

June 25, 2019

The Honorable Jerrold Nadler
Chairman
U.S. House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Doug Collins
Ranking Member
U.S. House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515



Washington Legislative
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Susan Herman
President

Anthony Romero
Executive Director

Ronald Newman
*National Political
Director*

Dear Chairman Nadler and Ranking Member Collins,

The ACLU recently received documents in response to Freedom of Information Act (FOIA) litigation regarding significant privacy and civil liberties violations related to the call detail record (CDR) program under Section 215 of the Patriot Act, which is set to expire at the end of this year. The documents reveal publicly for the first time that the NSA had yet another compliance violation in October 2018 resulting in the unlawful collection of CDRs. This new incident came just months after the agency publicly announced in June 2018 that it had taken steps to fully remedy prior compliance violations that similarly led to the unlawful collection of records and had required the deletion of all CDRs collected since 2015.¹ In addition, the documents reveal that elements within the Office of the Director of National Intelligence concluded that compliance violations in 2018 had a significant impact on privacy and civil rights, though individuals impacted were seemingly never notified of such violations.

These documents provide further evidence that the NSA has consistently been unable to operate the call detail record program within the bounds of the law. Thus, we urge you to end the flawed Section 215 call detail record authority once and for all. In addition, we urge you to investigate and make public additional information about these compliance violations to inform the debate over what additional reforms to Section 215 and other authorities are necessary to protect our rights.

¹ NSA Press Release, "NSA Reports Data Deletion," (June 28, 2018), <https://www.nsa.gov/news-features/press-room/Article/1618691/nsa-reports-data-deletion/>

I. Timeline of Events

The following is a timeline of events related to the call detail record program, based on information contained in the newly released FOIA documents and other information publicly reported.

November 2017: There is a compliance violation related to Section 215's call detail record authority.

February 16, 2018: NSA analysts observe anomalies in call detail records produced by a provider. The provider later confirms that some of the records produced contained inaccurate information. The NSA also concludes that some of the records produced exceed the bounds of what had been authorized by the Foreign Intelligence Surveillance Court (FISC).

April 10, 2018: The NSA informs Congressional intelligence committees of the February 2018 incident.

May 23, 2018: The NSA begins deletion of all records produced under Section 215's call detail record authority since 2015.

June 28, 2018: The NSA issues a public release revealing that it had begun deleting call records on May 23, 2018 due to "technical irregularities" that resulted in collection of some records the agency was not authorized to receive. The agency release stated that the "root cause of the problem has since been addressed for future CDR acquisitions."²

October 12, 2018: NSA analysts note an anomaly in call detail records produced by a provider. Records indicate that the Office of Civil Liberties, Privacy, and Transparency will assess the impact of this incident following the full investigation.

Mid to late 2018: After initiating the process to purge all CDR records in May 2018, the NSA resubmits approved selectors to providers and receives responsive call detail records. The total number of call detail records collected by the agency in 2018 is reportedly 434,238,543, which includes purged and newly collected records.

March 4, 2019: News reports, which have never been confirmed by the NSA, indicate the call detail record program has been shut down.

II. New Information Revealed by the FOIA Documents

The newly released FOIA documents publicly reveal several key facts that were previously withheld from the public.

² Id.

First, the documents reveal that there were compliance incidents in November 2017 and February 2018, related to Section 215’s call record authority.

According to the newly released FOIA documents, on February 16, 2018, NSA analysts observed an anomaly in call detail records produced by a provider under Section 215 of the Patriot Act.³ Subsequently, the provider confirmed that some of the records that had been produced contained inaccurate information, with some records provided to the NSA that exceeded the bounds of what had been authorized by the Foreign Intelligence Surveillance Court (FISC). The NSA notified the Congressional intelligence committees of the February incident on April 10, 2018.⁴ The documents also reference a November 2017 compliance violation but provide little information about this incident.

Second, the documents reveal that the impact of the 2018 compliance violations was significant and may have impacted subsequent surveillance and targeting decisions. However, it does not appear that the agency took steps to notify individuals of any privacy violations.

According to the documents, the Office of Civil Liberties, Privacy, and Transparency (CLPT), which reports directly to the Director of National Intelligence (DNI), assessed that the incident had a “significant impact on civil liberties and privacy.”⁵ In addition, the NSA reportedly “relied” on inaccurate information in targeting requests that were approved by the Foreign Intelligence Surveillance Court (FISC).⁶ The NSA informed the FISC of this error, but the redacted documents do not provide further information regarding whether this resulted in the improper surveillance or targeting of individuals. Moreover, the documents do not indicate that any remedial action taken by the agency included notification to individuals whose information may have been improperly obtained as a result of the errors.

Third, the documents reveal that the 2018 incidents likely contributed to the agency’s decision to begin deleting all records collected since 2015 under Section 215’s call detail record program.

In June 2018, the NSA publicly disclosed that on May 23, 2018, it had begun deleting all records collected under Section 215’s call record authority. The public release stated that the records were being deleted because several months prior “NSA analysts noted technical irregularities in some data received from telecommunications service providers.” According to the NSA, this resulted in the production of “some [call detail records] that the NSA was not authorized to

³ ACLU FOIA Documents, pp. 008.

⁴ ACLU FOIA Documents, pp. 051.

⁵ ACLU FOIA Documents, pp. 050.

⁶ ACLU FOIA Documents, pp. 050-51.

receive,” which could not be identified and isolated. However, the agency stated that the “root cause of the problem has since been addressed for future CDR acquisitions”.⁷

Fourth, the documents reveal that NSA had yet another compliance violation in October 2018, despite the fact that the agency had stated in June 2018 that it has resolved the root causes of prior compliance violations.

On or around October 3, 2018, a provider again began producing erroneous call detail records.⁸ The NSA suspended data flow from the provider, who subsequently indicated that it had resolved the problem.⁹ The CLPT indicated that it would assess the privacy and civil liberties impact of the October incident following investigation. The oversight report for the first quarter of 2019, which may contain further information about this incident, was not included in the FOIA documents. The ACLU intends to file a subsequent FOIA request requesting this document.

News reports in March indicated that the NSA had suspended the call detail record program. However, the agency has not publicly confirmed such reports. Thus, it is unclear whether the October or subsequent incidents contributed to an agency decision to suspend the program.

III. Additional Information Needed

Despite the new information, questions remain regarding the government’s use of the Section 215 call detail record authority. As the public debates the reauthorization of Section 215, we must have a full understanding of the compliance issues that have plagued this program and the effect they have had. Thus, we urge you to use every tool at your disposal to fully investigate these incidents, and publicly disclose:

- Has the NSA suspended the Section 215 call detail record program? If the agency has suspended the program, what factors led to this decision and does the agency believe it has the authority to restart the program?
- What is the CLPT’s assessment of the privacy and civil liberties impact of the October 2018 or any subsequent compliance incidents?

⁷ NSA Press release, *supra* note 1.

⁸ ACLU FOIA Documents, pp. 033.

⁹ *Id.*

- How many records were improperly collected as a result of the 2017 and 2018 compliance incidents? How many individuals have been notified that they may have been impacted by improper collection?
- Did the NSA or other agencies undertake surveillance or targeting based on FISC approvals that involved the submission of inaccurate information received under the Section 215 CDR program?
- What has been the total cost of remedying the compliance incidents from 2017-19, including staff time or compensation given to providers? What has been the total cost of operating the call detail record program since 2015?
- Why did the remedial efforts undertaken by the agency in response to the November 2017 incident and February 2018 incident fail to prevent further compliance problems? Has the agency completed the deletion of CDR records that was initiated on May 23, 2018?

If you would like to discuss this issue further, feel free to contact Senior Legislative Counsel, Neema Singh Guliani at nguliani@aclu.org.

Sincerely,



Ronald Newman
National Political Director



Neema Singh Guliani
Senior Legislative Counsel



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE MARYLAND 20755-6000

1 May 2018

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THROUGH: Office of the DoD Senior Intelligence Oversight Official

SUBJECT: (U) Report to the Intelligence Oversight Board on NSA Activities, First Quarter, Calendar Year 2018—INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President or otherwise stated in the enclosure, we have no reason to believe that any activity conducted under DIRNSA authority, direction, or control during the period ending 31 March 2018 was unlawful or contrary to Executive Order or Presidential Directive and, thus, should have been reported pursuant to Section 1.6(c) of Executive Order 12333, as amended. This report summarizes questionable intelligence activities as well as other matters required to be reported to the IOB.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice of counsel.

[Redacted]

ROBERT P. STORCH
Inspector General

[Redacted]

(b) (6)

GLENN S. GERSTELL
General Counsel

(U) I concur with the report of the Inspector General and the General Counsel and hereby make it our combined report.

MICHAEL S. ROGERS
Admiral, U.S. Navy
Director, NSA/Chief, CSS

Encl:
Quarterly Report

(b) (3) - P.L. 86-36

(U) This document may be declassified and marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" upon removal of enclosure(s)

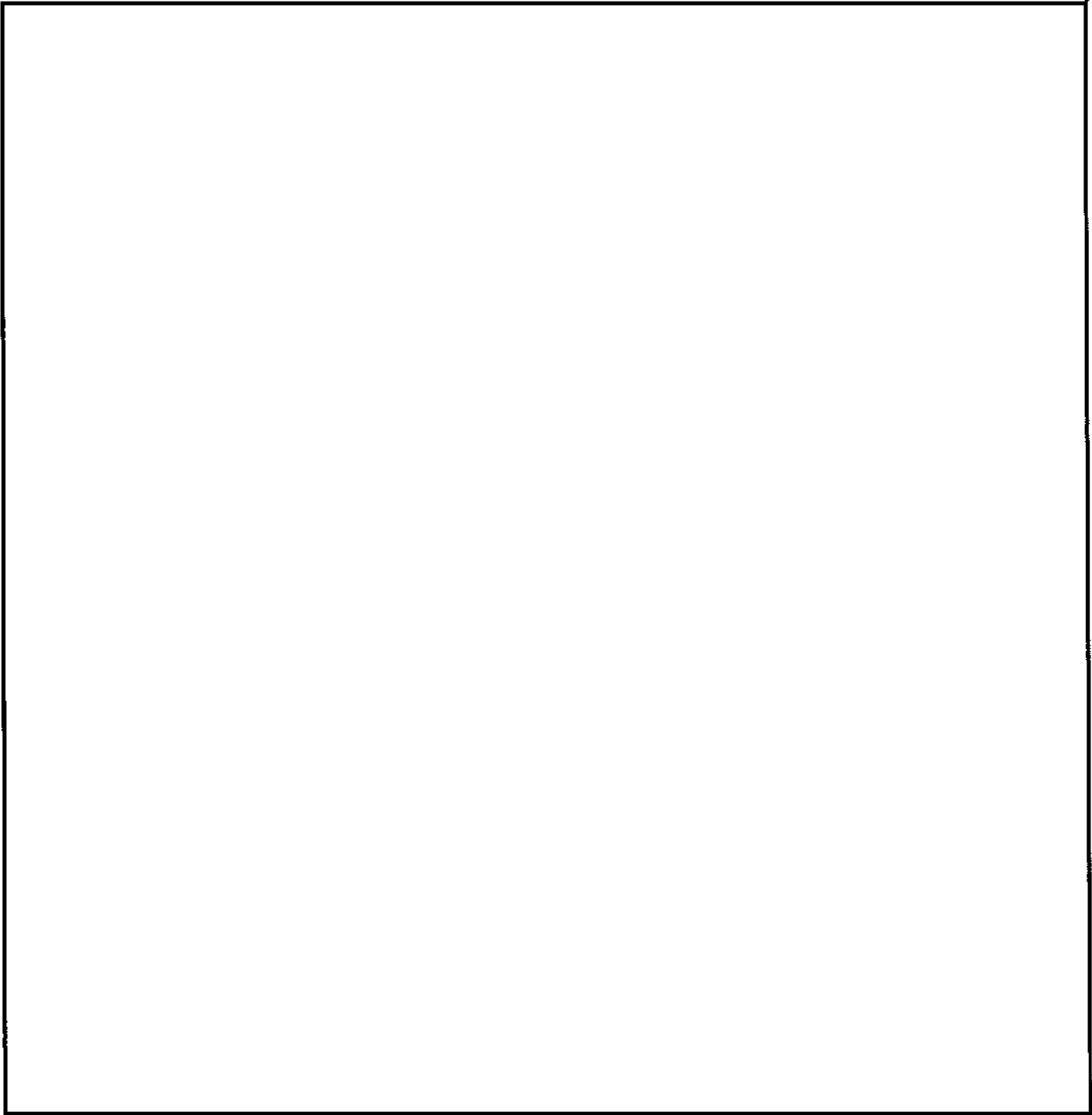
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FOIA Case # 105767 (litigation)

