

#318

COMMONWEALTH OF MASSACHUSETTS

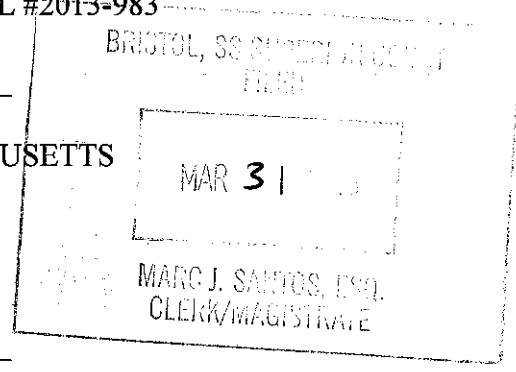
BRISTOL, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL #2013-983

COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ



**DEFENDANT'S MOTION TO PRECLUDE TROOPER DUMONT
FROM REPEATING TESTIMONY ABOUT CELL TOWER LOCATION
INFORMATION AND TIMES FOR ROUTE OF TRAVEL**

Aaron Hernandez ["Hernandez"], defendant in the above criminal case, hereby moves this Court to preclude the Commonwealth from repeating testimony previously received in this trial about the cell tower location and times for the route of travel of the Nissan Altima on the evening of June 17, 2013. In support of this motion, the defendant states:

1. Based on discovery provided to date, the defendant understands that Trooper Christopher Dumont will describe his efforts to locate video surveillance of the Nissan Altima in the early morning hours of June 17, 2013. Presumably, the Commonwealth will play the video for the jury (which has not previously been played) and have Trooper Dumont describe where the cameras were located. The defendant has no objection to that testimony.
2. However, the Commonwealth apparently also intends to use Trooper Dumont to summarize testimony that has already been offered. For instance, Det. Ciccio testified at

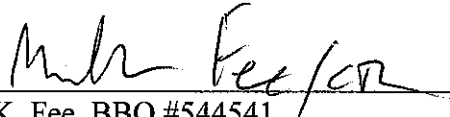
length about his recreation of the drive times between 22 Ronald C. Meyer Drive, Fayston Street, and back to North Attleboro. In addition, RF engineers from cell phone companies have testified to the location of cell towers used by the Wallace phone and the Lloyd phone on that night, including maps showing the location of the towers and photographs of the calls. Apparently, the Commonwealth intends to go through this testimony again, this time with Trooper Dumont. The defendant has been furnished with a Powerpoint which the Commonwealth apparently intends to use with Trooper Dumont.

3. This proposed testimony would be duplicative and should be excluded. The substance of the testimony is more properly the subject of closing argument, rather than a Trooper who is merely summarize information that is already in evidence.

Respectfully submitted,

AARON HERNANDEZ

By his attorneys,



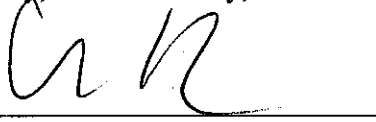
Michael K. Fee, BBO #544541
Latham & Watkins, LLP
John Hancock Tower
200 Clarendon Street, 20th Floor
Boston, MA 02116
(617) 948-6000



James L. Sultan, BBO #488400
Charles W. Rankin, BBO #411780
Rankin & Sultan
151 Merrimac Street, Second Floor
Boston, MA 02114
(617) 720-0011

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document upon the Commonwealth, **IN HAND**, to: William McCauley, Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on March 31, 2015.



Charles W. Rankin

Route #1 - Start at 22 Ronald C Meyer Blvd, North Attleboro

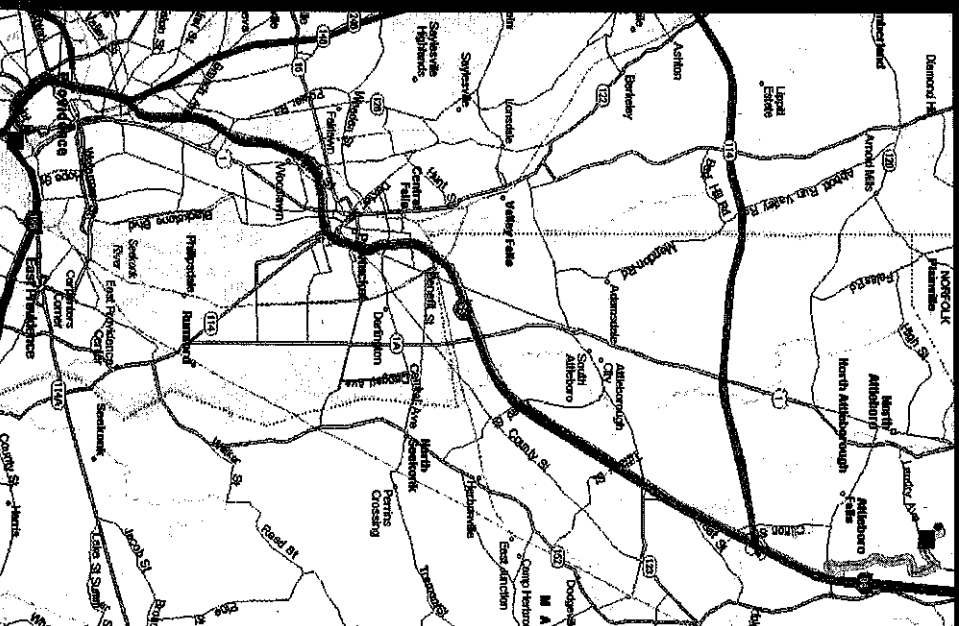
Aaron Hernandez and Shayanna Jenkins leave at 8:58:10
(Video Clip)

06-16-2013 08:55:24 PM

driveway

Route #1 – 22 Ronald C Meyer Blvd, North Attleboro to 54 South Street, Providence

Location	Address	Distance (from Start)	1 st Travel Time (from Start)	2 nd Travel Time (from Start)
Start	22 Ronald C Meyer Drive North Attleboro, MA	0 miles	0 minutes	0 minutes
End	South Street Café 54 South St Providence, RI	16.5 miles	25 minutes	19:40



Route #1 - South Street Café Receipt

South Street Café
54 South Street
Providence, RI 02903
(401) 454-5366

Check Opened at

9:37 PM

Check Closed at
12:19:56 AM

12:19:56
Check: 1677 Basis: 1
06/15/2013 09:31PM t13

2	Baked Stuffed Cinnamon	8.00
1	Crackcake	2.75
1	23 MUFFINS	14.00
11	HENANSEY	39.00
2	G. HOUSE YOD	13.00
7	BUD LIGHT	21.00
1	NO WINES	7.00
10	SEX ON BEACH	72.56
	SAR VOTIA	
	CHANGE TIPS	30.00
	VISA	273.45
	*****55371	
	SUBTOTAL	242.25
	SVC CHG	3.00
	Tax	0.22
	PAYMENT	273.45
	Change Due	\$0.00

Check Closed
06/17/2013 12:19:56AM

VISA
7134

South Street Café
54 South Street
Providence, RI 02903
(401) 454-5366

Date: 06/17/2013 12:19:56
Card Type: VISA
Acct Ref: *****55371
Exp Date: **/**/**
Customer: -SPINALE/4400A
Shift Code: 359803
Check: 1677
Check Name: 115
Server: 12 E172a
Ref Number: 3188040303

Amount:

\$243.45

CUSTOMER COPY

T13

33.02

Totals

4273.45

KEEP THIS COPY FOR
YOUR RECORDS

Please visit us again soon

Route #1 – South Street Café Photo

Photo taken by:
LG G2X

Date taken:
6/17/13 @ 12:18 AM



Route #1 - 22 Ronald C Meyer Blvd, North Attleboro

Aaron Hernandez and Shayanna Jenkins arrive at 12:42:01 AM
(Video Clip)

