

REPORT REGARDING THE INVESTIGATION INTO THE SHOOTING/USE OF POTENTIALLY DEADLY FORCE INVOLVING JUSTON ROOT ON FEBRUARY 7, 2020 AT THE INTERSECTION OF FENWOOD ROAD AND VINING STREET, BOSTON, MA

INTRODUCTION

On Friday, February 7, 2020 at approximately 9:20AM the Boston Police received a 911 emergency call from security personnel at Brigham and Women's Hospital alerting police to a "person with a gun at 60 Fenwood Road, Boston." 60 Fenwood Road is within a one block area which encompasses hospital buildings.

Responding Officer David Godin was confronted by Juston Root who pointed a replica of a firearm at him. Godin drew his firearm, retreated and fell backwards as Root advanced upon him. Godin fired several shots at Root. A second responding officer, Michael St. Peter, also fired several shots at Root when he saw Godin retreating and potentially in danger. One of the shots appeared to hit Root. He then limped to his vehicle parked in the intersection of Fenwood Road and Vining Street and then fled the scene. Another shot fired by the officers travelled up the street and struck a hospital valet, Justin Desmarais, in the head.

Root fled the scene and led police on a motor vehicle pursuit into Brookline. At the intersection of Hammond Street and Route 9, Root crashed his vehicle. Police personnel found Root near his vehicle with what they thought was a firearm. Root was shot and killed during an encounter with multiple personnel of the Boston Police and Massachusetts State Police Trooper. The findings and conclusions regarding the Brookline incident were the subject of an investigation by the Norfolk District Attorney. This report deals exclusively with the events at Fenwood Road and Vining Street, Boston.

The Suffolk County District Attorney commenced an investigation to determine if the firearm discharges at Fenwood Road and Vining Street were a justifiable use of potentially deadly force or violated the law and whether charges should be sought. This investigation has determined that the evidence does not support charging violations of the law. This report details the investigation and evidence uncovered, findings, state of the law and conclusions.

The Boston Police Department conducted their own extensive investigation. Their investigation was conducted by Sergeant Detective John Broderick Jr an Area B Detective who is also assigned to the Firearm Discharge Investigation Team. His investigation was transparent, cooperative and collaborative. Records and documents reviewed included tapes of radio transmissions; 911 calls audio tapes; physical, ballistic, forensic and crime scene evidence; photographs; information from the Office of the Chief Medical Examiner and autopsy report; police reports of earlier encounters with Root; audio and video recordings of interviews; audio and video recorded statements by all police personnel involved; audio recorded statements of civilian witnesses and extensive video coverage of the event captured by hospital cameras.

The principals of charging require prosecutors to meet a standard of probable cause to believe a crime has been committed and ultimately that the evidence proves beyond a reasonable doubt that the actor committed the crime. As detailed herein, assessment was made of the evidence involving each shooter-their recorded accounts, videos that captured the scene and the ballistic, physical and forensic evidence involving each. Based on the evidence, we conclude that neither of the involved officers'

actions were objectively unreasonable. Accordingly, it is not appropriate to charge and the investigation should be closed without prosecution.

SUMMARY OF THE EVIDENCE

Fenwood Road, Vining Street, Francis Street and Binney Street form the boundaries of a block consisting of a medical building-the Shapiro Building. The Brigham and Women's Hospital main building is located where Vining Street meets Francis Street. Vining Street meets Fenwood Road one block away at an intersection. Fenwood Road is a two-way street and is wide enough for 2 lanes of traffic in both directions but the lane closest to the curb on each side is used for standing or parked vehicles. It effectively becomes a single lane in both directions. The intersection of Fenwood Road and Vining Street is a busy intersection with a heavy flow of pedestrian and vehicle traffic. See PHOTOS 1 and 2 attached for reference.

The hospital employs unarmed uniformed security guards whose responsibilities include safeguarding hospital property, enforcing parking restrictions and ensuring doctor, staff and patient safety. They patrol the area by foot and in a marked security vehicle equipped with turret lights.

The area is heavily surveilled by numerous security cameras which have time stamps. The video evidence supports the following background facts:

On Friday, February 7, 2020 at 9:13AM, a man subsequently identified as Juston Root, parked a silver Chevy Volt in a 15 minute parking restricted area outside the entrance to 60 Fenwood Road. See PHOTO 3 for reference. Root remained in the car for 1 minute, exited and walked a short distance down Fenwood Road in the direction of Brookline Avenue. Hospital Security Officer William Thompson, in uniform while posted outside 60 Fenwood Road regulating parking with a marked security vehicle, was approached by Root who he estimated to be 6 feet tall, thin, wearing a dark jacket, dark blue baseball hat. Root stared at Thompson and came to within a foot of him. Root asked Thompson if he was calling about him on the radio. As Thompson answered that he wasn't, Root talked over him, "everyone calls 911 for no reason." Thompson thought that there was something off about Root as he continued to talk. Root said the N-word, he said that he was law enforcement and opened his jacket to show Thompson what Thompson described as a clear colored firearm in his waistband. Root wore a lanyard with a name badge around his neck. He continued to ramble on "do you want to go back to work?" Thompson became concerned so he replied "yes." He noticed Root's mood to shift positively as Root replied that "Law enforcement is good for the right people." Root extended his hand to shake and then went back to the silver Chevy Volt. See PHOTOS 4-8 for reference.

Thompson saw Root stay in the vehicle and he used his radio to call into security. Thompson described Root as having a firearm. As Root drove off, Thompson followed him around the block-left on Vining Street, left on Francis Street, left on Binney Street and then left back onto Fenwood Road. See PHOTO 9 for reference. At the intersection of Fenwood Road and Vining Street, Root stopped the vehicle in the street travel lane and get out, leaving it in the street at the busy intersection.

Root got out of the vehicle and stood next to it leaving the driver's door open. See PHOTO 10 for reference.

Boston Police received an emergency 911 call at 9:20AM from Ron at hospital security alerting them to a man with a gun in a holster on his hip at 60 Fenwood Road and that the firearm was out. A description was given as that of a white male, cap, black jacket, gray pants, shirt and shoes. Officer Godin responded in his police cruiser and arrived within a minute. Officer St. Peter responded in his police cruiser and arrived within a minute.

The actions of each officer of discharging his firearm were examined separately. The actions, observations and thought process of civilian witnesses and security personnel are included for perspective.

OFFICER DAVID GODIN STATEMENT

Godin was on duty when he heard the radio alert that a man pulled a gun on the valet at Brigham and Women's Hospital. He asked for the call to be repeated and responded in short time. At the intersection of Fenwood Road and Vining Street he took a left on Vining Street up to Francis Street where he saw hospital security Sergeant Troy Askew whom he knew. Askew informed him "that guy just pulled a gun on me" and pointed to Root who was standing back at the intersection of Fenwood Road and Vining Street. Godin circled the block back to the intersection. There he observed a silver Volt parked in the travel lane, driver's door open. He parked to the left of that car. He heard a witness alert him that "someone is shooting up there. They have a gun."

Godin proceeded on foot for few steps when he saw Root in a black jacket and black pants running down the Vining Street sidewalk to his position. Root yelled twice "I am law enforcement." "Go up there," indicating up Vining Street to the Francis Street intersection.

Godin saw a firearm in Root's waistband and looked for, but did not see a badge.

Root was within 3 feet of Godin when Root pulled the firearm from his waist and pointed it at him. Godin drew his firearm and yelled "drop the gun." Root continued to point the gun at Godin so Godin fired his weapon. He thought that Root was going to kill him. Root still had the gun out so Godin attempted to create some space between them by backing up but fell over the curb and onto his back.

He thought to himself to get up or he will kill you. Once on his feet, he saw Root right on him. Godin attempted to discharge his firearm but it jammed so he ejected the magazine. He didn't have another magazine nor a radio because it had fallen to the ground so he picked up the ejected magazine and reinserted it.

Root went to the vehicle. Godin could not fire again because he didn't have a good shot and he didn't want to risk a shot as there were too many people nearby. He heard several shots being fired and believed Root was shooting. Godin was unaware that Officer St. Peter was on scene and firing at Root. Root hobbled past him to his car and left the scene.

Godin went to his cruiser and alerted the dispatcher that he was involved in a shooting, "I shot him. I know that I shot him." Godin then joined the pursuit to Brookline.

Godin did not recall the number of times he discharged his firearm. Ballistics evidence reflects he discharged 5 times.

OFFICER MICHAEL ST. PETER STATEMENT

St. Peter was working a detail at the hospital and arrived with his K9 at 9:15-9:20 AM. Within a minute, he was approached by hospital security on Vining Street and advised that a man had flashed a gun when asked to move his car. He then heard the radio 911 alert of a person with a gun. Up at the Francis Street intersection he saw a person waiving to get his attention. As he drove up to that position Askew directed him back to the Fenwood Road intersection and he saw Root holding a firearm in his hand walking on the Vining Street sidewalk towards Fenwood Road. He turned his cruiser around, drove back down Vining Street and parked in the middle of the intersection. He then saw Root chasing Askew up Vining Street before coming back down the street towards the intersection. Root was walking on the Vining Street sidewalk with a firearm in his hand. He saw Root pointing the gun at someone in a struggle. He was not aware that Godin was on scene or who was engaged with Root.

St. Peter drew his firearm and yelled "drop the gun" twice. He was still unaware that Root was struggling with another police officer, Godin. He heard shots fired so he discharged his weapon because of the danger involved and he thought people were going to die. He saw a man down and a radio on the ground. He saw Root grimace and limp but Root still had the firearm. There were people close by so he didn't discharge again but continued to yell to "drop the gun."

Root limped to his car, got in and drove away. St. Peter didn't shoot at the moving car.

St. Peter then joined the pursuit to Brookline.

St. Peter didn't recall the number of times he discharged his firearm but ballistics evidence reflects he discharged 10 times.

VIDEO COVERAGE

After Thompson's encounter with Root, Root circled the block back to the intersection of Fenwood Road and Vining Street leaving the vehicle parked in the travel lane with the door open and standing in the intersection.

Security guards Askew and Nialetz were responding to Thompson's radio calls and were walking from Francis Street down Vining Street. Root yelled at them "what the fuck are you looking at?" Root then removed a silver gun from his waistband and charged up the middle of Vining Street at the security guards. The guards fled back towards Francis Street. Root stopped half way up Vining Street and put the firearm back in his waistband. He returned to the intersection of Fenwood Road and Vining Street as Godin's Boston Police cruiser arrived at the intersection. Root approached the cruiser and waved up towards Francis Street as if he were directing attention away from himself. See PHOTOS 15-17 for reference. Godin then circled the block. St. Peter's cruiser was travelling up Vining Street when Askew, whom Root had just chased seconds before, intercepted him and directed him to Root. See PHOTOS 18-20 for reference. When Root saw Askew directing the cruiser to his position, he chased Askew for a

short distance again up Vining Street with a gun in his hand before turning and walking on the sidewalk in the direction of the Fenwood Road and Vining Street intersection. See PHOTOS 21-29 for reference.

After circling the block, Godin arrived at the intersection and parked his cruiser to the left of Root's vehicle facing the same direction. He walked on the Fenwood Street sidewalk for a few paces when he encountered Root coming from the opposite direction on the sidewalk of Vining Street. Root's right hand was on the gun in his waistband. See PHOTO 30 for reference.

Godin removed his firearm. Root said that he was "law enforcement" and pointed up Vining Street in the same manner that he had done so as to misdirect officers. Root had his hand on the firearm in his waistband. See PHOTOS 31-34 for reference. Root turned his back to Godin when he pointed up the street. When he turned back to Godin he drew the gun from his waist and pointed it at Godin. See PHOTOS 35-36 for reference. He then simulated firing at Godin while advancing on him. Godin retreated and fell over backwards as Root continued to advance at him. Godin discharged his firearm in Root's direction. St. Peter discharged his firearm in Root's direction. Root limped to his vehicle and fled the scene.

Simultaneously with Godin's struggle with Root, Justin Desmarais, a valet stationed outside the Brigham and Women's Hospital entrance at 75 Francis Street, was shot in the head. The hospital entrance is a short distance from the intersection of Fenwood Road and Vining Street.

WILLIAM THOMPSON

After Thompson's earlier encounter with Root, he followed him around the block, back to the intersection when he saw Root leave the vehicle in the intersection in the travel lane with the driver's door left open. He next saw Root run after Askew and Nailitz up Vining Street so Thompson took cover near the rear entrance to the Shapiro Building at the intersection. After the second chase of Askew, he saw Root walking back down Vining Street to his position. He heard a police officer, Godin, telling Root to "drop your weapon." He then saw Root take a firearm from his waistband and point it at Godin. He estimates that they were 4 feet apart. He then heard what he estimates to be 3 shots fired. He saw the officer fell to the ground and Root standing over him. He then heard what he estimates were 5 or 6 more shots fired. He saw that Root was injured-he was hunched over and limping. Thompson took cover and lost sight of Root. He never saw Root drive away.

TROY ASKEW

Askew is a hospital security sergeant. Askew received a call from Thompson that he had encountered a man with a gun and needed assistance. After Thompson informed him that Root circled the block in his car, he saw Root at the intersection with a silver gun in his hand. Root then ran at him and security officer Lawrence Nailitz. Root was yelling that "I am going to shoot you." "What are you looking at?" See PHOTO 11-14 for reference.

A Boston Police cruiser (Godin) arrived and he informed him of the situation and pointed to Root. Root started to chase up Vining Street at Askew again. Askew saw that Root continued to have the gun out. He then heard Godin yell to "put the weapon down." He then heard what he estimates to be 7 to 10 shots fired. He took cover.

SHAWN McMULLEN

McMullen is a security officer for the Department of Mental Health at 20 Vining Street. From his vantage point which he estimates to be 30 to 40 yards away, he saw Boston Police near the intersection and heard yelling "put the gun down." He saw Root with a firearm. He thought that Root fired a number of times from a distance of 5 feet away from the police car and 15 to 20 feet from the officer. He heard police return fire. He then saw Root hop thru the intersection to his car.

DR [REDACTED]

Dr. [REDACTED] is a brain surgeon at the hospital. She was stopped in her blue porche at the intersection of Fenwood Road and Vining Street. She saw a Boston Police cruiser with flashing lights travelling on Vining Street to Francis Street followed by a security vehicle that stopped in the intersection. She saw Root emerge from behind a truck on Vining Street. Root had a gun that she estimates was longer than a pistol, firing 3 to 5 times at officers. Officers exchanged fire with what she estimates were 5 shots.

She thought that Root and Godin both went down. After a brief pause, another officer fired several times.

She then saw a plainclothes officer with his gun out on Vining Street. She then maneuvered her vehicle through the intersection left the scene.

[REDACTED]

[REDACTED] was walking through the Fenwood Road and Vining Street intersection. She saw a car parked in the travel lane and Root standing next to it. She heard him yell and pull a "big army gun out." When she saw 2 security officers running away up Vining Street, she ran into the Shapiro Building and took cover. What she estimates to be 5 minutes later, she heard 5 shots fired.

[REDACTED]

[REDACTED] was walking on Vining Street near the Fenwood Road intersection when she saw Root and heard him yelling. She then saw a number of police. She saw Root pull a gun from his pants. She heard yells of "put the gun down." He heard what she estimates to be 5 shots and saw Root standing over the officer on the ground. She then ran into the Shapiro Building for cover.

██████████ was walking on Vining Street to the intersection at Fenwood Road. She saw Root standing by his car with the door open in the intersection. She saw Root holding a "large" gun, pointing it security guards and chasing after them up Vining Street. She ran into the Shapiro Building for cover and heard what she estimates were 4 to 6 shots fired.

██████████
██████████ saw Root's vehicle left unattended in the Fenwood Road intersection. He saw Root running up Vining Street with a gun in his hand. He then saw Root return to his vehicle. He saw Root fire 4 to 5 times at what he believed were security personnel. The gun had a plastic cover. Security fired back. Root then limped to his vehicle and drove off.

██████████
██████████ thought it was 8:50AM when he heard the radio call of a "gun.... shooter walking down Vining Street." From approximately 75 feet away, he saw Root walking near 60 Fenwood Road. An officer walked in Root's direction up Vining Street. He saw Root open his jacket and he could see a gun. The officer was screaming at him. Root pulled the gun and shot at the officer from 5 feet away. ██████████ went into the building lobby and announced "active shooter."

██████████ thought Root's firearm looked like a .45 caliber.

██████████
██████████ was in his vehicle stopped at the intersection. He saw a car parked opposite his. He saw Root with a firearm out near 60 Fenwood Road. He saw Root then run up Vining Street, then back to the intersection to engage in a shootout with police. He saw Root and the officer both go down. He saw Root go to his vehicle. He thought the gun was a 10 to 12 inch handgun.

██████████ used his cell phone to take pictures of Root with the gun. He also used his cell phone to video the police engaging Root. The photo and video will be discussed in further context.

██████████
Dr. ██████████ was in her vehicle stopped in the intersection of Fenwood Road and Vining Street. Dr. ██████████ saw Root run into the intersection, shooting. She heard shots but was not certain of the number.

██████████ was in a first floor office in the Shapiro Building overlooking the Fenwood Road and Vining Street intersection. He heard a shot followed by 2 to 3 shots. He looked out a window and from a distance of 25 feet away he saw a security vehicle and 2 Boston Police cars. He saw the exchange of shots. He saw something in Root's right hand as Root limped to a vehicle and drive away up Fenwood Road in the direction of Huntington Avenue. He saw the evidence left in the street, specifically a radio, a baton, 2 magazines and blood stains.

██████████ was on the hospital bridge on Francis Street up the street from the intersection of Fenwood Road and Vining Street. He heard 4 to 5 "pops" and looked out a window and saw a vehicle driving away "very fast" towards Huntington Avenue.

██████████ operates the security cameras system for the hospital.

██████████ was parking his vehicle on Fenwood Road when he saw officers approach the intersection. He saw Root dressed in all black pull out "a strange looking large firearm". He heard yells to "stop." He saw Root fire and the officer fall to the ground. He heard the officer return fire, yelling at Root to "stop." He then saw Root run to a vehicle.

PEDRO HERNANDEZ

Hernandez is a hospital security officer. He was driving on Francis Street near the hospital when he saw Askew and Nailitz running on Vining Street towards Francis Street. He next saw a police officer with a gun out. He parked his vehicle on Vining Street and walked towards the intersection of Fenwood Road. He drew his firearm and showed his badge to the officer near the intersection. He then saw Root in a gray jacket with a gun out. He heard shots and saw Root go to a vehicle in the intersection. The shots "sounded different." He then helped safeguard the scene and evidence at the intersection.

Hernandez was legally carrying a Glock 9MM with 9 rounds. Hernandez stated that he did not discharge his weapon. Ballistic analysis of the weapon and discharged shell casings at the scene confirms his statement.

KYLA NIEDER

Nieder is a detective with hospital security. She heard the initial Thompson radio transmission of a firearm and the need for police assistance. From her office within the hospital she watched video that captured the earlier encounter between Root and Thompson. She watched the video of Root lifting his shirt to display a firearm in his waistband. She then broadcast over the radio system a description of Root.

She then watched the camera in real time and saw Root at the intersection of Fenwood Road and Vining Street. She saw a firearm in his right hand. She heard security personnel over the radio that Root "was shooting at the Boston Police and chasing us."

She then announced that the hospital was to be locked down.

She learned that a hospital valet at 75 Francis Street had been shot so she went and secured that scene.

OCTAVIA SIMMONS

Simmons is a hospital security officer. He was at the triage area of the hospital on Francis Street when he heard the radio transmission of "a man with a gun." He saw Nailitz running backwards on Vining Street towards Francis Street. He then heard "shots fired" and saw the valet lying on the ground outside the hospital entrance bleeding from the head

Simmons estimated that he heard 4 to 5 shots.

[REDACTED]

[REDACTED] was at the 75 Francis Street Emergency Department when he heard Thompson's radio broadcast of "a man with a gun". He heard shots. He saw the valet on the ground bleeding from the head in front of the Emergency Department door.

He heard a radio transmission of "shots fired" so he took cover.

RUFUS ROYER

Royer is a sergeant with the Department of Mental Health Police. At the intersection of Fenwood and Vining Street he saw a car left in the intersection travel lane and Root standing by the car. His observations were from a distance of 20 yards away. He saw the arrival of Boston Police and a hospital security sergeant walking towards the intersection. Root was yelling to police "that's him" twice. He then saw Root pull something and the security sergeant run back up the street towards Francis Street. He could see Root in the intersection with "a gun on his belt."

