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**In The  
Supreme Court of the United States**

ABD AL-RAHIM AL-NASHIRI,

Filed with Classified  
Information Security Officer  
CISO Matt J...  
Date 1-17-17  
Petitioner,

v.

BARACK OBAMA, *et al.*,

*Respondents.*

**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The District of Columbia Circuit**

**CLASSIFIED APPENDIX**

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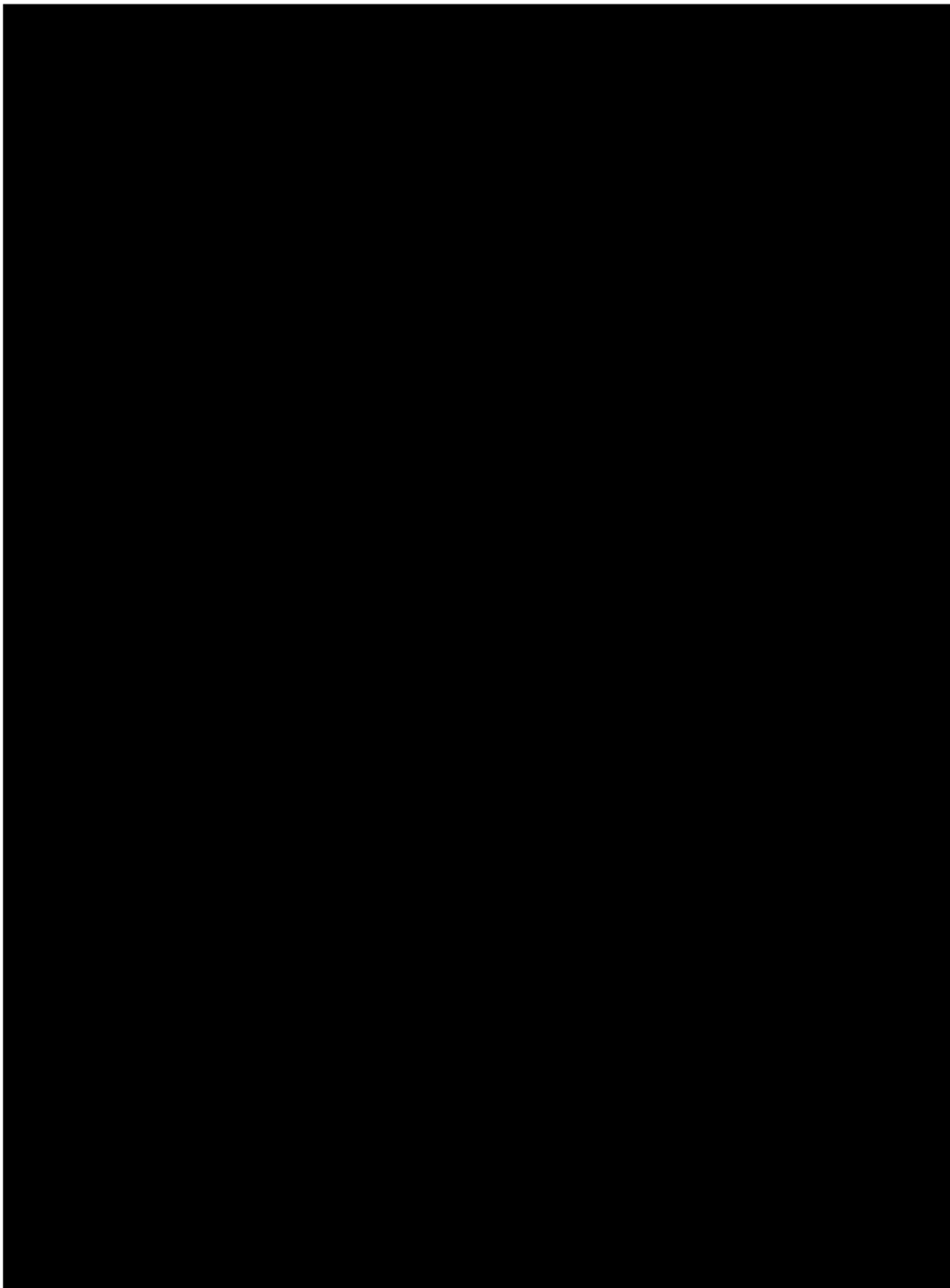
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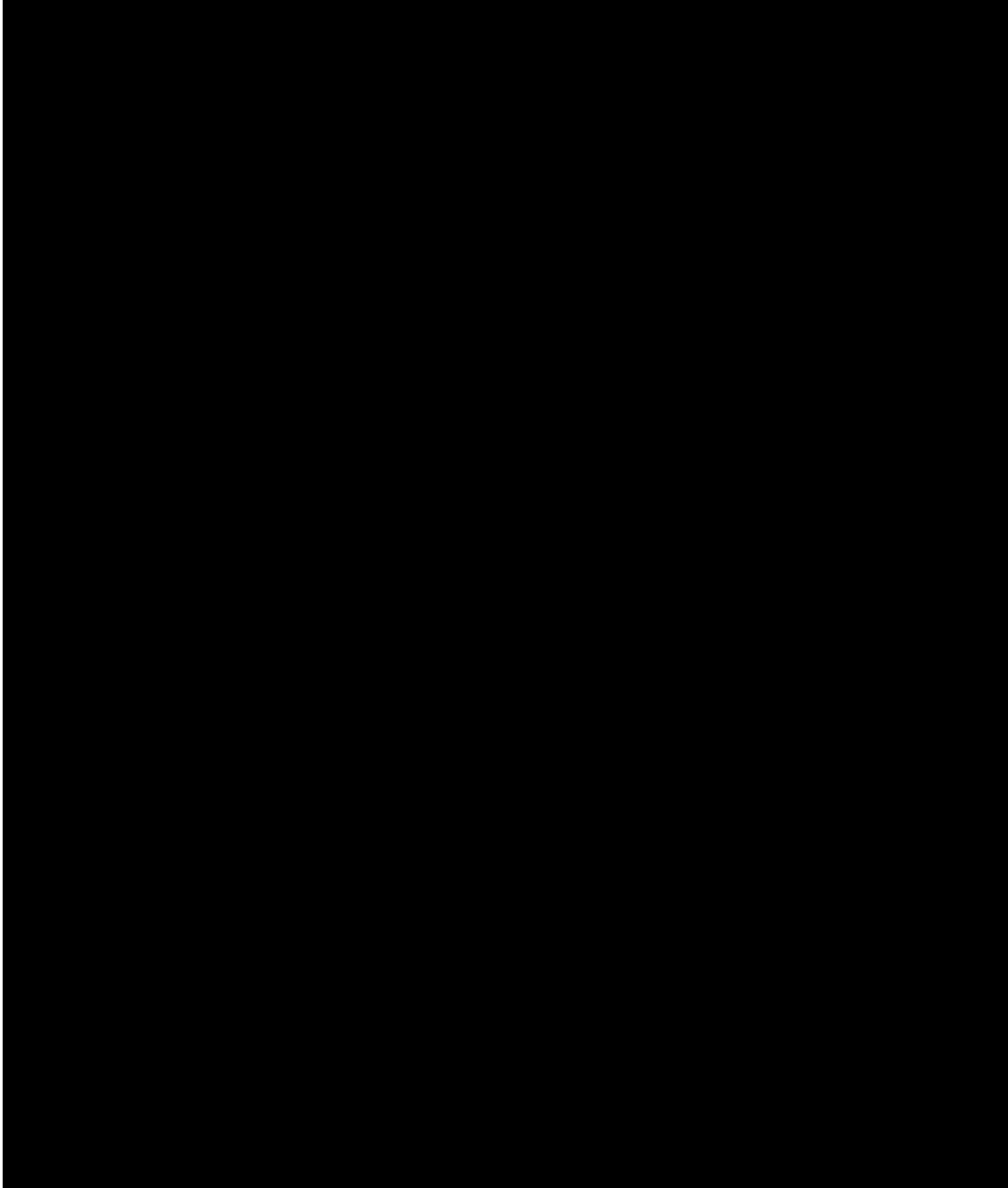
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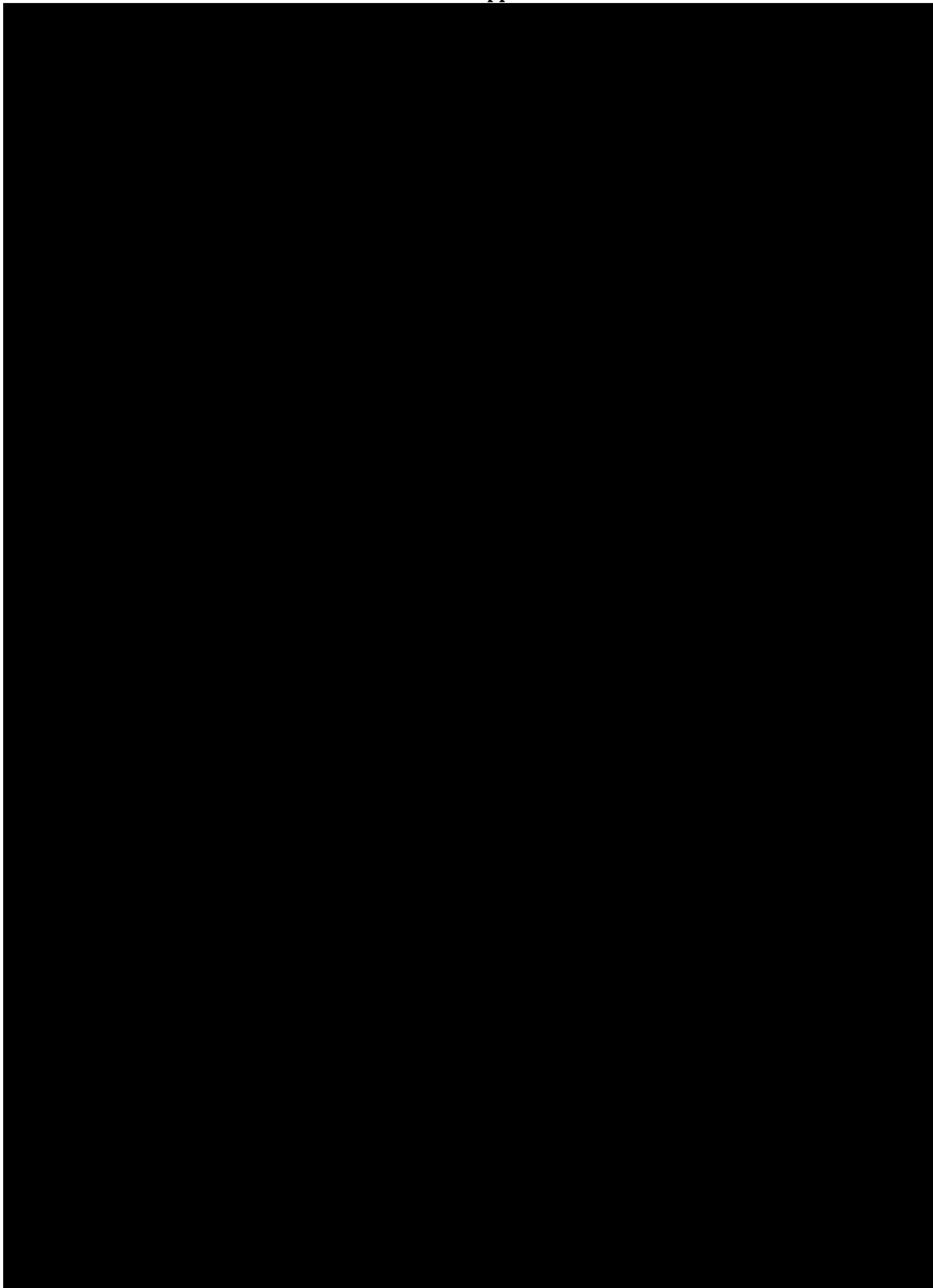
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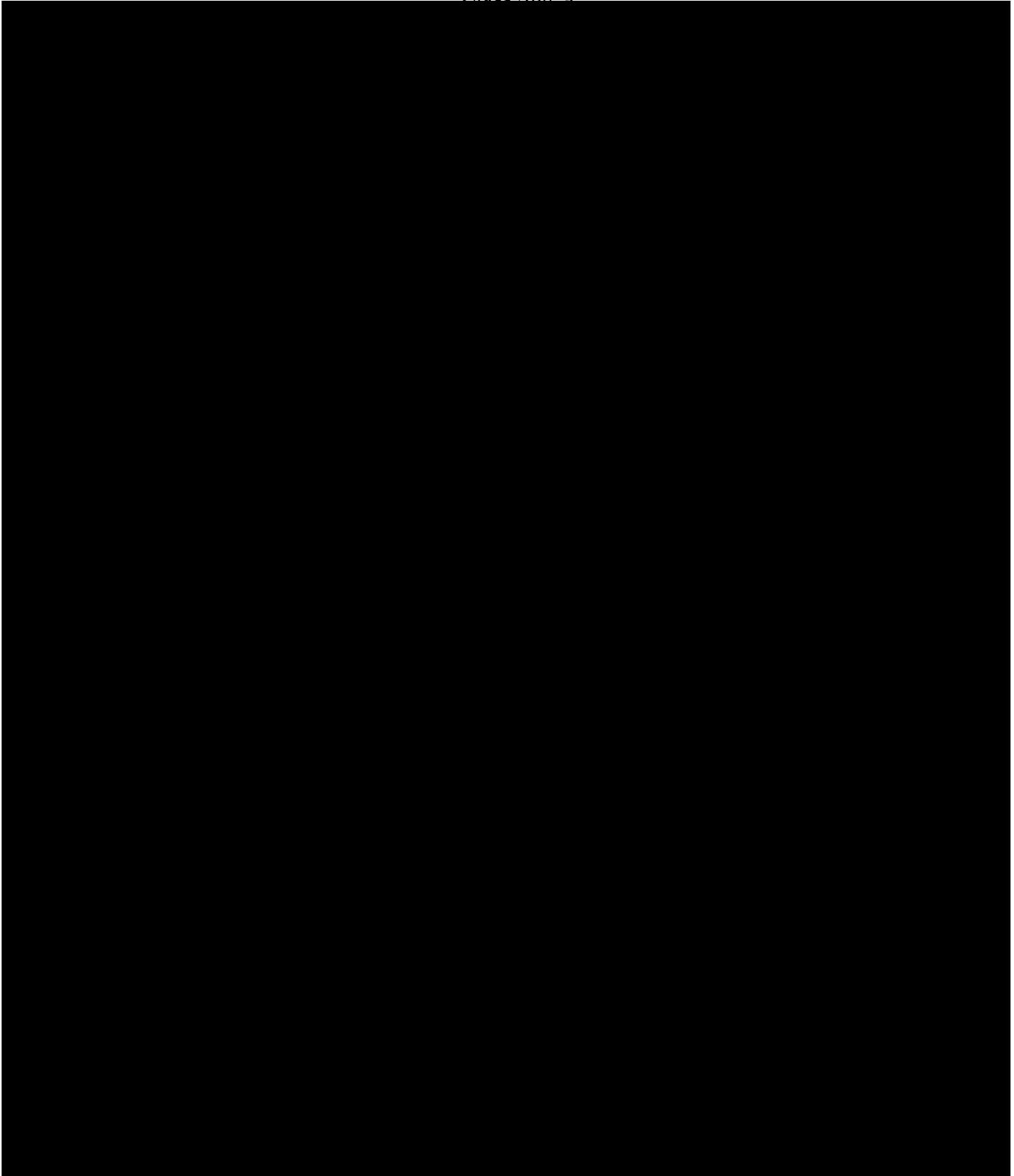


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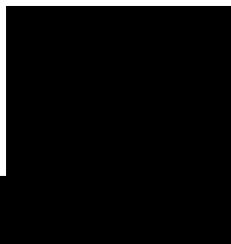
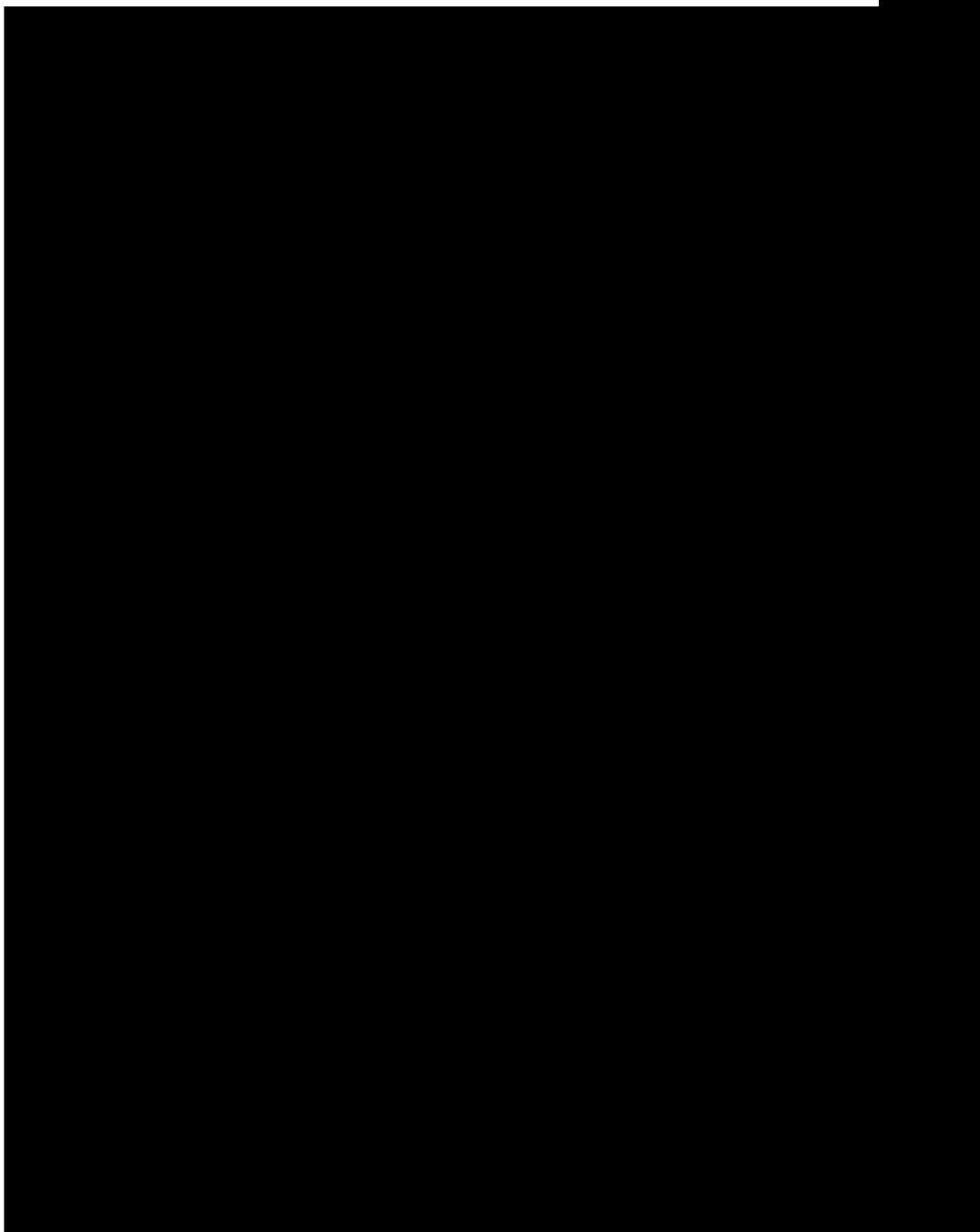
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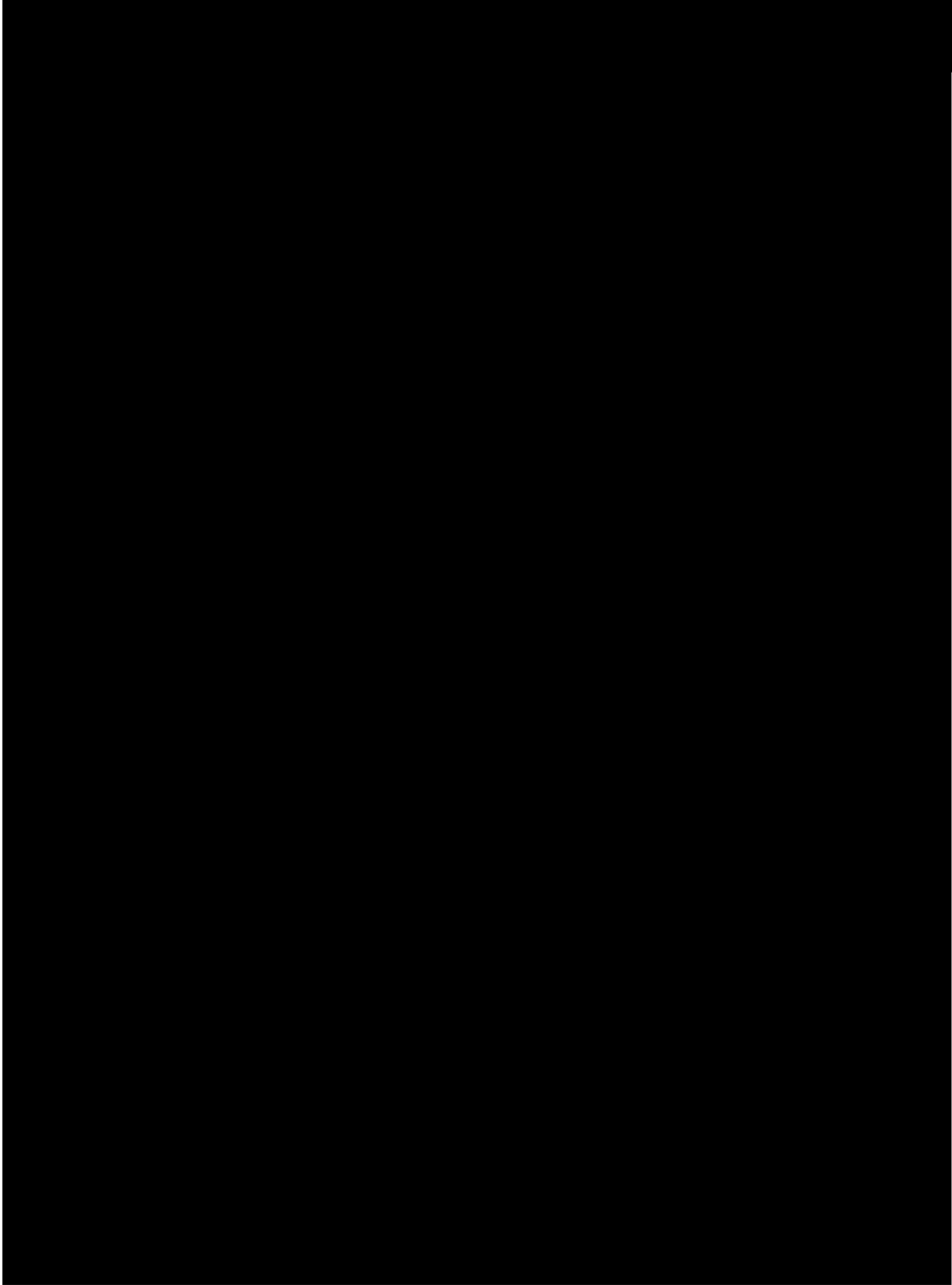


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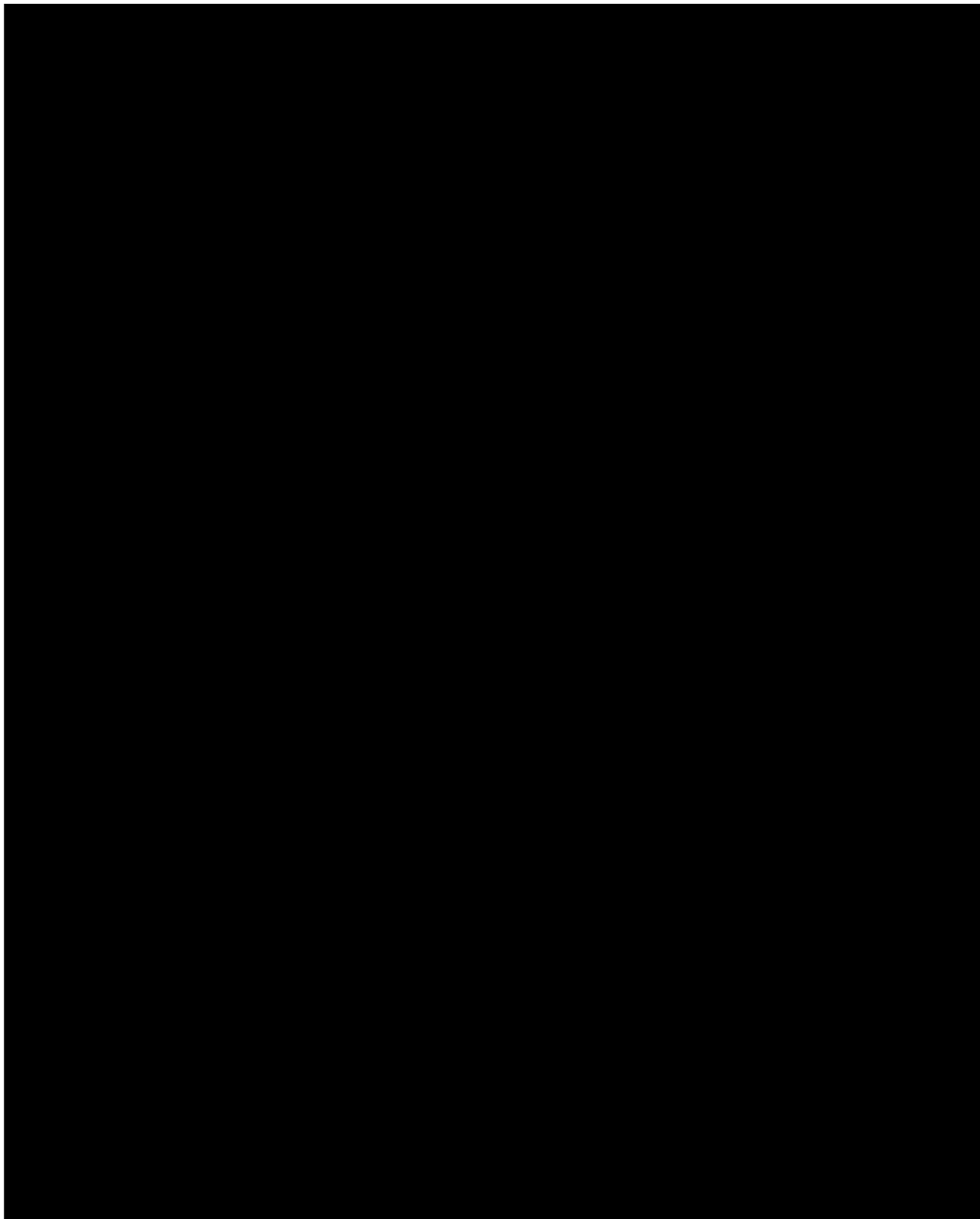