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(U) NSA FIRST QUARTER CY2018
INTELLIGENCE OVERSIGHT REPORT

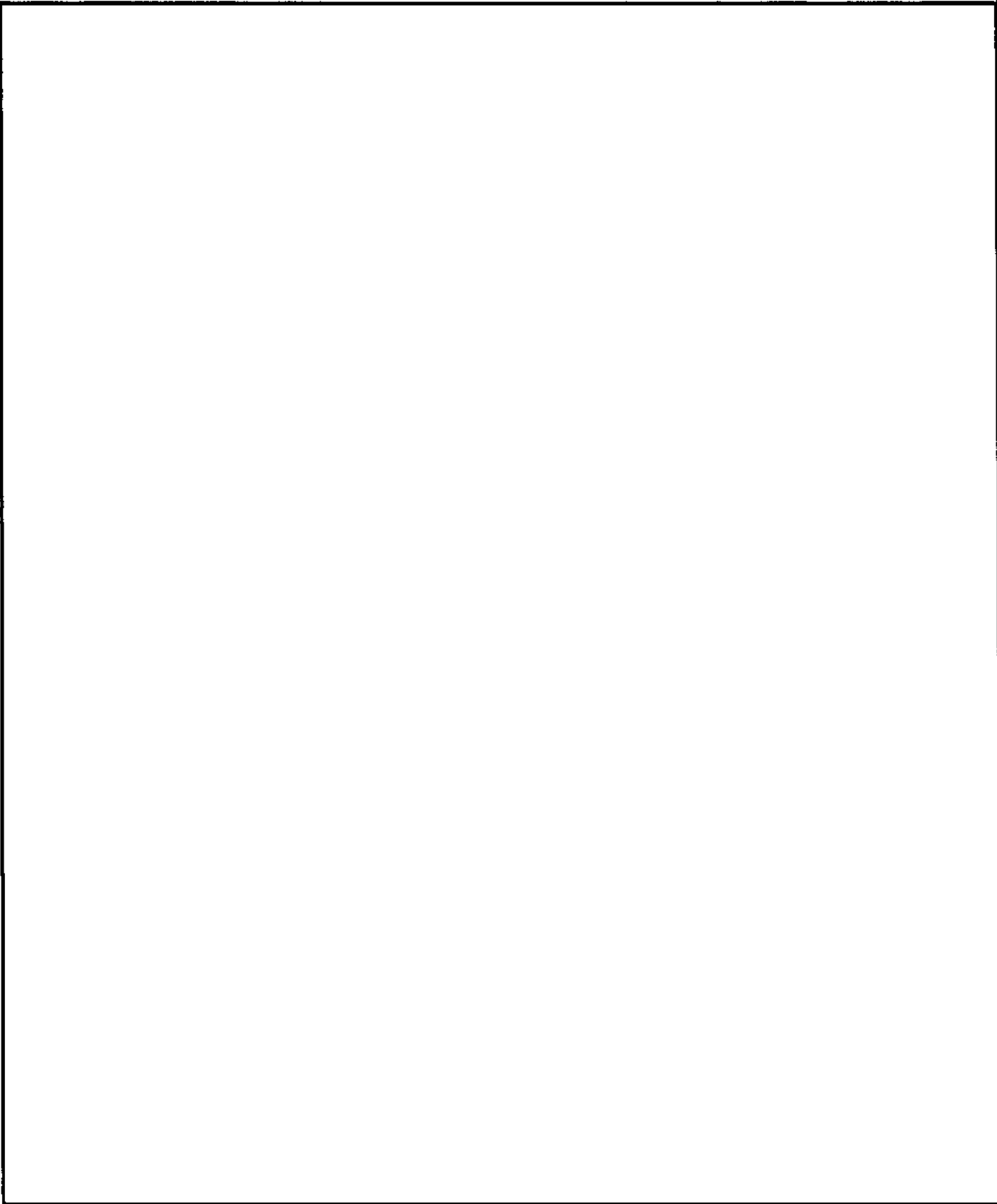


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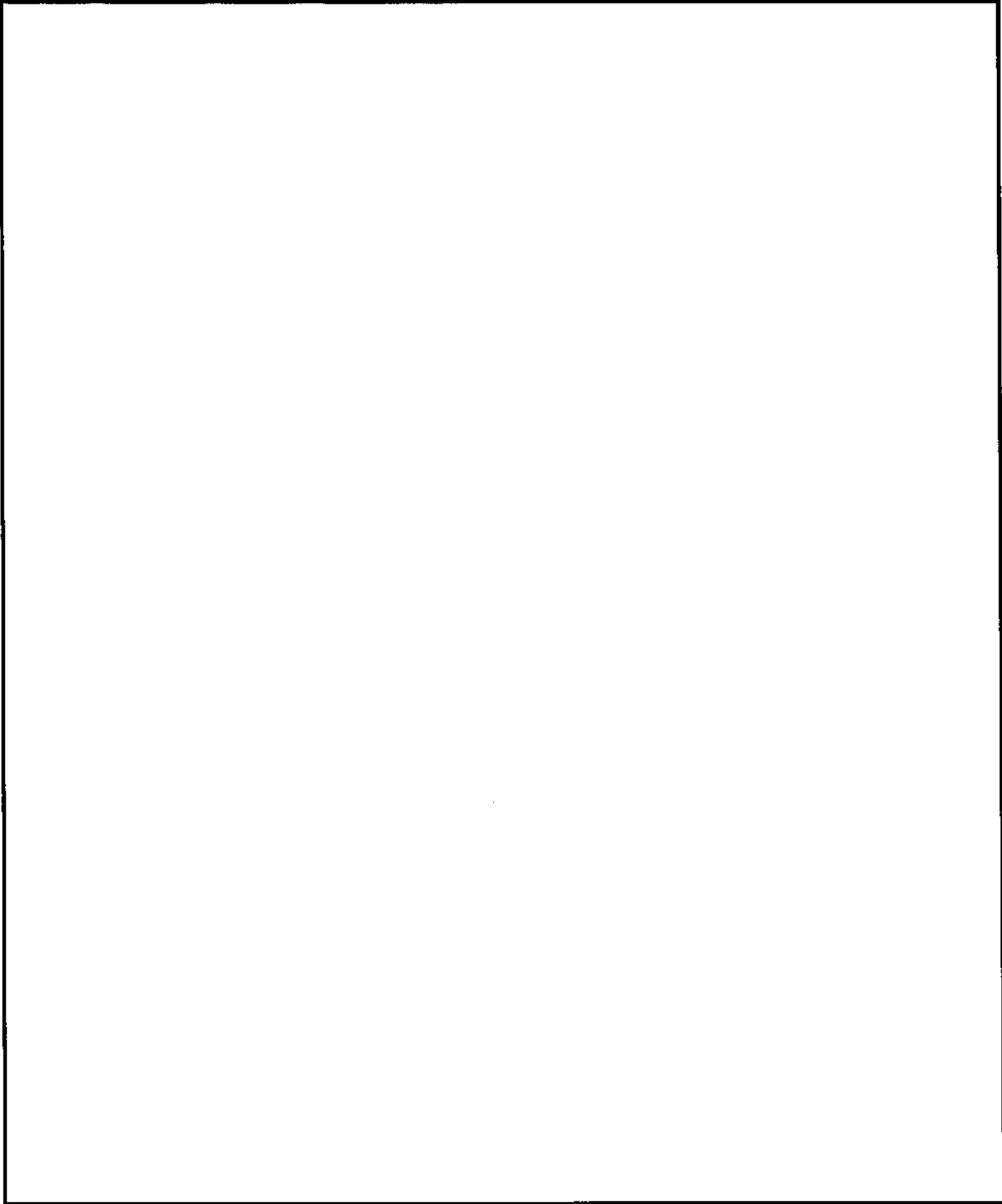
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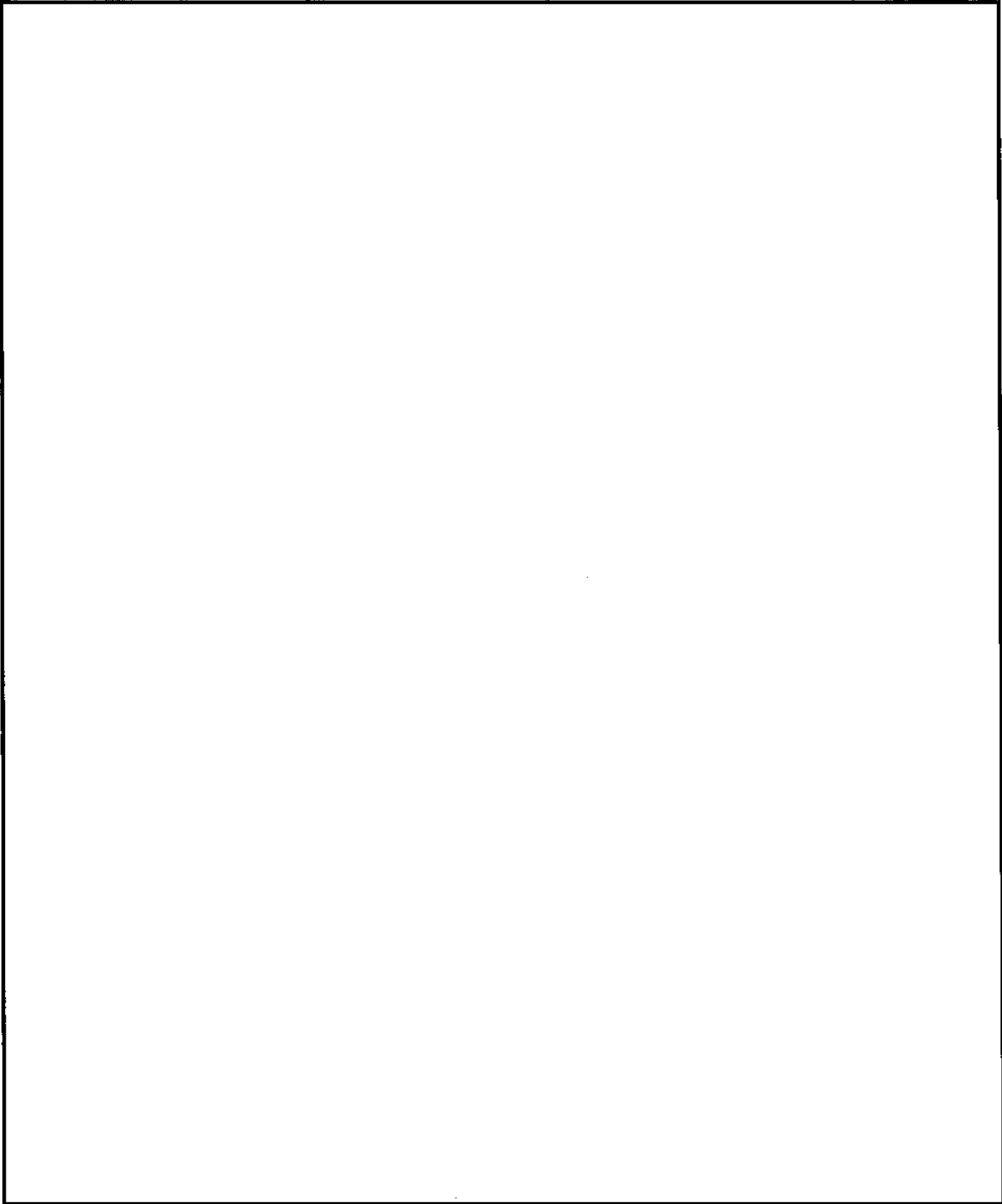
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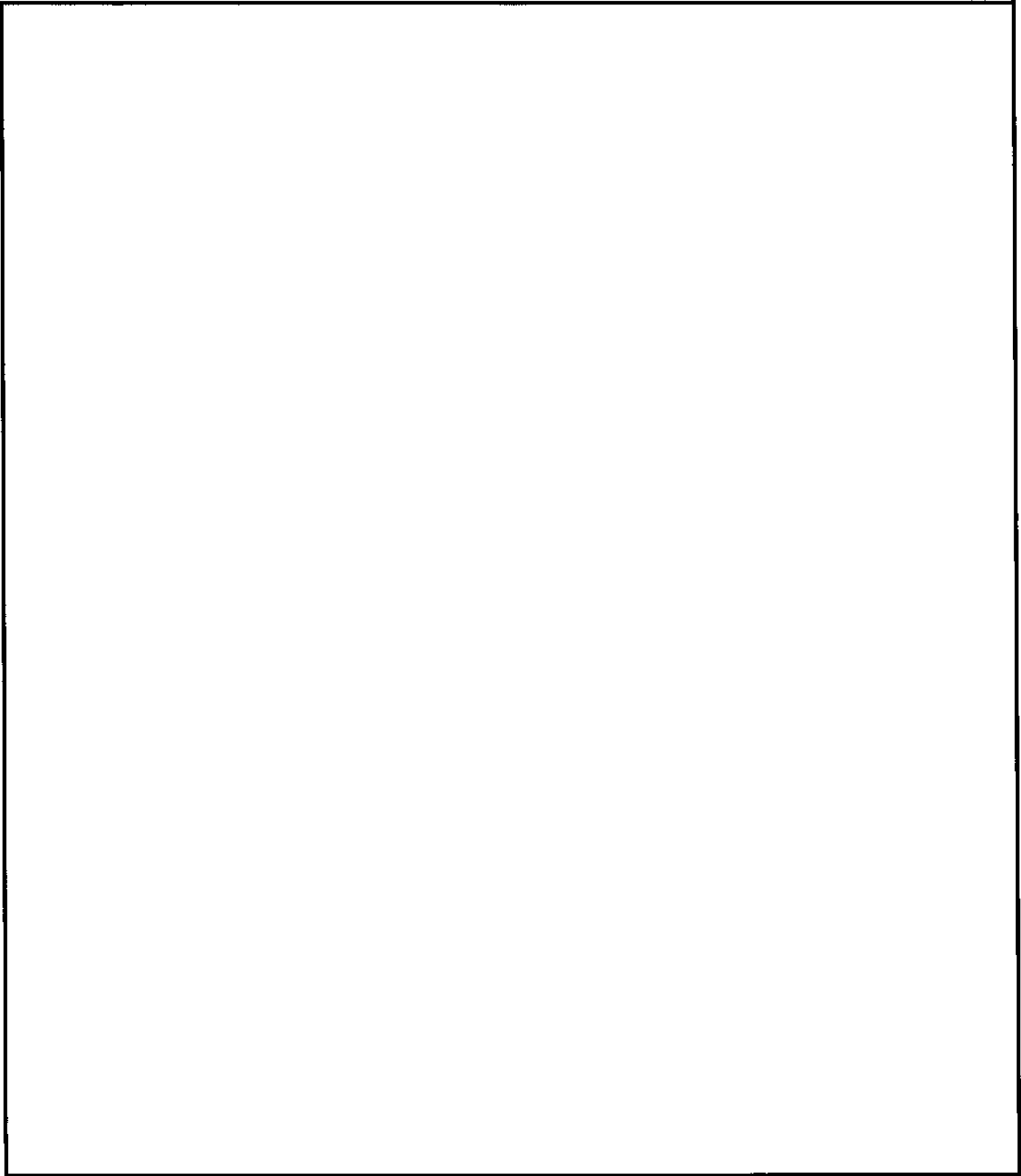
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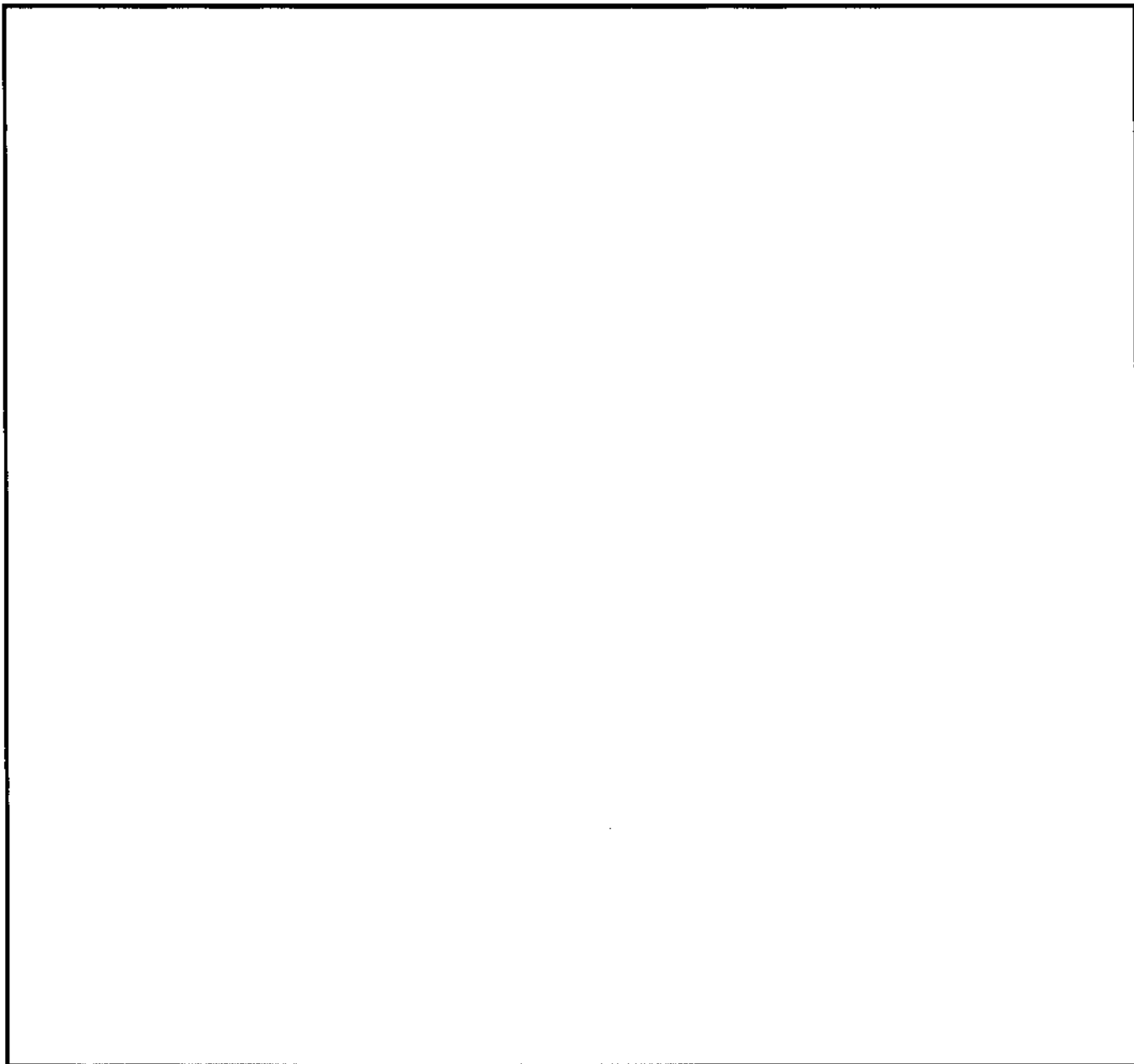
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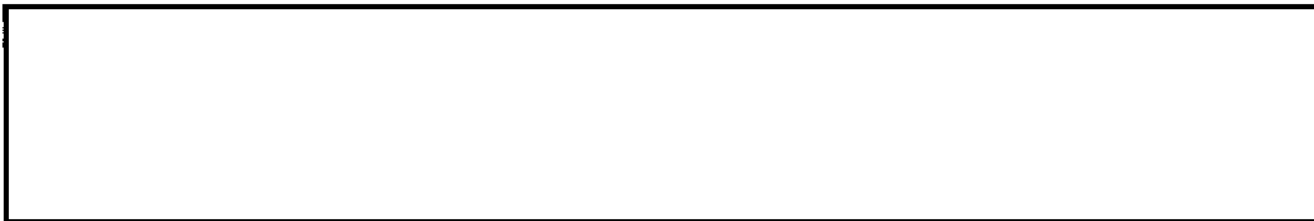
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f. (U) File Number: NSA 2018-007-Q

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(1) (U) Incident Description: Provider-caused compliance incident regarding call detail



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(b) (1)
(b) (3) - 50 USC 3024 (i)
(b) (3) - P.L. 86-36

Records.

~~(TS//SI//NF)~~ On 16 February 2018, NSA technical analysts examining a provider's targeted production of call detail records (CDRs) pursuant to USA FREEDOM ACT, 50 U.S.C. §1861, observed an anomaly [redacted]

[redacted]

At that time, NSA continued to receive the provider's productions, but ceased making new requests and forwarding CDRs produced by the provider to NSA corporate repositories accessible by intelligence analysts. The provider later confirmed some of the records produced contained inaccurate information. Investigation revealed that NSA relied upon some of the inaccurate information in connection with requests to the FISC to [redacted] the provider stopped the data flow.

- (2) (U//~~FOUO~~) **Timeline:** Date of incident: 16 February 2018
Date incident reported in IRT: 23 February 2018
Date reported to DoD SIOO: 1 May 2018

(3) (U//~~FOUO~~) **Reason for Report:** 50 U.S.C. §1861(b)(2)(C)(ii) limits data that can be sought (and therefore collected) to that pertaining to a "foreign power engaged in international terrorism or activities in preparation therefor, or an agent of a foreign power engaged in international terrorism or activities in preparation therefor." While NSA lawfully sought data pertaining to a foreign power engaged in international terrorism, the provider produced inaccurate data and data beyond that which NSA sought.

(4) ~~(TS//SI//NF)~~ **Cause:** NSA continues to work with the provider to understand the scope of this anomaly and remediate this matter: [redacted] the provider's systems populated fields of certain CDRs with inaccurate data, specifically in circumstances in which [redacted]

[redacted] As a result, when some [redacted] CDRs were produced by the provider to NSA, these fields included certain incorrect values.

- (5) (U//~~FOUO~~) **Impact on National Security or International Relations:** None.

(6) (U//~~FOUO~~) **Impact on Civil Liberties or Privacy:** The NSA CLPT Office will assess the scope of the civil liberties and privacy impact of this incident upon completion of the investigation.

(7) (U//~~FOUO~~) **Remedial Action:** On or about [redacted] the provider implemented a solution to prevent its production to NSA of any CDRs generated between approximately [redacted] that contain inaccurate information. NSA has initiated the purge process of all data acquired as a result of targeting these [redacted] selectors pursuant to the Orders issued in [redacted]. There is no estimated date of completion at this time. NSA is investigating how to remove other inaccurate CDRs from its system.

(b) (3) - P.L. 86-36

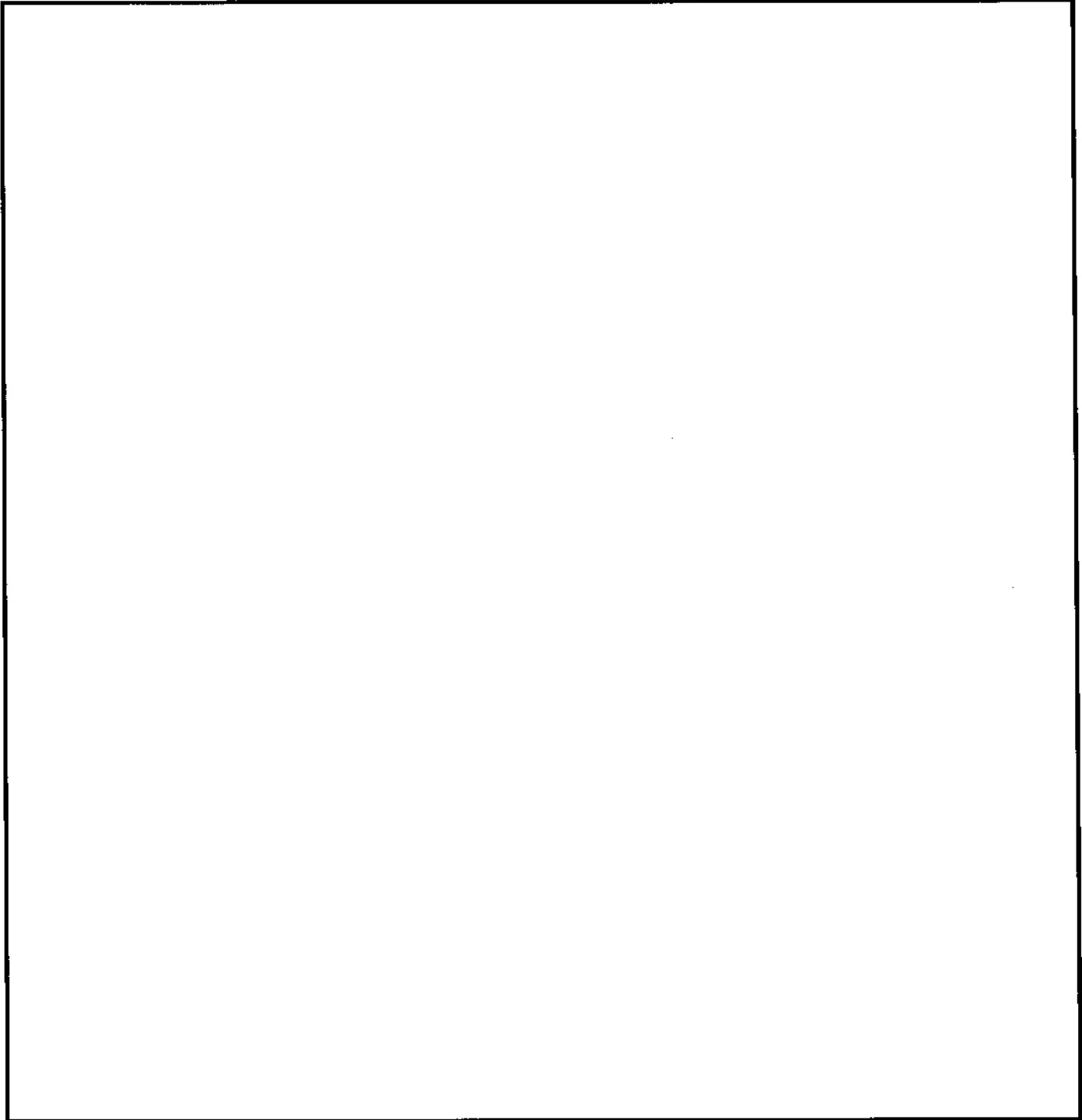
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(8) (U/~~FOUO~~) **Additional Information:** The incident was reported to DoJ on 16 February 2018. DoJ reported the incident to the FISC on 5 March 2018. NSA notified the congressional intelligence committees on 10 April 2018.

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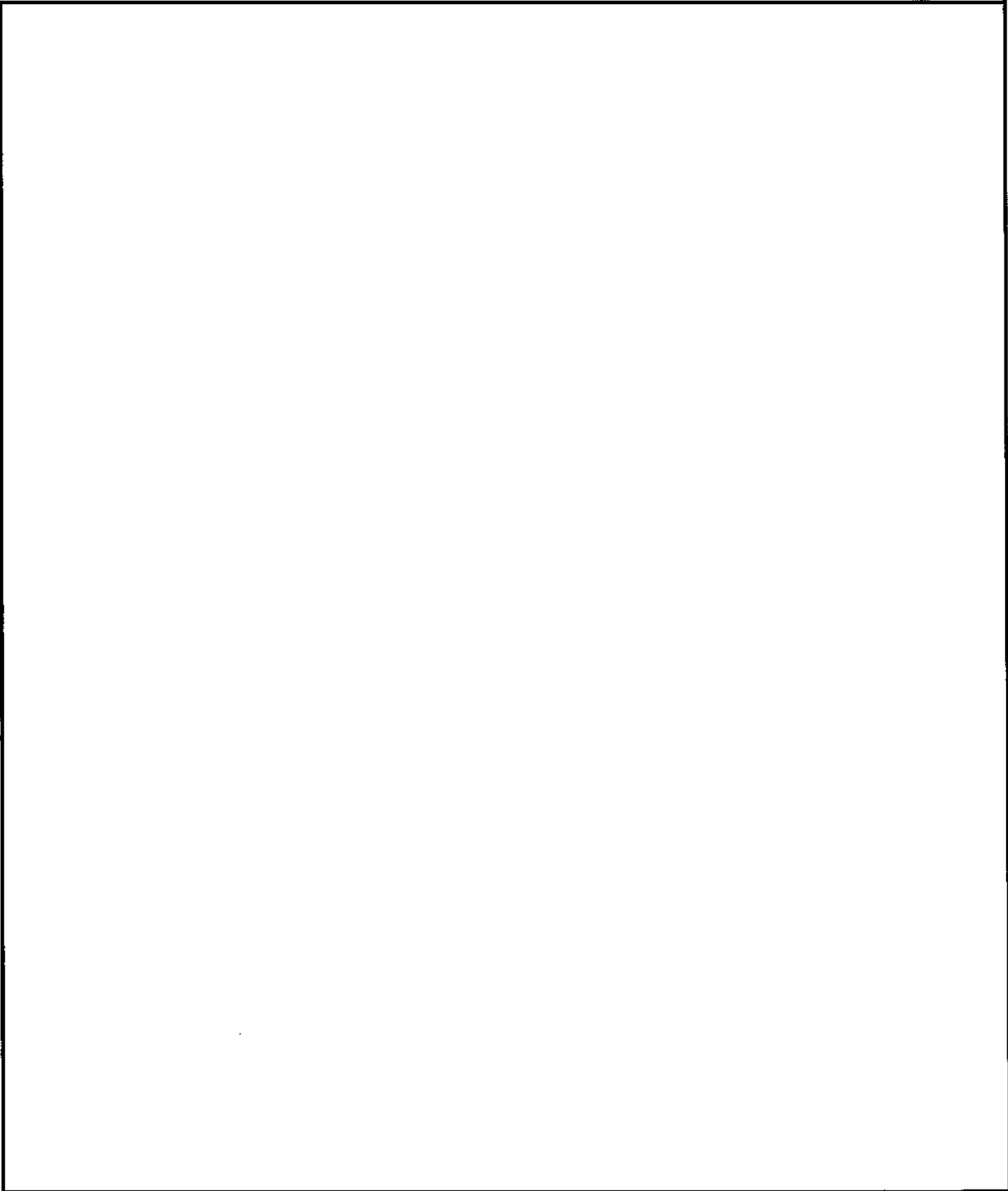
(9) (U) **Status:** Open.