Royer thought to himself that this man looked a lot like a DMH client whom he knew as Root.

He then saw Root point the gun at a police officer and fire. The officer went down. The officer returned several shots. A second officer fired several shots. Root stumbled. The officers were yelling to "drop the gun." Root then went to his car and left the scene followed by the police cruisers.

Royer stated that the firearm looked homemade-grayish and tubular. It did not look real, almost like a toy.

Royer described the man as 6 foot 3 inches with a thin build, short hair with a baseball cap on, beige sweater.

Royer knows Root because of an incident 10 years ago when Root had a "fake gun" at Shattuck Hospital. They had to "section him." "Police may think Root's firearm to be real and have to shoot him."

[REDACTED]

[REDACTED] is employed as a valet and was assigned to the main plaza area of the hospital on Francis Street. The main plaza area is a covered outdoor pick up and drop off area for the hospital. He was standing in the travel lane when he noticed a police cruiser come to the intersection of Francis Street and Vining Street. He saw the cruiser do a u-turn and go back down Vining Street from where it had just come from. He then heard a "pop" followed by what he estimates were 4 more "pops" and felt immediate pain to his head. He likened the feeling to being hit in the head with a baseball bat. He fell to the ground and heard someone say that he was shot.

[REDACTED] survived the shooting.

AUTOPSY

An autopsy of Root was performed by Dr. Christina Stanley of the Office of the Chief Medical Examiner. Of relevance to this investigation were her findings that Root had a number of gunshot wounds, including those to his hips, pelvis and both thighs. Given witness accounts and video coverage of Root not having a limp before engaging with Godin as compared with Root hopping to his vehicle after the encounter with Godin and St. Peter discharges and Godin's belief that he shot Root, it is reasonable to assume that at least one of the aforementioned wounds were probably the result of Godin and St. Peter discharging their firearms at Root.

EVIDENCE RECOVERED

At the intersection area of Fenwood Road and Vining Street, evidence was recovered-

black Glock magazine with the initials "JW" containing 9 live cartridges

cartridge with a head stamp Speer 40 S & W

Glock 40 magazine with 15 live cartridges, Speer 40 S & W

brass colored pendant

silver colored piece of metal

gold colored Kenneth Cole watch with a broken band

copper jacketed projectile and fragments

copper colored fragments

black right handed glove

black and red ninja throwing star
cartridge
13 silver colored discharged casings, Speer 40 S & W
silver colored earring
black cylindrical plastic piece
black spring
clear plastic tube
"B" baseball cap
clear piece of barrel shaped plastic
black Oakley sunglasses
2 silver colored pieces of a watch band
7 black plastic pieces
black extendable baton/flashlight

BALLISTICS ANALYSIS

Ballistics evidence reflects that both officers discharged their firearms. St. Peter did so utilizing his department issued Glock 40 caliber handgun, serial number VYP111.

Ballistics evidence reflects he discharged 10 times.

Godin was in possession of a department issued Glock 40 caliber handgun, serial number VYP503. This firearm was not issued to him and was issued to another officer. An investigation revealed that he had inadvertently taken possession of the weapon after a mix up at a station lock up. A number of gun lockers outside the booking area at the Area B2 station could be opened with the same key. Apparently either Godin or another officer accessed the wrong locker but the key worked giving access. The mix up resulted in Godin having this Glock and another officer having possession of Godin's department issued Glock.

Ballistics evidence reflects he discharged 5 times.

The two live cartridges at the scene were microscopically examined and determined that they were ejected from the firearm in Godin's attempt to clear his weapon when it jammed.

The projectile recovered from Desmarais was consistent with ammunition fired from Godin and St. Peter's firearms. Given the video depiction of body position, angle and direction, it is probable that one of Godin's discharges resulted in the gunshot wound suffered by Desmarais.

CAMERA SYSTEMS AND VIDEO

The area is saturated by cameras viewing in all directions. Collectively, the cameras captured the entire incident.

The most relevant cameras were:

Camera Armory Front with a view down Vining Street to the intersection with Fenwood Road

Camera BBF Exterior Fenwood Road Middle with a view of the intersection of Fenwood Road and Vining Street

Camera BBF Exterior Fenwood Road with a view of the sidewalk area outside of 60 Fenwood Road

Camera BBF Exterior NE Corner Vining Street with a view of the Fenwood Road and Vining Street intersection

Camera BBF NE Corner Fenwood with a view of Vining Street from Francis Street to Fenwood Road

Camera Shapiro Rear Door with a view of the rear entrance of the Shapiro Building closest to the Fenwood Road and Vining Street intersection.

Summarily, a time line was established using the camera recordings time stamps starting with the Root-Thompson encounter on the sidewalk outside of 60 Fenwood Road. The time stamp for each camera was found to differ from other cameras by a few seconds here and there.

9:12:54 Car pulls up and parks in lane closest to 60 Fenwood Road

9:14:13 Root out of car and walks to Thompson on the sidewalk outside of 60 Fenwood Road

9:15:44 Root and Thompson shake hands

9:15:50 Root back to his car

9:17:33 Root drives away

9:17:56 Thompson on radio

Viewing Camera BBF Exterior Fenwood Road Middle-

9:20:41 Root drives back to the intersection of Fenwood Road and Vining Street, leaves car in the travel lane, out of car standing in intersection, door left open

9:21:05 Root enters the doorway for 60 Fenwood Road but does not go into the building

9:21:49 hospital security guards walking down Vining Street towards the Fenwood Road and Vining Street intersection

9:21:57 Root runs up Vining Street

9:22:05 Boston Police cruiser (Godin) arrives at the intersection and takes a left turn up Vining Street

9:22:13 Root's feet are visible as he gestures and directs the cruiser up the street

9:22:17 Root puts what appears to be a firearm in his waistband and walks towards his vehicle

9:22:25 Boston Police cruiser (St. Peter) comes up Vining Street and Root gestures him up the street

9:22:42 security vehicle (Thompson) with emergency lights on pulls into and stops in the intersection

9:22:45 guards running back towards Francis Street with Root in pursuit

9:22:47 St. Peter's cruiser does a u-turn on Vining Street and drives back to the intersection

9:22:53 Root stops pursuit, puts something in his waist band and walks back to intersection of Fenwood Road and Vining Street

9:22:57 Godin's cruiser arrives at intersection, Root points up towards Francis Street

9:23:07 Godin leaves his cruiser at the intersection, walks several steps to Vining Street and is confronted by Root, Root has a firearm in his right hand and points it at Godin. Godin backs up, falls backwards. St.Peter has his firearm out, shielded behind his cruiser door. (It appears that he fires several times).

9:23:10 Desmarais is shot in front of 75 Francis Street

9:23:16 Root limps back to his car, has a gun in his hand, no hat. St. Peter trains his weapon on Root but does not appear to fire.

9:23:47 Godin leaves scene in his cruiser to give chase, followed by St.Peter

Viewing the Camera Shapiro Building Rear Door-

9:22:56 Godin exits his cruiser which he leaves at the intersection

9:22:59 Godin heads for the corner of Vining Street which he cannot see around

9:23:01 as Godin rounds the corner, Root is removing a firearm from his waistband. Godin is startled and moves away from Root and reaching for his gun. Root turns his back to Godin and gestures up the street. Godin, with his gun out walks towards Root. As Godin comes closer, Root turns and reaches for his waist. Godin points his gun at Root.

9:23:04 Root pulls his firearm and makes a firing motion at Godin. Godin backs up and fall on his back.

9:23:07 Root charges at Root

9:23:07-18 both men are off screen but a foot and arm can be seen

9:23:18 Root limps back into view, no hat, holding a firearm

9:23:23 Root gets into his car

9:23:48 Godin gets into his cruiser and drives down Fenwood Road

LEGAL STANDARD

The actions of the involved officers by discharging their firearms are guided by applicable case law and legal precedent concerning the use of deadly force.

To be lawful, the use of deadly force by an officer must be objectively reasonable, given the totality of the circumstances known to the officer. The United States Supreme Court has stated "the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact police officers are often forced to make split second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation." *Graham v O'Connor*, 490 US 386, 396-397 (1989) and that "if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended." *Plumhoff v Rickard*, 134 S Ct 2012, 2016 (2014). The Massachusetts Supreme Judicial Court has held that a police officer has an obligation to protect his fellow officers and the public at large...such that retreat or escape is not a viable option for an officer faced with a potential threat of violence. *Commonwealth v Asher*, 471 Mass 580, 589 (2015)

The actions of each officer that discharged his firearm were examined separately applying this case law. The actions, observations and thought process of other witnesses were included for perspective.

RELEVANT BACKGROUND INFORMATION

Root was 41 years old residing in Mattapan. Root's criminal history includes [REDACTED]. This history reflects his impersonating law enforcement and CIA/military personnel. He had been found to be in possession of replica firearms, fake badges and handcuffs. Family members had a history of notifying police that Root was not in compliance with his medication regime and they were concerned for his mental state.

At the Brookline scene, a black plastic replica of a firearm was found close to where Root's body came to rest. Another replica was found in Root's vehicle. Another replica with a damaged barrel was found in the vehicle. See PHOTO 38 and compare with the same model replica depicted in PHOTO 37 for reference.

At the intersection of Fenwood Road and Vining Street, a number of black and clear plastic pieces, a black cylindrical piece of plastic and a metal spring were recovered. Based on witnesses' descriptions of the firearm held by Root and video evidence, it is reasonable to assume that these pieces were part of the replica that Root pointed at Godin and was damaged during the confrontation.

Body worn cameras-

St. Peter was working a detail and not wearing a department issued body worn camera.

Godin was on active duty and had a department issued body worn camera in his possession. He did not affix it to his body and left it powered off in his duty bag in the cruiser. Godin explained that his

practice was to not affix it to his body until he gets a call. An Axon Device audit trail reflects that Godin's device was activated at 8:08AM for a call and powered off at 9:13AM. There was no evidence that video was deleted nor were attempts made to delete or modify the device.

The lack of body worn camera videos from Godin and St. Peter is offset by the extensive camera footage from the numerous hospital vantage points.

CONCLUSIONS

Based on the facts known to each of the officers at the time of the incident and the law regarding the use of deadly force, the evidence reflects that Root initiated an attack by pointing what appeared to be a firearm at Godin. Godin was in a vulnerable position but had been informed by several witnesses that Root had a firearm. St. Peter had been informed that Root had a firearm, saw the struggle leaving a person on the ground on their back and he thought serious injury/death could occur. Both officers were justified in returning fire to protect themselves and others near by. Their actions were in response to the immediate threat of death or serious injury from Root who seemingly discharged a firearm several times in the direction of Godin. Even after the initial return fire, Root continued to point the gun at officers.

Despite the confusion that neither officer was aware of the other officers' presence, each had the impression that Root was actually firing at Godin so each returned fire. The gunshots they heard were actually gunshots by the other officer. Godin, not aware of St. Peter's presence, heard gunshots (from St. Peter) and thought Root was firing at him. St. Peter, not aware that Godin was the person on the ground, saw Root approaching Godin pointing a firearm at Godin. He heard gunshots (from Godin) and thought that Root was firing at Godin. Under the circumstances, the use of deadly force was a lawful and reasonable exercise of self defense and defense of others. Each shooter acted in self defense and defense of others at the scene.

Godin was made aware that Root had a firearm, saw Root point a firearm at him, heard a shot, fell to the ground and saw Root point the firearm and "shoot" at him from mere feet away.

St. Peter was made aware that Root had a firearm, saw some of a struggle resulting with a person on the ground on his back and Root pointing a gun at the person and firing.

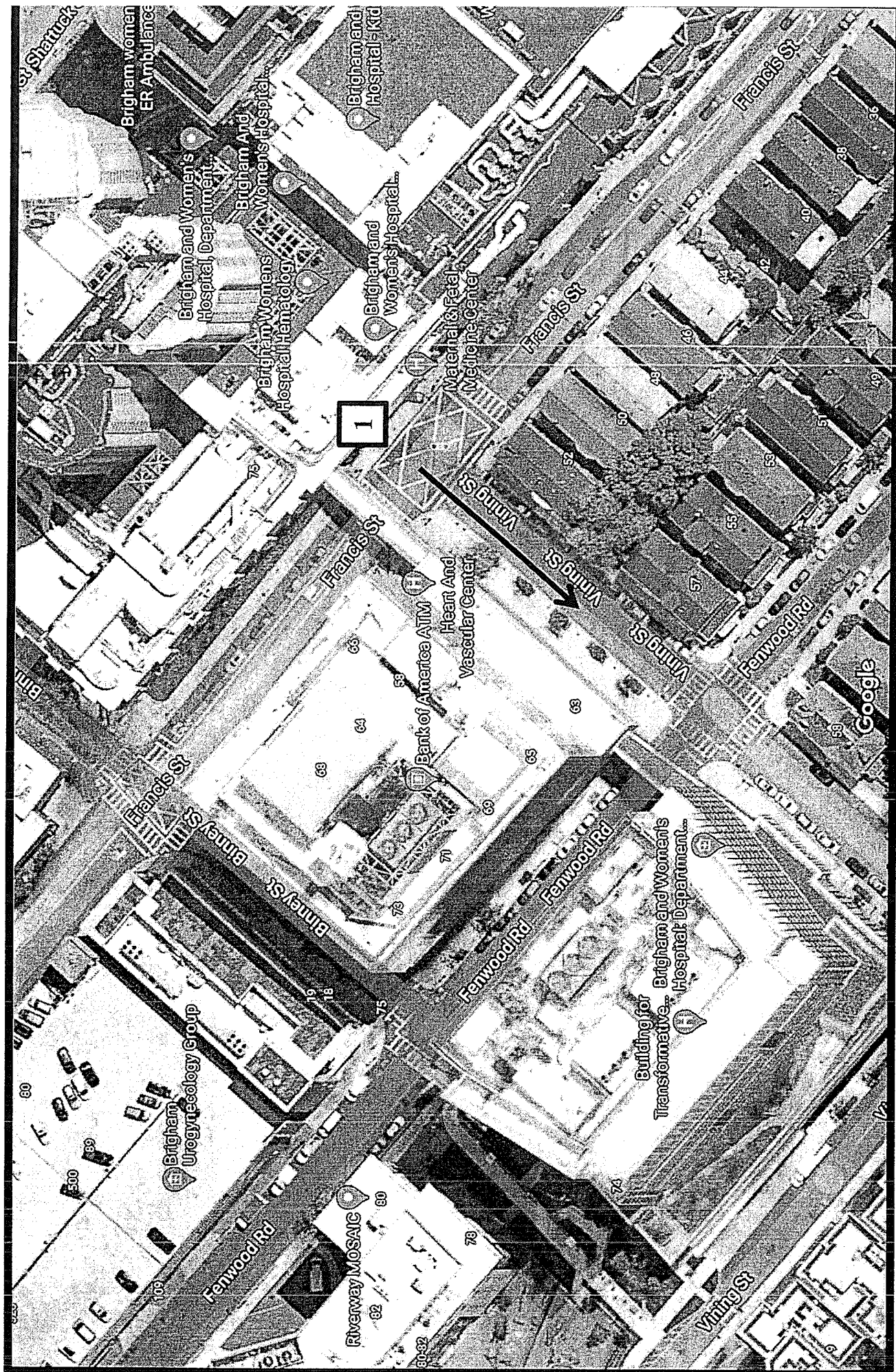
Root's firearm was actually a replica incapable of firing a projectile. See PHOTOS 37-38 for reference. It is reasonable to believe that the participants thought it was a firearm and capable of causing death or serious injury. Thompson saw it up close at Root's waistband and thought it was a firearm. Askew saw Root with what he thought was a silver gun in his hand. ██████ saw Root with a firearm. Dr. ██████ described Root having a gun longer than a pistol. ██████ thought Root had a big army gun. ██████ saw him pull a gun from his pants. ██████ saw Root holding a large gun. ██████ saw Root running on Vining Street holding a gun with a plastic cover. ██████ saw Root open his jacket to show off a gun that he thought looked like a 45 caliber. ██████ saw Root with a 10 to 12 inch handgun. ██████ saw Root pull out a large strange looking gun. Hernandez saw Root with a gun. ██████ watched the video and could see that Root pulled up his shirt to show a firearm in his waistband. Royer

saw Root, whom he knew to have a history of displaying replica firearms, with what he thought was a gray homemade tubular gun that didn't look real.

The common issue for these witnesses is that they all thought Root had a firearm and thought they heard him fire it. With this context it is reasonable to assume that Godin and St. Peter thought Root had a firearm and after pointing it at Godin, fired at him.

Accordingly, there were no violations of a criminal offense and charges should not be sought. The matter should be referred to the Boston Police Department for whatever administrative actions should be addressed.

Photo 1



1

Google

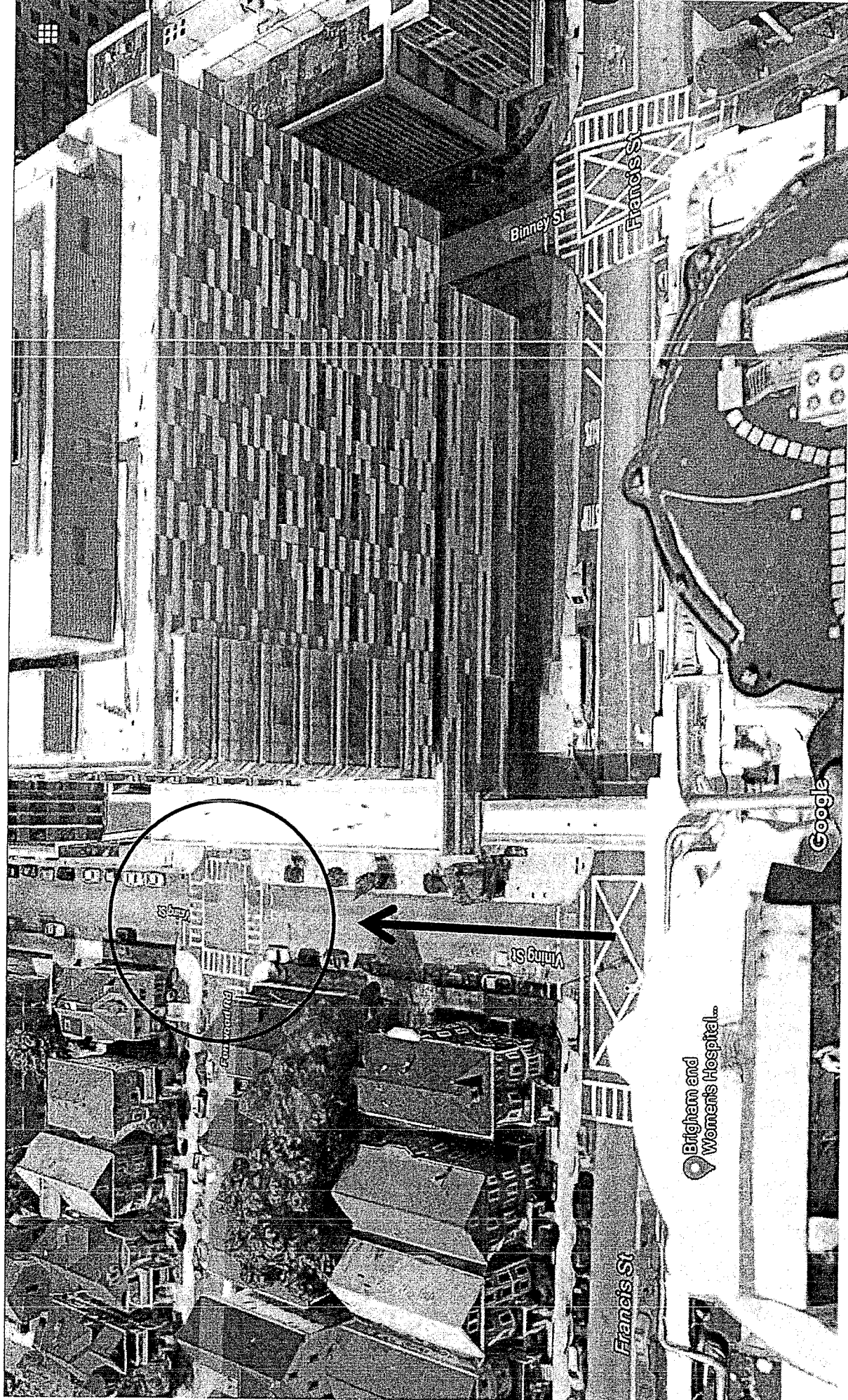
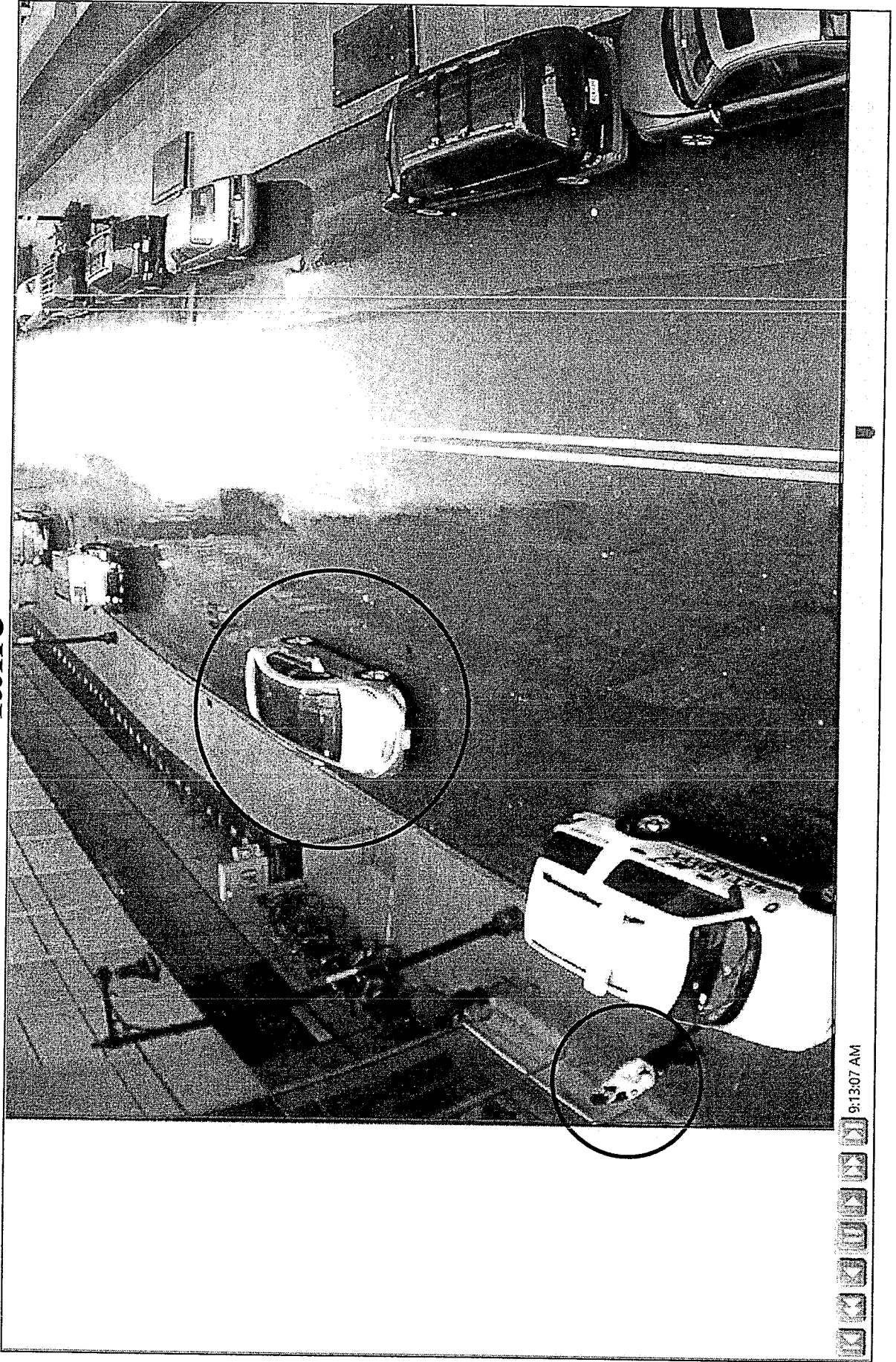


