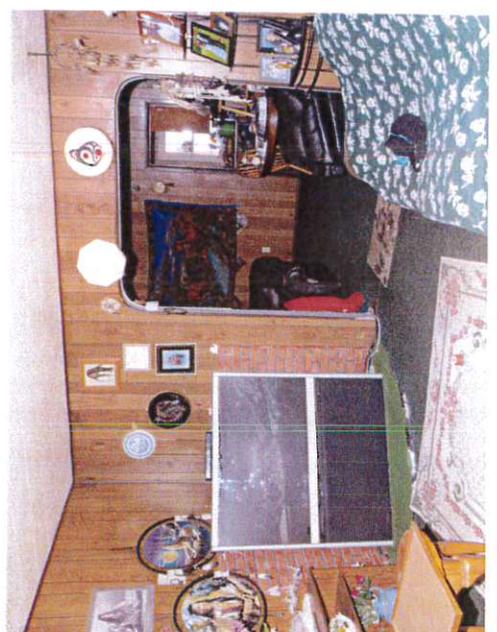


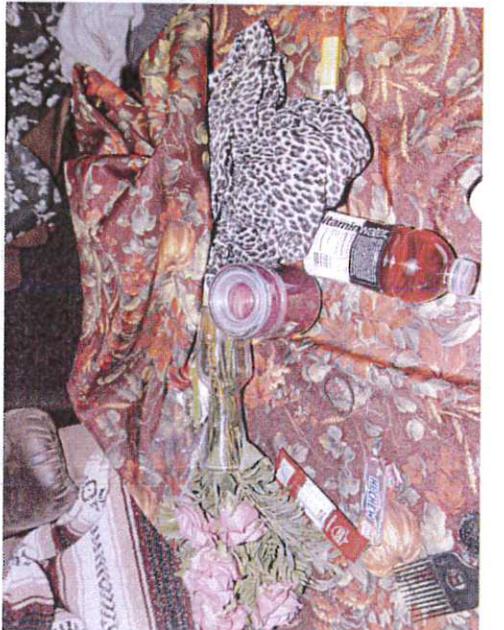
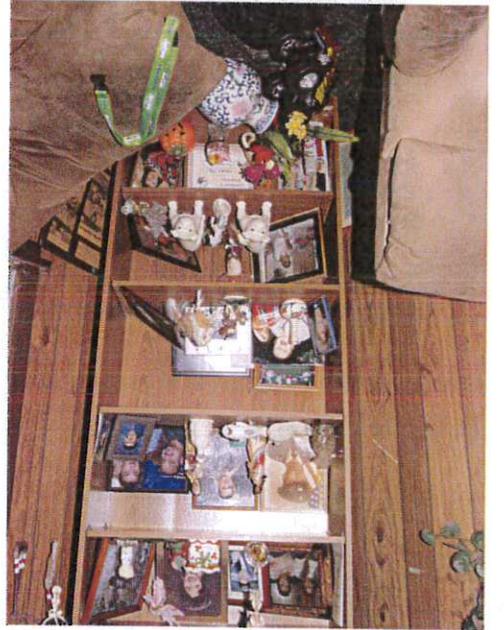
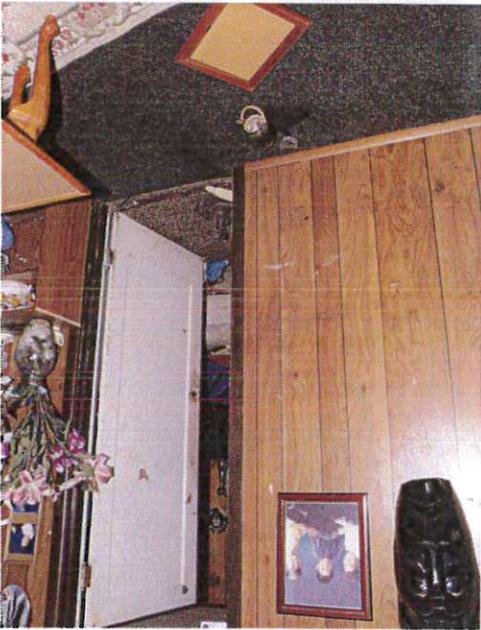
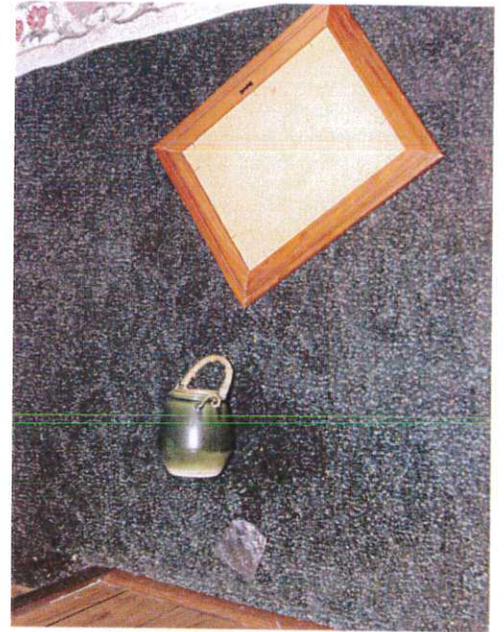
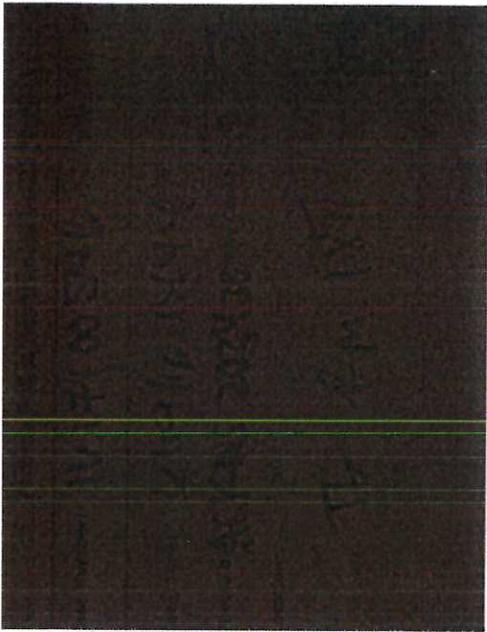


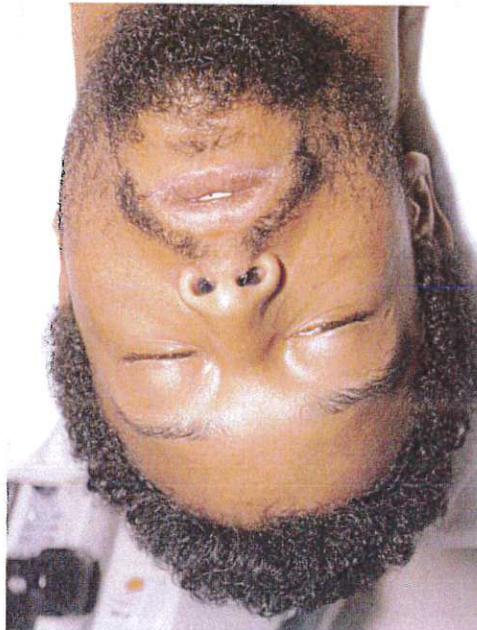
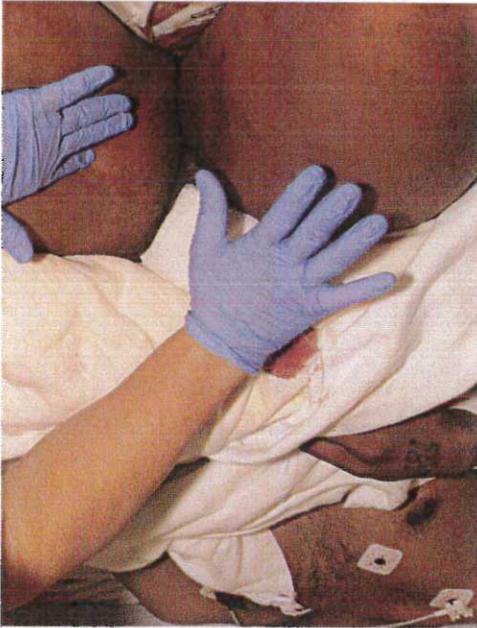
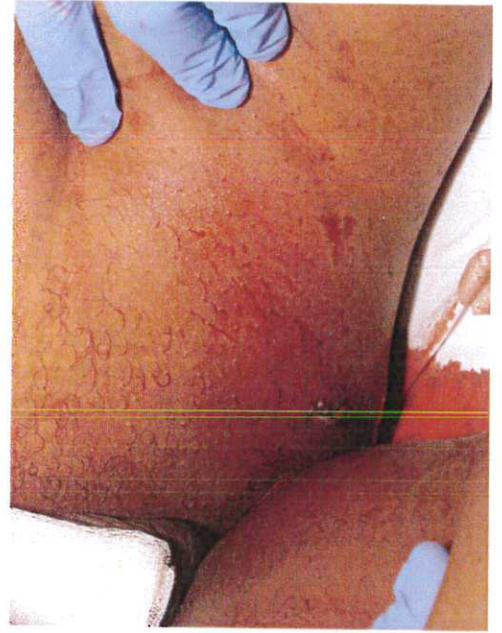
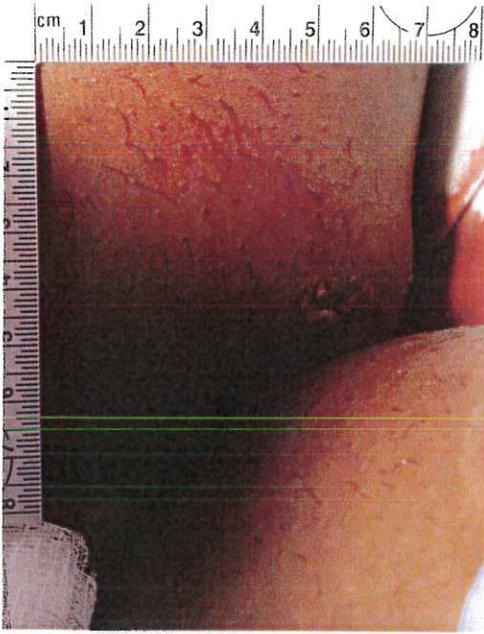












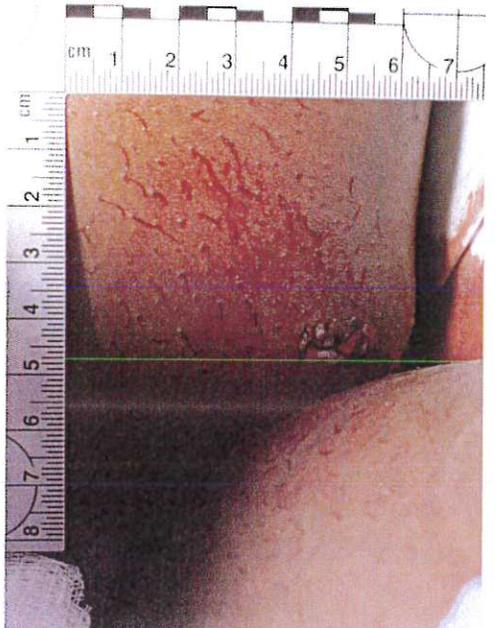
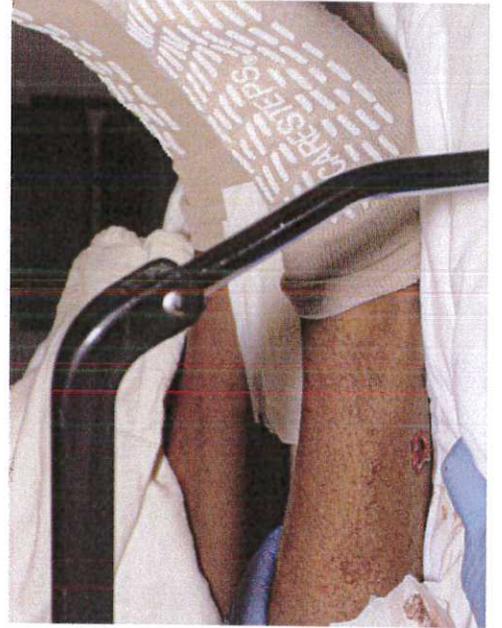
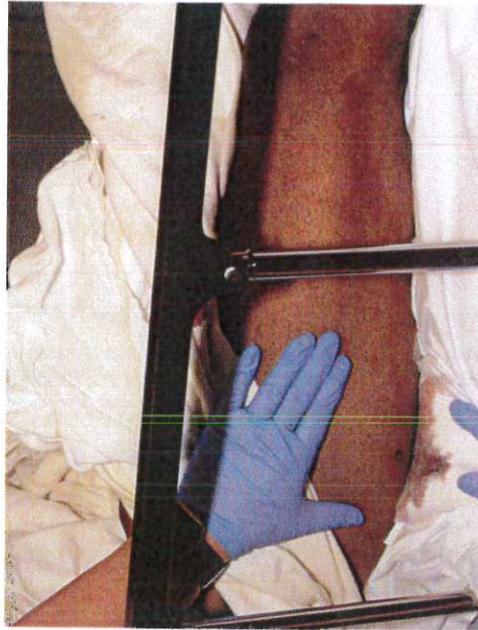
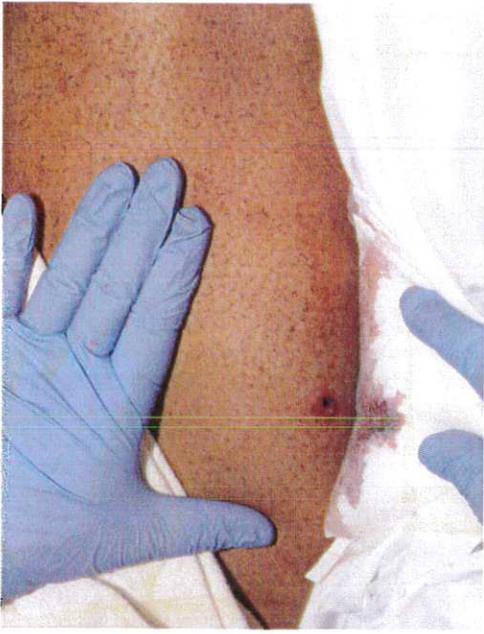
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Number: 1617100546