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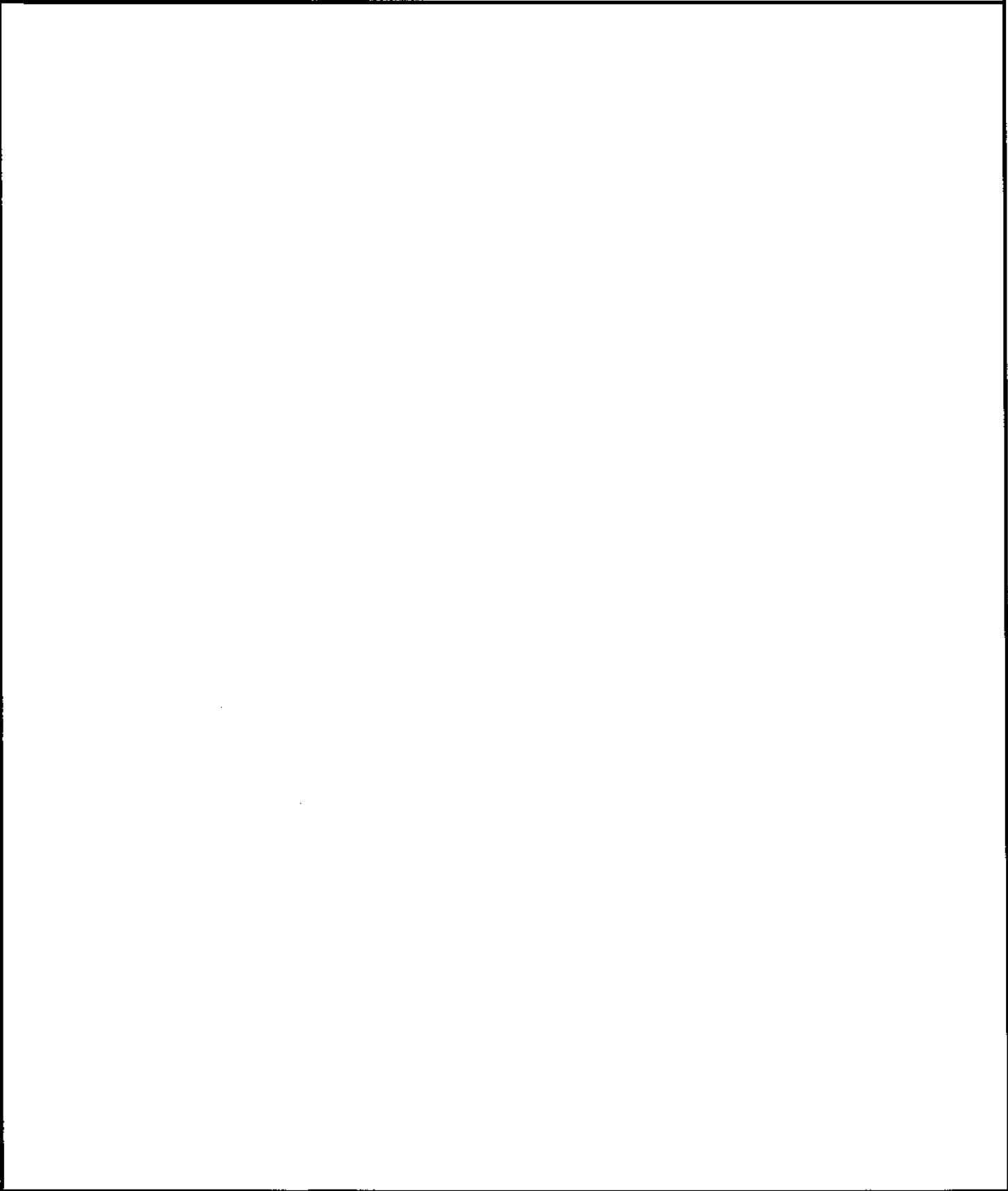
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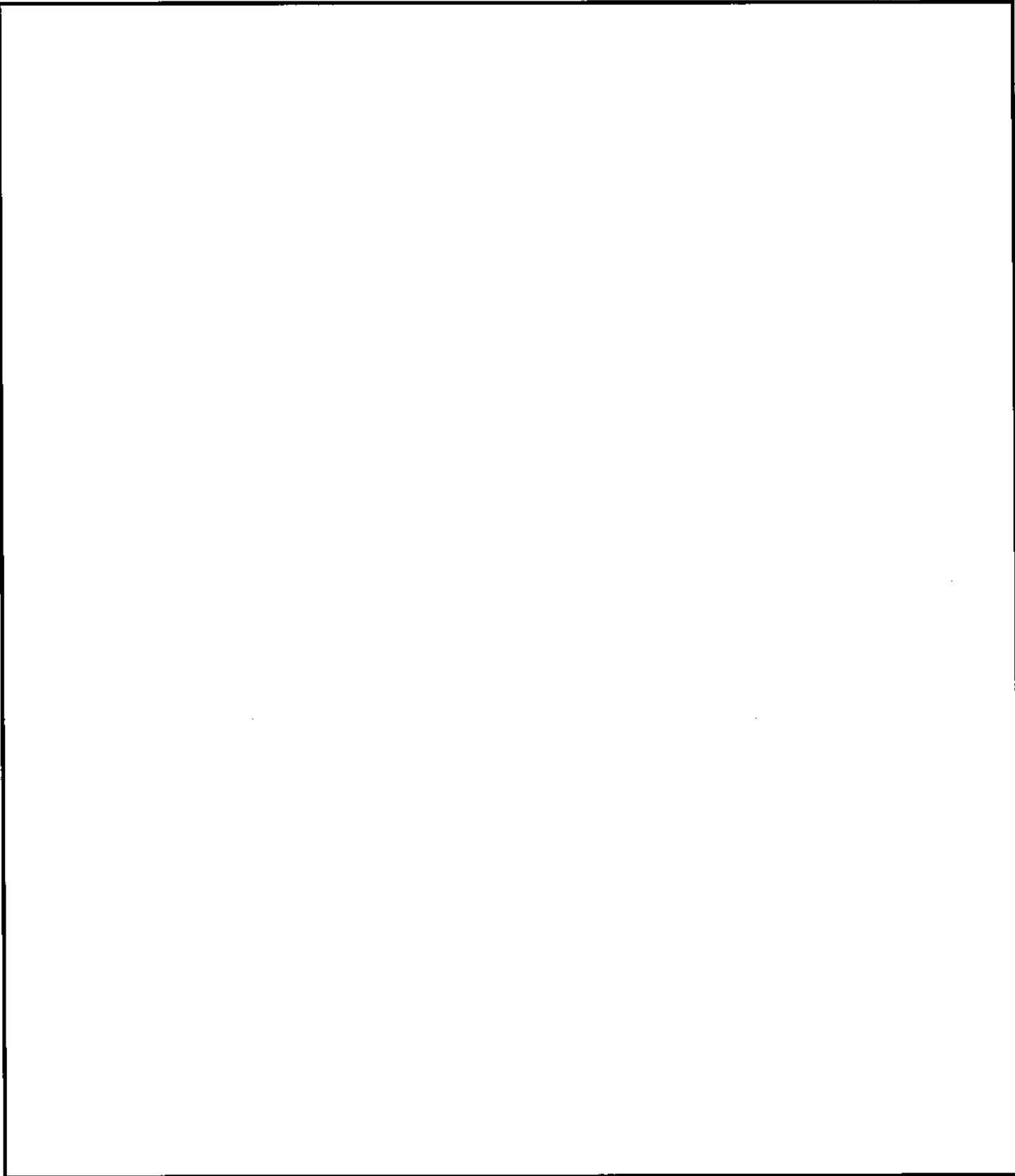
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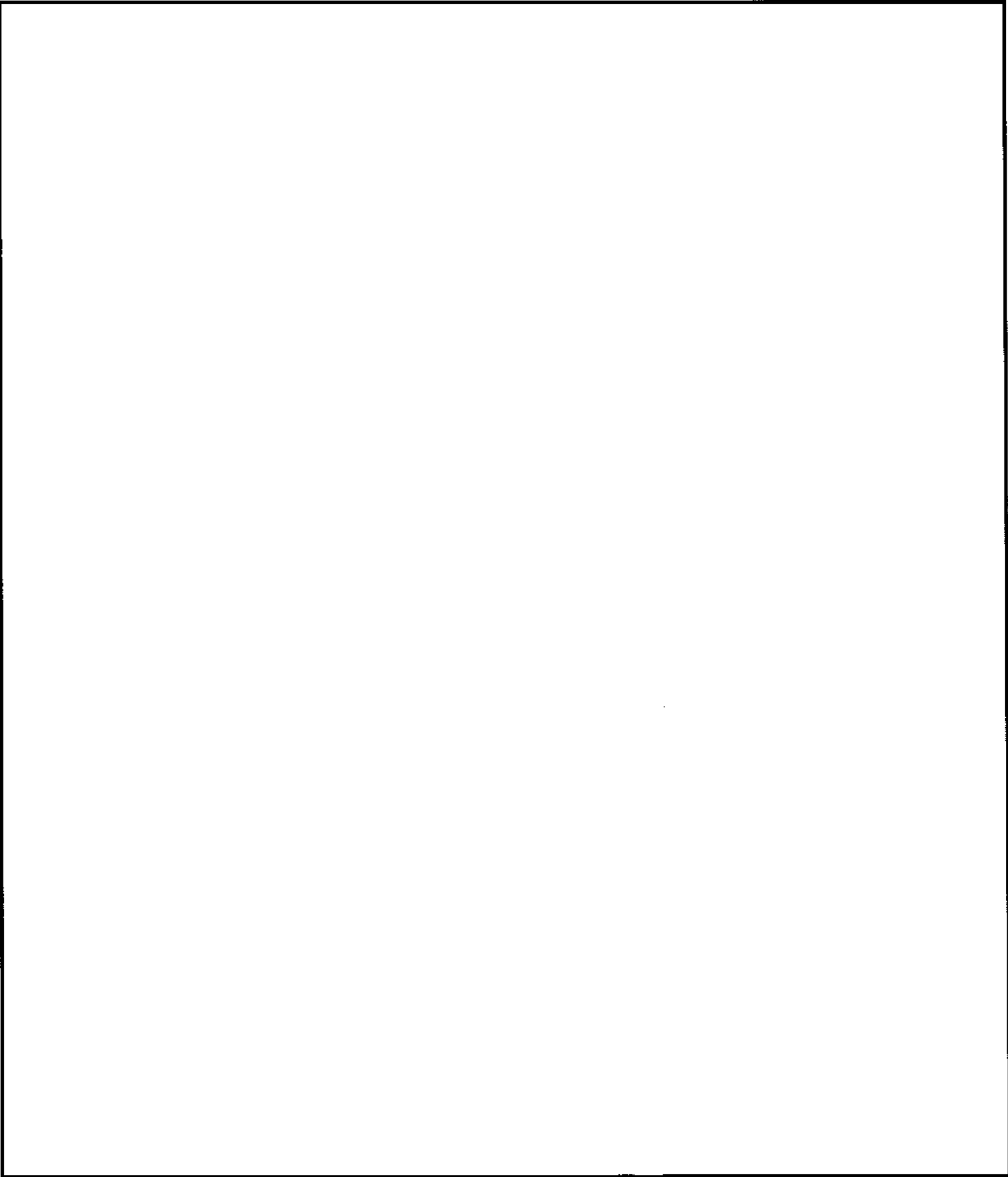
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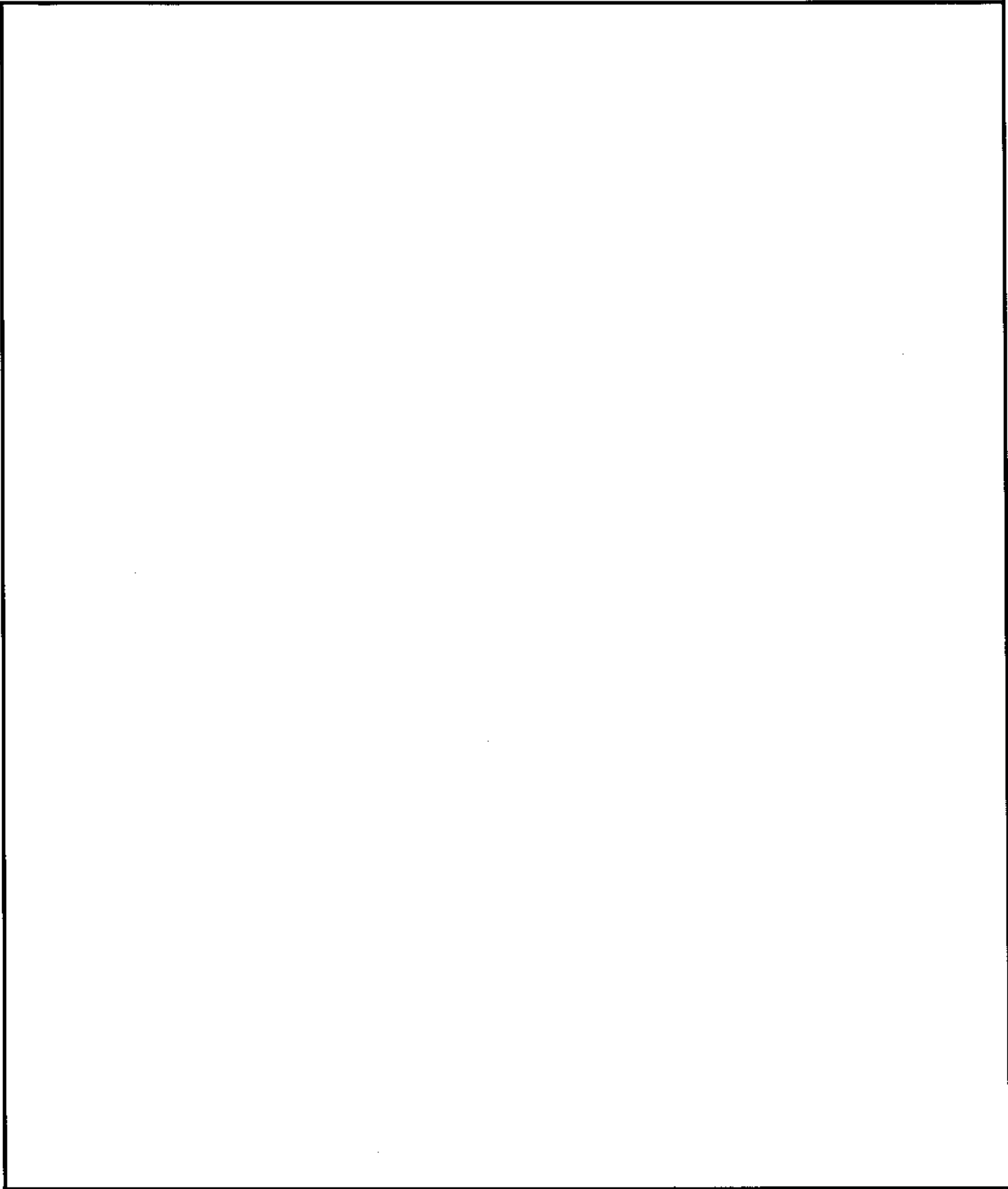
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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE MARYLAND 20755-6000

29 July 2015

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THROUGH: Office of the DoD Senior Intelligence Oversight Official

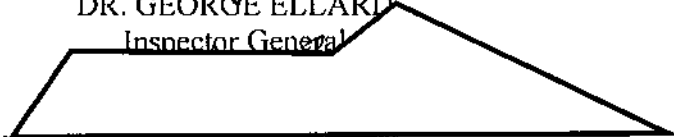
SUBJECT: (U) Report to the Intelligence Oversight Board on NSA Activities—
INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President or otherwise stated in the enclosure, we have no reason to believe that intelligence activities of the National Security Agency during the quarter ending 30 June 2015 were unlawful or contrary to Executive Order or Presidential Directive and, thus, should have been reported pursuant to Section 1.6(c) of Executive Order 12333, as amended.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice of counsel.

DR. GEORGE ELLARD
Inspector General

(b) (6)



PAUL F. MORRIS
Acting General Counsel

(U) I concur with the report of the Inspector General and the General Counsel and hereby make it our combined report.

MICHAEL S. ROGERS
Admiral, U.S. Navy
Director, NSA/Chief, CSS

Encl:
Quarterly Report

(U) This document may be declassified and marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" upon removal of enclosure(s)

Approved for Release by NSA on 06-17-2019, FOIA Case # 105767 (litigation)

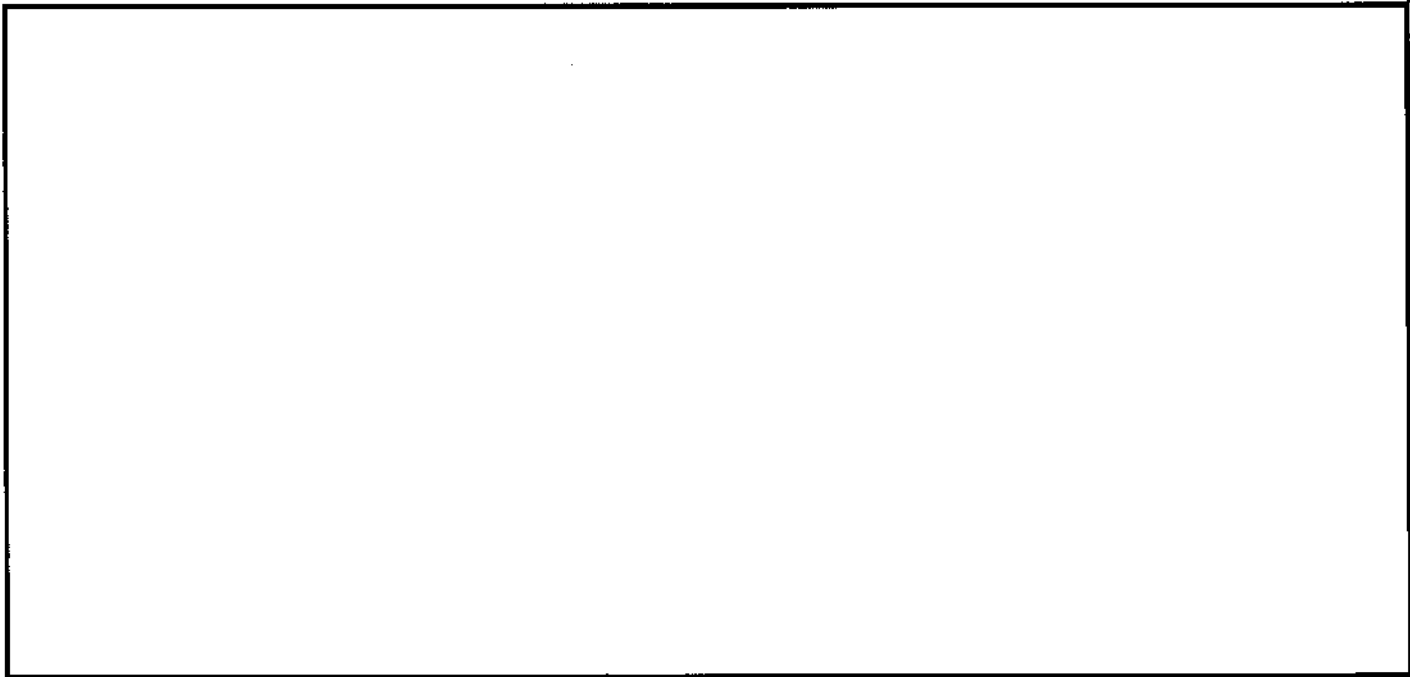
**(U) REPORT TO THE INTELLIGENCE OVERSIGHT BOARD ON NSA ACTIVITIES
SECOND QUARTER CY2015**

(U) Pursuant to Executive Order 12333 (E.O. 12333), as amended, National Security Directive 42, and other legal and policy directives, the National Security Agency (NSA) conducts signals intelligence (SIGINT) and information assurance (IA) activities on behalf of the U.S. government. These activities might result in the acquisition of non-public information of or concerning U.S. persons (USPs). NSA personnel are required to follow procedures designed to protect USP privacy, consistent with the Fourth Amendment to the U.S. Constitution and other laws. NSA personnel must also comply with requirements of Presidential Policy Directive 28 (PPD-28) concerning protection of personal information of all individuals, regardless of nationality.

(U) NSA has established controls to provide reasonable assurance that its personnel comply with procedures for handling USP information, such as minimization procedures adopted by the Attorney General (AG) and approved by the Foreign Intelligence Surveillance Court (FISC) to govern USP information acquired during SIGINT activities conducted pursuant to the Foreign Intelligence Surveillance Act (FISA) of 1978, as amended.

(U) This report summarizes incidents of non-compliance with AG-approved procedures, as well as other matters required to be reported to the Intelligence Oversight Board, identified during the second quarter of calendar year (CY) 2015.

(U) The matters reported herein are based on the information available at the time of this report and are not believed to be cases of willful misuse.