06-17-2013 12:39:15 AM

driveway

Route #2 -- 22 Ronald C Meyer Blvd, North Attleboro

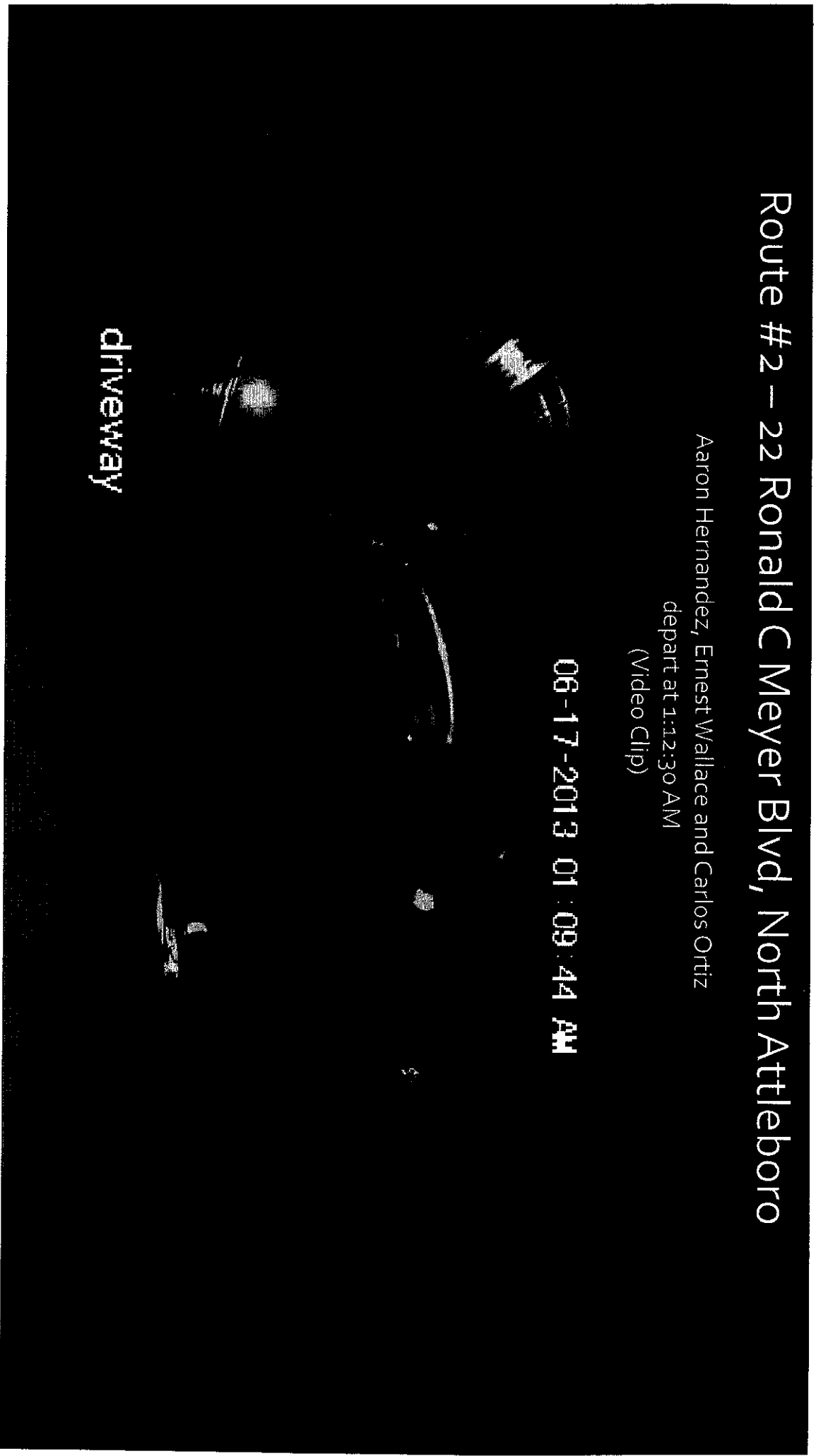
Aaron Hernandez, Ernest Wallace and Carlos Ortiz

depart at 1:12:30 AM

(Video Clip)

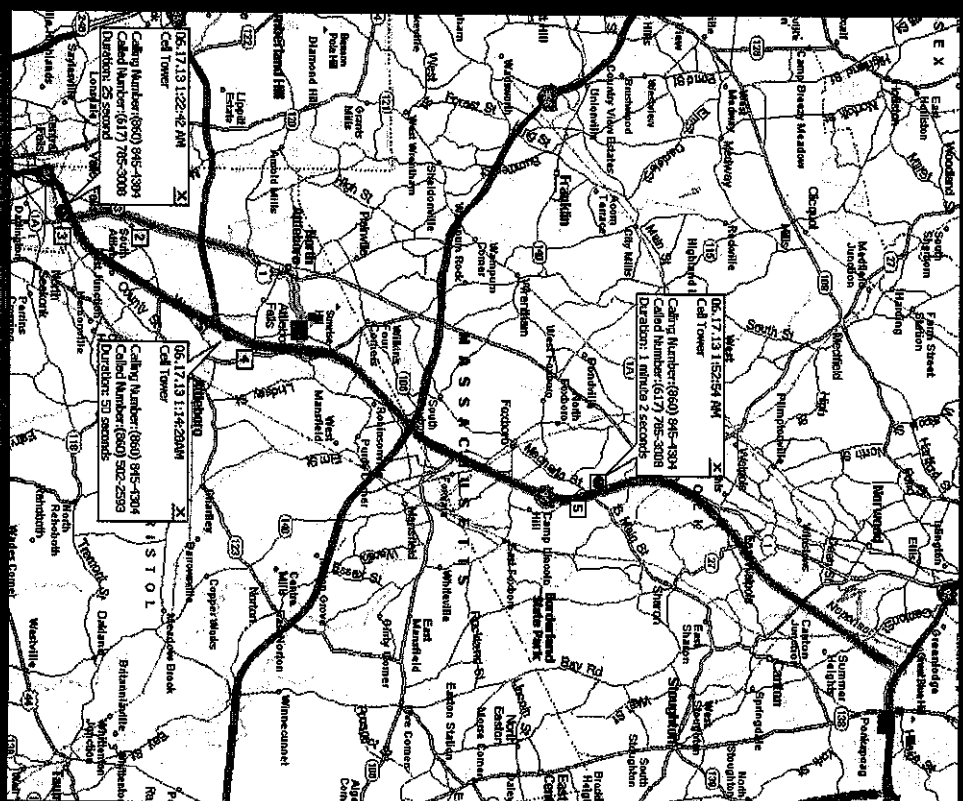
06-17-2013 01:09:44 AM

driveway



Route #2 – 22 Ronald C Meyer, Attleboro, MA to Blue Hills Express, 2740 Washington St, Canton, MA

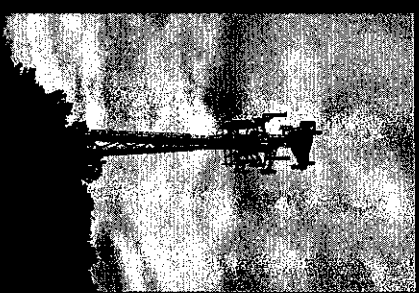
Location	Address	Distance (from Start)	1 st Travel Time (from Start)	2 nd Travel Time (from Start)
Start	22 Ronald C Meyer North Attleboro, MA	0 miles	0 minutes	0 minutes
3	Cell Tower (Rt. 95, Exit 2) 505 Collins St South Attleboro, MA	8.2 miles		11 minutes
4	Rt. 95 @ Exit 5/Rt. 152 North Attleboro, MA	14.5 miles	5 minutes	16 minutes
5	Cell Tower (Rt. 95N, Exit 8) Sharon, MA	23.7 miles		24 minutes
End	Blue Hills Express 2740 Washington St Canton, MA	41.5 miles	25 minutes	40 minutes



Route #2 – Cell tower, 79 Walton Street, Attleboro, MA

Call from (860) 845-4304 to (860) 502-2593 for 50 seconds – 6/17/13 @ 1:14:28 AM

Aerial



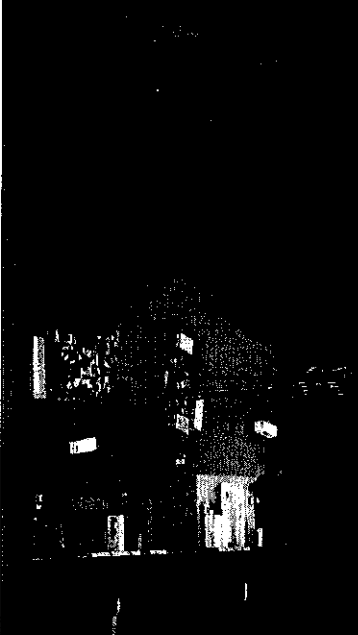
From Rt. 95 N

Route #2 – Photos of cell tower at 505 Collins St, Attleboro, MA

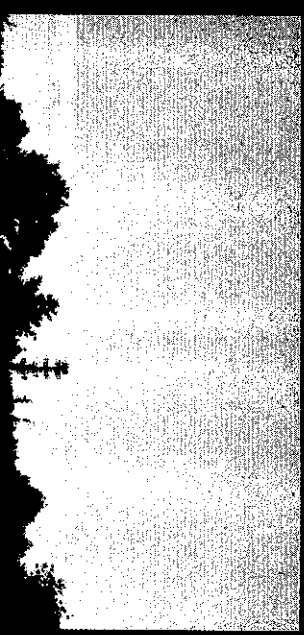
Call from (860) 845-4304 to (617) 785-3008 for 25 seconds – 6/17/13 @ 1:22:42 AM