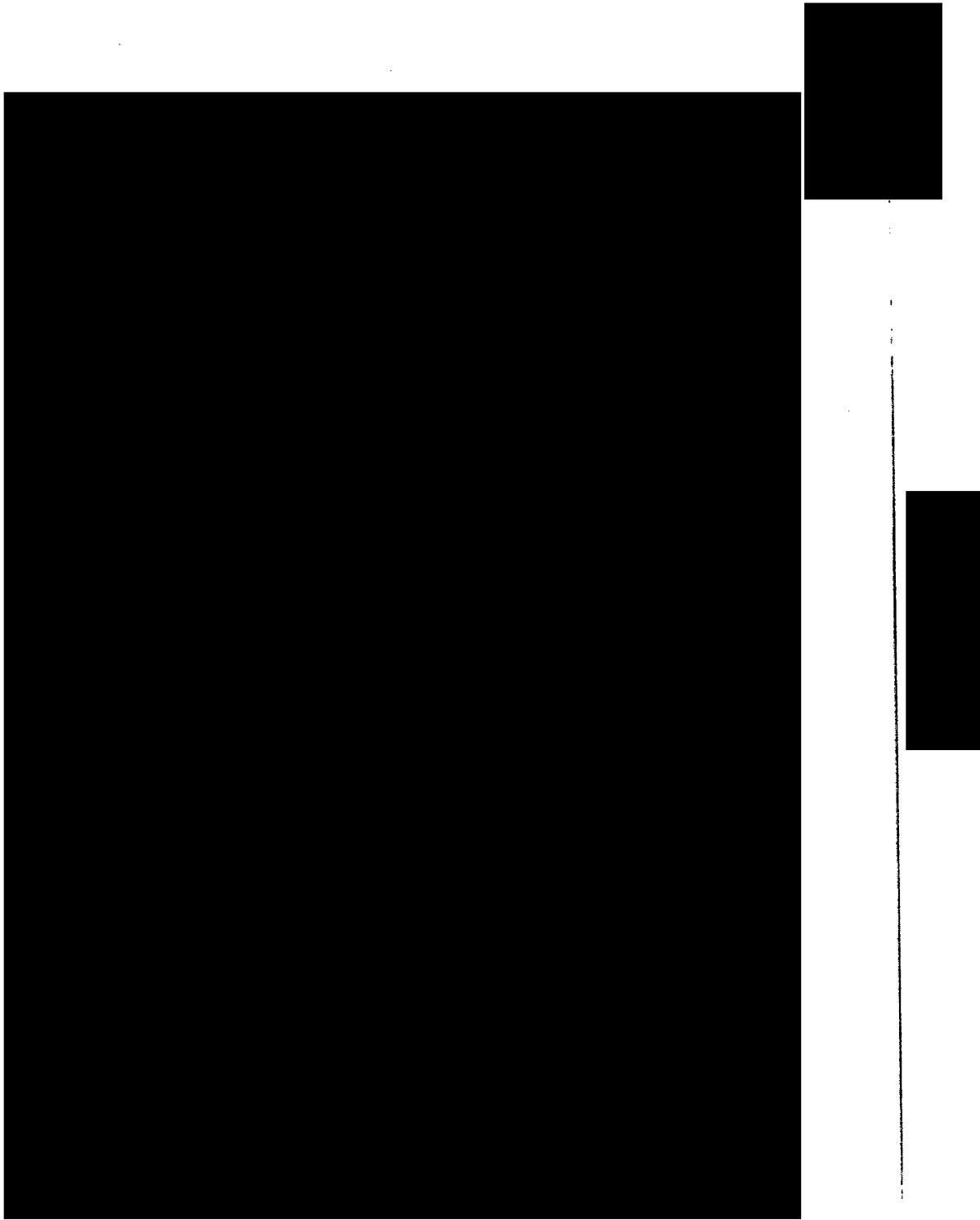
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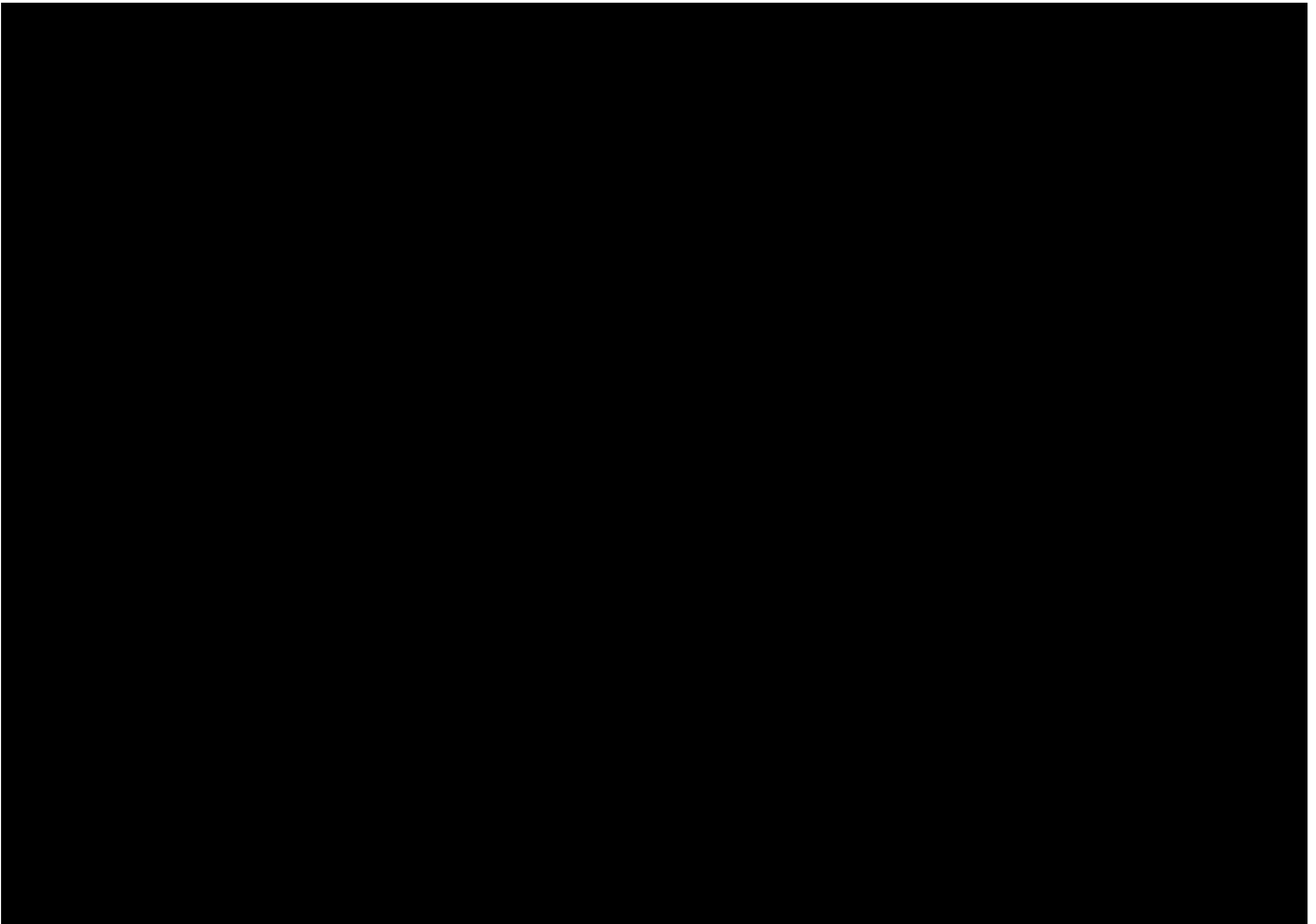
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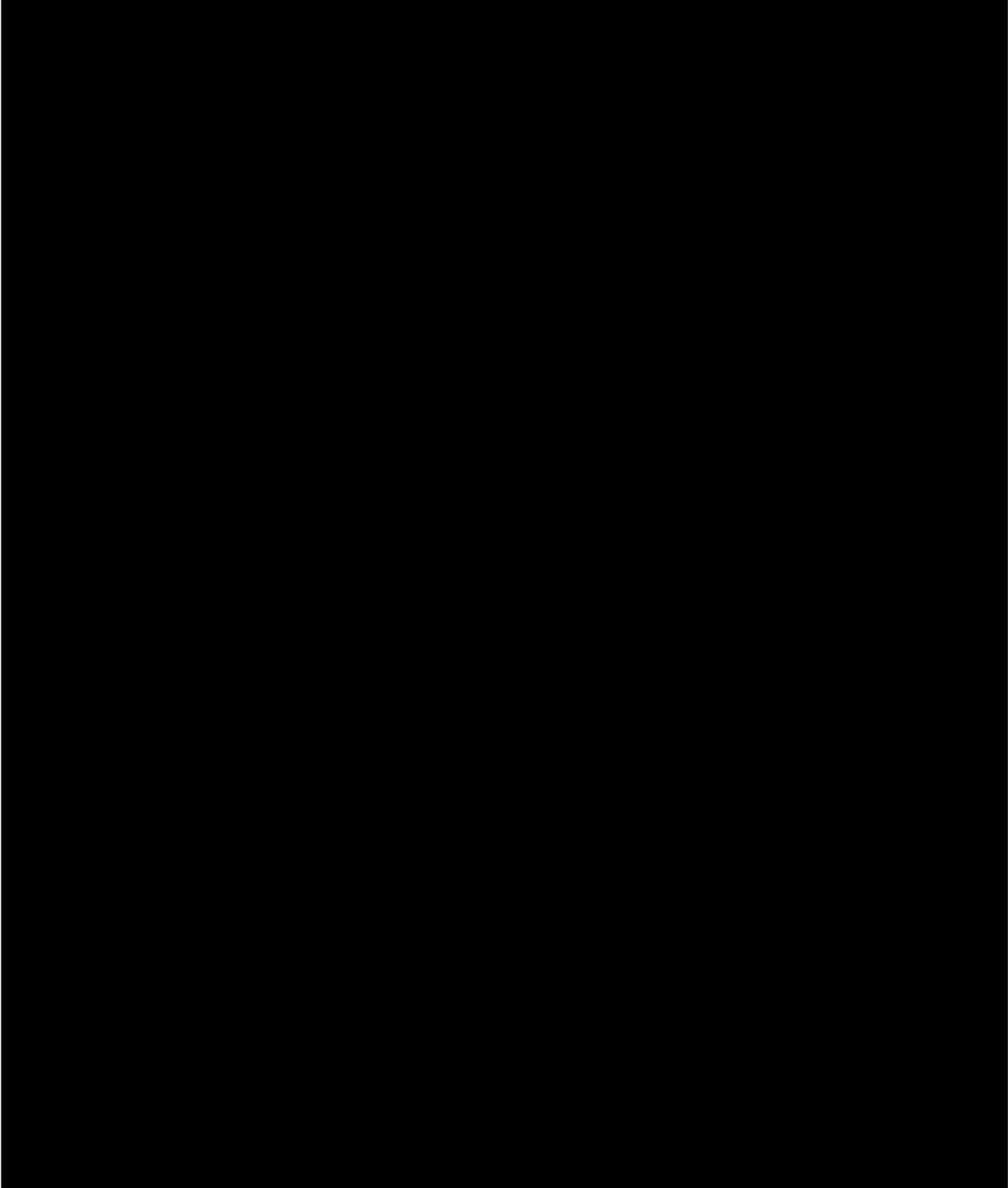
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identifying countries be redacted. The Study therefore lists the countries by letter. The Study uses the same designations consistently, so "Country J," for example, refers to the same country throughout the Study.

<sup>19</sup> July 31, 2003, email from John Rizzo to  re Rump PC on interrogations.

<sup>20</sup> Lotus Notes message from Chief of the CIA Station in Country  to D/CTC, COPS; copied in: email from  to [REDACTED], [REDACTED], cc: [REDACTED], ,

, subj: ADCI Talking Points for Call to DepSec Annitage, date 9/23/2004, at 7:40:43 PM

<sup>21</sup> Briefing slides, CIA Interrogation Program, July 29, 2003

<sup>22</sup> No CIA detention facilities were established in these two countries.

<sup>23</sup> U.S. law (22 U.S.C. § 3927) requires that chiefs of mission "shall be kept fully and currently informed with respect to all activities and operations of the Government within that country," including the activities and operations of the CIA.

<sup>24</sup> Same-time communication, between John P. Mudd and , April 13, 2005.

<sup>25</sup> Same-time communication, between John P. Mudd and , April 13, 2005.

<sup>26</sup> March 29, 2002, email from  to , re A-Z Interrogation Plan.

<sup>27</sup> ALEC  (182321Z JUL 02)

<sup>28</sup> January 8, 1989, Letter from John L. Helgeson, Director of Congressional Affairs, to Vice Chairman William S. Cohen, Senate Select Committee on Intelligence, re: SSCI Questions on , at 7-8.

<sup>29</sup> (REDACTED) 1528 (19)903Z DEC 03)

<sup>30</sup> Report of Audit, CIA-controlled Detention Facilities Operated Under the 17 September 2001 Memorandum of Notification, Report No. 2005-0017-AS, June 14, 2006.

<sup>31</sup> April 13, 2005, email from [REDACTED] (Chief of Base of DETENTION SITE BLACK), to , , , re General Comments.

<sup>32</sup> "Learned helplessness" in this context was the theory that detainees might become passive and depressed in response to adverse or uncontrollable events, and would thus cooperate and provide information. Memo from Grayson SWIGERT, Ph.D., February 1, 2003, "Qualifications to provide special mission interrogation consultation."

<sup>33</sup> They also concluded that the CIA "should not be in the business of running prisons or temporary detention facilities." May 12, 2004, Memorandum for Deputy Director for Operations from , Chief, Information Operations Center, and Henry Crumpton, Chief, National Resources Division via Associate Deputy Director for Operations, with the subject line, "Operational Review of CIA Detainee Program."

<sup>34</sup> March 21, 2005, Memorandum for Deputy Director for Operations from Robert L. Grenier, Director DCI Counterterrorism Center, re Proposal for Full-Scope Independent Study of the CTC Rendition, Detention, and Interrogation Programs.

<sup>35</sup> September 2, 2005, Memorandum from  to Director Porter Goss, CIA, "Assessment of EITs Effectiveness."

<sup>36</sup> September 23, 2005, Memorandum from  to The Honorable Porter Goss, Director, Central Intelligence Agency, "Response to request from Director for Assessment of EIT effectiveness."

<sup>37</sup> February 10, 2006, Memorandum for  CIA OFFICER 1), Counterterrorist Center, National Clandestine Service, from Executive Director re: Accountability Decision.

<sup>38</sup> Congressional notification, CIA Response to OIG Investigation Regarding the Rendition and Detention of German Citizen Khalid al-Masri, October 9, 2007.

<sup>39</sup> Memorandum for Inspector General; from: James Pavitt, Deputy Director for Operations; subject: re Comments to Draft IG Special Review, "Counterterrorism Detention and Interrogation Program" (2003-7123-IG); date: February 27, 2004; attachment: February 24, 2004, Memorandum re Successes of CIA's Counterterrorism Detention and Interrogation Activities.

<sup>40</sup> February 24, 2004, Memorandum from Scott W. Maller, General Counsel, to Inspector General re Interrogation Program Special Review (2003-7123-IG).

<sup>41</sup> November 9, 2006, email from John A. Rizzo, to Michael V. Hayden, Stephen R. Kappes, cc: Michael Morell, , . Subject: Fw: 5 December 2006 Meeting with ICRC Rep.

<sup>42</sup> CIA Comments on the February 2007 ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody."

<sup>43</sup> Senate Select Committee on Intelligence hearing transcript for April 12, 2007.

<sup>44</sup> DCIA Talking Points for 12 January 2006 Meeting with the President, re: Way Forward on Counterterrorist Rendition, Detention and Interrogation Program.

<sup>45</sup> HEADQUARTERS  (071742Z JUN 04)

<sup>46</sup> [REDACTED] 5759 ( 03); ALEC  ( 03); ALEC  ( 03)

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specific requests for additional information on the CIA's Detention and Interrogation Program. Internal CIA emails include discussion of how the CIA could "get... off the hook on the cheap" regarding Chairman Graham's requests for additional information.<sup>234</sup> In the end, CIA officials simply did not respond to Graham's requests prior to his departure from the Committee in January 2003.

### C. Interrogation in Country [REDACTED] and the January 2003 Guidelines

#### 1. The CIA Establishes DETENTION SITE COBALT, Places Inexperienced First-Tour Officer in Charge

(TS//[REDACTED]//NF) Plans for a specialized CIA detention facility in Country [REDACTED] began in April 2002, with the intention that it would be "totally under [REDACTED]/Station Control."<sup>235</sup> On June 6, 2002, CIA Headquarters approved more than \$200,000 for the construction of the facility, identified in this summary as "DETENTION SITE COBALT."<sup>236</sup> In a 2003 interview with the CIA Office of Inspector General, Associate Deputy Director for Operations [REDACTED] described his views of this facility and "stated that [DETENTION SITE COBALT] was opened because there needed to be a detention site in [Country [REDACTED]] for those detainees enroute [REDACTED] to [DETENTION SITE GREEN]. It was not a place for the use of EITs."<sup>237</sup>

(TS//[REDACTED]//NF) DETENTION SITE COBALT, constructed with CIA funding, opened in Country [REDACTED] in September 2002.<sup>238</sup> According to CIA records, the windows at DETENTION SITE COBALT were blacked out and detainees were kept in total darkness. The [REDACTED] guards monitored detainees using headlamps and loud music was played constantly in the facility. While in their cells, detainees were shackled to the wall and given buckets for human waste. Four of the twenty cells at the facility included a bar across the top of the cell.<sup>239</sup> Later reports describe detainees being shackled to the bar with their hands above their heads, forcing them to stand, and therefore not allowing the detainees to sleep.<sup>240</sup>

<sup>234</sup> Email from: Stanley Moskowitz; to: John H. Moseman; cc: Scott Muller and James Pavitt; subject: [attached document] Re: Graham request on interrogations; date: December 9, 2002, at 05:46:11 PM.

<sup>235</sup> By June 2002 the CIA had taken custody of five detainees who were captured outside of Country [REDACTED] and placed these CIA detainees in Country [REDACTED] detention facilities. The detainees were held at the Country [REDACTED] facilities at the request of the CIA and the CIA had unlimited access to them. See [REDACTED] 21147 [REDACTED].

<sup>236</sup> DIRECTOR [REDACTED] (062212Z JUN 02)

<sup>237</sup> Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], September 9, 2003.

<sup>238</sup> For additional information on DETENTION SITE COBALT, see Volume I and Volume III. The specific date has been generalized at the request of the CIA.

<sup>239</sup> [REDACTED] 28246 [REDACTED]

<sup>240</sup> For additional information on DETENTION SITE COBALT, see Volume I and Volume III, and among other documents: [REDACTED] 31118 [REDACTED]; DIRECTOR [REDACTED]; email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002; email from: [REDACTED]; to: [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 5, 2002; Special Review, Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), May 7, 2004; Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject:

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(TS//NF) The CIA officer in charge of DETENTION SITE COBALT, [CIA OFFICER 1], was a junior officer on his first overseas assignment with no previous experience or training in handling prisoners or conducting interrogations. [CIA OFFICER 1] was the DETENTION SITE COBALT manager during the period in which a CIA detainee died and numerous CIA detainees were subjected to unapproved coercive interrogation techniques.<sup>241</sup> A review of CIA records found that prior to [CIA OFFICER 1's] deployment and assignment as the CIA's DETENTION SITE COBALT manager, other CIA officers recommended [CIA OFFICER 1] not have continued access to classified information due to a "lack of honesty, judgment, and maturity."<sup>242</sup> According to records, "the chief of CTC told [CIA OFFICER 1] that he would not want [him] in his overseas station."<sup>243</sup> A supervising officer assessed that [CIA OFFICER 1]:

"has issues with judgment and maturity, [and his] potential behavior in the field is also worrisome. [The officer] further advised that [CIA OFFICER 1] was only put into processing for an overseas position so that someone would evaluate all of the evidence of this situation all together. [The officer further noted that [CIA OFFICER 1] might not listen to his chief of station when in the field."<sup>244</sup>

2. CIA Records Lack Information on CIA Detainees and Details of Interrogations in Country

(TS//NF) Detainees held in Country were detained under the authority of the MON; however, CIA officers conducted no written assessment of whether these detainees

Death Investigation - Gul RAHMAN; and CIA Inspector General, Report of Investigation, Death of a Detainee (2003-7402-IG), April 27, 2005. One senior interrogator, told the CIA OIG that "literally, a detainee could go for days or weeks without anyone looking at him," and that his team found one detainee who, "as far as we could determine, had been chained to the wall in a standing position for 17 days." According to the CIA interrogator, some of the CIA detainees at DETENTION SITE COBALT "literally looked like a dog that had been kenneled." When the doors to their cells were opened, "they cowered." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, April 30, 2003.) The chief of interrogations, told the CIA OIG that "[DETENTION SITE COBALT] is good for interrogations because it is the closest thing he has seen to a dungeon, facilitating the displacement of detainee expectations." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, April 7, 2003.) An analyst who conducted interrogations at DETENTION SITE COBALT told the CIA OIG that "[DETENTION SITE COBALT] is an EIT." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, May 8, 2003.)

<sup>241</sup> See April 27, 2005, CIA Inspector General, Report of Investigation: Death of a Detainee April 7, 2005, Memorandum for John Heigerson, Inspector General, from Robert Grenier, Subject: Comments on Draft Report of Investigation: Death of a Detainee (2003-7402-IG).

<sup>242</sup> [Redacted] Subject: [CIA OFFICER 1].  
<sup>243</sup> [Redacted] [CIA OFFICER 1]  
<sup>244</sup> [Redacted] [CIA OFFICER 1]

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(TS// [REDACTED] //NF) On August 5, 2002, the day after Abu Zubaydah's interrogation using the CIA's enhanced interrogation techniques at DETENTION SITE GREEN began, CIA Headquarters authorized the proposed interrogation plan for al-Najjar, to include the use of loud music (at less than the level that would cause physical harm such as permanent hearing loss), worse food (as long as it was nutritionally adequate for sustenance), sleep deprivation, and hooding.<sup>260</sup>

(TS// [REDACTED] //NF) More than a month later, on September 21, 2002, CIA interrogators described al-Najjar as "clearly a broken man" and "on the verge of complete breakdown" as result of the isolation.<sup>261</sup> The cable added that al-Najjar was willing to do whatever the CIA officer asked.<sup>262</sup>

(TS// [REDACTED] //NF) In October 2002, officers from the U.S. military conducted a short debriefing of al-Najjar at DETENTION SITE COBALT and subsequently expressed an interest in a more thorough debriefing.<sup>263</sup> On November [REDACTED], 2002, a U.S. military legal advisor visited DETENTION SITE COBALT and described it as a "CIA detention facility," noting that "while CIA is the only user of the facility they contend it is a [Country [REDACTED]] facility."<sup>264</sup> The U.S. military officer also noted that the junior CIA officer designated as warden of the facility "has little to no experience with interrogating or handling prisoners." With respect to al-Najjar specifically, the legal advisor indicated that the CIA's interrogation plan included "isolation in total darkness; lowering the quality of his food; keeping him at an uncomfortable temperature (cold); [playing music] 24 hours a day; and keeping him shackled and hooded." In addition, al-Najjar was described as having been left hanging—which involved handcuffing one or both wrists to an overhead bar which would not allow him to lower his arms—for 22 hours each day for two consecutive days, in order to "'break' his resistance." It was also noted al-Najjar was wearing a diaper and had no access to toilet facilities.<sup>265</sup>

(TS// [REDACTED] //NF) The U.S. military legal advisor concluded that, because of al-Najjar's treatment, and the concealment of the facility from the ICRC, military participation in al-Najjar's interrogation would involve risks for the U.S. military [REDACTED]. The legal advisor recommended briefing the CIA's detention and interrogation activities to U.S. [REDACTED]

[REDACTED], [REDACTED]; subject: ABU ZUBAYDAH - SENSITIVE ADDENDUM TO DCI DAILY 1630 OPS UPDATE - 26 JULY; date: July 26, 2002.

<sup>260</sup> DIRECTOR [REDACTED] (052309Z AUG 02). The OLC opinion that reviewed and approved the use of CIA's enhanced interrogation techniques, signed on August 1, 2002, was specific to Abu Zubaydah. The Office of Legal Counsel did not produce legal opinions for al-Najjar or other detainees held by or for the CIA until August 2004.

<sup>261</sup> [REDACTED] 27297 (210713Z SEP 02)

<sup>262</sup> [REDACTED] 27297 (210713Z SEP 02)

<sup>263</sup> November [REDACTED], 2002, Memorandum for [REDACTED].  
Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

<sup>264</sup> November [REDACTED], 2002, Memorandum for [REDACTED].  
Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

<sup>265</sup> November [REDACTED], 2002, Memorandum for [REDACTED].  
Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

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from having been forced to sit on the bare concrete floor without pants.<sup>272</sup> [CIA OFFICER 1's] initial cable to CIA Headquarters on Rahman's death included a number of misstatements and omissions that were not discovered until internal investigations into Rahman's death.<sup>273</sup>

(TS//NF) The death of Gul Rahman resulted in increased attention to CIA detention and interrogation activities in Country [redacted] by CIA Headquarters. The CTC formally designated the CTC's Renditions Group<sup>274</sup> as the responsible entity for the management and maintenance of all CIA interrogation facilities, including DETENTION SITE COBALT, in early December 2002.<sup>275</sup> Despite this change, many of the same individuals within the CIA—including DUNBAR, officers at DETENTION SITE COBALT, and officers within ALEC Station who had recommended the use of the CIA's enhanced interrogation techniques against Gul Rahman—remained key figures in the CIA interrogation program and received no reprimand or sanction for Rahman's death. Instead, in March 2003, just four months after the death of Gul Rahman, the CIA Station in Country [redacted] recommended that [redacted] [CIA OFFICER 1] receive a "cash award" of \$2,500 for his "consistently superior work."<sup>276</sup> [CIA OFFICER 1] remained in his position as manager of the detention site until July 2003 and continued to be involved in the interrogations of other CIA detainees. He was formally certified as a CIA interrogator in April 2003 after the practical portion of his training requirement was waived because of his past experience with interrogations at DETENTION SITE COBALT.<sup>277</sup>

<sup>272</sup> Memorandum for Deputy Director of Operations, from [redacted] January 28, 2003, Subject: Death Investigation - Gul RAHMAN. Other contributing factors were identified as dehydration, lack of food, and immobility due to "short chaining."