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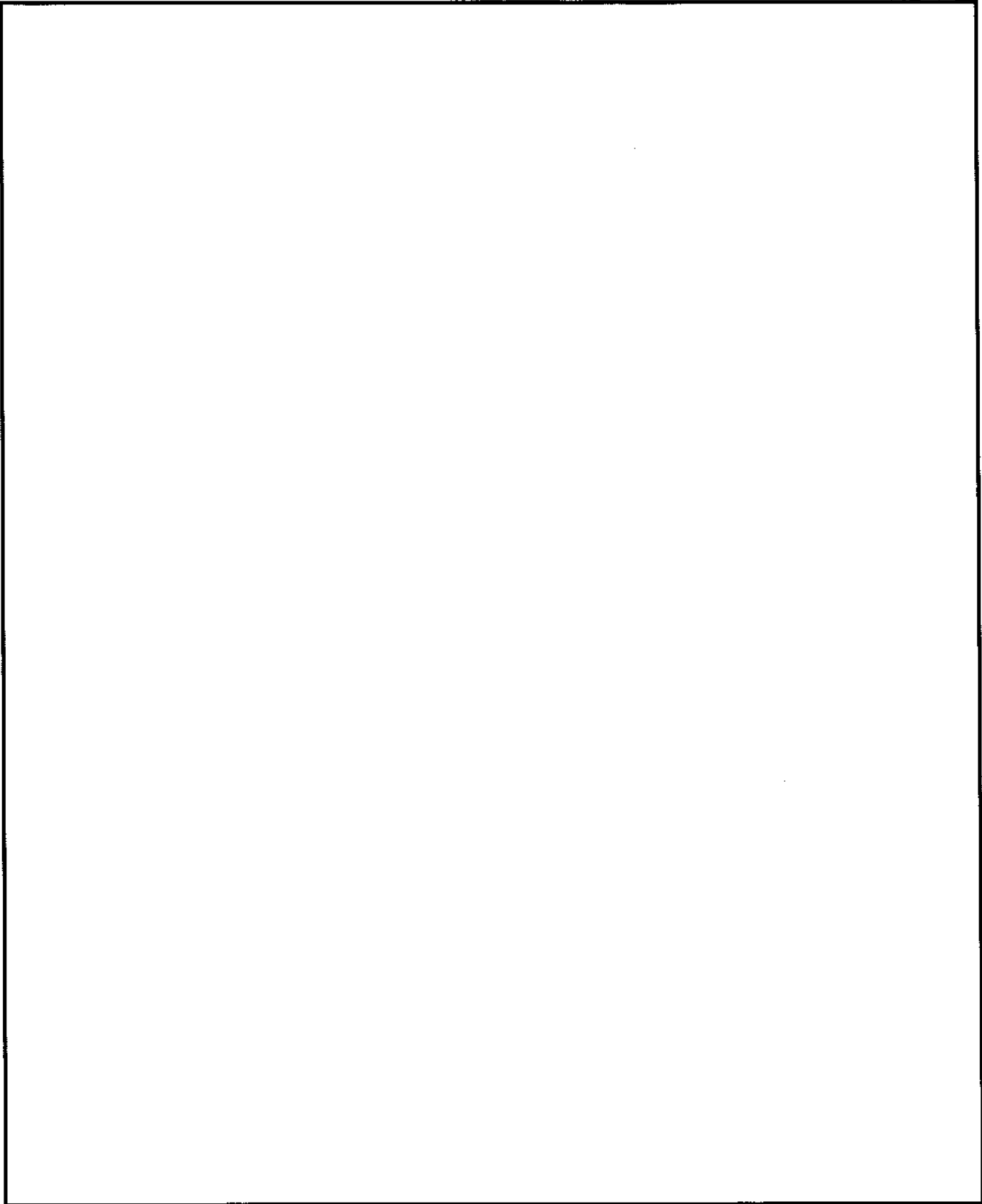
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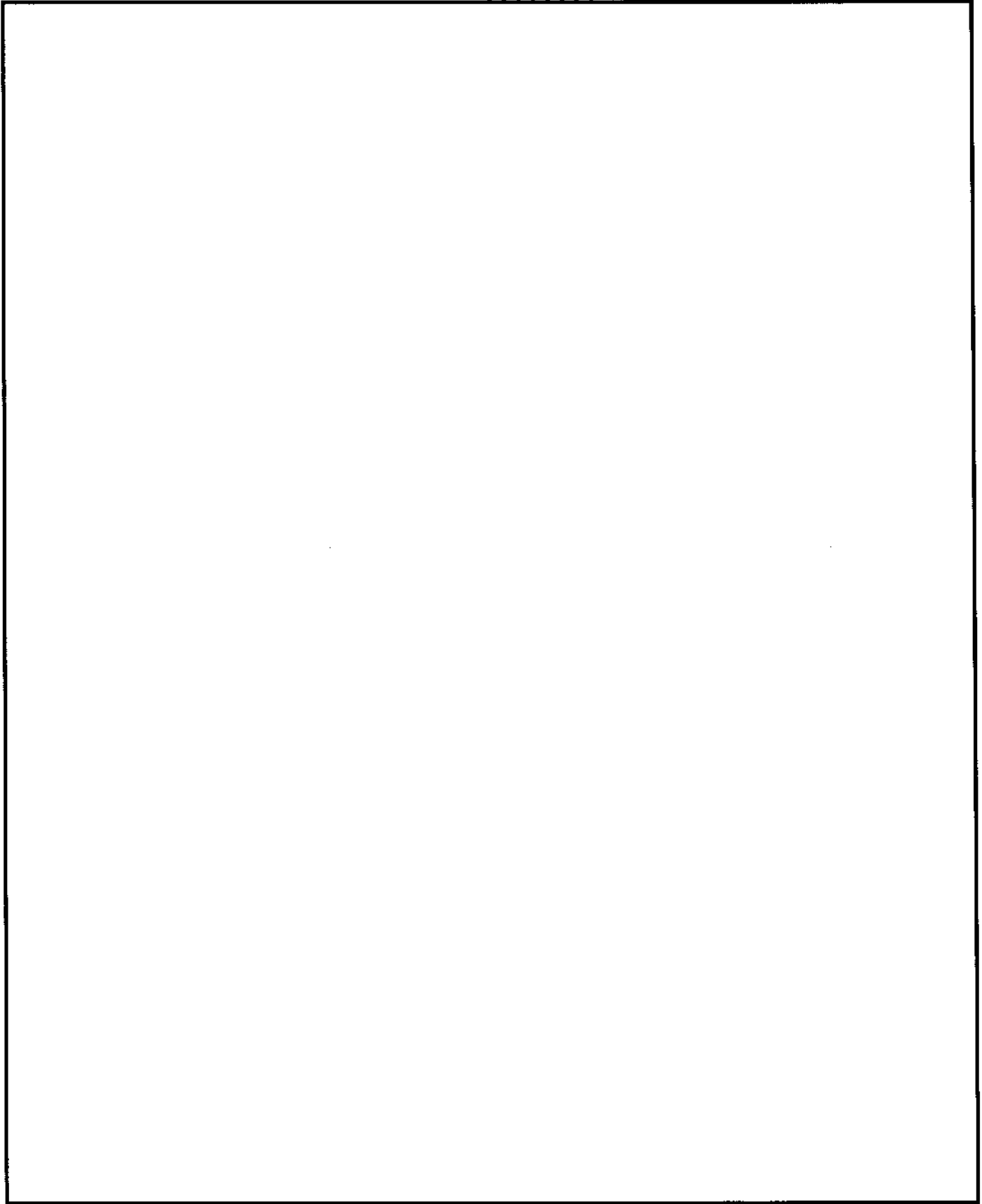
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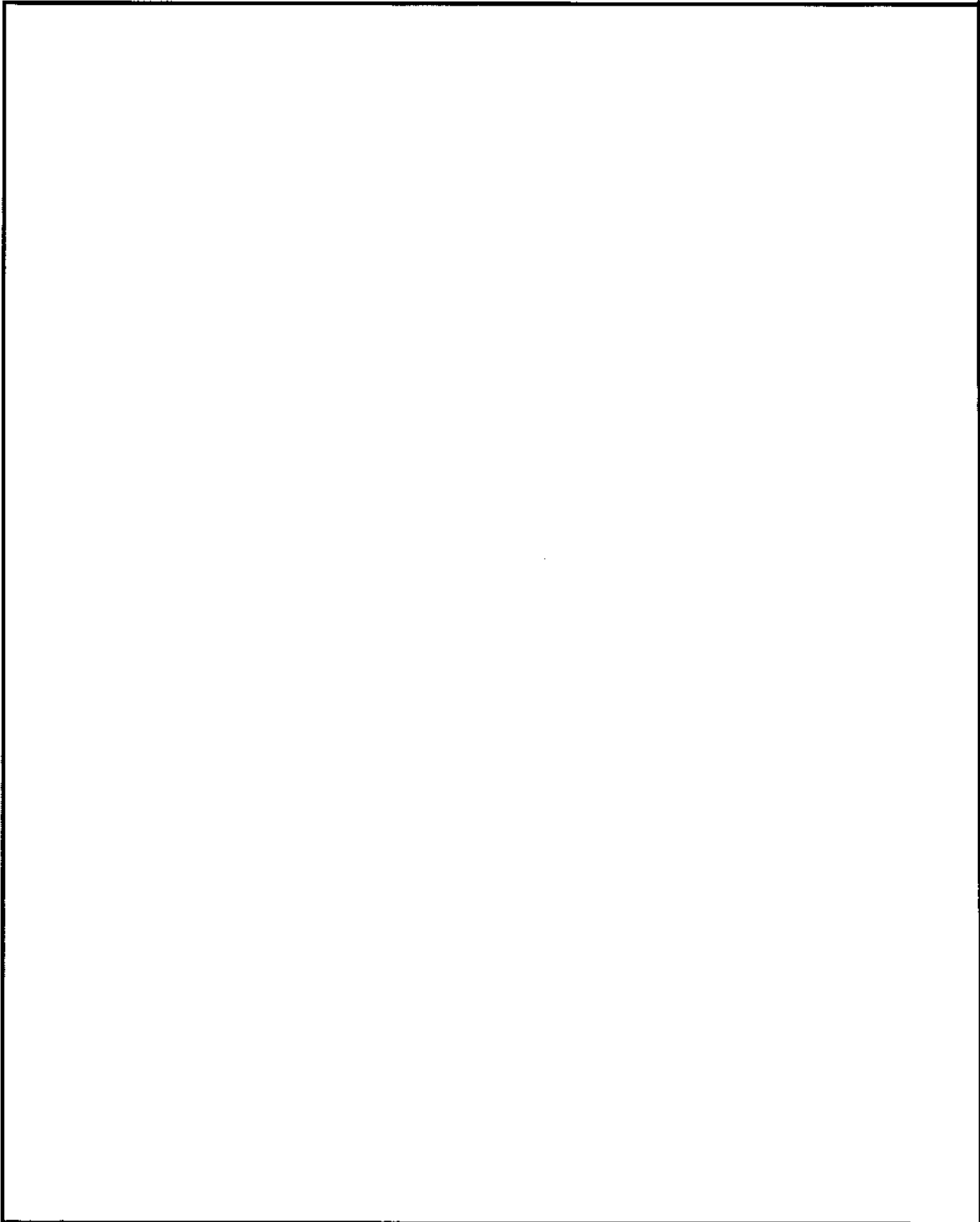
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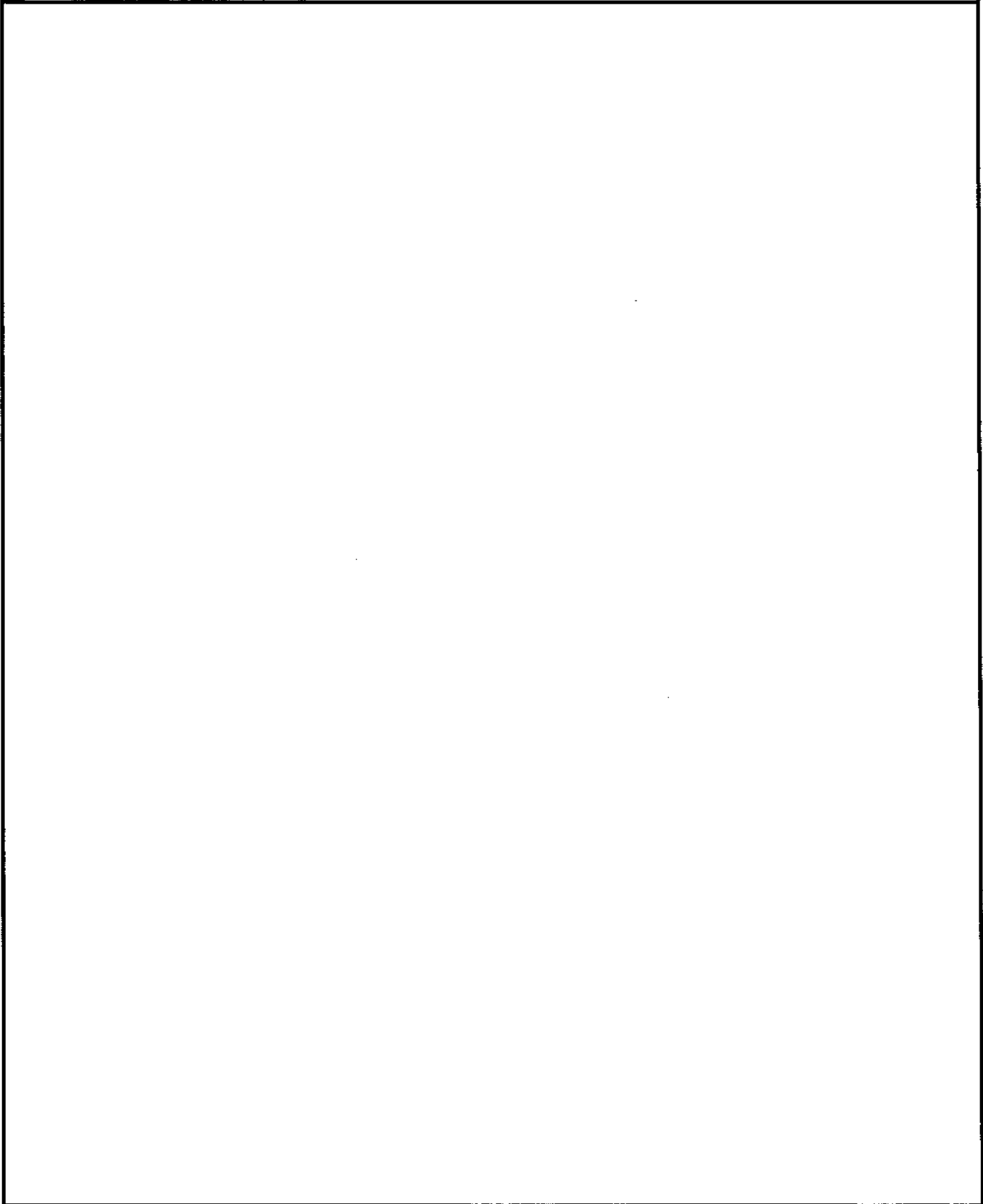
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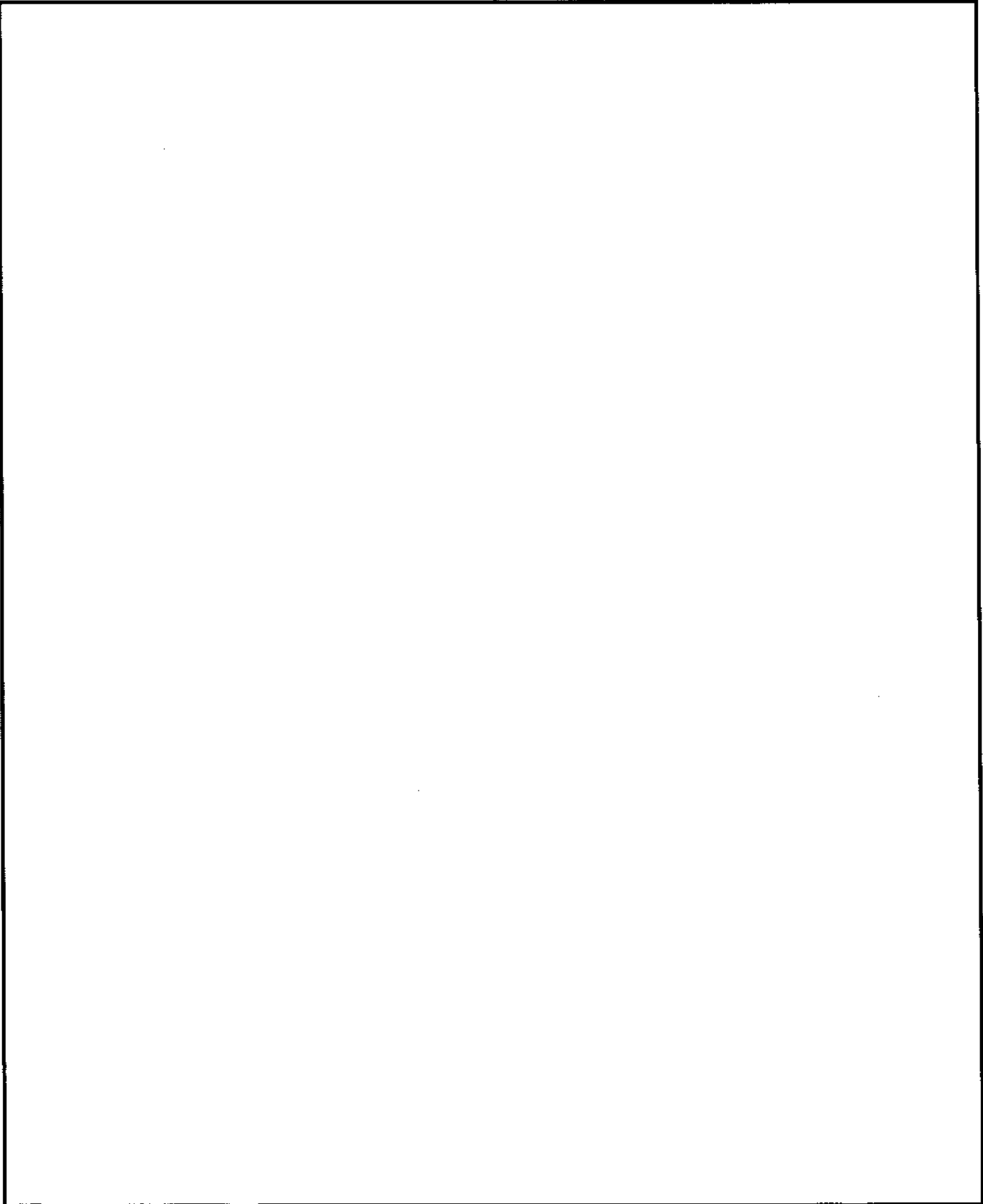
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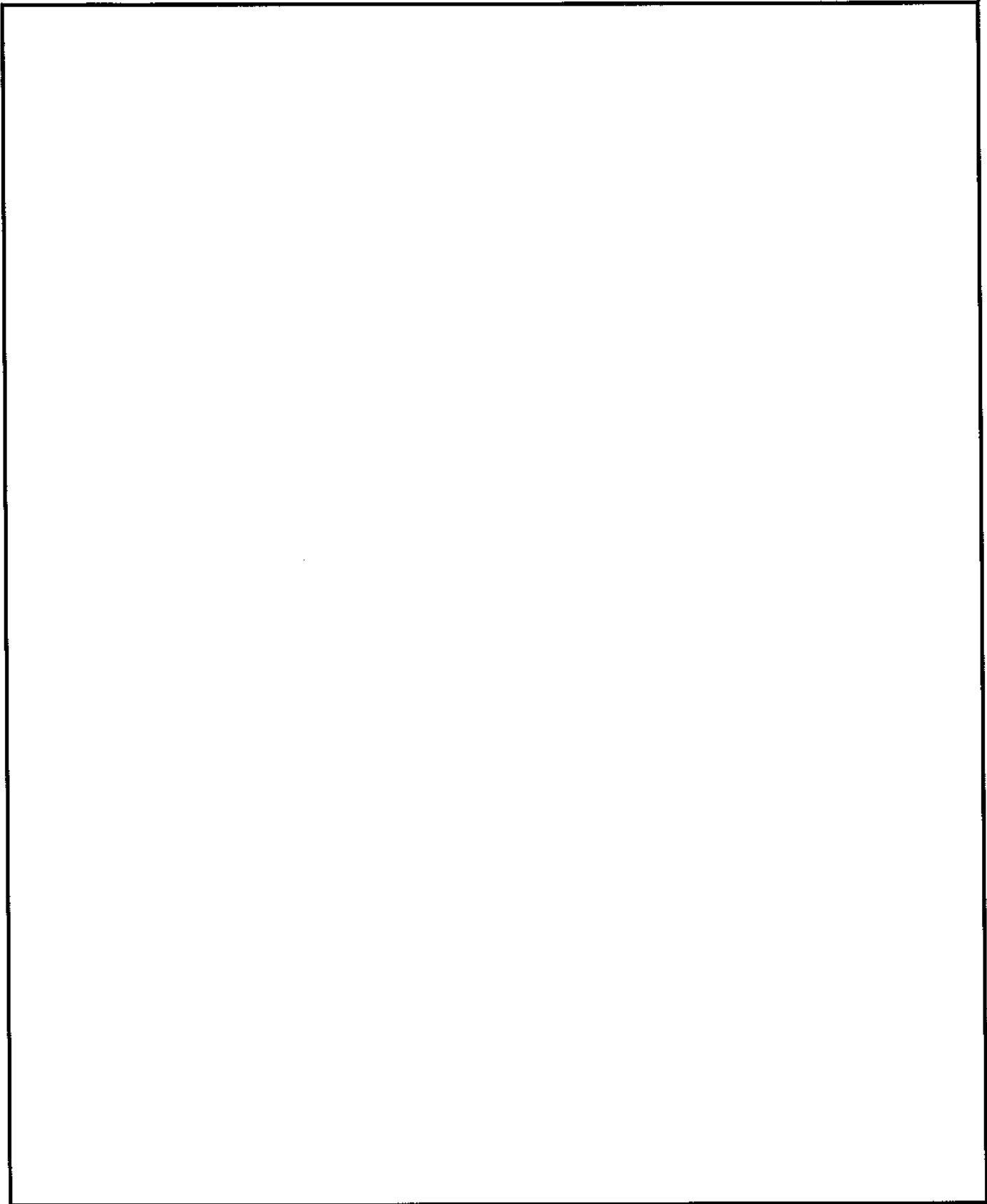
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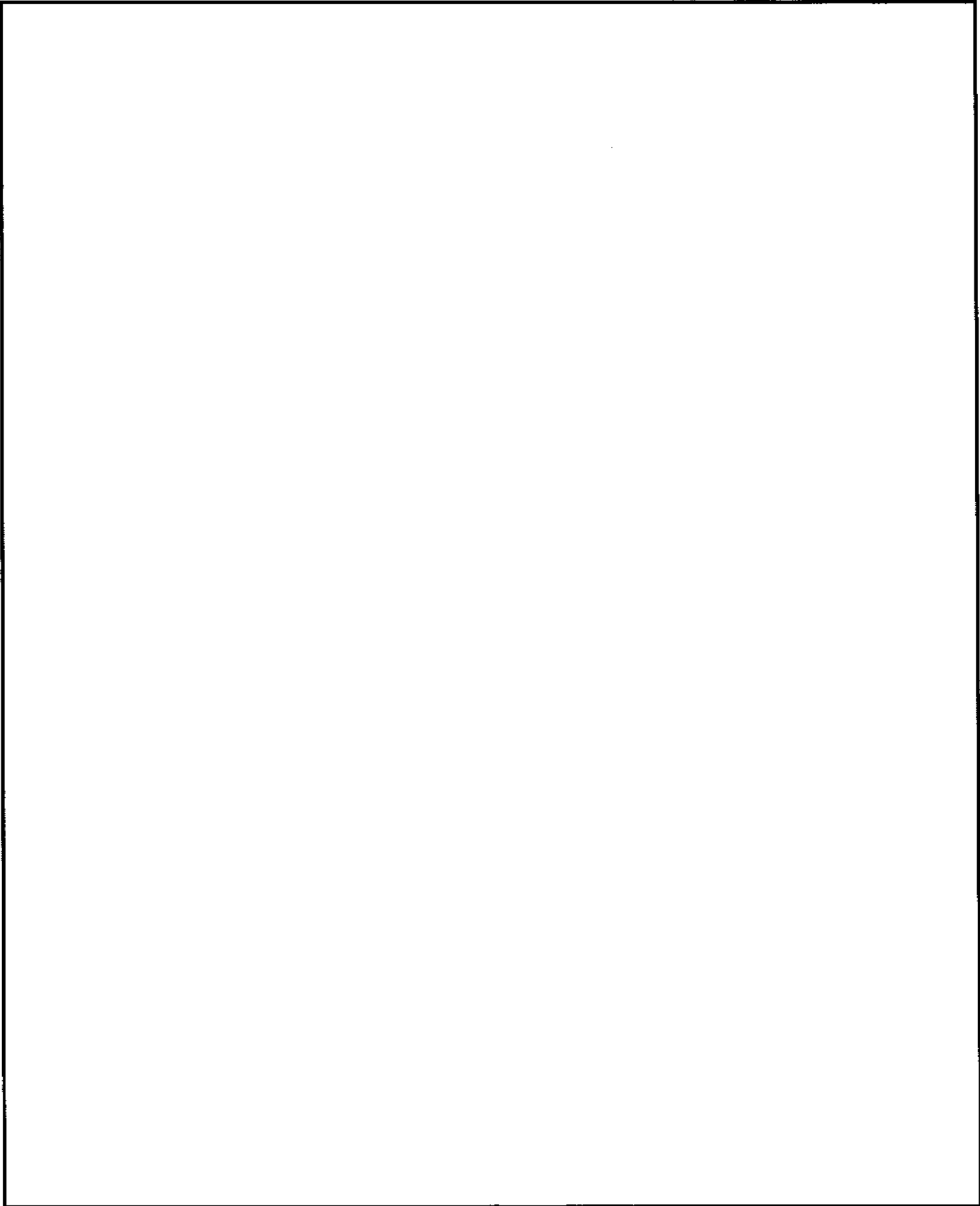
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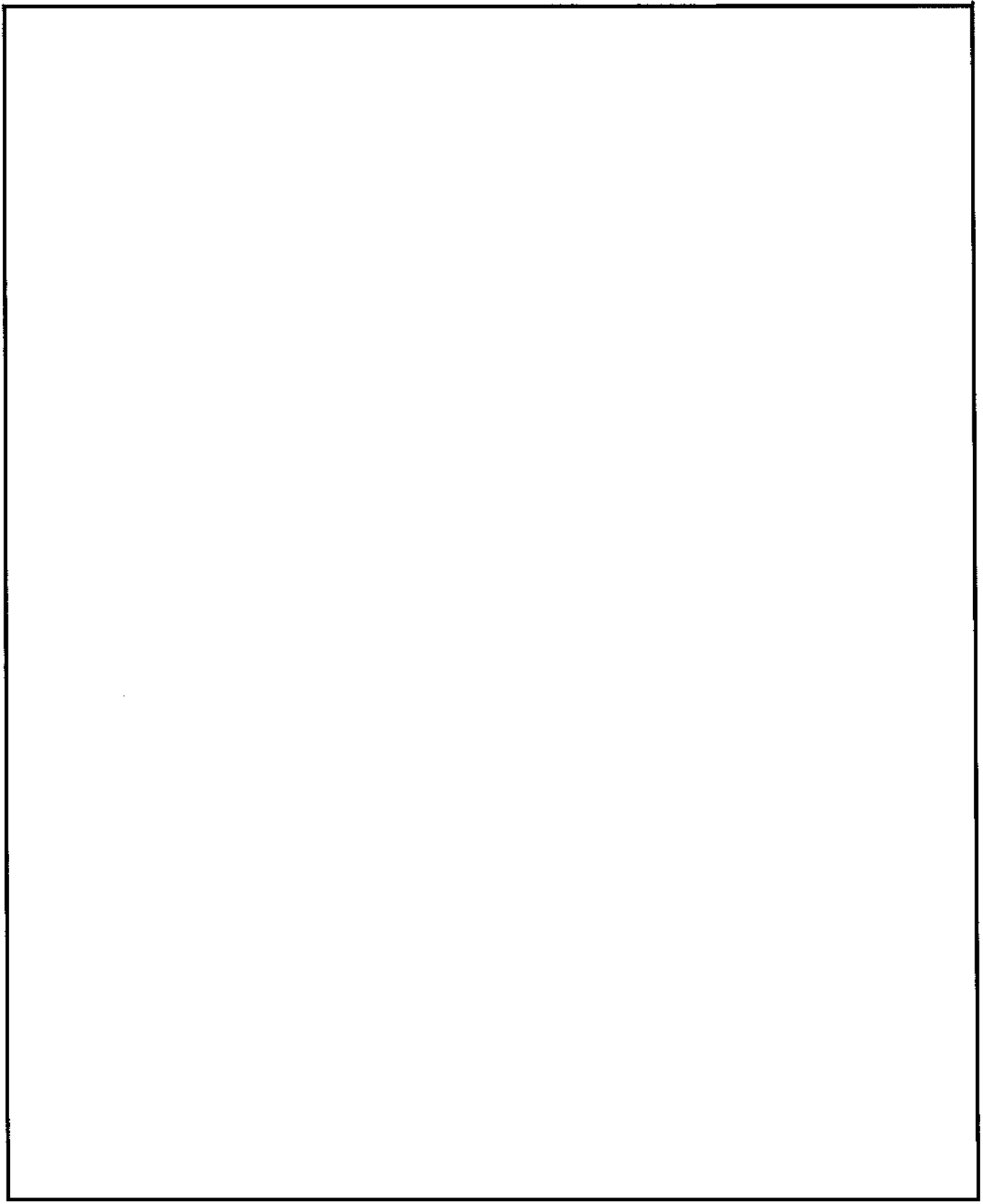
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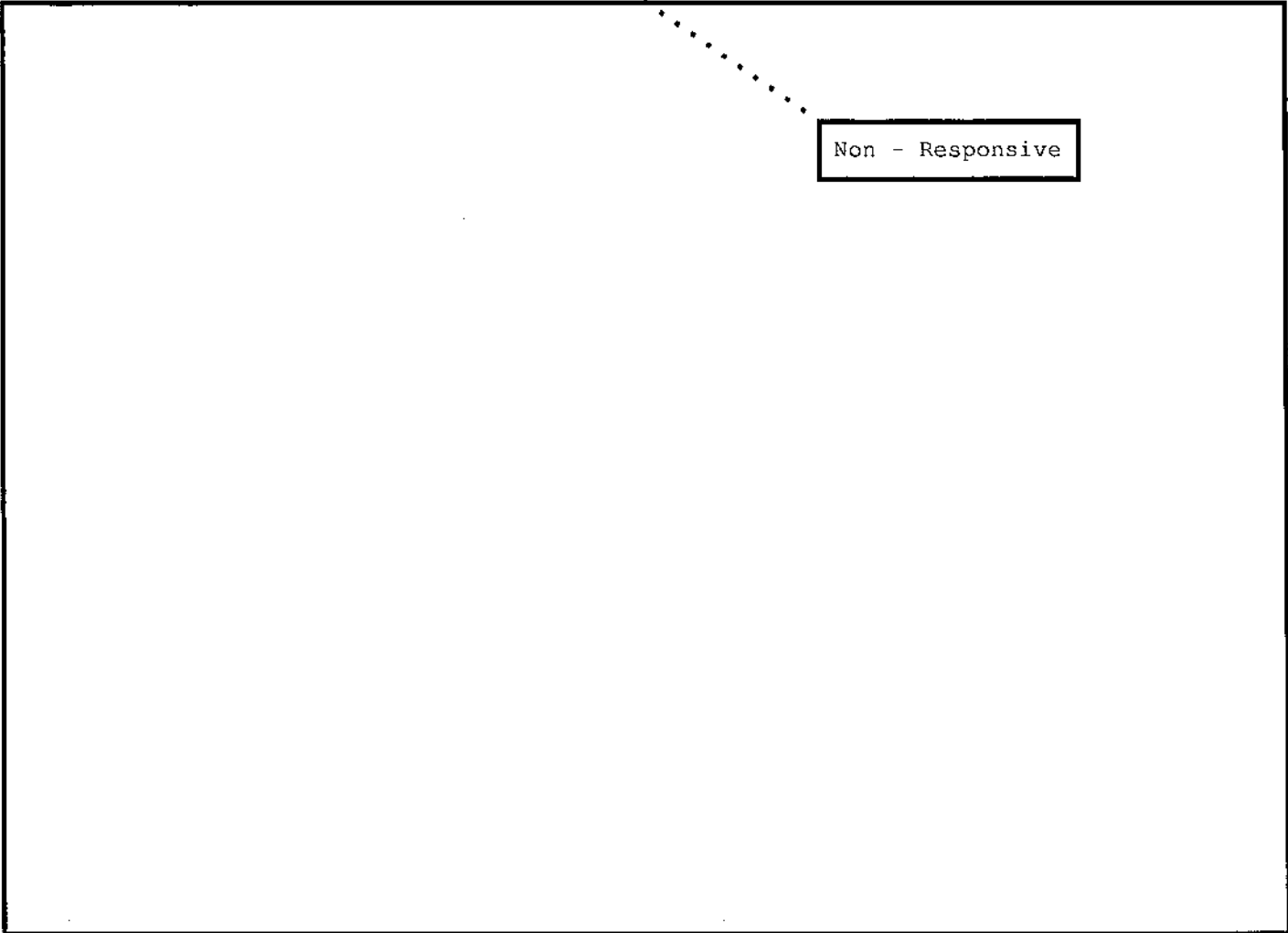