From Colvin Street



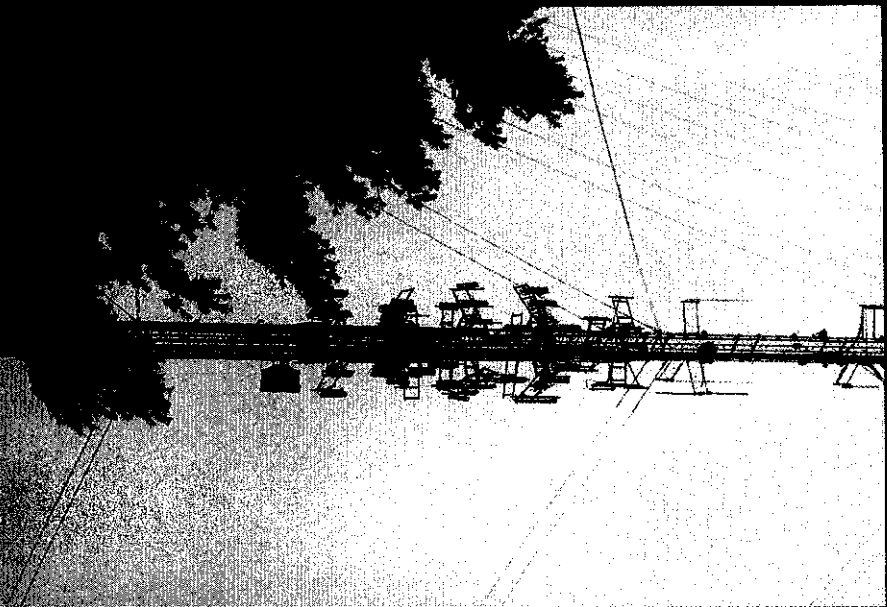
Aerial



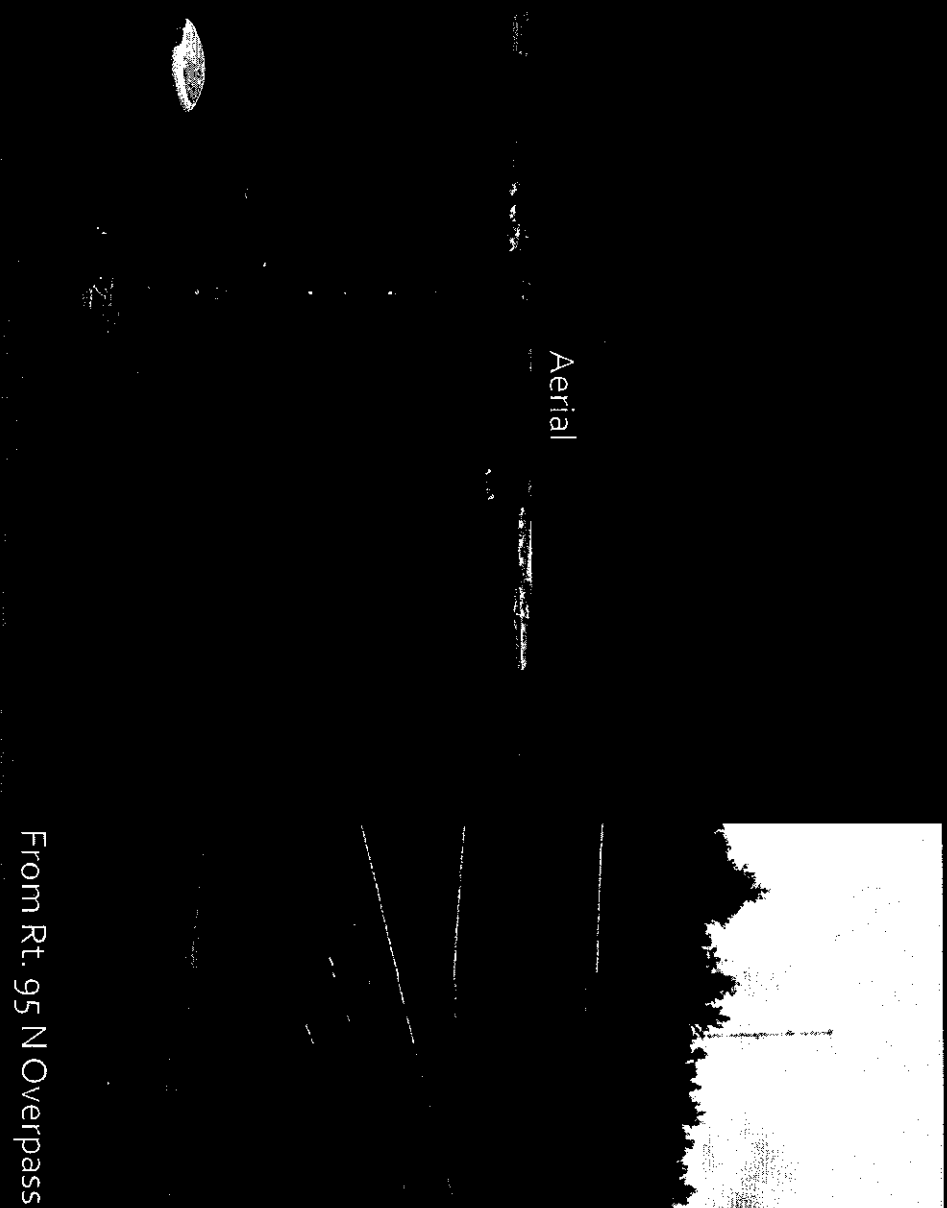
From Rt. 95 N

Route #2 – Cell tower, 2 Holbrook Road, Foxboro, MA

Call from (860) 845-4304 to (617) 785-3008 for 62 seconds – 6/17/13 @ 1:52:54 AM



Close Up



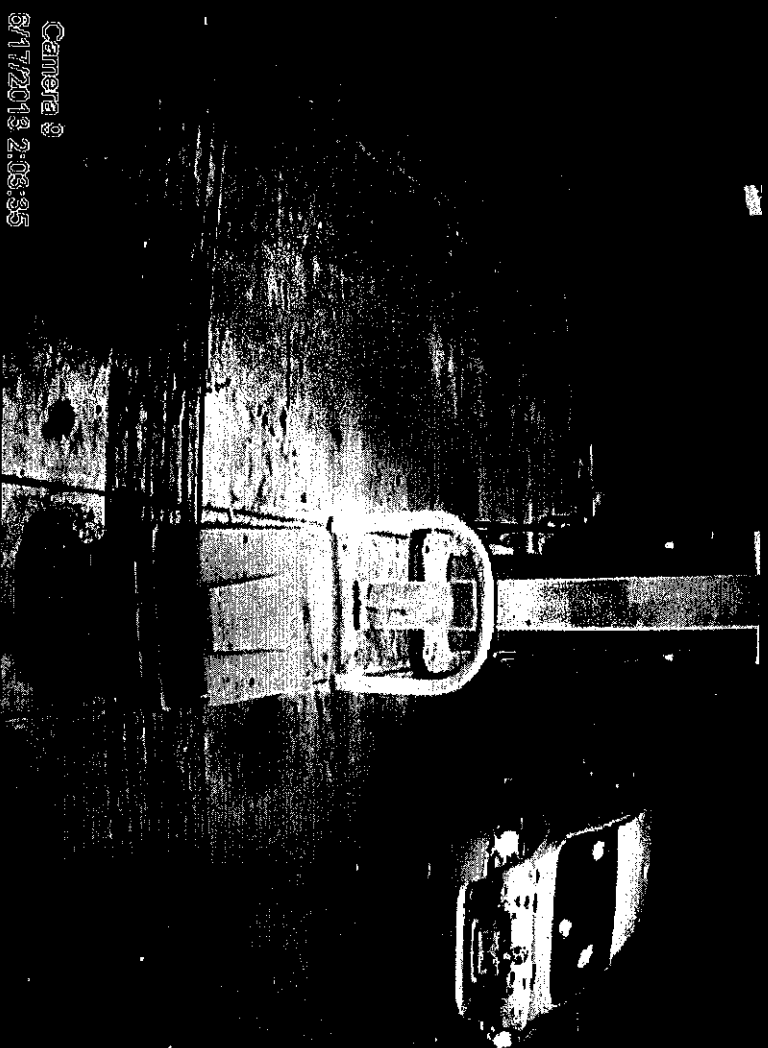
Aerial

From Rt. 95 N Overpass

Route #2 -Blue Hills Express, 2740 Washington St, Canton, MA

Car arriving at 2:03:35 AM
(Video Clip)

