



# CSOSA

OFFICE OF GENERAL COUNSEL

October 28, 2021

*Sent via email*

Ms. Jade Chong-Smith  
MuckRock News  
Dept MR 72206  
411A Highland Ave  
Somerville, MA 02144-2516

Re: Freedom of Information Act (FOIA) -22-FOIA-00003 – Final Response

Dear Ms. Chong-Smith

This is in final response to your FOIA request to the Court Services and Offender Supervision Agency (CSOSA) for a copy of the following records:

- All statements of the general course and method, rules of procedure, substantive rules of general applicability adopted as authorized by law, statements of general policy or interpretations of general applicability formulated and adopted, and each amendment, revision, or repeal of the foregoing, regarding the pretrial drug testing of arrestees in the District of Columbia, including but not limited to the drug testing of arrestees prior to arraignment.
- This requests includes the policies, rules, and procedures for testing and measuring an arrestee's use of drugs, what specimen or sample is collected, how much of that specimen or sample is collected, how the specimen or sample is collected, what drugs are tested for, how the drugs are tested, what error rates apply for each drug (such as the rate of false positive and false negatives), how screening is to be done for lawfully prescribed medications, what is done to avoid cross-contamination, what is done to keep track of each specimen or sample, chain of custody, how chain of custody is recorded, what paperwork and forms are to be completed, how such information is stored, retained, and transmitted, and for how long, and any other information regarding the procedure and methods of pretrial drug testing of arrestees in the District of Columbia.
- All administrative staff manuals and instructions to staff regarding the pretrial drug testing of arrestees in the District of Columbia.
- Copies of all records, regardless of form or format regarding the procedure for pretrial drug testing of arrestees in the District of Columbia (i) that have been released to any person under 5 U.S. Code § 552, paragraph (3); and (ii) (I) that because of the nature of their subject matter, the agency determines have become or are likely to become the

subject of subsequent requests for substantially the same records; or (II) that have been requested 3 or more times.

Your request has been processed in accordance with the FOIA, 5 U.S.C. § 552.

Pursuant to your request, we conducted a search of agency records and located and herewith attach five hundred and eighty-one (581) pages responsive to your request.<sup>1</sup> It has been determined that some portions of these records contain third party information, i.e., names, email addresses, telephone numbers and law enforcement information that have been withheld from the enclosed records. Three exemptions of the FOIA was relied upon to withhold this information.

The first applicable exemption, 5 U.S.C. § 552(b)(6), exempts from required public disclosure, “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Some of the records you have requested contain “similar files” within the meaning of the above cited statutory language. In applying Exemption 6, a balancing test was conducted, weighing the privacy interests of the individuals named in a document against the public interest in disclosure of the information. The public interest in disclosure is one that “sheds light on an agency’s performance of its statutory duties.” *Dep’t of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). CSOSA is withholding names, email addresses, signatures, and telephone numbers from the enclosed records. The FOIA Officer has determined disclosure would constitute a clearly unwarranted invasion of an individual’s personal privacy.

The second applicable exemption, 5 U.S.C. 552(b)(7)(C) provides protection for personal information in law enforcement records, the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. CSOSA is withholding names, email addresses, telephone numbers, and signatures from the enclosed records. The FOIA Officer has determined disclosure of this information would constitute a clearly unwarranted invasion of an individual’s personal privacy.

The third applicable exemption, 5 U.S.C. § 552(b)(7)(E), protects records or information compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. As the Agency’s FOIA Officer, I have determined that disclosure of this information could be reasonably be expected to risk techniques and circumvention of the law. Additionally, the techniques and procedures at issue are not known to the public.

Since this constitutes a partial denial of your records request, I am providing you your administrative appeal rights in the event you wish to avail yourself of this process. The FOIA provides at 5 U.S.C. §552(a)(6)(A)(i) (2014) amended by FOIA Improvement Act of 2016,

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<sup>1</sup> Please be advised at this time that due to the Federal Government’s response to COVID-19, contrary to the enclosed general guidelines for escorting defendants for drug testing, the Drug Testing Technician (DTT) who checks the defendant in can under PSA’s temporary COVID-19 procedures also be the same DTT who escorts that person.

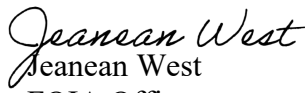
Pub. L. No. 114-185, 130 Stat. 538 that if a FOIA request is denied in whole or in part by the FOIA Officer, the requester may file a written appeal within 90 days from the date of the denial or, if later (in the case of a partial denial), 90 days from the date the requester receives the disclosed material. Your appeal shall be addressed to the General Counsel, Court Services and Offender Supervision Agency, 800 North Capitol Street, NW, Seventh Floor, Suite 7200, Washington, D.C. 20002 and must be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response to attempt to resolve any dispute without going through the appeals process, please contact me at (202) 220-5748 or by email at [jeanean.west@csosa.gov](mailto:jeanean.west@csosa.gov). In the alternative, you may also contact Willis Stamps, Supervisory Assistant General Counsel, and CSOSA FOIA Public Liaison for further assistance and to discuss any aspect of your request. Mr. Stamps can be reached by telephone at (202) 220-5468 or by email: [Willis.Stamps@csosa.gov](mailto:Willis.Stamps@csosa.gov).

You also have the option to contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov) or call toll free at 1-877-684-6448; or facsimile at 202-741-5769.

This is our final response and completes the processing of your request. There were no fees associated with the processing of your request. You may submit future requests by accessing <https://www.foia.gov>.

Sincerely,

  
Jeanean West  
FOIA Officer  
Office of the General Counsel

Enclosures

# Drug Testing Compliance Unit

## I. General Guidelines

The Drug Testing and Compliance Unit (DTCU) is responsible for administering drug surveillance tests for defendants arrested and charged with a criminal offense and respondents and individuals ordered into testing by the Family Court Division. The Unit is comprised of Assistant Pretrial Services Officers (APSOs) and Drug Testing Technicians (DTTs)

The APSO performs the following tasks:

- Investigates and documents respondent arrests and adjudications in (b) (7)(E) [REDACTED]
- (b) (7)(E) [REDACTED];
- Reviews release conditions with the defendant; and
- Conducts Failure to Appear and Bench Warrant investigations
- Investigates and updates information regarding defendants who fail to report for placement and evaluation drug tests;
- Assists with the resolution of outstanding bench warrants; and
- (b) (4), (b) (7)(E) [REDACTED].
- Performs all of the duties of the DTT listed below as needed

The DTT performs the following tasks:

- Collects urine specimens from defendants and respondents in the courthouse cellblocks;
- Collects urine specimens from six locations: DCSC adult and juvenile cellblocks, C-220, C-210, behind the courtrooms and in USDC's cellblock;
- Processes defendants, respondents and family matters with drug testing conditions;
- Provides defendants with drug testing instructions;
- Provides testimony about relevant drug testing and chain-of-custody information (b) (7)(E) [REDACTED]
- Refers defendants to the supervising A/PSO when there are drug testing violations;
- Assists with monitoring a defendant's drug testing condition, reporting condition, address verification and confirming upcoming court dates;

*Procedures for Opening and Closing the DTCU*

(b) (7)(E)



(b) (7)(E)

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### *Critical Incidents in the DTCU*

Defendants may be uncooperative or unruly while reporting to the DTCU. PSA requires that all staff treat defendants with diplomacy and respect, despite problems and issues that may arise. When dealing with an uncooperative defendant, the DTTs calmly remind the defendant of the purpose of their visit and that failure to submit a specimen may result in a possible violation of a court-ordered release condition.

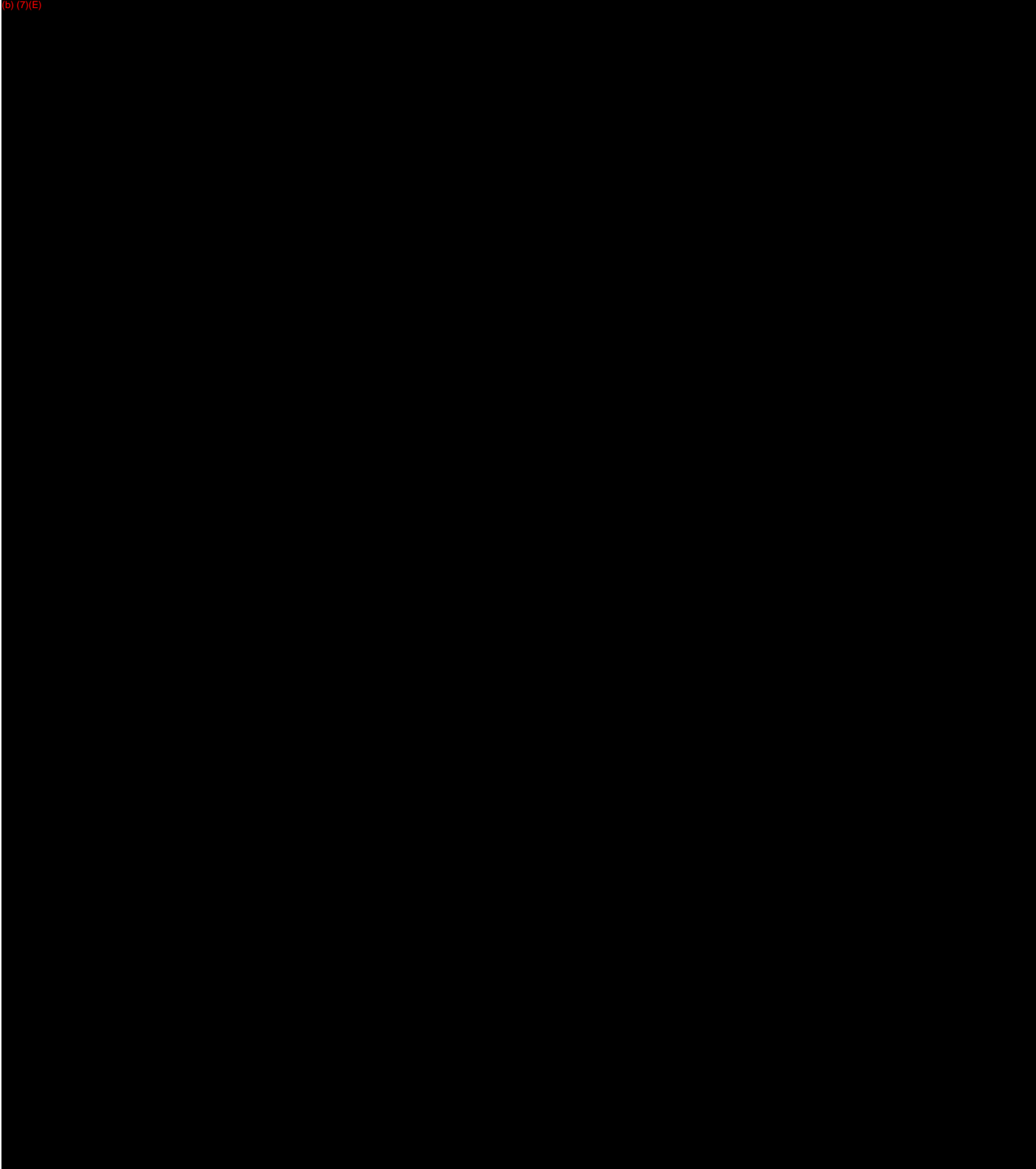
(b) (7)(E)