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VI. (U) Other Matters

- (U//~~FOUO~~) On three occasions, NSA notified congressional intelligence committees of the discontinuation of bulk telephone metadata collection pursuant to the business records provision of FISA, commonly referred to as “§215,” and the implementation of the USA Freedom Act (USAFA). On 29 May 2015, NSA reported the timeline of steps to discontinue collection of bulk telephony metadata under title V of FISA, as amended by §215 of the USA Patriot Act. NSA shut down the bulk telephony metadata program on 31 May 2015 in connection with the sunset of §215 of the USA Patriot Act. On 2 June 2015, immediately after the USAFA, which reauthorized a modified version of §215, was enacted into law, the government filed an application to re-initiate the acquisition of the telephone metadata consistent with the USAFA’s 180-day transition provision. On 4 June 2015, NSA reported that it had begun to implement the recently enacted USAFA. The FISC approved the application on 29 June 2015. [redacted] NSA reported that it had re-initiated the collection of bulk telephone metadata.

(b) (3) - P.L. 86-36

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**NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE**
FORT GEORGE G. MEADE, MARYLAND 20755-6000

8 February 2019

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THROUGH: Office of the DoD Senior Intelligence Oversight Official

SUBJECT: (U) Report to the Intelligence Oversight Board (IOB) on NSA Activities, Fourth Quarter, Calendar Year 2018 – INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President or otherwise stated in the enclosure, we have no reason to believe that any activity conducted under DIRNSA authority, direction, or control during the period ending 31 December 2018 was unlawful or contrary to Executive Order or Presidential Directive and, thus, should have been reported pursuant to Section 1.6 (c) of Executive Order 12333, as amended. This report summarizes questionable intelligence activities as well as other matters required to be reported to the IOB.

(U) The NSA Intelligence Oversight Officer and the General Counsel continue to exercise oversight of Agency activities focused on achieving compliance with the laws and regulations for protecting privacy during the conduct of Agency operations.

[Redacted]


PATRICK J. REYNOLDS
Director of Compliance
Intelligence Oversight Officer

(b) (6)

[Redacted]

GLENN S. GERSTELL
General Counsel

(U) I concur with the report of the NSA Intelligence Oversight Officer and the General Counsel and hereby make it our combined report.


PAUL M. NAKASONE
General, U.S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

(U) This document may be declassified and marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" upon removal of the Enclosure.

Approved for Release by NSA on 06-17-2019, FOIA Case # 105767 (litigation)

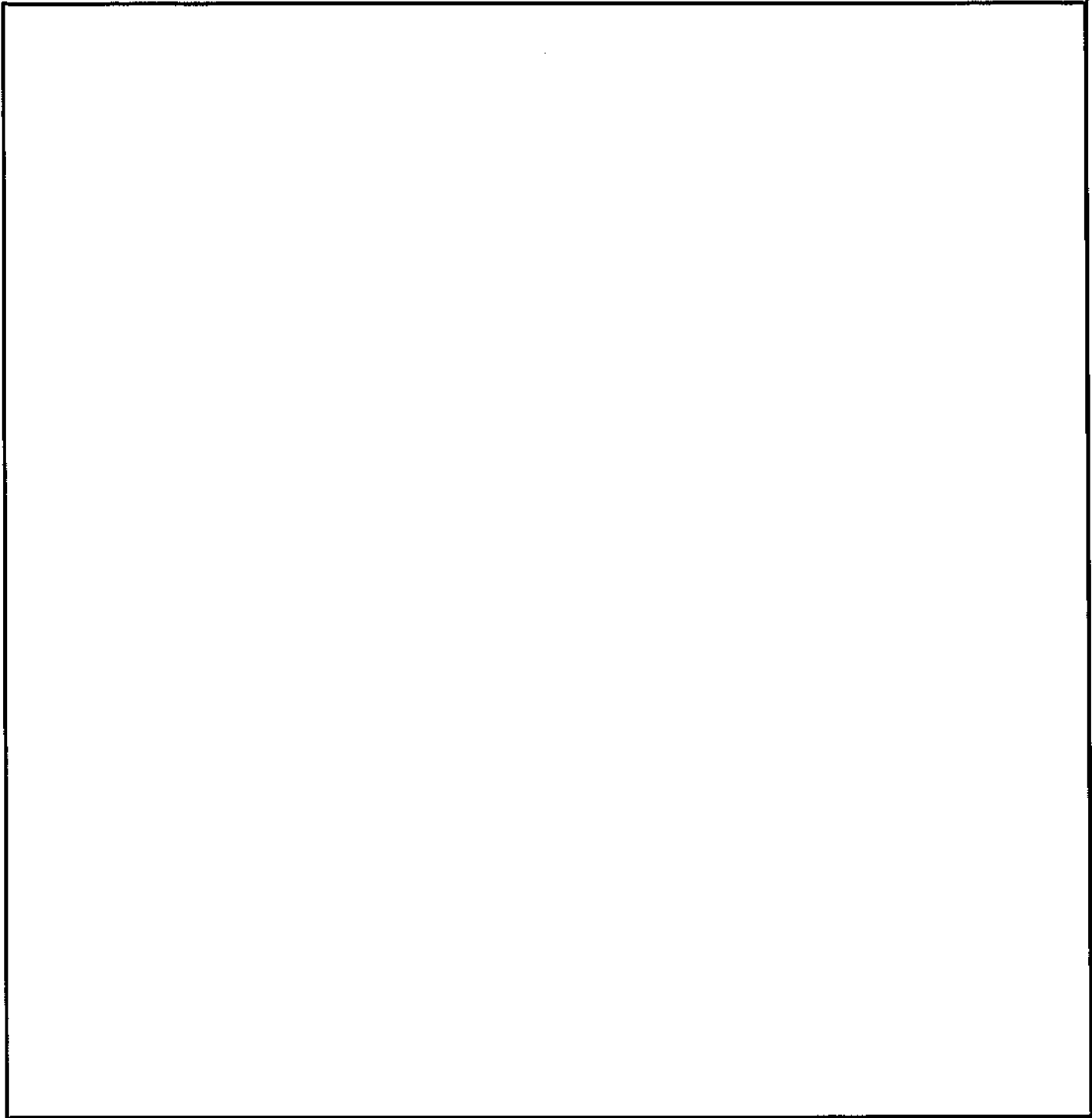
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**(U) NSA FOURTH QUARTER CY2018
INTELLIGENCE OVERSIGHT REPORT**

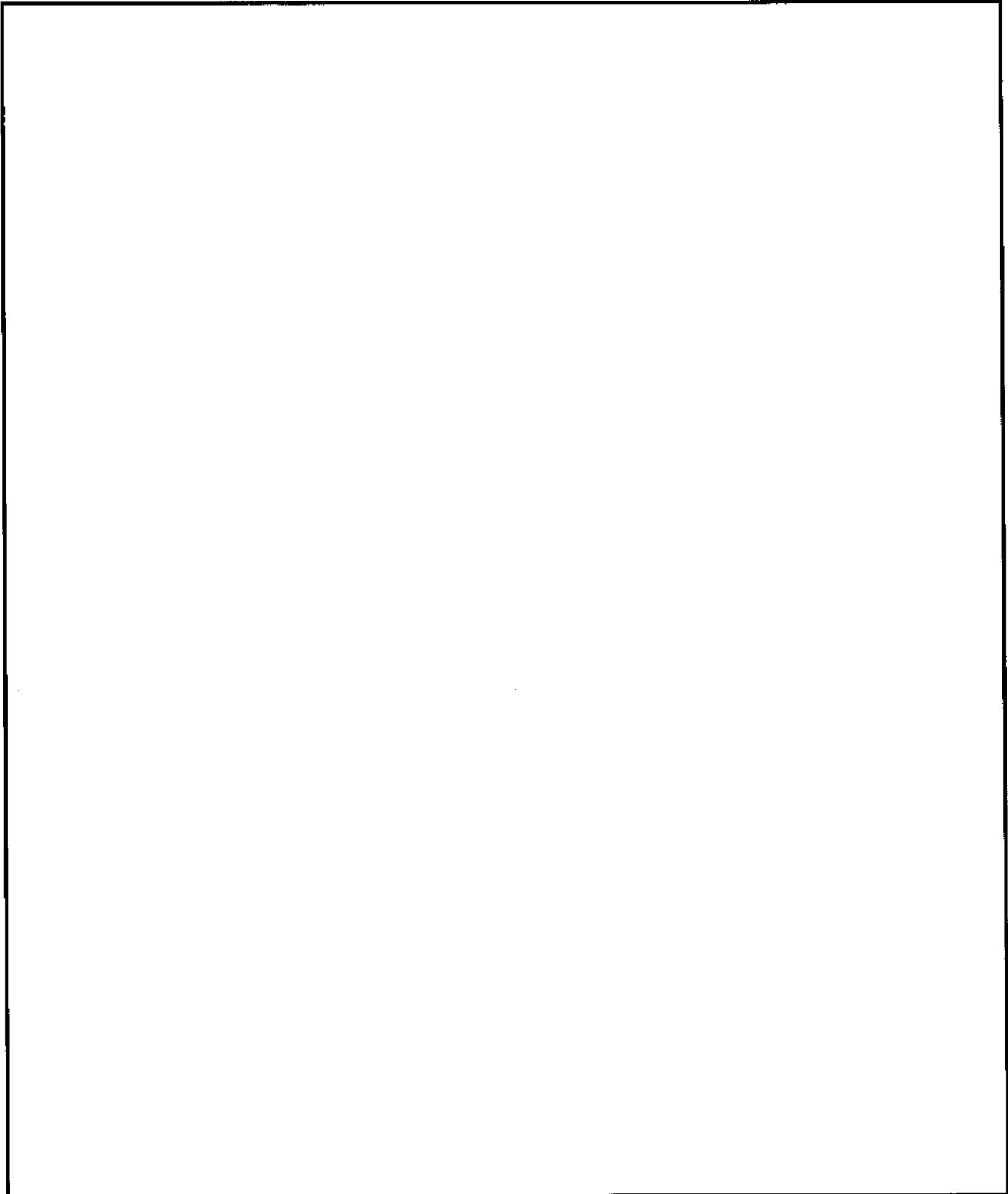


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Dated: 20181107

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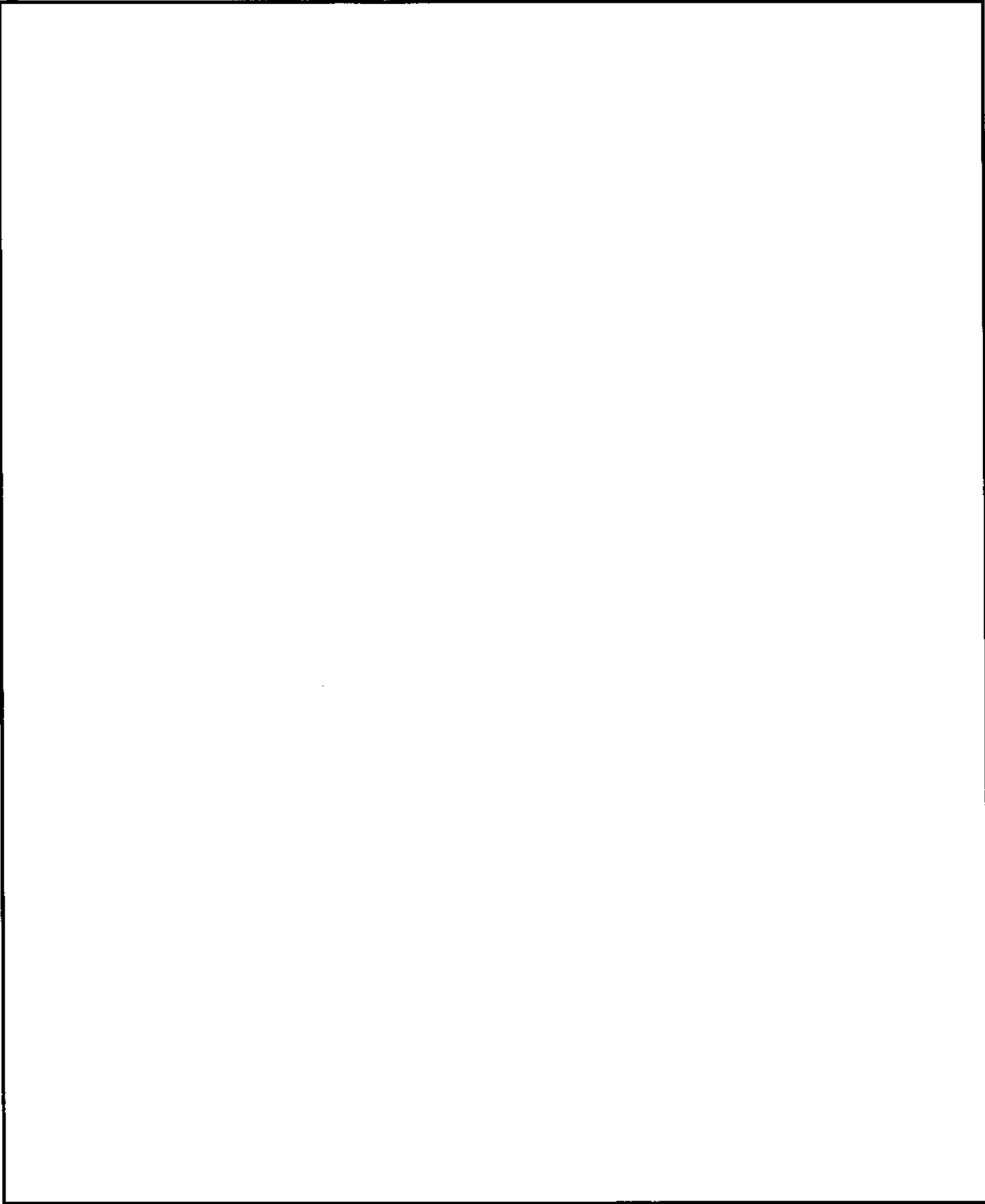
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~~TOP SECRET//SI//NOFORN~~129 **b. File Number: NSA 2018-024-Q**

130 (1) ~~(S//NF)~~ **Incident Description:** Provider misprovision of call detail records (CDRs)
131 produced pursuant to Title V of FISA, as amended by the USA FREEDOM Act (UFA).

132 ~~(TS//SI//NF)~~ Pursuant to UFA, the FISC has authorized the targeted production to NSA
133 of CDRs pertaining to certain specific selection terms, and issued Secondary Orders to certain
134 providers to compel the production of those CDRs. On or about October 12, 2018, NSA

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(b) (1)
(b) (3) -50 USC 3024 (i)
(b) (3) -P.L. 86-36

135 technical analysts examining the targeted production of CDRs observed an anomaly.
136 Specifically, these analysts identified a larger than expected number of [redacted]
137 [redacted]
138 [redacted] Further investigation determined
139 that these records were produced by [redacted] On October 12, 2018, NSA requested the
140 provider investigate the anomaly. The provider later confirmed that [redacted]
141 [redacted] had resulted in the creation of CDRs [redacted]
142 [redacted]
143 [redacted] According to the provider, it produced CDRs affected by the error
144 starting on or about October 3, 2018.

145 (2) (U) **Timeline:** Date(s) of incident: October 3-12, 2018
146 Date of incident reported in IRT: October 12, 2018
147 Date reported to DoD SIOO: February 1, 2019

148 (3) ~~(S//NF)~~ **Reason for Report:** Production by the provider of erroneous CDRs that
149 were not authorized by the FISC's orders.

150 (4) ~~(S//NF)~~ **Cause:** [redacted]
151 [redacted]

152 (5) (U) **Impact on National Security or International Relations:** None.

153 (6) (U) **Impact on Civil Liberties or Privacy:** CLPT will reassess the scope of the
154 civil liberties and privacy impact of this incident upon completion of the investigation. CLPT's
155 initial assessment is that the impact was limited given the quick identification, purge processes,
156 and lack of reporting.

157 (7) ~~(TS//SI//NF)~~ **Remedial Action:** On [redacted] NSA suspended the data
158 flow from the provider until it could validate that the issue had been resolved. The provider
159 informed NSA on [redacted] that it implemented a solution that corrects the error, and
160 NSA worked with the provider to verify the solution. On [redacted] NSA reinitiated the
161 data flow from the provider. NSA is continuing to review the production of CDRs.

162 (8) (U) **Additional Information:** None.

(b) (3) -P.L. 86-36

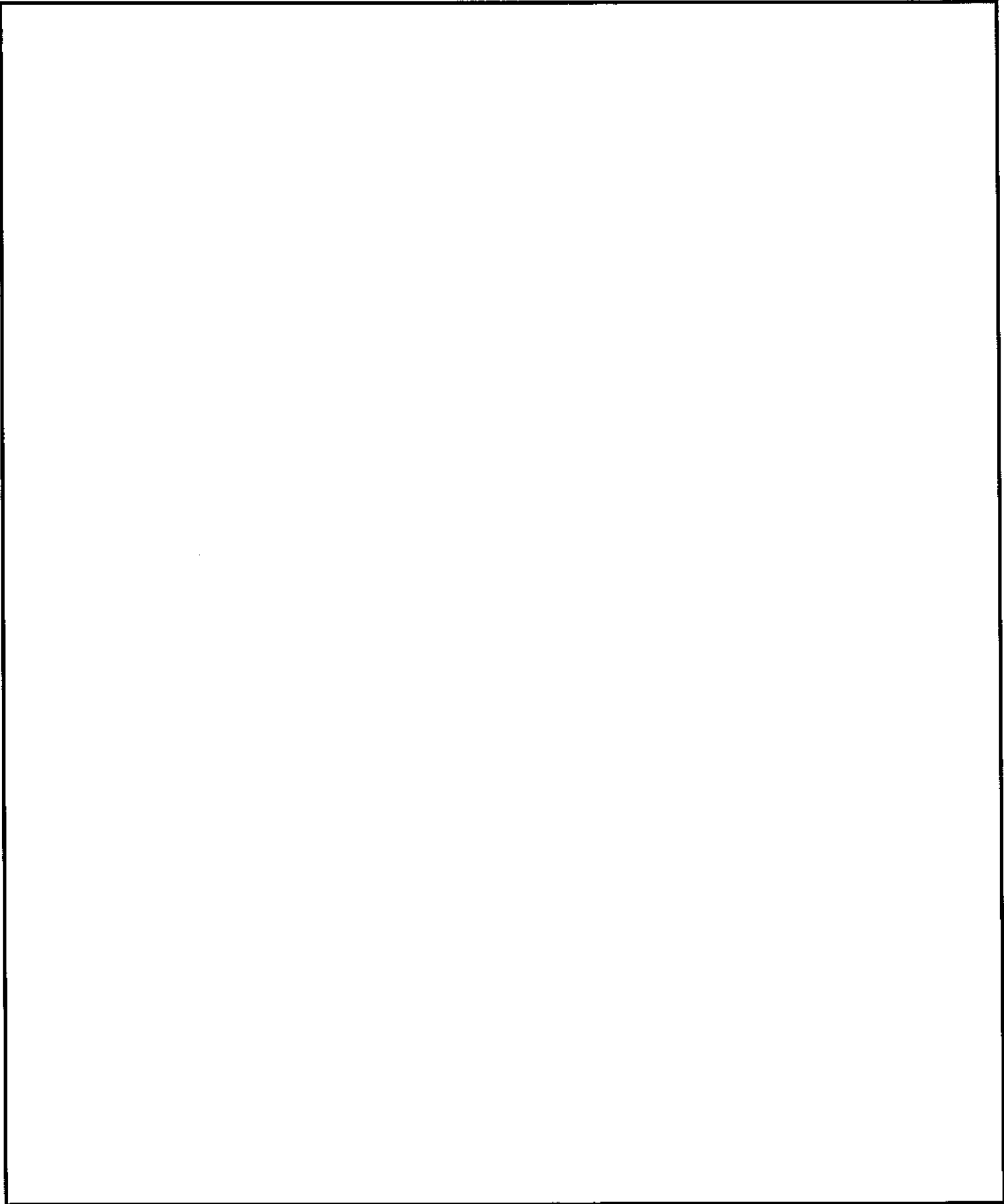
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163 (9) (U) **Status:** Open.