Camera 3
8/17/2013 2:03:35



Route #3-Blue Hills Express, 2740 Washington St, Canton, MA

Gas Receipt

*** REPRINT *** REPRINT *** REPRINT ***
2740 Washington Street
Canton MA 02021
BLUE HILL EXPRESS, INC , L325657626001
2740 WASHINGTON ST.
CANTON , MA
02021
06/17/2013 02:03:16 AM 602776053
XXXX XXXX XXXX 6040 Visa
HERNADEZ/AARON
INVOICE 003761
AUTH 005687
PUMP# 7
Unleaded 18.3903
PRICE/GAL 3.459
FUEL TOTAL \$ 63.61
Subtotal = \$ 63.61
Tax = \$ 0.00
Total = \$ 63.61
*** REPRINT *** REPRINT *** REPRINT ***
CREDIT \$ 63.61
*** REPRINT *** REPRINT *** REPRINT ***
APPROVED 005687
*** REPRINT *** REPRINT *** REPRINT ***

Car leaving at 2:12:08 AM
(Video Clip)

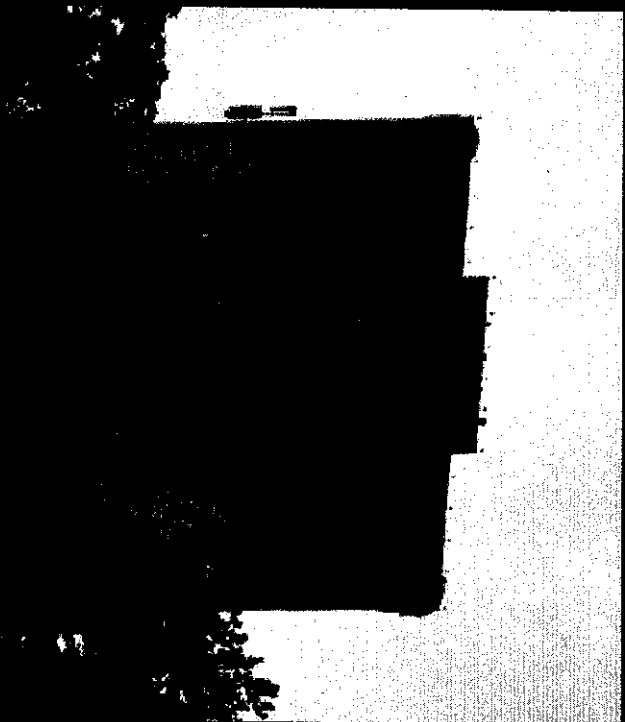


Camera 3
06/17/2013 2:12:08

Route #3 –Cell Towers, 99 Boston St, Boston

Call from (860) 845-4304 to (617) 785-3008 for 34 seconds – 6/17/13 @ 2:24:31 AM

From Highway

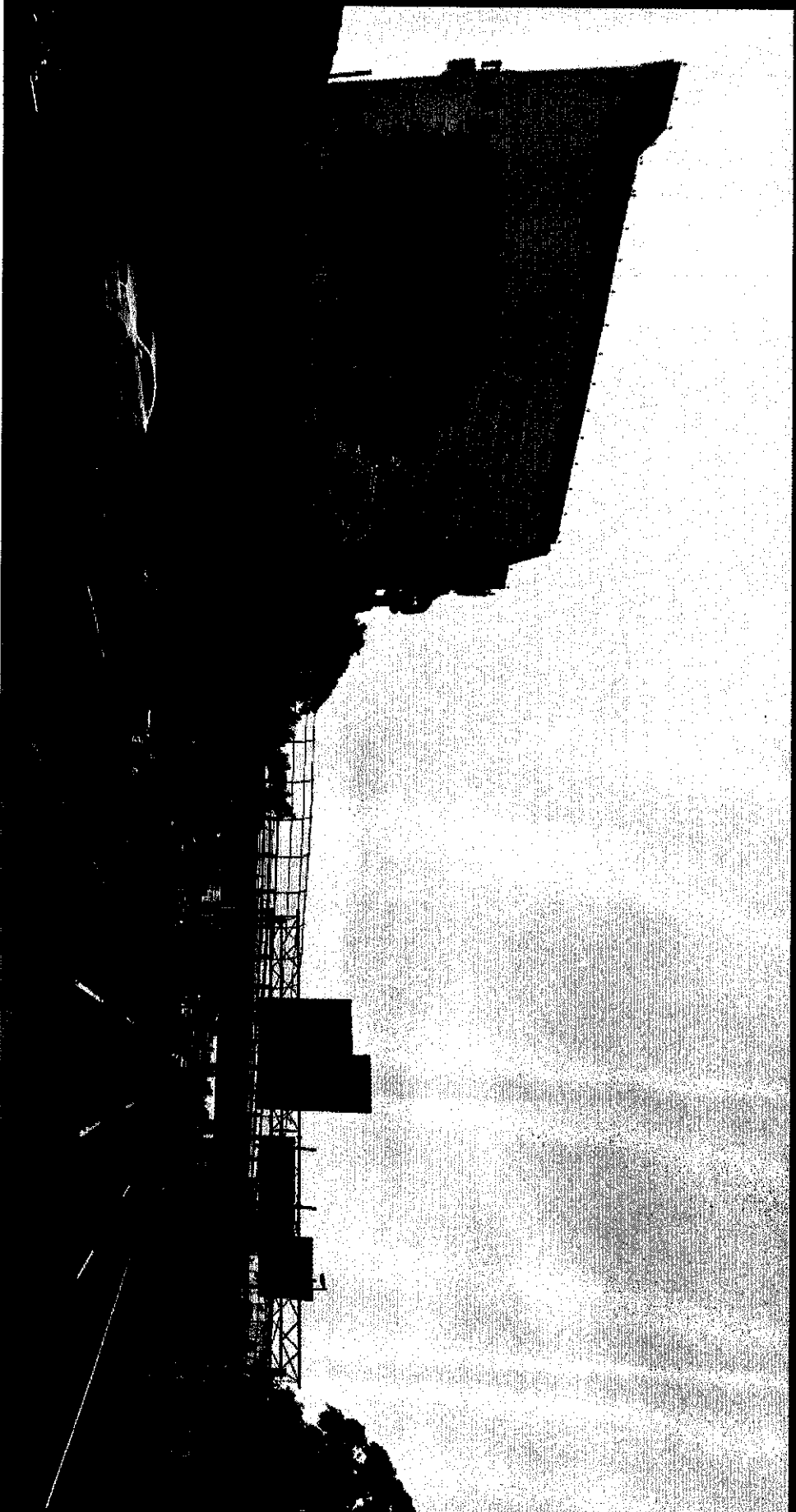


From Boston St