<sup>273</sup> [redacted] 30211 [redacted]. See Volume I and III for additional details.

<sup>274</sup> As noted, the Renditions Group was also known during the program as the "Renditions and Interrogations Group," as well as the "Rendition, Detention, and Interrogation Group," and by the initials, "RDI" and "RDG."

<sup>275</sup> DIRECTOR [redacted] (032336Z DEC 02)

<sup>276</sup> [redacted] 34909 [redacted]

<sup>277</sup> DIRECTOR [redacted]. In late 2005, the CIA convened an Accountability Board to review the actions of CIA personnel in Gul Rahman's death. The board recommended that the executive director "impose a 10 day suspension without pay" on [redacted] [CIA OFFICER 1], and noted that this action would "strike the appropriate balance between: 1) the fact that [redacted] [CIA OFFICER 1] was the only individual who made decisions that led directly, albeit unintentionally, to Rahman's death, and 2) the significant weight the Board attached to the mitigating factors at play in this incident." (See Memorandum for Executive Director from [redacted] [redacted], Deputy Director for Science and Technology, re: Report and Recommendations of the Special Accountability Board Regarding the Death of Afghan Detainee Gul Rahman.) On February 10, 2006, however, the CIA Executive Director K.B. Foggo notified [redacted] [CIA OFFICER 1] that he intended to take no disciplinary action against him. In his memo describing that decision, the executive director stated: "While not condoning your actions, it is imperative, in my view, that they... be judged within the operational context that existed at the time of Rahman's detention. Cable traffic reviewed by the board shows conclusively that Headquarters generally was aware of, and posed no objections to, the confinement conditions and interrogation techniques being imposed on Rahman as late as [redacted] November. On that date, Headquarters notified [the CIA Station in COUNTRY [redacted]]... that it was 'motivated to extract any and all operational information' from Rahman, that it rated achieving Rahman's cooperation to be of 'great importance' and that it acknowledged that Rahman 'may need to be subjected to enhanced interrogation measures to induce him to comply.'" (See February 10, 2006, Memorandum for [redacted] [CIA OFFICER 1]), CounterTerrorist Center, National Clandestine Service, from Executive Director, re: "Accountability Decision.") With regard to the death of Gul Rahman, the CIA's June 2013 Response states: "Most egregiously, we believe that CIA leaders erred in not holding anyone formally accountable for the actions and failure of management related to the death of Gul Rahman at [COBALT] in 2002. We understand the reasoning underlying CIA management's decision to overturn an accountability board recommendation that would have imposed sanctions on the least

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(TS// [REDACTED] //NF) Later investigations of DETENTION SITE COBALT conducted by the CIA inspector general and the deputy director of operations following the death of Gul Rahman found that the use of the CIA's enhanced interrogation techniques—and other coercive interrogation techniques—was more widespread than was reported in contemporaneous CIA cables. Specifically, the interrogation techniques that went unreported in CIA cables included standing sleep deprivation in which a detainee's arms were shackled above his head, nudity, dietary manipulation, exposure to cold temperatures, cold showers, "rough takedowns," and, in at least two instances, the use of mock executions.<sup>278</sup>

(TS// [REDACTED] //NF) On November 18, 2002, staff from the CIA's Office of Inspector General contacted [REDACTED] CTC Legal, [REDACTED], to indicate their interest in being briefed by CTC on the detention facility in Country [REDACTED]. At their meeting with the DDO and the chief of CTC on November [REDACTED], 2002, the OIG staff explained that, while in that country on a separate matter, the staff had overheard a conversation that included references to "war crimes" and "torture" at a CIA detention facility and were therefore seeking to follow-up on this information. According to notes from the meeting, the DDO described the "most recent event concerning Gul Rahman"—his death, which occurred on November [REDACTED], 2002.<sup>279</sup>

experienced officer involved. The most junior in the chain of command should not have to bear the full weight of accountability when larger, systemic problems exist and when they are thrust into difficult battlefield situations by their supervisors and given a risky and difficult task and little preparation or guidance. Still, it is hard to accept that a CIA officer does not bear at least some responsibility for his or her actions, even under trying circumstances."<sup>278</sup> Special Review, Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), May 7, 2004; Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation - Gul RAHMAN; CIA Inspector General, Report of Investigation, Death of a Detainee [REDACTED] (2003-7402-IG), April 27, 2005. Inspector General records of the interview of a senior CIA debriefer indicated that, "[d]uring the two weeks of interrogation training, she heard stories of [COBALT] detainees being 'hung for days on end,' not being fed, mock assassinations, and at least one case of a detainee being repeatedly choked." The senior debriefer also informed the Office of Inspector General that, "[s]he heard that while at [COBALT] [REDACTED], aka 'CIA OFFICER 2'" had hung detainees up for long periods with their toes barely touching the ground." (See interview report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 5, 2003.) DUNBAR described a "rough takedown" following the death of Gul Rahman at COBALT. "According to [DUNBAR], there were approximately five CIA officers from the renditions team. Each one had a role during the takedown and it was thoroughly planned and rehearsed. They opened the door of Rahman's cell and rushed in screaming and yelling for him to 'get down.' They dragged him outside, cut off his clothes and secured him with Mylar tape. They covered his head with a hood and ran him up and down a long corridor adjacent to his cell. They slapped him and punched him several times. [DUNBAR] stated that although it was obvious they were not trying to hit him as hard as they could, a couple of times the punches were forceful. As they ran him along the corridor, a couple of times he fell and they dragged him through the dirt (the floor outside of the cells is dirt). Rahman did acquire a number of abrasions on his face, legs, and hands, but nothing that required medical attention. (This may account for the abrasions found on Rahman's body after his death. Rahman had a number of surface abrasions on his shoulders, pelvis, arms, legs, and face.) At this point, Rahman was returned to his cell and secured. [DUNBAR] stated that [REDACTED] [CIA OFFICER 1] [the CIA officer in charge of DETENTION SITE COBALT] may have spoken to Rahman for a few moments, but he did not know what [REDACTED] [CIA OFFICER 1] said. [DUNBAR] stated that after something like this is done, interrogators should speak to the prisoner to 'give them something to think about.'" (See Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation - Gul RAHMAN, pp. 21-22.)<sup>279</sup> See Notes of November [REDACTED], 2002, meeting D/IG [REDACTED].

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(TS//~~FOUO~~) The CIA's CTC Renditions Group began preparing for the first CIA interrogator training course in August 2002—during the period in which Abu Zubaydah was being interrogated using the CIA's enhanced interrogation techniques at DETENTION SITE GREEN. [REDACTED], the CIA's chief of interrogations,<sup>287</sup> and [REDACTED], the CIA officer with OTS who had spent [REDACTED] years as a SERE Instructor with JPRA, led the interrogation training. The first interrogation training, conducted with the assistance of JPRA personnel, occurred from November 12, 2002, to November 18, 2002.<sup>288</sup> The class included eight students who were seeking to become CIA interrogators and three students seeking to support the CIA interrogation process.<sup>289</sup> The CIA training program involved 65 hours of instruction and training on the CIA's enhanced interrogation techniques, including at least two interrogation techniques whose legality had not been evaluated by the Department of Justice: the "abdominal slap" and the "finger press." Although a number of personnel at CIA Headquarters reviewed the training materials, there are no CIA records of any CIA officer raising objections to the techniques being included in the syllabus.<sup>290</sup>

6. *Despite Recommendation from CIA Attorneys, the CIA Fails to Adequately Screen Potential Interrogators in 2002 and 2003*

(TS//~~FOUO~~) On November [REDACTED], 2002, after the completion of the first formal training class, [REDACTED] CTC Legal, [REDACTED], asked CTC attorney [REDACTED] to "[m]ake it known that from now on, CTC/LGL must vet all personnel who are enrolled in, observing or teaching – or otherwise associated with – the class."<sup>291</sup> [REDACTED] added:

"Moreover, we will be forced to DISapprove [sic] the participation of specific personnel in the use of enhanced techniques unless we have ourselves vetted

<sup>287</sup> December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running) at 4. See also email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; subject: Formation of a High Value Target Interrogation team (describing initial training plan and requirements); date: August 30, 2002, at 8:30 AM.

<sup>288</sup> December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running).

<sup>289</sup> December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running), at 15.

<sup>290</sup> See, for example, email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: HVT training; date: October 10, 2002; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: HVT training; date: October 10, 2002; November 1, 2002, Memorandum for: Director, DCI Counterterrorist Center, from [REDACTED], Chief, Renditions Group, CTC, re: Request for use of Military Trainers in Support of Agency Interrogation Course, REFERENCE: Memo for D/CTC from C/RG/CTC, dtd 26 Aug 02, Same Subject.

<sup>291</sup> Email from: [REDACTED], CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM. As described above, Gul Rahman likely froze to death at DETENTION SITE COBALT sometime in the morning of November [REDACTED], 2002. [REDACTED]'s email, however, appears to have been drafted before the guards had found Gul Rahman's body and before that death was reported to CIA Headquarters. See [REDACTED] 3021 ] [REDACTED], describing the guards observing Gul Rahman alive in the morning of November [REDACTED], 2002. Gul Rahman's death appeared in cable traffic at least [REDACTED] after [REDACTED]'s email. No records could be identified to provide the impetus for [REDACTED]'s email.

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them and are satisfied with their qualifications and suitability for what are clearly unusual measures that are lawful only when practiced correctly by personnel whose records clearly demonstrate their suitability for that role. The vetting process will not be that dissimilar from the checks that are provided by the OIG, OS, etc. in certain cases before individuals are promoted or receive awards, and the selection and training of aggressive interrogators certainly warrants a similar vetting process."<sup>292</sup>

(TS// [REDACTED] //NF) The chief of CTC, Jose Rodriguez, objected to this approach, stating:

"I do not think that CTC/LGL should or would want to get into the business of vetting participants, observers, instructors or others that are involved in this program. It is simply not your job. Your job is to tell all what are the acceptable legal standards for conducting interrogations per the authorities obtained from Justice and agreed upon by the White House."<sup>293</sup>

(TS// [REDACTED] //NF) Contrary to statements later made by CIA Director Michael Hayden and other CIA officials that "[a]ll those involved in the questioning of detainees are carefully chosen and screened for demonstrated professional judgment and maturity,"<sup>294</sup> CIA records suggest that the vetting sought by [REDACTED] did not take place. The Committee reviewed CIA records related to several CIA officers and contractors involved in the CIA's Detention and Interrogation Program, most of whom conducted interrogations. The Committee identified a number of personnel whose backgrounds include notable derogatory information calling into question their eligibility for employment, their access to classified information, and their participation in CIA interrogation activities. In nearly all cases, the derogatory information was known to the CIA prior to the assignment of the CIA officers to the Detention and Interrogation Program. This group of officers included individuals who, among other issues, had engaged in inappropriate detainee interrogations, had workplace anger management issues, and had reportedly admitted to sexual assault.<sup>295</sup>

#### 7. Bureau of Prisons "WOW'ed" by Level of Deprivation at CIA's COBALT Detention Site

(TS// [REDACTED] //NF) In December 2002, the CIA's Renditions Group sent a team of recently trained interrogators to DETENTION SITE COBALT to engage in interrogations. The interrogation plans proposed by that team for at least three detainees at DETENTION SITE

<sup>292</sup> Email from: [REDACTED], CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM.

<sup>293</sup> Email from: Jose Rodriguez; to: [REDACTED], CTC/LGL; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 04:27 PM.

<sup>294</sup> Transcript of hearing, April 12, 2007 (DTS #2007-1563).

<sup>295</sup> The information [REDACTED] is described at length in the Committee Study in Volume III.

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COBALT included the use of interrupted sleep, loud music, and reduction in food quality and quantity. Less than a month after the death of Gul Rahman from suspected hypothermia, the plans also called for detainees' clothes to be removed in a facility that was described to be 45 degrees Fahrenheit. CIA Headquarters approved the proposals for these detainees, whom the CIA described as "Medium Value."<sup>296</sup>

(TS// [REDACTED] //NF) Prior to this, in November 2002, a delegation of several officers from the Federal Bureau of Prisons conducted an assessment of DETENTION SITE COBALT. Following the November [REDACTED], 2002, through November [REDACTED], 2002, visit,<sup>297</sup> CIA officers in Country [REDACTED] remarked that the Federal Bureau of Prisons assessments, along with recommendations and training, had "made a noticeable improvement on how the day to day operations at the facility are performed," and made the detention site a "more secure and safer working environment for [REDACTED] officers."<sup>298</sup>

(TS// [REDACTED] //NF) On December 4, 2002, officers at CIA Headquarters met with individuals from the Federal Bureau of Prisons to learn more about their inspection of DETENTION SITE COBALT and their training of [REDACTED] security staff.<sup>299</sup> During that meeting, the Federal Bureau of Prisons personnel described DETENTION SITE COBALT and stated that there was "absolutely no talking inside the facility," that the guards do not interact with the prisoners, and that "[e]verything is done in silence and [in] the dark."<sup>300</sup> According to a CIA officer, the Federal Bureau of Prisons staff also commented that "they were 'WOW'ed" at first by the facility, because:

"They have never been in a facility where individuals are so sensory deprived, i.e., constant white noise, no talking, everyone in the dark, with the guards wearing a light on their head when they collected and escorted a detainee to an interrogation cell, detainees constantly being shackled to the wall or floor, and the starkness of each cell (concrete and bars). There is nothing like this in the Federal Bureau of Prisons. They then explained that they understood the mission and it was their collective assessment that in spite of all this sensory deprivation, the detainees were not being treated in humanely [sic]. They explained that the facility was sanitary, there was medical care and the guard force and our staff did not mistreat the detainee[s]."<sup>301</sup>

(TS// [REDACTED] //NF) By the end of December 2002, the CIA Renditions Group that had visited DETENTION SITE COBALT had concluded that the detention facility's initial "baseline conditions" involved so much deprivation that any further deprivation would have limited impact

<sup>296</sup> [REDACTED] 31118 [REDACTED]; DIRECTOR [REDACTED] [REDACTED]

<sup>297</sup> CIA detainee Gul Rahman died at DETENTION SITE COBALT at the end of the Federal Bureau of Prisons visit to the CIA detention site.

<sup>298</sup> [REDACTED] 30589 (271626Z NOV 02)

<sup>299</sup> Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002.

<sup>300</sup> Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002.

<sup>301</sup> Email from: [REDACTED]; to: [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 5, 2002.

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on the interrogations. The team thus recommended that "experts and authorities other than the individuals who crafted the process" review the interrogation process and conditions, and that a legal review be conducted.<sup>302</sup> CIA Headquarters does not appear to have taken action on these recommendations.

8. *The CIA Places CIA Detainees in Country [REDACTED] Facilities Because They Did Not Meet the MON Standard for Detention*

(TS////NF) In the spring of 2003, the CIA continued to hold detainees at facilities in Country [REDACTED] who were known not to meet the MON standard for detention. CIA officer [REDACTED] [CIA OFFICER 1] described the arrangement he had with Country [REDACTED] officers in an email, writing:

"[REDACTED]. They also happen to have 3 or 4 rooms where they can lock up people discretely [sic]. I give them a few hundred bucks a month and they use the rooms for whoever I bring over - no questions asked. It is very useful for housing guys that shouldn't be in [DETENTION SITE COBALT] for one reason or another but still need to be kept isolated and held in secret detention."<sup>303</sup>

(TS////NF) CIA cables indicate that CIA officers transferred at least four detainees to these Country [REDACTED] facilities because they did not meet the standard for CIA detention under the MON.<sup>304</sup>

(TS////NF) In total, four CIA detention facilities were established in Country [REDACTED]. CIA records indicate that DETENTION SITE COBALT held a total of 64 detainees during the period of its operation between September 2002 and [REDACTED] 2004, while DETENTION SITE GRAY held eight detainees between [REDACTED] 2003 and [REDACTED] 2003. The CIA later established two other CIA facilities in Country [REDACTED]: DETENTION SITE ORANGE, which held 34 detainees between [REDACTED] 2004 and [REDACTED] 2006; and DETENTION SITE BROWN, which held 12 detainees between [REDACTED] 2006 and 2008.<sup>305</sup>

<sup>302</sup> CIA document entitled Renditions Group Interrogation Team (RGIT), Baseline assessment for MVT, Detainee/Prisoner management, December 30, 2002. The CIA does not appear to have taken action on this recommendation.

<sup>303</sup> Email from: [REDACTED] [CIA OFFICER 1]; to: [REDACTED]; subject: Thanks and Query re: List of [REDACTED] DETAINEES; date: March 14, 2003.

<sup>304</sup> The cables did not explain any legal basis for detaining individuals who did not meet the detention requirements of the September 17, 2001, MON. HEADQUARTERS [REDACTED] ( [REDACTED] ); [REDACTED] 36682 ( [REDACTED] ); [REDACTED] 38836 ( [REDACTED] ); HEADQUARTERS [REDACTED] ( [REDACTED] ); [REDACTED] 41204 ( [REDACTED] ); ALEC [REDACTED] ( [REDACTED] ).

<sup>305</sup> See Volume III for additional information.

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detainees undergoing interrogation were kept in smaller cells, with waste buckets rather than toilet facilities.<sup>311</sup>

(TS// [REDACTED] //NF) The DCI's January 2003 interrogation guidelines listed 12 "enhanced techniques" that could be used with prior approval of the director of CTC, including two—use of diapers for "prolonged periods" and the abdominal slap—that had not been evaluated by the OLC. The "enhanced techniques" were only to be employed by "approved interrogators for use with [a] specific detainee." The guidelines also identified "standard techniques"—including sleep deprivation up to 72 hours, reduced caloric intake, use of loud music, isolation, and the use of diapers "generally not to exceed 72 hours"—that required advance approval "whenever feasible," and directed that their use be documented. The "standard techniques" were described as "techniques that do not incorporate physical or substantial psychological pressure." The guidelines provided no description or further limitations on the use of either the enhanced or standard interrogation techniques.<sup>312</sup>

(TS// [REDACTED] //NF) Although the DCI interrogation guidelines were prepared as a reaction to the death of Gul Rahman and the use of unauthorized interrogation techniques on 'Abd al-Rahim ul-Nashiri, they did not reference all interrogation practices that had been employed at CIA detention sites. The guidelines, for example, did not address whether interrogation techniques such as the "rough take down,"<sup>313</sup> the use of cold water showers,<sup>314</sup> and prolonged light deprivation were prohibited. In addition, by requiring advance approval of "standard techniques" "whenever feasible," the guidelines allowed CIA officers a significant amount of discretion to determine who could be subjected to the CIA's "standard" interrogation techniques, when those techniques could be applied, and when it was not "feasible" to request advance approval from CIA Headquarters. Thus, consistent with the interrogation guidelines, throughout much of 2003, CIA officers (including personnel not trained in interrogation) could, at their discretion, strip a detainee naked, shackle him in the standing position for up to 72 hours, and douse the detainee repeatedly with cold water<sup>315</sup>—without approval from CIA Headquarters if those officers judged CIA Headquarters approval was not "feasible." In practice, CIA personnel routinely applied these types of interrogation techniques without obtaining prior approval.<sup>316</sup>

<sup>311</sup> [REDACTED] 3741 [REDACTED]

<sup>312</sup> Guidelines on Interrogations Conducted Pursuant to the Presidential Memorandum of Notification of 17 September 2001, signed by George Tenet, Director of Central Intelligence, January 28, 2003.

<sup>313</sup> For a description of the "rough takedown," see Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation – Gul RAHMAN, pp. 21-22.

<sup>314</sup> One cold water shower was described by a CIA linguist: "Rahman was placed back under the cold water by the guards at [REDACTED] [CIA OFFICER 1]'s direction. Rahman was so cold that he could barely utter his alias. According to [the on-site linguist], the entire process lasted no more than 20 minutes. It was intended to lower Rahman's resistance and was not for hygienic reasons. At the conclusion of the shower, Rahman was moved to one of the four sleep deprivation cells where he was left shivering for hours or overnight with his hand chained over his head." See CIA Inspector General, Report of Investigation, Death of a Detainee [REDACTED] (2003-7402-IG), April 27, 2005.

<sup>315</sup> Water dousing was not designated by the CIA as a "standard" interrogation technique until June 2003. In January 2004 water dousing was recategorized by the CIA as an "enhanced" interrogation technique.

<sup>316</sup> See Volume III for additional information.

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(TS////NF) The DCI interrogation guidelines also included the first requirements related to recordkeeping, instructing that, for "each interrogation session in which an enhanced technique is employed," the field prepare a "substantially contemporaneous record... setting forth the nature and duration of each such technique employed, the identities of those present, and a citation to the required Headquarters approval cable."<sup>317</sup> In practice, these guidelines were not followed.<sup>318</sup>

(TS////NF) There were also administrative changes to the program. As noted, on December 3, 2002, CTC's Renditions Group formally assumed responsibility for the management and maintenance of all CIA detention and interrogation facilities.<sup>319</sup> Prior to that time, the interrogation program was "joined at the hip" with CTC's ALEC Station, according to  CTC Legal, although another CTC attorney who was directly involved in the program informed the CIA OIG that she "was never sure what group in CTC was responsible for interrogation activities."<sup>320</sup> Even after the formal designation of the CIA's Renditions Group,<sup>321</sup> tensions continued, particularly between CTC personnel who supported SWIGERT and DUNBAR's continued role, and the Renditions Group, which designated  as the

<sup>317</sup> DIRECTOR  (302126Z JAN 03); DIRECTOR  (311702Z JAN 03). Despite the formal record keeping requirement, the CIA's June 2003 Response argues that detailed reporting on the use of the CIA's enhanced interrogation techniques at CIA detention sites was not necessary, stating: "First, the decline in reporting over time on the use of enhanced techniques, which the Study characterizes as poor or deceptive record keeping, actually reflects the maturation of the program. In early 2003, a process was put in place whereby interrogators requested permission in advance for interrogation plans. The use of these plans for each detainee obviated the need for reporting in extensive detail on the use of specific techniques, unless there were deviations from the approved plan." As detailed in the Study, the process put in place by the CIA in early 2003 explicitly required record keeping, including "the nature and duration of each such technique employed, the identities of those present, and a citation to the required Headquarters approval cable." That requirement was never revised.

<sup>318</sup> Subsequent to the January 2003 guidance, many cables reporting the use of the CIA's enhanced interrogation techniques listed the techniques used on a particular day, but did not describe the frequency with which those techniques were employed, nor did they integrate the specific techniques into narratives of the interrogations. As the CIA interrogation program continued, descriptions of the use of the CIA's enhanced interrogation techniques were recorded in increasingly summarized form, providing little information on how or when the techniques were applied during an interrogation. There are also few CIA records detailing the rendition process for detainees and their transportation to or between detention sites. CIA records do include detainee comments on their rendition experiences and photographs of detainees in the process of being transported. Based on a review of the photographs, detainees transported by the CIA by aircraft were typically hooded with their hands and feet shackled. The detainees wore large headsets to eliminate their ability to hear, and these headsets were typically affixed to a detainee's head with duct tape that ran the circumference of the detainee's head. CIA detainees were placed in diapers and not permitted to use the lavatory on the aircraft. Depending on the aircraft, detainees were either strapped into seats during the flights, or laid down and strapped to the floor of the plane horizontally like cargo. See CIA photographs of renditions among CIA materials provided to the Committee pursuant to the Committee's document requests, as well as CIA detainee reviews in Volume III for additional information on the transport of CIA detainees.

<sup>319</sup> DIRECTOR  (032336Z DEC 03)

<sup>320</sup> Interview of  by [REDACTED], [REDACTED] and [REDACTED], Office of the Inspector General, August 20, 2003. Interview of  by [REDACTED] and [REDACTED], Office of the Inspector General, February 14, 2003. CTC Chief of Operations told the Inspector General that the program was handled by the Abu Zubaydah Task Force. See February 11, 2003, interview report of , Office of the Inspector General.

<sup>321</sup> As noted, the CIA's Rendition Group is variably known as the "Renditions Group," the "Renditions and Detainees Group," the "Renditions, Detentions, and Interrogations Group," and by the initials, "RDI" and "RDG."

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CIA's chief interrogator.<sup>322</sup> As late as June 2003, SWIGERT and DUNBAR, operating outside of the direct management of the Renditions Group, were deployed to DETENTION SITE BLUE to both interrogate and conduct psychological reviews of detainees.<sup>323</sup> The dispute extended to interrogation practices. The Renditions Group's leadership considered the waterboard, which Chief of Interrogations [REDACTED] was not certified to use, as "life threatening," and complained to the OIG that some CIA officers in the Directorate of Operations believed that, as a result, the Renditions Group was "running a 'sissified' interrogation program."<sup>324</sup> At the same time, CIA CTC personnel criticized the Renditions Group and [REDACTED] for their use of painful stress positions, as well as for the conditions at DETENTION SITE COBALT.<sup>325</sup>

(TS// [REDACTED] //NF) There were also concerns about possible conflicts of interest related to the contractors, SWIGERT and DUNBAR. On January 30, 2003, a cable from CIA Headquarters stated that "the individual at the interrogation site who administers the techniques is not the same person who issues the psychological assessment of record," and that only a staff psychologist, not a contractor, could issue an assessment of record."<sup>326</sup> In June 2003, however, SWIGERT and DUNBAR were deployed to DETENTION SITE BLUE to interrogate KSM, as well as to assess KSM's "psychological stability" and "resistance posture."<sup>327</sup> As described later in this summary, the contractors had earlier subjected KSM to the waterboard and other CIA enhanced interrogation techniques. The decision to send the contract psychologists to DETENTION SITE BLUE prompted an OMS psychologist to write to OMS leadership that

<sup>322</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003. February 21, 2003, interview report, [REDACTED], Office of the Inspector General. Hammond DUNBAR told the Office of Inspector General that there was "intrigue" between the RDG and him and SWIGERT, and "there were emails coming to [DETENTION SITE BLUE] that questioned [his] and [SWIGERT]'s qualifications." See Interview of Hammond DUNBAR, by [REDACTED] and [REDACTED], Office of the Inspector General, February 4, 2003.

<sup>323</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: [REDACTED] RDG Tasking for IC Psychologists [DUNBAR] and [SWIGERT]; date: June 20, 2003, at 5:23:29 PM. [REDACTED] OMS expressed concern that "no professional in the field would credit [SWIGERT and DUNBAR]'s later judgments as psychologists assessing the subjects of their enhanced measures." (See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: [REDACTED] RDG Tasking for IC Psychologists DUNBAR and SWIGERT; date: June 20, 2003, at 2:19:53 PM.) The CIA's June 2003 Response states that CIA "Headquarters established CTC's Renditions and Detentions Group CTC/RDG as the responsible entity for all CIA detention and interrogation sites in December 2002, removing any latent institutional confusion."