Date/Time: 6/19/16 1444

Officer by: ASKINS 2034 ID# 8-7

Location: TB Rm. 18



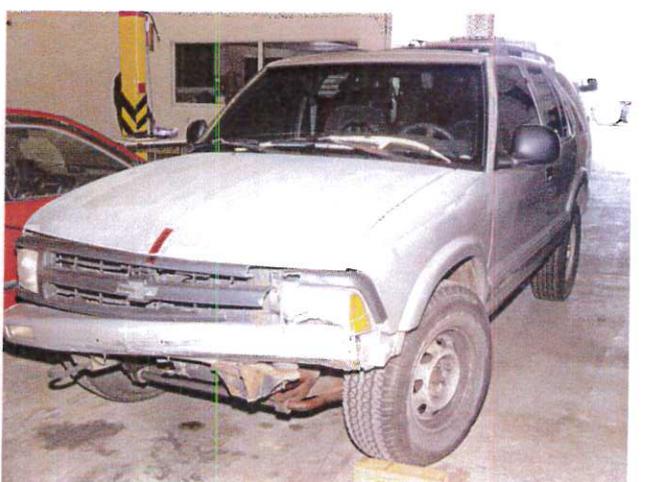
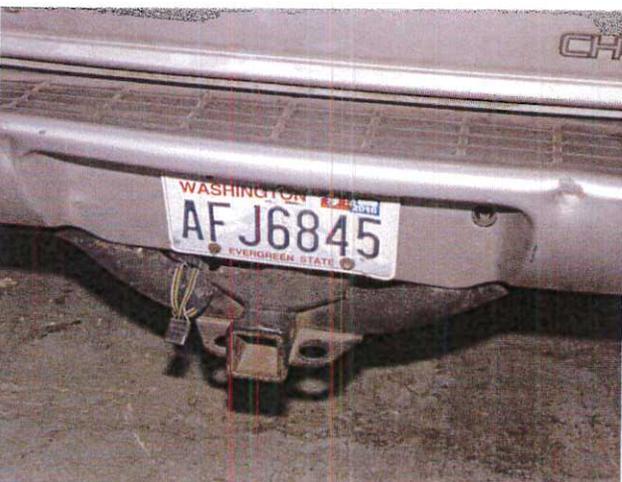
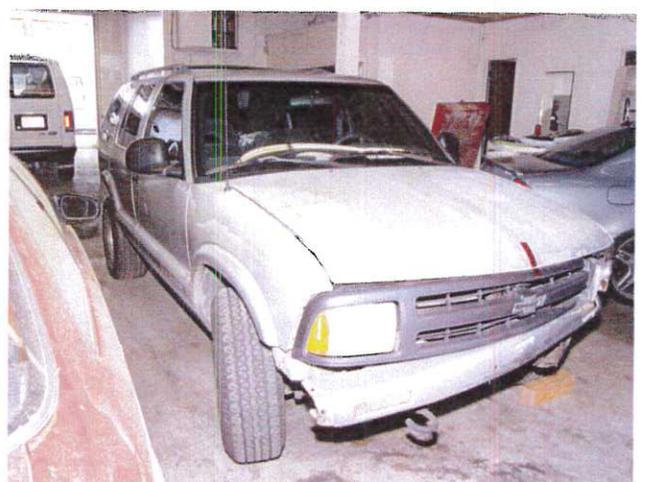
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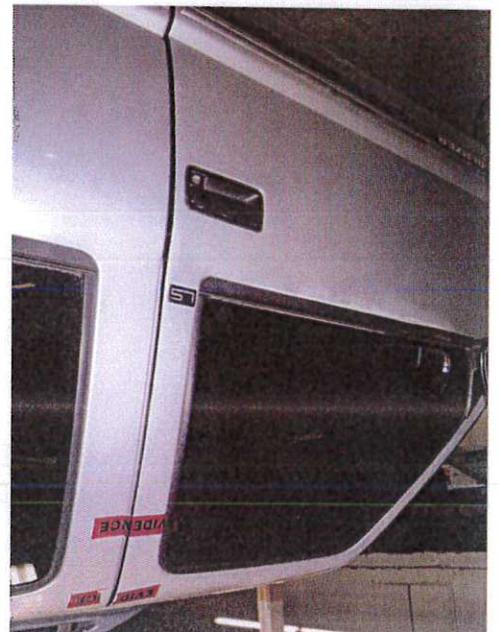
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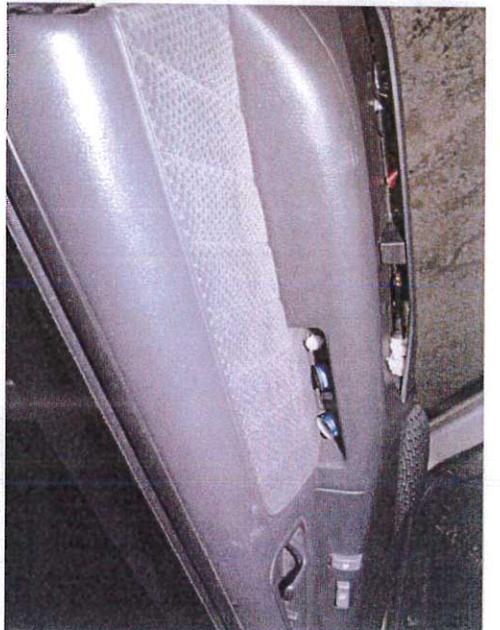
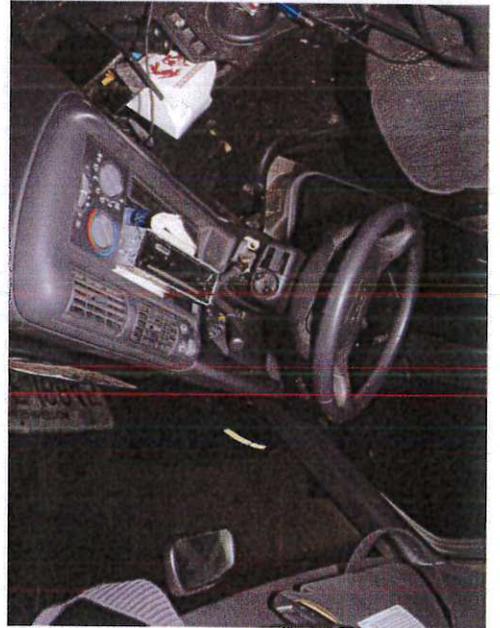
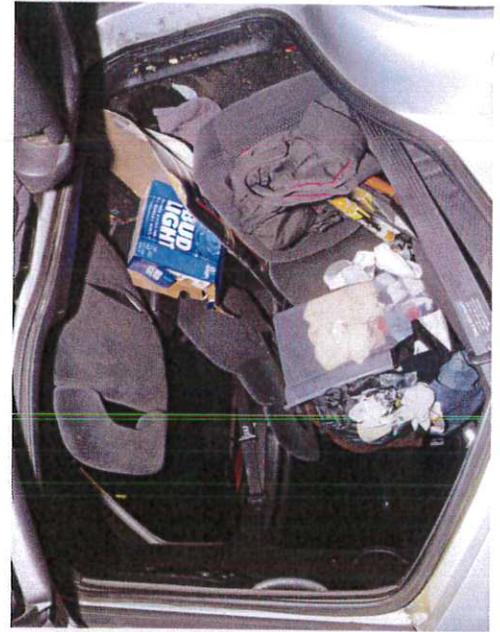
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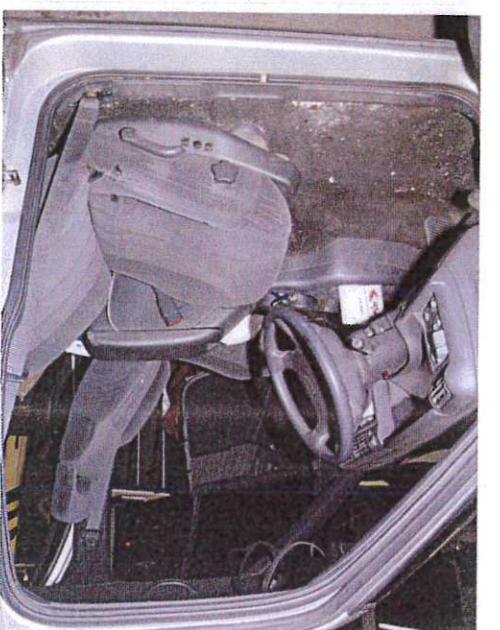
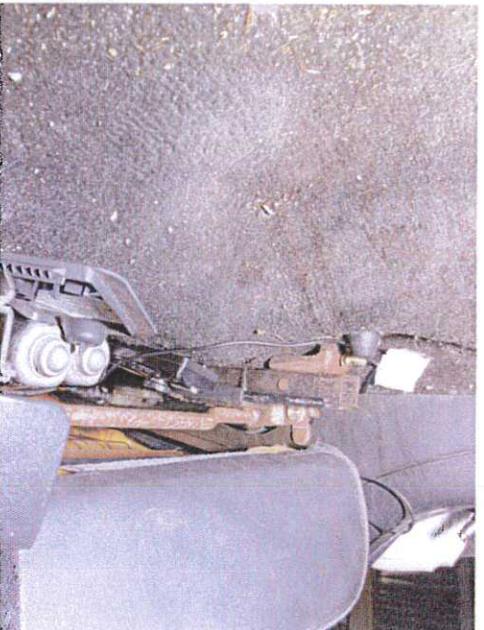
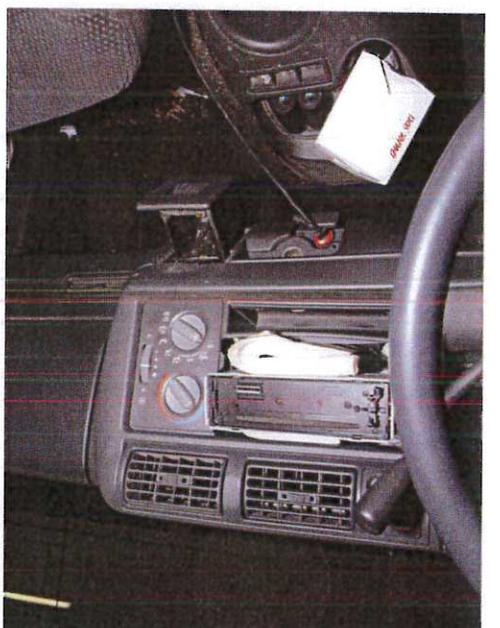
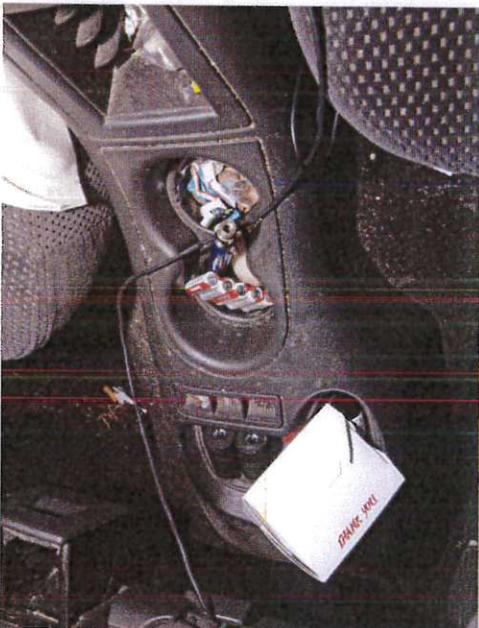
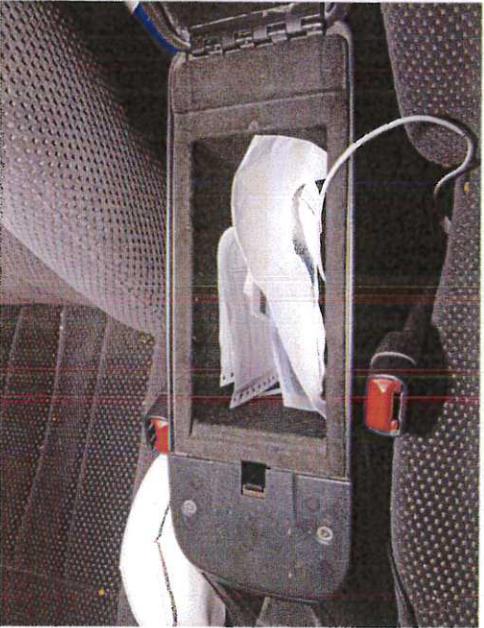
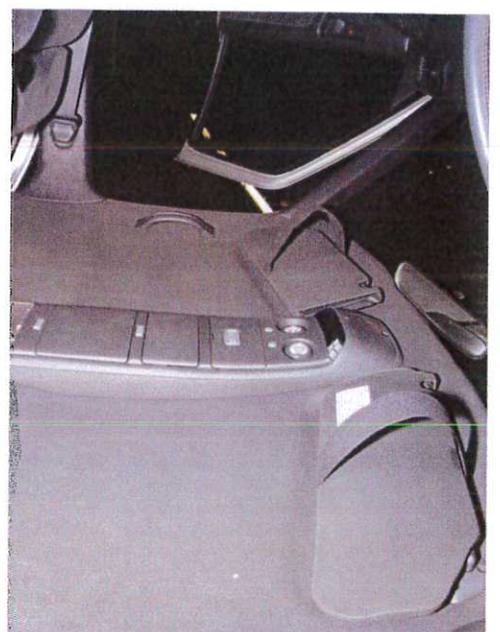
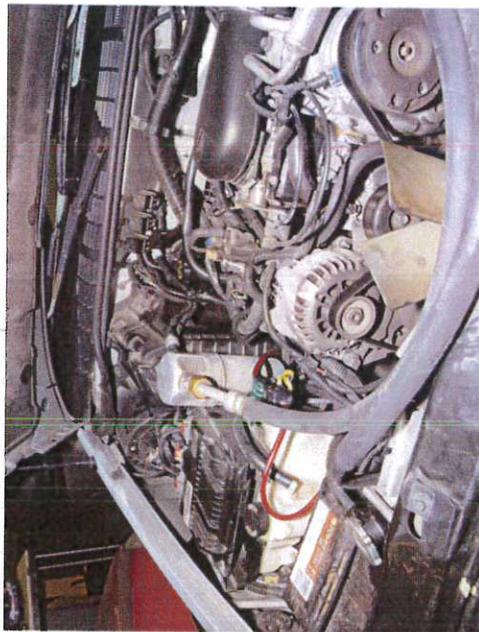
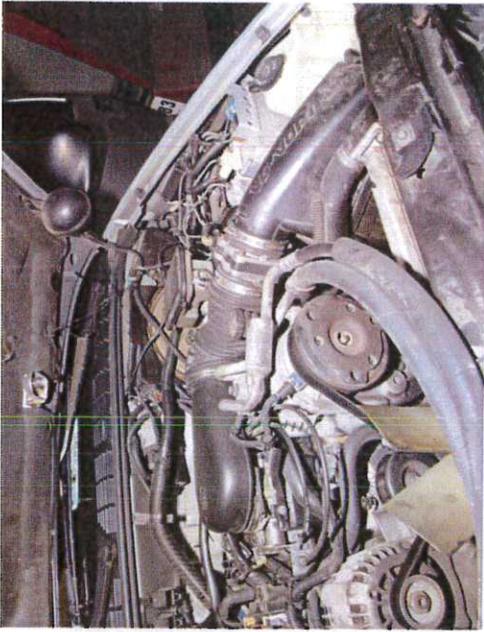
Photos by: Chadler / 200831 Memory Card# 3-10