Route #3 – Cell Towers, 99 Boston St, Boston

Call from (860) 845-4304 to (617) 785-3008 for 34 seconds – 6/17/13 @ 2:24:31 AM



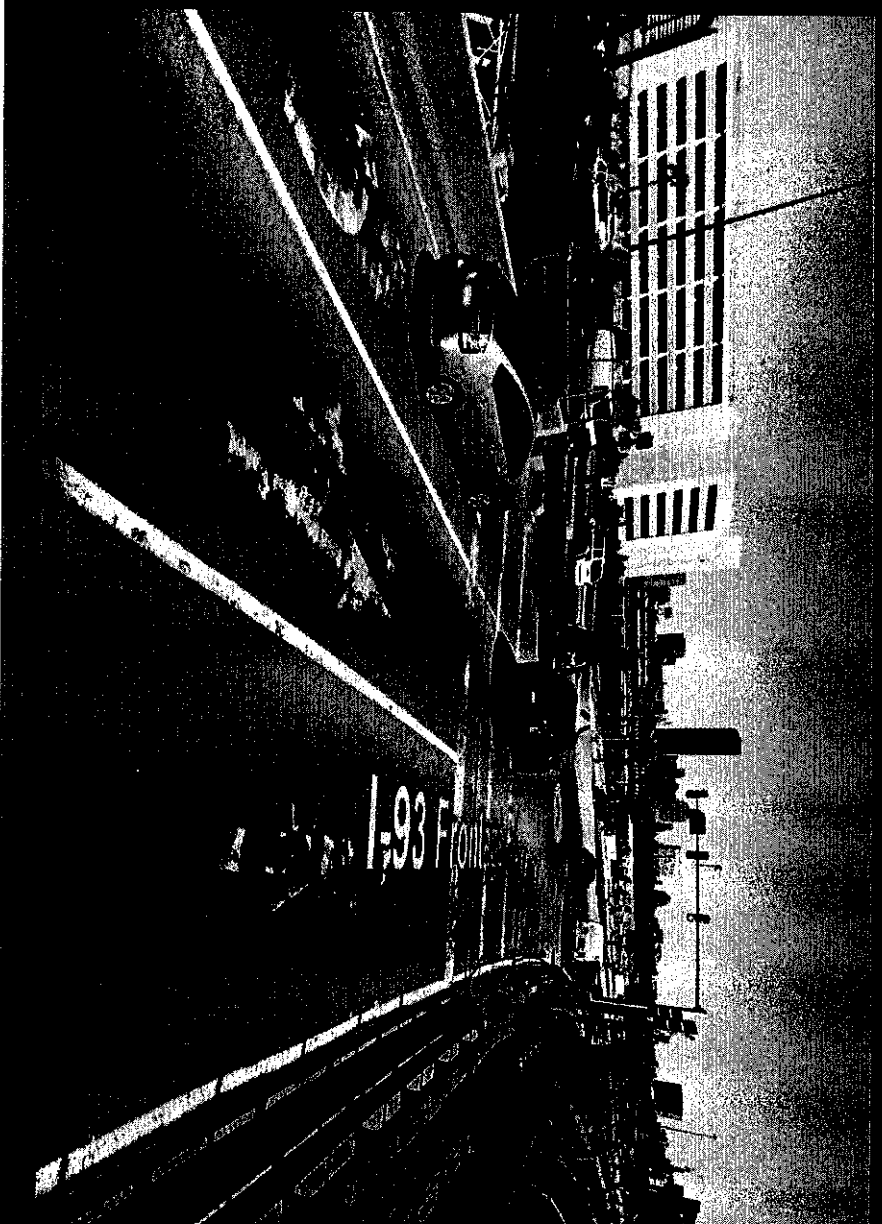
Route #3 –Cell Towers, 519 Albany St, Boston

Call from (860) 845-4304 to (617) 785-3008 for 89 seconds – 6/17/13 @ 2:25:15 AM

Exit 18 Off Ramp



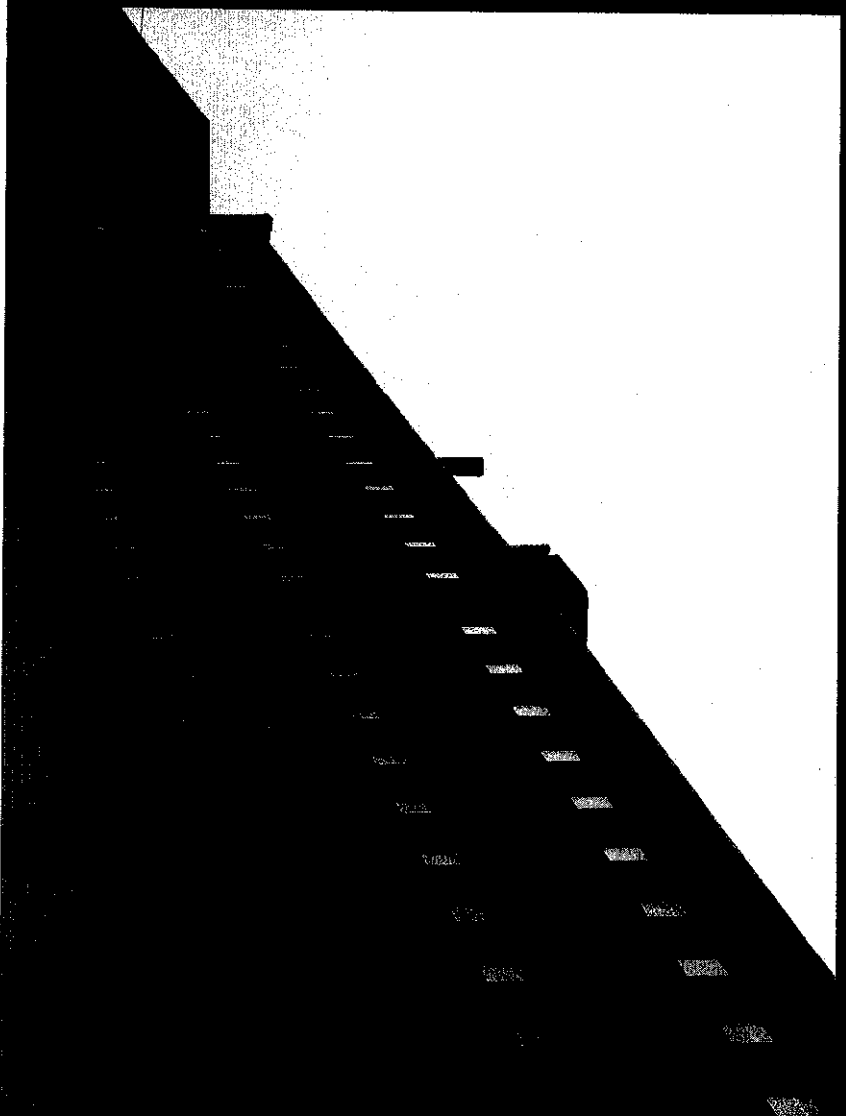
View from Frontage Road



Route #3 –Cell Towers, 519 Albany St, Boston

Call from (860) 845-4304 to (617) 785-3008 for 89 seconds – 6/17/13 @ 2:25:15 AM

From Albany St



Route #3 – Cell Towers, go Cushing Ave, Dorchester, MA

Call from (860) 845-4304 to (617) 785-3008 for 29 seconds – 6/17/13 @ 2:32:00 AM

Aerial View



From Windermere Rd



Route #3 – 10 Fayston St, Dorchester, MA

Car arriving at 2:32:46 AM
(Video Clip)



2013-03-17 02:32:46

Route #4 - 10 Fayston St, Dorchester, MA

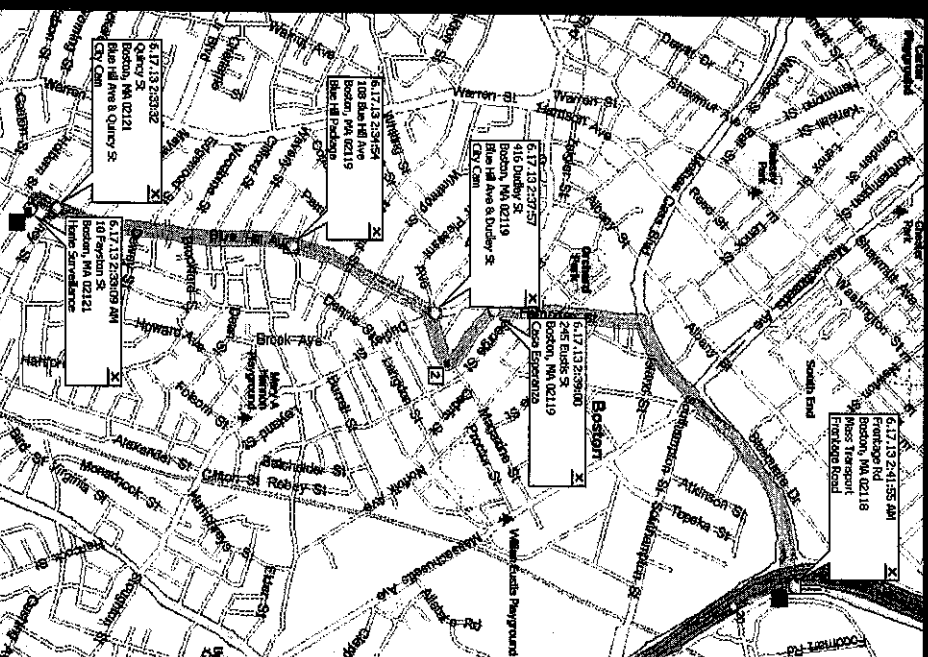
Car leaving at 2:33:09 AM
(Video Clip)