<sup>324</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, February 21, 2003. The chief of interrogations, [REDACTED], told the Inspector General that the waterboard was overused with Abu Zubaydah and KSM and was ineffective in the interrogations of KSM. (See Interview of [REDACTED], by [REDACTED] and [REDACTED] of the Office of the Inspector General, March 27, 2003.) One doctor involved in CIA interrogations using the waterboard interrogation technique stated that [REDACTED] "has a huge bias against the waterboard b/c he's not approved to use it. The reverse is true of the contract psy guys [SWIGERT and DUNBAR] who have a vested interest in favor of it." See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: re: More; date: April 11, 2003, at 08:11:07 AM.

<sup>325</sup> March 10, 2003, interview report of [REDACTED], Office of the Inspector General. Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, February 27, 2003. Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003. March 24, 2003, interview report of [REDACTED], Office of the Inspector General.

<sup>326</sup> DIRECTOR [REDACTED] (301835Z JAN 03)

<sup>327</sup> [REDACTED] 12168 (301822Z JUN 03)

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"[a]ny data collected by them from detainees with whom they previously interacted as interrogators will always be suspect."<sup>328</sup> [REDACTED] OMS then informed the management of the Renditions Group that "no professional in the field would credit [SWIGERT and DUNBAR's] later judgments as psychologists assessing the subjects of their enhanced measures."<sup>329</sup> At the end of their deployment, in June 2003, SWIGERT and DUNBAR provided their assessment of KSM and recommended that he should be evaluated on a monthly basis by "an experienced interrogator known to him" who would assess how forthcoming he is and "remind him that there are differing consequences for cooperating or not cooperating."<sup>330</sup> In his response to the draft Inspector General Special Review, [REDACTED] OMS noted that "OMS concerns about conflict of interest... were nowhere more graphic than in the setting in which the same individuals applied an EIT which only they were approved to employ, judged both its effectiveness and detainee resilience, and implicitly proposed continued use of the technique - at a daily compensation reported to be \$1800/day, or four times that of interrogators who could not use the technique."<sup>331</sup>

D. The Detention and Interrogation of 'Abd al-Rahim al-Nashiri

1. CIA Interrogators Disagree with CIA Headquarters About Al-Nashiri's Level of Cooperation; Interrogators Oppose Continued Use of the CIA's Enhanced Interrogation Techniques

(TS// [REDACTED] //NF) 'Abd al-Rahim al-Nashiri,<sup>332</sup> assessed by the CIA to be an al-Qa'ida "terrorist operations planner" who was "intimately involved" in planning both the USS Cole bombing and the 1998 East Africa U.S. Embassy bombings, was captured in the United Arab Emirates in mid-October 2002.<sup>333</sup> He provided information while in the custody of a foreign government, including on plotting in the Persian Gulf,<sup>334</sup> and was then rendered by the

<sup>328</sup> The email, which expressed concern that SWIGERT and DUNBAR would interfere with on-site psychologists, stated that, "[a]lthough these guys believe that their way is the only way, there should be an effort to define roles and responsibilities before their arrogance and narcissism evolve into unproductive conflict in the field." See email from: [REDACTED]; to: [REDACTED]; subject: [REDACTED] RDG Tasking for IC Psychologists DUNBAR and SWIGERT; date: June 16, 2003, at 4:54:32 PM.

<sup>329</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: [REDACTED] RDG Tasking for IC Psychologists DUNBAR and SWIGERT; date: June 20, 2003, at 2:19:53 PM.

<sup>330</sup> [REDACTED] 12168 (301822Z JUN 03). The CIA's June 2003 Response states: "In practice, by April 2003, [CIA] staff psychologists had taken over almost all of the provisions of support to the RDI program. As it concerned [SWIGERT] and [DUNBAR], however, the appearance of impropriety continued, albeit to a lesser degree, because they were occasionally asked to provide input to assessments on detainees whom they had not interrogated" (emphasis added). The CIA's June 2003 Response is inaccurate. For example, in June 2003, SWIGERT and DUNBAR provided an assessment on KSM, a detainee whom they had interrogated.

<sup>331</sup> Memorandum for Inspector General, Attention: Assistant IG for Investigations, [REDACTED], from [REDACTED], M.D., [REDACTED] Medical Services [REDACTED] re Draft Special Review-Counterterrorism Detention and Interrogation Program (2003-7123-IG), at 13.

<sup>332</sup> For more information on al-Nashiri, see detainee review of 'Abd al-Rahim al-Nashiri in Volume III.

<sup>333</sup> ALEC [REDACTED]; 11357 (021242Z DEC 02); [REDACTED] 36710 [REDACTED]

<sup>334</sup> See [REDACTED] 36595 [REDACTED]; [REDACTED] 36726 [REDACTED]; ALEC [REDACTED]; CIA [REDACTED]; CIA [REDACTED]; CIA [REDACTED]

For other reporting from al-Nashiri while he was in foreign government custody, see

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CIA to DETENTION SITE COBALT in Country [REDACTED] on November [REDACTED], 2002, where he was held for [REDACTED] days before being transferred to DETENTION SITE GREEN on November [REDACTED], 2002.<sup>335</sup> At DETENTION SITE GREEN, al-Nashiri was interrogated using the CIA's enhanced interrogation techniques, including being subjected to the waterboard at least three times.<sup>336</sup> In December 2002, when DETENTION SITE GREEN was closed, al-Nashiri and Abu Zubaydah were rendered to DETENTION SITE BLUE.<sup>337</sup>

(TS//[REDACTED]/NF) In total, al-Nashiri was subjected to the CIA's enhanced interrogation techniques during at least four separate periods, with each period typically ending with an assessment from on-site interrogators that al-Nashiri was compliant and cooperative.<sup>338</sup> Officers at CIA Headquarters disagreed with these assessments, with the deputy chief of ALEC Station, [REDACTED], commenting that DETENTION SITE BLUE interrogators should not make "sweeping statements" in cable traffic regarding al-Nashiri's compliance.<sup>339</sup> Officers at CIA Headquarters sought to reinstate the use of the CIA's enhanced interrogation techniques based on their belief that al-Nashiri had not yet provided actionable intelligence on imminent attacks.<sup>340</sup>

(TS//[REDACTED]/NF) Shortly after al-Nashiri arrived at DETENTION SITE BLUE, CIA interrogators at the detention site judged al-Nashiri's cooperation and compliance by his engagement and willingness to answer questions, while CIA Headquarters personnel judged his compliance based on the specific actionable intelligence he had provided (or the lack thereof). For example, in December 2002, interrogators informed CIA Headquarters that al-Nashiri was "cooperative and truthful," and that the "consensus" at the detention site was that al-Nashiri was

[REDACTED] 70879 [REDACTED] 70866 [REDACTED] 70868 [REDACTED]  
[REDACTED] 70870 [REDACTED] For disseminated intelligence, see [REDACTED]

<sup>335</sup> [REDACTED] 29768 ([REDACTED] NOV 02); [REDACTED] 11243 ([REDACTED] NOV 02)  
<sup>336</sup> See, for example, [REDACTED] 11246 ([REDACTED] NOV 02); [REDACTED] 11258 ([REDACTED] NOV 02);  
[REDACTED] 11263 ([REDACTED] NOV 02); [REDACTED] 11270 ([REDACTED] NOV 02); [REDACTED] 11284 ([REDACTED] NOV 02);  
[REDACTED] 11294 ([REDACTED] NOV 02); [REDACTED] 11293 ([REDACTED] NOV 02); [REDACTED] 11322 ([REDACTED] NOV  
02); [REDACTED] 11352 ([REDACTED] DEC 02); [REDACTED] 11359 ([REDACTED] DEC 02); [REDACTED] 11322 ([REDACTED]  
NOV 02); [REDACTED] 11344 ([REDACTED] NOV 02).  
<sup>337</sup> [REDACTED] 78275 ([REDACTED] DEC 02)

<sup>338</sup> Al-Nashiri's time at DETENTION SITE COBALT is not well documented in CIA records. As described elsewhere, standard operating procedure at COBALT at the time included total light deprivation, loud continuous music, isolation, and dietary manipulation. Based on CIA records, the other four "enhanced interrogation" periods of al-Nashiri took place at DETENTION SITE BLUE on December 5-8, 2002; December 27, 2002 - January 1, 2003; January 9-10, 2003; and January 15-27, 2003. See [REDACTED] 10030 (111541Z DEC 02); [REDACTED] 10078 (211733Z DEC 02); [REDACTED] 10140 (031727Z JAN 03); ALEC [REDACTED] (191729Z JAN 03).

<sup>339</sup> Email from: [REDACTED]; to: [REDACTED]; (REDACTED); cc: [REDACTED]; [REDACTED], [REDACTED], [REDACTED]; subject: [DETENTION SITE BLUE] follow-up; date: December 15, 2002.

<sup>340</sup> See, for example, ALEC [REDACTED] (072315Z DEC 02); ALEC [REDACTED] (130352Z DEC 02); ALEC [REDACTED] (180247Z DEC 02); ALEC [REDACTED] (191729Z JAN 03); CIA Office of Inspector General, Report of Investigation: Unauthorized Interrogation Techniques at [DETENTION SITE BLUE], (2003-7123-IG), October 29, 2003. See also CIA Office of Inspector General report, Counterterrorism Detention And Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), released on May 7, 2004.

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"a compliant detainee" who was not "withholding important threat information."<sup>341</sup> Officers from the CIA's ALEC Station at CIA Headquarters responded:

"it is inconceivable to us that al-Nashiri cannot provide us concrete leads... When we are able to capture other terrorists based on his leads and to thwart future plots based on his reporting, we will have much more confidence that he is, indeed, genuinely cooperative on some level."<sup>342</sup>

(TS//~~NOFORN~~) Later, after multiple follow-up debriefings, DETENTION SITE BLUE officers again wrote that they had "reluctantly concluded" that al-Nashiri was providing "logical and rational explanations" to questions provided by CIA Headquarters and therefore they recommended "against resuming enhanced measures" unless ALEC Station had evidence al-Nashiri was lying.<sup>343</sup> A cable from the detention site stated:

"without tangible proof of lying or intentional withholding, however, we believe employing enhanced measures will accomplish nothing except show [al-Nashiri] that he will be punished whether he cooperates or not, thus eroding any remaining desire to continue cooperating... [The] bottom line is that we think [al-Nashiri] is being cooperative, and if subjected to indiscriminate and prolonged enhanced measures, there is a good chance he will either fold up and cease cooperation, or suffer the sort of permanent mental harm prohibited by the statute. Therefore, a decision to resume enhanced measures must be grounded in fact and not general feelings."<sup>344</sup>

2. CIA Headquarters Sends Untrained Interrogator to Resume Al-Nashiri's Interrogations; Interrogator Threatens al-Nashiri with a Gun and a Drill

(TS//~~NOFORN~~) After the DETENTION SITE BLUE chief of Base sent two interrogators back to the United States because of "prolonged absences from family" and the "fact that enhanced measures are no longer required for al-Nashiri," CIA Headquarters sent [CIA OFFICER 2], a CIA officer who had not been trained or qualified as an interrogator, to DETENTION SITE BLUE to question and assess al-Nashiri.<sup>345</sup>

<sup>341</sup> [redacted] 10030 (111541Z DEC 02)

<sup>342</sup> ALEC [redacted] (180247Z DEC 02)

<sup>343</sup> [redacted] 10085 (230906Z DEC 02)

<sup>344</sup> [redacted] 10085 (230906Z DEC 02)

<sup>345</sup> [redacted] 10040 (122122Z DEC 02). Prior to [redacted] [CIA OFFICER 2's] deployment, CIA records included numerous concerns about [redacted] [CIA OFFICER 2's] anger management, [redacted], and [redacted]. For more information on [redacted] [CIA OFFICER 2] and other CIA personnel in the program with similar alarming issues in their background, see Volume III. The CIA's June 2013 Response states that: "[redacted]"

some of the [redacted] officers mentioned in the Study—[redacted] should have been excluded—much of the derogatory information was not in fact available to senior managers making assignments [redacted]. Notwithstanding the CIA's June 2013 assertion, as detailed in Volume III, senior managers were aware of concerns related to [redacted] [CIA OFFICER 2] prior to his deployment.

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(TS///NF) In late December 2002, following a meeting at CIA Headquarters to discuss resuming the use of the CIA's enhanced interrogation techniques against al-Nashiri, , the chief of RDG<sup>346</sup>—the entity that managed the CIA's Detention and Interrogation Program—objected to sending  [CIA OFFICER 2] to the detention site because he “had not been through the interrogation training” and because  “had heard from some colleagues that  [CIA OFFICER 2] was too confident, had a temper, and had some security issues.”  later learned from other CIA officials that “[CTC chief of operations ] wanted  [CIA OFFICER 2] at [DETENTION SITE BLUE] over the holidays.”  told the Office of Inspector General that “his assessment is that the Agency management felt that the [RDG] interrogators were being too lenient with al-Nashiri and that  [CIA OFFICER 2] was sent to [DETENTION SITE BLUE] to ‘fix’ the situation.”<sup>347</sup>

(TS///NF)  [CIA OFFICER 2] arrived at DETENTION SITE BLUE on December , 2002, and the CIA resumed the use of its enhanced interrogation techniques on al-Nashiri shortly thereafter, despite the fact that  [CIA OFFICER 2] had not been trained, certified, or approved to use the CIA's enhanced interrogation techniques.  [CIA OFFICER 2] wrote in a cable to CIA Headquarters that “[al]-Nashiri responds well to harsh treatment” and suggested that the interrogators continue to administer “various degrees of mild punishment,” but still allow for “a small degree of ‘hope,’ by introducing some ‘minute rewards.’”<sup>348</sup>

(TS///NF) It was later learned that during these interrogation sessions,  [CIA OFFICER 2], with the permission and participation of the DETENTION SITE BLUE chief of Base, who also had not been trained and qualified as an interrogator, used a series of unauthorized interrogation techniques against al-Nashiri. For example,  [CIA OFFICER 2] placed al-Nashiri in a “standing stress position” with “his hands affixed over his head” for approximately two and a half days.<sup>349</sup> Later, during the course of al-Nashiri's debriefings, while he was blindfolded,  [CIA OFFICER 2] placed a pistol near al-Nashiri's head and operated a cordless drill near al-Nashiri's body.<sup>350</sup> Al-Nashiri did not provide any additional threat information during, or after, these interrogations.<sup>351</sup>

<sup>346</sup> As described, the “Renditions and Interrogations Group,” is also referred to as the “Renditions Group,” the “Rendition, Detention, and Interrogation Group,” “RD1,” and “RDG” in CIA records.

<sup>347</sup> Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, , February 23, 2003.

<sup>348</sup>  10140 (031727Z JAN 03)

<sup>349</sup> See email from: ; to: ; subject: EYES ONLY – [ ] ONLY – MEMORANDUM FOR ADDO/DDO; date: January 22, 2003. In an April 12, 2007, Senate Select Committee on Intelligence hearing, Senator Carl Levin asked the CIA Director if the CIA disputed allegations in an International Committee of the Red Cross report that suggested CIA detainees were placed in “[p]rolonged stress standing position, naked, arm[s] chained above the head....” The CIA Director responded, “Not above the head. Stress positions are part of the EITs, and nakedness were part of the EITs, Senator.” See Senate Select Committee on Intelligence Hearing Transcript, dated April 12, 2007 (DTS #2007-3158).

<sup>350</sup> See, for example, CIA Office of Inspector General, Report of Investigation: Unauthorized Interrogation Techniques at [DETENTION SITE BLUE], (2003-7123-IG), October 29, 2003; email from: [DETENTION SITE BLUE] COB ; to: ; subject: EYES ONLY - [ ] ONLY – MEMO FOR ADDO/DDO; date: January 22, 2003.

<sup>351</sup> For additional details, see Volume III.

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(TS// [REDACTED] //NF) Based on a report from CTC, the CIA Office of Inspector General conducted a review of these interrogation incidents, and issued a report of investigation in the fall of 2003.<sup>352</sup> The Office of Inspector General later described additional allegations of unauthorized techniques used against al-Nashiri by [REDACTED] [CIA OFFICER 2] and other interrogators, including slapping al-Nashiri multiple times on the back of the head during interrogations; implying that his mother would be brought before him and sexually abused; blowing cigar smoke in al-Nashiri's face; giving al-Nashiri a forced bath using a stiff brush; and using improvised stress positions that caused cuts and bruises resulting in the intervention of a medical officer, who was concerned that al-Nashiri's shoulders would be dislocated using the stress positions.<sup>353</sup> When interviewed by the Office of Inspector General, the DETENTION SITE BLUE chief of Base stated he did not object to using the gun and drill in the interrogations because he believed [REDACTED] [CIA OFFICER 2] was sent from CIA Headquarters "to resolve the matter of al-Nashiri's cooperation" and that he believed [REDACTED] [CIA OFFICER 2] had permission to use the interrogation techniques.<sup>354</sup> The chief of Base added that his own on-site approval was based on this and "the pressure he felt from Headquarters to obtain imminent threat information from al-Nashiri on 9/11-style attacks."<sup>355</sup> In April 2004, [REDACTED] [CIA OFFICER 2] and the chief of Base were disciplined.<sup>356</sup>

3. *CIA Contractor Recommends Continued Use of the CIA's Enhanced Interrogation Techniques Against Al-Nashiri; Chief Interrogator Threatens to Quit Because Additional Techniques Might "Push [Al-Nashiri] Over The Edge Psychologically," Refers to the CIA Program As a "Train Wreck [sic] Waiting to Happen"*

<sup>352</sup> CIA Office of Inspector General, Report of Investigation: Unauthorized Interrogation Techniques at [DETENTION SITE BLUE], (2003-7123-IG), October 29, 2003.

<sup>353</sup> CIA Office of Inspector General, Special Review - Counterterrorism Detention and Interrogation Program, (2003-7123-IG), May 2004.

<sup>354</sup> CIA Office of Inspector General, Report of Investigation: Unauthorized Interrogation Techniques at [DETENTION SITE BLUE], (2003-7123-IG), October 29, 2003.

<sup>355</sup> CIA Office of Inspector General, Report of Investigation: Unauthorized Interrogation Techniques at [DETENTION SITE BLUE], (2003-7123-IG), October 29, 2003.

<sup>356</sup> [REDACTED] [CIA OFFICER 2] received a one-year Letter of Reprimand, was suspended for five days without pay, and was prohibited from promotions, within-grade step increases, quality step increases, or permanent salary increases during that one-year period. The decision did not affect [REDACTED] [CIA OFFICER 2's] eligibility to receive Exceptional Performance Awards, bonuses, or non-monetary forms of recognition. See [REDACTED]

[REDACTED] [CIA OFFICER 2] retired from the CIA on [REDACTED] 2004. (See [REDACTED]) On June 20, 2005, the CIA director of transnational issues, aware of [REDACTED] [CIA OFFICER 2's] problematic background, approved [REDACTED] [CIA OFFICER 2's] employment on a CIA contract because the project was "mission critical" and "no other contractor with the needed skills was available." (See [REDACTED])

[REDACTED] The chief of Base received a two-year Letter of Reprimand and a ten-day suspension without pay, and was prohibited from receiving any bonus awards from the CIA during the period of reprimand. On [REDACTED] 2003, prior to the implementation of the prohibitions, this individual retired from the CIA. See [REDACTED]

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(TS//~~UNCLASSIFIED~~//NF) The draft cable from ~~UNCLASSIFIED~~ also raised "conflict of responsibility" concerns, stating:

"Another area of concern is the use of the psychologist as an interrogator. The role of the ops psychologist is to be a detached observer and serve as a check on the interrogator to prevent the interrogator from any unintentional excess of pressure which might cause permanent psychological harm to the subject. The medical officer is on hand to provide the same protection from physical actions that might harm the subject. Therefore, the medical officer and the psychologist should not serve as an interrogator, which is a conflict of responsibility. We note that [the proposed plan] contains a psychological interrogation assessment by ~~UNCLASSIFIED~~ psychologist [DUNBAR] which is to be carried out by interrogator [DUNBAR]. We have a problem with him conducting both roles simultaneously."<sup>361</sup>

(TS//~~UNCLASSIFIED~~//NF) Rather than releasing the cable that was drafted by ~~UNCLASSIFIED~~, CIA Headquarters approved a plan to reinstitute the use of the CIA's enhanced interrogation techniques against al-Nashiri, beginning with shaving him, removing his clothing, and placing him in a standing sleep deprivation position with his arms affixed over his head.<sup>362</sup> CIA cables describing subsequent interrogations indicate that al-Nashiri was nude and, at times, "put in the standing position, handcuffed and shackled."<sup>363</sup> According to cables, CIA interrogators decided to provide al-Nashiri clothes to "hopefully stabilize his physiological symptoms and prevent them from deteriorating."<sup>364</sup> noting in a cable the next day that al-Nashiri was suffering from a head cold which caused his body to shake for approximately ten minutes during an interrogation.<sup>365</sup>

(TS//~~UNCLASSIFIED~~//NF) Beginning in June 2003, the CIA transferred al-Nashiri to five different CIA detention facilities before he was transferred to U.S. military custody on September 5, 2006.<sup>366</sup> In the interim, he was diagnosed by some CIA psychologists as having "anxiety" and "major depressive" disorder,<sup>367</sup> while others found no symptoms of either illness.<sup>368</sup> He was a difficult and uncooperative detainee and engaged in repeated belligerent acts, including attempts to assault CIA detention site personnel and efforts to damage items in his

<sup>361</sup> Email from: ~~UNCLASSIFIED~~; to: ~~UNCLASSIFIED~~, [REDACTED], ~~UNCLASSIFIED~~, ~~UNCLASSIFIED~~, ~~UNCLASSIFIED~~; subject: CONCERNS OVER REVISED INTERROGATION PLAN FOR NASHIRI; date: January 22, 2003. As noted above, personnel from CIA's Office of Medical Services raised the same concerns about medical and psychological personnel serving both to assess the health of a detainee and to participate in the interrogation process.

<sup>362</sup> DIRECTOR ~~UNCLASSIFIED~~ (201659Z JAN 03); DIRECTOR ~~UNCLASSIFIED~~ (230008Z JAN 03)

<sup>363</sup> ~~UNCLASSIFIED~~ 10289 (241203Z JAN 03); ~~UNCLASSIFIED~~ 10296 (251113Z JAN 03); ~~UNCLASSIFIED~~ 10306 (261403Z JAN 03)

<sup>364</sup> ~~UNCLASSIFIED~~ 10309 (261403Z JAN 03)

<sup>365</sup> ~~UNCLASSIFIED~~ 10312 (270854Z JAN 03)

<sup>366</sup> HEADQUARTERS ~~UNCLASSIFIED~~ (031945Z SEP 06); ~~UNCLASSIFIED~~ 1242 (050744Z SEP 06); HEADQUARTERS ~~UNCLASSIFIED~~ (051613Z SEP 06)

<sup>367</sup> See, for example, ~~UNCLASSIFIED~~ 11247 (141321Z APR 03); ~~UNCLASSIFIED~~ 1959 (111700Z DEC 04); ~~UNCLASSIFIED~~ 2038 (211558Z JAN 05); ~~UNCLASSIFIED~~ 2169 (251133Z MAR 05); ~~UNCLASSIFIED~~ 11701 (191640Z MAY 03);

~~UNCLASSIFIED~~ 1756 (190800Z SEP 03).

<sup>368</sup> ~~UNCLASSIFIED~~ 1502 (021841Z AUG 04); ~~UNCLASSIFIED~~ 2709 (271517Z APR 06); ~~UNCLASSIFIED~~ 3910 (241852Z JAN 06);

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cell.<sup>369</sup> Over a period of years, al-Nashiri accused the CIA staff of drugging or poisoning his food, and complained of bodily pain and insomnia.<sup>370</sup> At one point, al-Nashiri launched a short-lived hunger strike that resulted in the CIA force feeding him rectally.<sup>371</sup>

(TS//NF) In October 2004, 21 months after the final documented use of the CIA's enhanced interrogation techniques against al-Nashiri, an assessment by CIA contract interrogator DUNBAR and another CIA interrogator concluded that al-Nashiri provided "essentially no actionable information," and that "the probability that he has much more to contribute is low."<sup>372</sup> Over the course of al-Nashiri's detention and interrogation by the CIA, the CIA disseminated 145 intelligence reports based on his debriefings. Al-Nashiri provided information on past operational plotting, associates whom he expected to participate in plots, details on completed operations, and background on al-Qa'ida's structure and methods of operation.<sup>373</sup> Al-Nashiri did not provide the information that the CIA's ALEC Station sought and believed al-Nashiri possessed, specifically "perishable threat information to help [CIA] thwart future attacks and capture additional operatives."<sup>374</sup>

E. Tensions with Country ■ Relating to the CIA Detention Facility and the Arrival of New Detainees

(TS//NF) According to CIA records, three weeks after ■ and political leadership of Country ■ agreed to host a CIA detention facility, the CIA informed the U.S. ambassador, because, as was noted in a cable, by not doing so, the CIA was

<sup>369</sup> See, for example, ■ 1029 (291750Z JUN 06); ■ 1142 (041358Z AUG 06); ■ 1543 (111600Z AUG 04); ■ 1716 (180742Z SEP 04); ■ 3051 (301235Z SEP 05); ■ 1029 (291750Z JUN 06); ■ 2474 (251622Z JUN 05); ■ 2673 (021451Z AUG 05); ■ 1716 (180742Z SEP 04).

<sup>370</sup> See, for example, ■ 1356 (011644Z JUL 04); ■ 1880 (140917Z NOV 04); ■ 1959 (111700Z DEC 04); ■ 1962 (121029Z DEC 04); ■ 1959 (111700Z DEC 04); ■ 2038 (211558Z JAN 05); ■ 1091 (031835Z NOV 03); ■ 1266 (052309Z JAN 04); ■ 1630 (271440Z MAR 04).

<sup>371</sup> ■ 1203 (231709Z MAY 04); ■ 1202 (231644Z MAY 04)

<sup>372</sup> ■ 1843 (271356Z OCT 04). In the final years of al-Nashiri's detention, most of the intelligence requirements for al-Nashiri involved showing al-Nashiri photographs. In June 2005, the DETENTION SITE BLACK chief of Base suspended even these debriefings because it was "the very, very rare moment" that al-Nashiri would recognize a photograph, and because the debriefings often were the "catalyst" for his outbursts. See ■ 2474 (251622Z JUN 05).