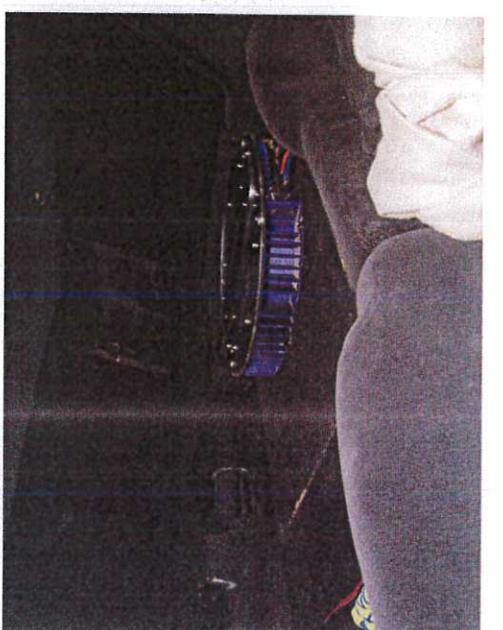
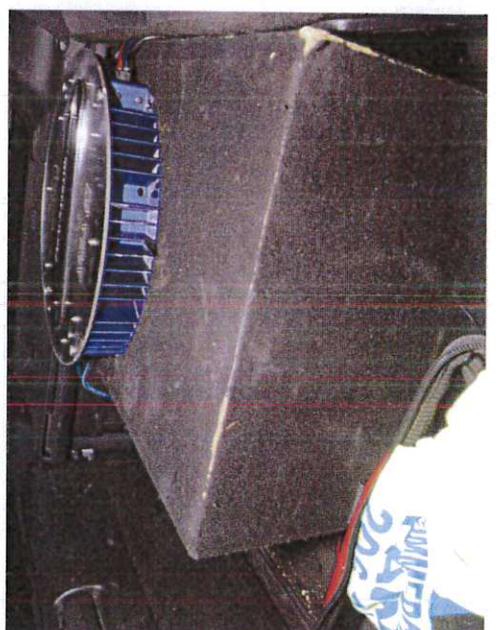
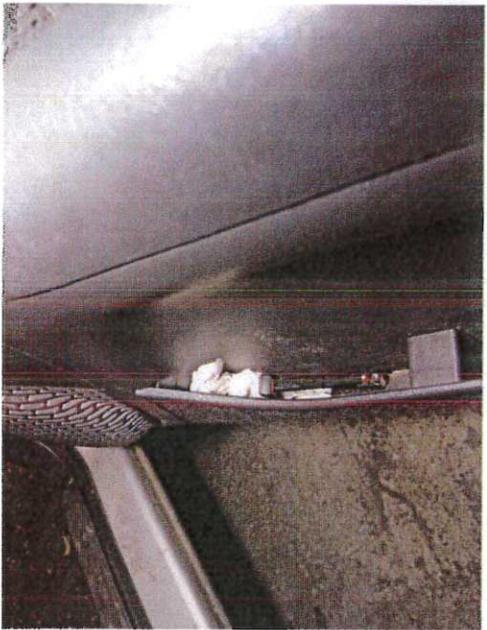
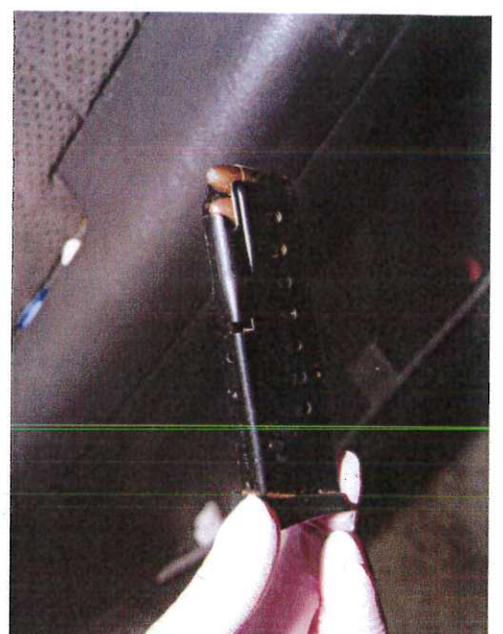
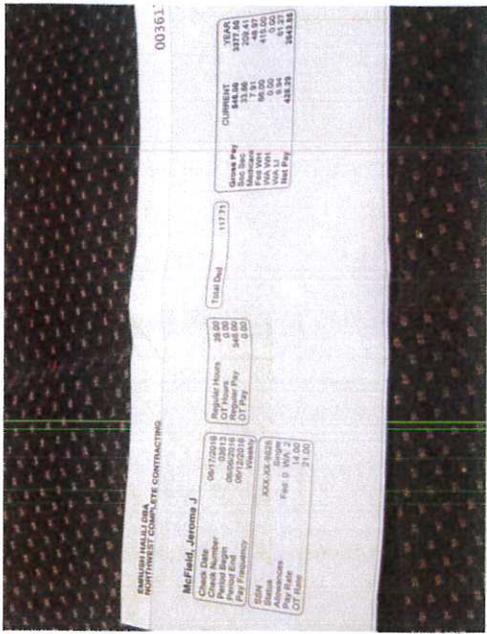
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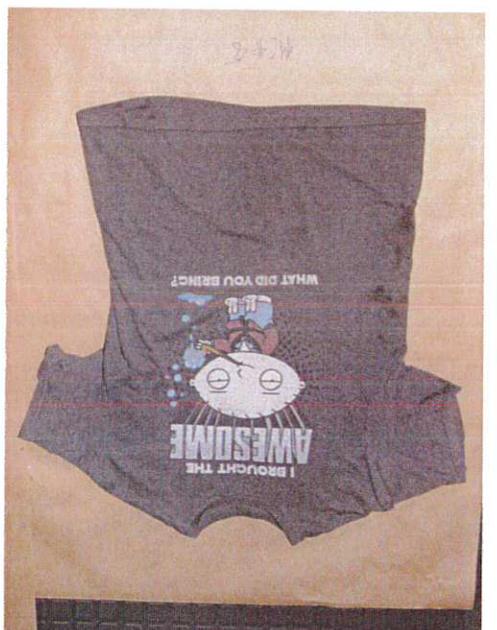
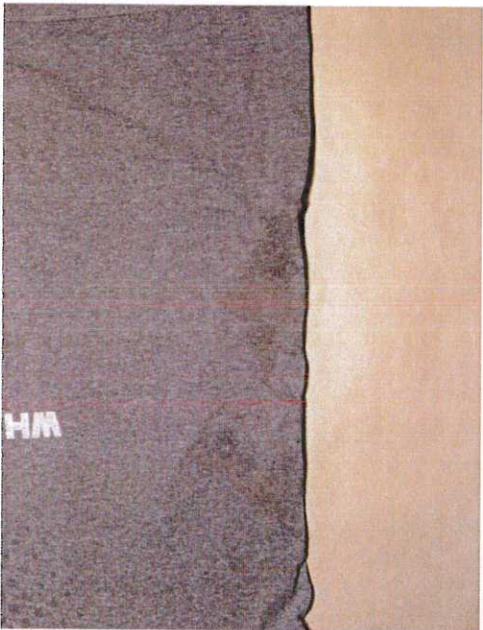
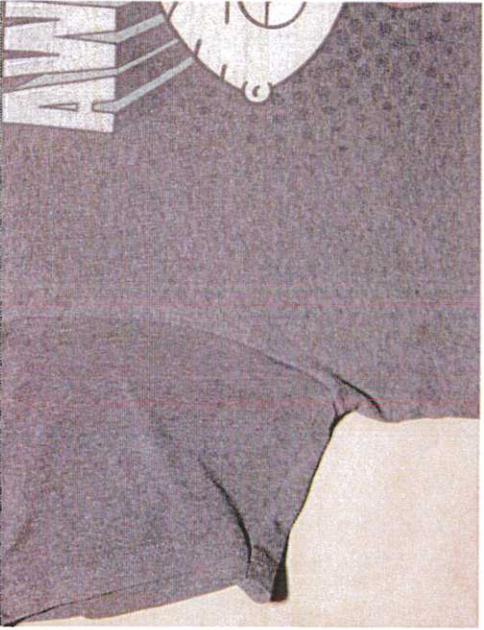
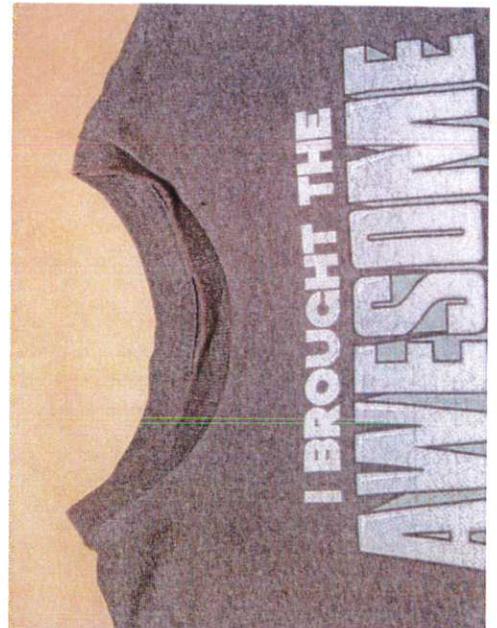
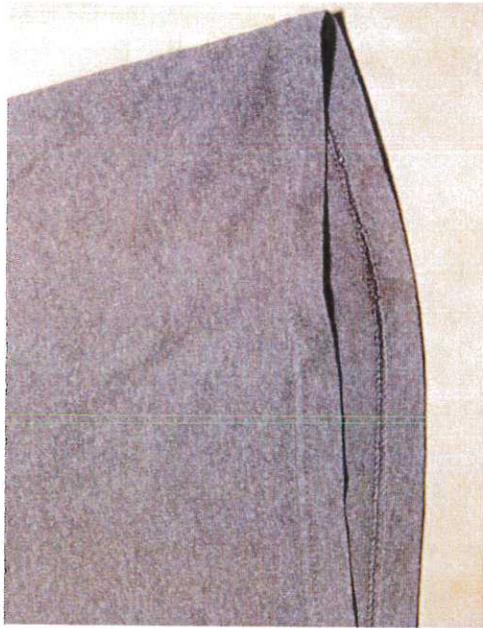












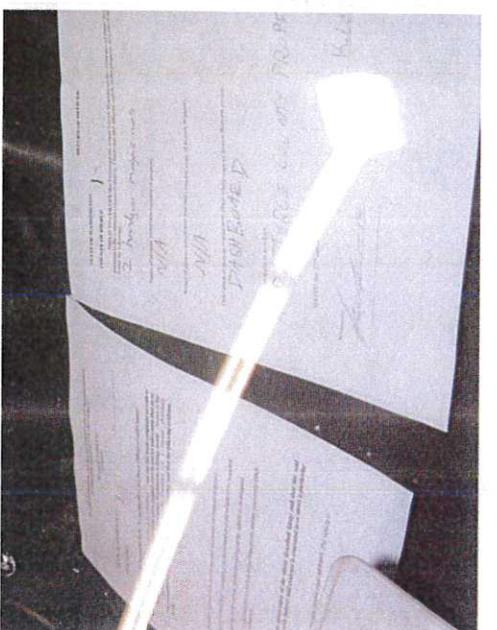
Tacoma Police Department Private-Slate

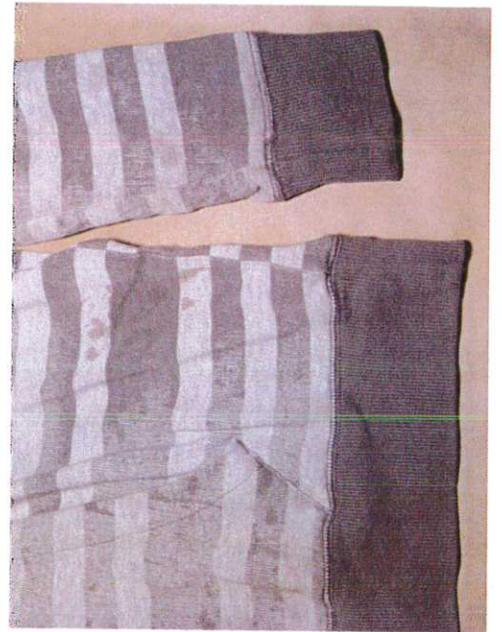
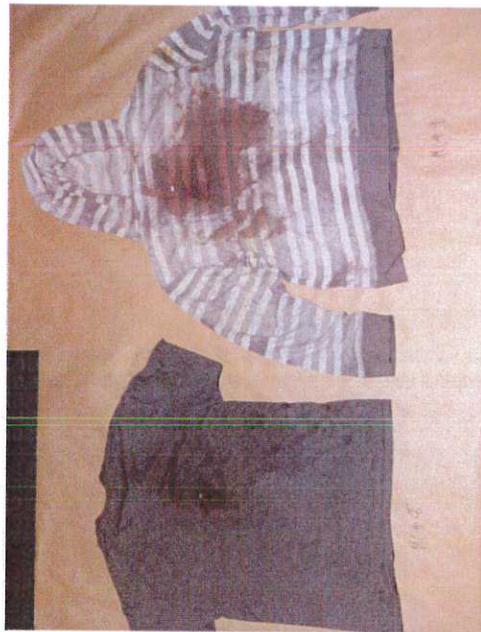
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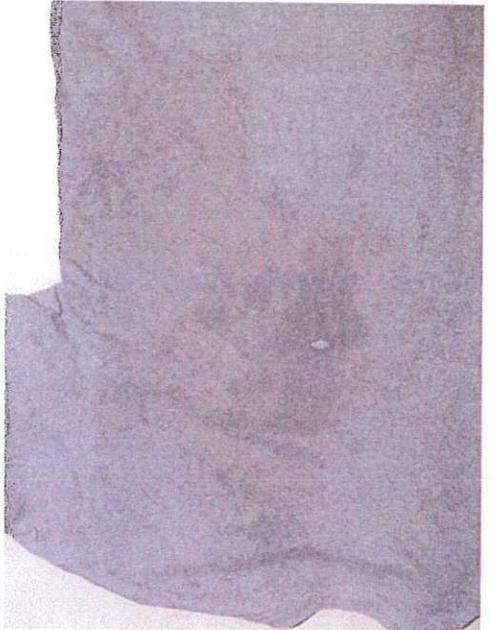
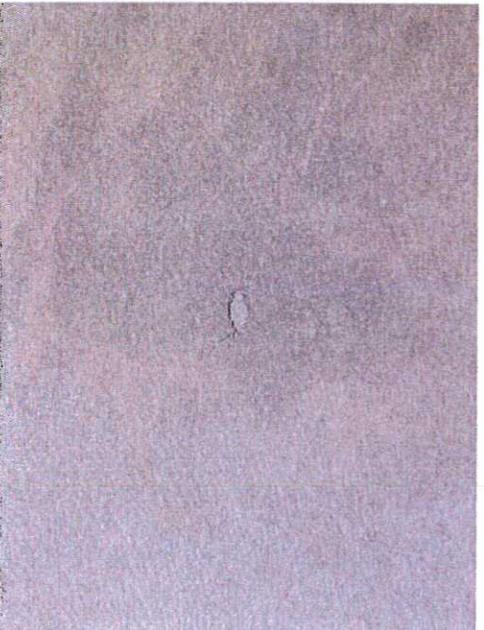
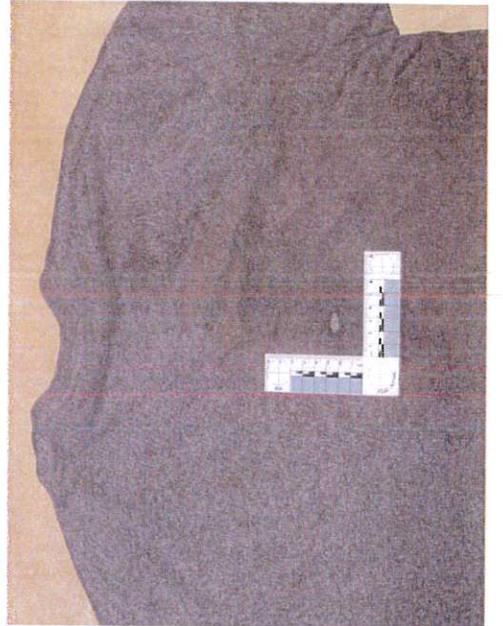
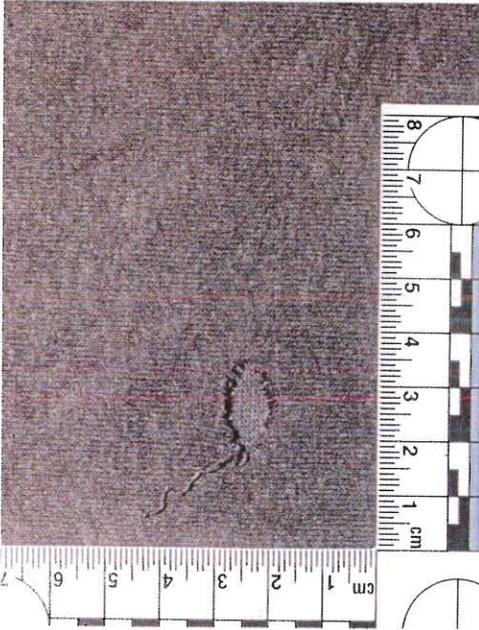
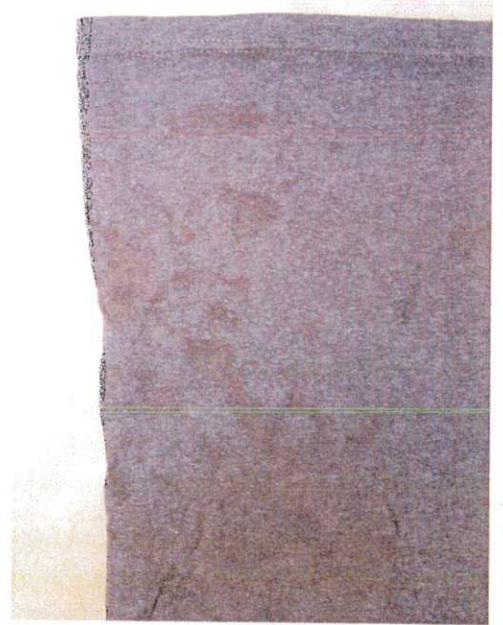
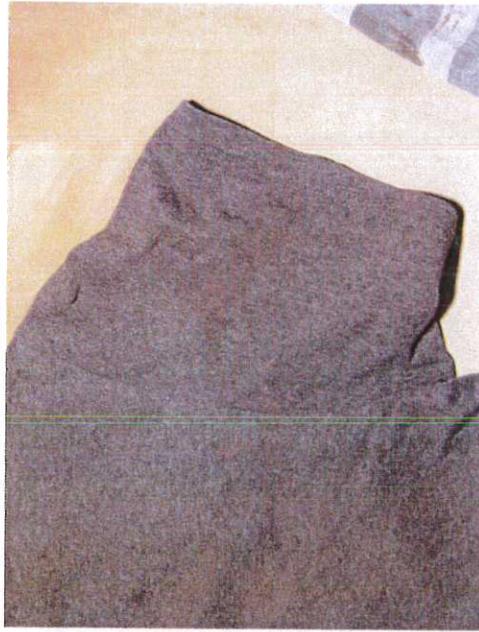
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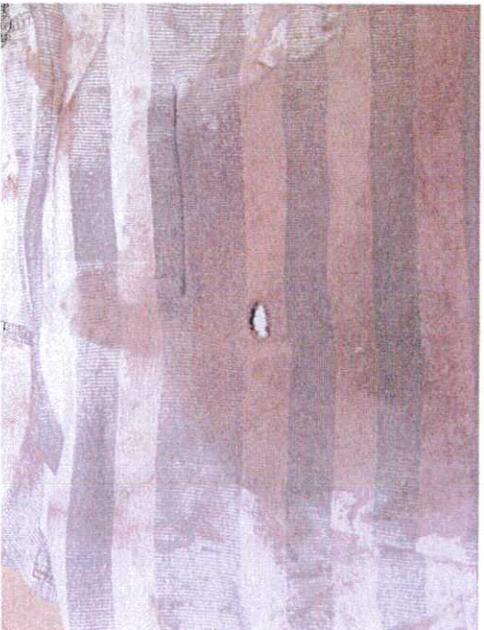
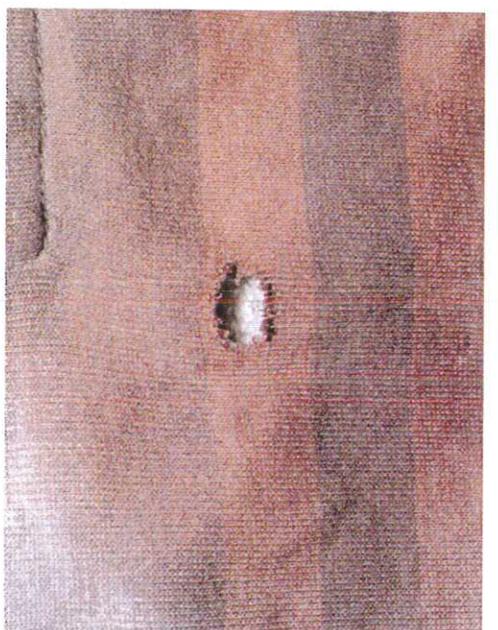
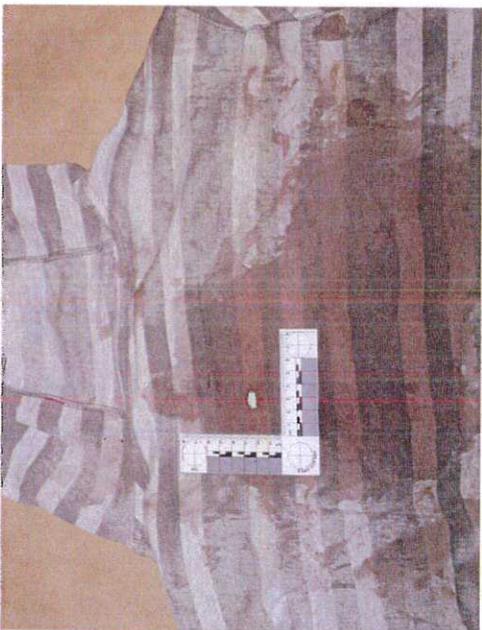
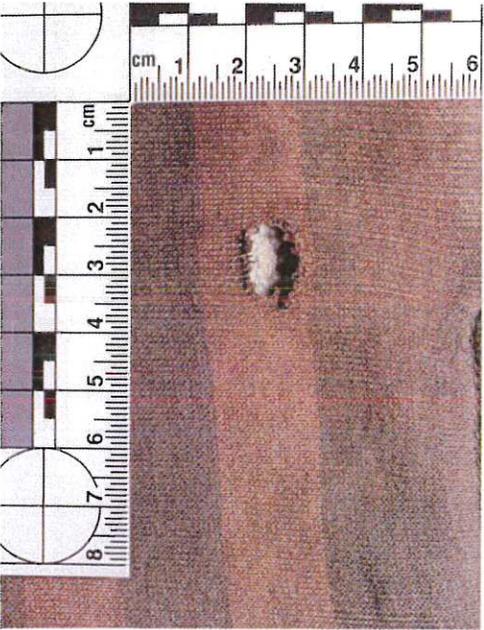
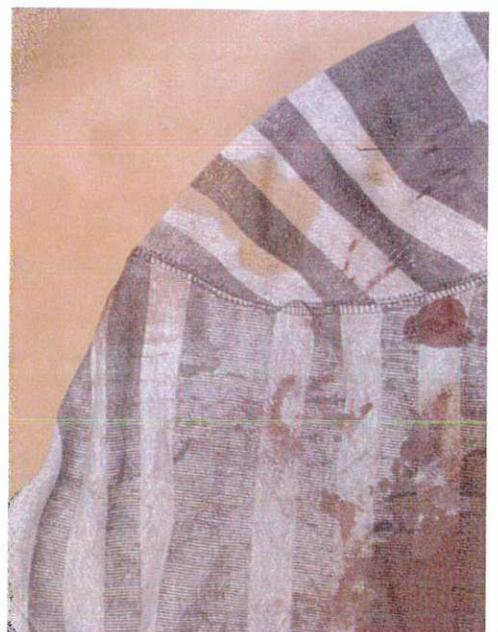
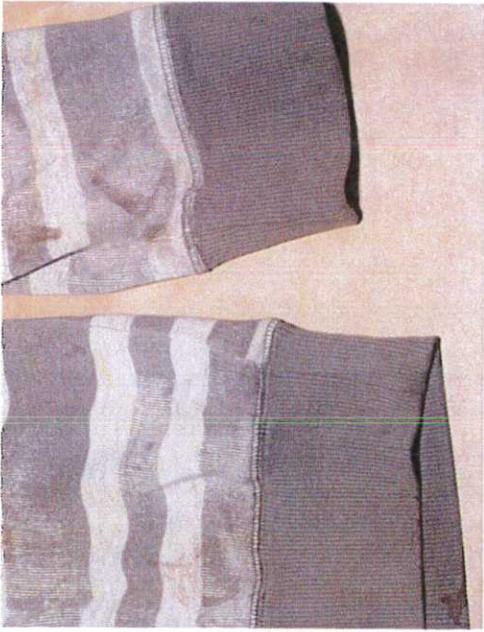
Photos by: ASK-INS 203430 ID# 8-6

