



Official Memorandum of the Linn County Attorney's Office

RE: Officer Involved Shooting – 12/17/2021

DATE: JANUARY 21, 2022

For Immediate Public Release

Background

The use of deadly force by a peace officer is a matter of serious consequence warranting careful investigation and thorough review. In the State of Iowa, it is the general consensus among County Attorneys that it is the duty of the County Attorney, as chief law enforcement official of his or her jurisdiction, to be available for consultation and lend assistance in the investigation and evaluation of Officer-Involved Shooting (hereinafter "OIS") incidents in a timely, objective and professional manner.

On December 17, 2021, there was an OIS incident that took place in the 1600 block of Center St. NE, Cedar Rapids, Iowa. The Cedar Rapids Police Department initially requested that the Division of Criminal Investigation investigate the OIS incident, however, that agency declined. The Cedar Rapids Police Department then elected to proceed with the investigation internally and advised the Linn County Attorney's Office they would be conducting the investigation. On January 5, 2021, Linn County Attorney

Nick Maybanks met with Cedar Rapids Police Investigators to discuss the case pursuant to the duty of the Linn County Attorney to evaluate OIS incidents to determine whether criminal charges may be warranted. Linn County Attorney Maybanks has reviewed all police narratives and reports that have been generated in this case as well as squad car and body cam footage from the officer involved. Pictures of the officer's injuries were reviewed as well. Factual findings and conclusions have now been reached as set forth in this Official Memorandum.

Factual Findings

On December 17, 2021, Reserve Officer Scott Fruehling came to the Cedar Rapids Police Department at 5:00 PM to begin a shift working as a uniformed patrol officer. Officer Fruehling is a Reserve Police Officer for the Cedar Rapids Police Department and has been working in that capacity since 1994. He has been a teacher at Marion High School for the past 31 years, where he is also the Head Softball Coach.

On December 17, 2021, while traveling westbound in his marked squad car in the 1600 block of 42nd St. NE, Officer Fruehling observed the high beams of a vehicle on as that vehicle traveled eastbound in the 1800 block of 42nd St. NE in his direction as it passed by him. At approximately 8:35 PM, Officer Fruehling activated the top lights of his marked Cedar Rapids squad car to initiate a traffic stop on this vehicle, a silver Ford Fusion, at 42nd St. and Richmond Rd. NE, Cedar Rapids, Iowa, for a violation of Iowa Code §321.415, failure to dim the vehicle headlights within 1000 feet of an oncoming vehicle. Officer Fruehling reported tapping the siren of his marked squad car two times in an attempt to get the vehicle to pull over. When the vehicle reached Golf St. and 42nd

St., it briefly stopped at the stop sign before turning southbound on Golf St. and taking off at a high rate of speed. This prompted a vehicle pursuit wherein Officer Fruehling pursued the suspect vehicle with emergency lights and sirens activated.

The suspect vehicle failed to stop at the stop sign at Oakland Rd. and traveled southbound towards 32nd St. reaching speeds up to 97 mph until coming to Center St. where it began traveling westbound toward Center Point Rd. NE. There was a road construction sign at Center St. and Oakland Rd. NE that indicated "Road Closed Ahead." The suspect vehicle then reached a construction barricade preventing any further traffic from proceeding in the 1600 block of Center St. NE. See the attached Google Map on p. 8 for a depiction of the path of the pursuit.

The suspect vehicle started to turn left and stopped in the middle of the street as if it were going to park. Believing the pursuit was over, Officer Fruehling got out of his marked squad car in full police uniform and began to give the driver, later identified as Eddie Ayers, III, verbal commands to exit the vehicle. See the attached photo, p. 9, where the suspect begins to turn around at 20:37:16.

Mr. Ayers then backed up and quickly, executing a quick 180 degree turn and drove toward Officer Fruehling and his squad car. This maneuver happened so quickly that Officer Fruehling did not have time to get back in his squad car. The vehicle then drove right at Officer Fruehling and he reported he felt like he was going to be killed. See the attached photo, p. 10, where the suspect is coming right at Officer Fruehling at 20:37:18.

With the vehicle coming right at him and believing his life was in danger, Officer Fruehling discharged one round of his service weapon one time into the vehicle at the driver as the car hit him causing him to fall to the ground. See attached photo, p. 11, where the suspect vehicle is striking Officer Fruehling and Officer Fruehling is shooting directly into it less than one foot away at 20:37:19.

Still on the ground and in fear for his life, Officer Fruehling discharged two more rounds at the vehicle. See attached photos, p. 12-13, where Officer Fruehling is on the ground and discharges two more rounds at 20:37:20 and 20:37:21.

Only 5 seconds transpired from the time Officer Fruehling exited his squad car to the when he fired the third and final shot at the suspect.