2018-06-17 02:33:09

Route #4 – 10 Fayston St, Dorchester, MA to Frontage Road, Boston, MA

Location	Address	Distance (from Start)	1 st Travel Time (from Start)	Travel Time (from Start)
Start	10 Fayston St Dorchester, MA	0 miles	0 minutes	0 minutes
End	Massachusetts Avenue Connector to Frontage Rd Boston, MA	1.8 miles	7:52	7 minutes



Route #4 – Blue Hill Ave and Quincy St

Boston, MA

Car passing at 2:33:32 AM

(Video Clip)



Route #4 – Blue Hill Ave, 108 Blue Hill Ave Boston, MA

Car passing at 2:34:54 AM
(Video Clip)



05/17/2013 02:36:49 AM

Route #4 – Blue Hill Ave and Dudley St
Boston, MA

Car passing at 2:37:57 AM
(Video Clip)



Route #4 – Casa Esperanza, 245 Eustis St
Boston, MA

Car passing at 2:39:00 AM
(Video Clip)



Route #4 – Frontage Road, Boston, MA

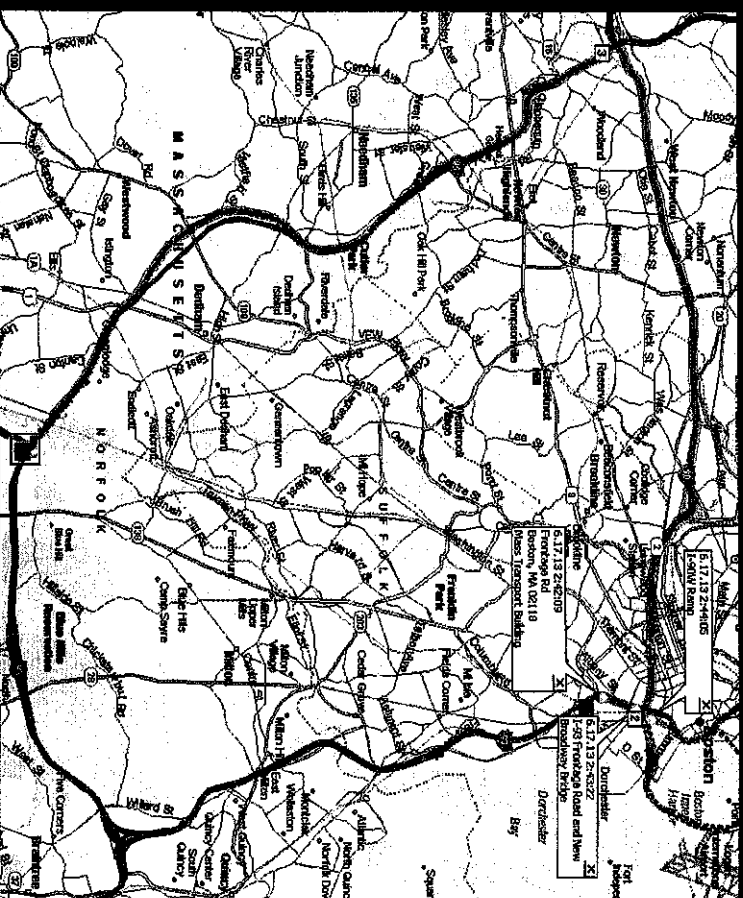
Car leaving at 2:41:55 AM
(Video Clip)



6/17/2013 2:41:55 AM

Route #5 – Frontage Road, Boston, MA to Weston Tolls, Weston, MA

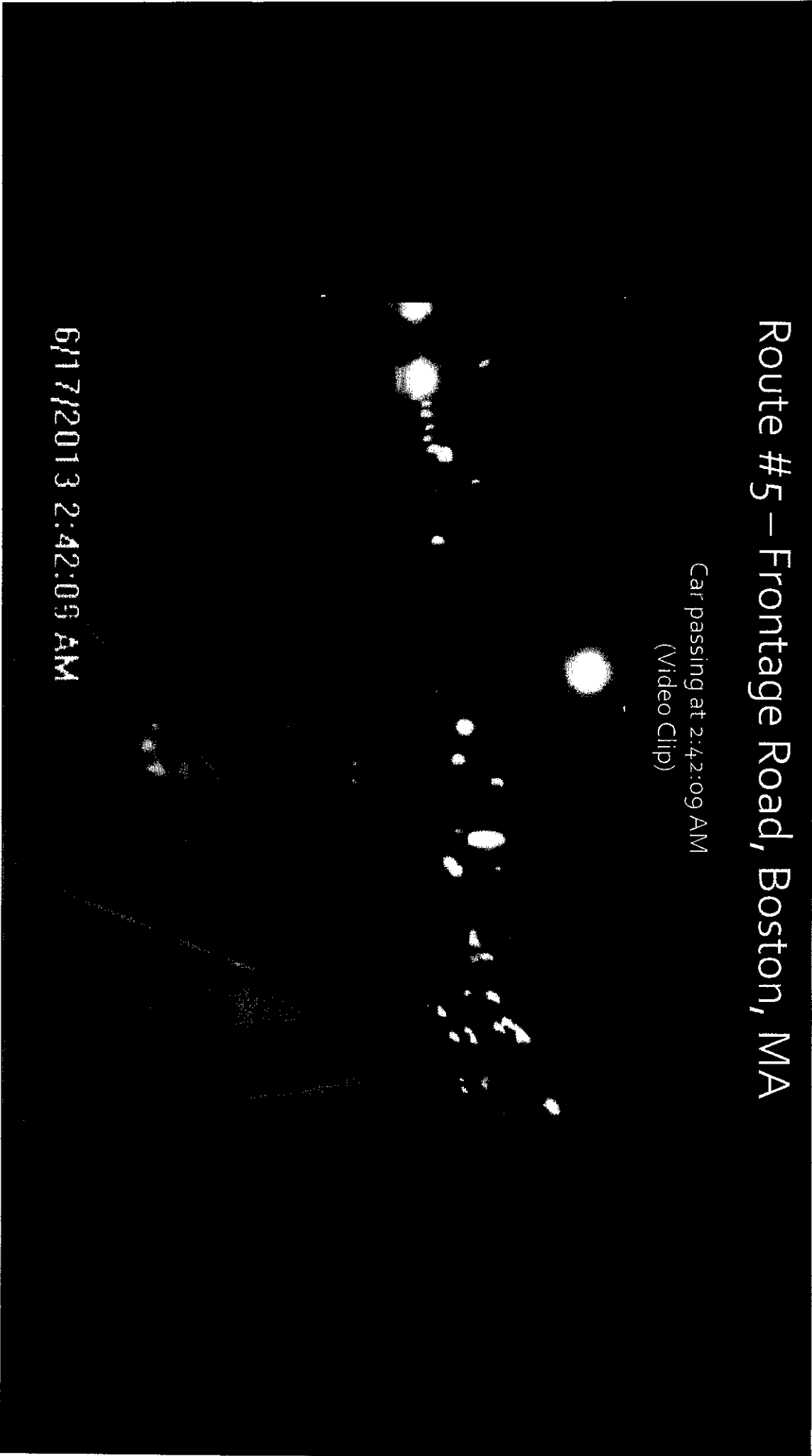
Location	Address	Distance (from Start)	1 st Travel Time (from Start)	2 nd Travel Time (from Start)
Start	Frontage Road Boston, MA	0 miles	0 minutes	0 minutes
3	MA Turnpike (Rt. 90) Weston Tolls Weston, MA	12.1 miles	12:07	15 minutes
End	Rt. 128/Rt. 95 Canton, MA	24.7 miles	23:30	26 minutes



Route #5 – Frontage Road, Boston, MA

Car passing at 2:42:09 AM
(Video Clip)

6/17/2013 2:42:09 AM



Route #5 – Frontage Road and New Broadway Bridge Boston, MA

Car passing at 2:43:22 AM
(Video Clip)