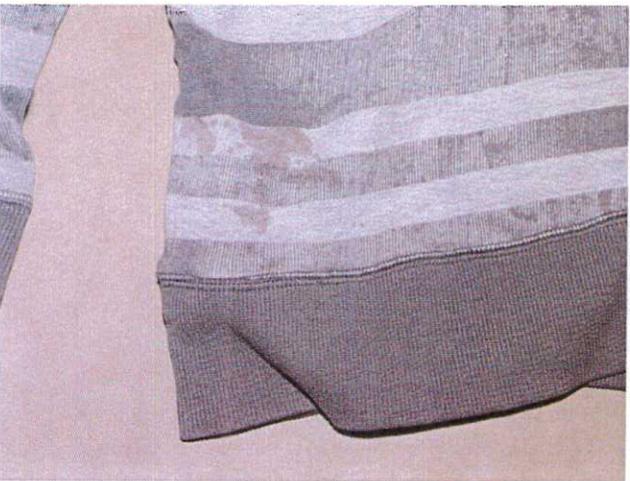
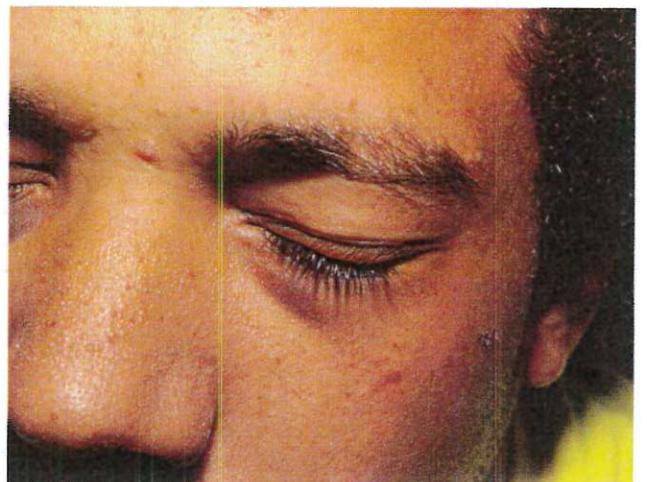
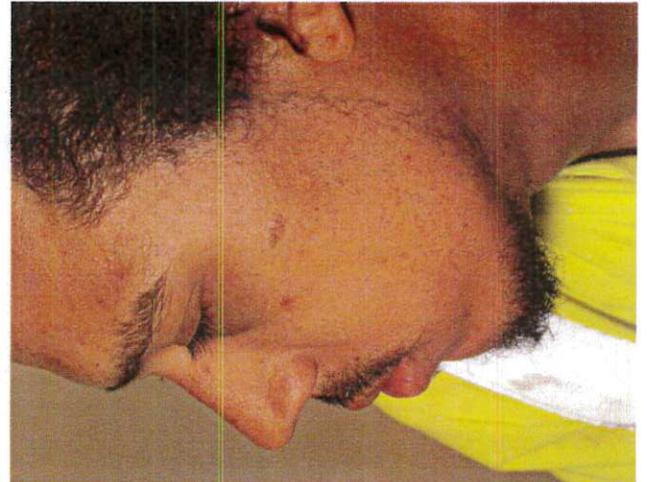
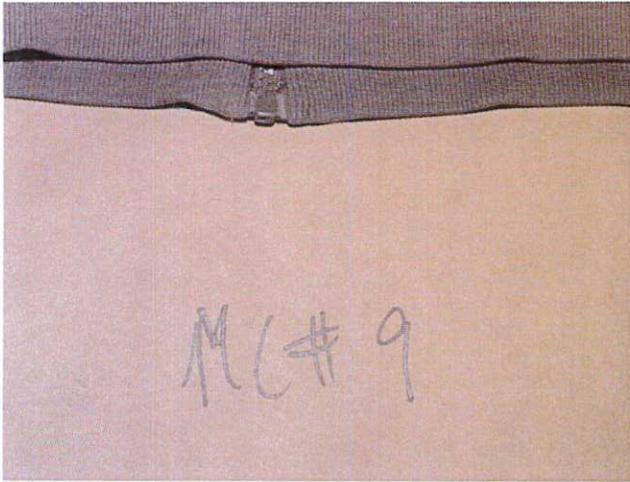
Location: TPD HQ Forensic Lab