PHOTO (2)

9:13:07

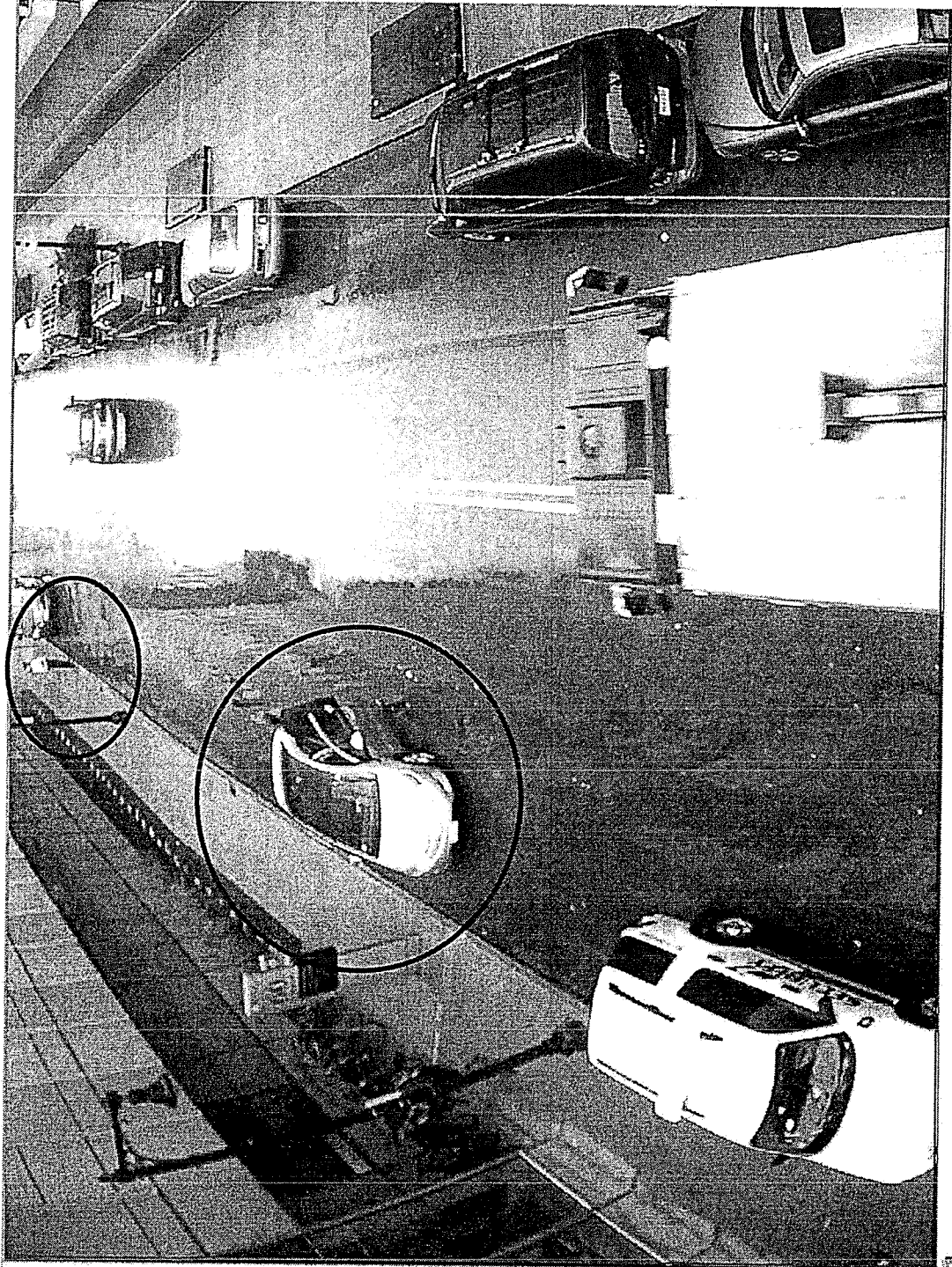
Justin Root's vehicle pulls into 15-minute parking lane



P.W. 7-13

9:14:13

Root exits vehicle

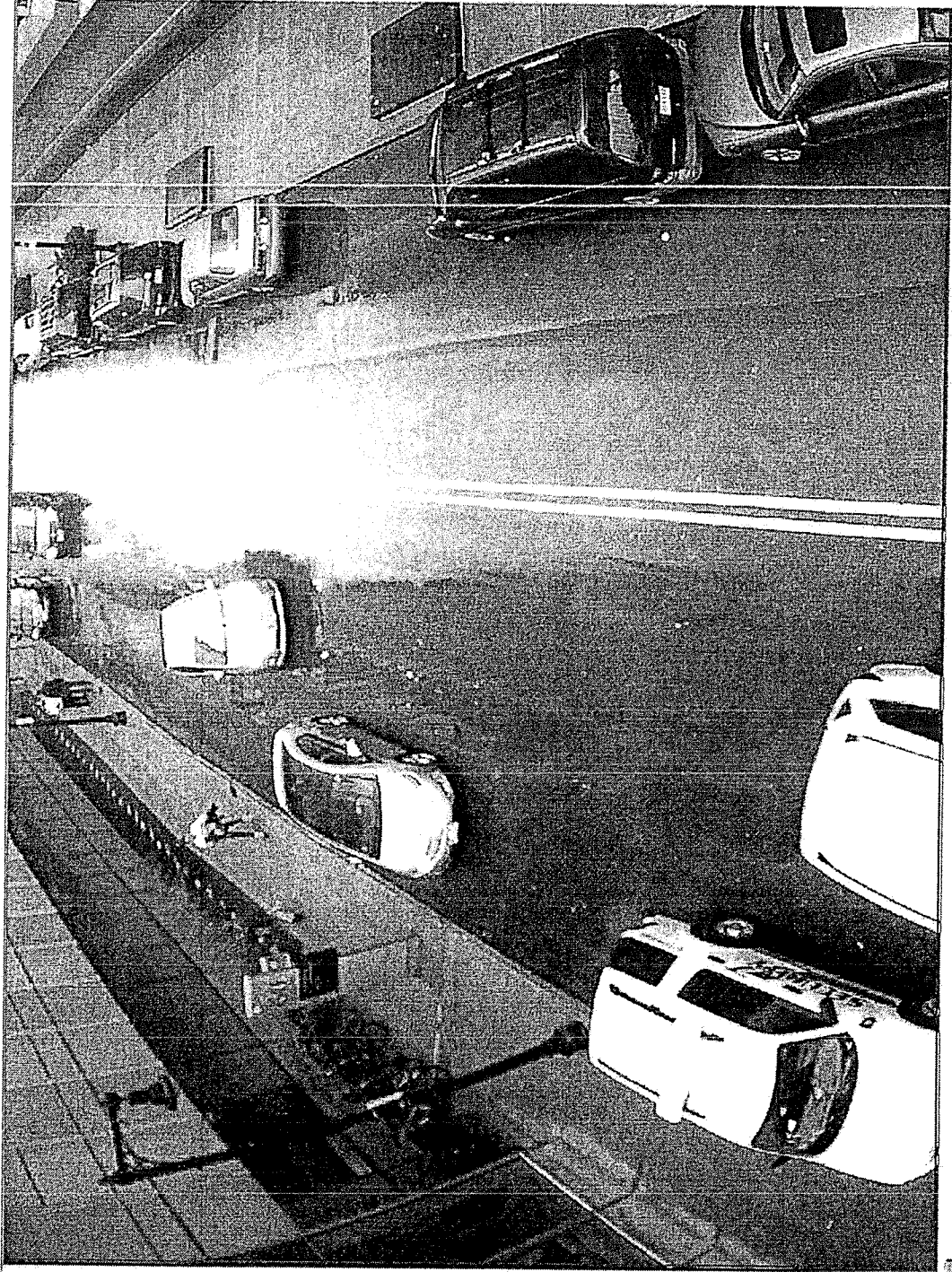


9:14:13 AM

PHOTO 247

9:14:30

Root engages BWH guard William Thomsen

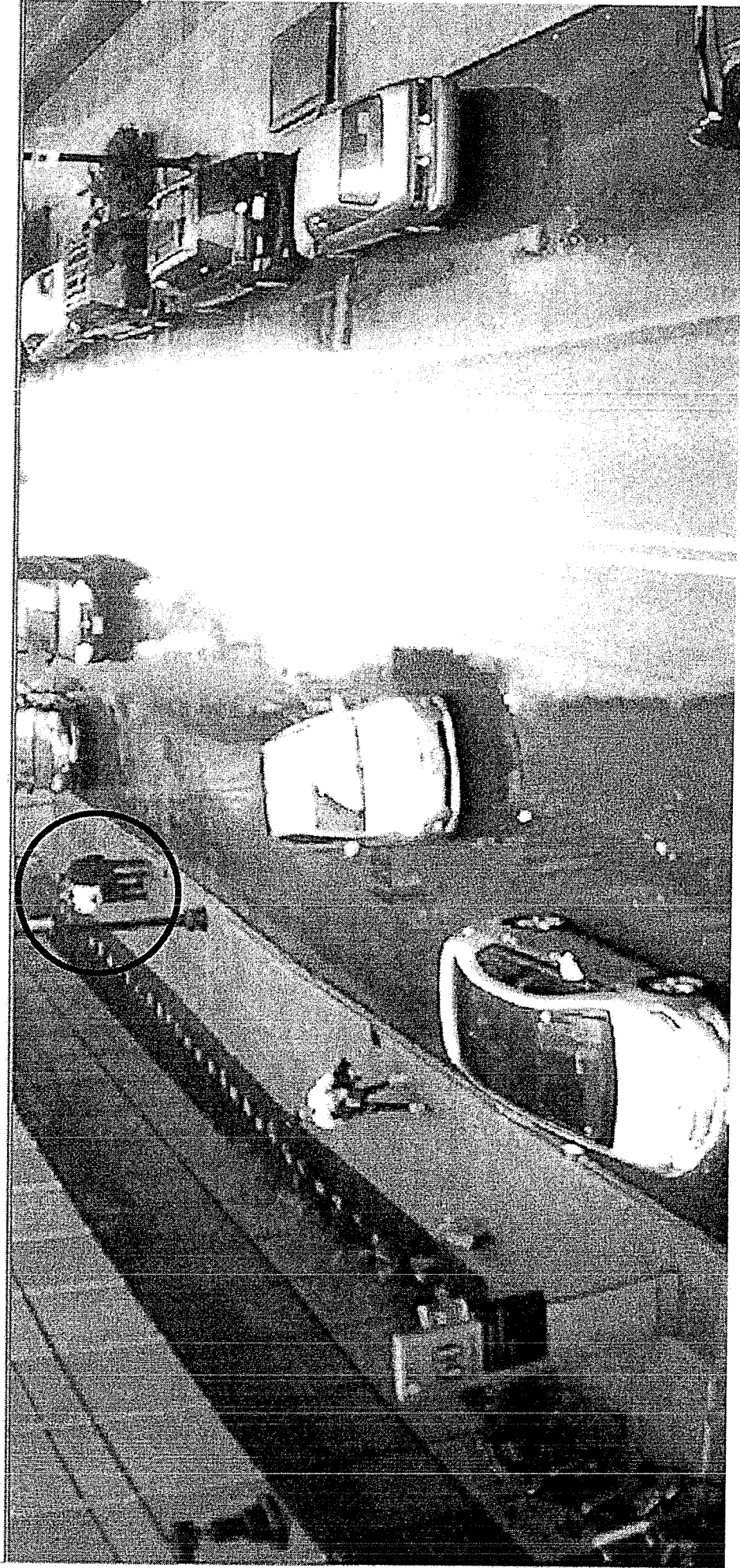


9:14:30 AM

Root 55

“He called me the ‘n’ word...”

-- William Thomsen, BWH Security Guard



P1117 6

“He had opened his jacket and showed me the weapon that was in his waistband...”

-- William Thomsen, BWH Security Guard

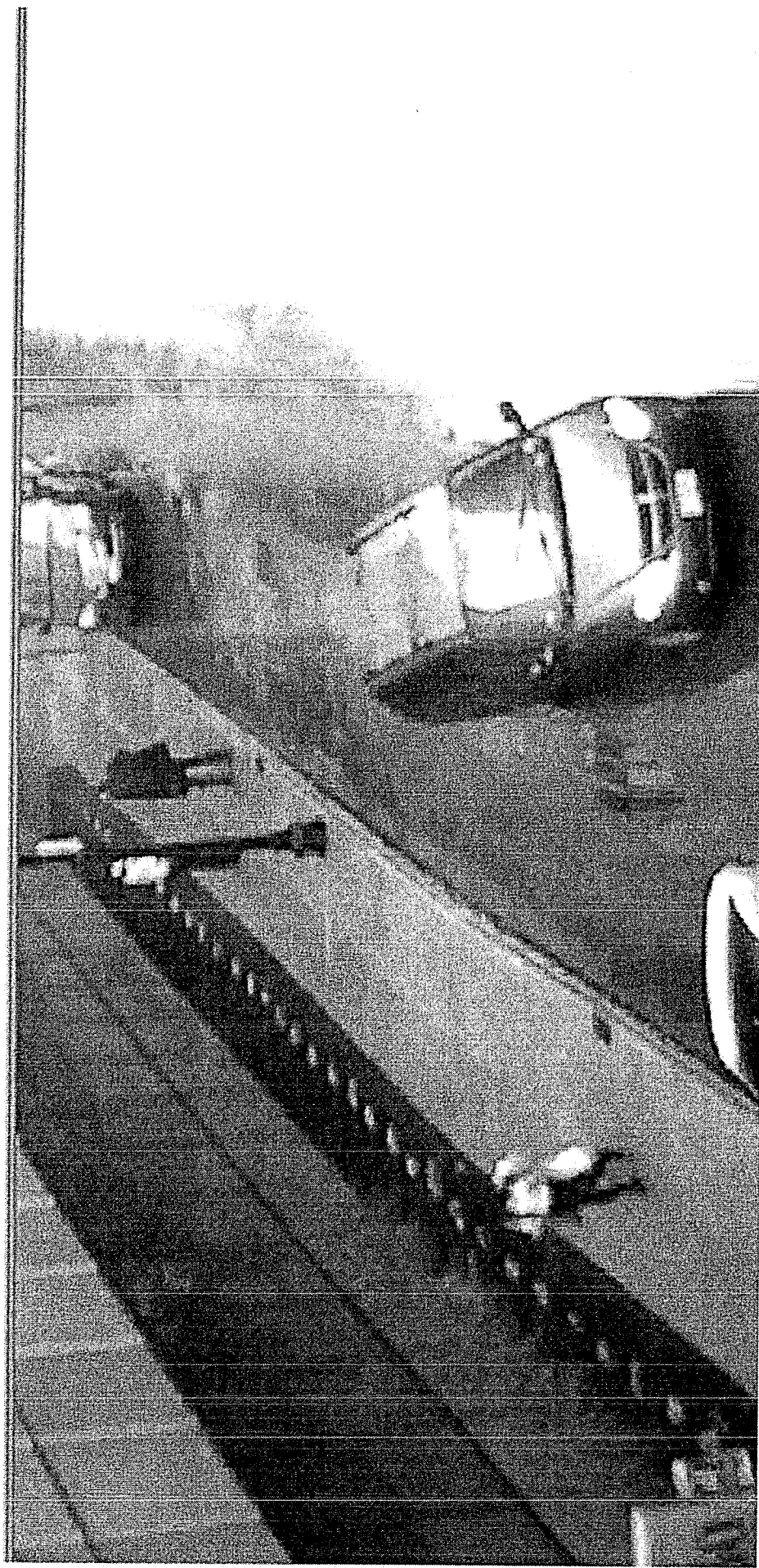
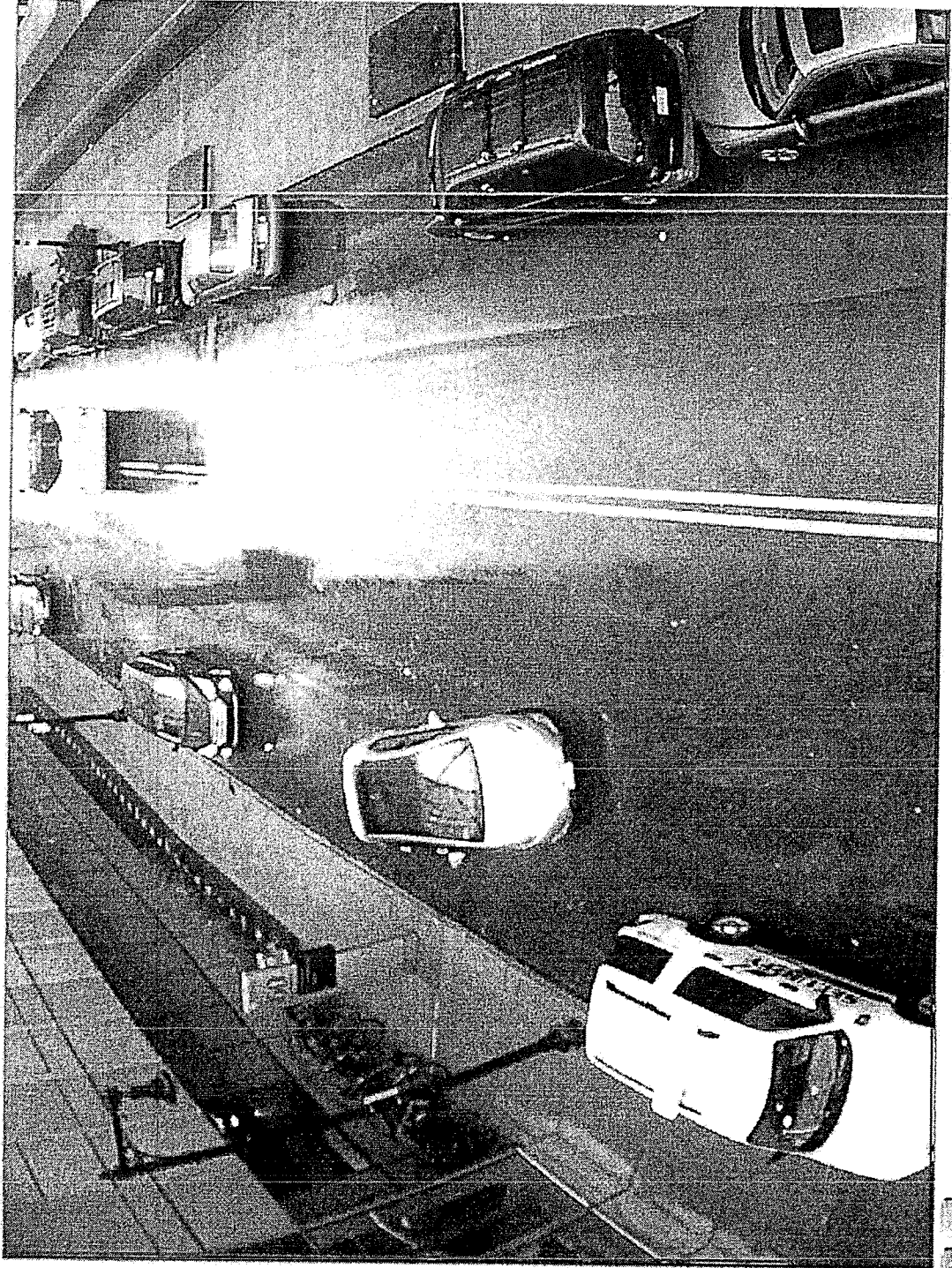