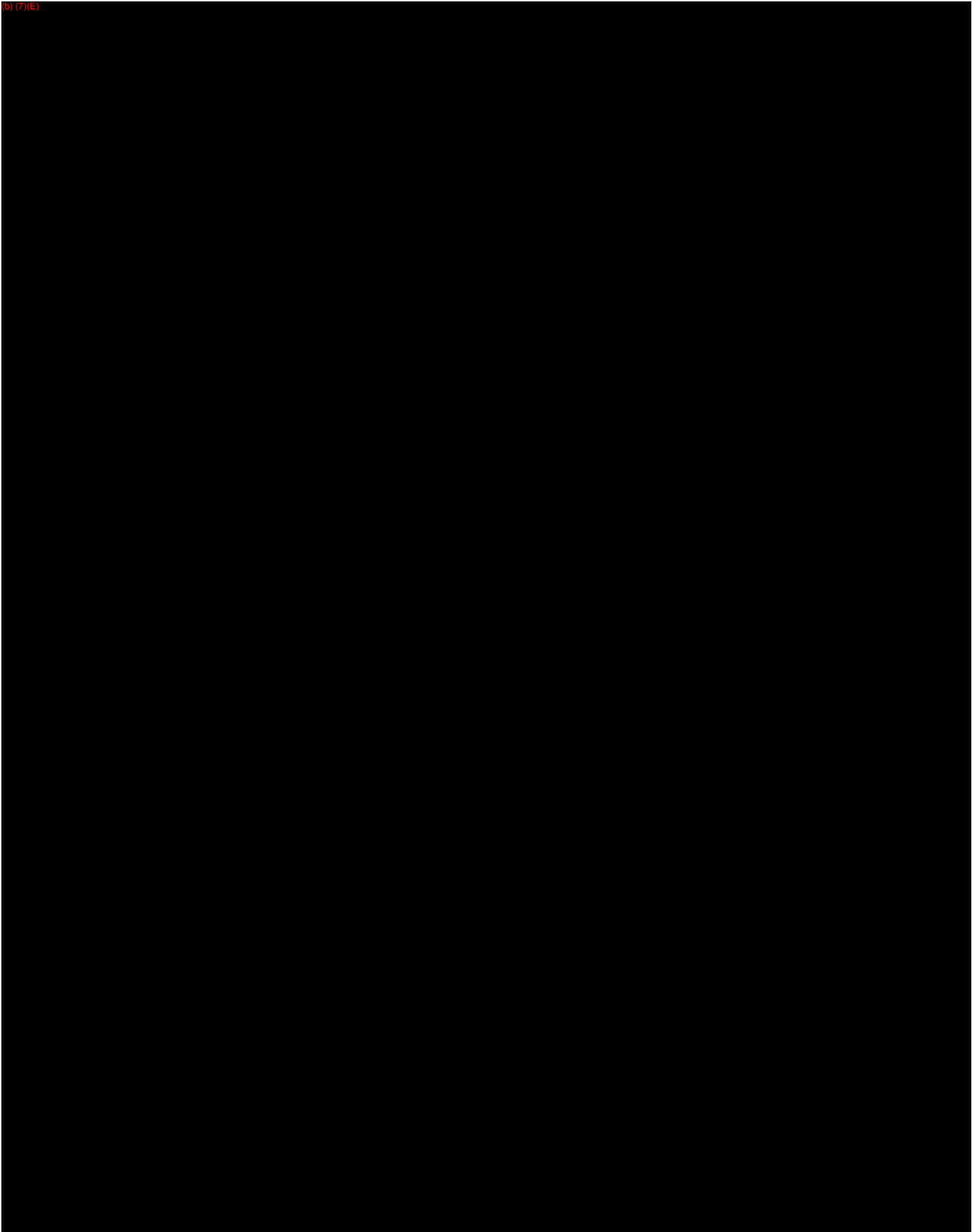
(b) (7)(E)

## **II. Cellblock Collections**

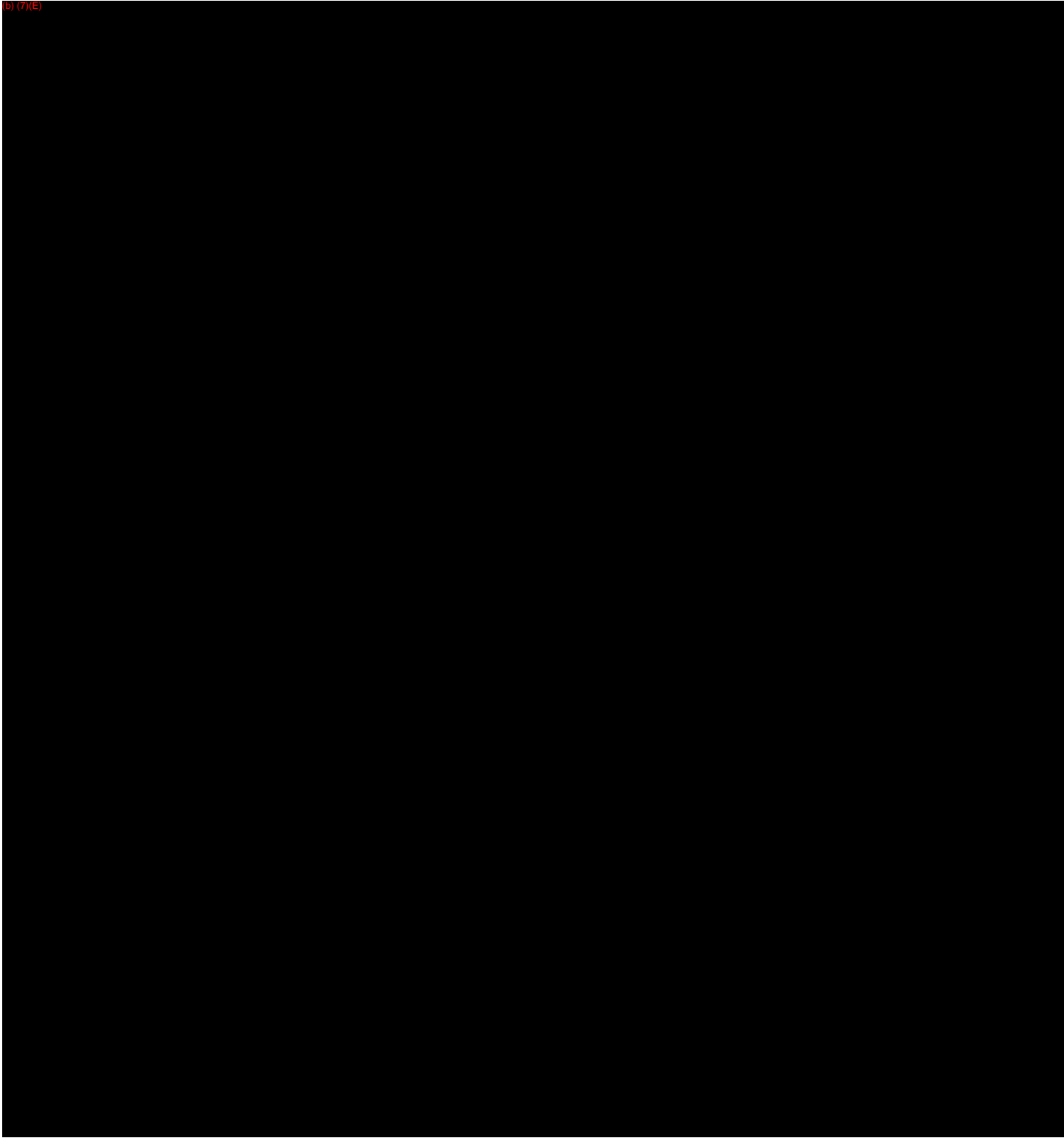
DTTs collect urine specimens from adult (female and male) defendants in the DCSC and USDC cellblocks and from (male and female) respondents in the at-risk detention cellblock. Collections are made throughout the day until the cut-off time. Both, the DCSC and USDC do not conduct cellblock operations on Sundays.