Tacoma Police Department Photo Slate

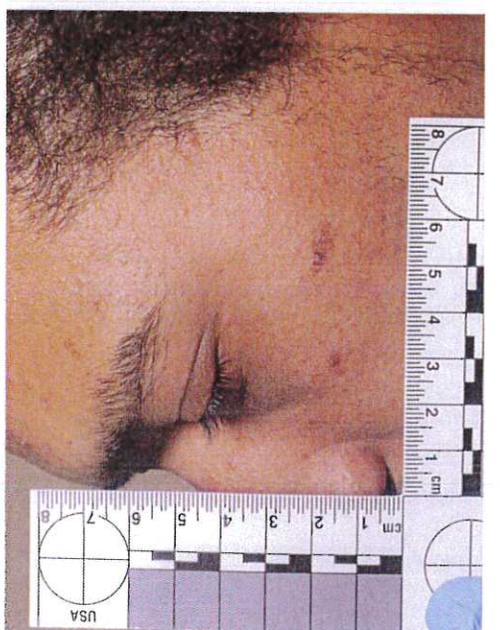
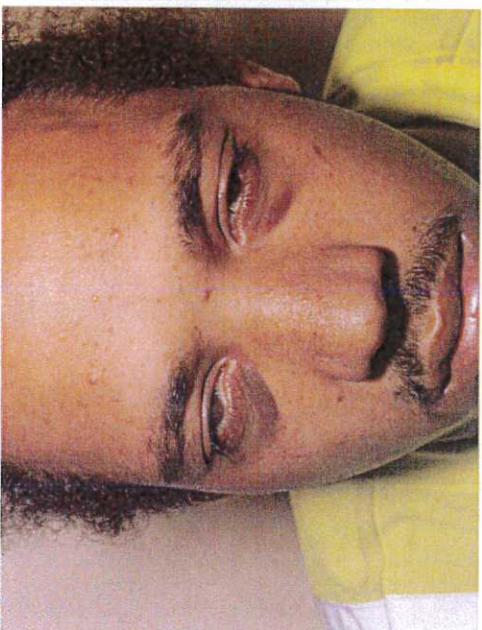
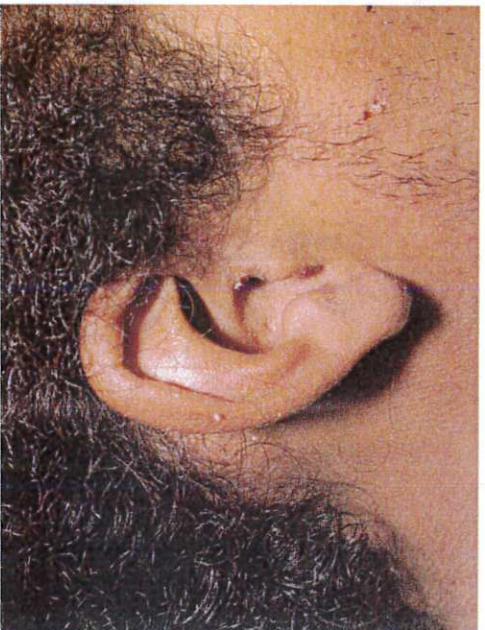
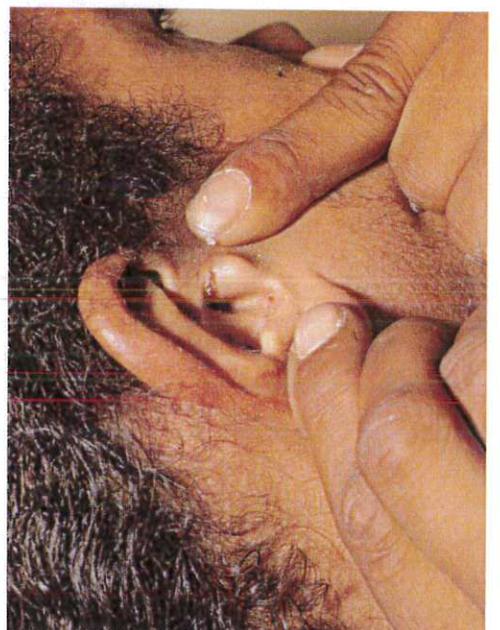
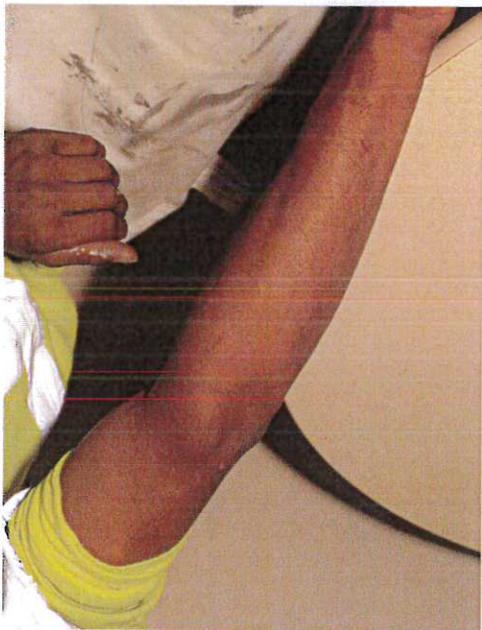
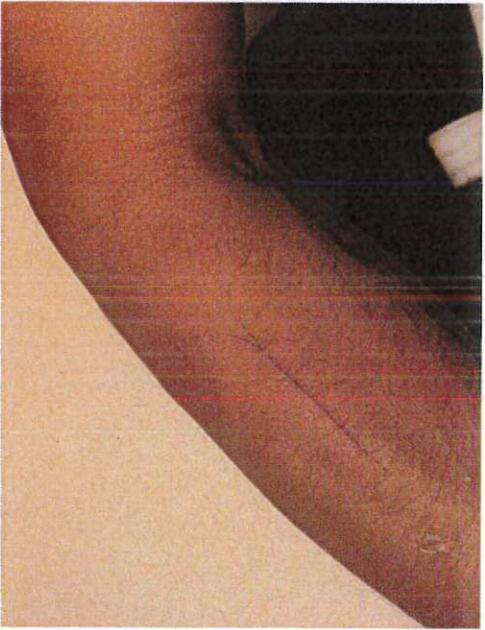
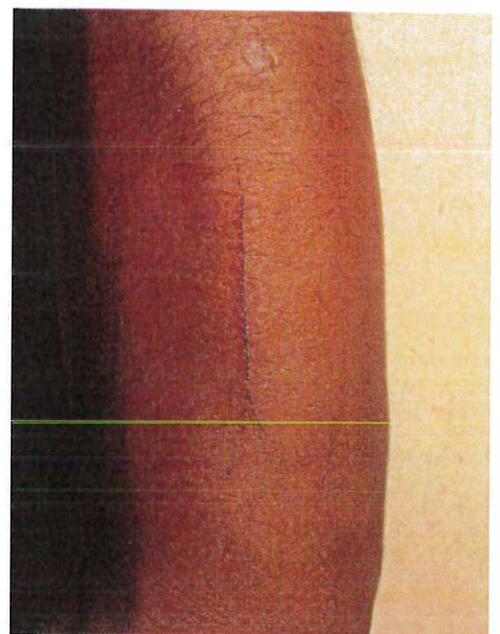
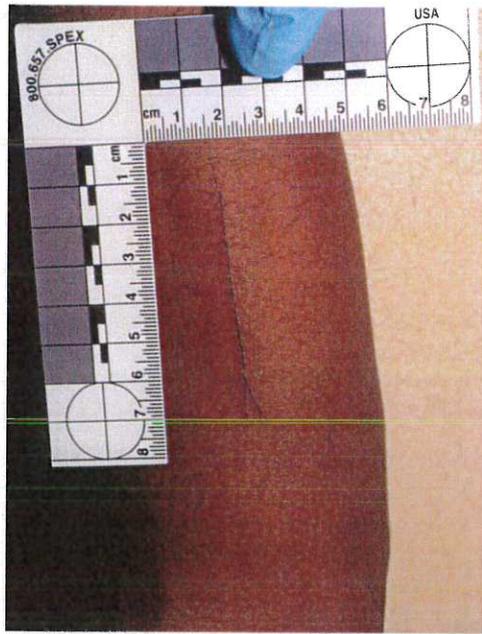
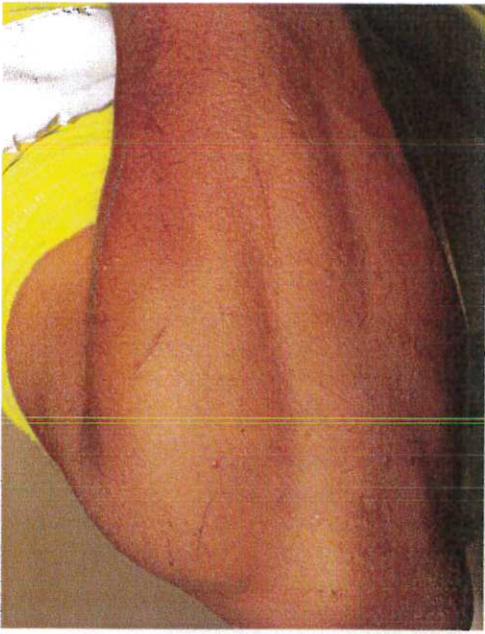
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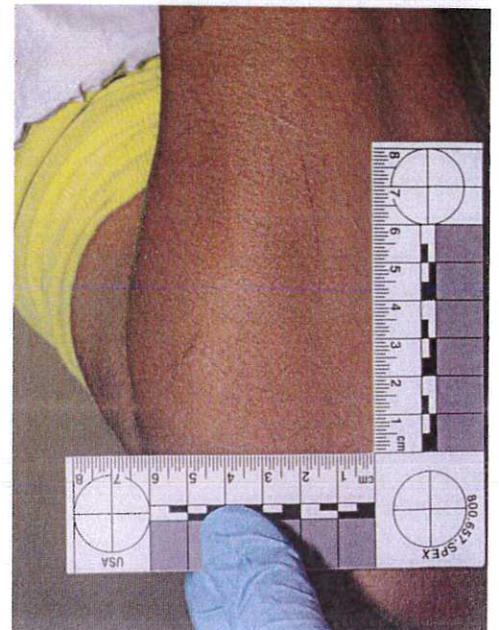
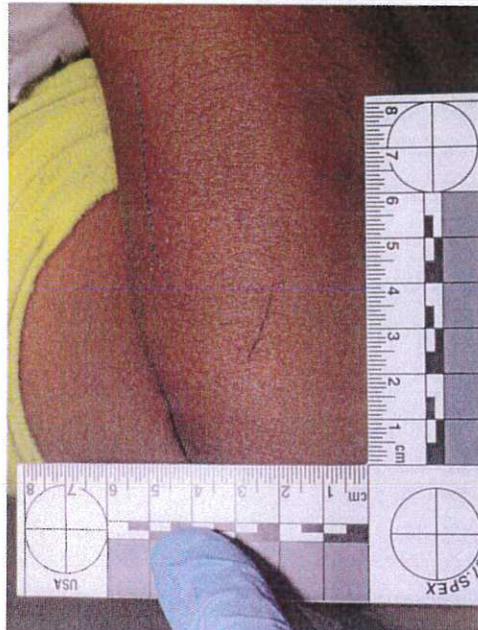
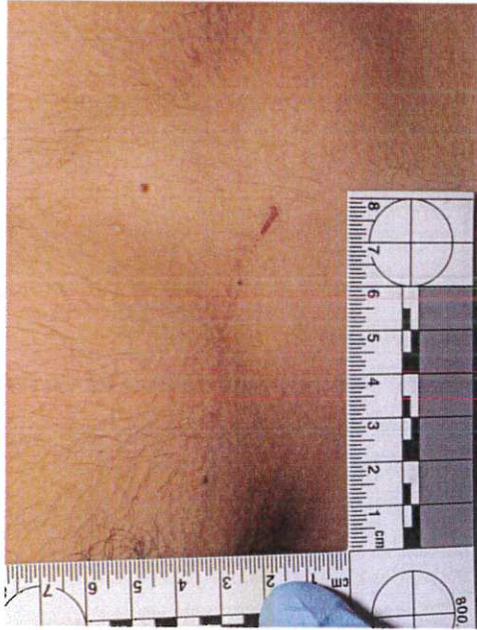
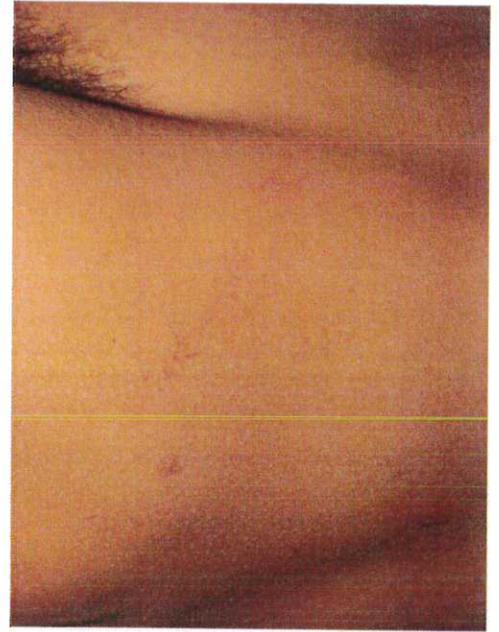
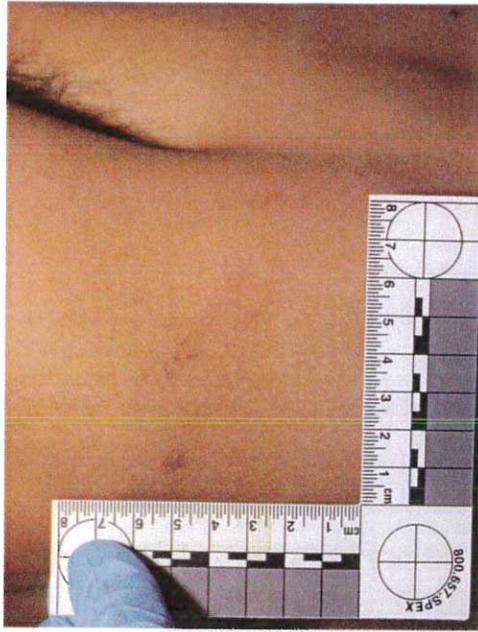
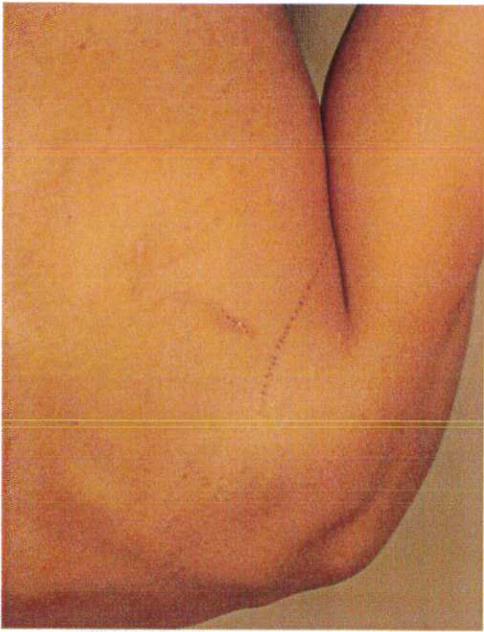
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Photos by: RC 201038 Memory Card# 7-9

Location: CID Interview Rm #1









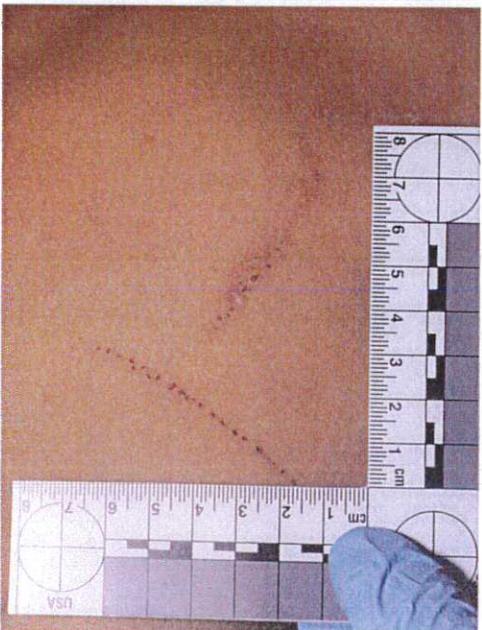
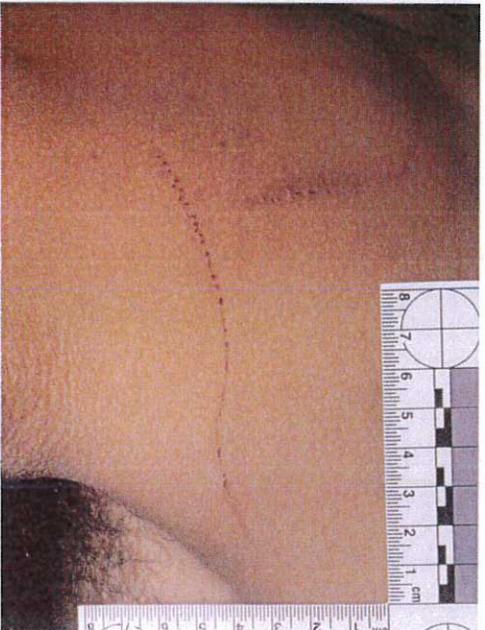
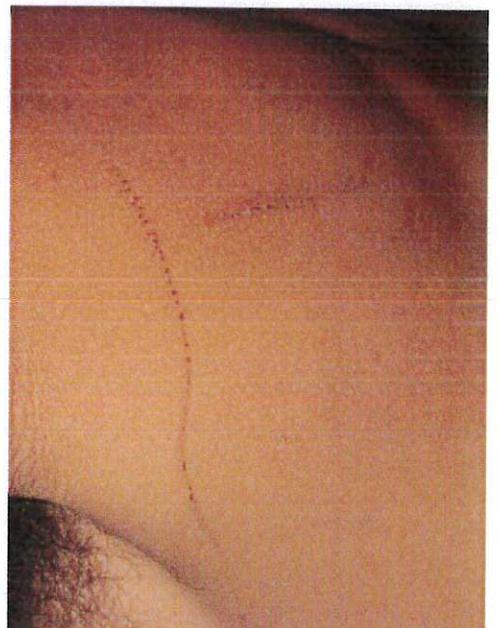
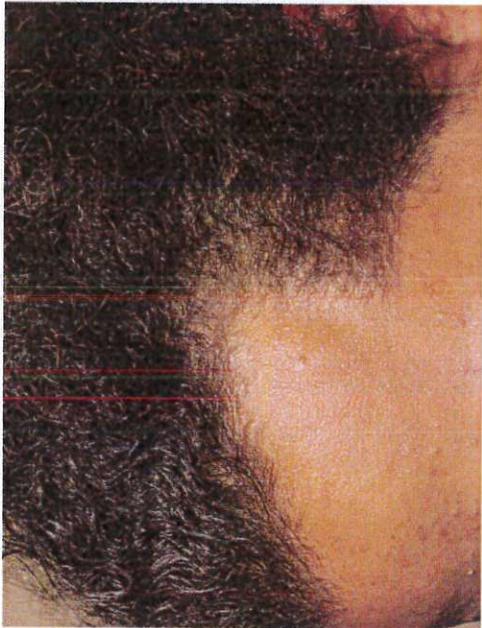
Tacoma Police Department Photo Slate