PHOTO (D)

9:17:54

After encounter with guard, Root gets in vehicle and leaves

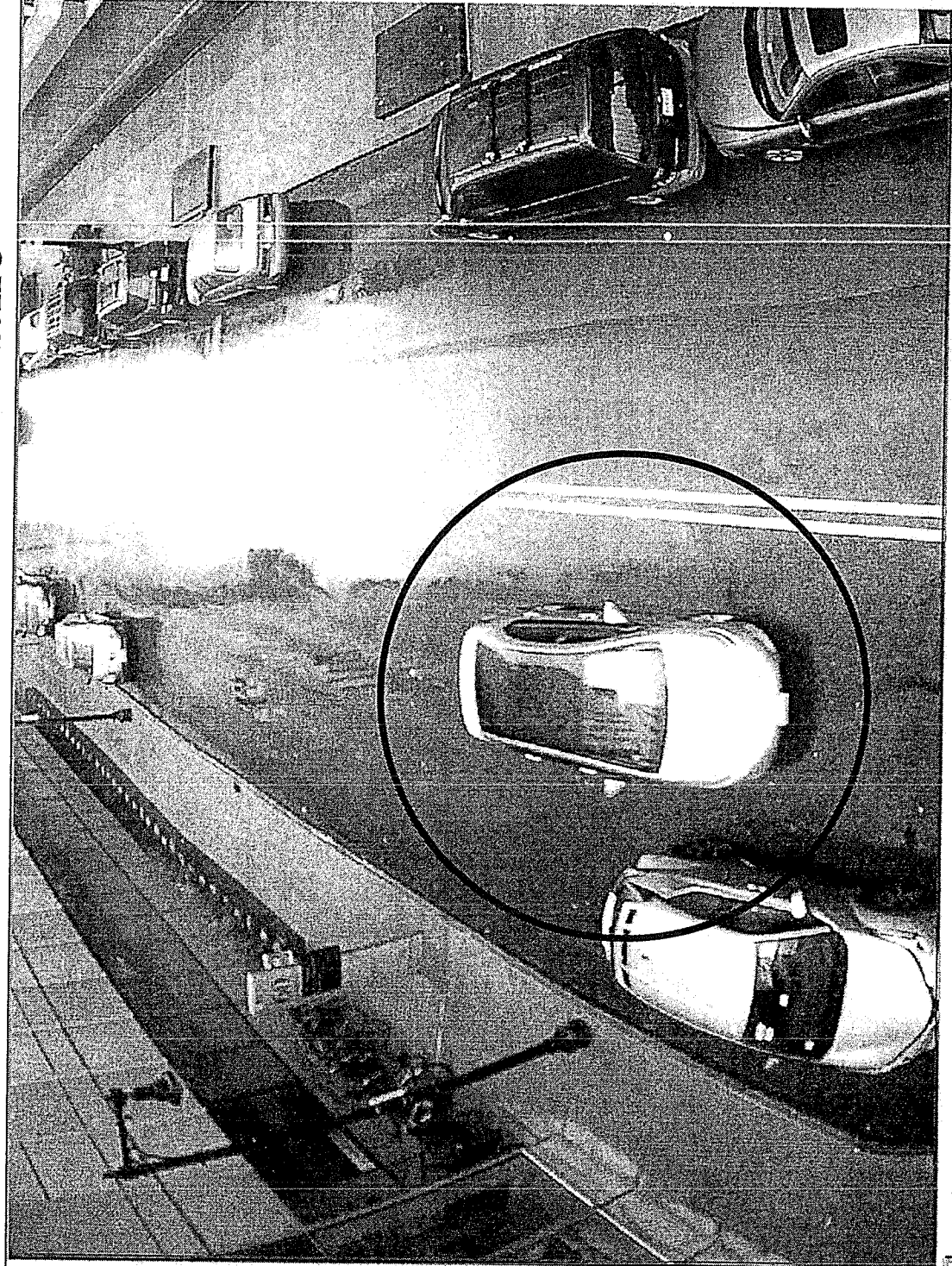


9:17:34 AM

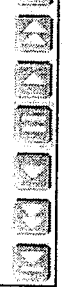
PHOTO

9:20:46

**Root returns approximately three (3) minutes later
and leaves car in travel lane**

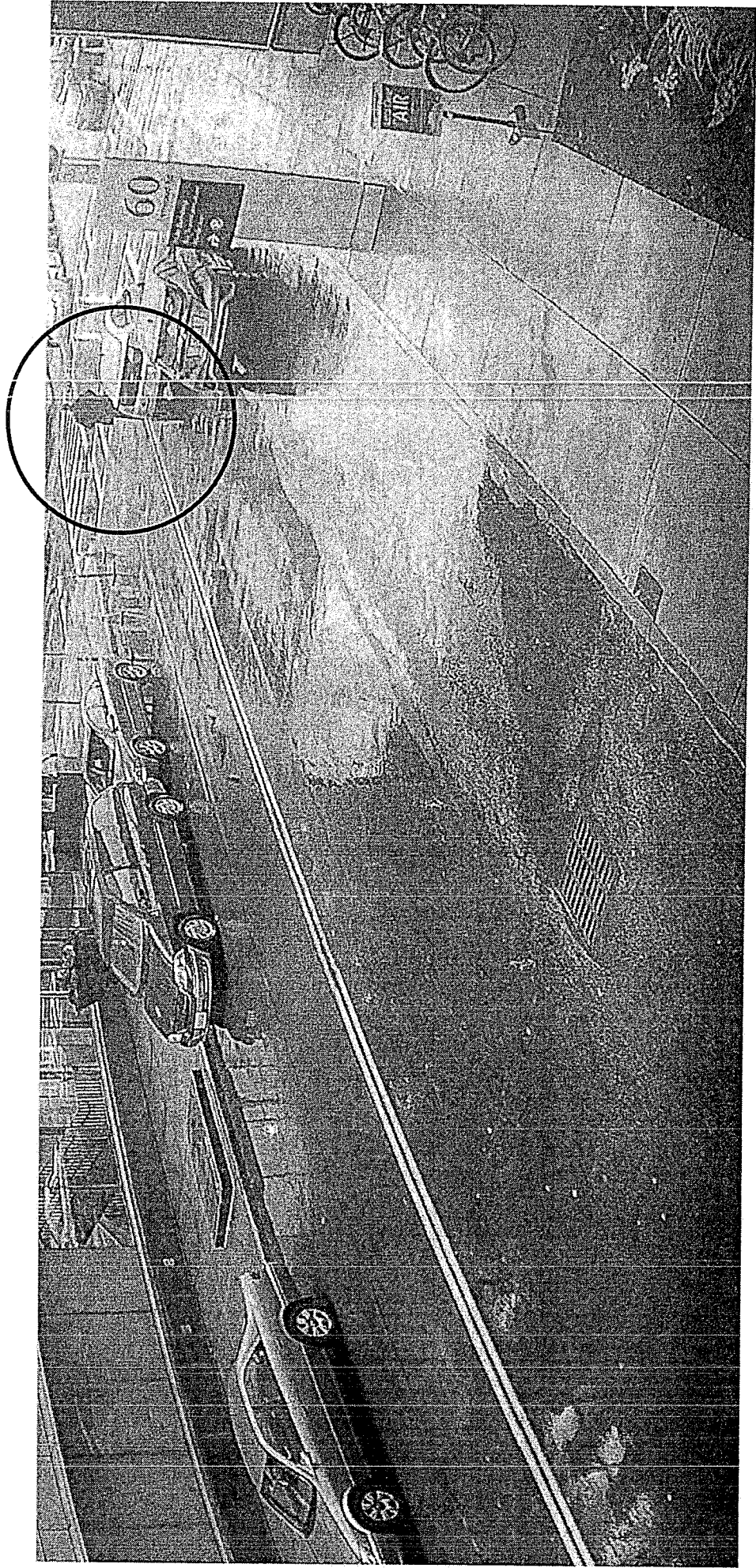


9:20:46 AM



P11 - 5

Root exits car in travel lane and stands around intersection for approximately one (1) minute



9:21:51

**Guards respond to call from William Thomson
about man with gun**

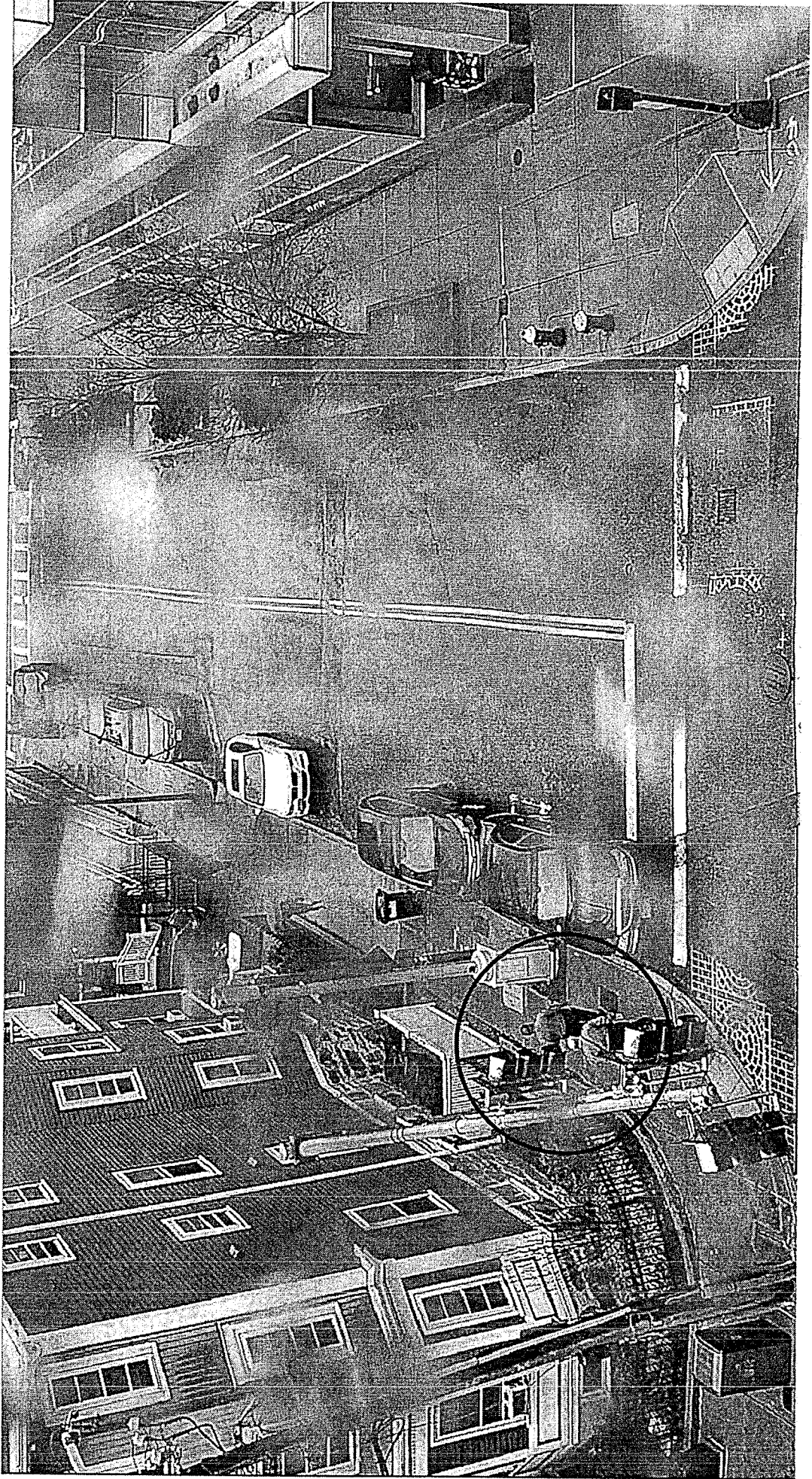
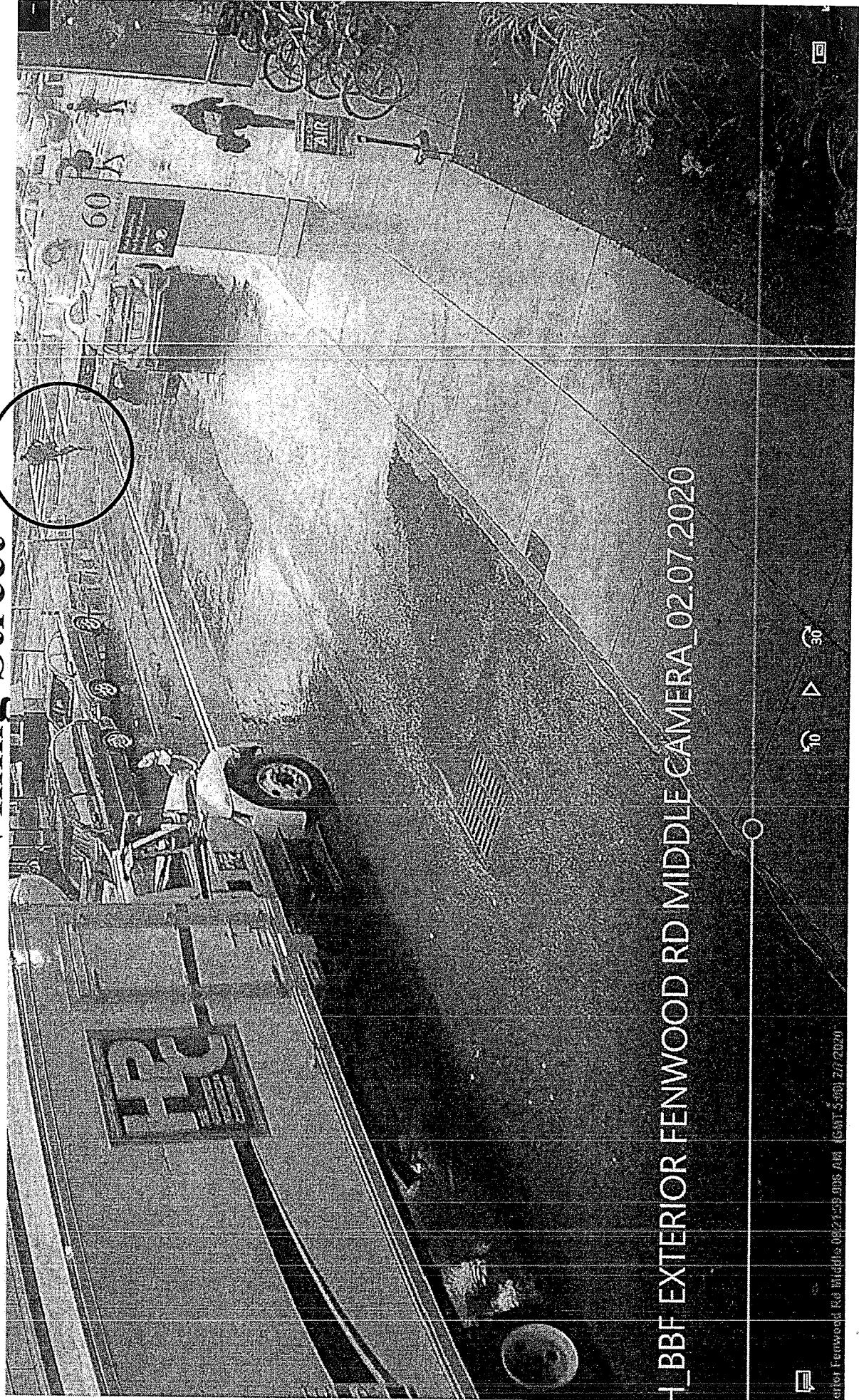


PHOTO (18)