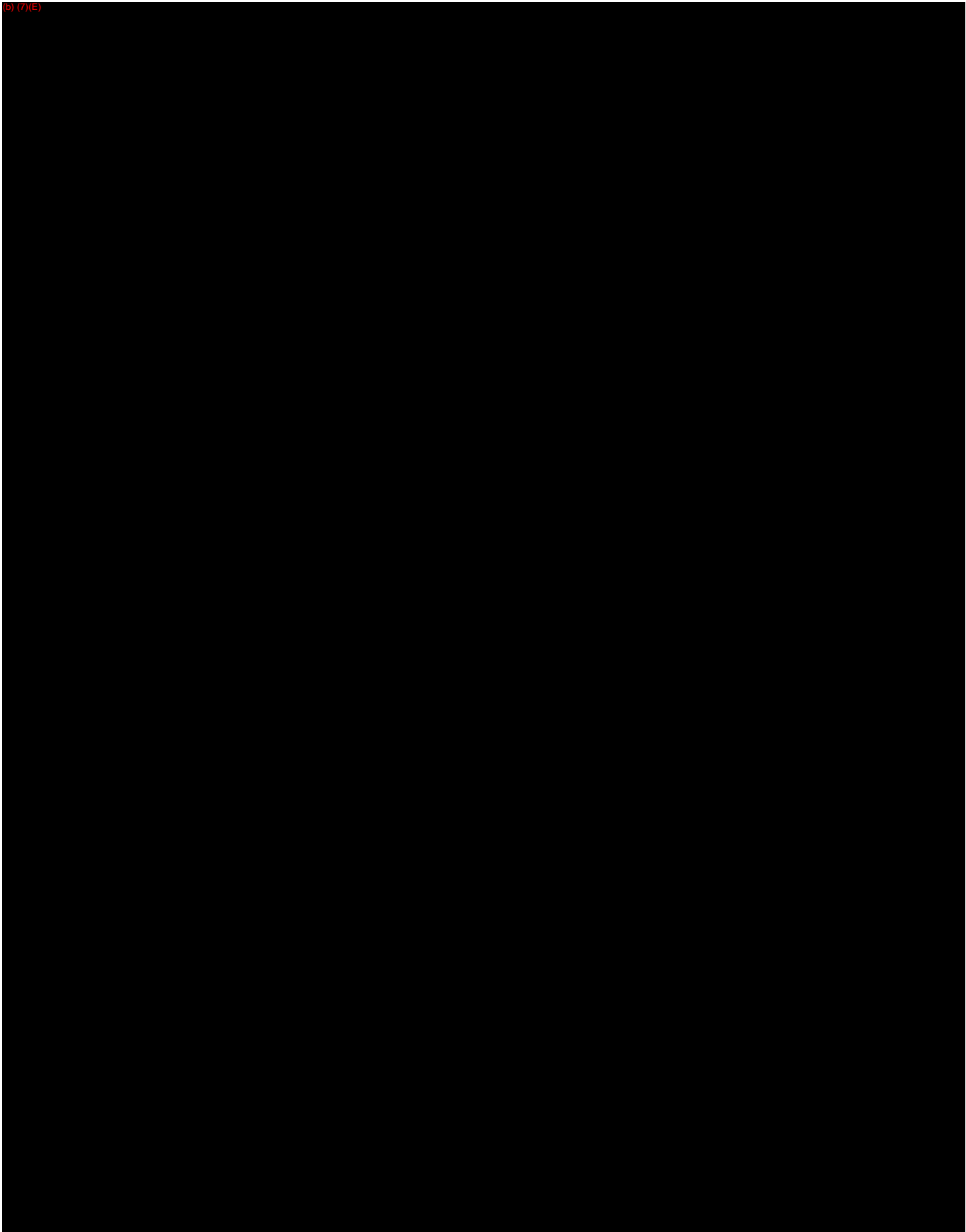
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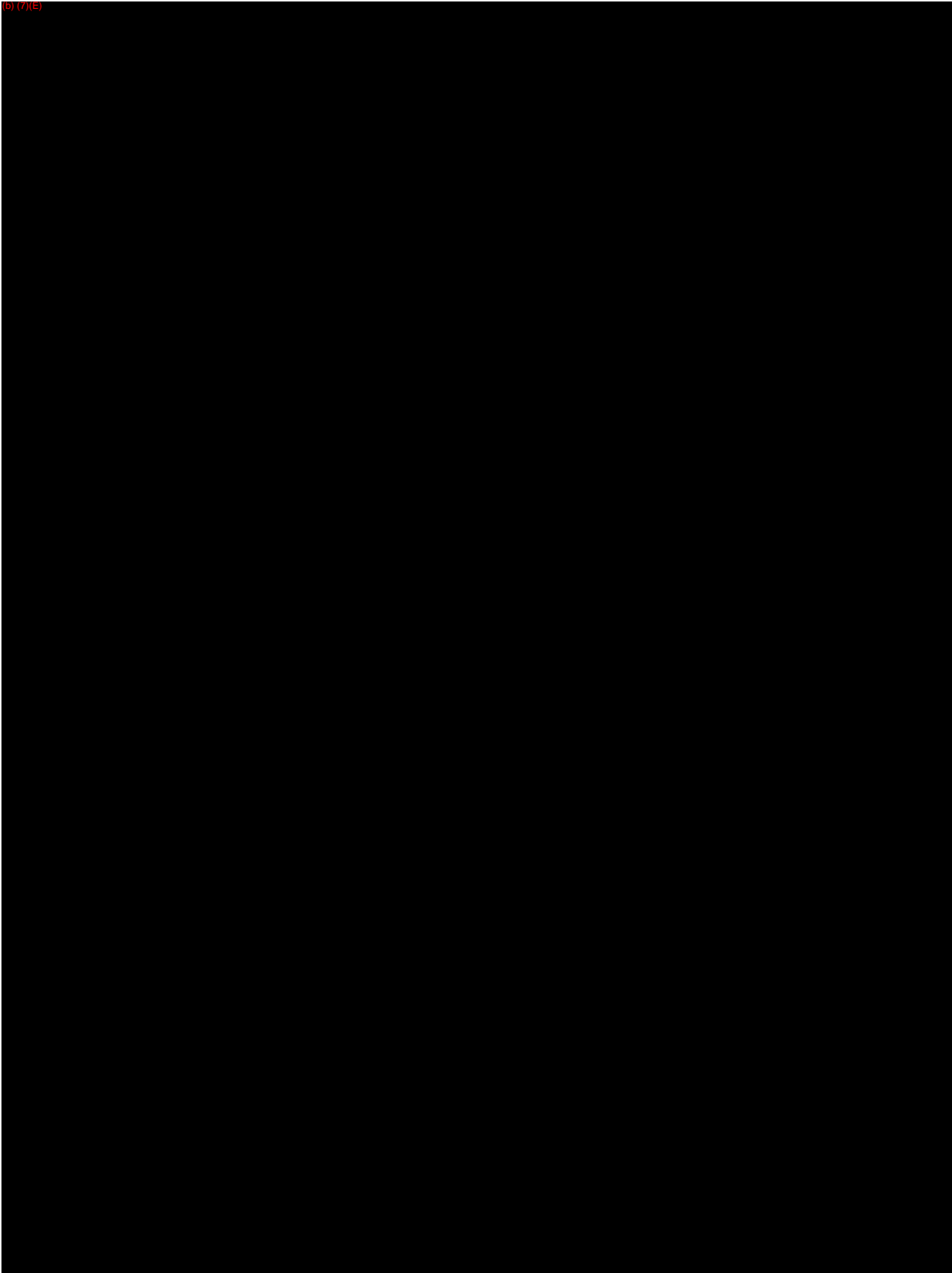