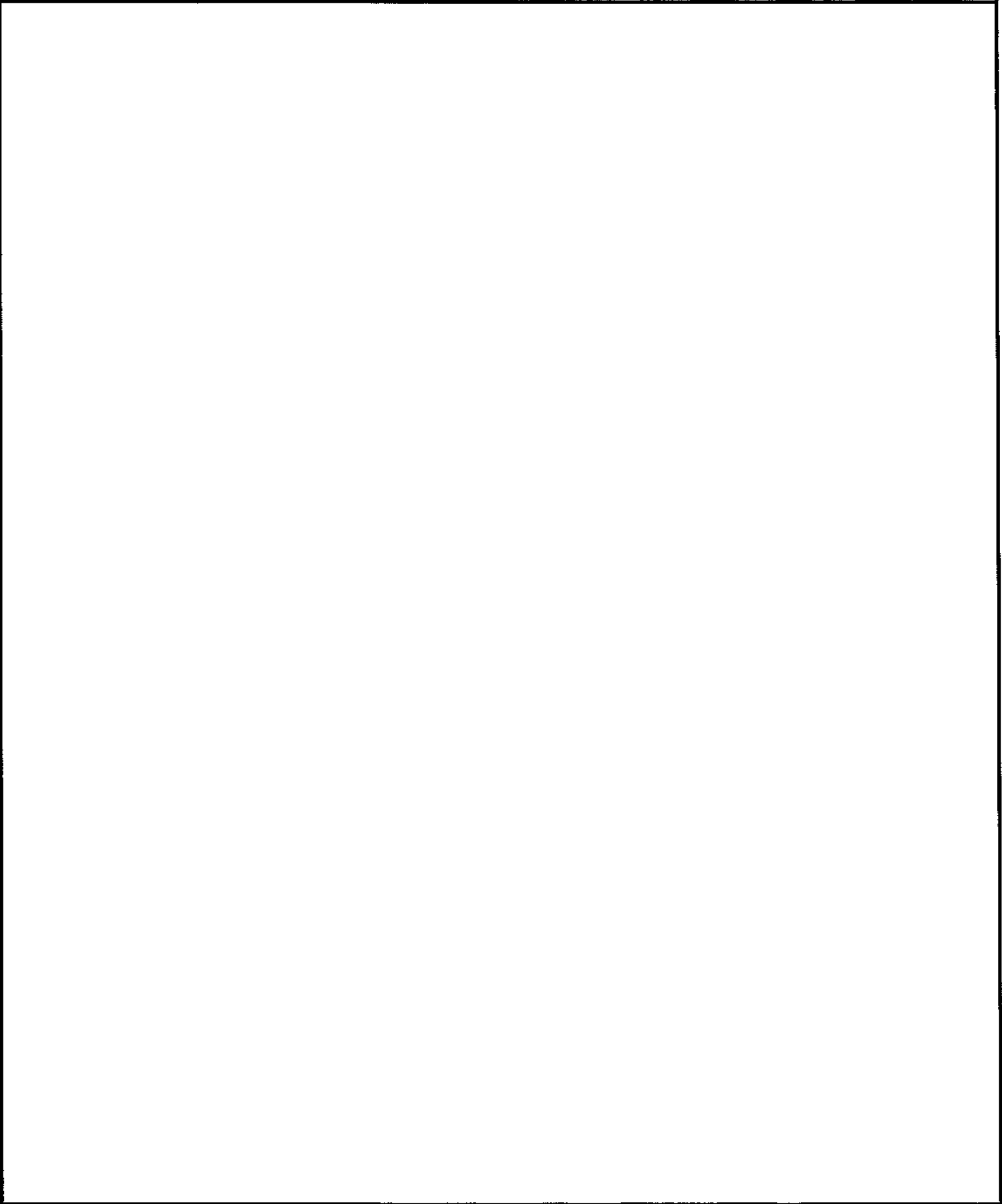
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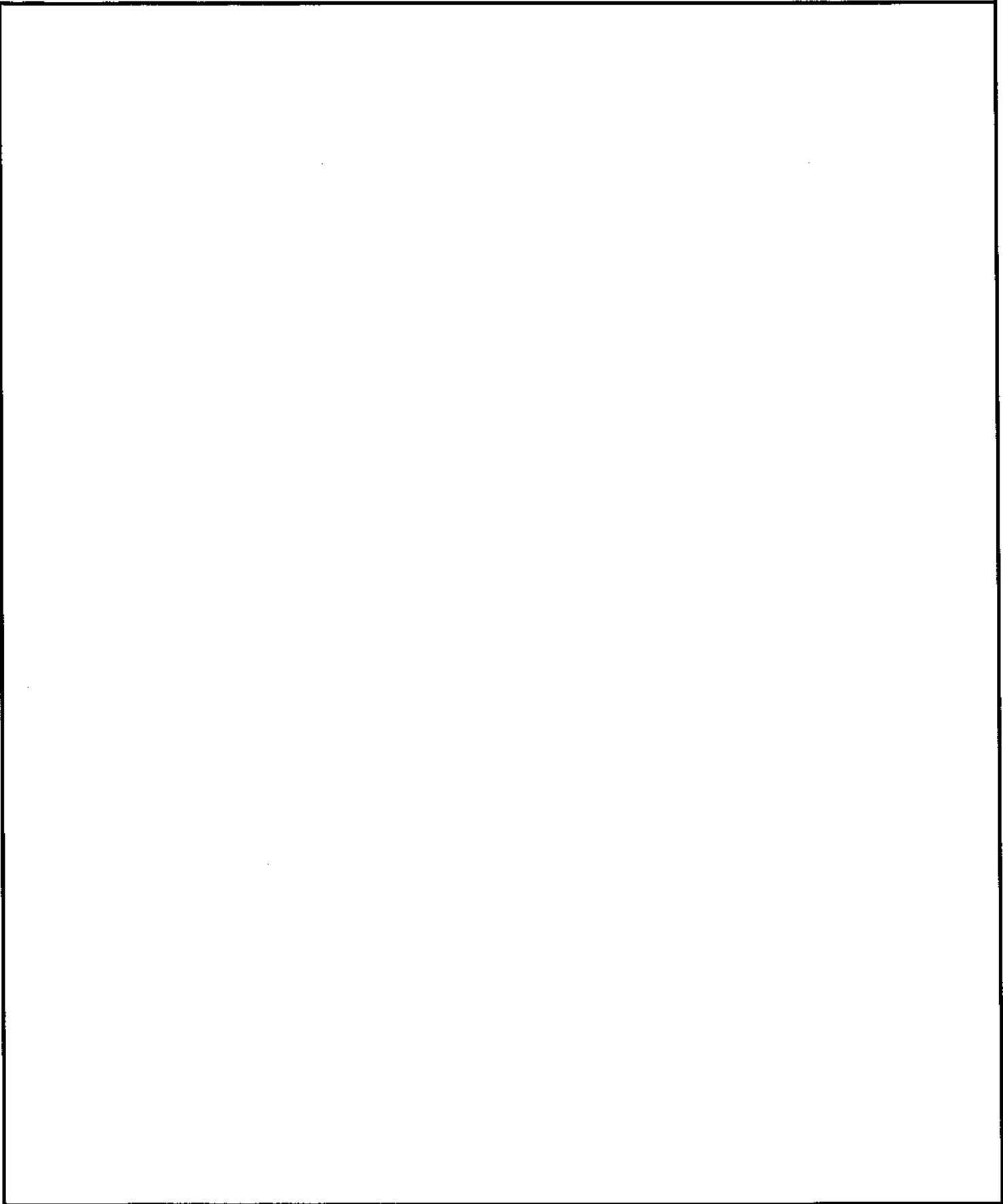
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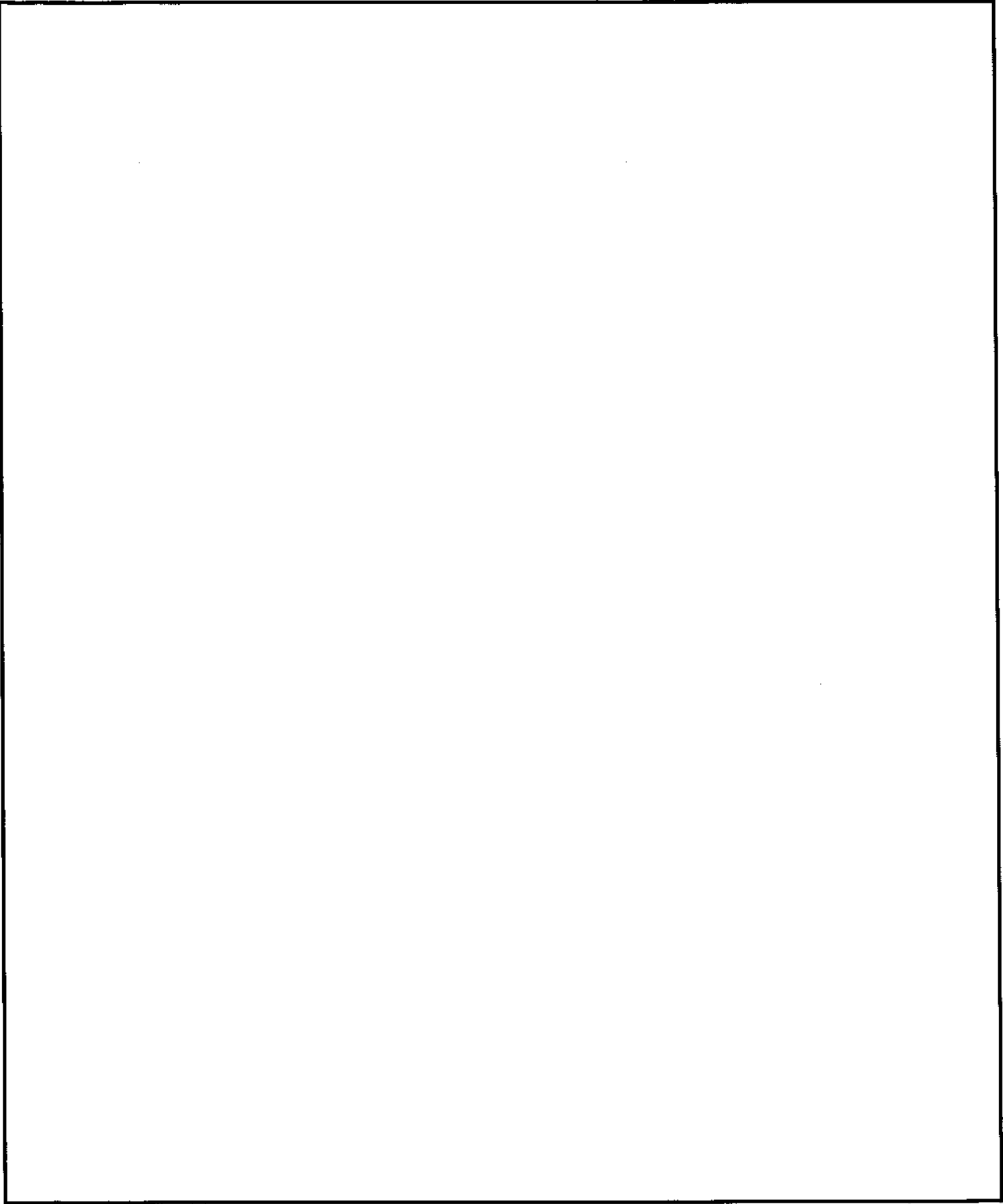
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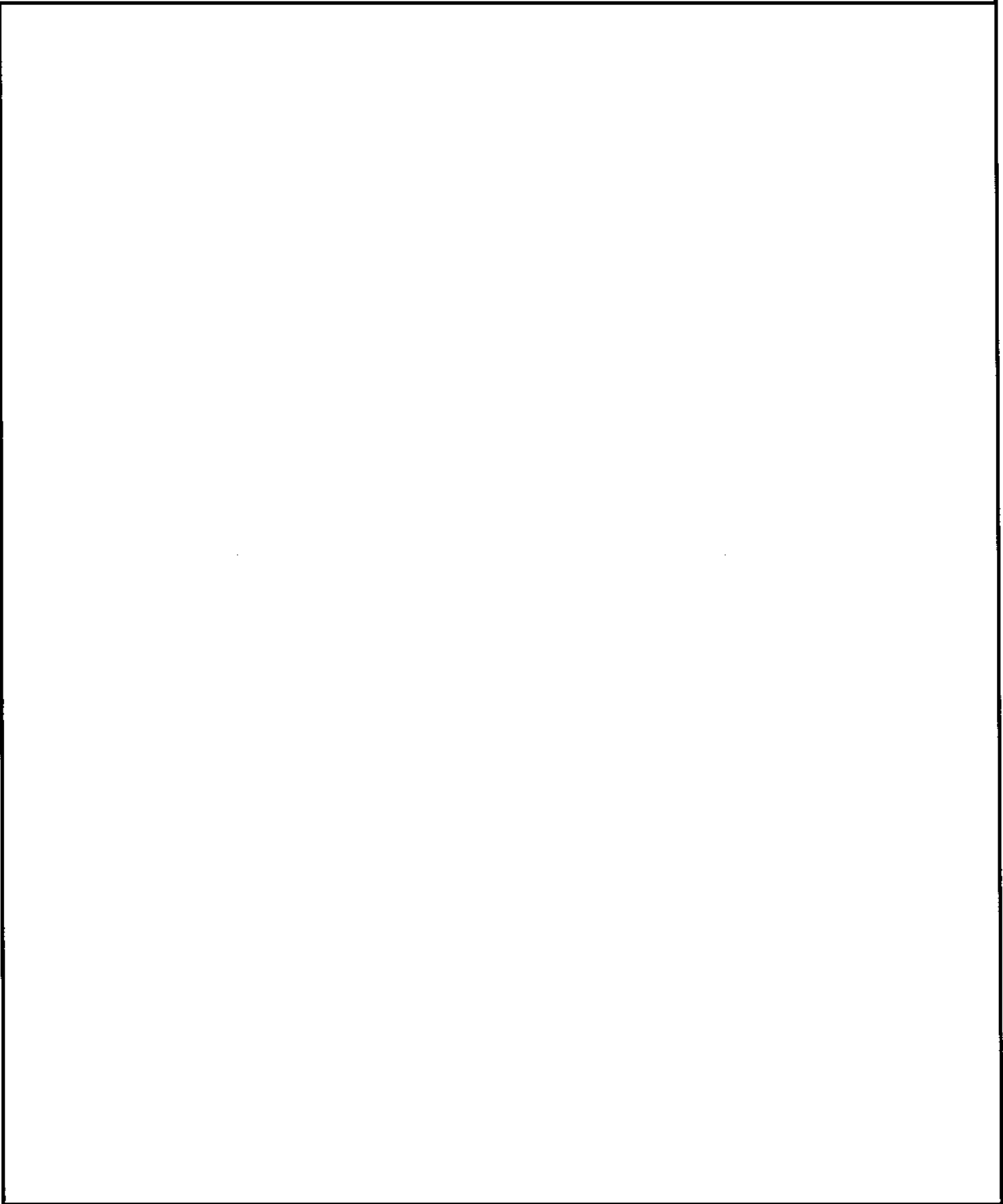
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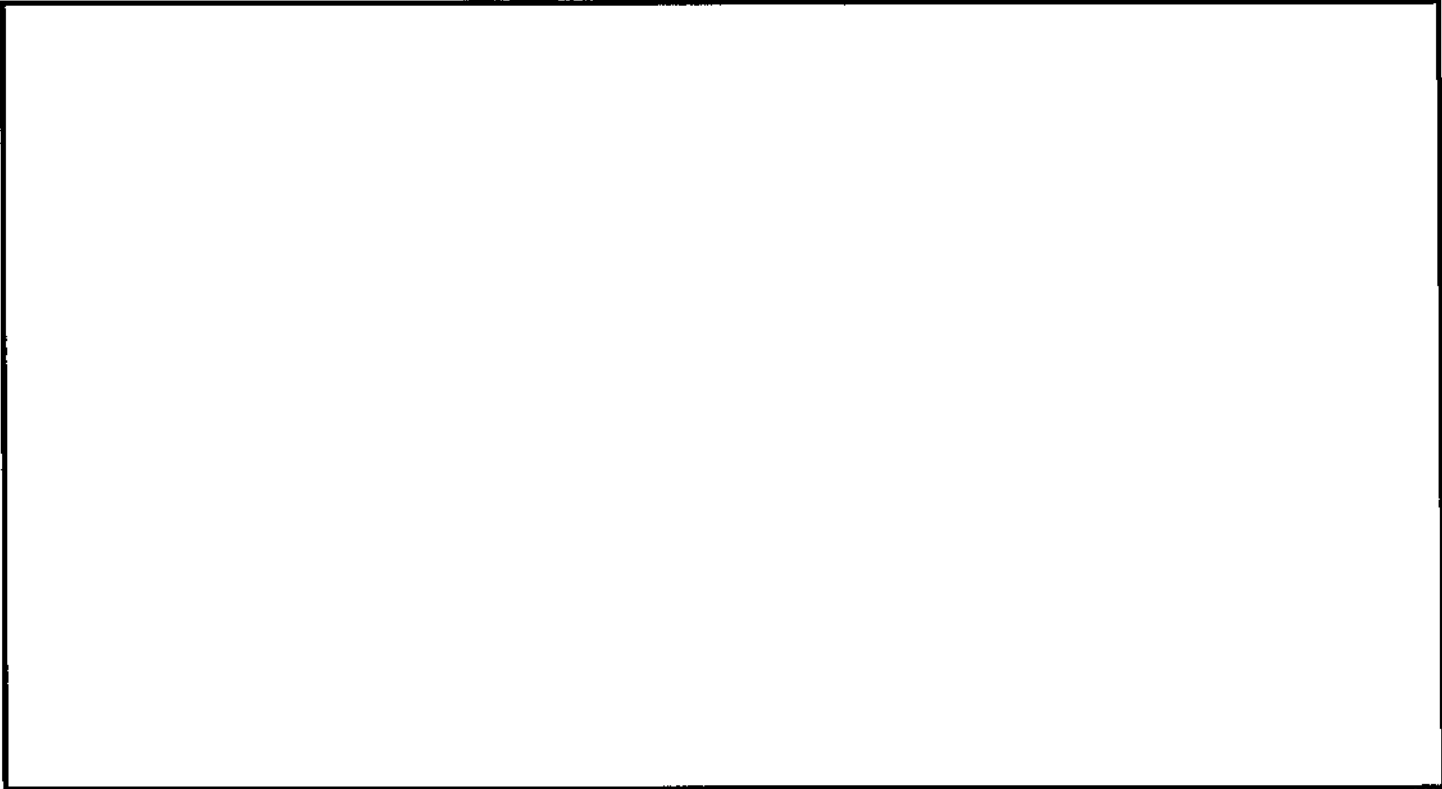
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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

7 August 2018

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THROUGH: Office of the DoD Senior Intelligence Oversight Official

SUBJECT: (U) Report to the Intelligence Oversight Board (IOB) on NSA Activities, Second Quarter, Calendar Year 2018 – INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President or otherwise stated in the enclosure, we have no reason to believe that any activity conducted under DIRNSA authority, direction, or control during the period ending 30 June 2018 was unlawful or contrary to Executive Order or Presidential Directive and, thus, should have been reported pursuant to Section 1.6 (c) of Executive Order 12333, as amended. This report summarizes questionable intelligence activities as well as other matters required to be reported to the IOB.

(U//~~FOUO~~) The NSA Intelligence Oversight Officer and the General Counsel continue to exercise oversight of Agency activities focused on achieving compliance with the laws and regulations for protecting privacy during the conduct of Agency operations.

[Redacted Signature]

PATRICK J. REYNOLDS
NSA Intelligence Oversight Officer

[Redacted Signature]

GLENN S. GERSTELL
General Counsel

(b) (6)

(U) I concur with the report of the NSA Intelligence Oversight Officer and the General Counsel and hereby make it our combined report.

Paul M. Nakasone
PAUL M. NAKASONE
General, U.S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

(U) This document may be declassified and marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" upon removal of enclosure(s).