9:21:59

As guards approach corner, Root suddenly runs up
Vining Street

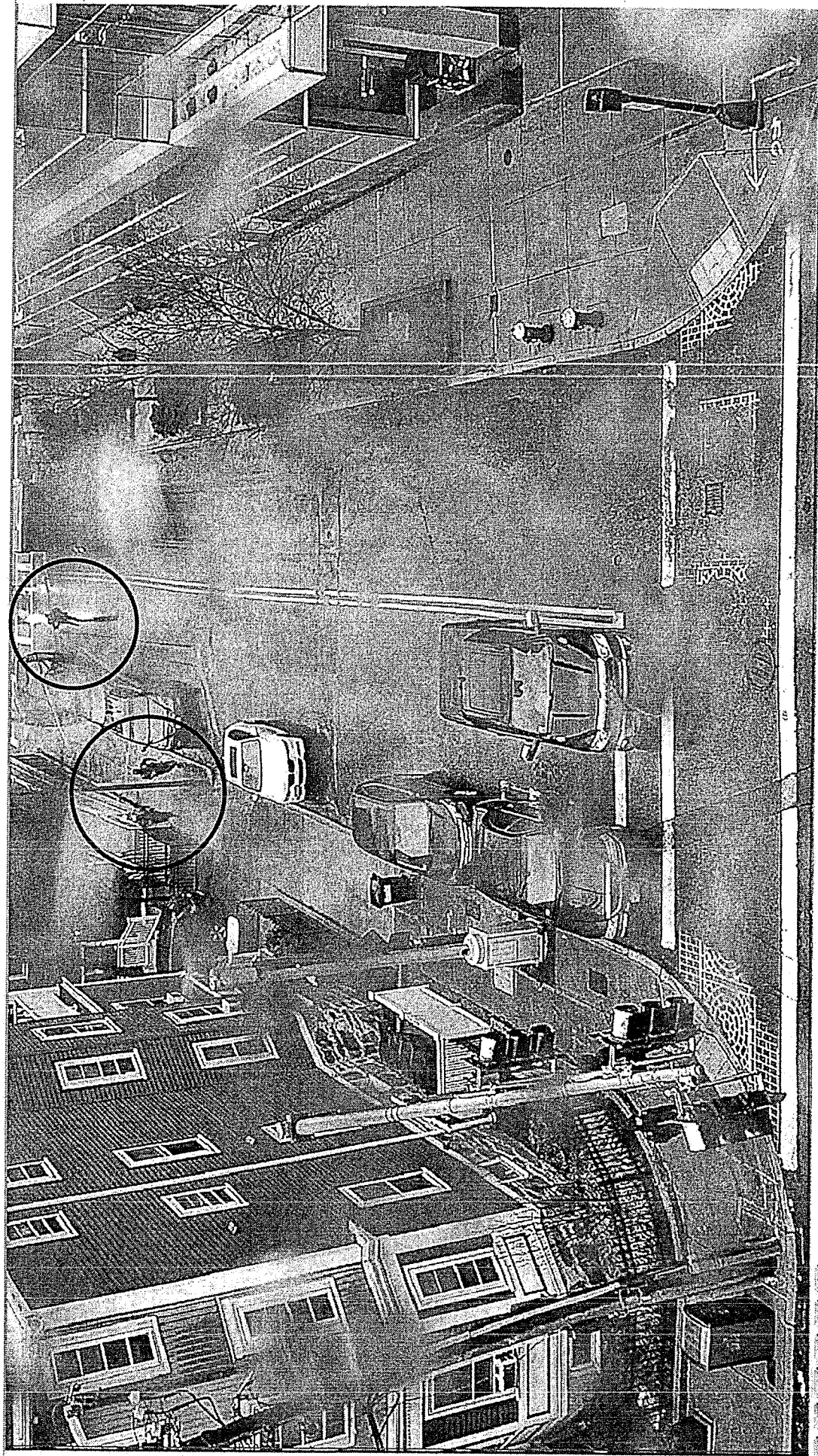


_LBBF EXTERIOR FENWOOD RD MIDDLE CAMERA_02.07.2020

02.07.2020 09:21:59 AM (GMT-05:00) 2020

A11 - 12

9:22:48
Guards run away with Root in pursuit

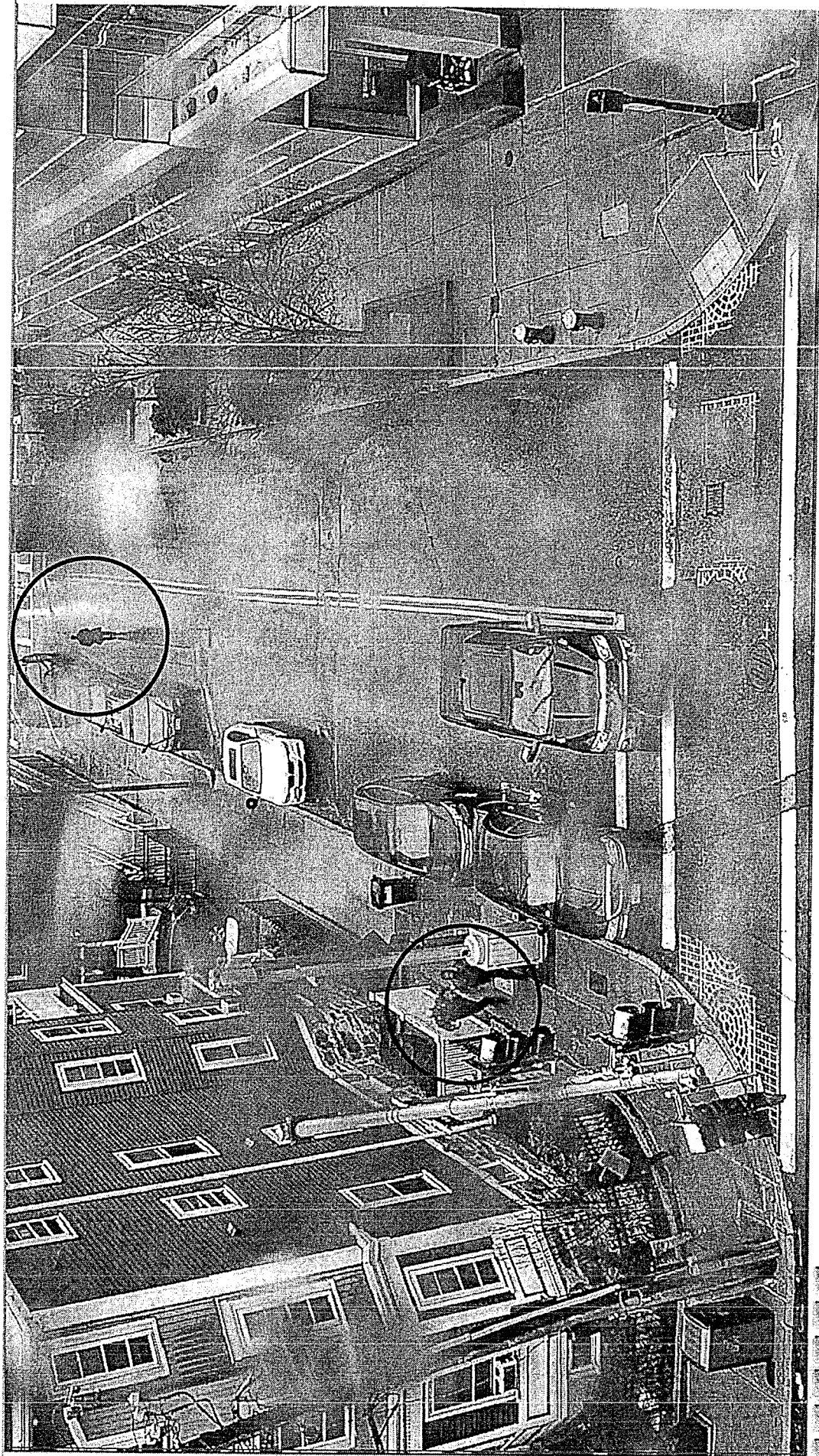


9:22:48 AM

Photo 13

9:22:54

Root stops and turns back

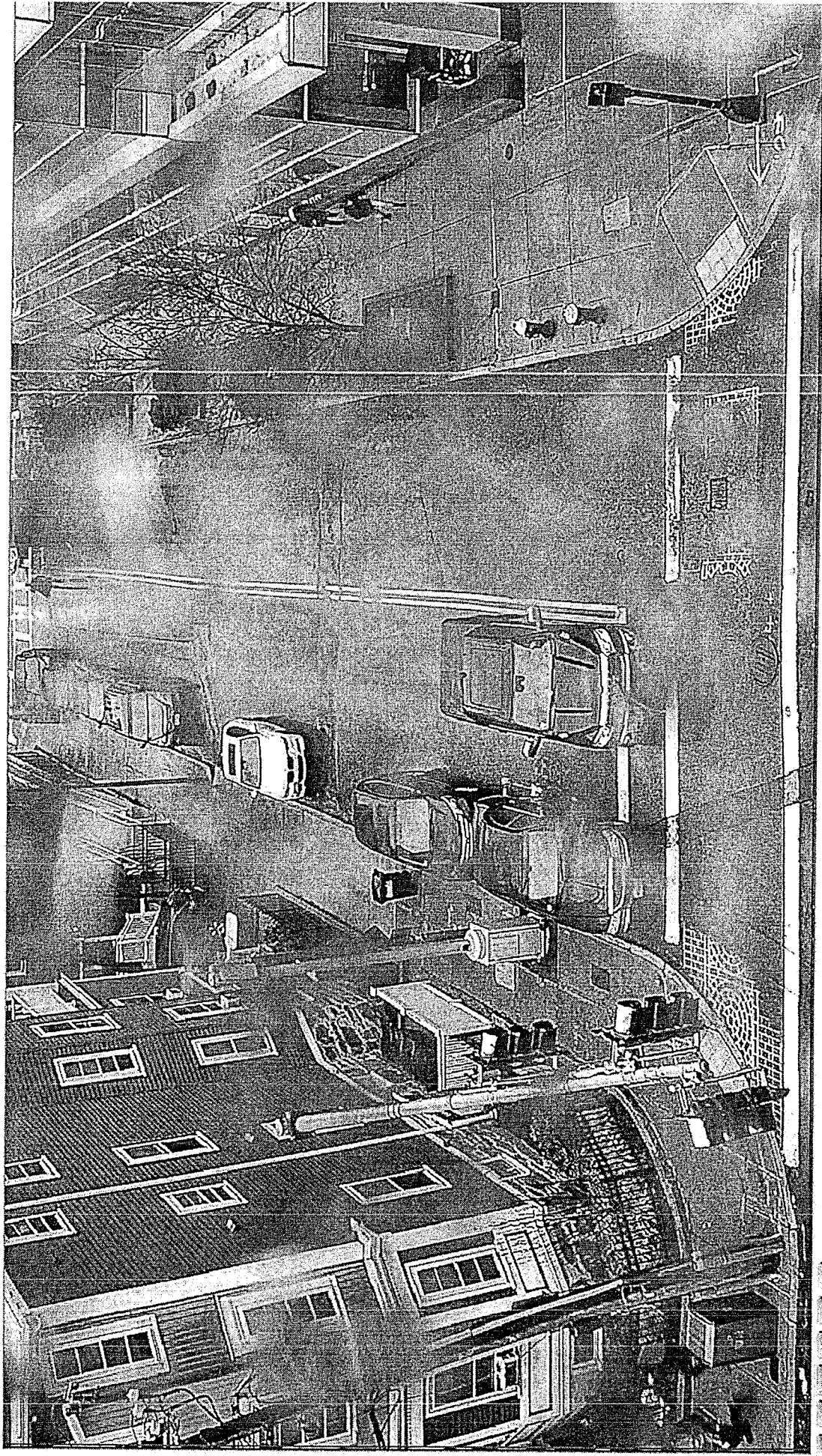


9:22:54 AM

P. 11 - 198

9:22:57

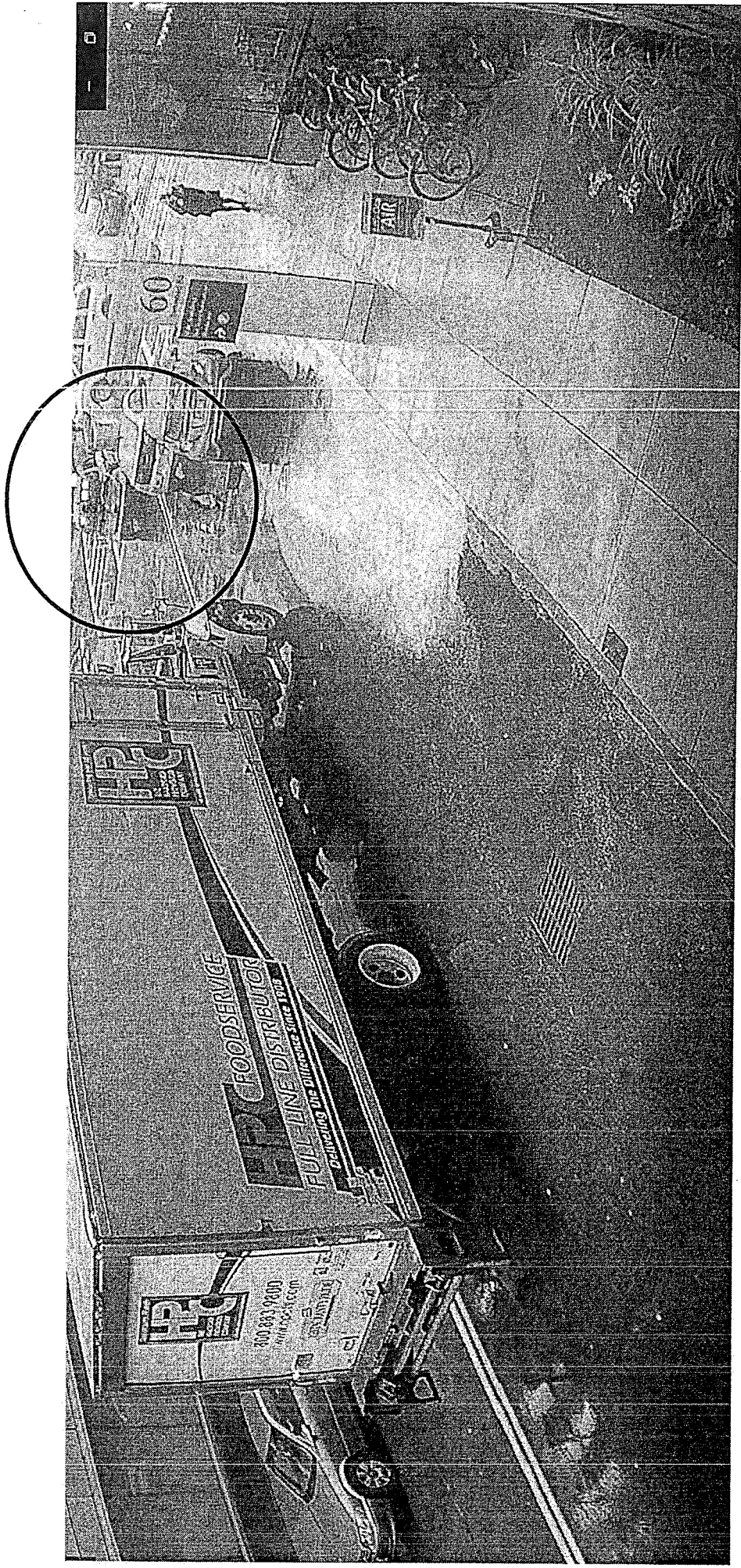
Juston Root waves cruiser #1 up the street



9:22:57 AM

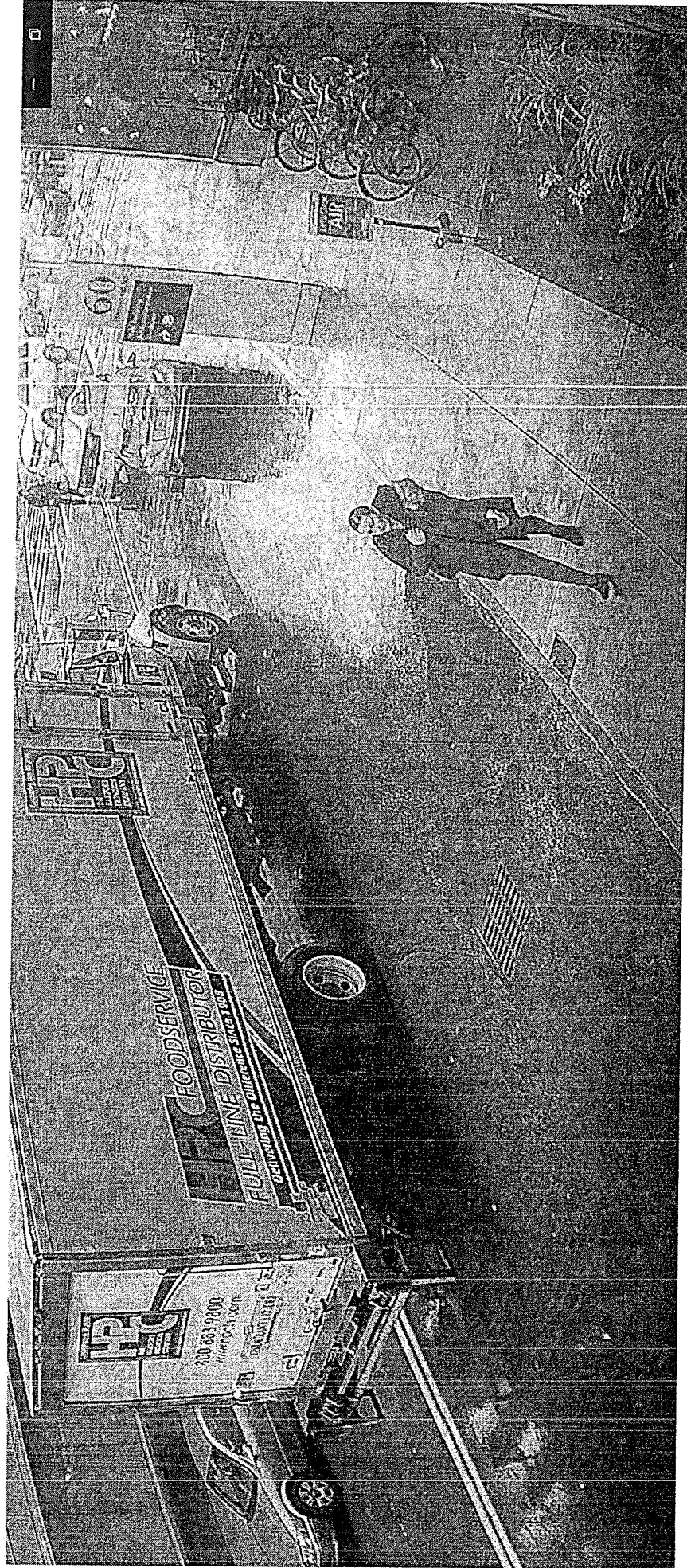
A.H.S.T. (15)