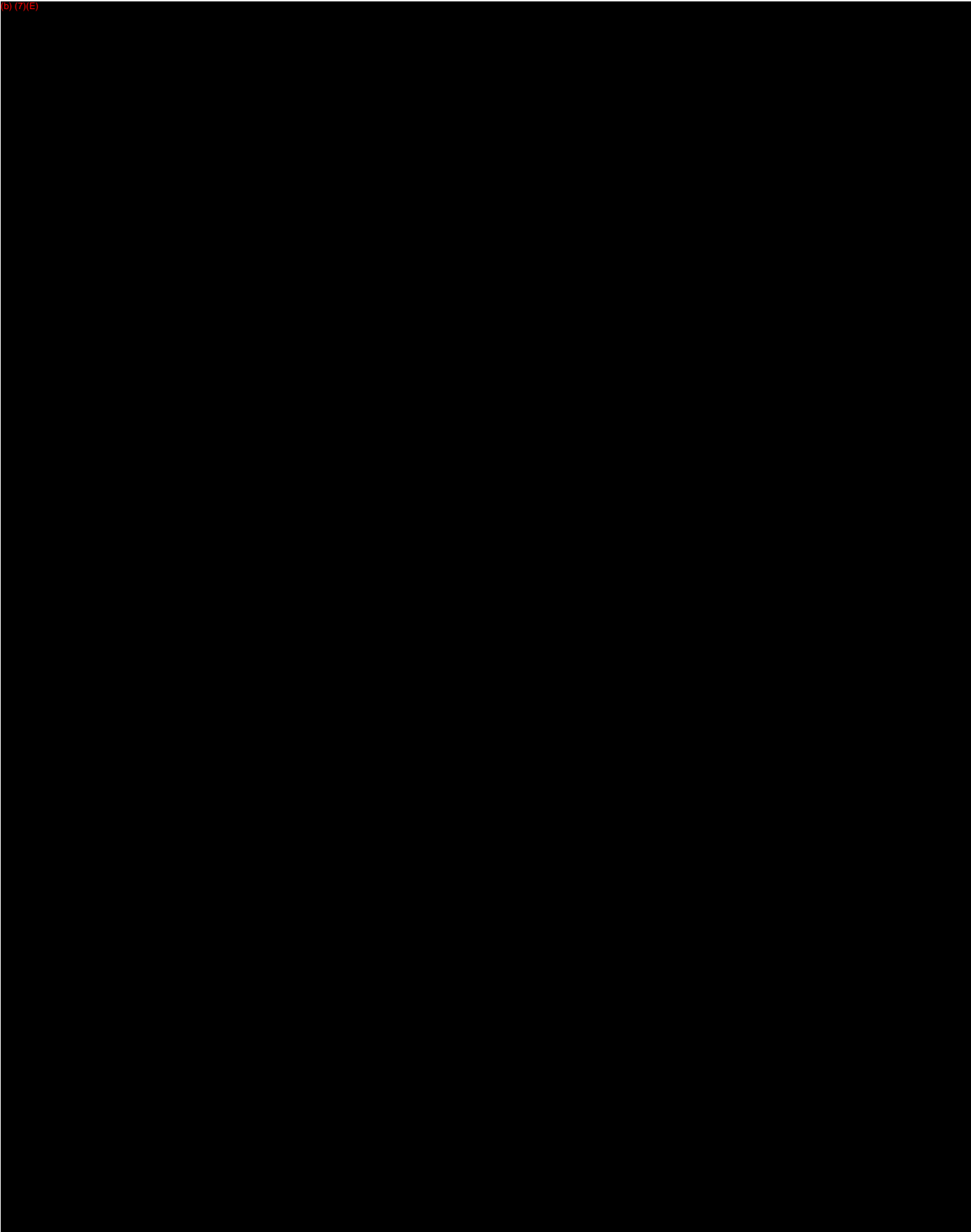


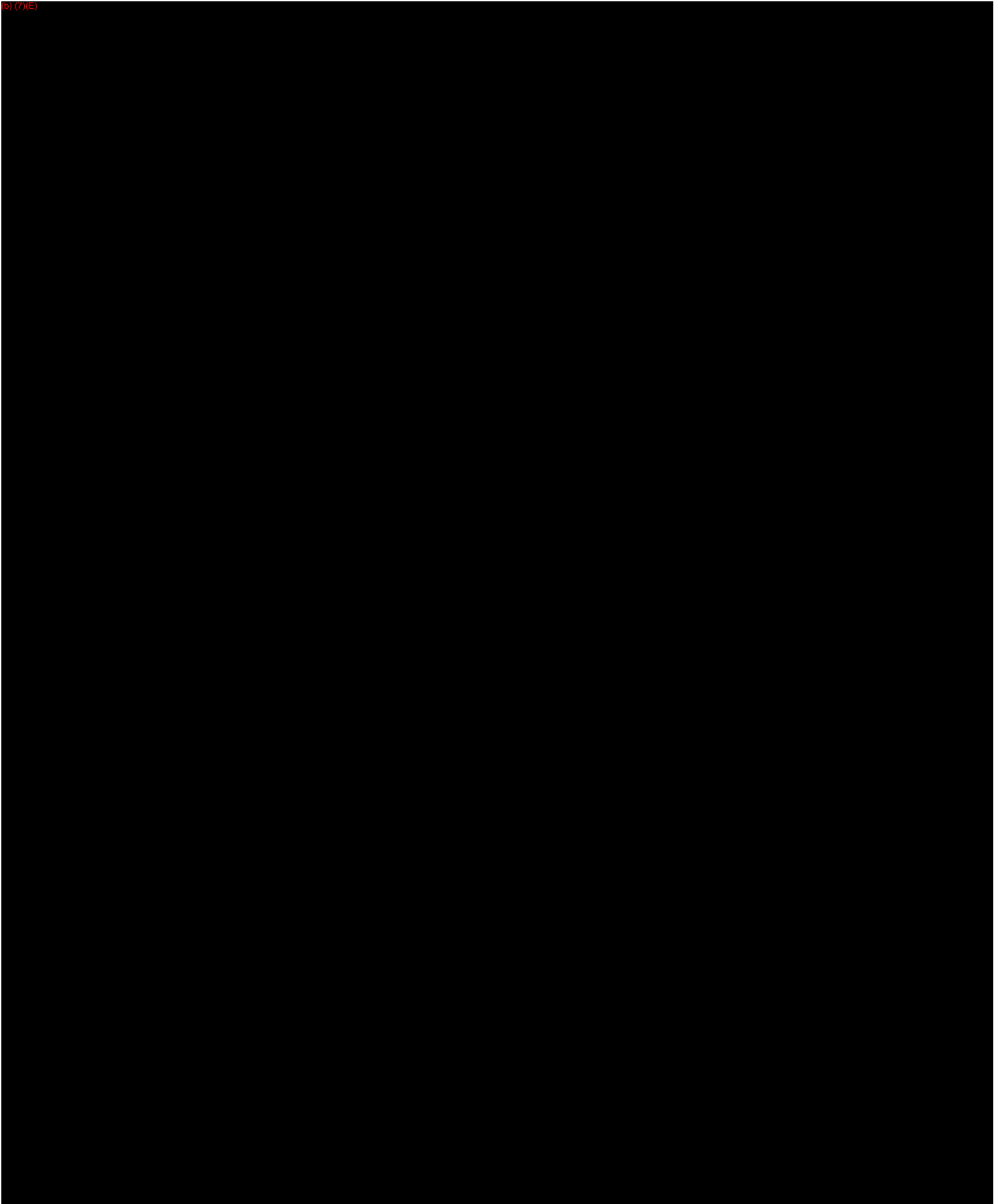


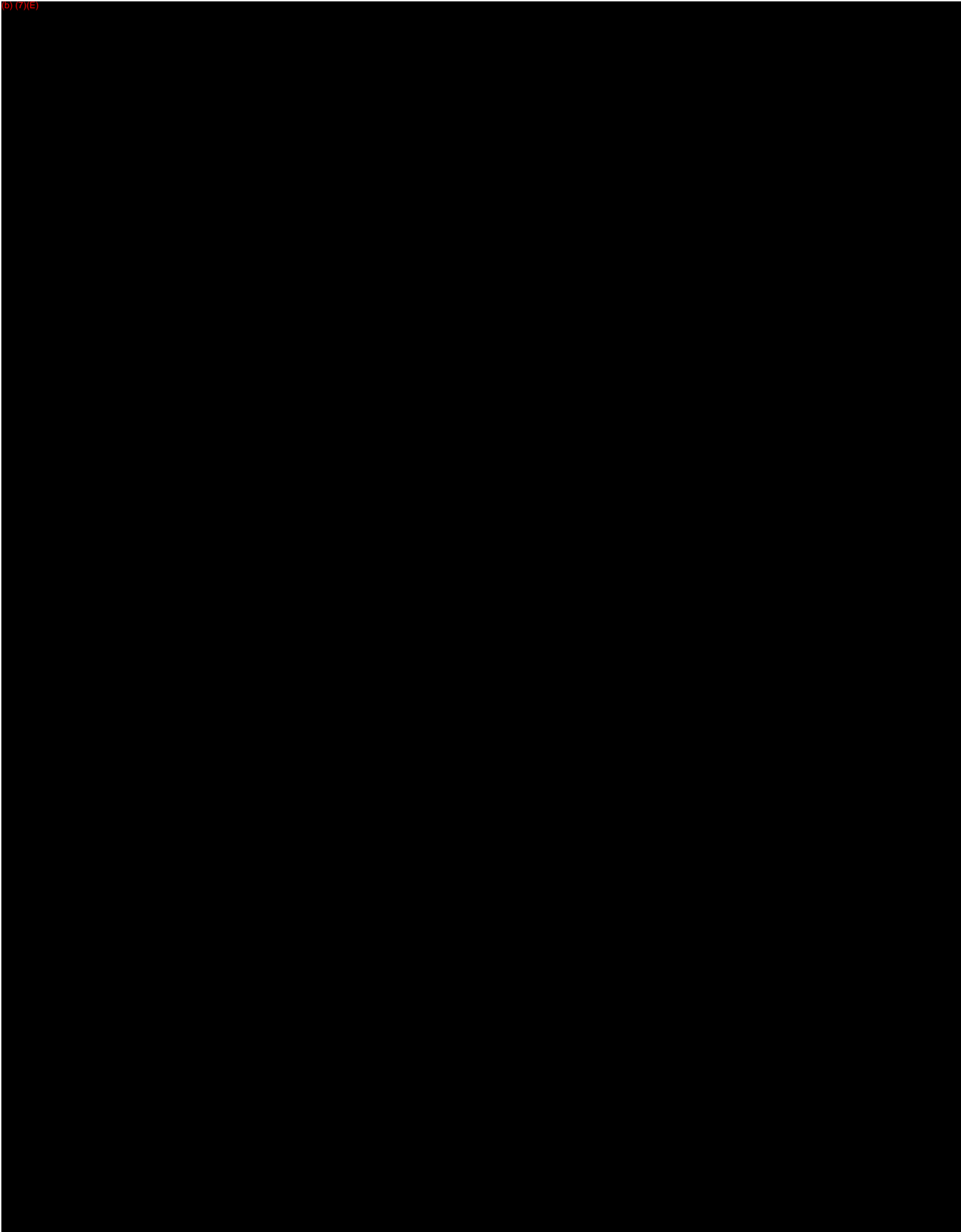


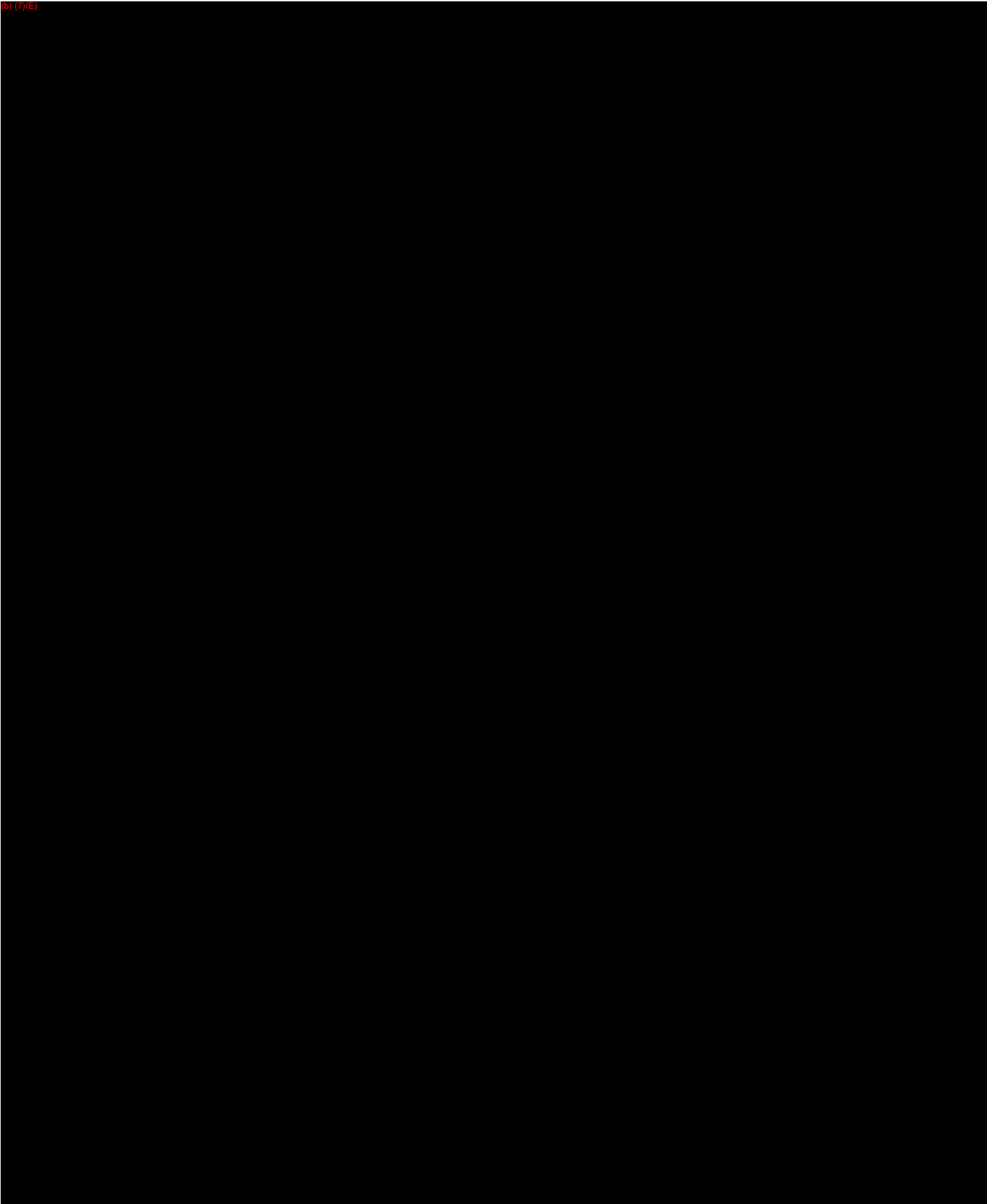


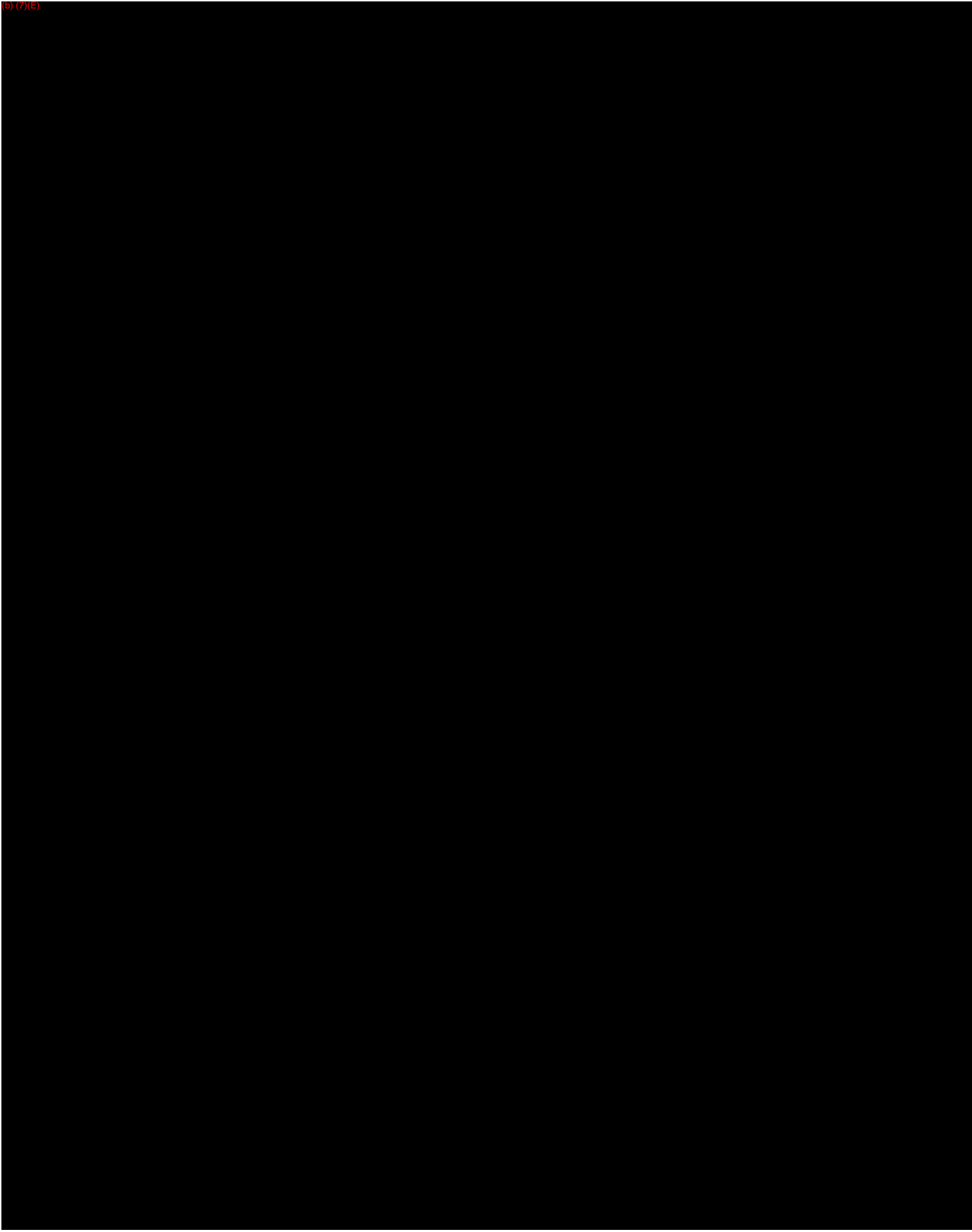




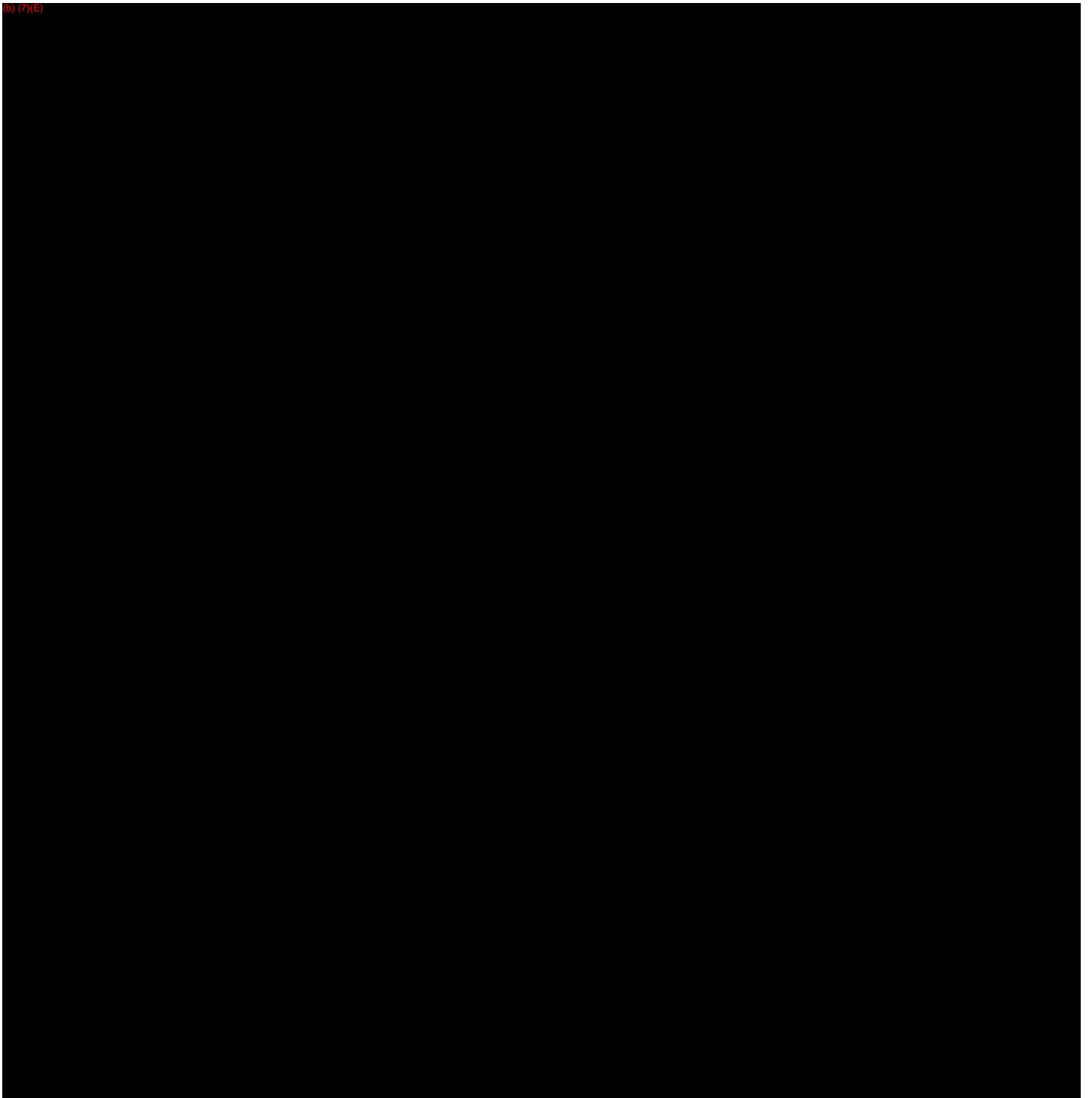


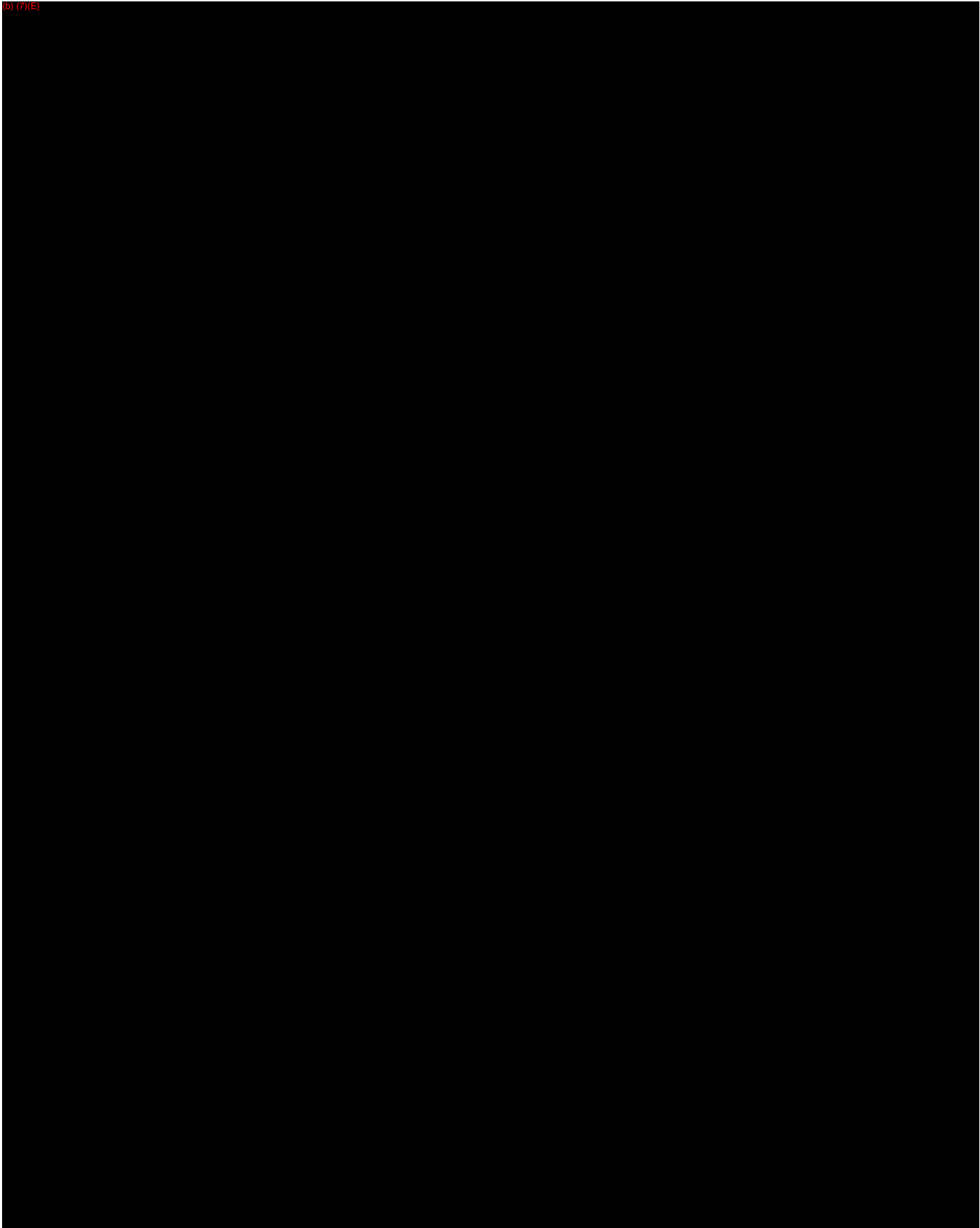


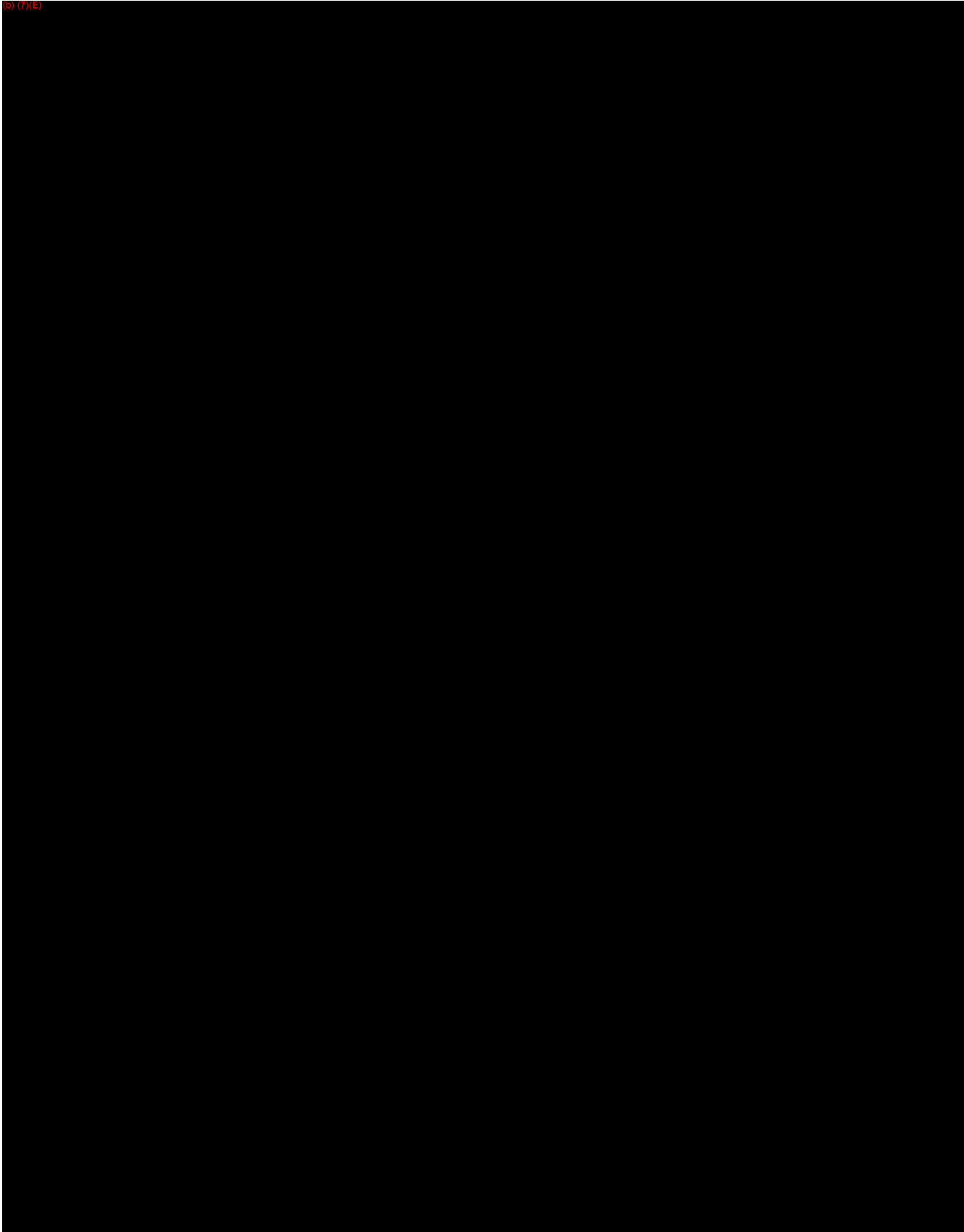












## IV. Defendants Reporting to the DTCU for Testing

DTTs collect specimens from adult male and female defendants and respondents who are court ordered to drug test. PSA's drug testing units are located at D.C. Superior Court, 500 Indiana Ave., N.W., Room C210, and C220, Washington, D.C., 20001. The office hours are Monday-Friday 7:30 am-5:30 pm (closed from 1:00 pm-2:00 pm), Saturdays 11:00 am-3:30 pm.<sup>43</sup>