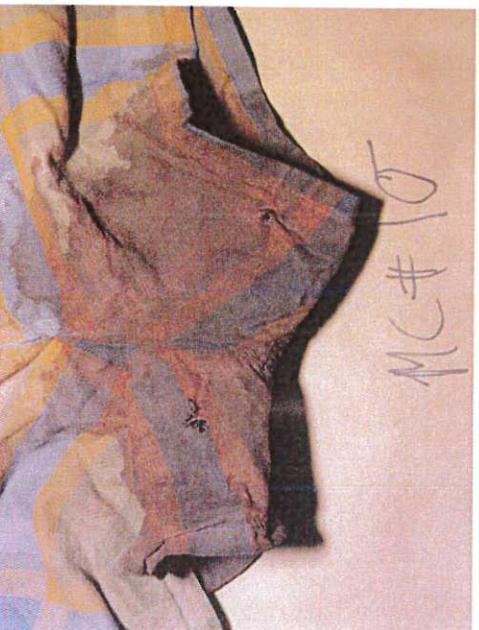
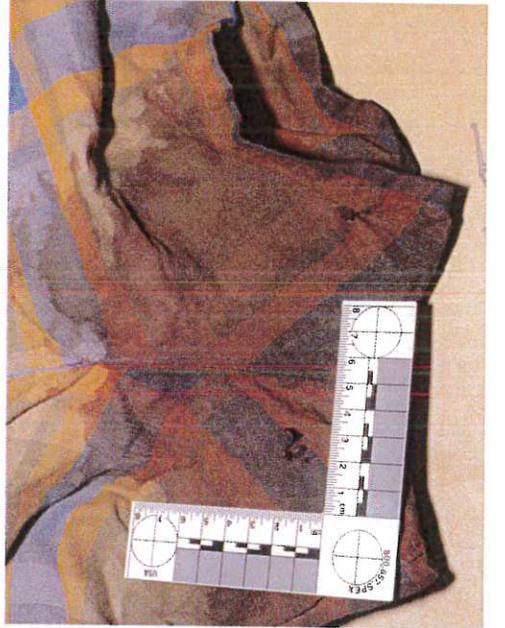
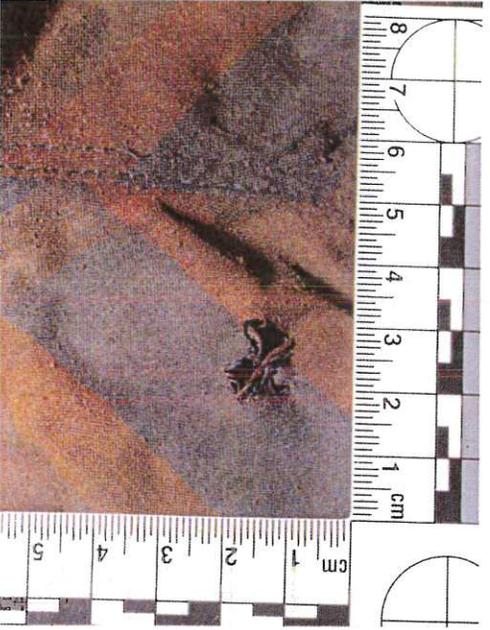
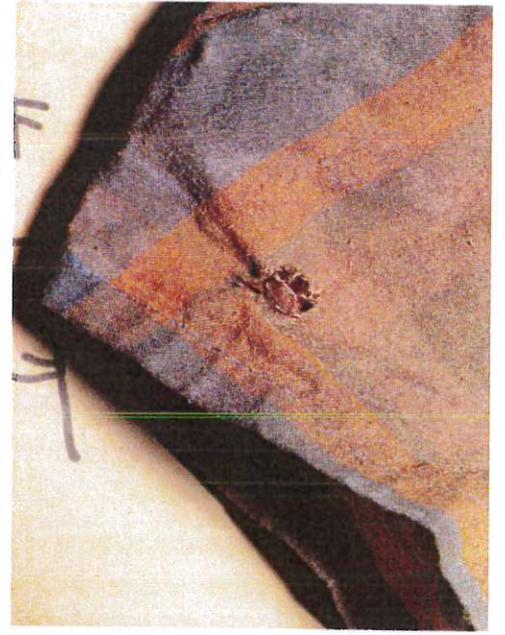
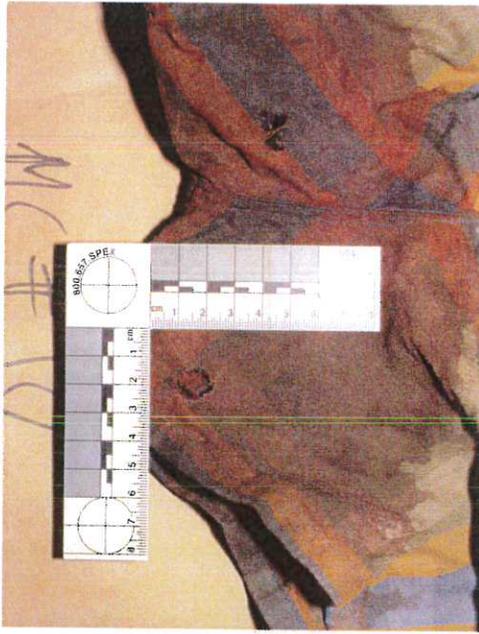
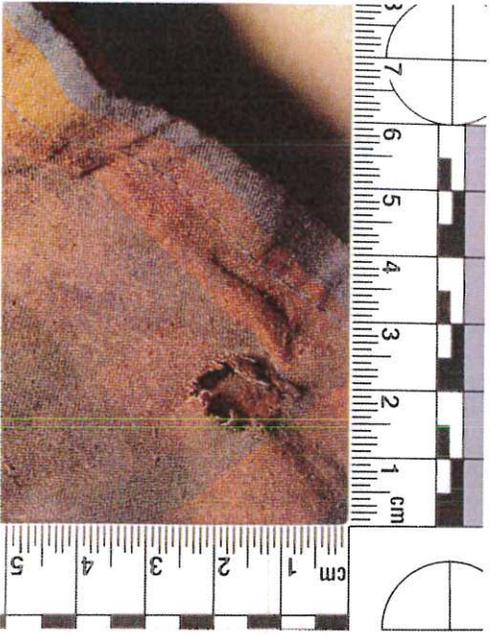
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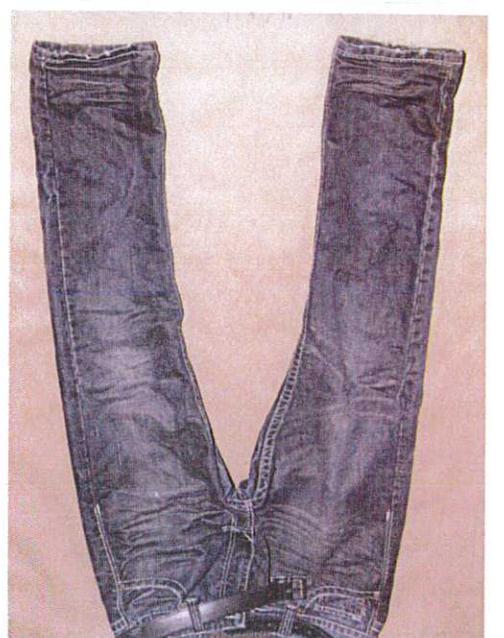
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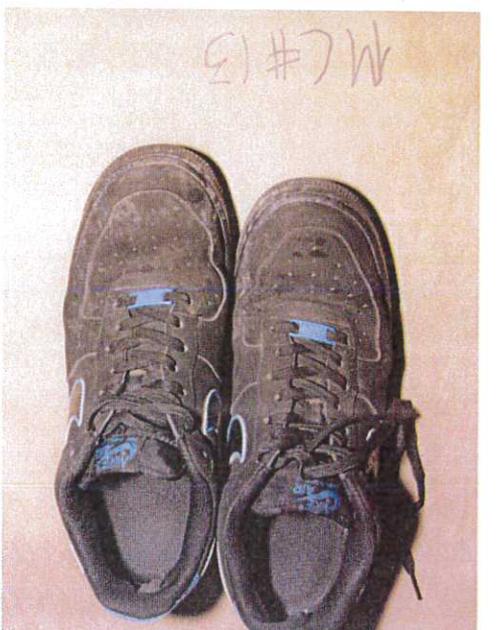
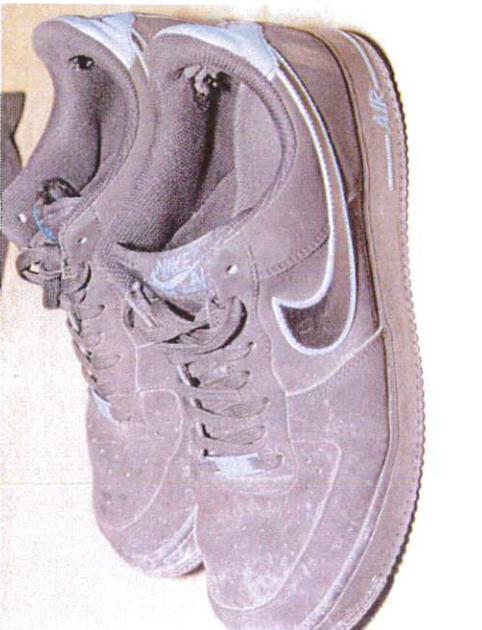
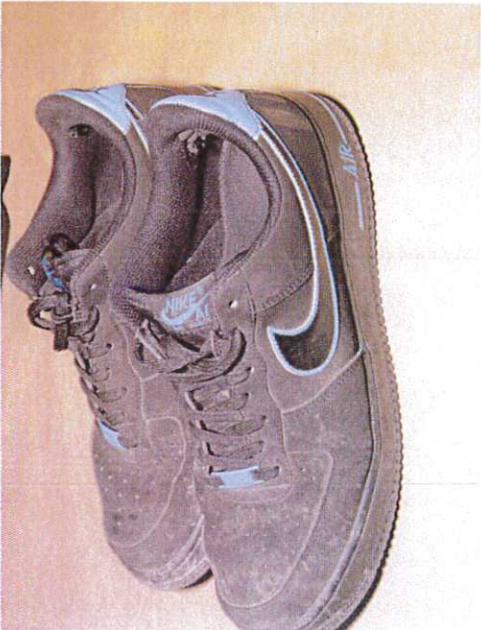
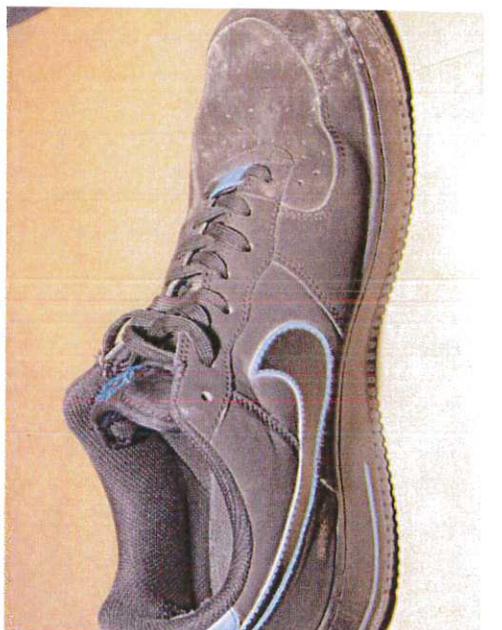
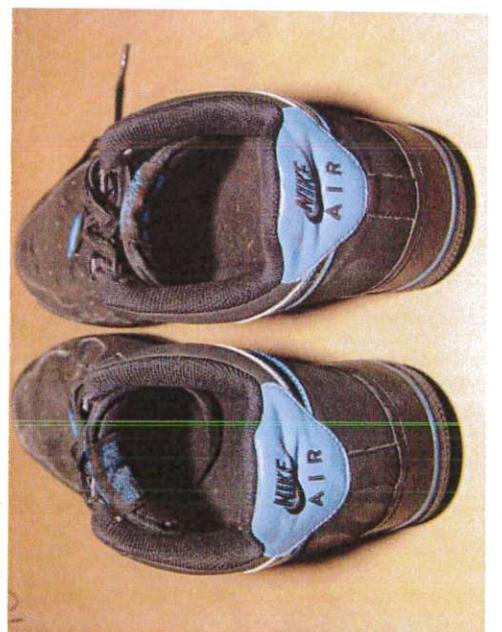
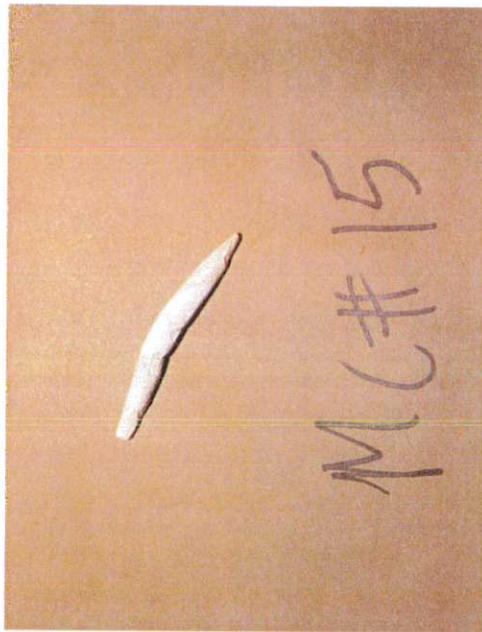
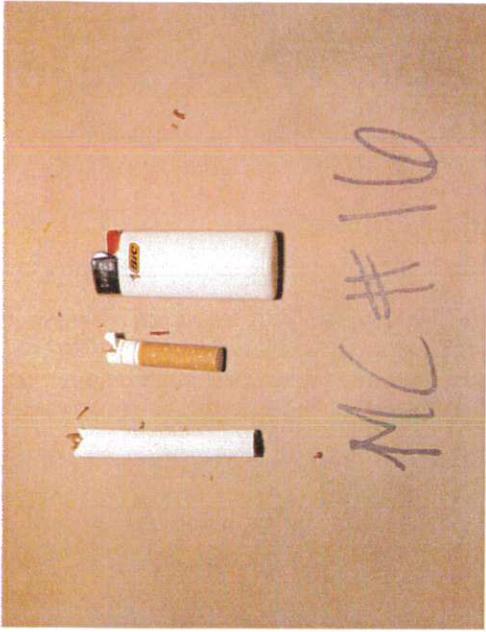
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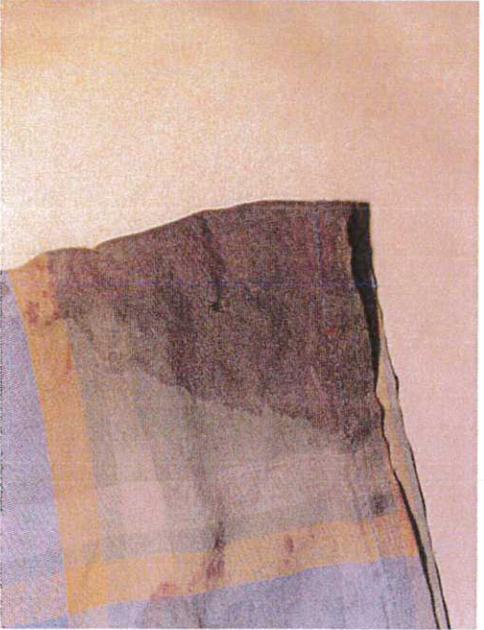
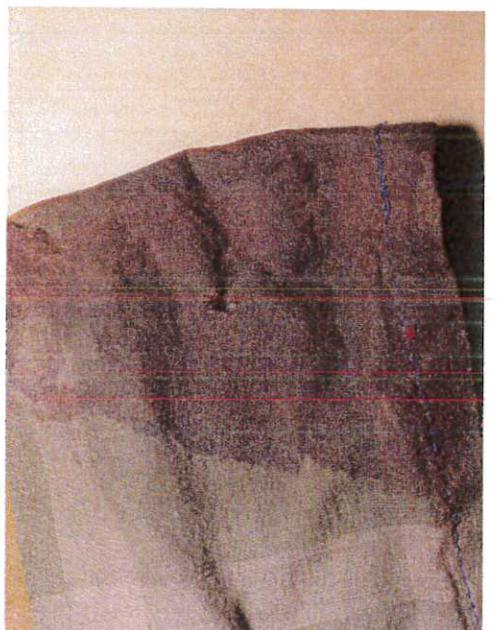
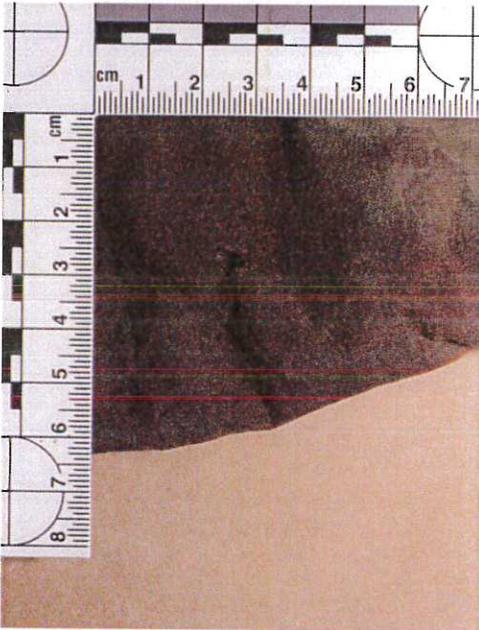
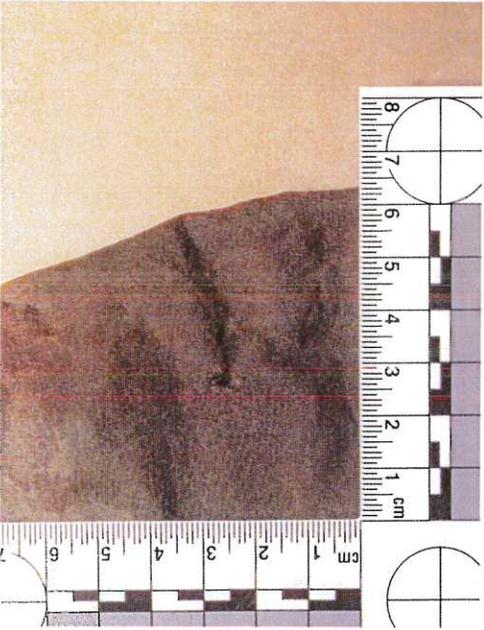
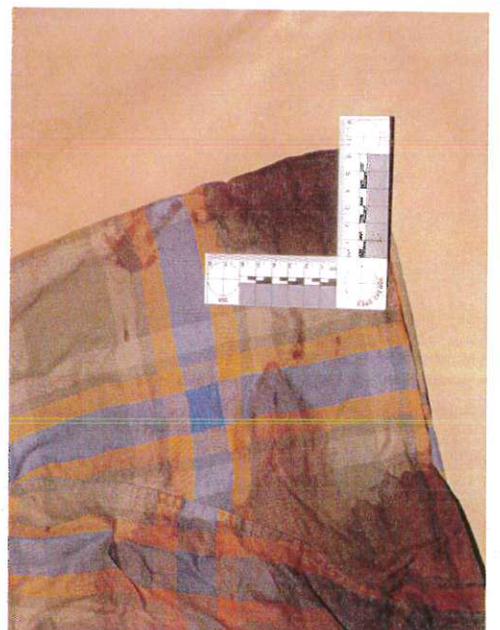
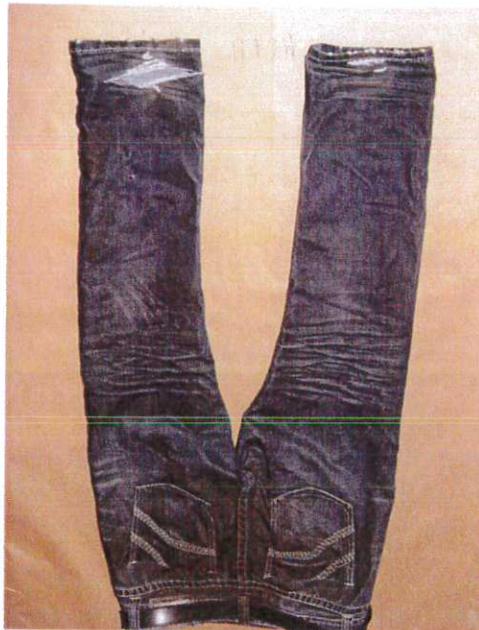
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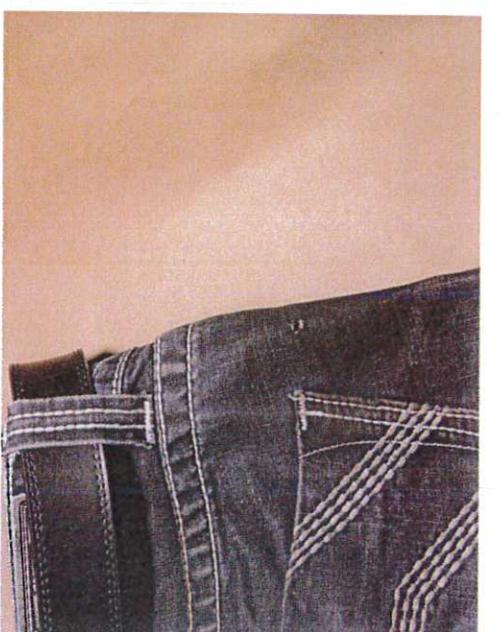
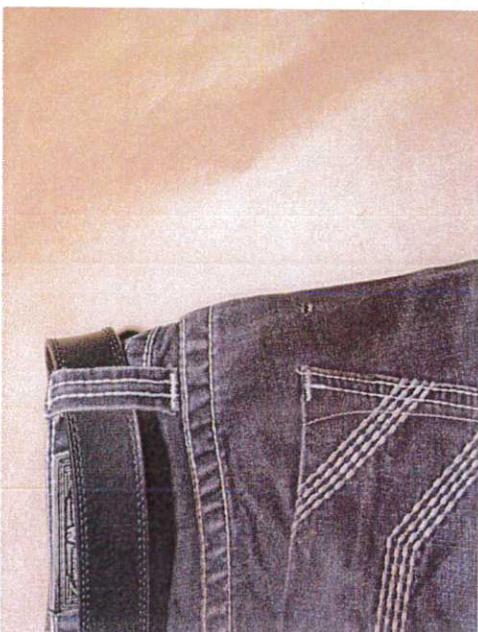
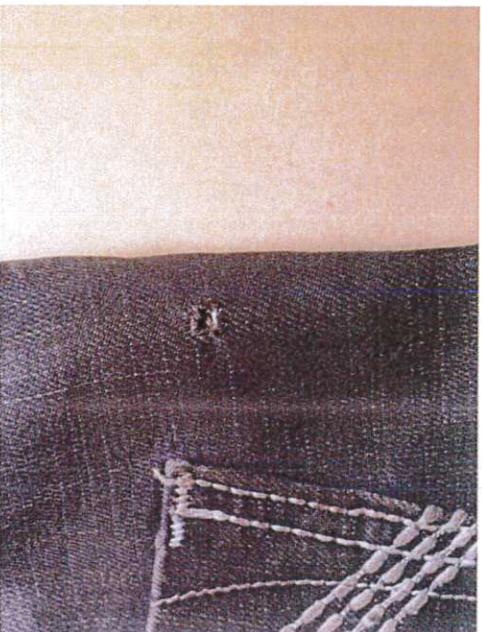
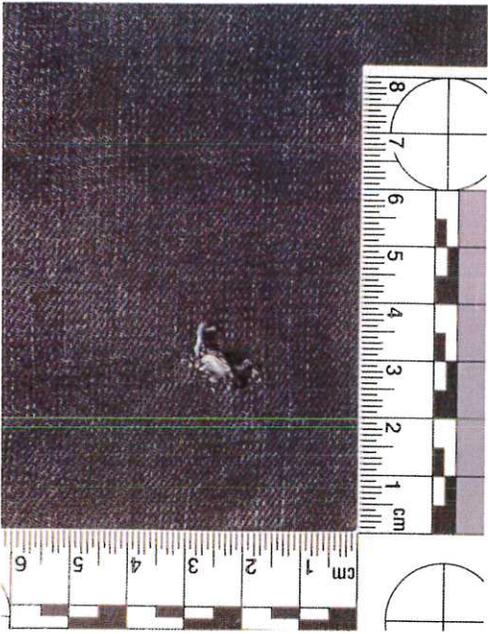