6/17/2013 2:43:23 AM

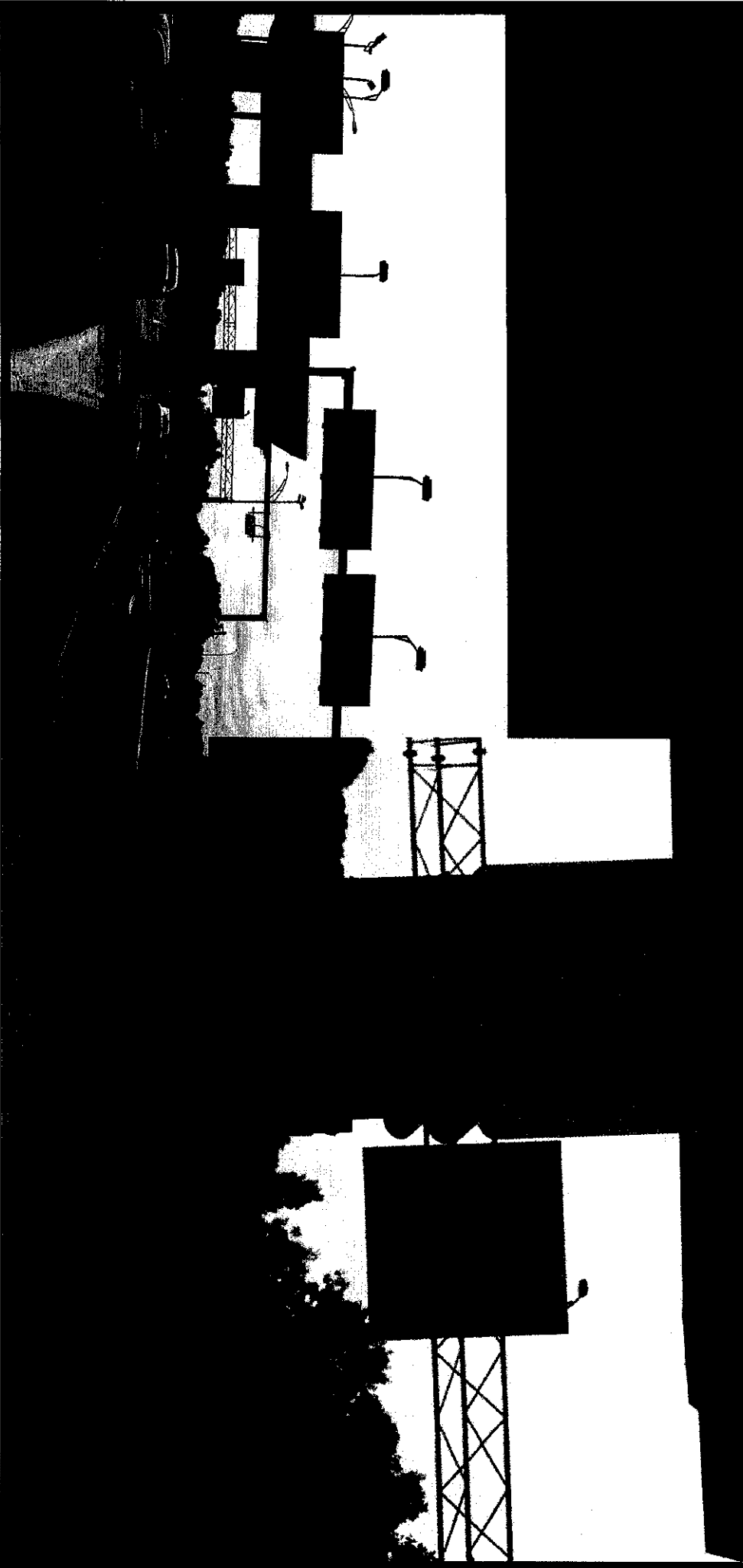
Route #5 - I-90W Ramp Boston, MA

Car passing at 2:44:05 AM
(Video Clip)

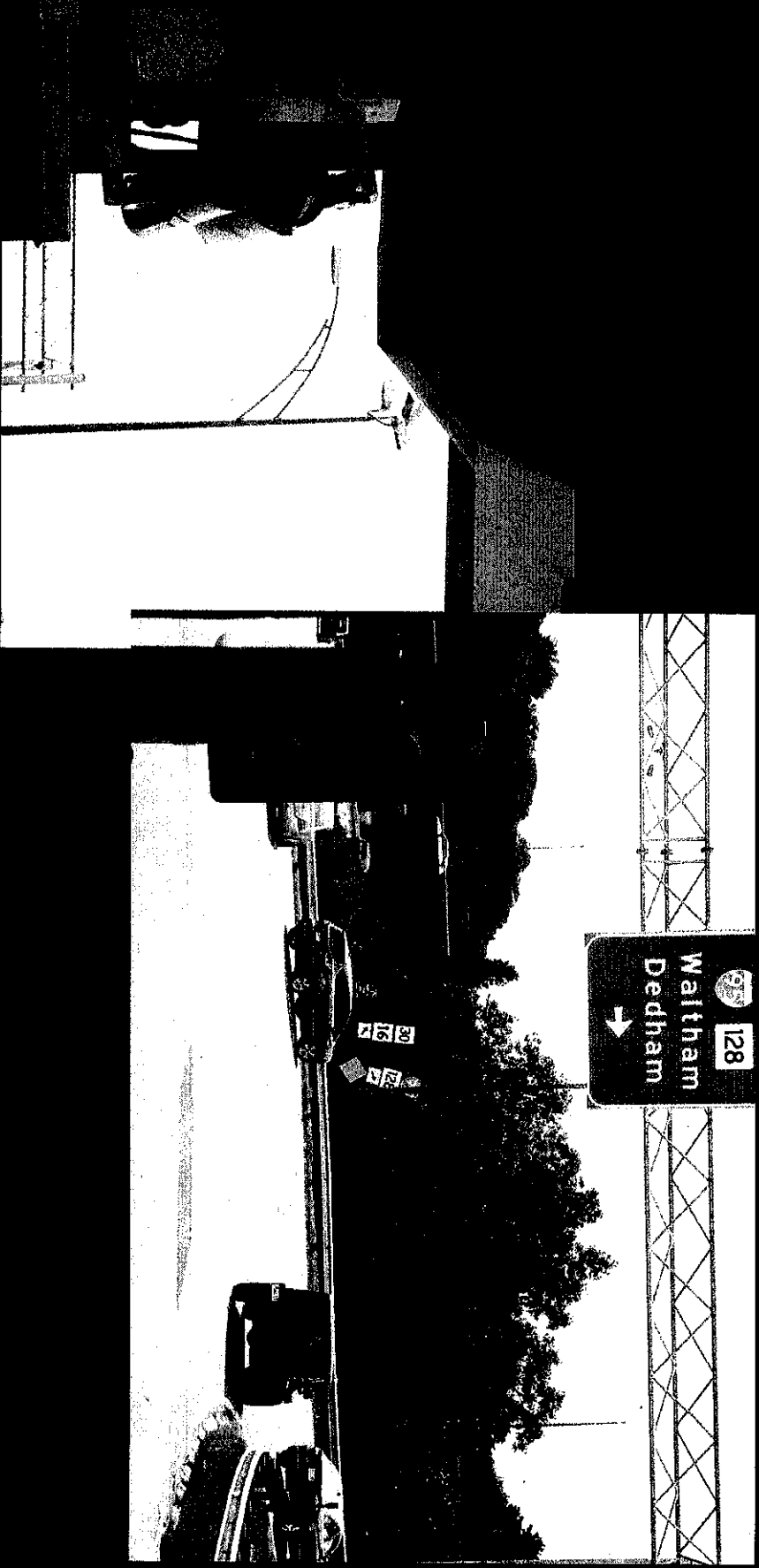


6/17/2013 2:44:05 AM

Route #5 – Weston Tolls, Weston, MA



Route #5 – Weston Tolls, Weston, MA



Route #5 - Weston Tolls, Weston, MA

Image of car passing toll
@ 2:53 AM

536 MX2

Letter from Enterprise regarding toll violation

Enterprise

AAA Rent A Car
4000 ROUTE 1
PLAINVILLE, MA 06060-2000

3/20/2013

Dear Valued Customer,

We appreciate your business and would like to thank you for the kind of way you and your vehicle passed a toll on your recent trip. As you know, we are committed to providing you with the best service and most reliable toll collection. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it.

For additional information, please contact your local toll collector. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it.

In addition, Enterprise is offering a \$50.00 discount on your next rental vehicle. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it.

Thank you for your business and for choosing Enterprise. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it. We are sorry that you were not able to pay the toll at the time you passed it.