<sup>373</sup> While still in the custody of a foreign government, prior to his rendition to CIA custody, al-Nashiri provided details on multiple terrorist plots in which he was involved prior to his detention, including the attacks against the USS Cole and the MY Limburg, plans to sink oil tankers in the Strait of Hormuz, plans to attack warships docked at ports in Dubai and Jeddah, and his casing of a Dubai amusement park. This information was disseminated in intelligence reports: ■ 36595 ■ 36726 ■ ALEC ■

For disseminated intelligence, see ■ CIA ■ CIA ■ For other reporting from al-Nashiri while he was in the custody of a foreign government, see ■ 70879 ■ 70866 ■ ■ 70868 ■ 70870 ■ For disseminated intelligence, see ■ ■ ■

<sup>374</sup> ALEC ■

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"risking that he hear of this initiative" from Country [REDACTED] officials.<sup>375</sup> As was the case in other host countries, the ambassador in Country [REDACTED] was told by the CIA not to speak with any other State Department official about the arrangement.<sup>376</sup>

(TS//[REDACTED]//NF) Prior to the opening of the CIA detention facility in Country [REDACTED], [REDACTED] CTC Legal, [REDACTED], warned of possible legal actions against CIA employees in countries that "take a different view of the detention and interrogation practices employed by [the CIA]."<sup>377</sup> He further recommended against the establishment of CIA facilities in countries that [REDACTED].<sup>378</sup> [REDACTED]'s advice was not heeded and, in December 2002, the two individuals then being detained by the CIA in Country [REDACTED] (Abu Zubaydah and Abd al-Rahim al-Nashiri) were transferred to Country [REDACTED].<sup>379</sup>

(TS//[REDACTED]//NF) The agreement to host a CIA detention facility in Country [REDACTED] created multiple, ongoing difficulties between Country [REDACTED] and the CIA. Country [REDACTED]'s [REDACTED] proposed a written "Memorandum of Understanding" covering the relative roles and responsibilities of the CIA and [REDACTED], which the CIA ultimately refused to sign.<sup>380</sup> Four months after the detention site began hosting CIA detainees, Country [REDACTED] rejected the transfer of [REDACTED], which included Khalid Shaykh Muhammad. The decision was reversed only after the U.S. ambassador intervened with the political leadership of Country [REDACTED] on the CIA's behalf.<sup>381</sup> The following month, the CIA provided \$ [REDACTED] million to Country [REDACTED]'s [REDACTED].<sup>382</sup> after which [REDACTED] officials, speaking for [REDACTED] and the Country [REDACTED] political leadership, indicated that Country [REDACTED] was now flexible with regard to the number of CIA detainees at the facility and when the facility would eventually be closed.<sup>383</sup> The facility, which was described by the CIA as "over capacity," was nonetheless closed, as had been previously agreed, in [REDACTED] [the fall of] 2003.<sup>384</sup>

(TS//[REDACTED]//NF) According to CIA cables, years later, [REDACTED] officials in Country [REDACTED] reacted with "deep shock and regret" [REDACTED] which they acknowledged was [REDACTED].<sup>385</sup> [REDACTED] [Country [REDACTED]] officials were "extremely upset"<sup>386</sup> at the CIA's inability to keep secrets and were "deeply disappointed" in not having had more warning

<sup>375</sup> [REDACTED] 84200 [REDACTED]

<sup>376</sup> DIRECTOR [REDACTED]

<sup>377</sup> [REDACTED] 10640 [REDACTED]

<sup>378</sup> The CIA insisted [REDACTED] be redacted in the Committee Study prior to the Study being relocated to the U.S. Senate from the off-site research facility.

<sup>379</sup> [REDACTED] 78275 [REDACTED] DEC 02)

<sup>380</sup> [REDACTED] 1888 [REDACTED]

<sup>381</sup> [REDACTED] 2666 [REDACTED]

<sup>382</sup> HEADQUARTERS [REDACTED]

<sup>383</sup> [REDACTED] 3280 [REDACTED]. According to the cable, the CIA Station speculated that the change of position was "at least somewhat attributable... to our gift of \$ [REDACTED] million...."

<sup>384</sup> See Volume I for additional details.

<sup>385</sup> [REDACTED] 7526 ([REDACTED] [REDACTED])

<sup>386</sup> [REDACTED] 7849 ([REDACTED] [REDACTED])

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(TS// [REDACTED] //NF) The interrogation plan proposed that immediately following the psychological and medical assessments conducted upon his arrival, bin al-Shibh would be subjected to "sensory dislocation."<sup>404</sup> The proposed sensory dislocation included shaving bin al-Shibh's head and face, exposing him to loud noise in a white room with white lights, keeping him "unclothed and subjected to uncomfortably cool temperatures," and shackling him "hand and foot with arms outstretched over his head (with his feet firmly on the floor and not allowed to support his weight with his arms)."<sup>405</sup> Contrary to CIA representations made later to the Committee that detainees were always offered the opportunity to cooperate before being subjected to the CIA's enhanced interrogation techniques, the plan stated that bin al-Shibh would be shackled nude with his arms overhead in a cold room prior to any discussion with interrogators or any assessment of his level of cooperation.<sup>406</sup> According to a cable, only after the interrogators determined that his "initial resistance level [had] been diminished by the conditions" would the questioning and interrogation phase begin.<sup>407</sup>

(TS// [REDACTED] //NF) The interrogation phase described in the plan included near constant interrogations, as well as continued sensory deprivation, a liquid diet, and sleep deprivation. In addition, the interrogation plan stated that the CIA's enhanced interrogation techniques would be used, including the "attention grasp, walling, the facial hold, the facial slap... the abdominal slap, cramped confinement, wall standing, stress positions, sleep deprivation beyond 72 hours, and the waterboard, as appropriate to [bin al-Shibh's] level of resistance."<sup>408</sup>

(TS// [REDACTED] //NF) Based on versions of this interrogation plan, at least six detainees were stripped and shackled nude, placed in the standing position for sleep deprivation, or subjected to other CIA enhanced interrogation techniques prior to being questioned by an interrogator in 2003.<sup>409</sup> Five of these detainees were shackled naked in the standing position with their hands above their head immediately after their medical check.<sup>410</sup> These interrogation

03)); Hassan Ghul ([REDACTED] 1267 ([REDACTED] JAN 04)); Adnan al-Libi ([REDACTED] 1758  
[REDACTED] and AL-TURKI ([REDACTED] 2179 [REDACTED])

404 [REDACTED] 10361 [REDACTED]

405 [REDACTED] 10361 [REDACTED]

406 [REDACTED] 10361 [REDACTED]

See Volume II for detailed information on CIA representations to

Congress.

407 [REDACTED] 10361 [REDACTED]

408 [REDACTED] 10361 [REDACTED]

409 This included Asadullah (DIRECTOR [REDACTED] ([REDACTED] FEB 03)); Abu Yasir al-Jaza'iri ([REDACTED] 35558 ([REDACTED] MAR 03)); Suleiman Abdoflah ([REDACTED] 35787 ([REDACTED] MAR 03); [REDACTED] 36023 ([REDACTED] APR 03)); Abu Hudhaifa ([REDACTED] 38576 ([REDACTED] MAY 03)); Hambali ([REDACTED] 1241 (151912Z AUG 03)); and Mejid Khan ([REDACTED] 46471 (241242Z MAY 03); [REDACTED] 39077 (271719Z MAY 03)).

<sup>410</sup> For additional information, see Volume III. In an April 12, 2007, Senate Select Committee on Intelligence hearing, Senator Levin asked the CIA Director if the CIA disputed allegations in an International Committee of the Red Cross report that suggested CIA detainees were placed in "[p]rolonged stress standing position, naked, arm[s] chained above the head..." The CIA Director responded, "Not above the head. Stress positions are part of the EITs, and nakedness were part of the EITs, Senator." Senate Select Committee on Intelligence, Hearing Transcript, dated April 12, 2007 (DTS #2007-3158).

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(TS////NF) Ramzi bin al-Shibh was subjected to interrogation techniques and conditions of confinement that were not approved by CIA Headquarters. CIA interrogators used the CIA's enhanced interrogation techniques for behavior adjustment purposes, in response to perceived disrespect, and on several occasions, before bin al-Shibh had an opportunity to respond to an interrogator's questions or before a question was asked. The CIA's enhanced interrogation techniques were applied when bin al-Shibh failed to address an interrogator as "sir," when interrogators noted bin al-Shibh had a "blank stare" on his face, and when bin al-Shibh complained of stomach pain.<sup>422</sup> Further, despite CIA policy at the time to keep detainees under constant light for security purposes, bin al-Shibh was kept in total darkness to heighten his sense of fear.<sup>423</sup>

(TS////NF) CIA psychological assessments of bin al-Shibh were slow to recognize the onset of psychological problems brought about, according to later CIA assessments, by bin al-Shibh's long-term social isolation and his anxiety that the CIA would return to using its enhanced interrogation techniques against him. The symptoms included visions, paranoia, insomnia, and attempts at self-harm.<sup>424</sup> In April 2005, a CIA psychologist stated that bin al-Shibh "has remained in social isolation" for as long as two and half years and the isolation was having a "clear and escalating effect on his psychological functioning." The officer continued, "in [bin al-Shibh's] case, it is important to keep in mind that he was previously a relatively high-functioning individual, making his deterioration over the past several months more alarming."<sup>425</sup> The psychologist wrote, "significant alterations to RBS'[s] detention environment must occur soon to prevent further and more serious psychological disturbance."<sup>426</sup> On September 5, 2006, bin al-Shibh was transferred to U.S. military custody at Guantanamo Bay, Cuba.<sup>427</sup> After his arrival, bin al-Shibh was placed on anti-psychotic medications.<sup>428</sup>

(TS////NF) The CIA disseminated 109 intelligence reports from the CIA interrogations of Ramzi bin al-Shibh.<sup>429</sup> A CIA assessment, which included intelligence from his

<sup>422</sup>  10582 (242026Z FEB 03);  10627 (281949Z FEB 03)

<sup>423</sup>  10521 (191750Z FEB 03). The cable referred to keeping bin al-Shibh in darkness as a "standard interrogation technique." The same cable states that during the night of February 18, 2003, the light went out in bin al-Shibh's cell and that "[w]hen security personnel arrived to replace the bulb, bin al-Shibh was cowering in the corner, shivering. Security personnel noted that he appeared relieved as soon as the light was replaced."

<sup>424</sup>  1759 (021319Z OCT 04); HEADQUARTERS  (040023Z NOV 05);  1890 (171225Z NOV 04);  1878 (140915Z NOV 04);  1930 (061620Z DEC 04);  2207 (111319Z APR 05);  2210 (141507Z APR 05);  2535 (051805Z JUL 05);  2589 (120857Z JUL 05);  2830 (291304Z AUG 05);  1890 (171225Z NOV 04);  1893 (200831Z NOV 04); CIA document entitled, "Detainee Talking Points for ICRC Rebuttal,"  2210 (141507Z APR 05);  2535 (051805Z JUL 05);  2210 (141507Z APR 05);  2535 (051805Z JUL 05);  2830 (291304Z AUG 05);  1930 (061620Z DEC 04);  2210 (141507Z APR 05)

<sup>425</sup>  2210 (141507Z APR 05)

<sup>426</sup>  2210 (141507Z APR 05)

<sup>427</sup> HEADQUARTERS  (031945Z SEP 06)

<sup>428</sup>  SITE DAILY REPORT - 24 MAY 07;  8904 (182103Z APR 08)

<sup>429</sup> See Volume II for additional information.

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time in foreign government custody, as well as his reporting in CIA custody before, during, and after being subjected to the CIA's enhanced interrogation techniques,<sup>430</sup> concluded that:

"Much of {bin al-Shibh's} statements on the 11 September attacks have been speculative, and many of the details could be found in media accounts of the attacks that appeared before he was detained. In the few instances where his reporting was unique and plausible, we cannot verify or refute the information... he has been sketchy on some aspects of the 9/11 plot, perhaps in order to downplay his role in the plot. His information on individuals is non-specific; he has given us nothing on the Saudi hijackers or others who played a role... The overall quality of his reporting has steadily declined since 2003."<sup>431</sup>

#### G. The Detention and Interrogation of Khalid Shaykh Muhammad

##### 1. *KSM Held in Pakistani Custody, Provides Limited Information; Rendered to CIA Custody at DETENTION SITE COBALT, KSM Is Immediately Subjected to the CIA's Enhanced Interrogation Techniques*

(TS// [REDACTED] //NF) The capture of KSM was attributable to a single CIA source who first came to the CIA's attention in the spring of 2001.<sup>432</sup> The source [REDACTED] led the CIA and Pakistan authorities directly to KSM. KSM was held in Pakistani custody from the time of his capture on March 1, 2003, to March [REDACTED], 2003, and was interrogated by CIA officers and Pakistani officials. According to CIA records, while in Pakistani custody, KSM was subjected to some sleep deprivation, but there are no indications of other coercive interrogation techniques being used.<sup>433</sup> While KSM denied knowledge of attack plans and the locations of Usama bin Laden and Ayman al-Zawahiri,<sup>434</sup> he did provide limited information on various al-Qa'ida leaders and operatives who had already been captured. KSM's willingness to discuss operatives when confronted with information about their capture—behavior noted by CIA officers on-site in Pakistan—was a recurring theme throughout KSM's subsequent detention and interrogation in CIA custody.<sup>435</sup>

(TS// [REDACTED] //NF) Less than two hours after KSM's capture, anticipating KSM's arrival at DETENTION SITE COBALT, the chief of interrogations, [REDACTED], sent an email to CIA Headquarters with the subject line, "Let's roll with the new guy." The email requested permission to "press [KSM] for threat info right away."<sup>436</sup> Later that day, CIA Headquarters authorized [REDACTED] to use a number of the CIA's enhanced interrogation techniques against

<sup>430</sup> Ramzi bin al-Shibh was immediately subjected to the CIA's enhanced interrogation techniques at DETENTION SITE BLUE.

<sup>431</sup> ALEC [REDACTED] (302240Z JUN 05)

<sup>432</sup> For more details, see section of this summary on the capture of KSM and additional information in Volume II.

<sup>433</sup> [REDACTED] 41403 (020949Z MAR 03)

<sup>434</sup> [REDACTED] 41484 (031315Z MAR 03)

<sup>435</sup> [REDACTED] 41564 (041307Z MAR 03); [REDACTED] 41592 (051050Z MAR 03). For details on KSM's detention in Pakistani custody, see the KSM detainee review in Volume III.

<sup>436</sup> Email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: Let's Roll with the new guy; date: March 1, 2003, at 03:43:12 AM.

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KSM. The cable from CIA Headquarters did not require that non-coercive interrogation techniques be used first.<sup>437</sup> On March 11, 2003, two days before KSM's arrival at the detention site, CIA Headquarters approved an interrogation plan for KSM.<sup>438</sup>

(TS// [REDACTED] //NF) According to CIA records, interrogators began using the CIA's enhanced interrogation techniques at DETENTION SITE COBALT a "few minutes" after the questioning of KSM began. KSM was subjected to facial and abdominal slaps, the facial grab, stress positions, standing sleep deprivation (with his hands at or above head level), nudity, and water dousing.<sup>439</sup> Chief of Interrogations [REDACTED] also ordered the rectal rehydration of KSM without a determination of medical need, a procedure that the chief of interrogations would later characterize as illustrative of the interrogator's "total control over the detainee."<sup>440</sup> At the end of the day, the psychologist on-site concluded that the interrogation team would likely have more success by "avoiding confrontations that allow [KSM] to transform the interrogation into battles of will with the interrogator."<sup>441</sup> KSM's reporting during his first day in CIA custody included an accurate description of a Pakistani/British operative, which was dismissed as having been provided during the initial "throwaway" stage of information collection when the CIA believed detainees provided false or worthless information.<sup>442</sup>

<sup>437</sup> DIRECTOR [REDACTED] (012240Z MAR 03)<sup>438</sup> [REDACTED] 34354 ( [REDACTED] MAR 03); DIRECTOR [REDACTED] ( [REDACTED] MAR 03)<sup>439</sup> [REDACTED] 34491 (051400Z MAR 03)<sup>440</sup> [REDACTED] 34491 (051400Z MAR 03); Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, 27 March 2003.<sup>441</sup> [REDACTED] 34575<sup>442</sup> "Khalid Shaykh Muhammad's Threat Reporting - Precious Truths, Surrounded by a Bodyguard of Lies," ICT, April 3, 2003. KSM also named three individuals who, he said, worked on an al-Qa'ida anthrax program that was still in its "earliest stages." They were led, he said, by "Omar" who had been arrested in the country of [REDACTED]. The group also included Abu Bakr al-Filistini. (See [REDACTED] 34475 [REDACTED].) KSM would later state that "Yazid" led al-Qa'ida's anthrax efforts. (See [REDACTED] 10769 (120937Z MAR 03).) Yazid Sufaat, who had been in [REDACTED] (foreign government) custody since 2001, had long been suspected of participating in al-Qa'ida chemical and biological activities. (See email from: [REDACTED]; to:

[REDACTED]; cc: [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED];

subject: FOR COORD by noon please: Yazid Sufaat PDB; date: March 14, 2003, at 09:05 AM; email from: [REDACTED]; to: [REDACTED]; subject: Re: [REDACTED] RESPONSE - INDIVIDUALS CONNECTED TO USAMA BIN LADEN ASSOCIATE YAZID SUFAAT; date: March 6, 2003, at 12:50:27 PM; [REDACTED];

email from: [REDACTED]; to: [REDACTED]; SUBJECT: Re: KSM on WMD; date: March 12, 2003, at 08:28:31 AM.) A draft PDB prepared on March 17, 2003, states that "Sufaat's own claims to [REDACTED] (foreign government) authorities and personal background tracks with KSM's assertions." (See "KSM Guarding Most Sensitive Information," labeled "For the President Only 18 March 2003," stamped 0319 ksmupdate.doc 17 March 2003.) On April 3, 2003, an ICT analysis stated that KSM "likely judges that information related to Sufaat already has been compromised since his arrest." (See "Khalid Shaykh Muhammad's Threat Reporting - Precious Truths, Surrounded by a Bodyguard of Lies," ICT, April 3, 2003.) CIA analysis from 2005 stated that "[REDACTED] [a foreign government holding Sufaat] was likely to have known details of Yazid's involvement in al-Qa'ida's anthrax program by early 2002," although that information was not provided at the time to the CIA. (See CIA Directorate of Intelligence: "Al-Qa'ida's Anthrax Program; Cracks Emerge in a Key Reporting Stream; New Insights into Yazid Sufaat's Credibility [REDACTED]" (DTS #2005-3264).) Al-Filistini was later captured and detained by the CIA. While being subjected to the CIA's enhanced interrogation techniques he changed his description of al-Qa'ida's anthrax efforts multiple times. On August 1, 2003, Abu Bakr al-Filistini, also known as Samr al-Barq, told CIA interrogators that "we never made anthrax." At the time, he was being subjected to the CIA's enhanced interrogation techniques and was told that the harsh treatment would not stop until he "told the truth." According to cables, crying, al-Barq then said "I made the anthrax." Asked if he was lying, al-Barq said

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(TS//~~NOFORN~~) On March 5, 2003, and March 6, 2003, while he was still at DETENTION SITE COBALT, KSM was subjected to nudity and sleep deprivation. On March 5, 2003, KSM was also subjected to additional rectal rehydration,<sup>443</sup> which ~~NOFORN~~OMS, ~~NOFORN~~, described as helping to "clear a person's head" and effective in getting KSM to talk.<sup>444</sup> On March 6, 2003, ~~NOFORN~~ adopted a "'softer Mr. Rogers' persona" after the interrogation team concluded that the CIA's enhanced interrogation techniques had caused KSM to "clam up."<sup>445</sup> During this session KSM was described as "more cooperative," and the day's interrogation was deemed the "best session held to date" by the interrogation team.<sup>446</sup> During this period KSM fabricated information on an individual whom he described as the protector of his children.<sup>447</sup> That information resulted in the capture and CIA detention of two innocent individuals.<sup>448</sup>

2. *The CIA Transfers KSM to DETENTION SITE BLUE, Anticipates Use of the Waterboard Prior to His Arrival*

(TS//~~NOFORN~~) Within hours of KSM's capture, ALEC Station successfully argued that CIA contractors SWIGERT and DUNBAR should take over the interrogation of KSM upon KSM's arrival at DETENTION SITE BLUE.<sup>449</sup> On March 3, 2003, CIA Headquarters approved an interrogation plan indicating that KSM "will be subjected to immediate interrogation techniques," and that "the interrogation techniques will increase in intensity from standard to

that he was. After CIA interrogators "demonstrated the penalty for lying," al-Barq again stated that "I made the anthrax" and then immediately recanted, and then again stated that he made anthrax. (See ~~NOFORN~~ 1015 (012057Z AUG 03).) Two days later, al-Barq stated that he had lied about the anthrax production "only because he thought that was what interrogators wanted." See ~~NOFORN~~ 1017 (030812Z AUG 03).

<sup>443</sup> ~~NOFORN~~ 34575 [REDACTED];  
<sup>444</sup> Email from: ~~NOFORN~~; to: [REDACTED]; cc: [REDACTED]; subject: Re: Departure; date: March 6, 2003, at 7:11:59 PM; email from: ~~NOFORN~~; to: [REDACTED]; cc: ~~NOFORN~~; subject: Re: Update; date: March 6, 2003, at 4:51:32 PM.

<sup>445</sup> ~~NOFORN~~ 34573 (061751Z MAR 03); ~~NOFORN~~ 34614 (071551Z MAR 03)

<sup>446</sup> ~~NOFORN~~ 34573 (061751Z MAR 03); ~~NOFORN~~ 34614 (071551Z MAR 03)

<sup>447</sup> In June 2004, KSM described his reporting as "all lies." ~~NOFORN~~ 34569 (061722Z MAR 03); ~~NOFORN~~ 1281 (130801Z JUN 04).

<sup>448</sup> The two individuals, Sayed Habib and Shaistah Habibullah Khan, entered CIA custody in April and July 2003 respectively, and were released in August and February 2004, respectively. (See ~~NOFORN~~ 5712 [REDACTED]; email from: ~~NOFORN~~; to: ~~NOFORN~~, [REDACTED], [REDACTED]; subject: planned release of [DETENTION SITE ORANGE] detainee Syed Habib; ~~NOFORN~~; and CIA document, "Additional Details for DCIA on Sayed Habib's Arrest and Detention.") The CIA's June 2013 Response states that the detention of the two individuals "can only be considered 'wrongful' after the fact, not in the light of credible information available at the time and in a context in which plot disruption was deemed an urgent national priority." The CIA's June 2013 Response further states that KSM's reporting on March 6, 2003, was "credible" because, at the time, "[CIA] assessed that Khalid Shaykh Muhammad (KSM) had moved to a more cooperative posture as his interrogation progressed." A review of CIA records indicates that the CIA subjected KSM to the CIA's enhanced interrogation techniques the following day. The use of the techniques continued until March 25, 2003, and included 183 applications of the waterboard. See ~~NOFORN~~ 10711 [REDACTED].

<sup>449</sup> Interview of ~~NOFORN~~, by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003. Email to: ~~NOFORN~~; from: ~~NOFORN~~; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: KSM planning; date: March 1, 2003, at 07:07:33 AM.

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enhanced techniques commensurate with [KSM's] level of resistance, until he indicates initial cooperation."<sup>450</sup> On March [REDACTED], 2003, the day of KSM's arrival at DETENTION SITE BLUE, the on-site medical officer described the use of the waterboard on KSM as inevitable:

"[T]he team here apparently looks to use the water board in two different contexts. One is as a tool of regression and control in which it is used up front and aggressively. The second is to vet information on an as needed basis. Given the various pressures from home vs what is happening on the ground, I think the team's expectation is that [KSM] will [be] getting treatment somewhere in between. I don't think they believe that it will be possible to entirely avoid the water board given the high and immediate threat to US and allied interests. It is an interesting dynamic because they are well aware of the toll it will take on the team vs. the detainee. The requirements coming from home are really unbelievable in terms of breadth and detail."<sup>451</sup>

(TS// [REDACTED] //NF) Meanwhile, OMS completed draft guidelines on the use of the CIA's enhanced interrogation techniques, specifically addressing the waterboard interrogation technique. These guidelines were sent to the medical personnel at the detention site. The guidelines included a warning that the risk of the waterboard was "directly related to number of exposures and may well accelerate as exposures increase," that concerns about cumulative effects would emerge after three to five days, and that there should be an upper limit on the total number of waterboard exposures, "perhaps 20 in a week." CIA records indicate that, as of the day of KSM's arrival at DETENTION SITE BLUE, the interrogation team had not reviewed the draft OMS guidelines.<sup>452</sup>

(TS// [REDACTED] //NF) KSM arrived at DETENTION SITE BLUE at approximately 6:00 PM local time on March [REDACTED], 2003, and was immediately stripped and placed in the standing sleep deprivation position.<sup>453</sup> At 6:38 PM, after the medical and psychological personnel who had traveled with KSM from DETENTION SITE COBALT cleared KSM for the CIA's enhanced interrogation techniques, the detention site requested CIA Headquarters' approval to begin the interrogation process.<sup>454</sup> The detention site received the approvals at 7:18 PM,<sup>455</sup> at which point the interrogators began using the CIA's enhanced interrogation techniques on KSM.<sup>456</sup>

(TS// [REDACTED] //NF) Between March [REDACTED], 2003, and March 9, 2003, contractors SWIGERT and DUNBAR, and a CIA interrogator, [REDACTED], used the CIA's enhanced interrogation techniques against KSM, including nudity, standing sleep deprivation, the attention

<sup>450</sup> [REDACTED] 10654 (030904Z MAR 03); DIRECTOR [REDACTED] (041444Z MAR 03). The initial approval was for SWIGERT and CIA interrogator [REDACTED]. The authorization was extended to DUNBAR on March [REDACTED], 2003. DIRECTOR [REDACTED].

<sup>451</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Technique; date: March [REDACTED], 2003, at 3:51:09 AM.

<sup>452</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Technique; date: March [REDACTED], 2003, at 3:22:43 PM.