Officer Fruehling sustained abrasions to his left hand and a sore shoulder as a result of being struck by the suspect vehicle. See attached photo, p. 14 - 16, showing injuries to Officer Fruehling's hands and arms. Officer Fruehling did not see the driver or any occupants with a weapon.

Linn County Attorney Nick Maybanks has reviewed dash and body cam footage, the interview of Reserve Officer Scott Fruehling and all police narratives and reports surrounding this incident as of today's date.

The dash and body cam video footage of this incident confirmed Officer Fruehling's report of the incident with the only disparity being that Officer Fruehling believed he had gotten back up off the ground and fired at the suspect vehicle, while the

video shows Officer Fruehling was still on the ground when he fired the 2nd and 3rd shots at the suspect vehicle.

Mr. Ayers was arrested on January 14, 2022, for Attempt to Elude, Assault on a Peace Officer with the Intent to Inflict Serious Injury and/or with a Dangerous Weapon, Interference with Official Acts with a Dangerous Weapon and Assault on a Peace Officer Causing Bodily Injury. He did not want to speak to officers and attempted to flee from them having to be forcefully taken into custody. It should be noted that a criminal charge is just an accusation and the defendant is presumed innocent until and unless proven guilty.

Legal Authority

“Reasonable force” means that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Iowa Code § 704.1.

A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any actual or imminent use of unlawful force. Iowa Code Ann. 704.3.

The term “deadly force” means any of the following:

- a. Force used for the purpose of causing serious injury.

- b. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.
- c. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, in the direction of some person with the knowledge of the person's presence there, even though no intent to inflict serious physical injury can be shown.
- d. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, at a vehicle in which a person is known to be.

Iowa Code § 704.2.

Conclusion

On December 17, 2021, Reserve Officer Scott Fruehling of the Cedar Rapids Police Department used deadly force against the driver of the silver Ford Fusion when he shot three times at the driver, with knowledge the driver was there and at the vehicle knowing the driver was there.

The deadly force was no more than a reasonable person in like circumstances, would judge to be necessary to prevent injury to themselves. It was reasonable to believe this deadly force was necessary to avoid injury or risk to Officer Fruehling's life and was necessary to resist the threat of deadly force he faced when the driver of the vehicle drove directly at him.

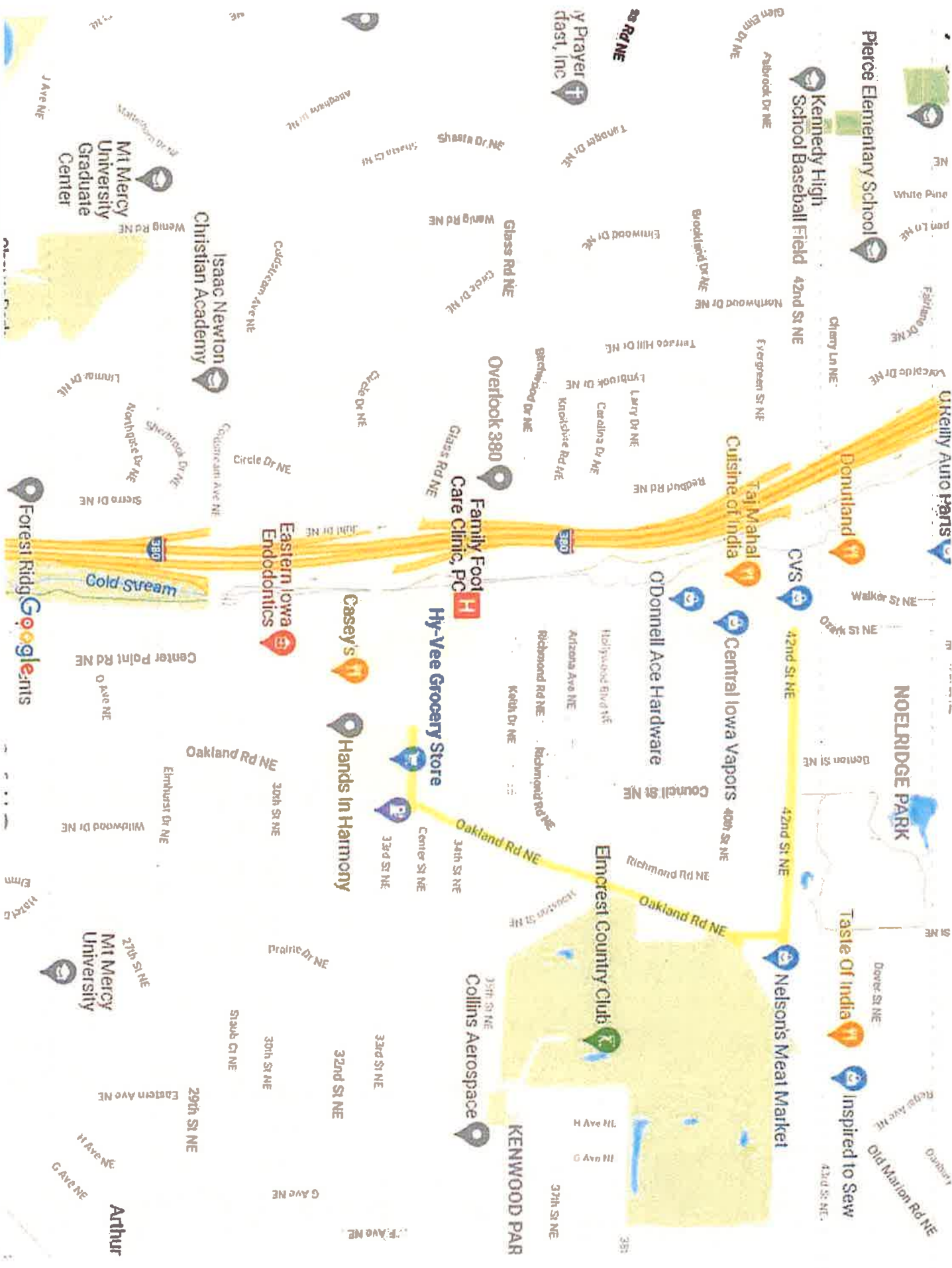
Reserve Officer Scott Fruehling was justified in the use of reasonable force because he reasonably believed that such force was necessary to defend himself from the actual and imminent use of unlawful force against him by the driver of the vehicle.