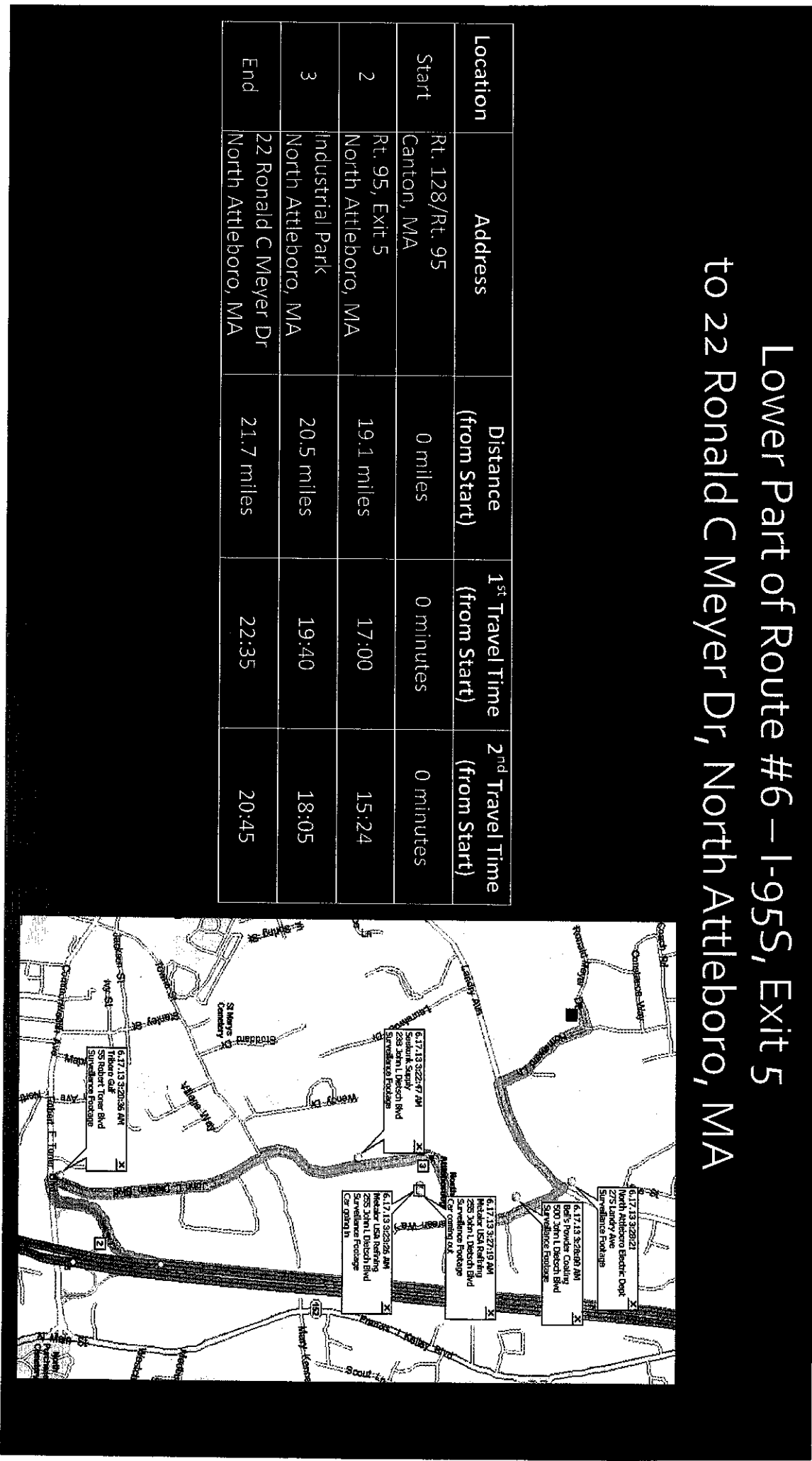
Route #6 – Rt. 128/Rt. 95, Canton, MA to 22 Ronald C Meyer Dr, North Attleboro, MA

Location	Address	Distance (from Start)	1 st Travel Time (from Start)	2 nd Travel Time (from Start)
Start	Rt. 128/Rt. 95 Canton, MA	0 miles	0 minutes	0 minutes
2	Rt. 95, Exit 5 North Attleboro, MA	19.1 miles	17:00	15:24
3	Industrial Park North Attleboro, MA	20.5 miles	19:40	18:05
End	22 Ronald C Meyer Dr North Attleboro, MA	21.7 miles	22:35	20:45



Lower Part of Route #6 – I-95S, Exit 5
to 22 Ronald C Meyer Dr, North Attleboro, MA

Lower Part of Route #6 – I-95S, Exit 5
to 22 Ronald C Meyer Dr, North Attleboro, MA



Route #6 – Triboro Gulf, 55 Robert Toner Boulevard,
North Attleboro, MA

Car passing at 3:20:36
(Video clip)

Ch3



125121AM03-20-2003/0627

Route #6 – Seekonk Supply, 238 John L Dietsch Blvd, North Attleboro, MA

Car passing at 3:22:47
(Video clip)

Camera 011

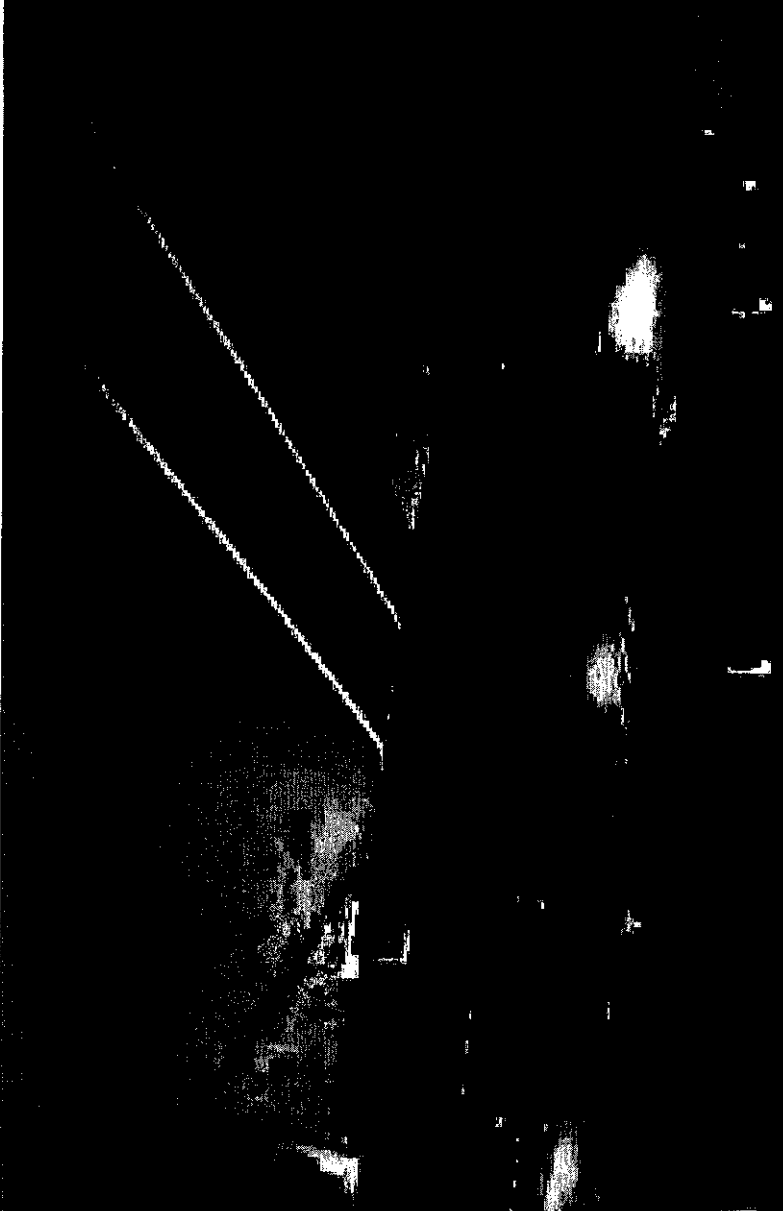
06/17/2013 02:20:51 AM



Route #6 – Metalor USA Refining, 255 John L Dietsch Blvd
North Attleboro, MA

Car passing at 3:23:30 AM
(Video clip)

[CH 8] 08-17-2013 03:31:37:812



Route #6 – Metalor USA Refining, 255 John L Dietsch Blvd North Attleboro, MA

Car passing at 3:27:27 AM
(Video clip)

[CH 9] 08-17-2013 03:35:34:531



Route #6 – Bells Powder Coating, 500 John L Dietsch Blvd North Attleboro, MA

Car passing at 3:28:04 AM
(Video clip)

Ch4
[Playing]



IPR11S1AM03-28-04-2013/06/17

Route #6 – North Attleboro Electric Dept, 75 Landry Ave North Attleboro, MA

Car passing at 3:28:21 AM
(Video clip)

VIDEO

Route #6 - 22 Ronald C Meyer Dr, North Attleboro, MA

Car arriving at 3:29:43 AM
(Video clip)

06-17-2013 03:26:57 AM

driveway