<sup>453</sup> [REDACTED] 10711

<sup>454</sup> [REDACTED] 10705

<sup>455</sup> DIRECTOR [REDACTED]

<sup>456</sup> [REDACTED] 10711

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grab and insult slap, the facial grab, the abdominal slap, the kneeling stress position, and walling.<sup>457</sup> There were no debriefers present. According to the CIA interrogator, during KSM's first day at DETENTION SITE BLUE, SWIGERT and DUNBAR first began threatening KSM's children.<sup>458</sup> [REDACTED] CTC Legal, [REDACTED], later told the inspector general that these threats were legal so long as the threats were "conditional."<sup>459</sup> On March 9, 2003, KSM fabricated information indicating that Jaffar al-Tayyar and Jose Padilla were plotting together<sup>460</sup> because, as he explained on April 23, 2003, he "felt some pressure to produce information about operations in the United States in the initial phases of his interrogation."<sup>461</sup>

(TS//[REDACTED]/NF) On March [REDACTED], 2003, Deputy Chief of ALEC Station [REDACTED], and a second ALEC Station officer, [REDACTED], arrived at DETENTION SITE BLUE to serve as debriefers. The detention site also reportedly received a phone call from CIA Headquarters conveying the views of the CIA's Deputy Director of Operations James Pavitt on the interrogation of KSM.<sup>462</sup> Pavitt later told the inspector general that he "did not recall specifically ordering that a detainee be waterboarded right away," but he "did not discount that possibility." According to records of the interview, "Pavitt did recall saying, 'I want to know what he knows, and I want to know it fast.'"<sup>463</sup> The on-site medical officer later wrote in an email that the CIA interrogators "felt that the [waterboard] was the big stick and that HQ was more or less demanding that it be used early and often."<sup>464</sup>

### 3. The CIA Waterboards KSM at Least 183 Times; KSM's Reporting Includes Significant Fabricated Information

(TS//[REDACTED]/NF) On March 10, 2003, KSM was subjected to the first of his 15 separate waterboarding sessions. The first waterboarding session, which lasted 30 minutes (10 more than anticipated in the Office of Legal Counsel's August 1, 2002, opinion), was followed by the use of a horizontal stress position that had not previously been approved by CIA Headquarters.<sup>465</sup> The chief of Base, worried about the legal implications, prohibited the on-site

<sup>457</sup> [REDACTED] 10711 [REDACTED]; [REDACTED] 10725 [REDACTED]; [REDACTED] 10732 [REDACTED]; [REDACTED] 10731 [REDACTED]; [REDACTED] 10741 (100917Z MAR 03)

<sup>458</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 30, 2003. Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, October 22, 2003.

<sup>459</sup> CIA Inspector General, Special Review, Counterterrorism Detention and Interrogation Program (2003-7123-IG), January 2004.

<sup>460</sup> [REDACTED] 10740 (092308Z MAR 03), disseminated as [REDACTED]; [REDACTED] 10741 (100917Z MAR 03)

<sup>461</sup> [REDACTED] 11377 (231943Z APR 03), disseminated as [REDACTED]

<sup>462</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, 30 April 2003.

<sup>463</sup> Interview of James Pavitt, by [REDACTED] and [REDACTED], Office of the Inspector General, August 21, 2003.

<sup>464</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: More; date: April 10, 2003, at 5:59:27 PM.

<sup>465</sup> [REDACTED] 10752 (102320Z MAR 03)

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medical officer from reporting on the interrogation directly to OMS outside of official CIA cable traffic.<sup>466</sup>

(TS//~~NOFORN~~) On March 12, 2003, KSM provided information on the Heathrow Airport and Canary Wharf plotting. KSM stated that he showed a sketch in his notebook of a building in Canary Wharf (a major business district in London) to Ammar al-Baluchi.<sup>467</sup> He also provided statements about directing prospective pilots to study at flight schools,<sup>468</sup> and stated that Jaffar al-Tayyar was involved in the Heathrow Plot.<sup>469</sup> KSM retracted all of this information later in his detention.<sup>470</sup> There are no CIA records indicating that these and other retractions were assessed to be false.

(TS//~~NOFORN~~) The March 12, 2003, reporting from KSM on the Heathrow Airport plotting was deemed at the time by CIA interrogators to be an effort by KSM to avoid discussion of plotting inside the United States and thus contributed to the decision to subject KSM to two waterboarding sessions that day.<sup>471</sup> During these sessions, KSM ingested a significant amount of water. CIA records state that KSM's "abdomen was somewhat distended and he expressed water when the abdomen was pressed."<sup>472</sup> KSM's gastric contents were so diluted by water that the medical officer present was "not concerned about regurgitated gastric acid damaging KSM's esophagus."<sup>473</sup> The officer was, however, concerned about water intoxication and dilution of electrolytes and requested that the interrogators use saline in future waterboarding sessions.<sup>474</sup> The medical officer later wrote to ~~\_\_\_\_\_~~ OMS that KSM was "ingesting and aspiration [sic] a LOT of water," and that "[i]n the new technique we are basically doing a series of near drownings."<sup>475</sup> During the day, KSM was also subjected to the attention grasp, insult slap, abdominal slap, and walling.<sup>476</sup>

(TS//~~NOFORN~~) On March 13, 2003, after KSM again denied that al-Qa'ida had operations planned for inside the United States, CIA interrogators decided on a "day of intensive

<sup>466</sup> Email from: [REDACTED]; to: ~~\_\_\_\_\_~~; cc: ~~\_\_\_\_\_~~; subject: Re: MEDICAL SITREP 3/10; date: March 11, 2003, at 8:10:39 AM.

<sup>467</sup> ~~\_\_\_\_\_~~ 10798 (131816Z MAR 03), disseminated as ~~\_\_\_\_\_~~

<sup>468</sup> ~~\_\_\_\_\_~~ 10778 (121549Z MAR 03), disseminated as ~~\_\_\_\_\_~~

<sup>469</sup> ~~\_\_\_\_\_~~ 10778 (121549Z MAR 03), disseminated as ~~\_\_\_\_\_~~

<sup>470</sup> ~~\_\_\_\_\_~~ 12141 (272231Z JUN 03); ~~\_\_\_\_\_~~ 22939 (031541Z JUL 04); ~~\_\_\_\_\_~~ 10883 (182127Z MAR 03),

disseminated as ~~\_\_\_\_\_~~

<sup>471</sup> ~~\_\_\_\_\_~~ 10787 (130716Z MAR 03). The CIA would later represent that the information KSM provided on the Heathrow plotting was an example of the effectiveness of the waterboard interrogation technique, listing the Heathrow Plot as one of the "plots discovered as a result of EITs" in a briefing on the waterboard for the President in November 2007. See document entitled, "DCIA Talking Points: Waterboard 06 November 2007," dated November 6, 2007, with the notation the document was "sent to DCIA Nov. 6 in preparation for POTUS meeting."

<sup>472</sup> ~~\_\_\_\_\_~~ 10800 (131909Z MAR 03)

<sup>473</sup> Interview of ~~\_\_\_\_\_~~ by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

<sup>474</sup> ~~\_\_\_\_\_~~ 10800 (131909Z MAR 03); Interview of ~~\_\_\_\_\_~~ by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

<sup>475</sup> Email from: ~~\_\_\_\_\_~~ to: ~~\_\_\_\_\_~~; cc: ~~\_\_\_\_\_~~; subject: More; date: April 10, 2003, at 5:59:27 PM. Emphasis in the original.

<sup>476</sup> ~~\_\_\_\_\_~~ 10787 (130716Z MAR 03)

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waterboard sessions.<sup>477</sup> During the first of three waterboarding sessions that day, interrogators responded to KSM's efforts to breathe during the sessions by holding KSM's lips and directing the water at his mouth.<sup>478</sup> According to a cable from the detention site, KSM "would begin signaling by pointing upward with his two index fingers as the water pouring approached the established time limit." The cable noted that "[t]his behavior indicates that the subject remains alert and has become familiar with key aspects of the process."<sup>479</sup> CIA records state that KSM "yelled and twisted" when he was secured to the waterboard for the second session of the day, but "appeared resigned to tolerating the board and stated he had nothing new to say" about terrorist plots inside the United States.<sup>480</sup>

(TS//[REDACTED]//NF) Prior to the third waterboard session of that calendar day, the on-site medical officer raised concerns that the waterboard session—which would be the fourth in 14 hours—would exceed the limits included in draft OMS guidelines that had been distributed the previous afternoon.<sup>481</sup> Those draft guidelines stated that up to three waterboard sessions in a 24-hour period was acceptable.<sup>482</sup> At the time, KSM had been subjected to more than 65 applications of water during the four waterboarding sessions between the afternoon of March 12, 2003, and the morning of March 13, 2003. In response to a request for approval from the chief of Base, CTC attorney [REDACTED] assured detention site personnel that the medical officer "is incorrect that these guidelines have been approved and/or fully coordinated."<sup>483</sup> [REDACTED] sent an email to the detention site authorizing the additional waterboarding session.<sup>484</sup> Despite indications from [REDACTED] that the detention site personnel would receive a formal authorizing cable, no such authorization from CIA Headquarters was provided. At the end of the day, the medical officer wrote [REDACTED] OMS that "[t]hings are slowly evolving form [sic] OMS being viewed as the institutional conscience and the limiting factor to the ones who are dedicated to maximizing the benefit in a safe manner and keeping everyone's butt out of trouble." The medical officer noted that his communication with [REDACTED] OMS was no longer "viewed with suspicion."<sup>485</sup> On the afternoon of March 13, 2003, KSM was subjected to his third waterboard session of that calendar day and fifth in 25 hours. CIA records note that KSM vomited during and after the procedure.<sup>486</sup>

<sup>477</sup> [REDACTED] 10804 (140710Z MAR 03); [REDACTED] 10790 (130946Z MAR 03)

<sup>478</sup> Interview of [REDACTED] by [REDACTED] and [REDACTED], Office of the Inspector General, April 30, 2003. The interviewee was a CIA interrogator for KSM at the CIA detention site.

<sup>479</sup> [REDACTED] 10790 (130946Z MAR 03)

<sup>480</sup> [REDACTED] 10791 (131229Z MAR 03)

<sup>481</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], Jose Rodriguez; subject: re: Eyes Only - Legal and Political Quand[]ry; date: March 13, 2003, at 11:28:06 AM.

<sup>482</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: MEDICAL SITREP 3/10; date: March 12, 2003, at 2:09:47 PM.

<sup>483</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], Jose Rodriguez; subject: Re: EYES ONLY - Legal and Political Quandary; date: March 13, 2003, at 8:01:12 AM.

<sup>484</sup> Email from: [REDACTED]; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY - Use of Water Board; date: March 13, 2003, at 08:28 AM.

<sup>485</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: State cable; date: March 13, 2003, at 1:43:17 PM. The previous day, the medical officer had written that "I am going the extra mile to try to handle this in a non confrontational manner." Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: MEDICAL SITREP 3/10; date: March 12, 2003, at 5:17:07 AM.

<sup>486</sup> [REDACTED] 10803 (131929Z MAR 03)

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(TS//~~NOFORN~~) Shortly thereafter, CIA Headquarters began reevaluating the use of the waterboard interrogation technique. According to a March 14, 2003, email from an interrogator who was not at DETENTION SITE BLUE, but was reviewing cable traffic, the "[o]verall view seems to be" that the waterboard "is not working in gaining KSM['s] compliance."<sup>487</sup> The deputy chief of the CIA interrogation program responded in agreement, adding that "[a]gainst KSM it has proven ineffective," and that "[t]he potential for physical harm is far greater with the waterboard than with the other techniques, bringing into question the issue of risk vs. gain...." The deputy chief further suggested that the waterboard was counterproductive, stating that "[w]e seem to have lost ground" with KSM since progress made at DETENTION SITE COBALT, and as a result, the CIA should "consider the possibility" that the introduction of the waterboard interrogation technique "may poison the well."<sup>488</sup> The email in which these sentiments were expressed was sent to ~~REDACTED~~, the CTC attorney overseeing the interrogation of KSM. Despite these reservations and assessments, the waterboarding of KSM continued for another 10 days.<sup>489</sup>

(TS//~~NOFORN~~) On March 15, 2003, KSM was waterboarded for failing to confirm references in signals intercepts on al-Qa'ida's efforts to obtain "nuclear suitcases."<sup>490</sup> Subsequent signals intercepts and information from a foreign government would later indicate that the nuclear suitcase threat was an orchestrated scam.<sup>491</sup> KSM was waterboarded a second time that day after failing to provide information on operations against the United States or on al-Qa'ida nuclear capabilities.<sup>492</sup> During the waterboarding sessions that day, the application of the interrogation technique further evolved, with the interrogators now using their hands to maintain a one-inch deep "pool" of water over KSM's nose and mouth in an effort to make it impossible for KSM to ingest all the water being poured.<sup>493</sup> At one point, SWIGERT and DUNBAR waited for KSM to talk before pouring water over his mouth.<sup>494</sup>

<sup>487</sup> Email from: ~~REDACTED~~; to: ~~REDACTED~~; cc: ~~REDACTED~~; ~~REDACTED~~, [REDACTED], [REDACTED]; subject: re Summary of KSM Waterboard Sessions - As of 1000 HRS 14 Mar 03; date: March 14, 2003, at 10:44:12 AM.

<sup>488</sup> Email from: ~~REDACTED~~; to: ~~REDACTED~~; cc: ~~REDACTED~~, ~~REDACTED~~, [REDACTED], [REDACTED], ~~REDACTED~~; subject: re Summary of KSM Waterboard Sessions - As of 1000 HRS 14 MAR 03; date: March 14, 2003, at 02:02:42 PM.

<sup>489</sup> See detailed review of these sessions in Volume III.

<sup>490</sup> ~~REDACTED~~ 10831 (151510Z MAR 03); ~~REDACTED~~ 10841 (152007Z MAR 03); ~~REDACTED~~ 10849 (161058Z MAR 03); Interview of ~~REDACTED~~, by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

<sup>491</sup> The original reporting, that al-Qa'ida had purchased nuclear suitcases in Yemen, was later determined to be based on an effort by unknown Yemenis to sell "suitcase weapons" to al-Qa'ida. Al-Qa'ida operatives concluded that the offer was a scam. See ~~REDACTED~~ 74492 (250843Z JUL 03), disseminated as ~~REDACTED~~; and HEADQUARTERS ~~REDACTED~~ (092349Z DEC 04).

<sup>492</sup> ~~REDACTED~~ 10841 (152007Z MAR 03); ~~REDACTED~~ 10831 (151510Z MAR 03)

<sup>493</sup> Email from: [REDACTED]; to: ~~REDACTED~~; cc: ~~REDACTED~~; subject: Re: Sitrep as of AM 3/15; date: March 15, 2003, at 3:52:54 A.M. Interview of ~~REDACTED~~, by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003. See also interview of ~~REDACTED~~, by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003. The descriptions of the use of the waterboard interrogation technique against KSM were provided by these two on-site medical officers.

<sup>494</sup> Interview of ~~REDACTED~~, by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

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(TS///NF) On the afternoon of March 17, 2003, and into the morning of March 18, 2003, ,  OMS, exchanged emails with the medical officer at DETENTION SITE BLUE on the waterboarding of KSM. According to , the waterboard interrogation technique had "moved even further from the SERE model."<sup>493</sup>  also wrote:

"Truthfully, though, I don't recall that the WB [waterboard] produced anything actionable in AZ [Abu Zubaydah] any earlier than another technique might have. This may be different with KSM, but that is still as much a statement of faith as anything else - since we don't seem to study the question as we go... it's been many more days of constant WB repetitions, with the evidence of progress through most of them not being actionable intel but rather that 'he looks like he's weakening.' The WB may actually be the best; just don't like to base it on religion."<sup>496</sup>

(TS///NF) On March 18, 2003, KSM was confronted with the reporting of Majid Khan, who was then in the custody of a foreign government,<sup>497</sup> regarding plotting against gas stations inside the United States, information that KSM had not previously discussed. In assessing the session, DETENTION SITE BLUE personnel noted that "KSM will selectively lie, provide partial truths, and misdirect when he believes he will not be found out and held accountable." On the other hand, they wrote that "KSM appears more inclined to make accurate

<sup>493</sup> Email to: [REDACTED]; from: ; subject: Re: Medical limitations of WB - draft thoughts; date: March 17, 2003, at 01:11:35 PM.

<sup>496</sup> Email from: ; to: [REDACTED]; cc: ; subject: Oct 18; date: March 18, 2003, at 10:52:03 AM.

<sup>497</sup> Majid Khan, who was arrested on March 5, 2003, provided extensive information prior to being rendered to CIA custody. This included information on Iyman Faris, Uzair (Paracha) and his father, Aafia Siddiqi, his transfer of al-Qa'ida funds to a Bangkok-based Zubair, and his discussions with KSM regarding various proposed plots. Majid Khan also provided assistance to the CIA in its efforts to locate Ammar al-Baluchi, including through Abu Talha al-Pakistani. (See  13697 (080730Z MAR 03);  13713  13765  44244 (161423Z APR 03);  44684 (250633Z APR 03);  13678 (070724Z MAR 03);  13785  13908 (260251Z MAR 03);  13826 (190715Z MAR 03);  13833 (200454Z MAR 03);  13890  13686 (071322Z MAR 03);  13932 (271244Z MAR 03);  13710 (081218Z MAR 03).) After being rendered to CIA custody, Majid Khan was subjected by the CIA to sleep deprivation, nudity, and dietary manipulation, and may have been subjected to an ice water bath. (See  39077 (271719Z MAY 03);  39099 (281101Z MAY 03);  Briefing for the Senate Select Committee on Intelligence, March 14, 2008;  41772 (121230Z JUL 03);  42025 ; email from: ; to: , [REDACTED], , and ; subject, "Re: i hope the approvals for enhanced comes through quickly for this guy... this does not look good"; date: June 30, 2003.) A June 2006 CIA email stated that Majid Khan said he "fabricated a lot of his early [CIA] interrogation reporting to stop... what he called 'torture.'" According to the email, Khan stated that he was "hung up" for approximately one day in a sleep deprived position and that he provided "everything they wanted to hear to get out of the situation." (See email from: [REDACTED]; to: , COB, , [REDACTED], [REDACTED], [REDACTED]; subject: ; request for prozac; date: June 16, 2006.) As detailed in this summary and in more detail in Volume II, the CIA inaccurately attributed information provided by Majid Khan in foreign government custody to the CIA interrogations of KSM.

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disclosures when he believes people, emails, or other source material are available to the USG for checking his responses.<sup>498</sup>

(TS// [REDACTED] //NF) The same day, KSM provided additional information on the Heathrow Airport plotting, much of which he would recant in 2004.<sup>499</sup> KSM also discussed Jaffar al-Tayyar again, prompting the detention site personnel to refer to the "all-purpose" al-Tayyar whom KSM had "woven... into practically every story, each time with a different role."<sup>500</sup> After KSM had included al-Tayyar in his discussion of Majid Khan's gas station plot, KSM debriefer [REDACTED] wrote in an email that "[t]oday [al-Tayyar's] working with Majid Khan, yesterday the London crowd, the day before Padilla - you get the point."<sup>501</sup> Beginning the evening of March 18, 2003, KSM began a period of sleep deprivation, most of it in the standing position, which would last for seven and a half days, or approximately 180 hours.<sup>502</sup>

(TS// [REDACTED] //NF) On March 19, 2003, the interrogators at the detention site decided to waterboard KSM due to KSM's inconsistent information about Jaffar al-Tayyar's passport.<sup>503</sup> According to CIA cables, after assuming his position on the waterboard, KSM "seemed to lose control" and appeared "somewhat frantic," stating that he "had been forced to lie, and ma[k]e up stories about" Jaffar al-Tayyar because of his interrogators.<sup>504</sup> KSM then stated that his reporting on al-Tayyar's role in Majid Khan's plotting was a "complete fabrication" and that al-Tayyar had been compromised as an operative and that as a result, al-Tayyar could not be used for a terrorist operation.<sup>505</sup> In response, the interrogators told KSM that they only wanted to hear him speak if he was revealing information on the next attack.<sup>506</sup> Deputy Chief of ALEC Station [REDACTED] later told the inspector general that it was around this time that contract interrogator DUNBAR stated that "he had not seen a 'resistor' [sic] like KSM, and was 'going to go to school on this guy.'"<sup>507</sup> According to CIA records, the interrogators then "devote[d] all measures to pressuring [KSM] on the single issue of the 'next attack on America,'" including attention grabs, insult slaps, walling, water dousing, and additional waterboard sessions.<sup>508</sup>

(TS// [REDACTED] //NF) On March 20, 2003, KSM continued to be subjected to the CIA's enhanced interrogation techniques throughout the day, including a period of "intense questioning

<sup>498</sup> [REDACTED] 10884 (182140Z MAR 03)

<sup>499</sup> [REDACTED] 10883 (182127Z MAR 03), disseminated as [REDACTED]; [REDACTED] 22939 (031541Z JUL 04). CIA records indicate that CIA officers believed that KSM's recantations were credible. See KSM detainee review in Volume III.

<sup>500</sup> [REDACTED] 10884 (182140Z MAR 03)

<sup>501</sup> Email from: [REDACTED], OFFICE: [REDACTED]; to: [REDACTED]; subject: JAFAR REQUEST; date: March 18, 2003, at 08:16:07 PM.

<sup>502</sup> [REDACTED] 10884 (182140Z MAR 03); [REDACTED] 10888 (190805Z MAR 03); [REDACTED] 10999 (260835Z MAR 03); [REDACTED] 10969 (240950Z MAR 03)

<sup>503</sup> [REDACTED] 10892 (191503Z MAR 03); [REDACTED] 10902 (201037Z MAR 03)

<sup>504</sup> [REDACTED] 10902 (201037Z MAR 03)

<sup>505</sup> [REDACTED] 10894 (191513Z MAR 03); [REDACTED] 10902 (201037Z MAR 03)

<sup>506</sup> [REDACTED] 10902 (201037Z MAR 03)

<sup>507</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003.

<sup>508</sup> [REDACTED] 10902 (201037Z MAR 03); [REDACTED] 10900 (191907Z MAR 03); [REDACTED] 10896 (191524Z MAR 03)

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and walling.<sup>509</sup> KSM was described as "[t]ired and sore," with abrasions on his ankles, shins, and wrists, as well as on the back of his head.<sup>510</sup> He also suffered from pedal edema resulting from extended standing.<sup>511</sup> After having concluded that there was "no further movement" in the interrogation, the detention site personnel hung a picture of KSM's sons in his cell as a way to "[heighten] his imagination concerning where they are, who has them, [and] what is in store for them."<sup>512</sup>

(TS// [REDACTED] //NF) The waterboarding of KSM on March 21, 2003, and March 22, 2003, was based on a misreading of intelligence provided by Majid Khan by Deputy Chief of ALEC Station [REDACTED]. According to a cable from the CIA's [REDACTED], Khan, who was in foreign government custody, had stated that KSM wanted to use "two to three unknown Black American Muslim converts who were currently training in Afghanistan," to "conduct attacks" on gas stations in the United States, and that "KSM was interested in using anyone with US status to assist with this operation."<sup>513</sup> Upon receipt of this reporting, [REDACTED] wrote in an email "i love the Black American Muslim at AQ camps in Afghaniistan [sic] ... Mukie [KSM] is going to be hatin' life on this one."<sup>514</sup> However, her subsequent questioning of KSM was not based on Khan's actual reporting, which was about potential operatives already in Afghanistan, but rather something Khan had not said—that KSM directed him to make contact with African-American converts in the United States.<sup>515</sup> According to CIA records, in a "contentious" session that lasted for hours and involved the use of the CIA's enhanced interrogation techniques, KSM "flatly denied" any efforts to recruit African-American Muslim converts. KSM was then waterboarded.<sup>516</sup> Later in the day, facing the threat of a second waterboarding session, KSM "relented and said that maybe he had told Khan that he should see if he could make contact with members of the Black American Muslim convert community." The CIA interrogators then returned KSM to the standing sleep deprivation position without a second waterboarding session.<sup>517</sup>

(TS// [REDACTED] //NF) The next day, March 22, 2003, interrogators subjected KSM to "intense" questioning and walling, but when KSM provided no new information on African-American Muslim converts or threats inside the United States, he was subjected to additional

<sup>509</sup> [REDACTED] 10916 (210845Z MAR 03); [REDACTED] 10921 (211046Z MAR 03)

<sup>510</sup> [REDACTED] 10916 (210845Z MAR 03)

<sup>511</sup> [REDACTED] 10909 (201918Z MAR 03)

<sup>512</sup> Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, October 22, 2003. [REDACTED] 10917 (210907Z MAR 03).

<sup>513</sup> [REDACTED] 13839 (201434Z MAR 03)

<sup>514</sup> Email to: [REDACTED] from: [REDACTED] OFFICE: [REDACTED] (DETENTION SITE BLUE); subject: Re: Majid Khan; date: March 20, 2003, at 03:40:17 PM. The [REDACTED] cable was formally sent to DETENTION SITE BLUE via ALEC [REDACTED] (210015Z MAR 03).

<sup>515</sup> [REDACTED] 10932 (212132Z MAR 03)

<sup>516</sup> [REDACTED] 10932 (212132Z MAR 03); [REDACTED] 10922 (211256Z MAR 03)

<sup>517</sup> [REDACTED] 10932 (212132Z MAR 03)

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waterboarding.<sup>518</sup> An hour later, KSM stated that he was "ready to talk."<sup>519</sup> He told the CIA interrogators that he had sent Abu Issa al-Britani to Montana to recruit African-American Muslim converts, a mission he said had been prompted by discussions with a London-based shaykh whose bodyguards had families in Montana.<sup>520</sup> KSM also stated that he tasked Majid Khan with attending Muslim conferences in the United States to "spot and assess potential extremists" who would assist in the gas station plot.<sup>521</sup> In June 2003, KSM admitted that he fabricated the story about Abu Issa al-Britani and Montana, explaining that he was "under 'enhanced measures' when he made these claims and simply told his interrogators what he thought they wanted to hear."<sup>522</sup> In August 2003, KSM reiterated that he had no plans to recruit or use "black American Muslim" converts operationally.<sup>523</sup> In December 2005, he denied ever asking Majid Khan to recruit converts or attend Islamic conferences.<sup>524</sup>

(TS//NF) On March 24, 2003, KSM underwent his fifteenth and final documented waterboarding session due to his "intransigence" in failing to identify suspected Abu Bakr al-Azdi operations in the United States, and for having "lied about poison and biological warfare programs."<sup>525</sup> KSM was described in the session as being "composed, stoic, and resigned."<sup>526</sup>

(TS//NF) That evening, the detention site received two reports. The first recounted the reporting of Majid Khan, who was still in the custody of a foreign government, on Uzhair, who ran the New York branch of his father's Karachi-based import-export business, and on Uzhair's father.<sup>527</sup> According to Khan, his meetings with the two were facilitated by Ammar al-Baluchi.<sup>528</sup> The second report described the reporting of Iyman Faris, who was in FBI custody, on a plot to cut the suspension cables on the Brooklyn Bridge and exploration of plans to derail trains and conduct an attack in Washington, D.C.<sup>529</sup> KSM, whom detention site personnel described as "boxed in" by the new reporting,<sup>530</sup> then stated that Uzhair's father, Sayf al-Rahman Paracha, had agreed to smuggle explosives into the United States.<sup>531</sup> As described

<sup>518</sup> [REDACTED] 10941 (221506Z MAR 03); [REDACTED] 10950 (222127Z MAR 03). One cable from DETENTION SITE BLUE hypothesized that KSM was lying in order to force the CIA interrogators to apply the CIA's enhanced interrogation techniques: "[T]he enhanced measures resulting from his lying in [sic] details could be a resistance strategy to keep the interrogation from threatening issues... [KSM's] apparent willingness to provoke and incur the use of enhanced measures may represent a calculated strategy to either: (A) redirect the course of the interrogation; or (B) to attempt to cultivate some doubt that he had knowledge of any current or future operations against the US." See [REDACTED] 10950 (222127Z MAR 03).