Cruiser begins making a left onto Vining Street



PLT-16

After waving the cruiser up Vining Street, Root returns to his vehicle



17-17

Root directs a second arriving BPD cruiser

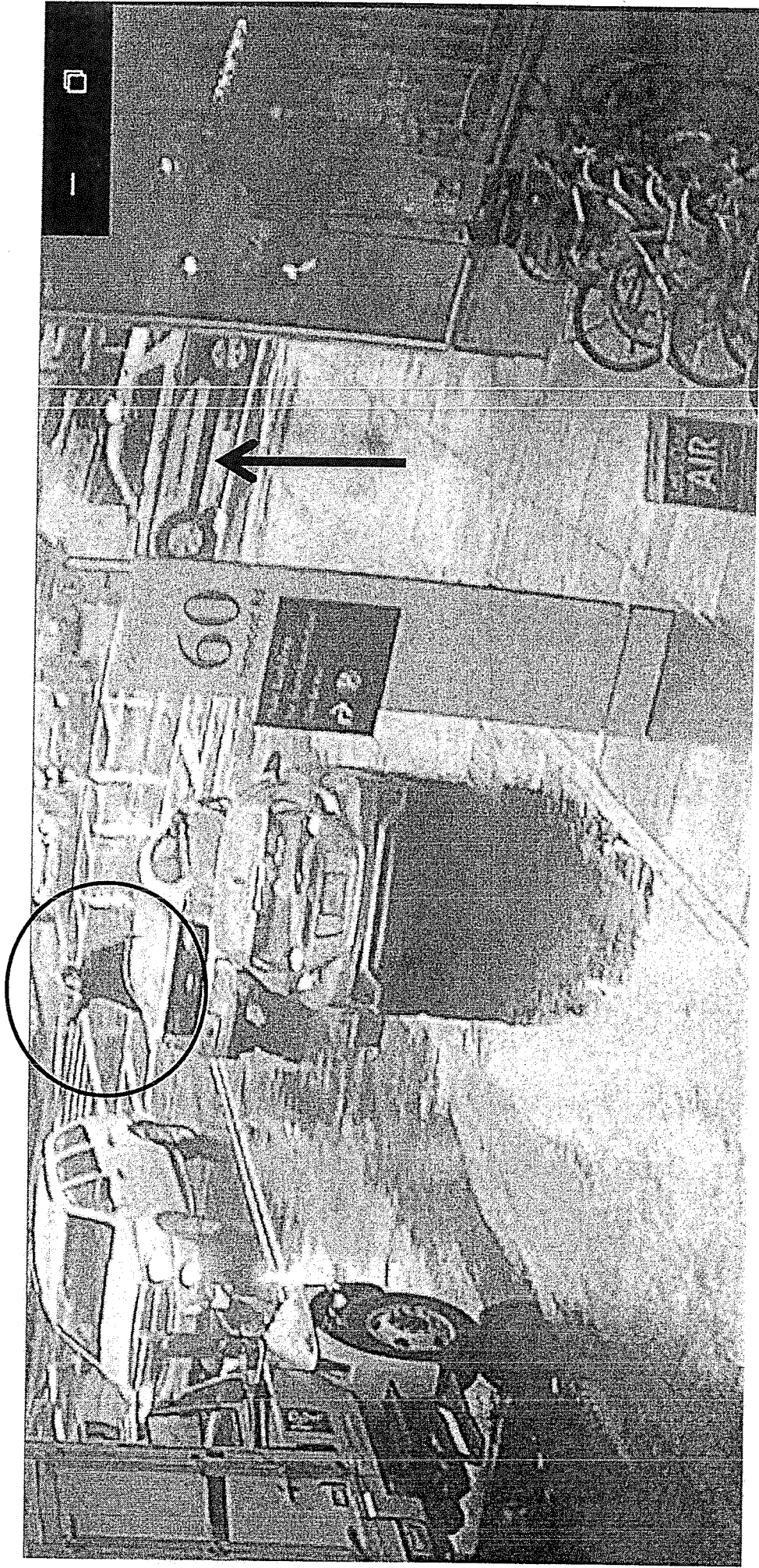
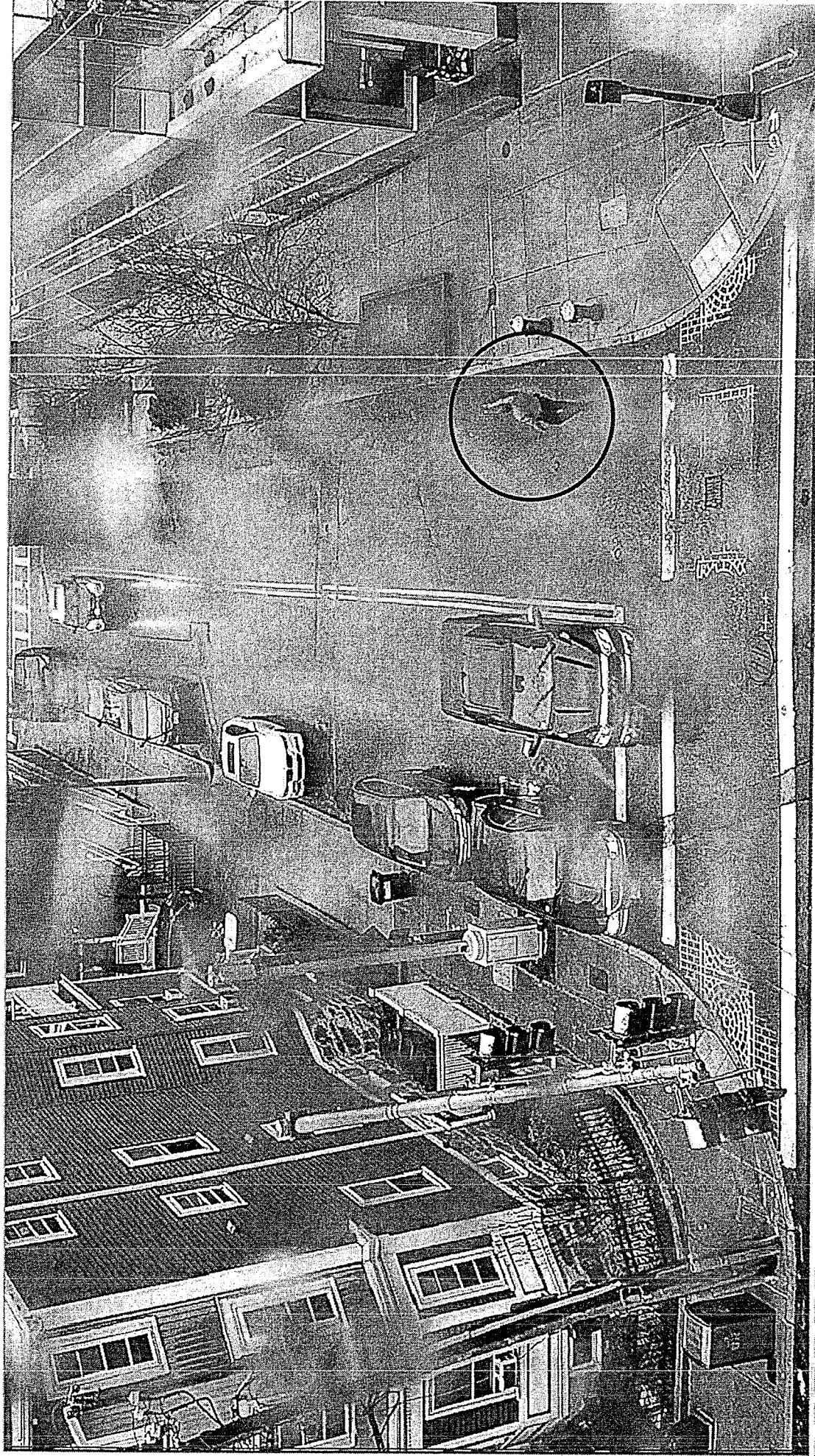


PHOTO 157

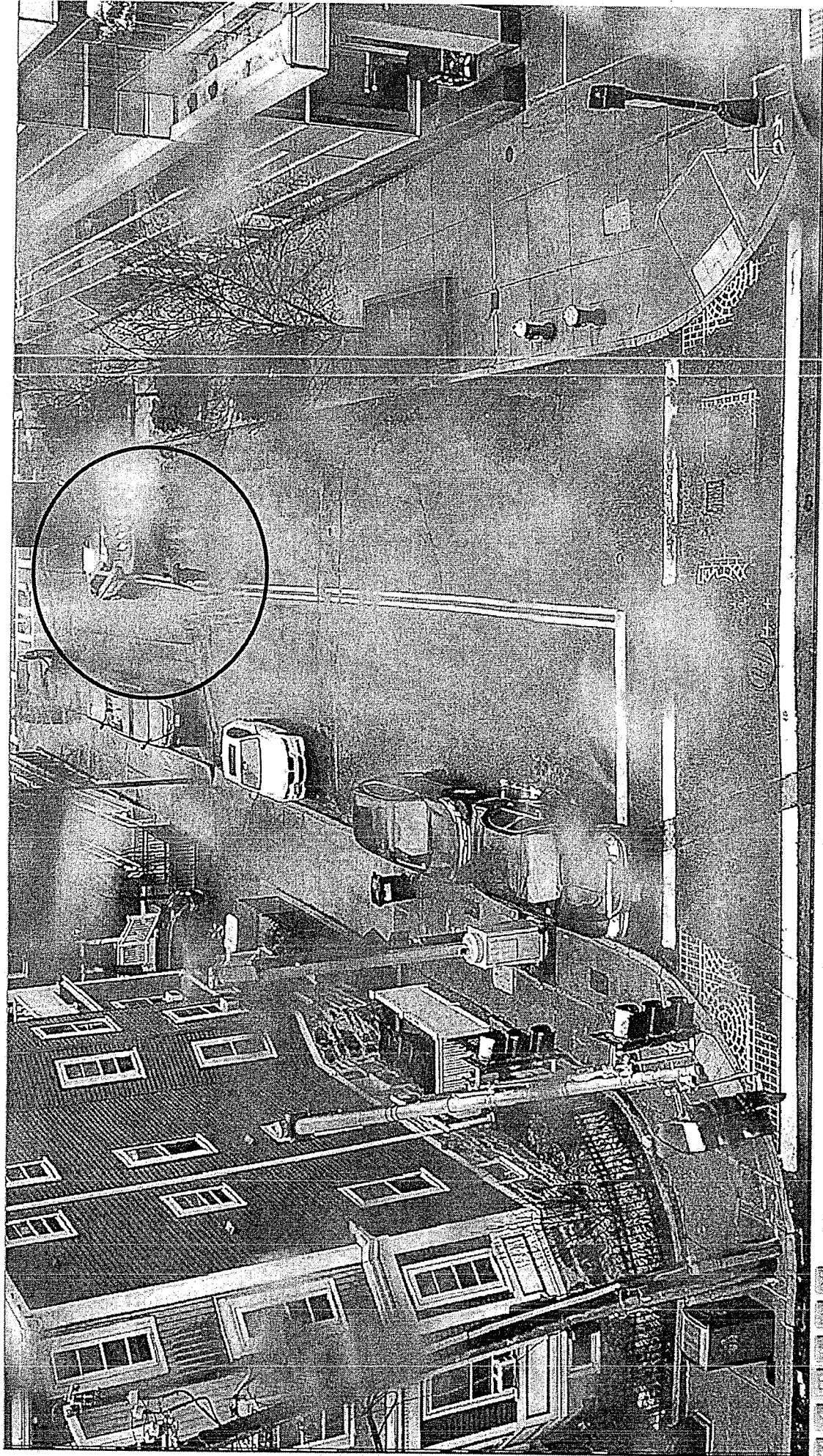
Security guard directs cruiser back towards Root



9:23:15 AM

PH-75 (M)

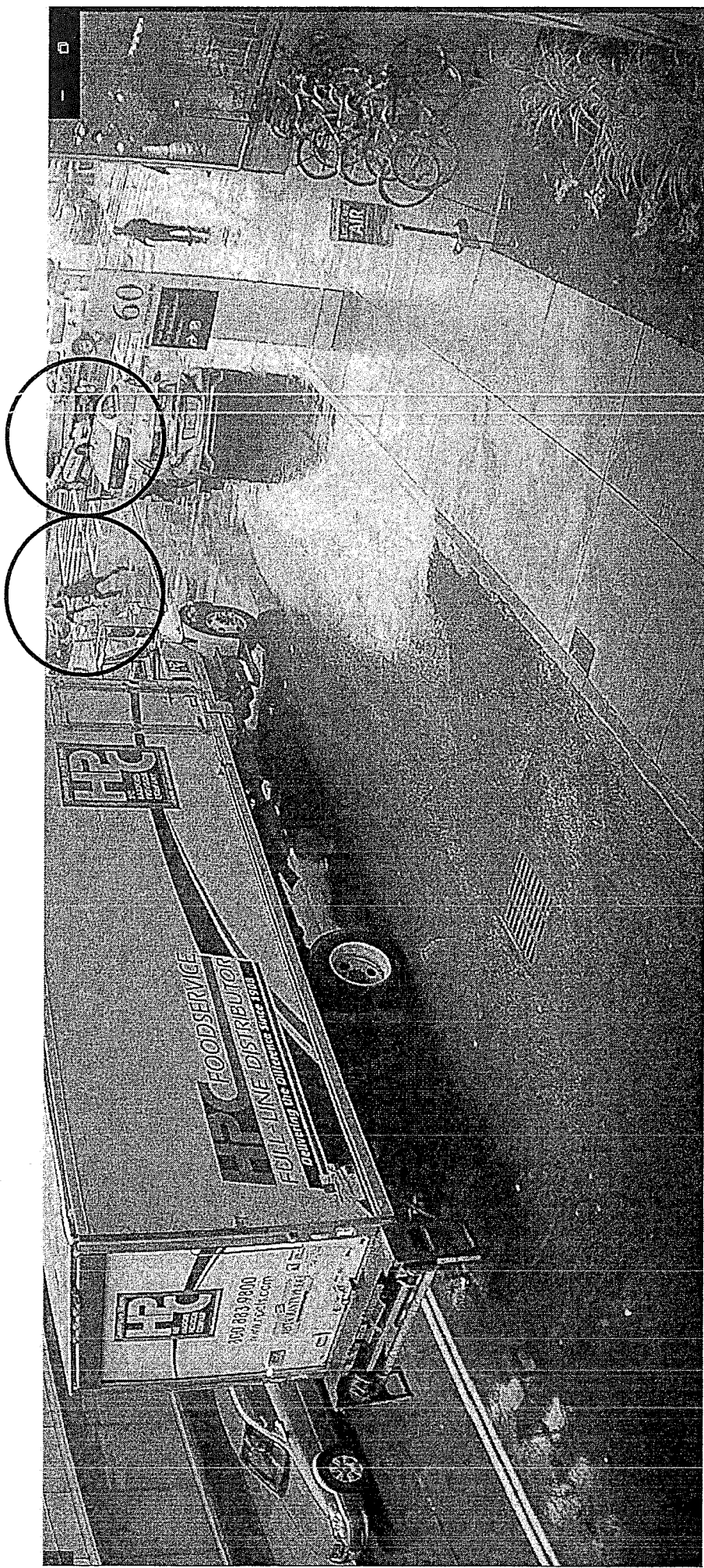
Cruiser turns around

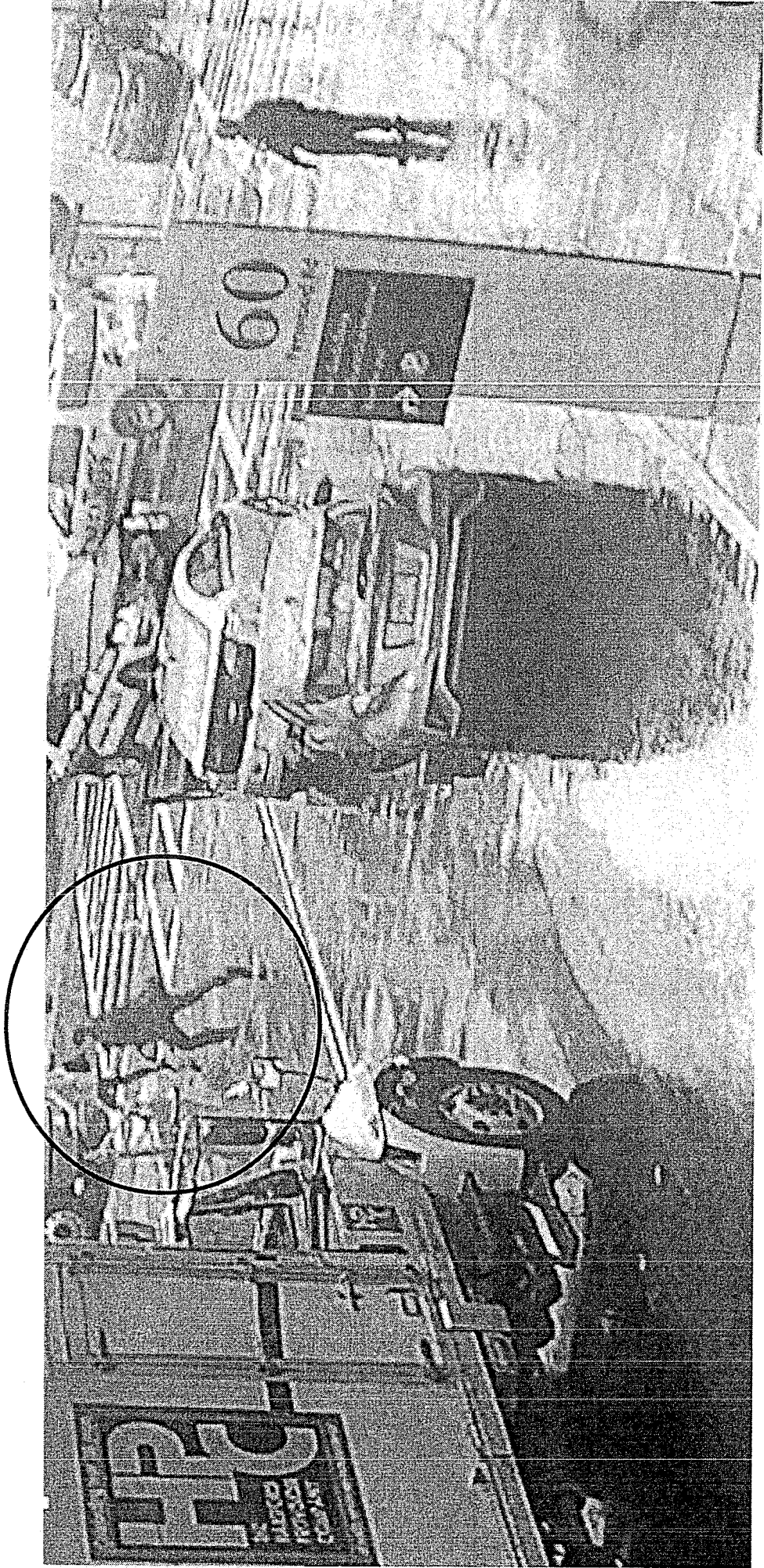


9:23:29 AM

P11-20

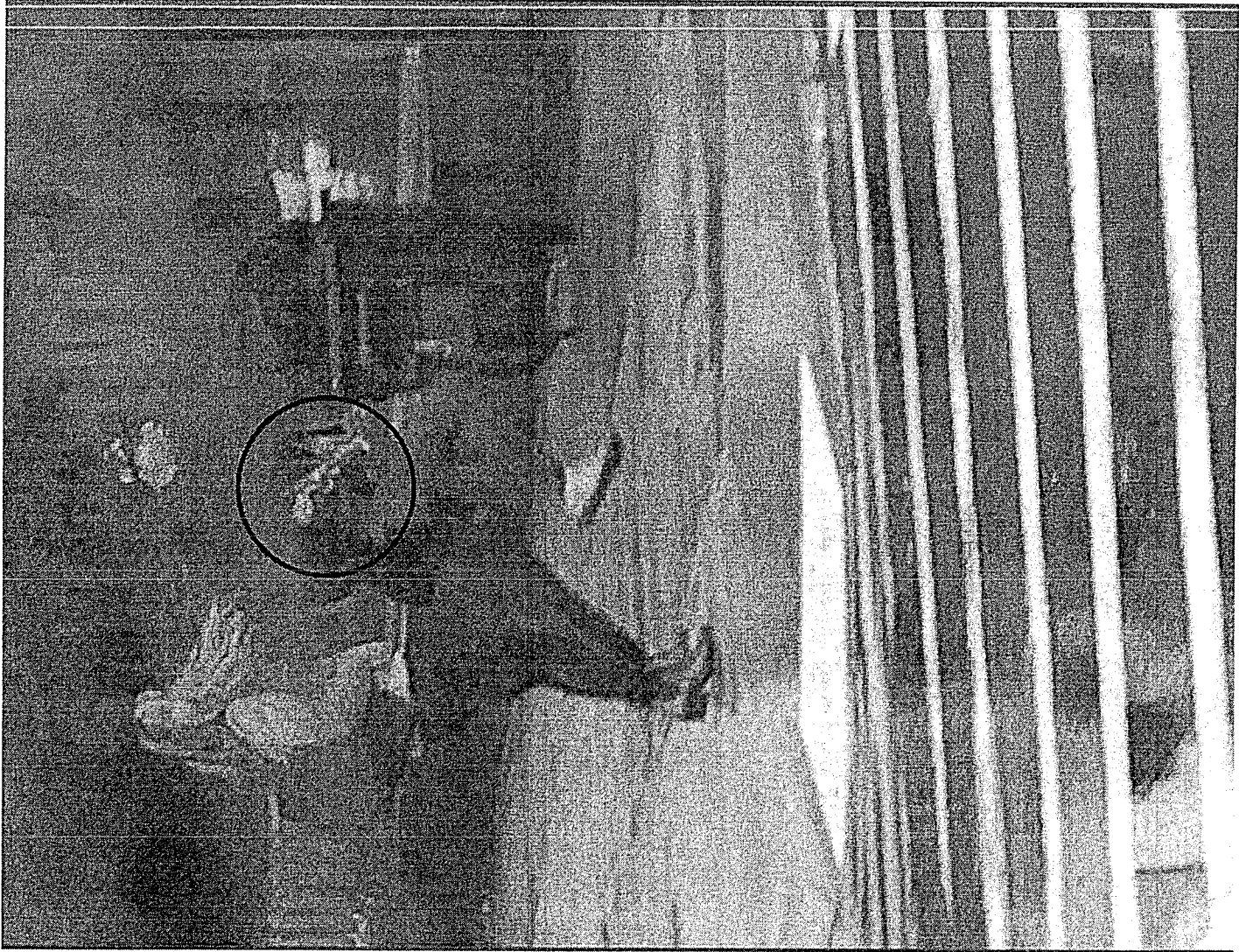
As cruiser returns, Root runs up Vining Street