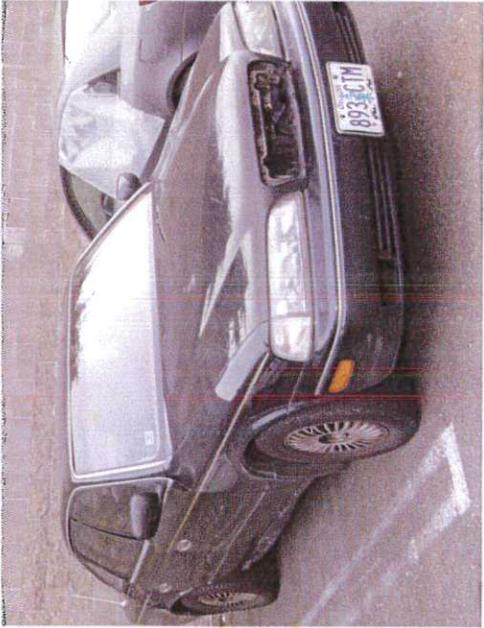
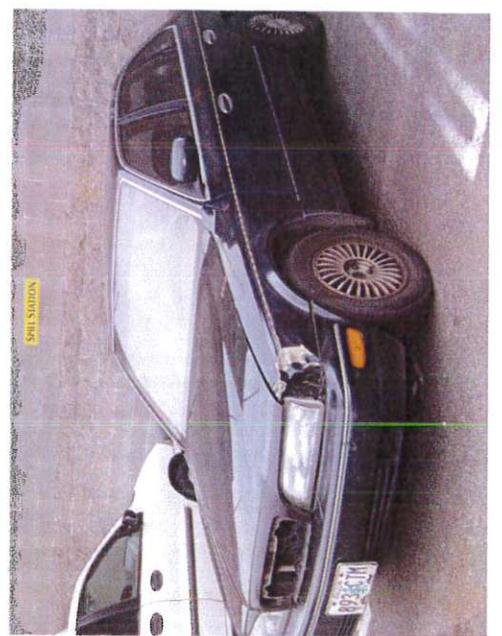
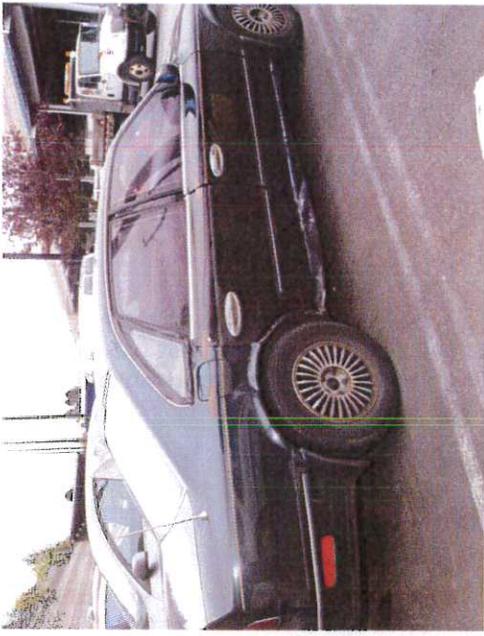












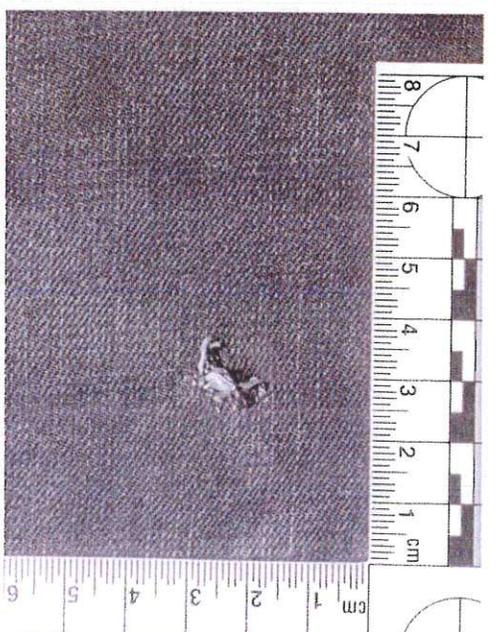
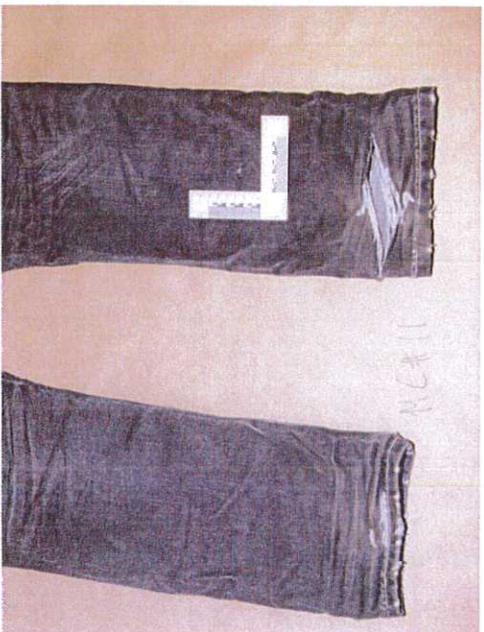
Tacoma Police Department Photo Slate