<sup>519</sup> [REDACTED] 10950 (222127Z MAR 03)

<sup>520</sup> [REDACTED] 10942 (221610Z MAR 03), disseminated as [REDACTED]; [REDACTED] 10948 (22101Z MAR 03), disseminated as [REDACTED]

<sup>521</sup> [REDACTED] 10942 (221610Z MAR 03), disseminated as [REDACTED]

<sup>522</sup> [REDACTED] 12095 (222049Z JUN 03)

<sup>523</sup> [REDACTED] 12558 (041938Z AUG 03)

<sup>524</sup> [REDACTED] 31148 (171919Z DEC 05); [REDACTED] 31147 (171919Z DEC 05), disseminated as [REDACTED]

<sup>525</sup> [REDACTED] 10983 (242321Z MAR 03); [REDACTED] 10972 (241122Z MAR 03)

<sup>526</sup> [REDACTED] 10974 (241834Z MAR 03); [REDACTED] 10983 (242321Z MAR 03)

<sup>527</sup> See the sections of this summary and Volume II on the Identification and Arrests of Uzhair and Saifullah Paracha.

<sup>528</sup> [REDACTED] 13890 [REDACTED]; [REDACTED] 10984 (242351Z MAR 03)

<sup>529</sup> WHDC [REDACTED] (242226Z MAR 03); [REDACTED] 10983 (242321Z MAR 03)

<sup>530</sup> [REDACTED] 10983 (242321Z MAR 03)

<sup>531</sup> [REDACTED] 10984 (242351Z MAR 03), disseminated as [REDACTED]

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elsewhere in this summary, the purported parties to the agreement denied that such an agreement existed.<sup>532</sup> In confirming Paris's reporting, KSM exhibited what the Interagency Intelligence Committee on Terrorism would later describe as an effort to "stay obvious/general" and "provide little information that might enable the US to thwart attacks."<sup>533</sup>

(TS////NF) With the exception of sleep deprivation, which continued for one more day, the use of the CIA's enhanced interrogation techniques against KSM stopped abruptly on March 24, 2003.<sup>534</sup> There are no CIA records directing the interrogation team to cease using the CIA's enhanced interrogation techniques against KSM, nor any contemporaneous documentation explaining the decision.<sup>535</sup>

4. *After the Use of the CIA's Enhanced Interrogation Techniques Against KSM Ends, the CIA Continues to Assess That KSM Is Withholding and Fabricating Information*

(TS////NF) On April 3, 2003, the Interagency Intelligence Committee on Terrorism produced an assessment of KSM's intelligence entitled, "Precious Truths, Surrounded by a Bodyguard of Lies." The assessment concluded that KSM was withholding or lying about terrorist plots and operatives targeting the United States. It also identified contradictions between KSM's reporting on CBRN and other sources.<sup>536</sup>

(TS////NF) On April 24, 2003, FBI Director Robert Mueller began seeking direct FBI access to KSM in order to better understand CIA reporting indicating threats to U.S. cities.<sup>537</sup> Despite personal commitments from DCI Tenet to Director Mueller that access would be forthcoming, the CIA's CTC successfully formulated a CIA position whereby the FBI would

<sup>532</sup> According to one cable, KSM did not volunteer the purported smuggling plot, but rather was asked about it by interrogators. (See ALEC  (052230Z MAY 03). All parties to the purported plot - Paracha and Ammar al-Baluchi - denied any agreement had been reached. DIRECTOR  (181929Z JUN 03), disseminated as  39239 (301600Z MAY 03);  13588 (171505Z JUL 03);

DIRECTOR  (181929Z JUN 03), disseminated as ;  39239 (301600Z MAY 03); ALEC  (012248Z APR 03).) With regard to the explosives smuggling reporting, the former chief of the Bin Ladin Unit wrote in a March 2003 email: "again, another ksm op worthy of the lamentable knuckleheads... why 'smuggle' in explosives when you can get them here? neither fertilizer for bombs or regular explosives are that hard to come by. ramzi yousef came to conus with a suitcase and hundred bucks and got everything he needed right here. this may be true, but it just seems damn odd to me." See email from: ; to: , , , ; subject: see highlight: again, another ksm op worthy of the lamentable; date: March 25, 2003, at 6:29:08 AM.

<sup>533</sup>  10985 (242351Z MAR 03). "Khalid Shaykh Muhammad's Threat Reporting - Precious Truths, Surrounded by a Bodyguard of Lies," ICT, April 3, 2003.

<sup>534</sup> Sleep deprivation was extended for an additional day, although it was interrupted by "catnapping." See  10999 (260835Z MAR 03).

<sup>535</sup> For additional details, see KSM detainee review in Volume III.

<sup>536</sup> "Khalid Shaykh Muhammad's Threat Reporting - Precious Truths, Surrounded by a Bodyguard of Lies," ICT, April 3, 2003.

<sup>537</sup> Email from: ; to: ; cc: James L. Pavitt; ; John H. Moseman; Jose Rodriguez; ; and ; subject: Mueller's Interest in FBI Access to KSM; date: April 24, 2003, at 10:59:53 AM.

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not be provided access to KSM until his anticipated transfer to Guantanamo Bay, Cuba. Neither the CIA nor the FBI knew at the time that the transfer would not occur until September 2006.<sup>538</sup>

(TS// [REDACTED] //NF) Between April 2003 and July 2003, KSM frustrated the CIA on a number of fronts. On May 7, 2003, after more than two months of conflicting reporting, ALEC Station concluded that KSM "consistently wavers" on issues of UBL's location, protectors, and hosts, and that his information "conveniently lack[s] sufficient detail [to be] actionable intelligence."<sup>539</sup> On June 12, 2003, CIA Headquarters indicated that it "remain[ed] highly suspicious that KSM is withholding, exaggerating, misdirecting, or outright fabricating information on CBRN issues."<sup>540</sup> At the end of April 2003, KSM was shown pictures of the recently captured Ammar al-Baluchi and Khalid bin Attash, after which he provided additional information related to their plotting in Karachi.<sup>541</sup> ALEC Station wrote in a May 20, 2003, cable that "[w]e consider KSM's long-standing omission of [this] information to be a serious concern, especially as this omission may well have cost American lives had Pakistani authorities not been diligent in following up on unrelated criminal leads that led to the capture of Ammar, bin Attash, and other probable operatives involved in the attack plans."<sup>542</sup>

(TS// [REDACTED] //NF) In May and June 2003, Ammar al-Baluchi and Khalid bin Attash provided reporting that contradicted KSM's statements about the Heathrow Airport plotting and included information that KSM had not provided.<sup>543</sup> After KSM was confronted with this reporting, Deputy Chief of ALEC Station [REDACTED] wrote in an email, "OK, that's it... yet again he lies and ONLY ADMITS details when he knows we know them from someone

<sup>538</sup> Memorandum for: James L. Pavitt; [REDACTED]; Jose Rodriguez; [REDACTED]; [REDACTED]; from: [REDACTED]; subject: Update: Director Mueller - DCI Tenet Conversation on KSM; date: June 4, 2003, at 05:47:32 PM. Note for: James L. Pavitt; from: [REDACTED]; cc: [REDACTED], Jose Rodriguez, [REDACTED]; subject: Director Mueller Plans to Call DCI on KSM Issue; date: May 21, 2003, at 08:40:22 PM. In addition to the FBI, senior CIA officers, including CTC's representatives to the FBI, complained about the limitations on the dissemination of intelligence derived from CIA interrogations and the impact those limitations had on counterterrorism analysis. The CTC's representative to the FBI described this to the OIG as a "serious concern." He stated that the compartmentation of interrogation information [REDACTED] resulted in delays in dissemination that could result in information being "missed." He also stated that the CIA's compartmentation of information prevented him from providing to the FBI "some insight into the value/credibility of intelligence reports." (See interview of [REDACTED], by [REDACTED], Office of the Inspector General, August 18, 2003.) Among the other CIA officers expressing these concerns were the deputy chief of CTC's Al-Qa'ida Department, who told the OIG that limited access to operational traffic "has had an impact on [analysts'] full knowledge of activities, and thus their analysis." (See [REDACTED], Memorandum for the Record; subject: Meeting with Deputy Chief, Counterterrorism Center Al-Qa'ida Department; July 28, 2003.) The Director of Analysis at CTC described analysts' limited access to information as a "continuing problem." (See August 18, 2003, Memorandum for the Record, meeting with Counterterrorism Center, Director of Analysis, Office of the Inspector General.) The CIA's Deputy Director of Intelligence told the OIG that limitations on the dissemination of operational information prevented the "full cadre of analysts" from reviewing the intelligence and that, as a result, "we're losing analytic ability to look at [foreign intelligence] in a timely manner." See interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, September 12, 2003.

<sup>539</sup> ALEC [REDACTED] (072002Z MAY 03)

<sup>540</sup> DIRECTOR [REDACTED] (121550Z JUN 03)

<sup>541</sup> [REDACTED] 11454 (301710Z APR 03); [REDACTED] 11448 (301141Z APR 03)

<sup>542</sup> ALEC [REDACTED] (022012Z MAY 03). See information in this summary and Volume II on the "Karachi Plot" for additional information.

<sup>543</sup> See detainee reviews for Ammar al-Baluchi and Khalid bin Attash in Volume III for additional information on the reporting the detainees provided.

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else."<sup>544</sup> On April 19, 2003, KSM was questioned for the first time about summer 2002 reporting from Masran bin Arshad, who was in the custody of a foreign government, regarding the "Second Wave" plot. Informed that bin Arshad had been detained, KSM stated, "I have forgotten about him, he is not in my mind at all."<sup>545</sup> In response, ALEC Station noted that it "remain[e]d concerned that KSM's progression towards full debriefing status is not yet apparent where it counts most, in relation to threats to US interests, especially inside CONUS."<sup>546</sup> In June 2003, almost three months after the CIA had stopped using its enhanced interrogation techniques against KSM, senior ALEC Station and RDG officers met at least twice to discuss concerns about KSM's lack of cooperation.<sup>547</sup> As an ALEC Station cable noted at the time, "KSM's pattern of behavior over the past three months, trying to control his environment, lying and then admitting things only when pressed that others have been caught and have likely admitted the plot, is a cause for concern."<sup>548</sup> In an email, one CIA officer noted that "what KSM's doing is fairly typical of other detainees... KSM, Khalid [bin Atash], and others are doing what makes sense in their situation - pretend cooperation."<sup>549</sup>

(TS// [REDACTED]//NF) In the fall of 2003, after KSM's explanations about how to decrypt phone numbers related to British operative Issa al-Britani (KSM did not identify the operative as "Issa al-Hindi," or by his true name, Dhiren Barot) yielded no results, and after KSM misidentified another individual, known not to be Issa, as Issa, Deputy Chief of ALEC Station [REDACTED] stated in an email that KSM was "obstructing our ability to acquire good information," noting that KSM "misidentifie[s] photos when he knows we are fishing" and "misleads us on telephone numbers."<sup>550</sup> Later, after KSM's transfer to DETENTION SITE BLACK, ALEC Station wrote that KSM "may never be fully forthcoming and honest" on the topic of UBL's whereabouts.<sup>551</sup> Despite repeated challenges, KSM maintained that he lacked information on UBL's location.<sup>552</sup>

<sup>544</sup> Memorandum for: [REDACTED]; [REDACTED]; [REDACTED]; from: [REDACTED]; subject: Action detainee branch; date: June 12, 2003 (emphasis in the original).

<sup>545</sup> [REDACTED] 11319 (191445Z APR 03), disseminated as [REDACTED]

<sup>546</sup> ALEC [REDACTED] (222153Z APR 03)

<sup>547</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED].

[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

[REDACTED]; subject: Khalid & KSM Detainee Case Discussion; date: June 18, 2003, at 10:09 AM; ALEC [REDACTED] (302258Z JUN 03).

<sup>548</sup> ALEC [REDACTED] (302238Z JUN 03)

<sup>549</sup> Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED].

[REDACTED], [REDACTED], [REDACTED]; subject: Re: KSM's passive restraint - please let me know if you have comments for a memo to the DCI; date: June 24, 2003, at 1:27:06 PM.

<sup>550</sup> Email from: [REDACTED]; to: [REDACTED]; [REDACTED]; cc: [REDACTED]; subject: KSM and Khalid Issues; date: October 16, 2003, at 5:25:13 PM.

<sup>551</sup> ALEC [REDACTED] (111932Z NOV 03)

<sup>552</sup> [REDACTED] 10400 (161754Z NOV 03). KSM, who was with Ayman al-Zawahiri the day before his March 1, 2003, capture, first informed the CIA of this fact more than a month later, on April 3, 2003. See [REDACTED] 11139 (051956Z APR 03).

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(TS//~~NOFORN~~) KSM was transferred to DETENTION SITE [REDACTED] on [REDACTED] 2005,<sup>553</sup> to DETENTION SITE BROWN on March [REDACTED], 2006,<sup>554</sup> and to U.S. military detention at Guantanamo Bay, Cuba, on September 5, 2006.<sup>555</sup> The CIA disseminated 831 intelligence reports from the interrogations of KSM over a period of 3.5 years. While KSM provided more intelligence reporting than any other CIA detainee (nearly 15 percent of all CIA detainee intelligence reporting), CIA records indicate that KSM also received the most intelligence requirements and attention from CIA interrogators, debriefers, analysts, and senior CIA leadership. Further, as noted, a significant amount of the disseminated intelligence reporting from KSM that the CIA identified as important threat reporting was later identified as fabricated.<sup>556</sup>

#### H. The Growth of the CIA's Detention and Interrogation Program

##### 1. Fifty-Three CIA Detainees Enter the CIA's Detention and Interrogation Program in 2003

(TS//~~NOFORN~~) While the CIA held detainees from 2002 to 2008, early 2003 was the most active period of the CIA's Detention and Interrogation Program. Of the 119 detainees identified by the Committee as held by the CIA, 53 were brought into custody in 2003, and of the 39 detainees the Committee has found to have been subjected to the CIA's enhanced interrogation techniques, 17 were subjected to such techniques between January 2003 and August 2003. The CIA's enhanced interrogations during that time were primarily used at DETENTION SITE COBALT and DETENTION SITE BLUE.<sup>557</sup> Other interrogations using the CIA's enhanced interrogation techniques took place at a CIA [REDACTED] in Country [REDACTED], at which at least one CIA detainee was submerged in a bathtub filled with ice water.<sup>558</sup>

(TS//~~NOFORN~~) In 2003, CIA interrogators sought and received approval to use the CIA's enhanced interrogation techniques against at least five detainees prior to their arrival at a CIA detention facility.<sup>559</sup> In two of those cases, CIA Headquarters approved the use of the CIA's

<sup>553</sup> [REDACTED] 7847 [REDACTED]; [REDACTED] 2218 [REDACTED]; HEADQUARTERS [REDACTED]

<sup>554</sup> [REDACTED] 2441 [REDACTED]

<sup>555</sup> [REDACTED] 1079 [REDACTED]; [REDACTED] 2214 (050539Z SEP 06)

<sup>556</sup> See KSM detainee review in Volume III.

<sup>557</sup> For more information, see detainee reviews and reports in Volume III for Ramzi bin al-Shibh, Muhammad Umar 'Abd al-Rahman aka Asadallah, Abu Khalid, Khalid Shaykh Mohammad, Mustafa Ahmad al-Hawsawi, Abu Yasir al-Jaza'iri, Suleiman Abdullah, Abu Hazim, Al-Shara'iya aka Abd al-Karim, Ammar al-Baluchi, Khalid bin Attash, Laid Ben Dohman Saidi aka Abu Hudhaifa, Majid Khan, Mohd Farik bin Amin aka Abu Zubair, Samr Hilmi Abdul Latif al-Barq, Bashir bin Lap aka Lillie, and Riduan bin Isomuddin aka Hambali.

<sup>558</sup> For example, Abu Hudhaifa was subjected to this technique at the safehouse. (See email from: [REDACTED]; to: [REDACTED]; subject: Memo; date: March 15, 2004.) The incident was reported to the CIA inspector general. See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: our telcon; at: March 17, 2004, at 11:24 AM. See also claims related to the treatment of Majid Khan. See [REDACTED], Briefing for the Senate Select Committee on Intelligence,

Implementation of Central Intelligence Agency Secret Detention and Interrogation Program, March 14, 2008.

<sup>559</sup> DIRECTOR [REDACTED] (012214Z MAR 03); DIRECTOR [REDACTED] (040049Z MAR 03); DIRECTOR [REDACTED] (252003Z MAR 03); DIRECTOR [REDACTED] (162224Z MAY 03); HEADQUARTERS [REDACTED] (102352Z SEP 03)

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enhanced interrogation techniques before they were requested by CIA personnel at the detention sites.<sup>560</sup>

2. The CIA Establishes DETENTION SITE BLACK in Country [REDACTED] and DETENTION SITE VIOLET in Country [REDACTED]

(TS//[REDACTED]/NF) The CIA entered into an agreement with the [REDACTED] in Country [REDACTED] to host a CIA detention facility in [REDACTED] 2002.<sup>561</sup> In [REDACTED] 2003, CIA Headquarters invited the CIA Station in Country [REDACTED] to identify ways to support the [REDACTED] in Country [REDACTED] to "demonstrate to [REDACTED] and the highest levels of the [Country [REDACTED]] government that we deeply appreciate their cooperation and support" for the detention program.<sup>562</sup> The Station responded with an \$[REDACTED] million "wish list" [REDACTED].<sup>563</sup> CIA Headquarters provided the Station with \$[REDACTED] million more than was requested for the purposes of the [REDACTED] subsidy.<sup>564</sup> CIA detainees were transferred to DETENTION SITE BLACK in Country [REDACTED] in the fall of 2003.<sup>565</sup>

(TS//[REDACTED]/NF) In August 2003, the U.S. ambassador in Country [REDACTED] sought to contact State Department officials to ensure that the State Department was aware of the CIA detention facility and its "potential impact on our policy vis-à-vis the [Country [REDACTED]] government."<sup>566</sup> The U.S. ambassador was told by the CIA Station that this was not possible, and that no one at the State Department, including the secretary of state, was informed about the CIA detention facility in Country [REDACTED]. Describing the CIA's position as "unacceptable," the ambassador then requested a signed document from "at least the President's National Security Advisor" describing the authorities for the program, including a statement that the CIA's interrogation techniques met "legal and human rights standards," and an explicit order to him not to discuss the program with the secretary of state.<sup>567</sup> CIA Headquarters then sought the intervention of Deputy Secretary of State Richard Armitage, who called the U.S. ambassador. Deputy Secretary Armitage told the CIA to keep him and the secretary of state informed so that they would not be caught unaware when an ambassador raised concerns.<sup>568</sup>

(TS//[REDACTED]/NF) Nearly a year later, in May 2004, revelations about U.S. detainee abuses at the U.S. military prison in Abu Ghraib, Iraq, prompted the same U.S. ambassador in Country [REDACTED] to seek information on CIA detention standards and interrogation methods.<sup>569</sup> In the fall of 2004, when [REDACTED] U.S. ambassador to Country [REDACTED] sought documents authorizing the program, the CIA again sought the intervention of Deputy Secretary Armitage, who once again

<sup>560</sup> DIRECTOR [REDACTED] (012214Z MAR 03); DIRECTOR [REDACTED] (040049Z MAR 03)

<sup>561</sup> [REDACTED] 60040

<sup>562</sup> HEADQUARTERS [REDACTED]

<sup>563</sup> [REDACTED] 5759 [REDACTED] 03)

<sup>564</sup> HEADQUARTERS [REDACTED]

<sup>565</sup> According to a cable from CIA Headquarters, [REDACTED] detainees arrived in Country [REDACTED] [REDACTED], 2003. HEADQUARTERS [REDACTED]

<sup>566</sup> [REDACTED]

<sup>567</sup> [REDACTED]

<sup>568</sup> Email from: [REDACTED]; to: [REDACTED]; subject: Re: DDCI-Armitage call on [Country [REDACTED]] Detention Facility; date: August [REDACTED], 2003.

<sup>569</sup> [REDACTED] 6762 ( [REDACTED] MAY 04)

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made "strong remarks" to the CIA about how he and the secretary of state were "cut out of the NSC [National Security Council] clearance/coordination process" with regard to the CIA program. According to CIA records, Armitage also questioned the efficacy of the program and the value of the intelligence derived from the program.<sup>570</sup> While it is unclear how the [REDACTED] ambassador's concerns were resolved, he later joined the chief of Station in making a presentation to Country [REDACTED]'s [REDACTED] on the CIA's Detention and Interrogation Program. The presentation talking points did not describe the CIA's enhanced interrogation techniques, but represented that "[w]ithout the full range of these interrogation measures, we would not have succeeded in overcoming the resistance of [Khalid Shaykh Muhammad] and other equally resistant HVDs." The talking points included many of the same inaccurate representations<sup>571</sup> made to U.S. policymakers and others, attributing to CIA detainees critical information on the "Karachi Plot," the "Heathrow Plot," the "Second Wave Plot," and the "Guraba Cell"; as well as intelligence related to Issa al-Hindi, Abu Talha al-Pakistani, Hambali, Jose Padilla, Binayam Mohammed, Sajid Badat, and Jaffar al-Tayyar. The presentation also noted that the president of the United States had directed that he not be informed of the locations of the CIA detention facilities to ensure he would not accidentally disclose the information.<sup>572</sup>

(TS//[REDACTED]/NF) In a separate country, Country [REDACTED], the CIA obtained the approval of the [REDACTED] and the political leadership to establish a detention facility before informing the U.S. ambassador.<sup>573</sup> As the CIA chief of Station stated in his request to CIA Headquarters to brief the ambassador, Country [REDACTED]'s [REDACTED] and the [REDACTED] probably would ask the ambassador about the CIA detention facility.<sup>574</sup> After [REDACTED] [REDACTED] delayed briefing the [REDACTED] for [REDACTED] months, to the consternation of the CIA Station, which wanted political approval prior to the arrival of CIA detainees.<sup>575</sup> The [REDACTED] Country [REDACTED] official outside of the [REDACTED] aware of the facility, was described as "shocked," but nonetheless approved.<sup>576</sup>

(TS//[REDACTED]/NF) By mid-2003 the CIA had concluded that its completed, but still unused "holding cell" in Country [REDACTED] was insufficient, given the growing number of CIA detainees in the program and the CIA's interest in interrogating multiple detainees at the same detention site. The CIA thus sought to build a new, expanded detention facility in the country.<sup>577</sup> The CIA

<sup>570</sup> Lotus Notes message from Chief of Station [REDACTED] to DACTC, COPS; copied in: email from: [REDACTED] to: [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: ADCI Talking Points for Call to DepSec Armitage; date: [REDACTED] at 7:40:43 PM. The CIA's June 2013 Response states that "with regard to the Study's claims that the State Department was 'cut out' of information relating to the program, the record shows that the Secretary of State, Deputy Secretary of State... were aware of the sites at the time they were operational." As detailed throughout the Committee Study, CIA records indicate the secretary of state was not informed of the CIA detention site locations. During meetings with the CIA in the summer of 2013, the Committee requested, but was not provided, documentary evidence to support the assertion in the CIA's June 2013 Response.

<sup>571</sup> See relevant sections of this summary and Volume II for additional details.

<sup>572</sup> HEADQUARTERS [REDACTED] [REDACTED]

<sup>573</sup> [REDACTED] 64105 [REDACTED]

<sup>574</sup> [REDACTED] 30296 [REDACTED]

<sup>575</sup> See Volume I for additional details.

<sup>576</sup> [REDACTED] 4076 [REDACTED]; [REDACTED] 32266 [REDACTED]

<sup>577</sup> HEADQUARTERS [REDACTED] [REDACTED]

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also offered \$ million to the [REDACTED] to "show appreciation" for the [REDACTED] support for the program.<sup>578</sup> According to a CIA cable, however, the [REDACTED]

[REDACTED]<sup>579</sup> While the plan to construct the expanded facility was approved by the [REDACTED] of Country [REDACTED], the CIA and [REDACTED] developed complex mechanisms to [REDACTED] in order to provide the \$ million to the [REDACTED]

<sup>580</sup>

(TS////NF) [REDACTED] in Country [REDACTED] complicated the arrangements.

[REDACTED] when the Country [REDACTED] requested an update on planning for the CIA detention site, he was told [REDACTED]—inaccurately—that the planning had been discontinued.<sup>581</sup> In [REDACTED], when the facility received its first CIA detainees, [REDACTED] informed the CIA [REDACTED] that the [REDACTED] of Country [REDACTED] "probably has an incomplete notion [regarding the facility's] actual function, i.e., he probably believes that it is some sort of [REDACTED] center."<sup>582</sup>

3. *At Least 17 CIA Detainees Subjected to the CIA's Enhanced Interrogation Techniques Without CIA Headquarters Authorization*

(TS////NF) CIA cables from the spring of 2003 and afterwards describe multiple examples of interrogation practices at CIA detention sites that were inconsistent with the CIA's detention and interrogation guidelines. CIA officers at DETENTION SITE COBALT—led principally by Chief of Interrogations [REDACTED]—also described a number of interrogation activities in cables that were not approved by CIA Headquarters. CIA Headquarters failed to respond, inquire, or investigate:

- Cables revealing that the CIA's chief of interrogations used water dousing against detainees, including with cold water and/or ice water baths, as an interrogation technique without prior approval from CIA Headquarters;<sup>583</sup>

<sup>578</sup> HEADQUARTERS [REDACTED]

<sup>579</sup> [REDACTED] 4088 [REDACTED]

<sup>580</sup> See Volume I for additional details.

<sup>581</sup> [REDACTED] 5293 [REDACTED]. See also [REDACTED] 5327 [REDACTED].

<sup>582</sup> [REDACTED] 5417 [REDACTED]. See Volume III for additional details on detainees in Country [REDACTED].

<sup>583</sup> [REDACTED] 39042 ( [REDACTED] MAY 03); [REDACTED] 38596 (201220Z MAY 03);

[REDACTED] 39582 (041743Z JUN 03); [REDACTED] 38557 (191641Z MAY 03);

[REDACTED] 38597 (201225Z MAY 03); [REDACTED] 39101 [REDACTED] MAY 03).

Water dousing was categorized as a "standard" interrogation technique in June 2003.