The three shots were discharged in rapid succession when Officer Fruehling still feared for his life and safety and under circumstance wherein the force was reasonable until the threat subsided or was neutralized.

Criminal charges against Officer Fruehling are clearly not warranted.



Nick Maybanks
Linn County Attorney





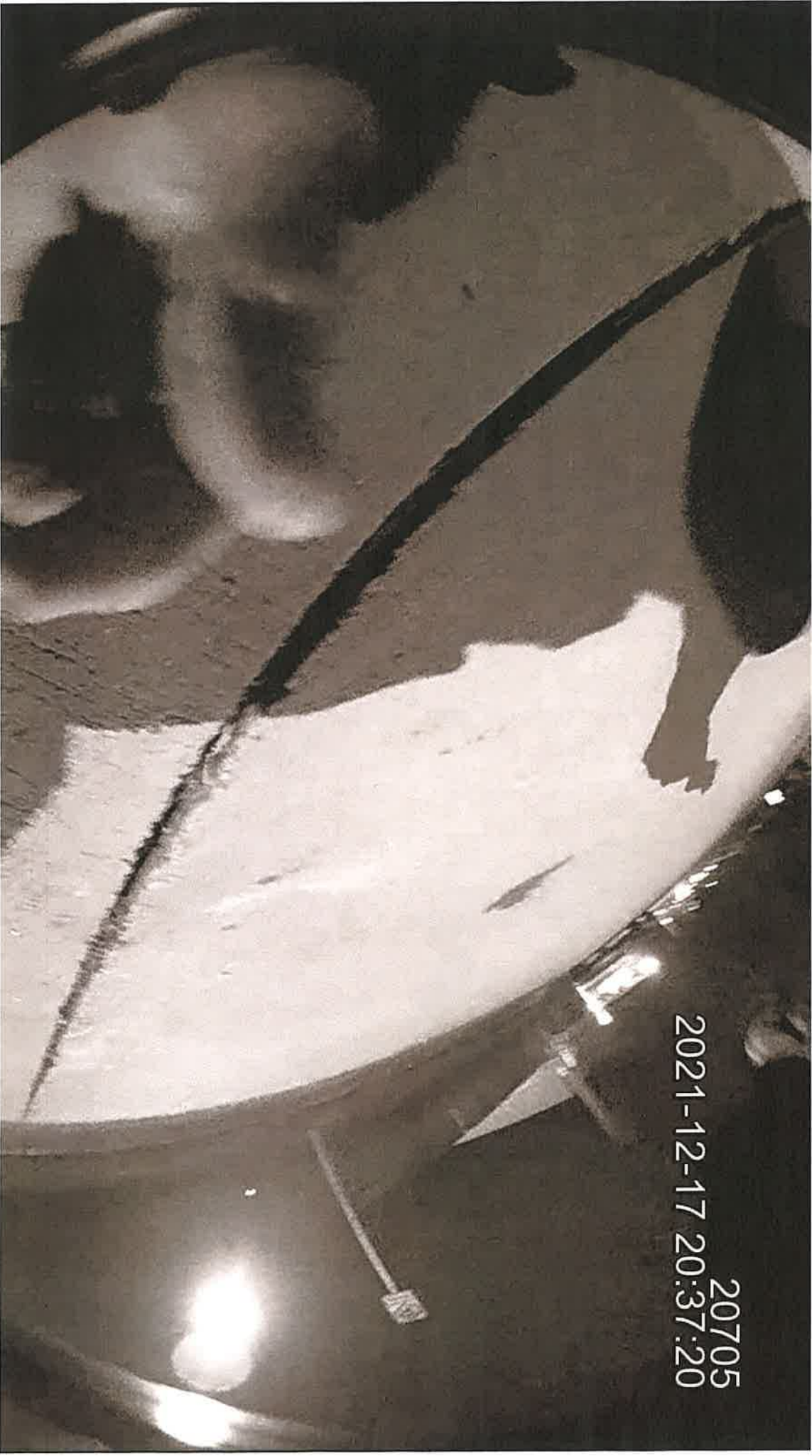
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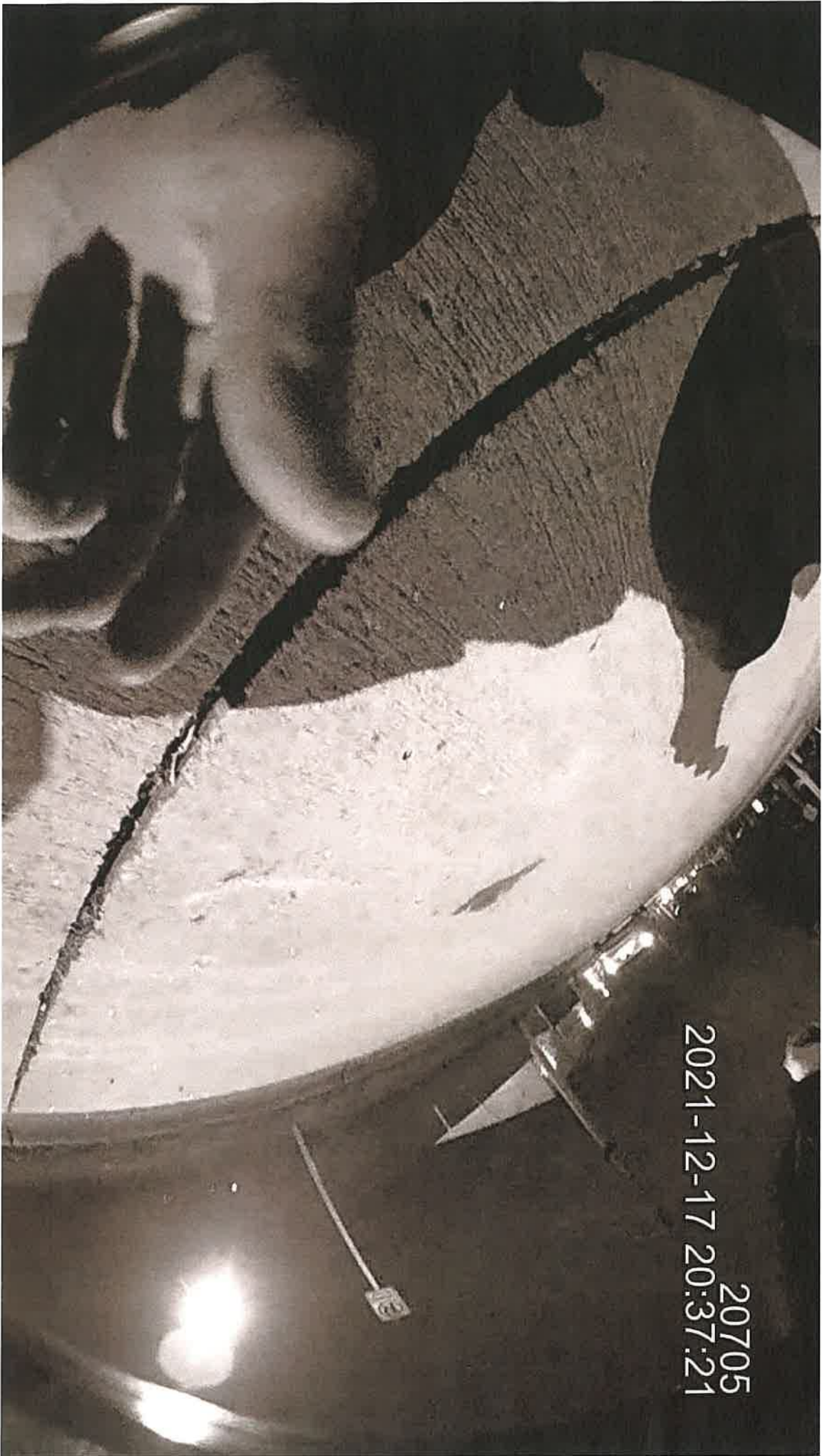


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