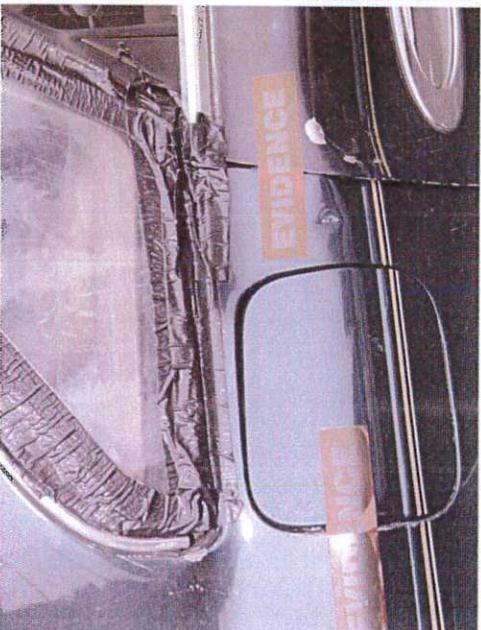
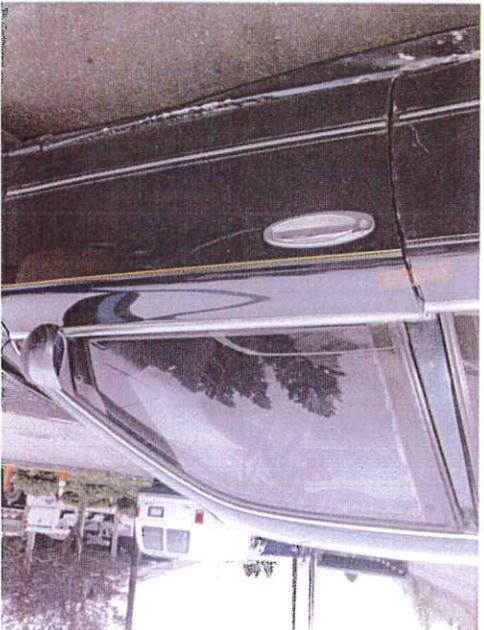
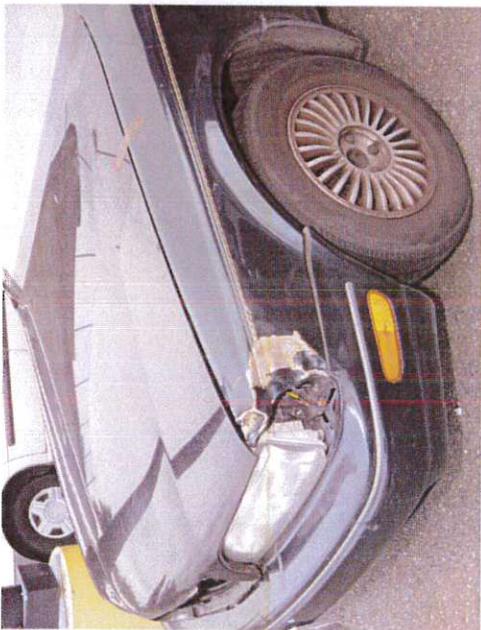
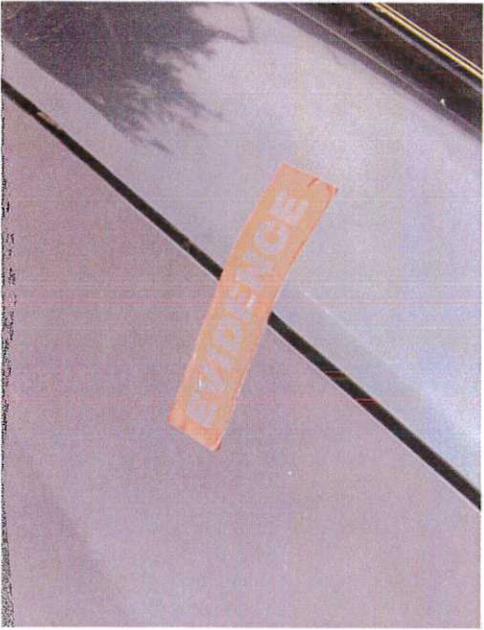
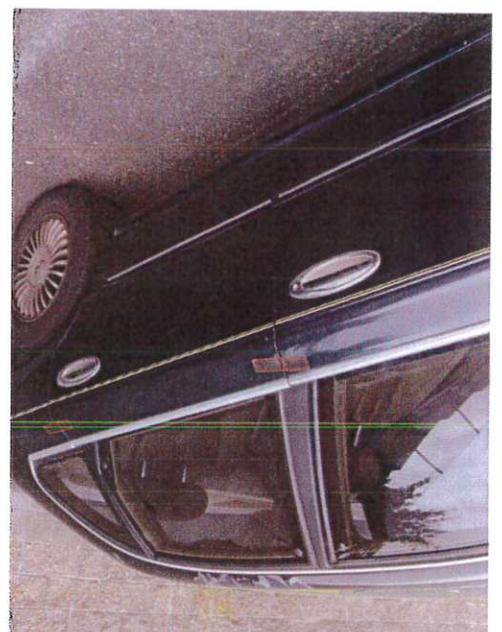
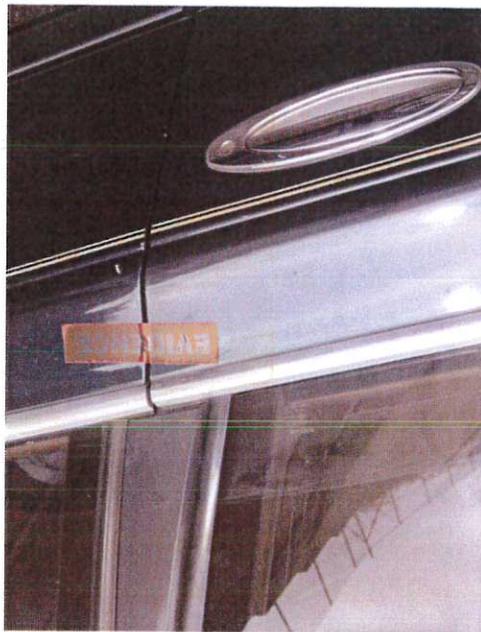
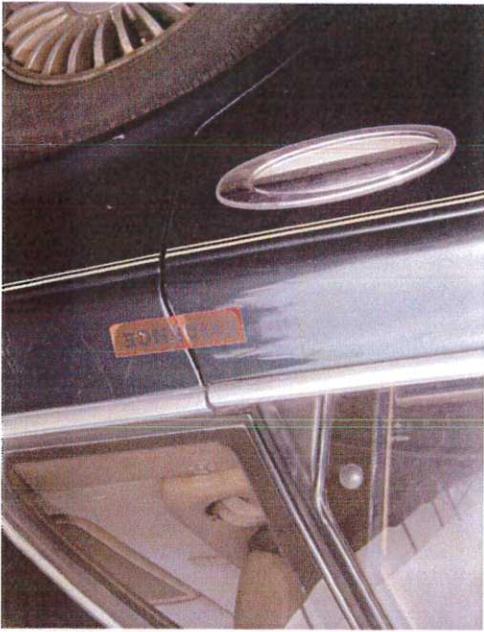
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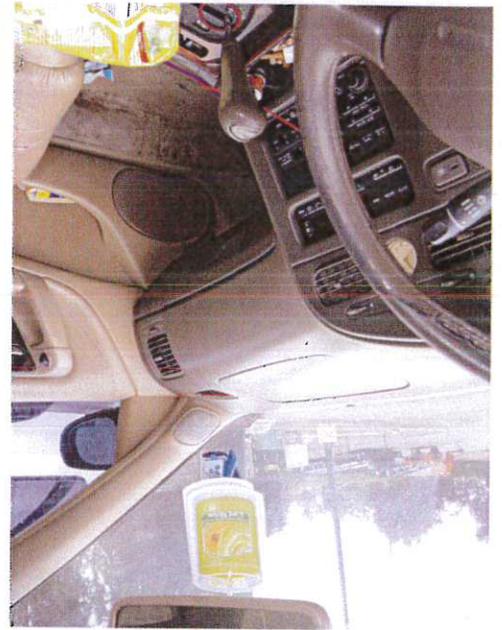
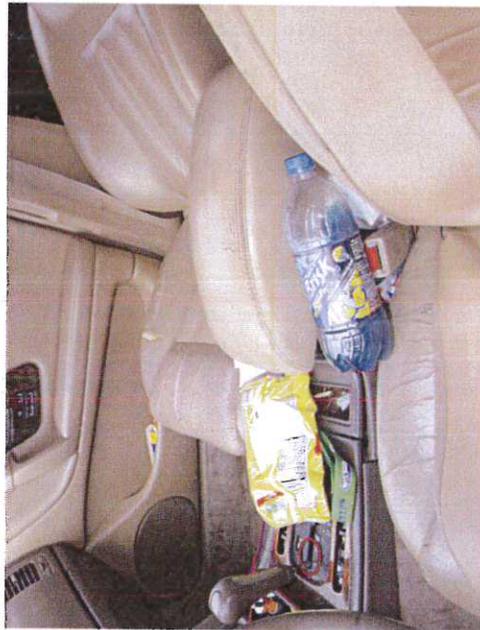
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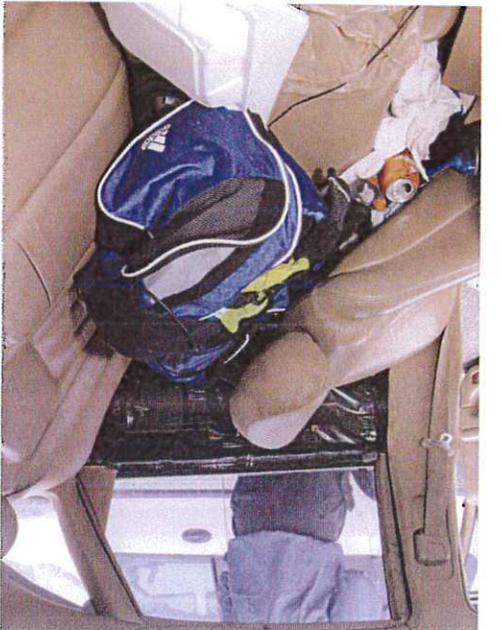
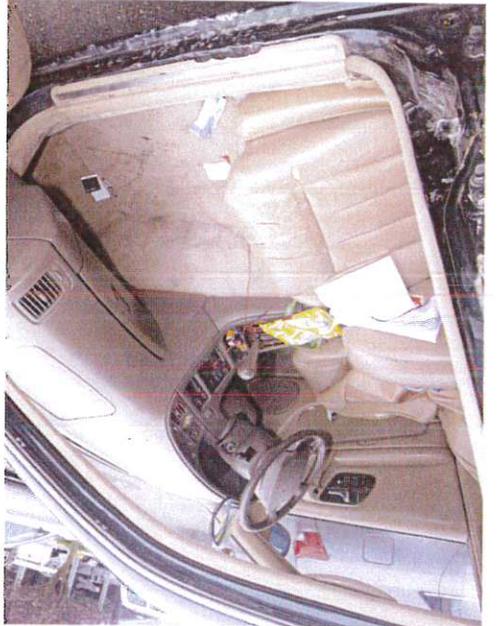
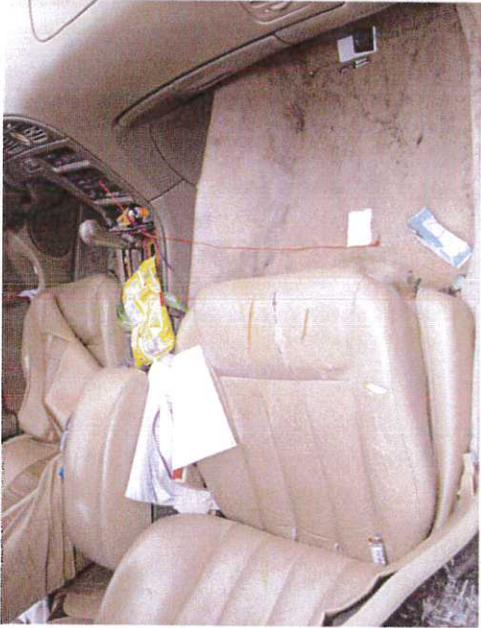
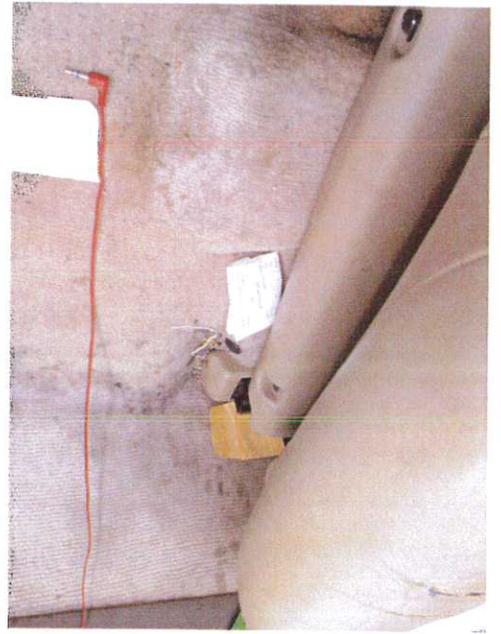
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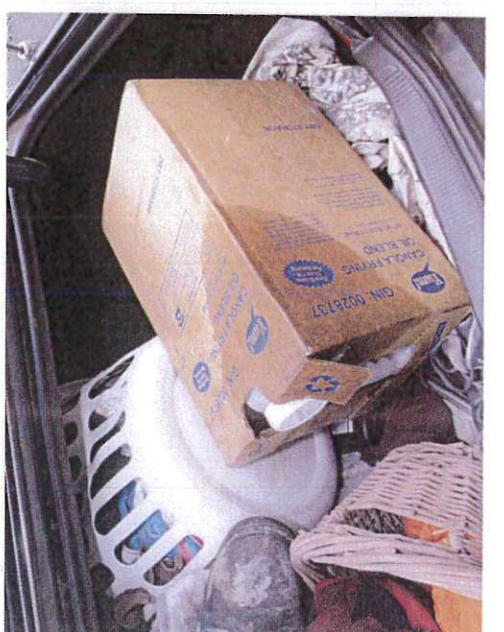
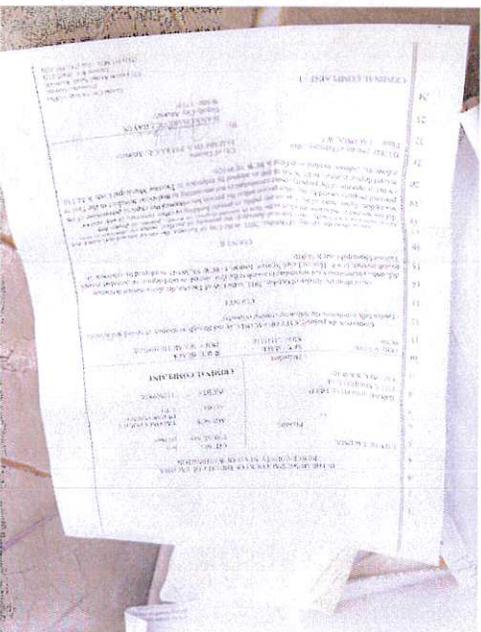
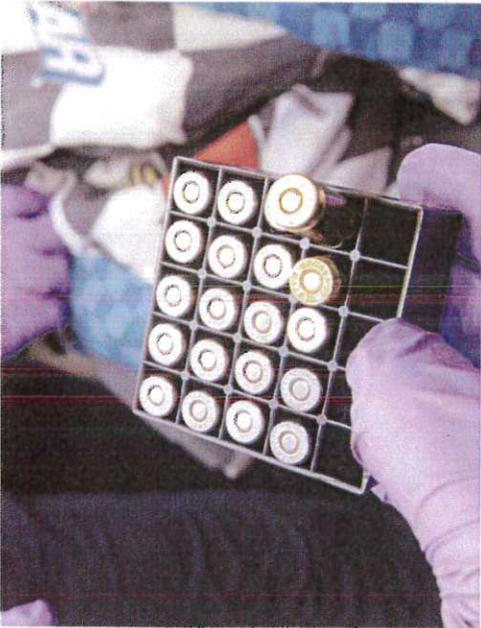
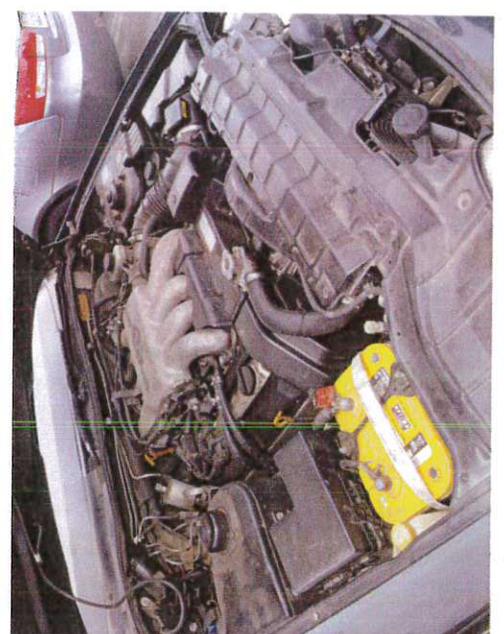
Location: TPD HQ (201)









Tacoma Police Department Photo Slate

Case Number:

1677100546

Date/Time:

072516@1448

Photos by:

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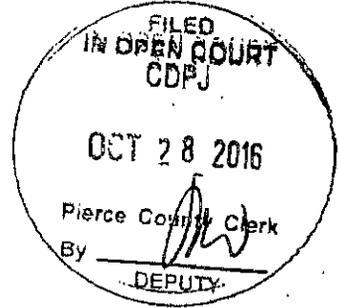
Location:

1417 S. Monroe





16-1-02651-8 4783E514 OOR 10-31-16



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

NO. 16-1-02651-8

Plaintiff,

vs.

Jesse McField

ORDER ON OMNIBUS HEARING

CHARGE:

ASLT 19 UPOE 1°; OBST

Defendant.

TRIAL DATE: ~~1.5.17~~

OOR

THIS MATTER having come before the court for an omnibus hearing, the State represented by:

Jesse Williams, and the defendant being present and represented by:

Matthew McFadden

1. Regarding PROSECUTOR'S OBLIGATIONS, THE DEPUTY PROSECUTING ATTORNEY STATES: that at least seven days prior to this order:

- The Prosecutor provided to defendant a complete list of the defendant's criminal convictions.
- The Prosecutor has provided to defense all discovery in their possession or control, pursuant to CR 4.7(a);
- [] The Prosecutor has contacted law enforcement agencies to request and/or obtain any additional supplemental police reports, forensic tests, and evidence and has made them available to defendant or defense counsel. The State is aware of the following reports, tests or evidence which has not been made available to the defendant: _____
- Prosecutor has reviewed the discovery and criminal history and made an offer to the defense.

N/A

If prosecutor has not checked every box in this section, the court makes the following order:

2. Regarding DEFENSE ATTORNEY'S OBLIGATIONS, DEFENSE COUNSEL STATES that at least two days prior to this order:

- Defense attorney has met with the defendant about this case.

ORDER ON OMNIBUS HEARING - 1 (Rev. 3/08)

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Defense attorney has received a plea offer from the State.

Defense attorney has reviewed the discovery and the criminal history.

Defense attorney has given discovery to prosecutor.

If defense attorney has not checked every box in this section, the court makes the following order:

3. Regarding DISCOVERY: The parties agree that Discovery is ~~COMPLETE~~ NOT COMPLETE IN THE FOLLOWING RESPECTS: _____

DISCOVERY must be completed by: _____

4. Regarding GENERAL NATURE OF DEFENSE:

The Defense states that the general nature of the defense is:

General Denial

Consent

Alibi

Diminished Capacity

Insanity

Self-defense as to 6.19.16 incident

Other (specify) _____

5. Regarding CUSTODIAL STATEMENTS by the defendant, the parties agree that:

No custodial statements will be offered in the State's case in chief, or in rebuttal.

The statements of defendant will be offered in the State's case in rebuttal only.

The statements referred to in the State's discovery will be offered and:

May be admitted into evidence without a pre-trial hearing, by stipulation of the parties.

A 3.5 conference is required and is estimated to require 2 (min/hr) and is set for day of trial

6. Regarding PRIOR CRIMINAL CONVICTIONS OF THE DEFENDANT, the parties agree that if defendant testifies at trial:

If the defendant testifies at trial, the prior record of convictions contained in the State's discovery

will will not be (stipulated to) by the defendant with the following exceptions: _____

There are no prior known convictions at this time. State will advise defendant promptly if it learns of prior convictions.

7. Regarding SUPPRESSION OF PHYSICAL EVIDENCE OR IDENTIFICATION, the parties agree that:

No motion to suppress physical evidence or identification will be filed.

Or, THE COURT ORDERS THAT:

Defendant's written motion to suppress shall be filed by _____. The State's response shall be filed by _____. Testimony will/will not be required.

State's written motion to suppress shall be filed by _____. The Defendant's

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response shall be filed by _____ Testimony will/will not be required.

8. Regarding OTHER PRE-TRIAL MOTIONS: No additional motions are anticipated, except:

in limine (day of trial)

Briefing schedule: Affidavits and briefs of the moving party must be served and filed by: _____

Responsive Brief must be served and filed by: _____

The hearing will last about _____ (min/hr)

9. Regarding TRIAL

a. The trial will be jury non-jury, and will last about 4-5 days.

b. Is an interpreter needed: No Yes. Language: _____ (if an interpreter is needed, State will call interpreter services at ext. 6091)

10. Regarding WITNESSES:

There will be out-of-state witnesses yes no.

A child competency or child hearsay hearing is needed yes no.

State:

- All witnesses have been disclosed.
- A Witness List has been filed.
- A witness list must be filed by: _____

Defense:

- All witnesses have been disclosed.
- A Witness List has been filed.
- A witness list must be filed by: 2 wks prior to trial

11. Other

- Defendant needs a competency examination.
- Defendant is applying for drug court.
- Defendant is seeking an evaluation which may necessitate a continuance.

12. The Court sets a Status Conference for _____ (date) for the purpose of: _____

13. Other orders: State may add counts for additional incidents set forth in discovery

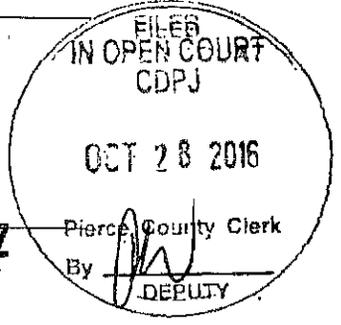
Dated 10/28 2016

Jerome Meade
Defendant

[Signature]
Defendant's Attorney/Bar # 71754

MES
Judge MICHAEL E. SCHWARTZ

J. Will
Prosecuting Attorney/Bar # 35513



HESTER LAW GROUP, INC., P.S.

April 12, 2019 - 12:15 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 51948-8
Appellate Court Case Title: State of Washington, Respondent v. Jerome McField, Appellant
Superior Court Case Number: 16-1-02651-8

The following documents have been uploaded:

- 519488_Briefs_20190412121500D2791721_1453.pdf
This File Contains:
Briefs - Statement of Additional Grounds for Review
The Original File Name was SOAG.pdf

A copy of the uploaded files will be sent to:

- PCpatcecf@piercecountywa.gov
- leeann@hesterlawgroup.com
- rsand@co.pierce.wa.us

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