### *Defendants Reporting for Testing*

When the judge releases a defendant with a drug testing condition, the judge instructs the defendant to report to PSA's Release Services Unit (RSU). In RSU, the APSO schedules an appointment for the defendant to report to the DTCU and provides the defendant with the (b) (7)(E) with instructions for reporting to the DTCU. If the defendant reports to DTCU without any paperwork, the DTT requests the following information from the defendant:

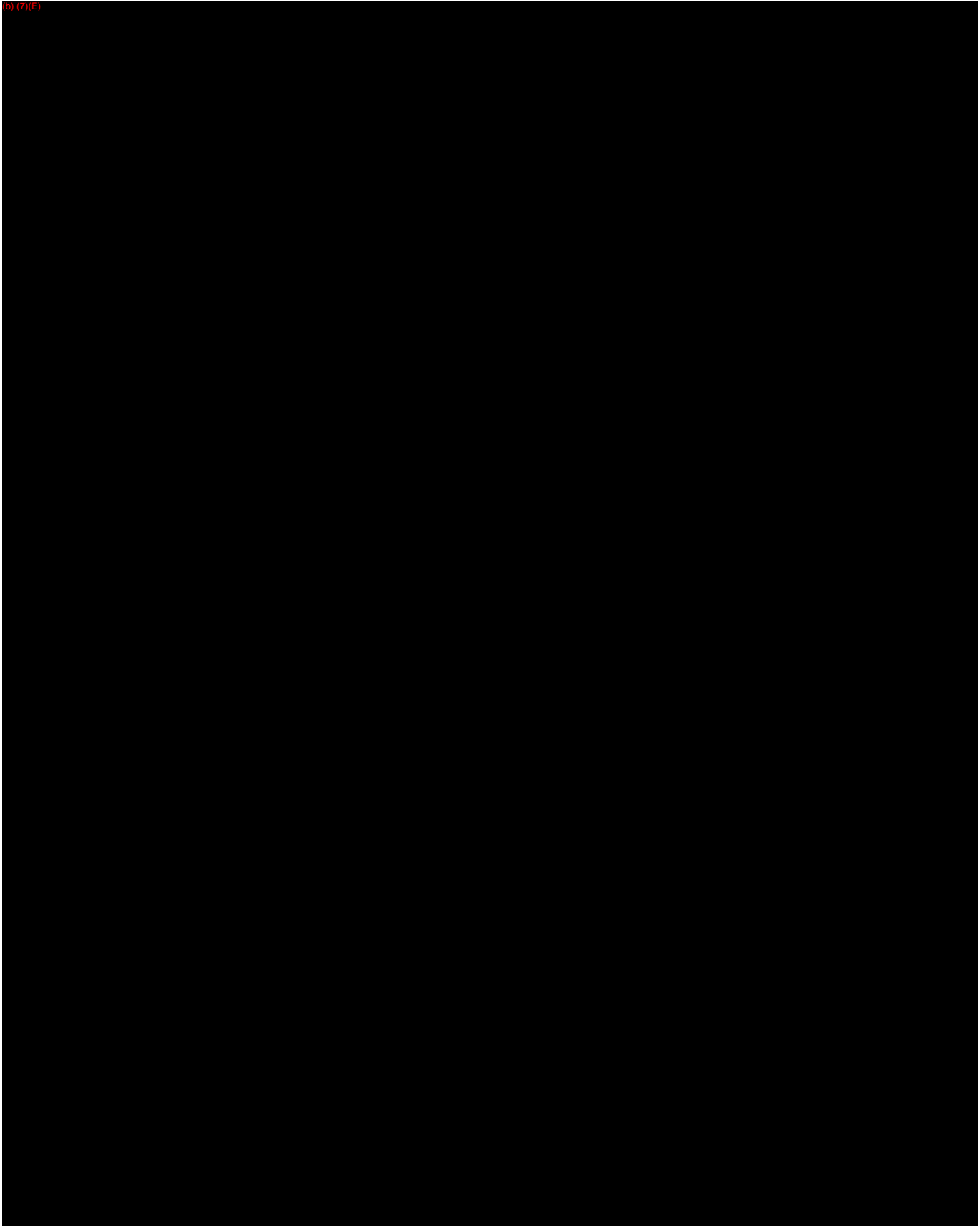
- Name;
- DOB;
- PDID; and
- Whether the defendant is reporting from court.

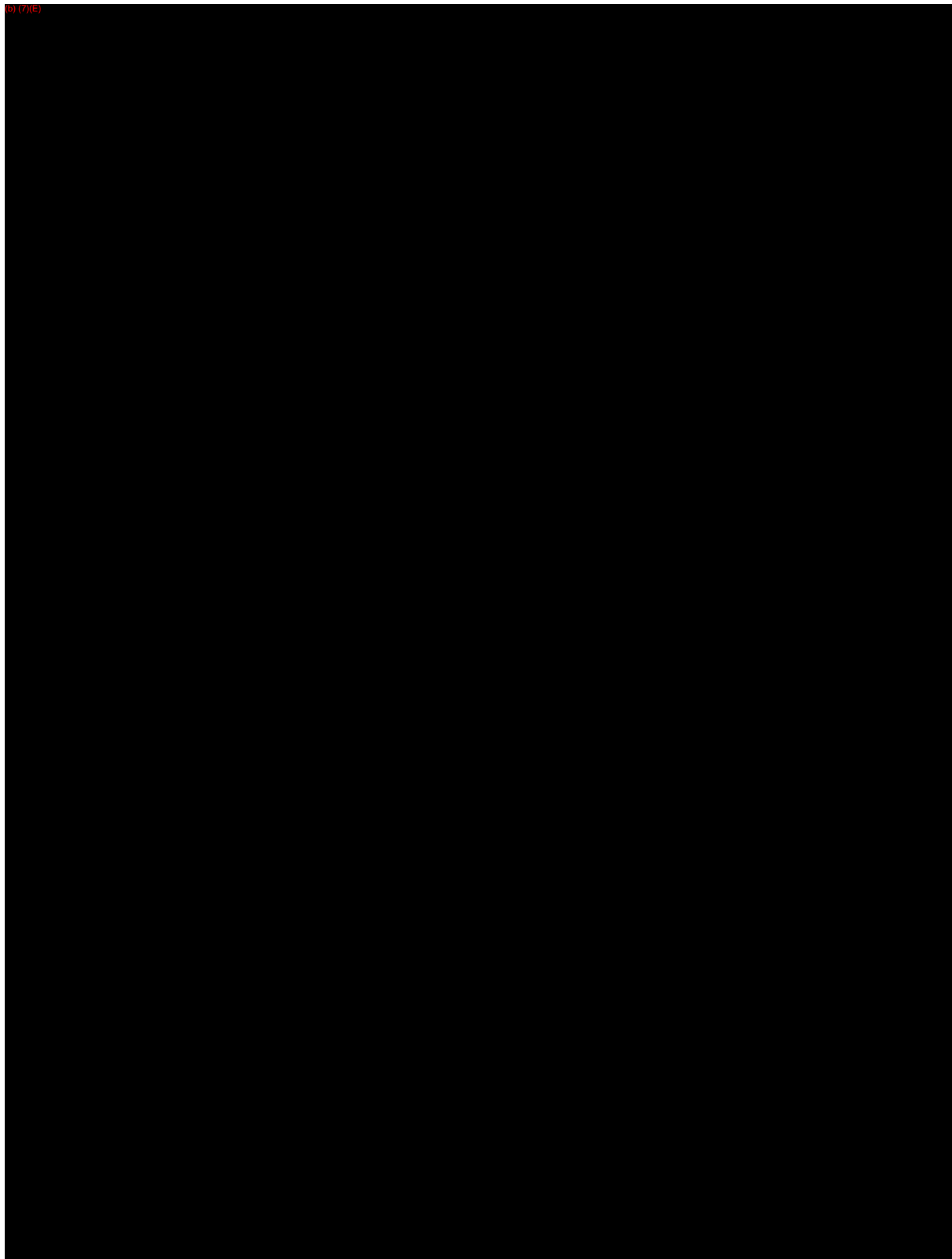
The information collected assists staff in determining what type of check-in to record in PRISM.