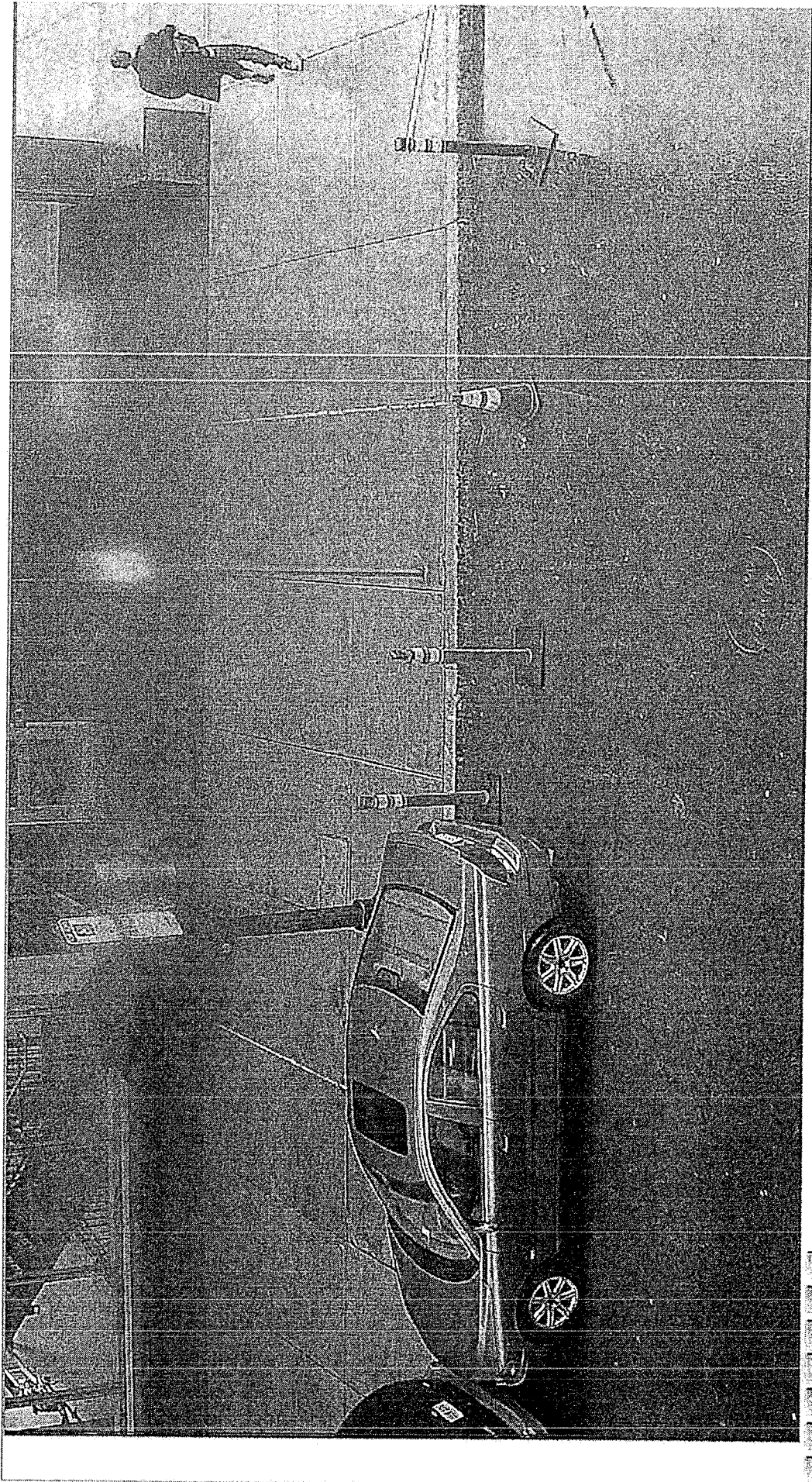




PH. 23

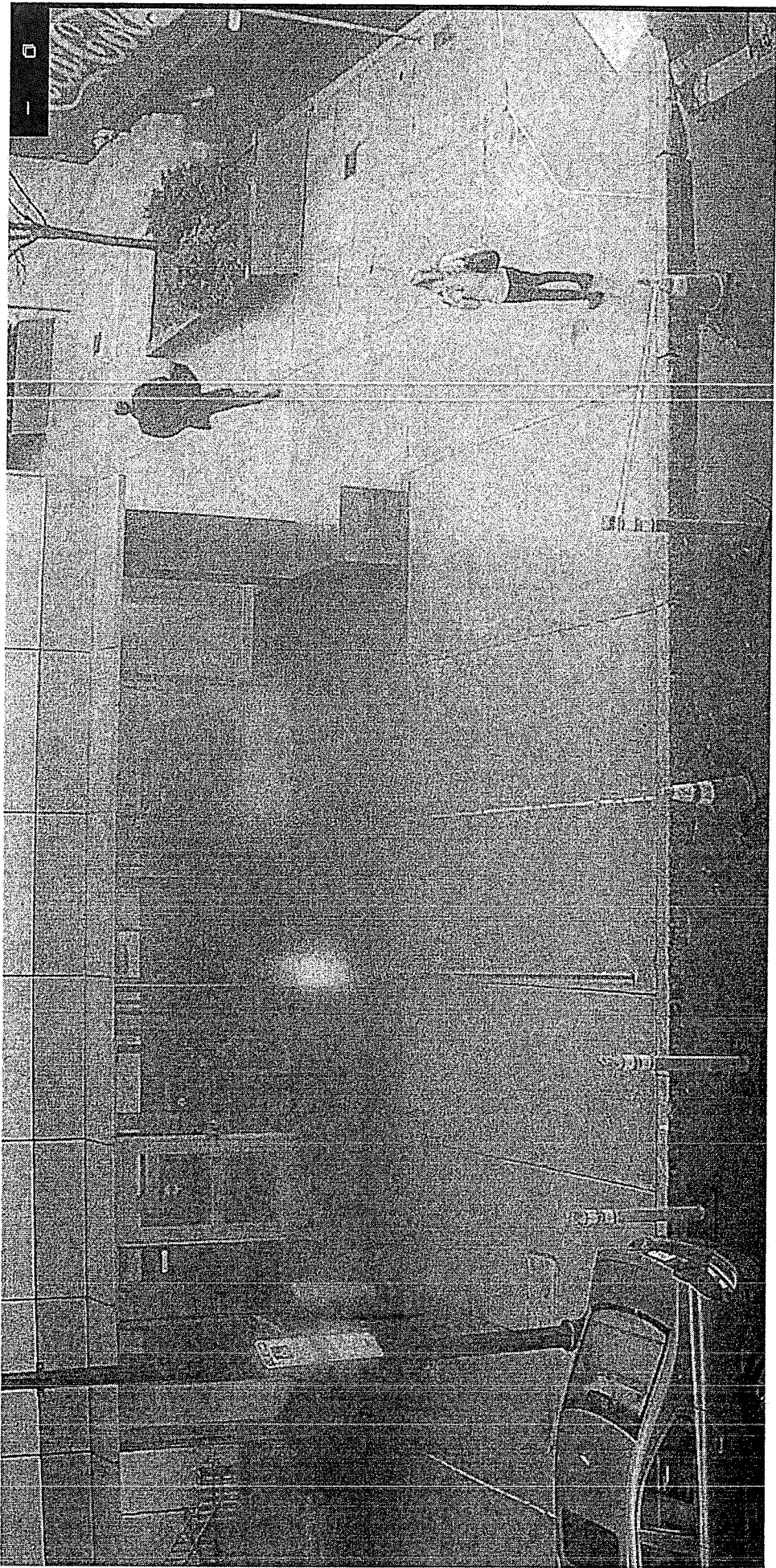






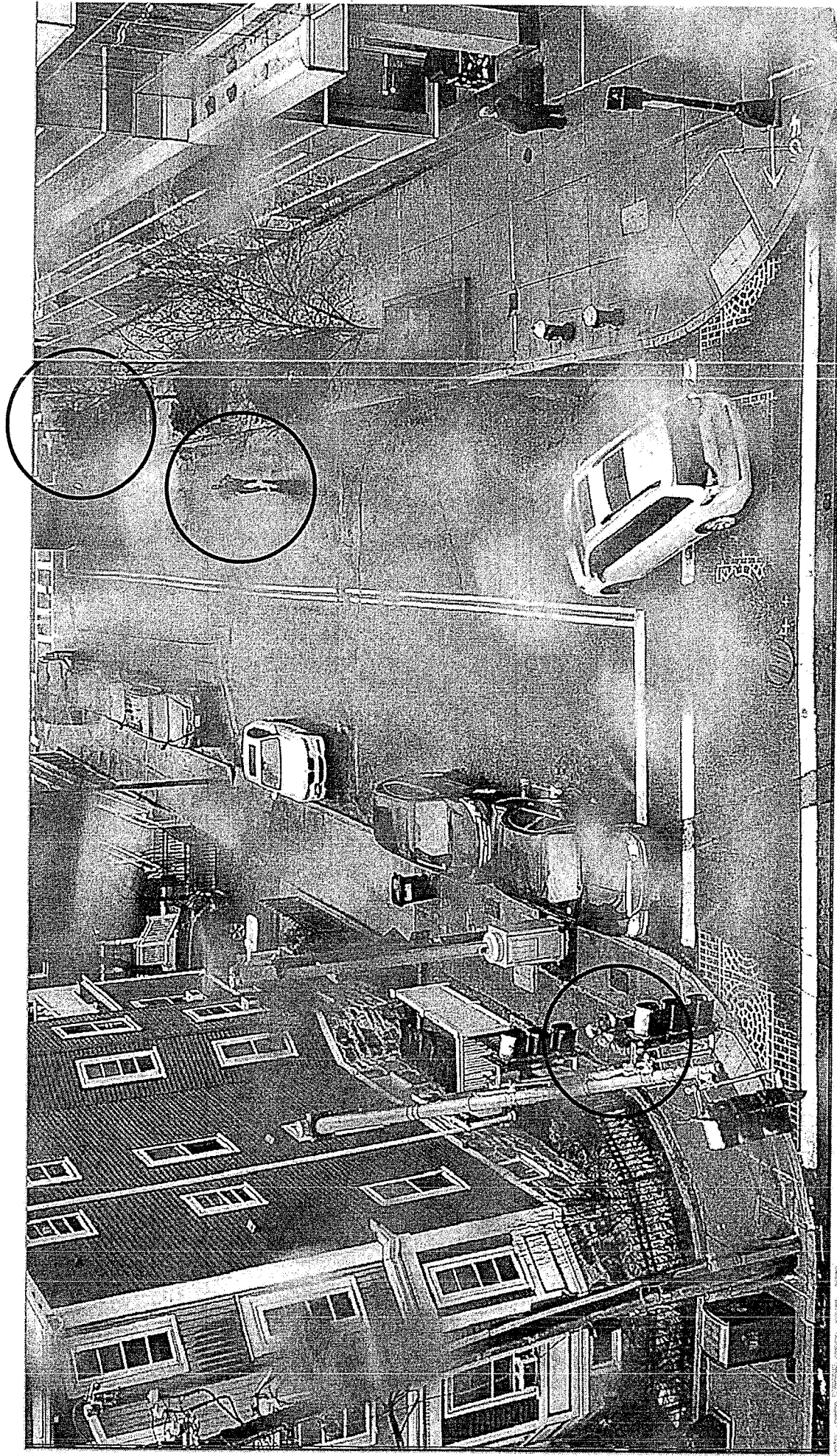
9:22:50 AM

PHOTO (25)



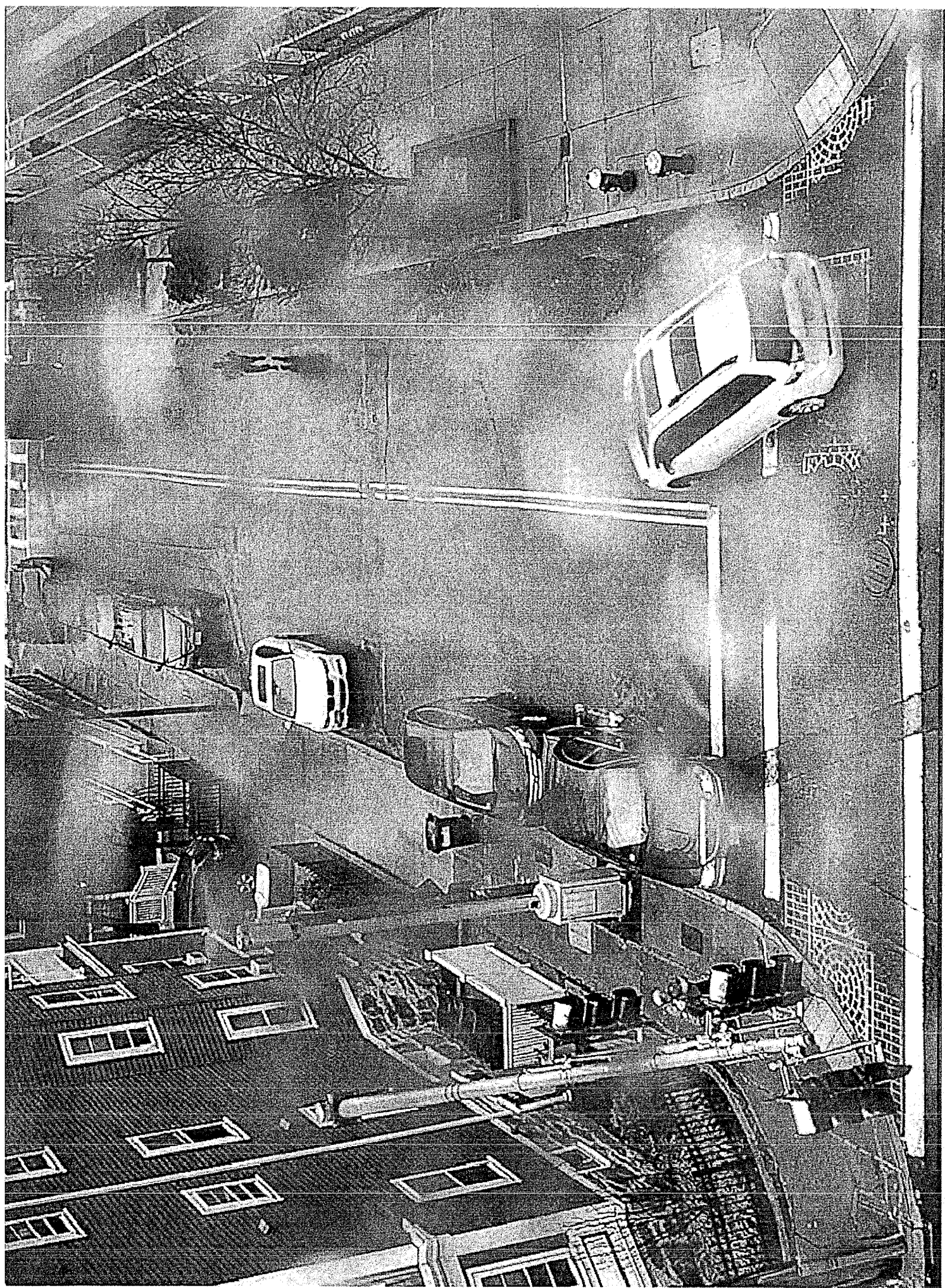
P. 11 T. 36

Root pursues the security guard



9:23:37 AM

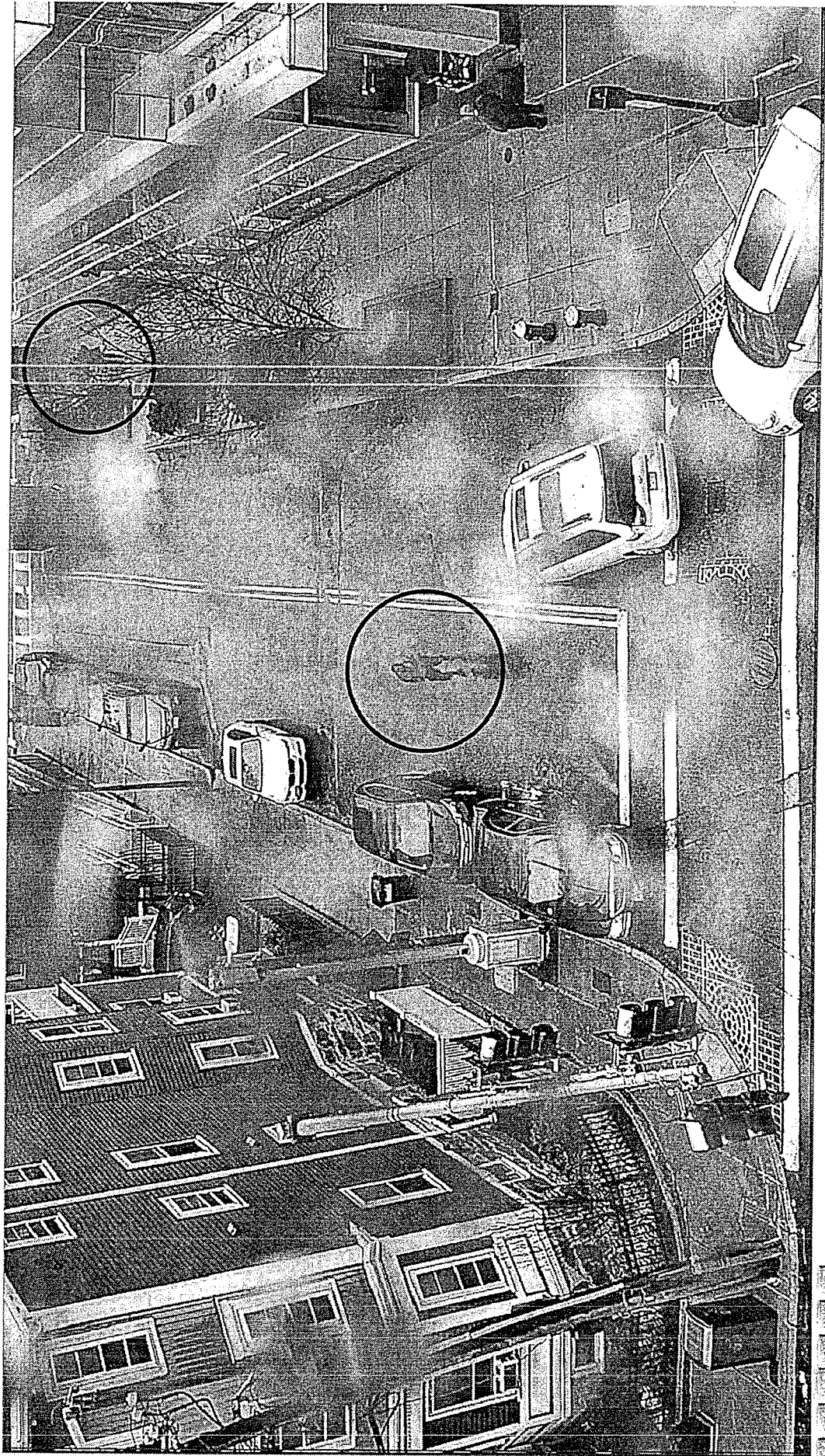
P.W.T. (27)



9:23:37 AM

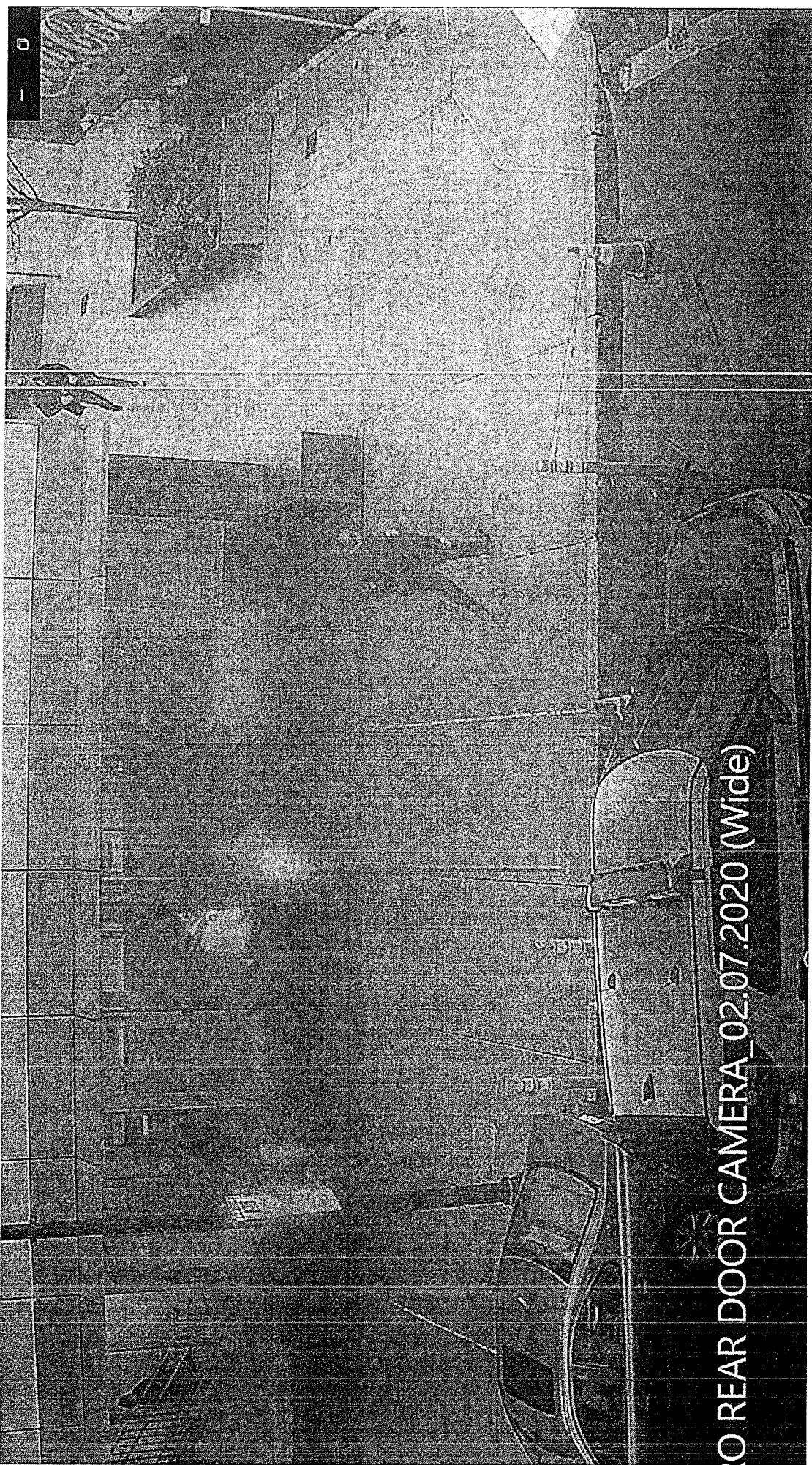
Photo (28)