Approved for Release by NSA on 06-17-2019, FOIA Case # 105767 (litigation)

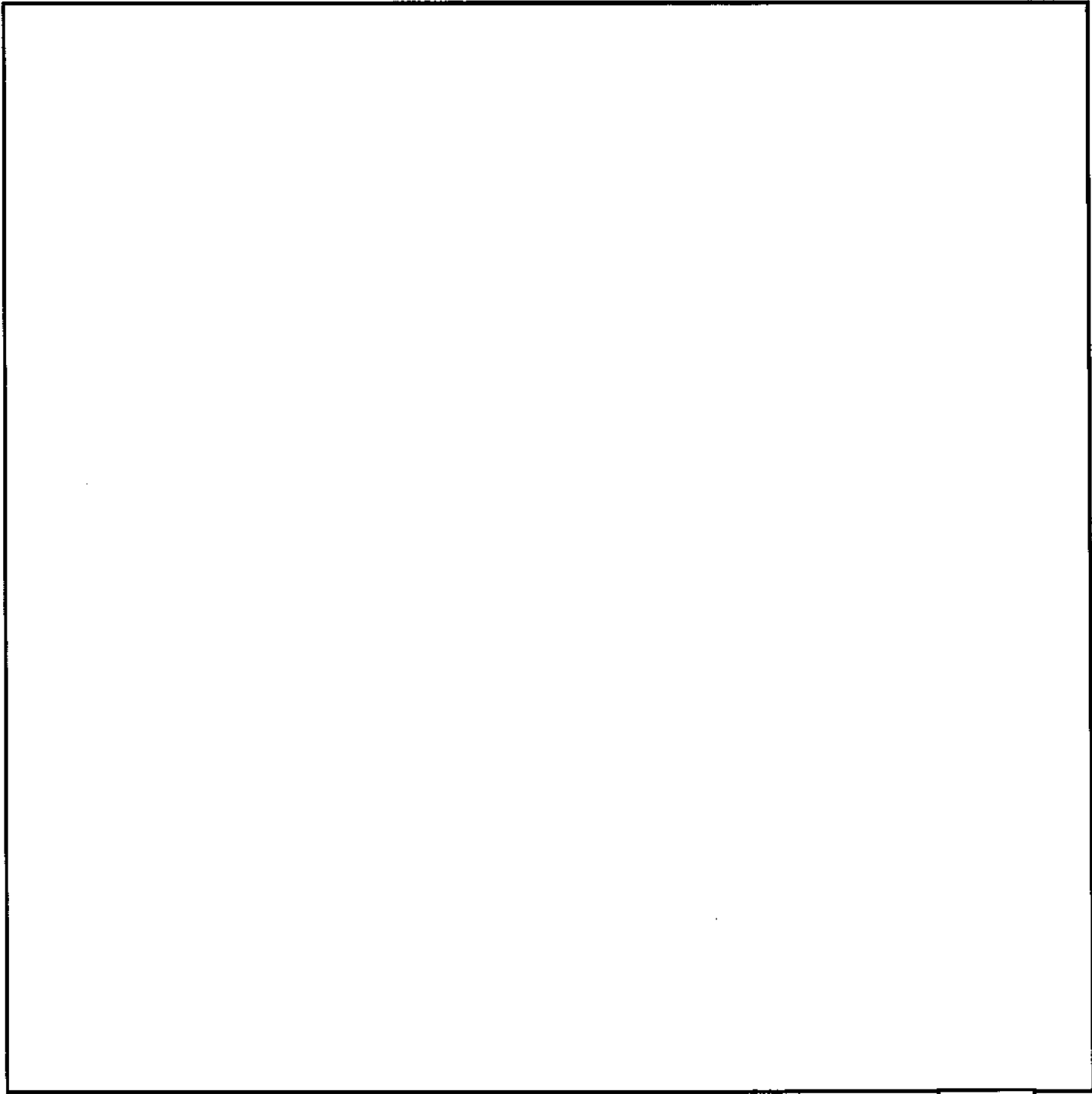
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(U) NSA SECOND QUARTER CY2018

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INTELLIGENCE OVERSIGHT REPORT



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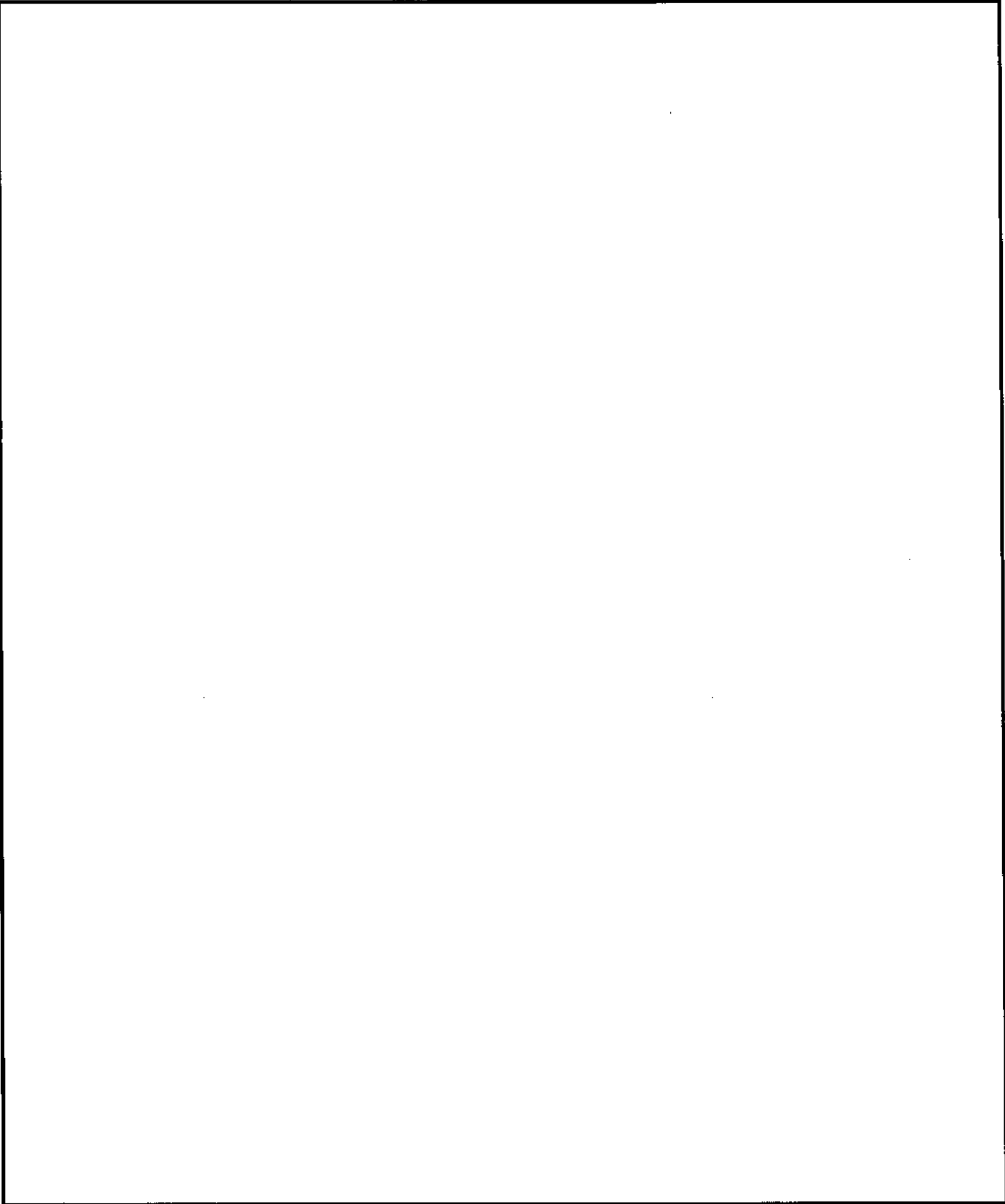
(b) (3) - P.L. 86-36

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Derived From: NSA CSSM 1.5
Dated: 20180110
Declassify On: ~~20470201~~

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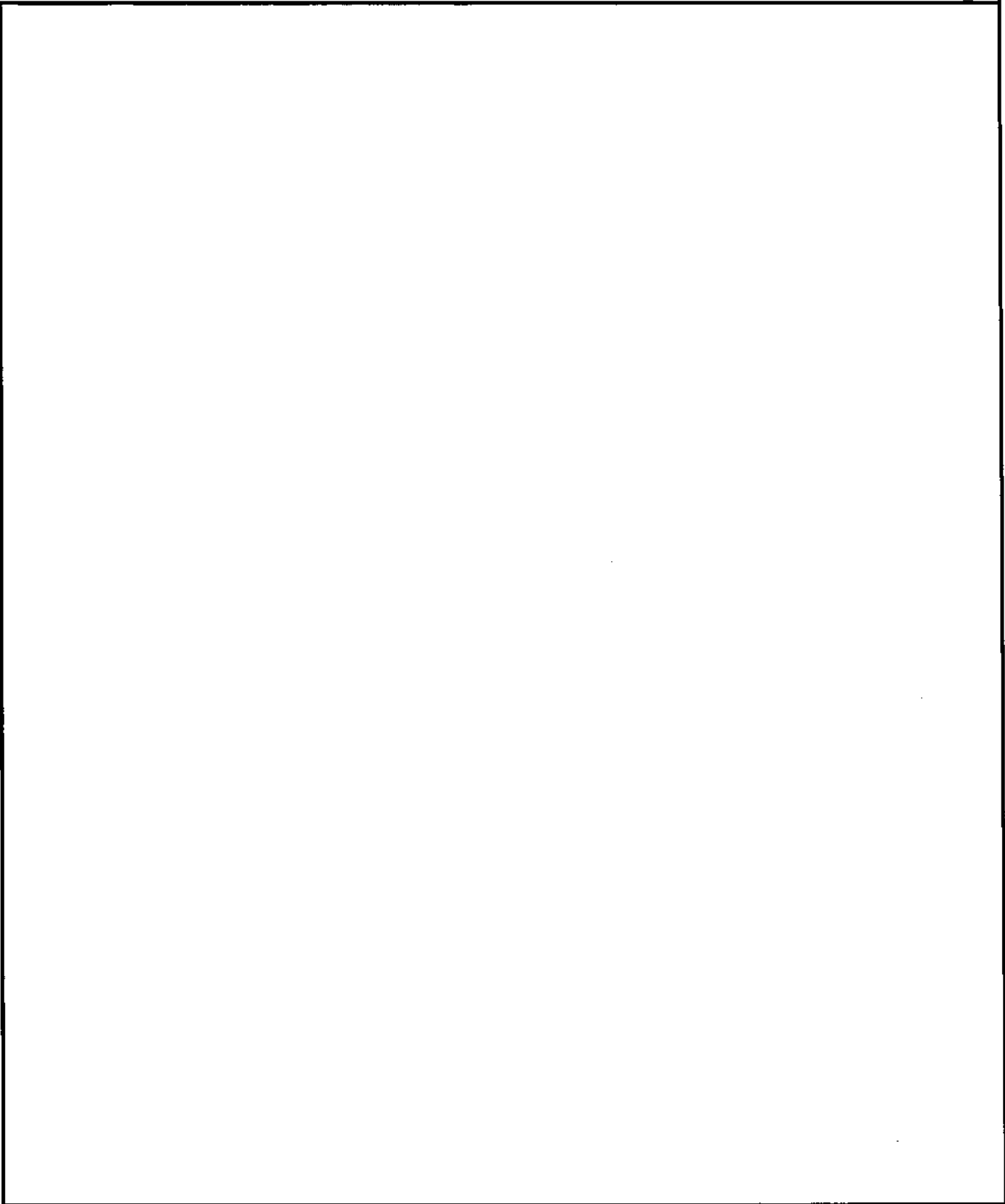
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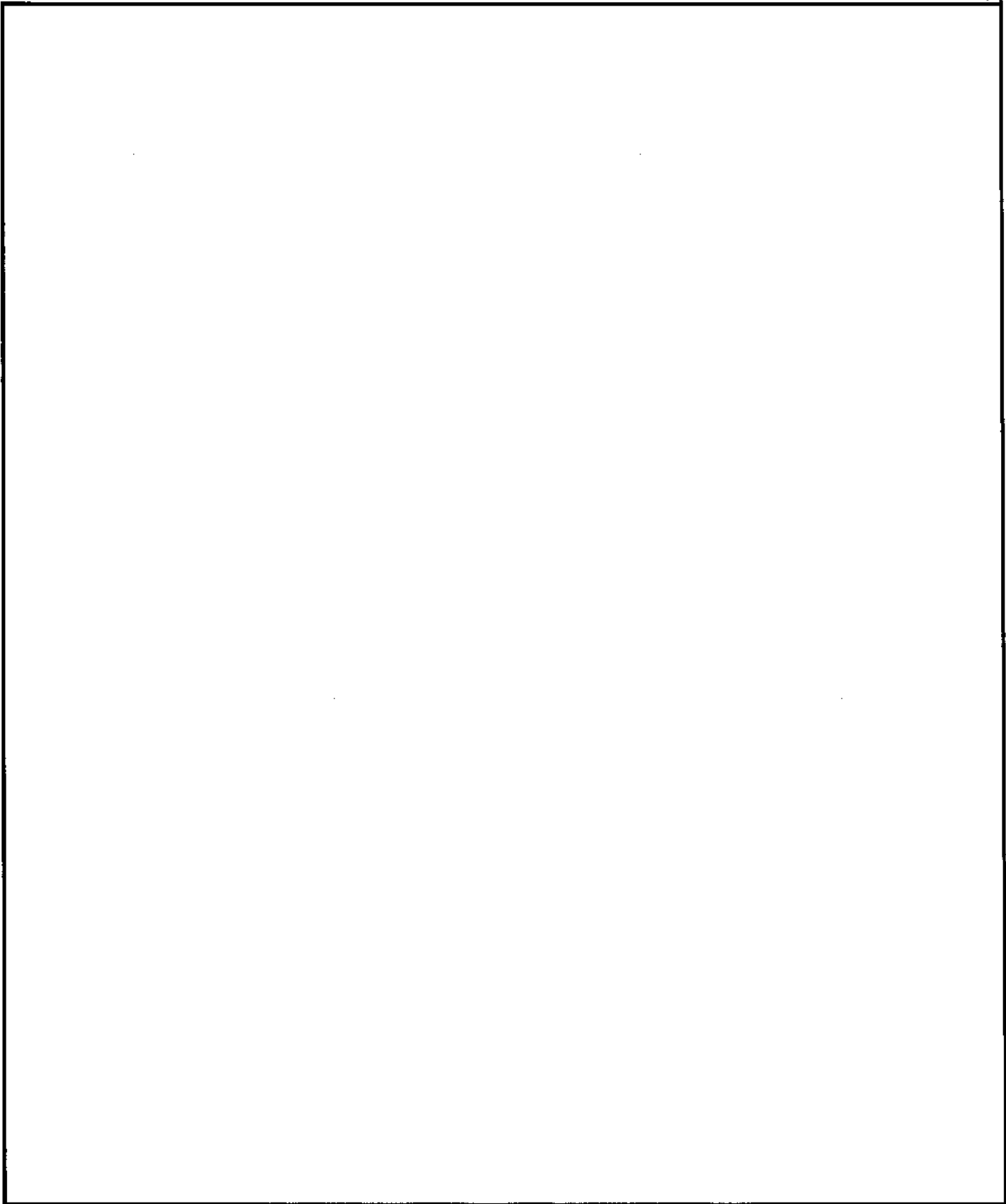
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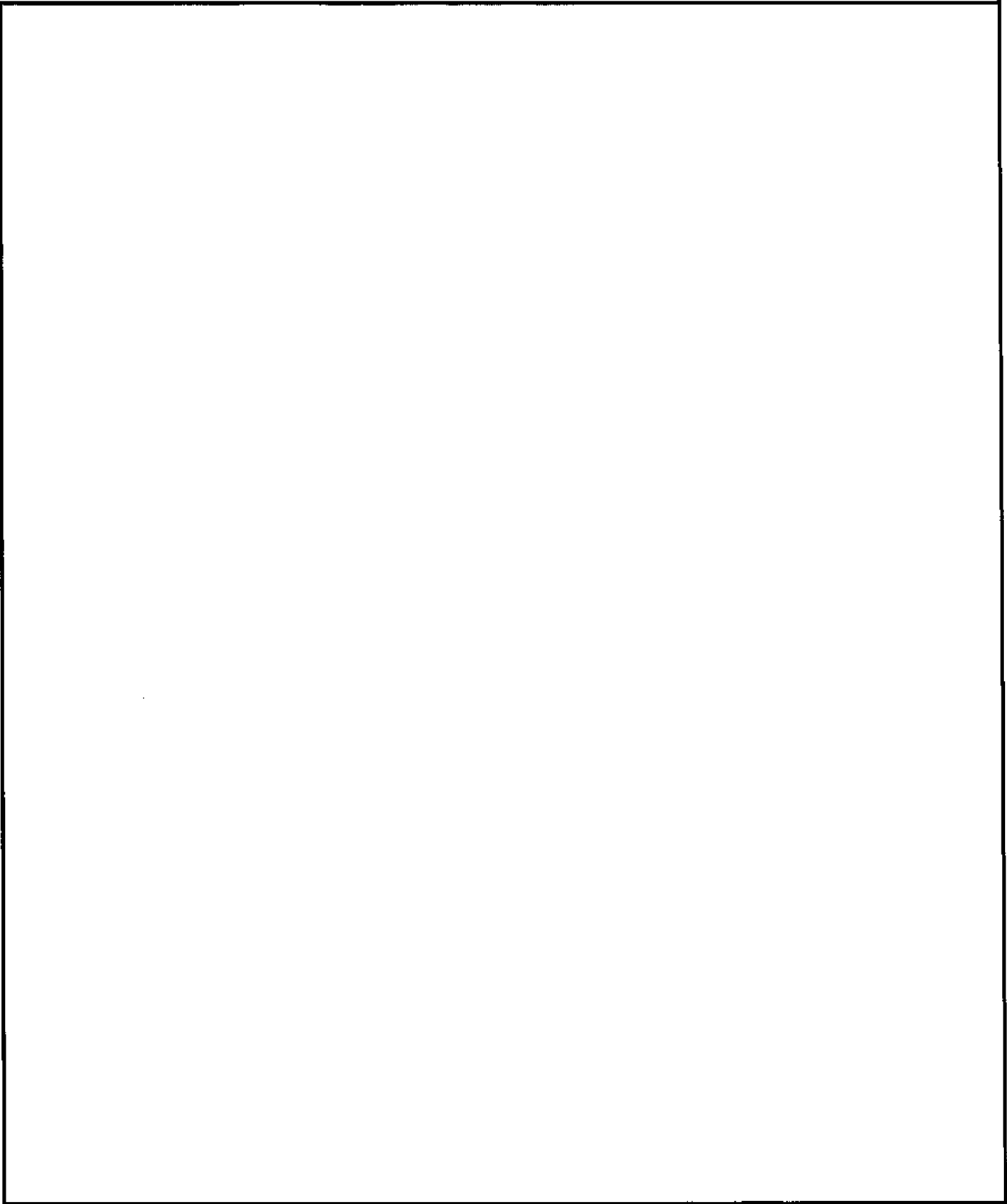
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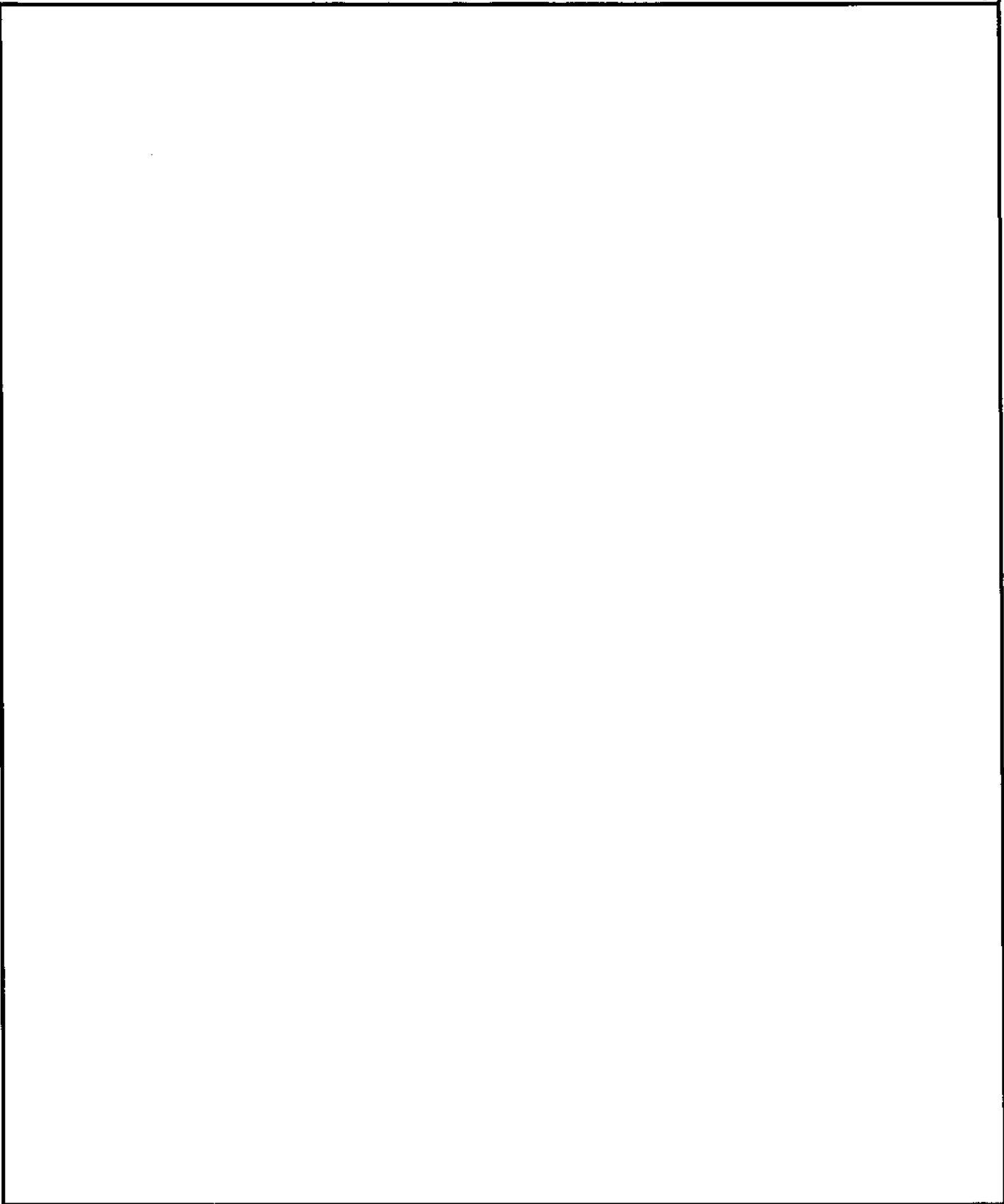
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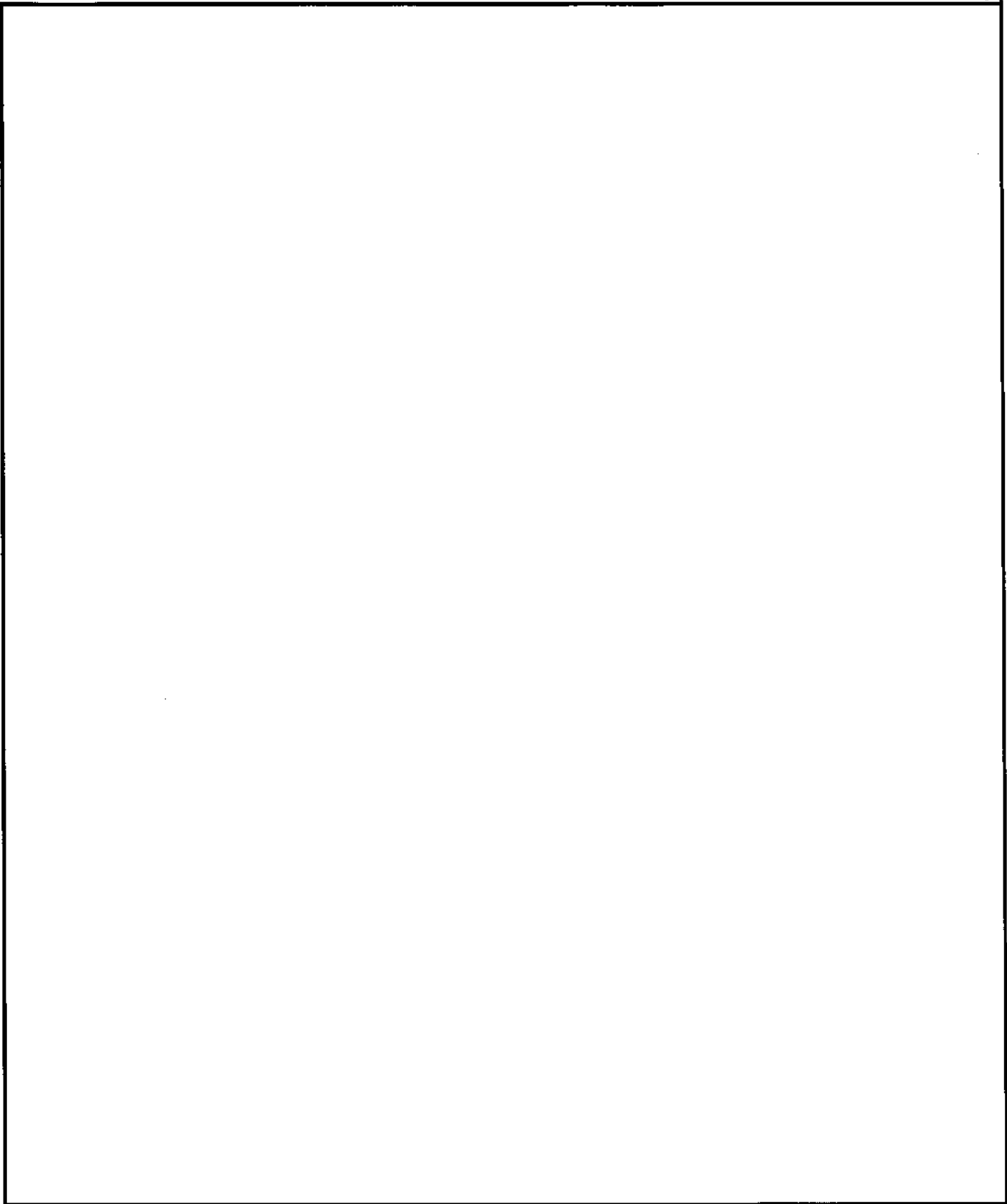
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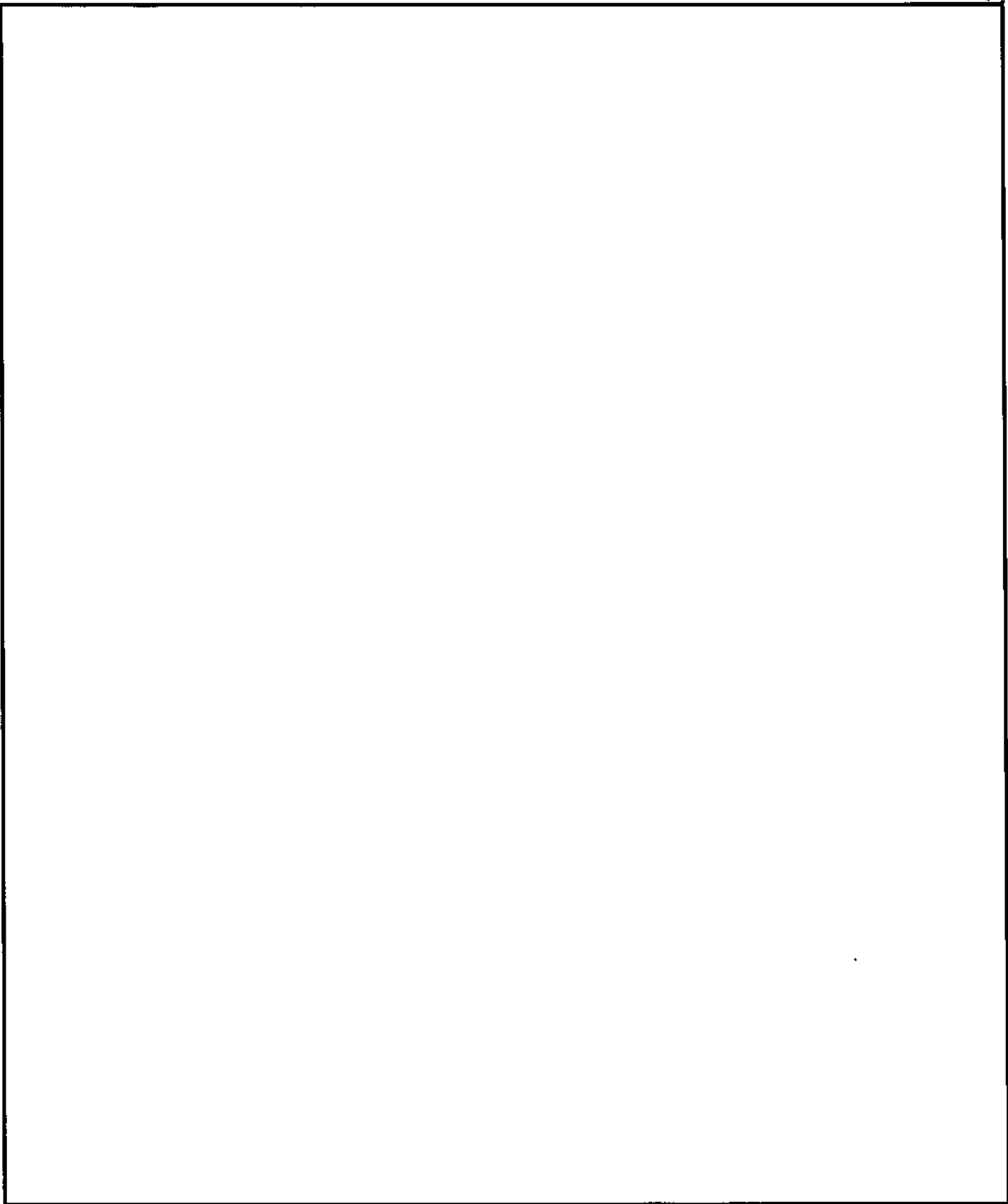
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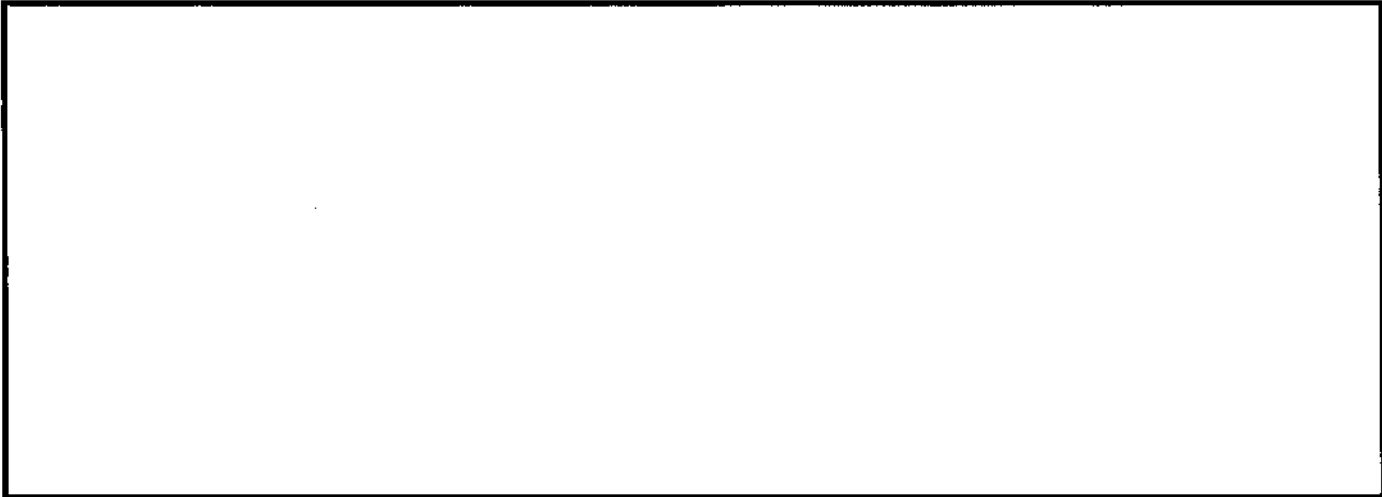
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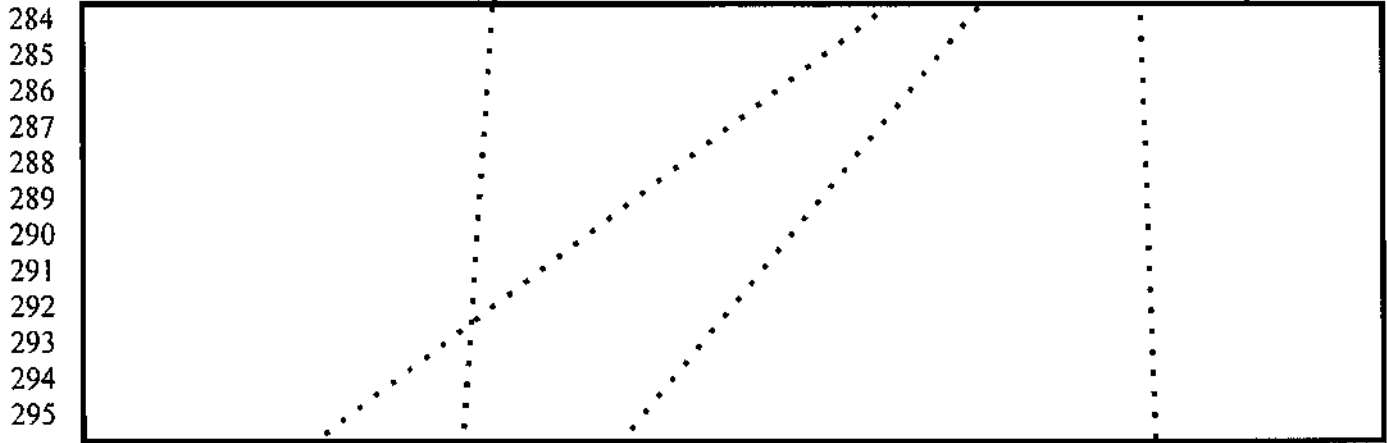
278 d. (U) File Number: NSA 2018-007-0