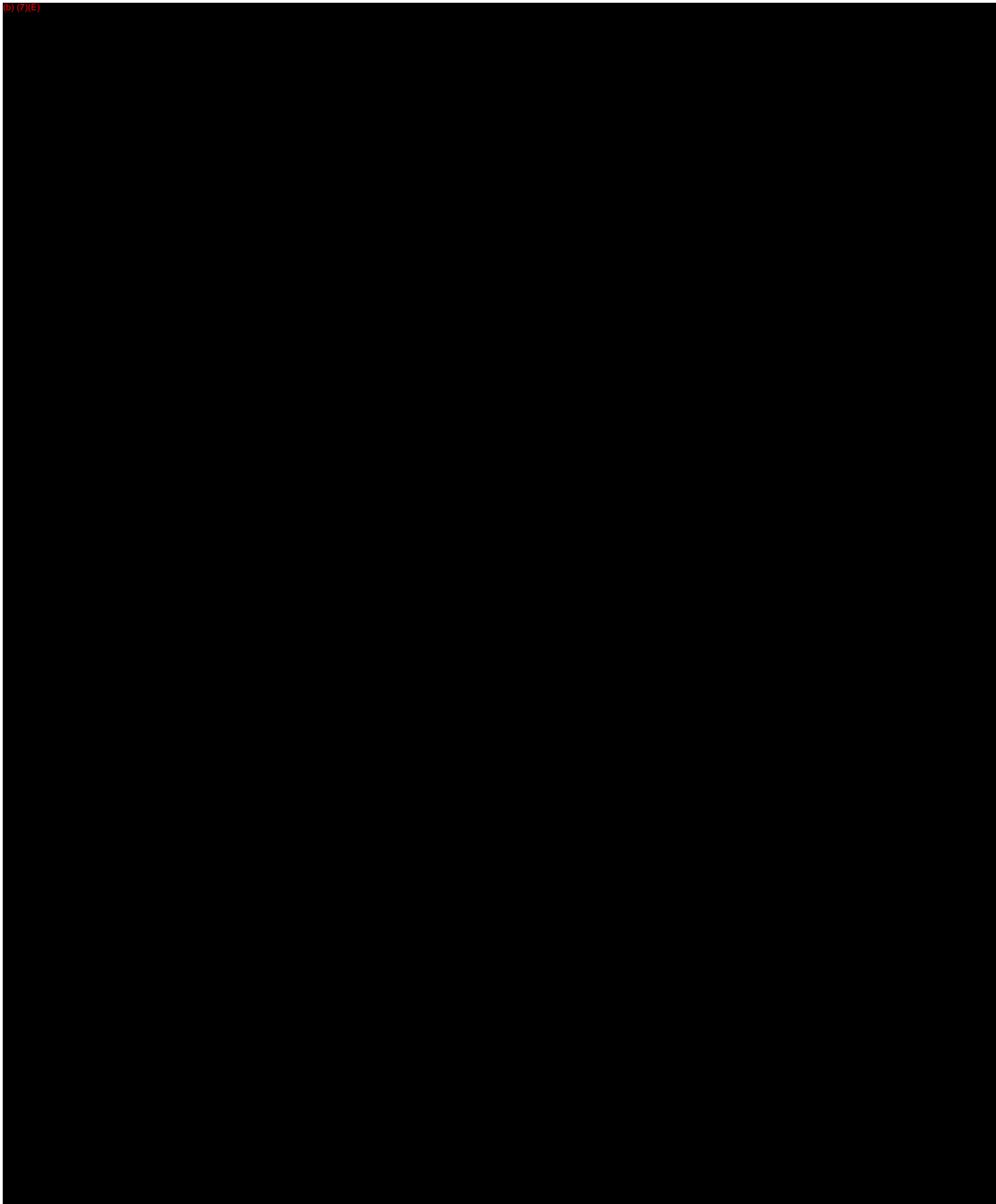
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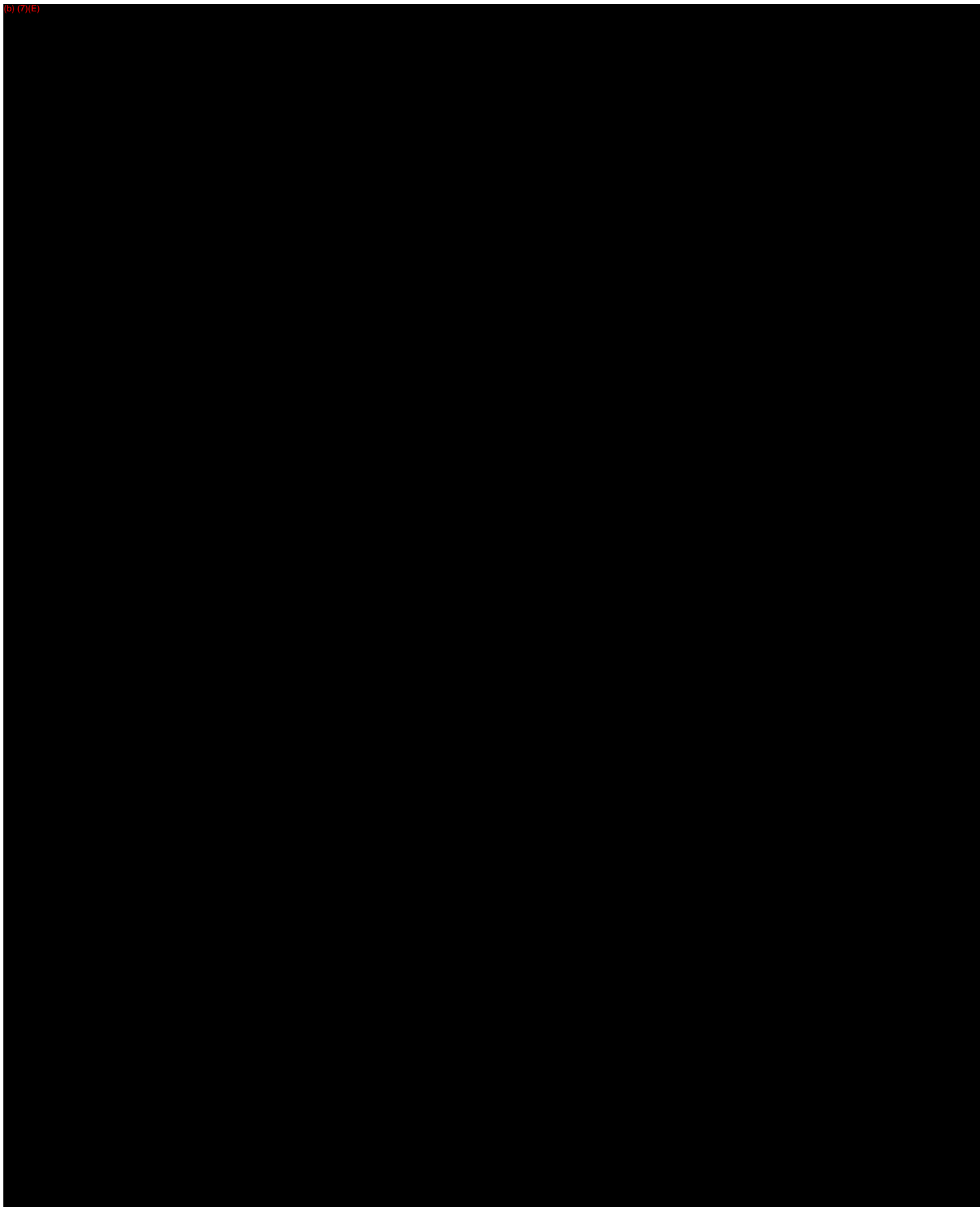
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<sup>43</sup> Drug Testing and Compliance Unit is closed to the public on Holidays.

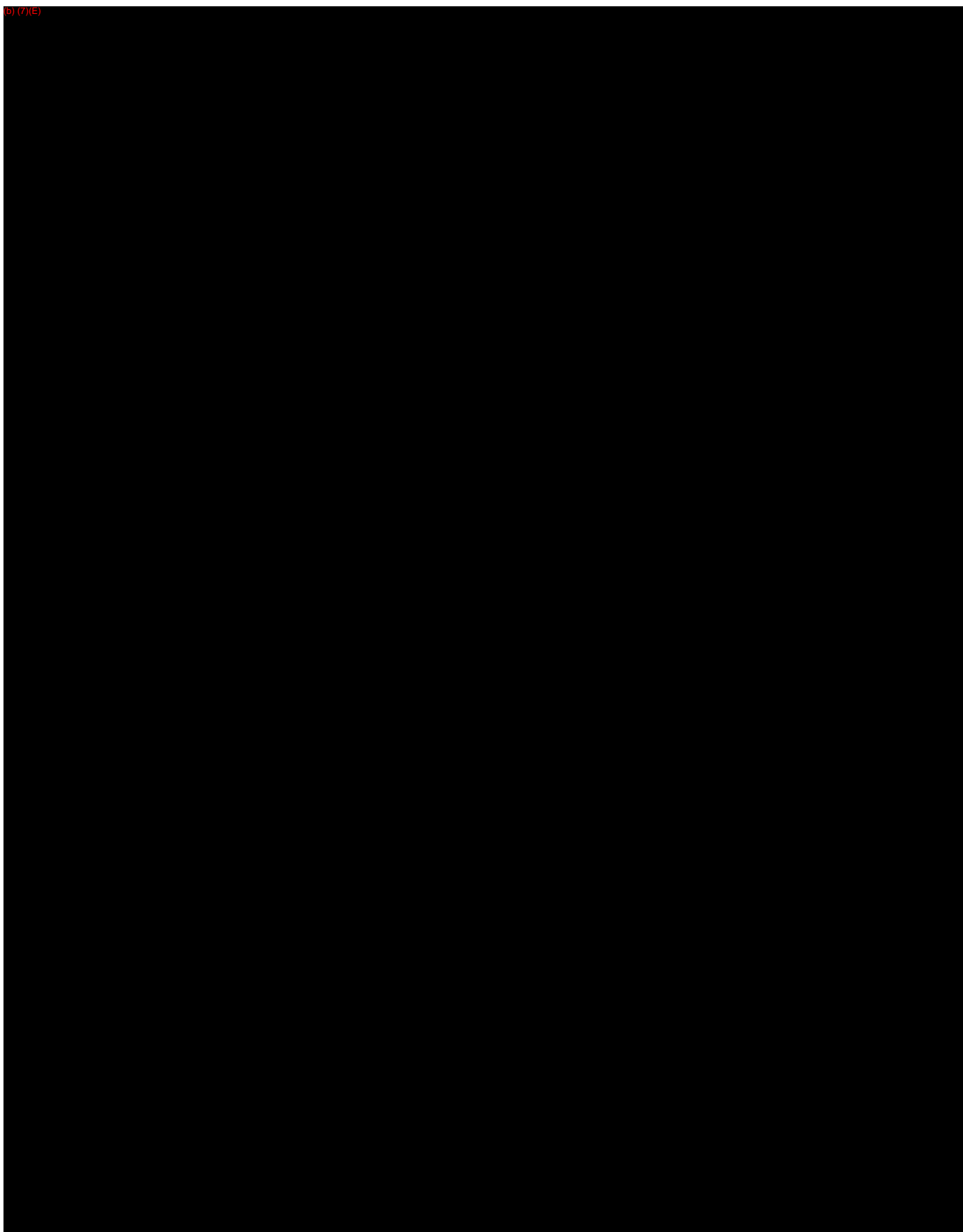












- [Surveillance Test.](#)

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### *Evaluation Appointment Slip*

The “evaluation appointment slip” informs the defendant of their obligations after submitting a specimen. PSA requires the defendant to call the DTCU for their test results following the submission of their specimen. The DTT generates the evaluation appointment slip and reviews the following statement:

*You have been released with the condition to submit a urine specimen to the Pretrial Services Agency for a drug evaluation. If the sample you submit tests positive for any illegal drug, you must report to the Drug Testing and Compliance Unit (DTCU) to be placed into weekly testing.*

*You are required to call this office at (202) 585-7060 on the next business day between the hours of 7:30am and 3:00pm for the results of this test.*

*Children are not permitted on PSA premises, unless receiving services or reporting for supervision. Please discuss any questions with your A/PSO.*