Stops chasing guard and turns back to corner



92341 AM

P11 - 23



RO REAR DOOR CAMERA_02.07.2020 (Wide)

PH. 30

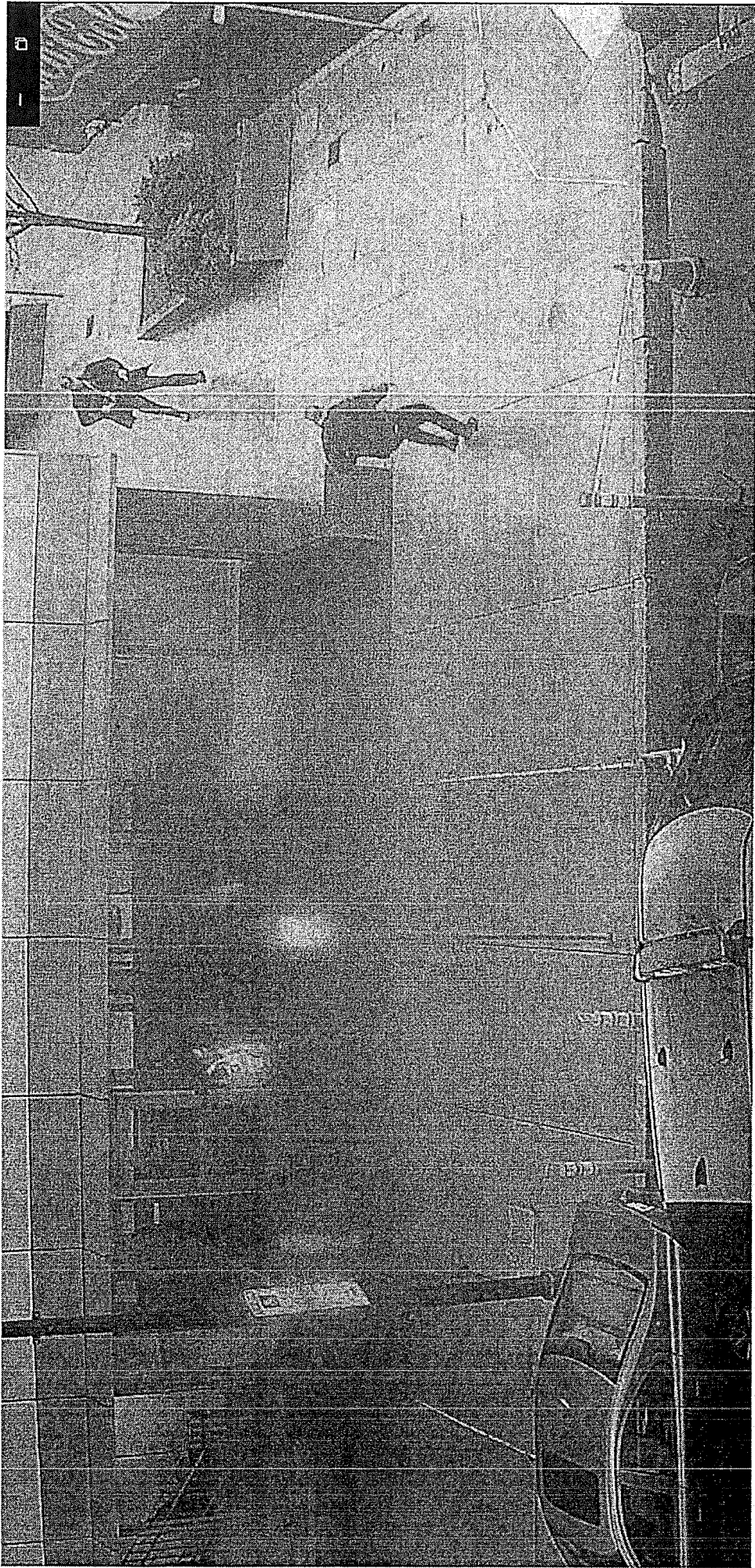
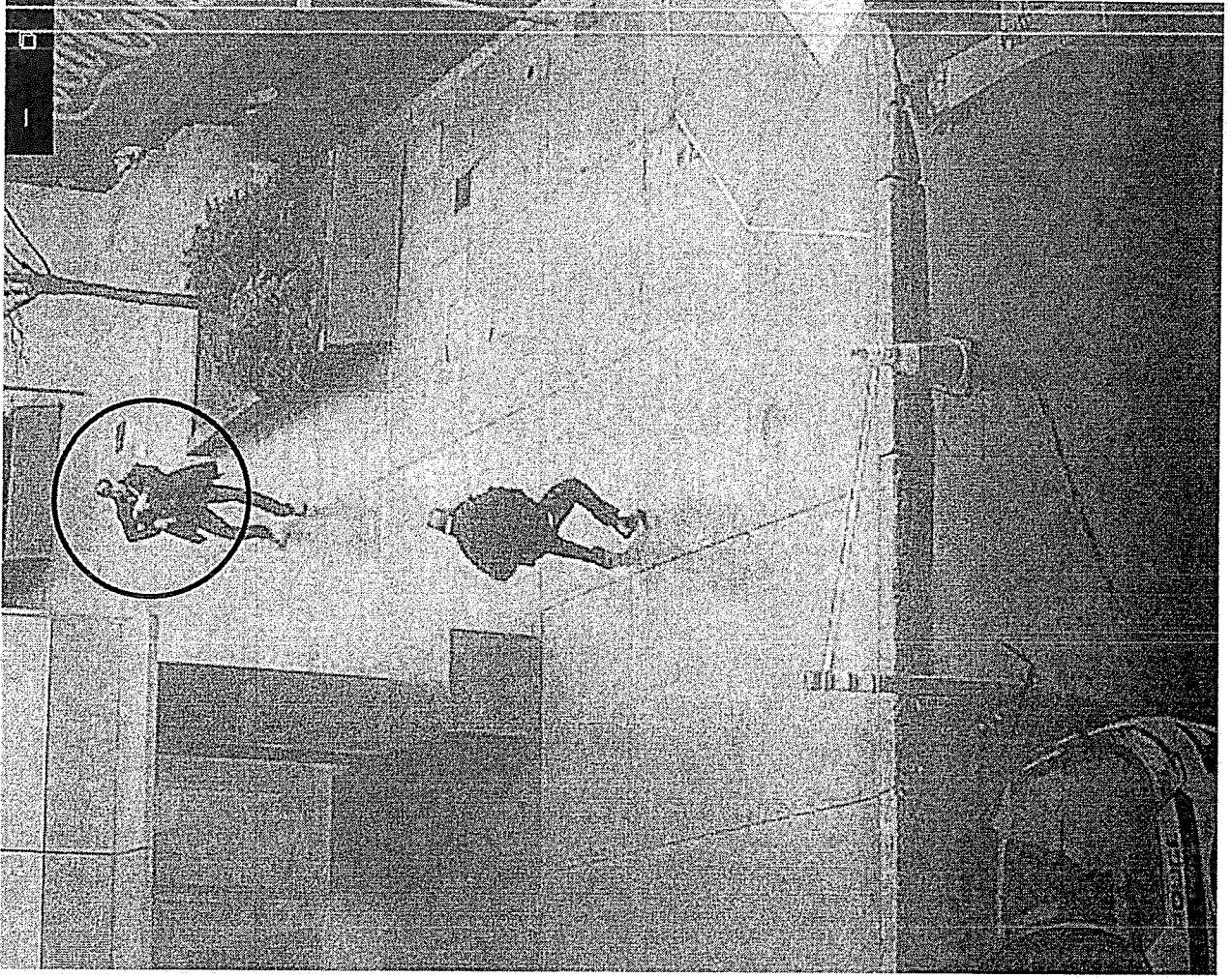


PHOTO 21

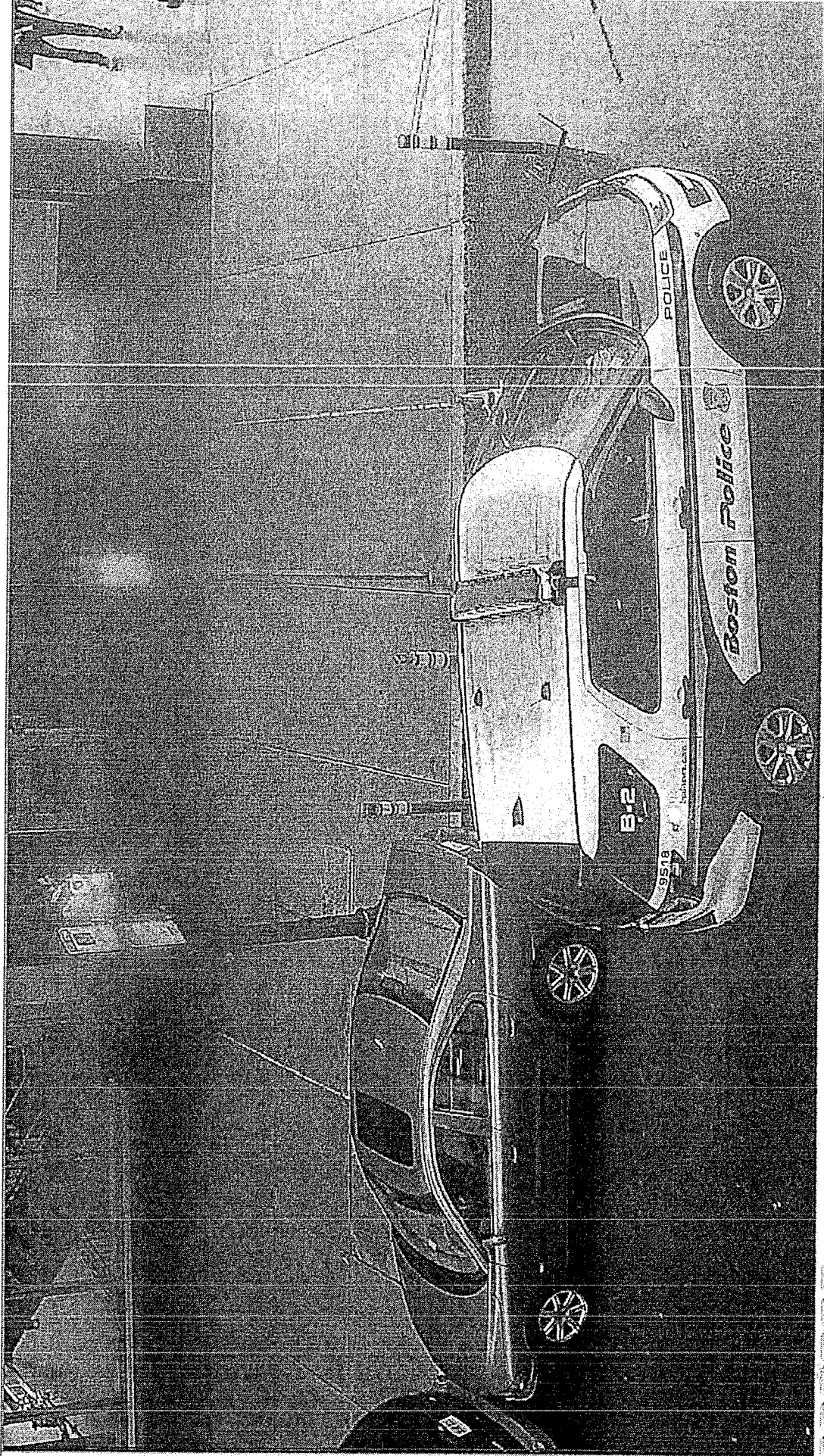




“I’m law enforcement”



9:23:00
Encounters PO Godin as he reaches corner



9:23:04 AM

ALL - 35

9:23:00

Encounters PO Godin as he reaches corner

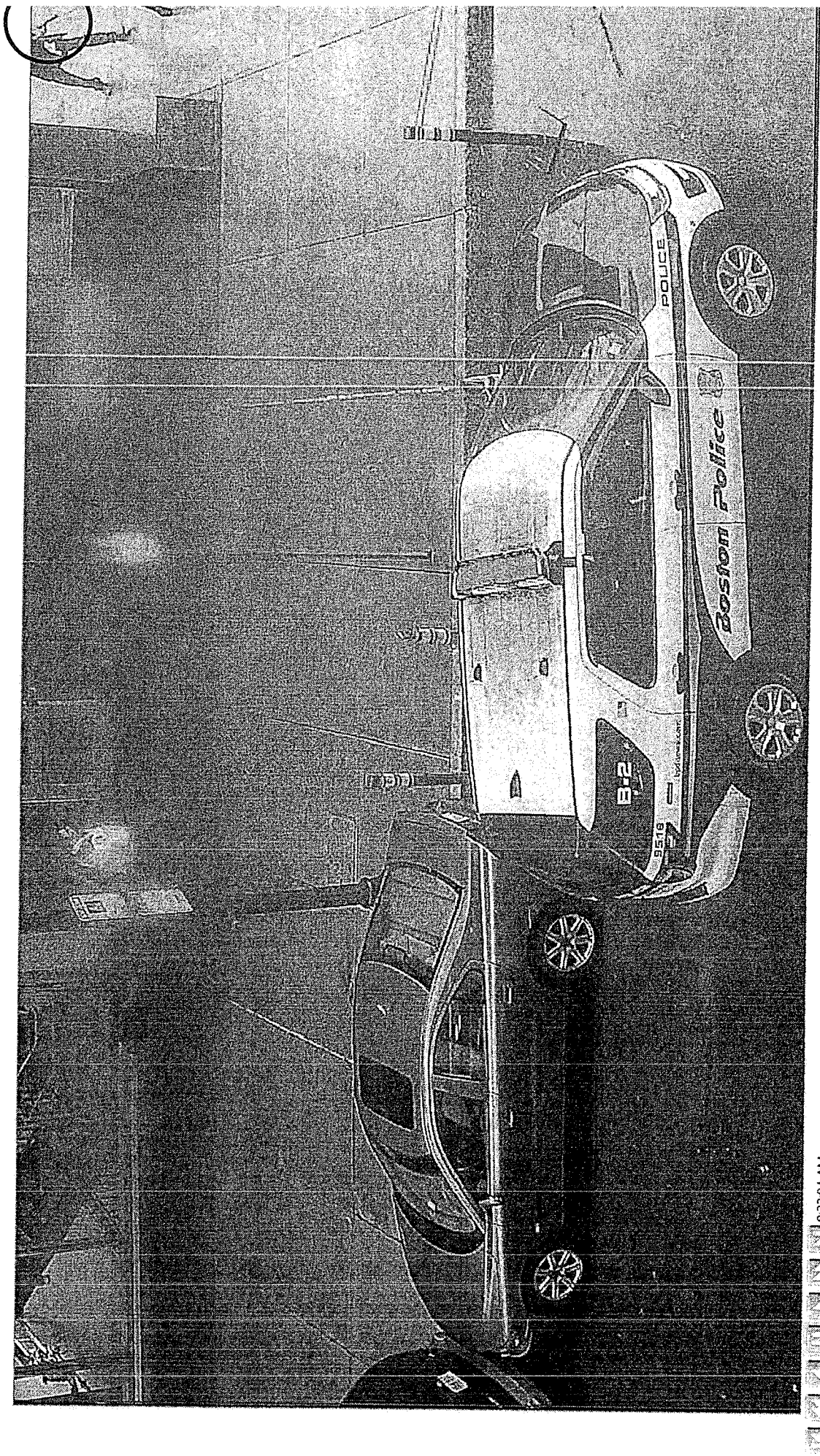


PHOTO 96

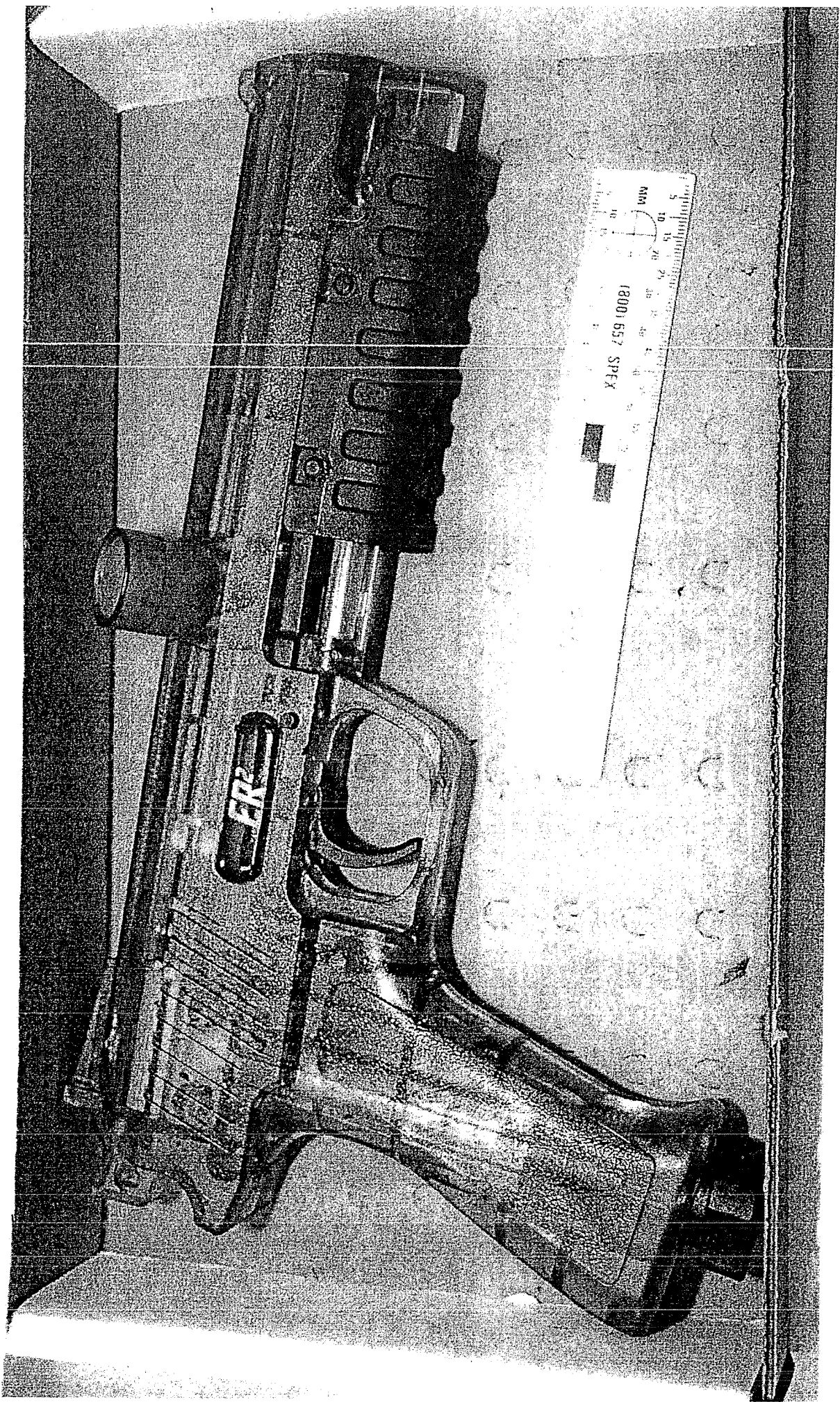


PHOTO (37)

AL-98