(b) (3) - P.L. 86-36

(b) (1)
(b) (3) - P.L. 86-36

279 (I) (U//FOUO) Incident Description: Compliance incident regarding call
280 records.

281 ~~(TS//SI//NF)~~ On or about [redacted] a provider [redacted] of call detail
282 records (CDRs) pursuant to USA FREEDOM ACT, 50 U.S.C. Section 1861 informed NSA that
283 its system had been incorrectly [redacted]



296 ~~(TS//SI//NF)~~ On 16 February 2018, NSA technical analysts examining [redacted]
297 [redacted] targeted production of CDRs observed an anomaly [redacted]
298 [redacted]
299 [redacted] At that time,
300 NSA continued to receive the provider's productions, but ceased making new requests and
301 forwarding CDRs produced by the provider to NSA corporate repositories accessible by
302 intelligence analysts. The provider later confirmed some of the records produced contained
303 inaccurate information. Investigation revealed that NSA relied upon some of the inaccurate
304 information in connection with requests to the FISC to [redacted] On
305 [redacted] the provider stopped the data flow.

(b) (1)
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~~(TS//SI//NF)~~ [Redacted]

(2) (U//~~FOUO~~) **Timeline:** Date(s) of incident: [Redacted]
Date(s) of incident reported in IRT: November 2017 and
23 February 2018
Date reported to DoD SIOO: 1 May 2018

(b) (3) -P.L. 86-36

(b) (1)
(b) (3) -P.L. 86-36

(3) (U//~~FOUO~~) **Reason for Report:** 50 U.S.C. Section 1861(b)(2)(C)(ii) limits data that can be sought (and therefore collected) to that pertaining to a "foreign power engaged in international terrorism or activities in preparation therefor, or an agent of a foreign power engaged in international terrorism or activities in preparation therefor." While NSA lawfully sought data pertaining to a foreign power engaged in international terrorism, [Redacted] produced inaccurate data and data beyond that which NSA sought.

(4) (U//~~FOUO~~) **Cause:** This incident occurred as a result of technical errors [Redacted]. There was nothing in the substance of the CDRs that would have alerted NSA targeting analysts to this problem as the information was being collected. Rather, it was NSA technical analysts' observations of anomalies in certain CDRs that led them to investigate further [Redacted].

(5) (U//~~FOUO~~) **Impact on National Security or International Relations:** None.

(6) (U//~~FOUO~~) **Impact on Civil Liberties or Privacy:** The CLPT assesses that the incident had a significant impact on civil liberties and privacy. A determination was made to delete all the CDRs and any associated reporting. NSA began deleting all CDRs acquired [Redacted] under Title V of the FISA.

(7) ~~(TS//SI//NF)~~ **Remedial Action:** On 23 May 2018, NSA began deleting all call detail records (CDRs) acquired [Redacted] under Title V of the FISA. Because [Redacted] have informed NSA that the issue has been remediated, NSA believes that CDRs delivered after 23 May 2018 will not contain these errors. NSA has reviewed all intelligence reports based on USA FREEDOM Act CDR data and has recalled and reissued one report to correct erroneous

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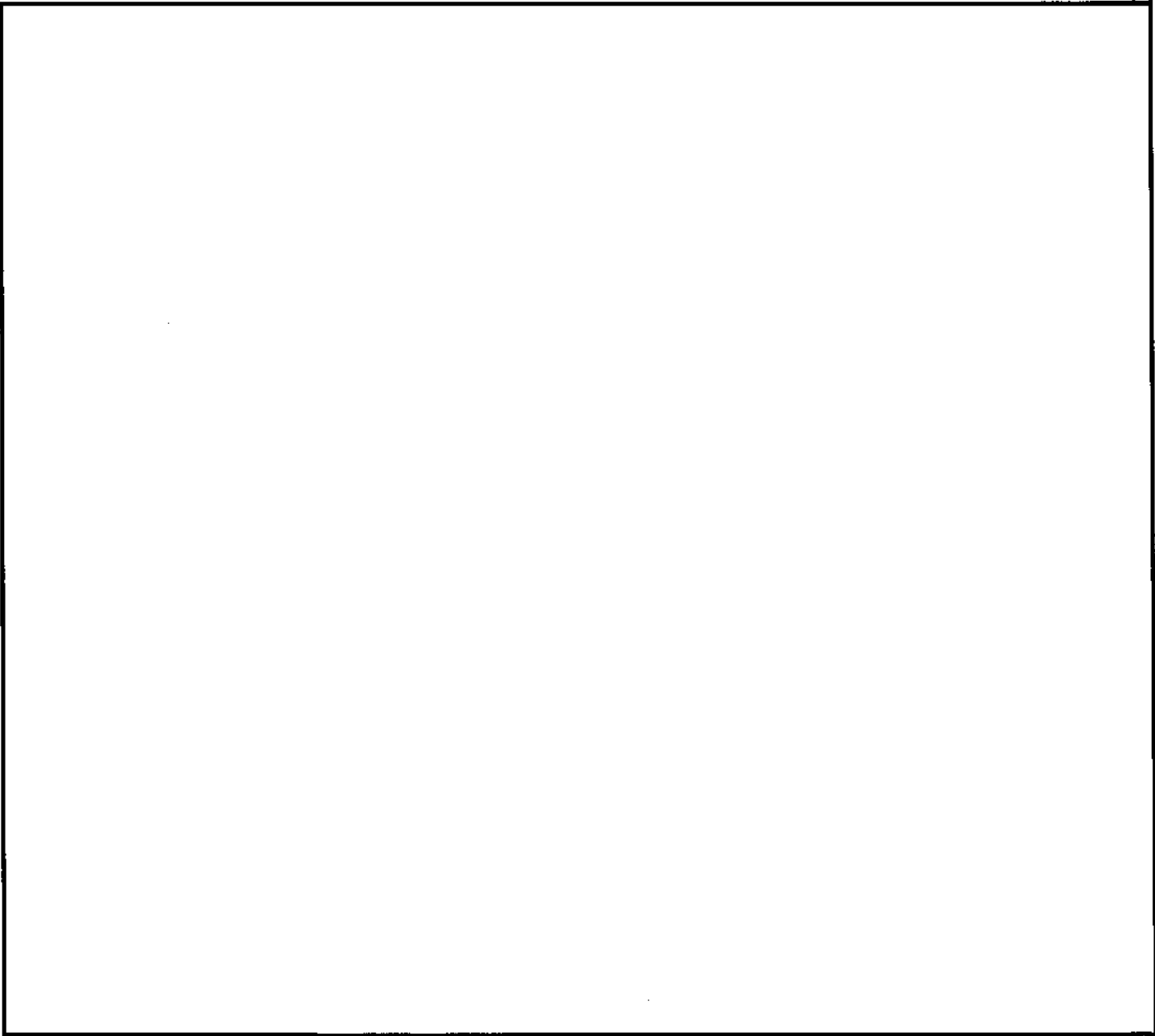
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347 information. In addition, NSA relied on the inaccurate information in targeting requests for
348 approved by the FISC, and notified the court of such.

349 (8) (U) **Additional Information:** NSA notified the congressional intelligence
350 committees of this incident on 10 April 2018. DoJ notified the FISC about the details of this
351 matter as they became available on 22 November 2017, 5 March 2018, 11 April 2018, and
352 4 June 2018. This matter has also been reported to the Privacy and Civil Liberties Oversight
353 Board (PCLOB). NSA also reported this matter publicly.

354 (9) (U) **Status:** Closed/substantiated.

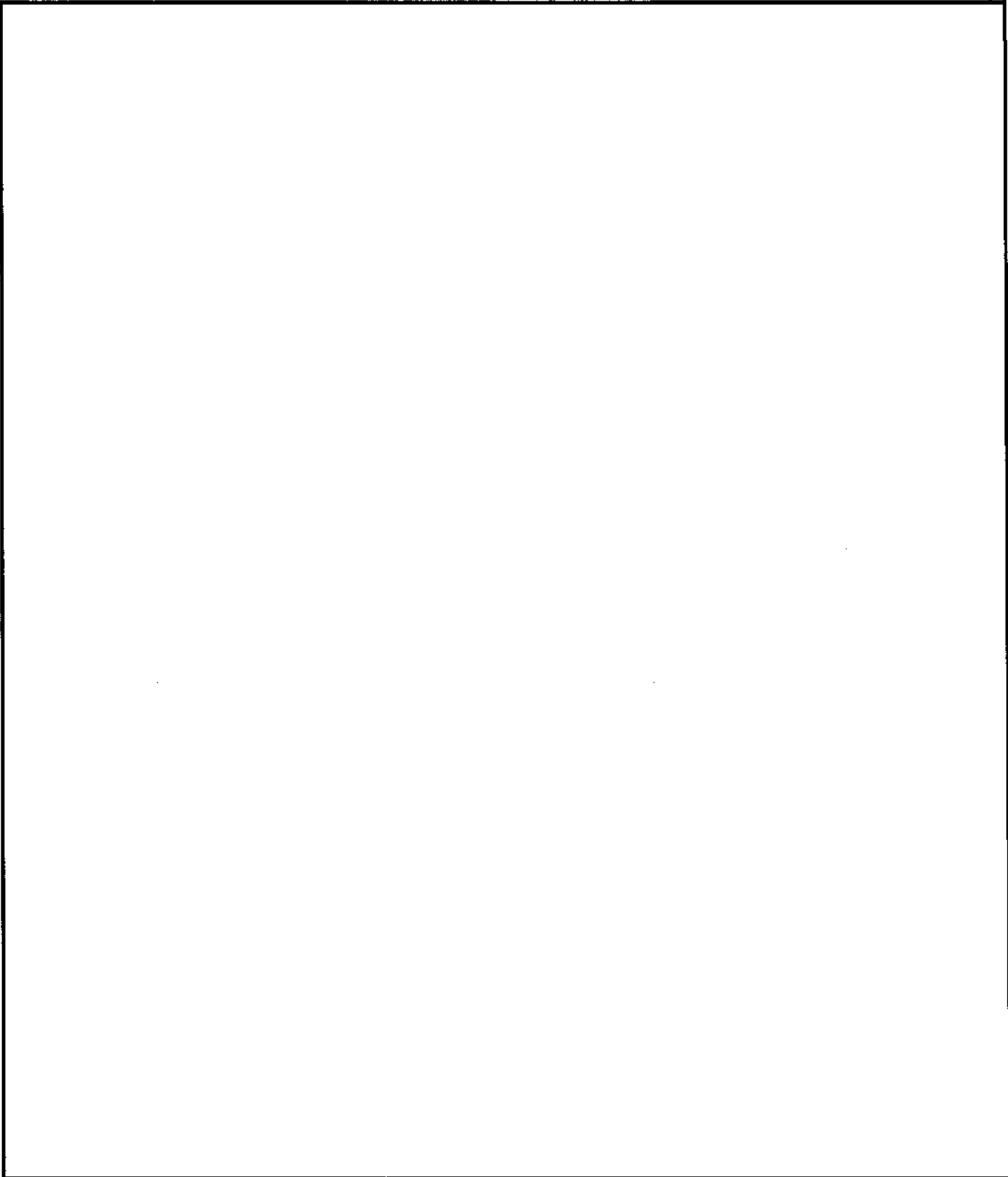
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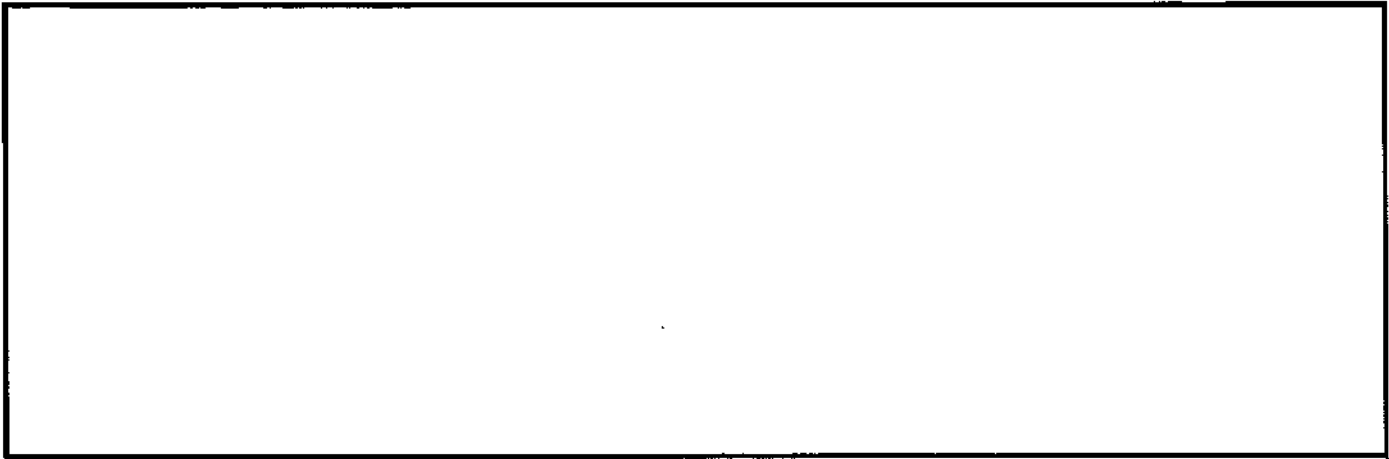
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