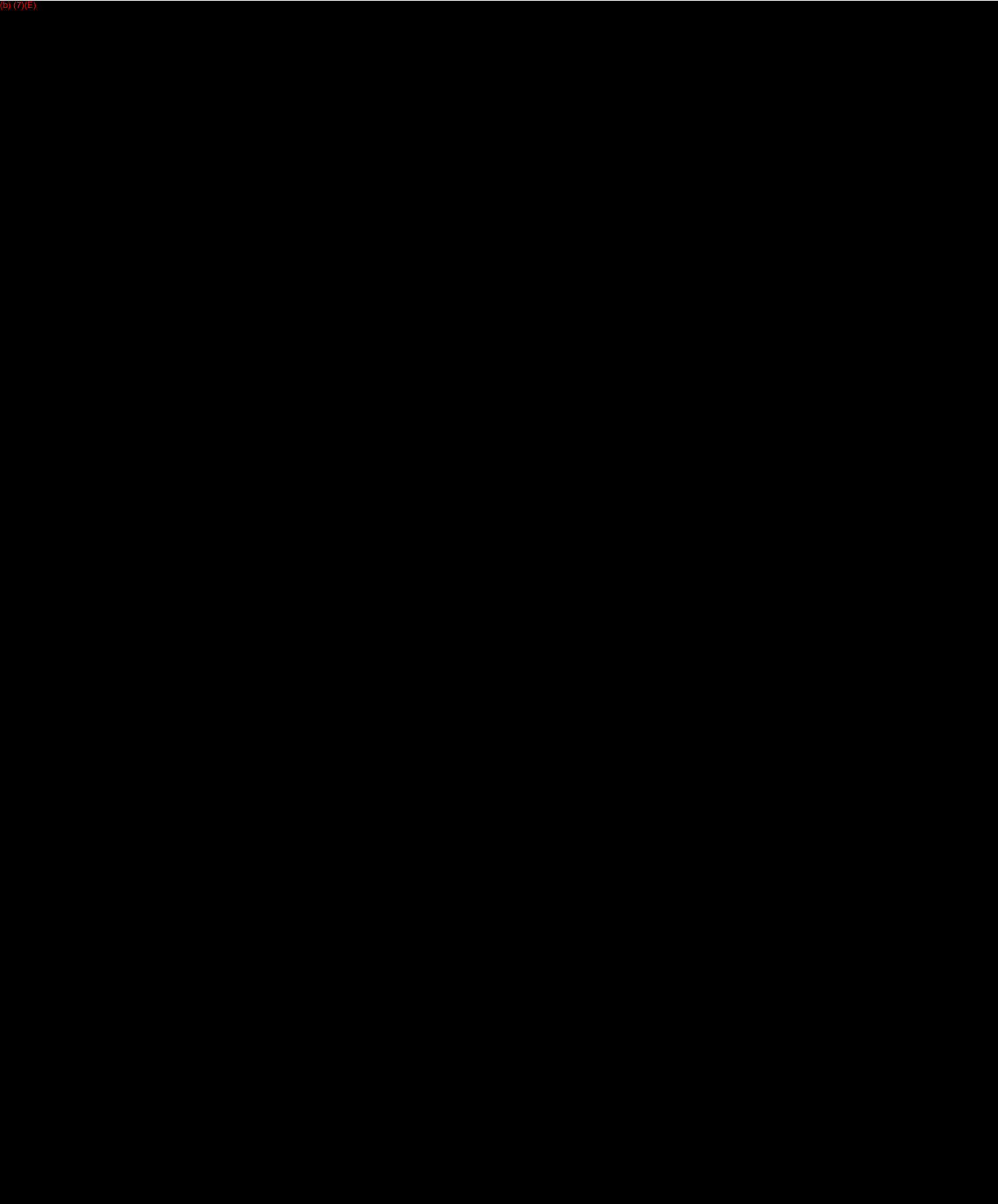
*Failure to call the DTCU within 24 hours for your evaluation test results or failure to report for program placement as instructed by DTCU staff could result in a violation of your release condition or revocation of your pretrial release status.*

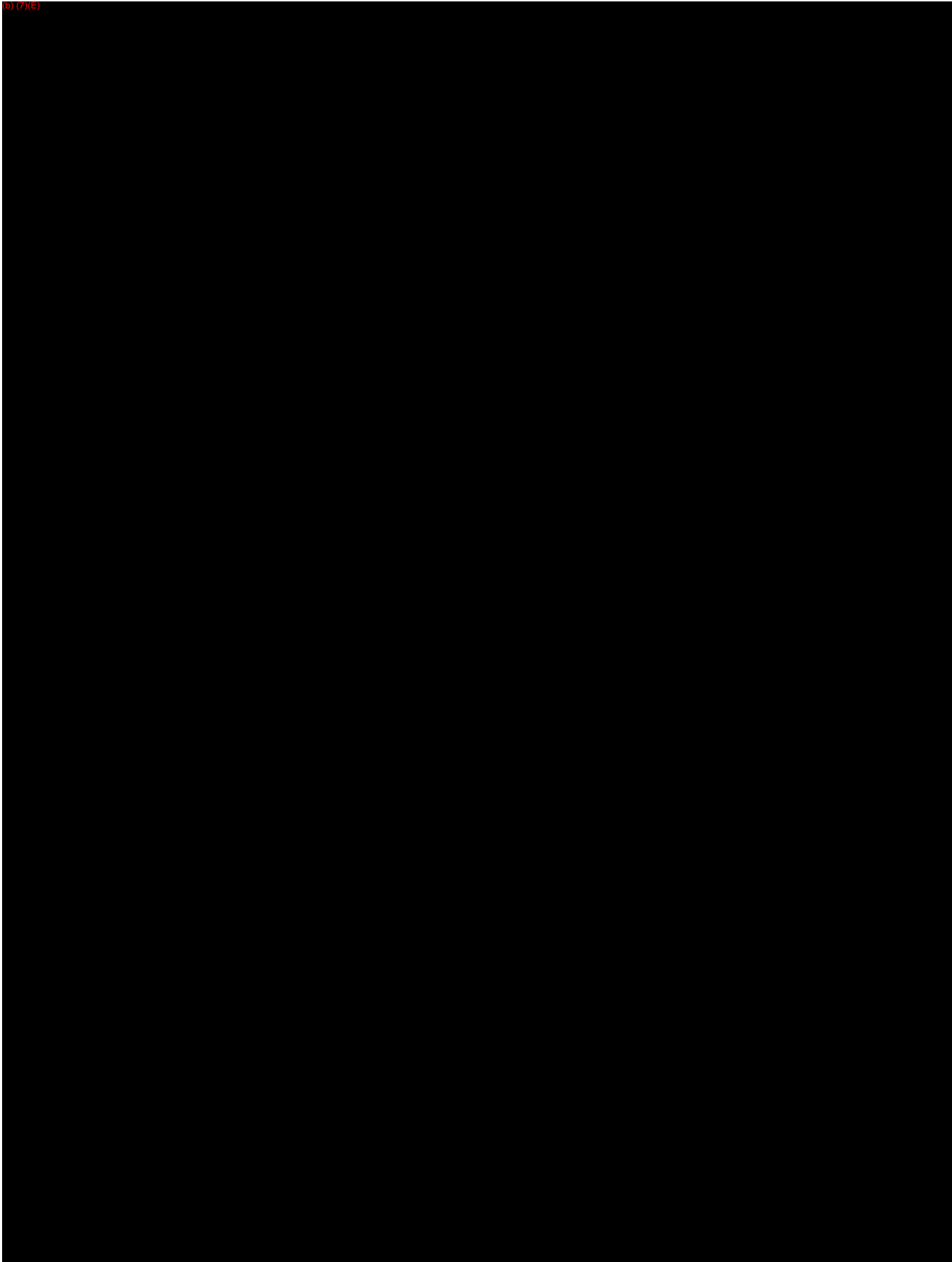
If the defendant fails to report to DTCU for an evaluation test by the next business day after their release, the DTCU places the defendant in weekly testing.

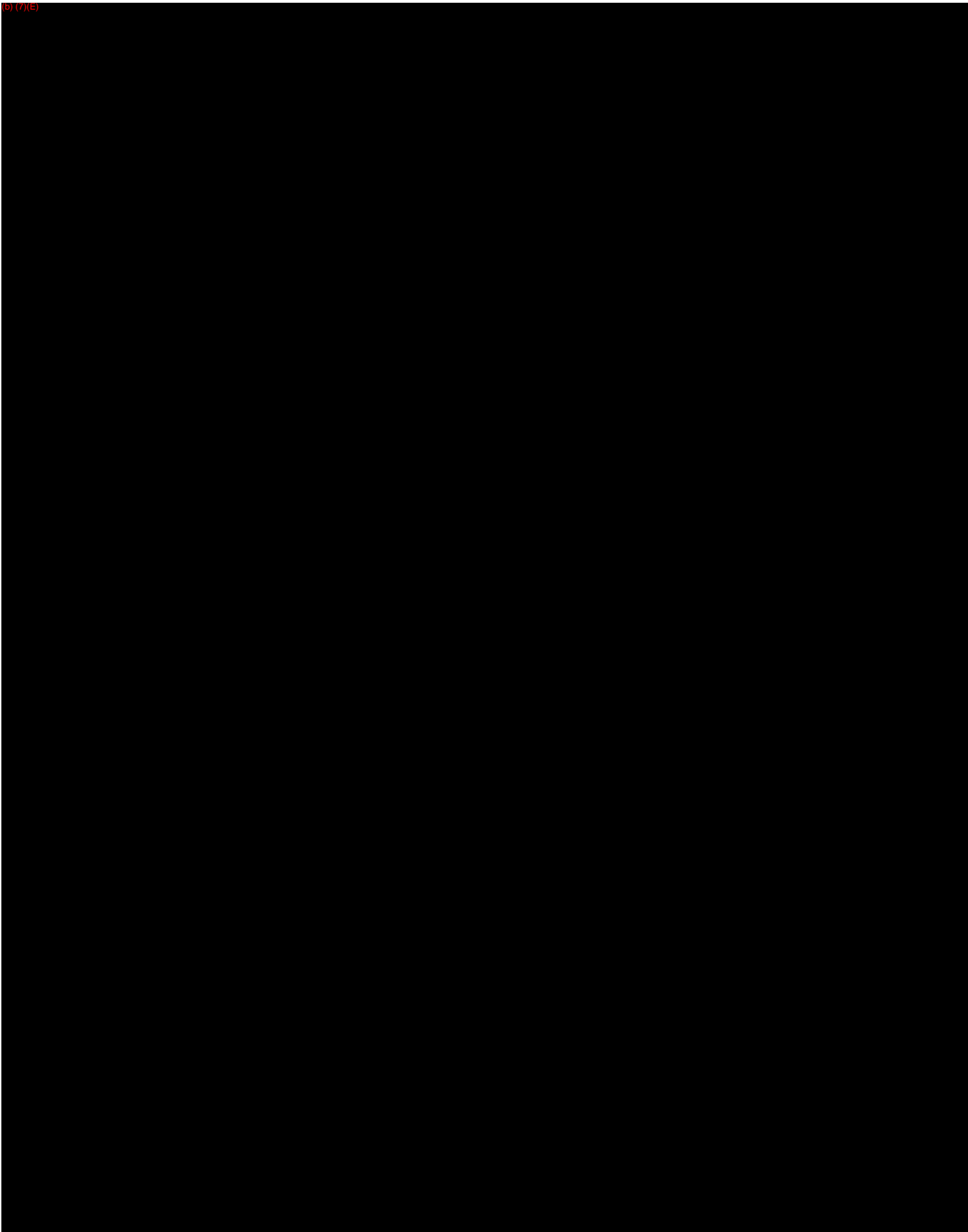
When the defendant calls the DTCU for their test results, the DTT confirms the defendant’s identity (b) (7)(E)

(b) (7)(E)









### ***Transgender Population***

If a defendant identifies as transgender and requests to be tested by oral swab, then the DTT will accommodate the request without any documentation.

## **V. Escorting**

Once the defendant has completed the check-in process, a DTT escorts the defendant to the restroom. To ensure the integrity of the drug test results, DTTs follow chain of custody procedures. Chain of custody refers to procedures for collecting and testing specimens to account for the handling and storage of each specimen. The chain of custody process ensures the integrity and accountability of the urine specimens to be tested. General guidelines for escorting are:

- The DTT that performs the check-in for the defendant cannot escort the defendant to the restroom;
- The DTT escorting the defendant must be the same gender as the defendant; and
- The DTT escorting the defendant must observe the defendant voiding the specimen into the specimen cup.