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- Cables and records indicating that CIA detainees who were undergoing or had undergone the CIA's enhanced interrogation techniques were subjected to rectal rehydration, without evidence of medical necessity, and that others were threatened with it;<sup>584</sup>
- Cables noting that groups of four or more interrogators, who required practical experience to acquire their CIA interrogation "certification," were allowed to apply the CIA's enhanced interrogation techniques as a group against a single detainee;<sup>585</sup> and

<sup>584</sup> See [REDACTED] 34491 (051400Z MAR 03); interview of [REDACTED], by [REDACTED] and [REDACTED] of the Office of the Inspector General, March 27, 2003; [REDACTED] 34575 [REDACTED]; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Update; date: [REDACTED], at 4:51:32PM; [REDACTED] 12385 (222045Z JUL 03); [REDACTED] 10415 [REDACTED]. In addition to the rectal rehydration or feeding of al-Nashiri, KSM and Majid Khan, described elsewhere, there is at least one record of Abu Zubaydah receiving "rectal fluid resuscitation" for "partially refusing liquids." (See [REDACTED] 10070 [REDACTED].) Marwan al-Jabbur was subjected to what was originally referred to in a cable as an "enema," but was later acknowledged to be rectal rehydration. (See [REDACTED] 2563 [REDACTED]; email from: [REDACTED]; to: [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: TASKING - Fw: [REDACTED] (date: March 30, 2007; DTS #2007-1502.) Ramzi bin al-Shibh, Khalid bin Attash and Adnan al-Libi were threatened with rectal rehydration. (See [REDACTED] 10415 [REDACTED]; [REDACTED] 12385 (222045Z JUL 03); email from: [REDACTED]; to: [REDACTED]; subject: Medical Evaluation/Update [REDACTED] (047); date: March [REDACTED], 2004.) CIA medical officers discussed rectal rehydration as a means of behavior control. As one officer wrote, "[w]hile IV infusion is safe and effective, we were impressed with the ancillary effectiveness of rectal infusion on ending the water refusal in a similar case." (See email from: [REDACTED]; to: [REDACTED]; subject: Re: [REDACTED] (048); date: February [REDACTED], 2004.) The same officer provided a description of the procedure, writing that "[r]egarding the rectal tube, if you place it and open up the IV tubing, the flow will self regulate, sloshing up the large intestines." Referencing the experience of the medical officer who subjected KSM to rectal rehydration, the officer wrote that, "[w]hat I infer is that you get a tube up as far as you can, then open the IV wide. No need to squeeze the bag - let gravity do the work." (See email from [REDACTED] to [REDACTED], [REDACTED], [REDACTED], and [REDACTED], February 27, 2004, Subject: Re: [REDACTED] (048).) The same email exchange included a description of a previous application of the technique, in which "we used the largest Bwal [sic] tube we had." (See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: Re: [REDACTED] (048); date: February [REDACTED], 2004, at 11:42:16 PM.) As described in the context of the rectal feeding of al-Nashiri, Ensure was infused into al-Nashiri "in a forward-facing position (Trendelenburg) with head lower than torso." (See [REDACTED] 1203 (231709Z MAY 04).) Majid Khan's "lunch tray," consisting of hummus, pasta with sauce, nuts, and raisins was "pureed" and rectally infused. (See [REDACTED] 3240 (231839Z SEP 04).) The CIA's June 2013 Response does not address the use of rectal feeding with CIA detainees, but defends the use of rectal rehydration as a "well acknowledged medical technique." CIA leadership, including General Counsel Scott Muller and DDO James Pavitt, was also alerted to allegations that rectal exams were conducted with "excessive force" on two detainees at DETENTION SITE COBALT. CIA attorney [REDACTED] was asked to follow up, although CIA records do not indicate any resolution of the inquiry. CIA records indicate that one of the detainees, Mustafa al-Hawsawi, was later diagnosed with chronic hemorrhoids, an anal fissure, and symptomatic rectal prolapse. See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: ACTIONS from the GC Update this Morning, date: [REDACTED], at 12:15 PM; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: ACTIONS from the GC Update this Morning; date: [REDACTED], at 1:23:31 PM; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Re: ACTIONS from the GC Update this Morning REQUEST FOR STATUS UPDATE; date: December [REDACTED], 2003, at 10:47:32 AM; [REDACTED] 3223 [REDACTED]; HEADQUARTERS [REDACTED].

<sup>585</sup> See, for example, [REDACTED] 38130 (121722Z MAY 03); [REDACTED] 38584 (201133Z MAY 03); [REDACTED] 38127 (121714Z MAY 03); [REDACTED] 38161 [REDACTED].

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- Cables revealing that the CIA's enhanced interrogation techniques were used at CIA [REDACTED] that were not designated as CIA detention sites.<sup>586</sup>

(TS// [REDACTED]//NF) In the first half of 2003, the CIA interrogated four detainees with medical complications in their lower extremities: two detainees had a broken foot, one detainee had a sprained ankle, and one detainee had a prosthetic leg.<sup>587</sup> CIA interrogators shackled each of these detainees in the standing position for sleep deprivation for extended periods of time until medical personnel assessed that they could not maintain the position. The two detainees that each had a broken foot were also subjected to walling, stress positions, and cramped confinement, despite the note in their interrogation plans that these specific enhanced interrogation techniques were not requested because of the medical condition of the detainees.<sup>588</sup> CIA Headquarters did not react to the site's use of these CIA enhanced interrogation techniques despite the lack of approval.

(TS// [REDACTED]//NF) Over the course of the CIA program, at least 39 detainees were subjected to one or more of the CIA's enhanced interrogation techniques.<sup>589</sup> CIA records indicate that there were at least 17 CIA detainees who were subjected to one or more CIA enhanced interrogation techniques without CIA Headquarters approval. This count includes detainees who were approved for the use of some techniques, but were subjected to unapproved techniques, as well as detainees for whom interrogators had no approvals to use any of the techniques. This count also takes into account distinctions between techniques categorized as "enhanced" or "standard" by the CIA at the time they were applied.<sup>590</sup> The 17 detainees who

(131326Z MAY 03); [REDACTED] 38595 (201216Z MAY 03); [REDACTED] 38126 (121709Z MAY 03).

<sup>586</sup> See, for example, [REDACTED] 35341 [REDACTED]; [REDACTED] 39098 [REDACTED] 39042 ([REDACTED] MAY 03); email from: [REDACTED]; to: [REDACTED]; subject: Memo; date: [REDACTED]; 2005-8085-JG; [REDACTED] 39101 [REDACTED] MAY 03); [REDACTED] 37708 (051225Z MAY 03); [REDACTED] 39077 (271719Z MAY 03); [REDACTED] 39099 (281101Z MAY 03).

<sup>587</sup> For more details, see detainee reviews for Muhammad Umar 'Abd al-Rahman aka Asadallah; Abu Hazim al-Libi; Al-Shara'iya aka Abd al-Karim; and Khalid bin Attash.

<sup>588</sup> The two detainees were Abu Hazim al-Libi and Al-Shara'iya aka Abd al-Karim.

<sup>589</sup> This is a conservative estimate. CIA records suggest that the CIA's enhanced interrogation techniques may have also been used against five additional detainees at DETENTION SITE COBALT in 2002, which would bring the number of CIA detainees subjected to the CIA's enhanced interrogation techniques to 44. Those additional detainees were [REDACTED] (DETAINEE R), who was approved for the CIA's enhanced interrogation techniques, but whose records do not refer to the use of the techniques (ALEC [REDACTED] [REDACTED]); Ayub Murshid Ali Salih and Ha'il Aziz Ahmad Al-Maythali, whose records refer to a lack of sleep, but not the application of sleep deprivation ([REDACTED] 28132 (101143Z OCT 02); [REDACTED] 27964 (071949Z OCT 02)); Bashir Nasir Ali al-Marwalah, who later told debriefers that, when he was first captured, he "had to stand up for five days straight and answer questions" and "was also forced to strip naked and stand in front of a female interrogator" ([REDACTED] 14353 (231521Z APR 03)); and Sa'id Salih Sa'id, who later told debriefers that he was "mistreated and beaten by Americans while blind-folded and stripped down to his underwear in [REDACTED]." See [REDACTED] 13386 (090154Z JAN 03)). See also detainee reviews in Volume III for more information.

<sup>590</sup> The CIA's June 2013 Response objects to the Committee's count, arguing that "[n]o more than seven detainees received enhanced techniques prior to written Headquarters approval." The CIA's June 2013 Response then asserts that "the Study miscounts because it confuses the use of standard techniques that did not require prior approval at the

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were subjected to techniques without the approval of CIA Headquarters were: Rafiq Bashir al-Hami,<sup>591</sup> Tawfiq Nasir Awad al-Bihani,<sup>592</sup> Hikmat Nafi Shaukat,<sup>593</sup> Lutfi al-Arabi al-Gharisi,<sup>594</sup> Muhammad Ahmad Ghulam Rabbani aka Abu Badr,<sup>595</sup> Gul Rahman,<sup>596</sup> Abd al-Rahim al-

time they were administered with enhanced techniques that did." This statement in the CIA's June 2013 Response is inaccurate. First, prior to January 2003, the CIA had not yet designated any technique as a "standard" technique. Because sleep deprivation was included in the August 1, 2002, OLC memorandum approving the use of the CIA's enhanced interrogation techniques on Abu Zubaydah, the Committee included, among the 17, CIA detainees subjected to sleep deprivation without CIA Headquarters authorization prior to January 2003. In January 2003, sleep deprivation under a specific time limit was categorized as a "standard" CIA interrogation technique. Second, the January 2003 guidelines state that *advance* CIA Headquarters approval was required for "standard" techniques "whenever feasible." For this reason, the Committee did not include cases where CIA interrogators failed to obtain authorization in advance, but did acquire approval within several days of initiating the use of the "standard" techniques. Finally, water dousing was not characterized as a "standard" technique until June 2003. (See DIRECTOR [REDACTED] (211518Z JUN 03); DIRECTOR [REDACTED] (302126Z JAN 03); DIRECTOR [REDACTED] (311702Z JAN 03); [REDACTED] 39582 (041743Z JUN 03).) In numerous cases prior to June 2003, water dousing was explicitly described in CIA cables as an "enhanced" interrogation technique. (See, for example, DIRECTOR [REDACTED] (101700Z FEB 03).) The Committee thus included, among the 17, CIA detainees subjected to water dousing prior to June 2003 without CIA Headquarters authorization. The distinction between standard and enhanced interrogation techniques, which began in January 2003, was eliminated by CIA leadership in 2005. See Volume I and Volume III for additional details.

<sup>591</sup> Rafiq Bashir al-Hami was subjected to 72 hours of sleep deprivation between his arrival at DETENTION SITE COBALT and his October [REDACTED], 2002, interrogation. See [REDACTED] 28297 [REDACTED].

<sup>592</sup> Tawfiq Nasir Awad al-Bihani was subjected to 72 hours of sleep deprivation between his arrival at DETENTION SITE COBALT and his October [REDACTED], 2002, interrogation. See [REDACTED] 28462 [REDACTED].

<sup>593</sup> CIA cables from October 2002 noted that Shaukat was "tired from his regimen of limited sleep deprivation." See [REDACTED] 29381 [REDACTED].

<sup>594</sup> Lutfi al-Arabi al-Gharisi underwent at least two 48-hour sessions of sleep deprivation in October 2002. See [REDACTED] 29036 [REDACTED]; and [REDACTED] 29352 [REDACTED].

<sup>595</sup> Abu Badr was subjected to forced standing, attention grasps, and cold temperatures without blankets in November 2002. See [REDACTED] 29963 [REDACTED].

<sup>596</sup> CIA interrogators used sleep deprivation, facial slap, use of cold (including cold cells and cold showers), "hard takedowns," dietary manipulation, nudity, and light deprivation on Gul Rahman. See [REDACTED] 29520 [REDACTED]; [REDACTED] 29520 [REDACTED]; [REDACTED] 29770 [REDACTED] interview of [REDACTED] [CIA OFFICER 1], December 19, 2002; [REDACTED] interview of Hammond DUNBAR, January 9, 2003; Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation - Gul RAHMAN; CIA Inspector General, Report of Investigation, Death of a Detainee [REDACTED] (2003-7402-IG), April 27, 2005; and CIA Inspector General, Special Review, Counterterrorism Detention And Interrogation Activities (September 2001 - October 2003), May 7, 2004.

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Nashiri,<sup>597</sup> Ramzi bin al-Shibh,<sup>598</sup> Asadallah,<sup>599</sup> Mustafa al-Hawsawi,<sup>600</sup> Abu Khalid,<sup>601</sup> Laid bin Duhman aka Abu Hudhaifa,<sup>602</sup> Abd al-Karim,<sup>603</sup> Abu Hazim,<sup>604</sup> Sayyid Ibrahim,<sup>605</sup> Abu Yasir al-Jaza'iri,<sup>606</sup> and Suleiman Abdullah.<sup>607</sup> In every case except al-Nashiri, the unauthorized

<sup>597</sup> Abd al-Rahim al-Nashiri was subjected to unapproved nudity and approximately two-and-a-half days of sleep deprivation in December 2002, with his arms shackled over his head for as long as 16 hours. See email from: [REDACTED] [REDACTED] [REDACTED] to: [REDACTED]; subject: EYES ONLY - [REDACTED] ONLY -- MEMO FOR ADDO/DDO; date: January 22, 2003.

<sup>598</sup> The facial hold was used against Ramzi bin al-Shibh multiple times without approval. See [REDACTED] 10415 [REDACTED]; [REDACTED] 10429 (101215Z FEB 03); [REDACTED] 10573 (241143Z FEB 03); [REDACTED] 10582 (242026Z FEB 03); [REDACTED] 10591 (252002Z FEB 03); [REDACTED] 10602 (262020Z FEB 03); [REDACTED] 10633 (011537Z MAR 03); and [REDACTED] 10704 (071239Z MAR 03).

<sup>599</sup> Interrogators used water dousing, nudity, and cramped confinement on Asadallah without having sought or received authorization from CIA Headquarters. Bathing detainees did not require authorization by CIA Headquarters; however, as described in CIA cables, the application of "bathing" in the case of Asadallah was done punitively and was used as an interrogation technique. Nudity was also used in conjunction with water dousing/bathing and later as an interrogation technique, without approval from CIA Headquarters. See [REDACTED] 34241 [REDACTED]; and [REDACTED] 34310 [REDACTED].

<sup>600</sup> Mustafa al-Hawsawi was subjected to water dousing without approval from CIA Headquarters. See [REDACTED] [REDACTED] (081207Z APR 03).

<sup>601</sup> Interrogators used sleep deprivation against Abu Khalid prior to seeking authorization from CIA Headquarters, and then failed to obtain such authorization. See [REDACTED] 35193 [REDACTED]; and [REDACTED] 35341 [REDACTED]. Abu Khalid had been in CIA custody for 17 days prior to the use of the technique. Advance authorization from CIA Headquarters was therefore "feasible," and thus required under the guidelines.

<sup>602</sup> Abu Hudhaifa was subjected to baths in which ice water was used, standing sleep deprivation for 66 hours that was discontinued due to a swollen leg attributed to prolonged standing, nudity, and dietary manipulation. (See email from: [REDACTED] to: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; subject: our telecom; date: March [REDACTED], 2004; CIA Office of Inspector General Report; 2005-8085-IG; [REDACTED] 39098 [REDACTED]; [REDACTED] 39042 [REDACTED] MAY 03); and [REDACTED] 39101 [REDACTED] MAY 03). No request or approval for the use of standard or enhanced interrogation techniques could be located in CIA records.

<sup>603</sup> Abd al-Karim, who suffered from a foot injury incurred during his capture, was subjected to cramped confinement, stress positions, and walling despite CIA Headquarters having not approved their use. See DIRECTOR [REDACTED] [REDACTED] MAY 03); and DIRECTOR [REDACTED] [REDACTED].

<sup>604</sup> Abu Hazim, who also had a foot injury incurred during his capture, was subjected to walling, despite CIA Headquarters having not approved its use. (See [REDACTED] 36908 [REDACTED]; and [REDACTED] 37410 (291828Z APR 03).) Nudity, dietary manipulation, and facial grasp were used on Abu Hazim at least 13 days prior to receiving approval. See [REDACTED] 37411 (291829Z APR 03); [REDACTED] 37410 (291828Z APR 03); [REDACTED] 37493 [REDACTED]; DIRECTOR [REDACTED] [REDACTED] MAY 03).

<sup>605</sup> CIA cables indicate that Sayyid Ibrahim was subjected to sleep deprivation from January 27, 2004, to January 30, 2004, which exceeded the 48 hours approved by CIA Headquarters. See HEADQUARTERS [REDACTED] (272155Z JAN 04); [REDACTED] 1303 [REDACTED] JAN 04); [REDACTED] 1298 [REDACTED] JAN 04); [REDACTED] 1303 [REDACTED] JAN 04); [REDACTED] 1311 [REDACTED] JAN 04).

<sup>606</sup> During March 2003 interrogations at DETENTION SITE COBALT, Abu Yasir al-Jaza'iri was "bathed," a term used to describe water dousing, which was considered at the time to be an enhanced interrogation technique. (See [REDACTED] 35558 [REDACTED] MAR 03).) Water dousing had not been approved, and the subsequent request, by DETENTION SITE BLUE, to use the CIA's enhanced interrogation techniques on al-Jaza'iri, did not include water dousing. See [REDACTED] 10990 [REDACTED].

<sup>607</sup> Interrogators requested approvals to use the CIA's enhanced interrogation techniques on Suleiman Abdullah, including water dousing. CIA Headquarters then approved other techniques, but not water dousing. (See [REDACTED] 36559 [REDACTED]; DIRECTOR [REDACTED] [REDACTED].) Suleiman Abdullah was nonetheless subjected to water dousing. See [REDACTED] 37117 [REDACTED].

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interrogation techniques were detailed in CIA cables, but CIA Headquarters did not respond or take action against the CIA personnel applying the unauthorized interrogation techniques.<sup>608</sup>

(TS//[REDACTED]//NF) This list does not include examples in which CIA interrogators were authorized to use the CIA's enhanced interrogation techniques, but then implemented the techniques in a manner that diverged from the authorization. Examples include Abu Zubair<sup>609</sup> and, as detailed, KSM, whose interrogators developed methods of applying the waterboard in a manner that differed from how the technique had previously been used and how it had been described to the Department of Justice. This count also excludes additional allegations of the unauthorized use of the CIA's enhanced interrogation techniques.<sup>610</sup>

(TS//[REDACTED]//NF) Over the course of the CIA's Detention and Interrogation Program, numerous detainees were subjected to the CIA's enhanced interrogation techniques by untrained interrogators. As noted, the CIA did not conduct its first training course until November 2002, by which time at least nine detainees had already been subjected to the techniques.<sup>611</sup> The DCI's January 28, 2003, guidelines, which stated that the CIA's enhanced interrogation techniques

<sup>608</sup> The CIA's June 2013 Response states that the CIA "conducted at least 29 investigations of RDI-related conduct, plus two wide-ranging reviews of the program... one involved the death of an Afghan national who was beaten by a contractor. The individual involved was prosecuted by the Department of Justice and convicted of a felony charge. Another case involved a contractor who slapped, kicked, and struck detainees while they were in military custody. ... [T]he contractor was terminated from the CIA, had his security clearances revoked, and was placed on a contractor watch list." However, the two specific examples provided in the CIA's June 2013 Response refer to detainees who were never part of the CIA's Detention and Interrogation Program. On November 6, 2013, the CIA provided a list of "10 Investigations Concerning Detention, Interrogations, and Renditions." The list of 29 included 14 investigations that were directly related to the CIA's Detention and Interrogation Program. Four additional investigations were related to detainees who claimed they had been subjected to abuse in transit from CIA custody to U.S. military custody at Guantanamo Bay. The remaining 11 investigations were unrelated to the CIA's Detention and Interrogation Program. See DTS #2013-3250.

<sup>609</sup> CIA chief of interrogations, [REDACTED], placed a broomstick behind the knees of Zubair when Zubair was in a stress position on his knees on the floor. Although stress positions had been approved for Zubair, the use of the broomstick was not approved. See April 7, 2005, Briefing for Blue Ribbon Panel, CIA Rendition, Detention, and Interrogation Programs, at 22.

<sup>610</sup> Majid Khan has claimed that, in May 2003, he was subjected to immersion in a tub that was filled with ice and water. (See [REDACTED], Briefing for the Senate Select Committee on Intelligence, Implementation of Central Intelligence Agency Secret Detention and Interrogation Program, dated March 14, 2008.) While CIA cables do not confirm bathing or water dousing, Chief of Interrogations [REDACTED], subjected Abu Hudhaifa to an (unauthorized) "icy water" bath at the same [REDACTED] where Majid Khan was held. (See email from: [REDACTED] to: [REDACTED], [REDACTED], [REDACTED], and [REDACTED] subject: our telecon; date: [REDACTED]; and email from: [REDACTED] to: [REDACTED] subject: Memo; date: [REDACTED].) Ayub Murshid Ali Saikh and Ha'il Aziz Ahmad al-Maythali were described as not having slept, although it is unclear from CIA records whether CIA interrogators kept them awake. (See [REDACTED] 28132 (101143Z OCT 02) and [REDACTED] 27964 (071949Z OCT 02).) Bashir Nasri Ali al-Marwah told debriefers at Guantanamo Bay that he was "tortured" at DETENTION SITE COBALT with five days of continual standing and nudity. (See [REDACTED] 14353 (231521Z APR 03).) Sa'id Salih Sa'id likewise informed debriefers at Guantanamo that he was "beaten" while blind-folded in CIA custody. (See [REDACTED] 13386 (090154Z JAN 03).) Sixteen other detainees were held at DETENTION SITE COBALT between September and December 2002, a period during which exposure to the CIA's enhanced interrogation techniques such as sleep deprivation and nudity cannot be determined based on the lack of details in CIA cables and related documents.

<sup>611</sup> December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running).

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"may be employed only by approved interrogators for use with specific detainees," raised the additional issue of approved techniques used by unapproved interrogators.<sup>612</sup> The January 28, 2003, DCI guidelines did not explicitly require CIA Headquarters to approve who could use the CIA's "standard" interrogation techniques, including techniques that were not previously considered "standard" and that would later be reclassified as "enhanced" interrogation techniques. Rather, the DCI guidelines required only that "all personnel directly engaged in the interrogation" be "appropriately screened," that they review the guidelines, and that they receive "appropriate training" in the implementation of the guidelines.<sup>613</sup>

4. *CIA Headquarters Authorizes Water Dousing Without Department of Justice Approval; Application of Technique Reported as Approximating Waterboarding*

(TS//NOFORN) CIA Headquarters approved requests to use water dousing, nudity, the abdominal slap, and dietary manipulation, despite the fact that the techniques had not been reviewed by the Department of Justice.<sup>614</sup> Interrogators used the water dousing technique in various ways. At DETENTION SITE COBALT, detainees were often held down, naked, on a tarp on the floor, with the tarp pulled up around them to form a makeshift tub, while cold or refrigerated water was poured on them.<sup>615</sup> Others were hosed down repeatedly while they were shackled naked, in the standing sleep deprivation position. These same detainees were subsequently placed in rooms with temperatures ranging from 59 to 80 degrees Fahrenheit.<sup>616</sup>

<sup>612</sup> DIRECTOR (302126Z JAN 03); DIRECTOR (311702Z JAN 03). For example, on May 1, 2003, CIA interrogator applied three facial attention grabs, five facial insult slaps, and three abdominal slaps to Abd al-Karim, under the supervision of CIA interrogator (CIA OFFICER 1). (See 37821.) had not been approved by CIA Headquarters to employ the CIA's enhanced interrogation techniques on al-Karim; approval had only been provided for (CIA OFFICER 1) to use the CIA's enhanced interrogation techniques. (See DIRECTOR.) On [redacted], CIA interrogator, under the supervision of [redacted], conducted an interrogation of Abd al-Karim in which interrogators used the facial attention grab, facial insult slap, and abdominal slap against al-Karim. (See 38583.) had not been approved by CIA Headquarters to employ the CIA's enhanced interrogation techniques against Abd al-Karim. In another example, on [redacted], DETENTION SITE COBALT requested approval for certified interrogators [redacted] and [redacted] (CIA OFFICER 1) to use the CIA's enhanced interrogation techniques against Khallad bin Attash, and for three other interrogators, [redacted] and [redacted] to also use the techniques "under the direct supervision of senior certified interrogator [redacted]." (See 38325.) Later that day, CIA Headquarters approved the use of CIA's enhanced interrogation techniques against Khallad bin Attash, but the approval cable did not include approval for participation by [redacted] or [redacted] under [redacted]'s supervision. (See DIRECTOR (162224Z MAY 03).) On May 17 and 18, 2003, [redacted] and [redacted] used the CIA's enhanced interrogation techniques on bin Attash under the supervision of [redacted], including facial grabs, facial insult slaps, abdominal slaps, walling, and water dousing. See 38557 (191641Z MAY 03); 38597 (201225Z MAY 03).

<sup>613</sup> DIRECTOR (302126Z JAN 03); DIRECTOR (311702Z JAN 03). The DCI guidelines provided no further information, other than to note that the screening should be "from the medical, psychological, and security standpoints."

<sup>614</sup> See, for example, DIRECTOR (101700Z FEB 03).

<sup>615</sup> In the case of Abu Hudhafa, and allegedly Majid Khan, interrogators placed the detainee in an actual tub in a CIA [redacted] when employing water dousing that included ice water.

<sup>616</sup> CIA cable records often describe the detainees as naked after the water dousing, while other records omit such detail. See Volume III for additional information.

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Other accounts suggest detainees were water doused while placed on a waterboard.<sup>617</sup> Although CIA Headquarters approved the use of the "water dousing" interrogation technique on several detainees, interrogators used it extensively on a number of detainees without seeking or obtaining prior authorization from CIA Headquarters.<sup>618</sup>

(TS//NF) In interrogation sessions on April 5, 2003, and April 6, 2003, senior CIA interrogator [REDACTED] and another interrogator used the water dousing technique on detainee Mustafa al-Hawsawi at DETENTION SITE COBALT. Al-Hawsawi later described the session to a different CIA interrogator, [REDACTED], who wrote that al-Hawsawi might have been waterboarded or subjected to treatment that "could be indistinguishable from the waterboard."<sup>619</sup> An email from the interrogator stated that:

"We did not prompt al-Hawsawi - he described the process and the table on his own. As you know, I have serious reservations about watering them in a prone position because if not done with care, the net effect can approach the effect of the water board. If one is held down on his back, on the table or on the floor, with water poured in his face I think it goes beyond dousing and the effect, to the recipient, could be indistinguishable from the water board.

I have real problems with putting one of them on the water board for 'dousing.' Putting him in a head down attitude and pouring water around his chest and face is just too close to the water board, and if it is continued may lead to problems for us."<sup>620</sup>

(TS//NF) Several months later, the incident was referred to the CIA inspector general for investigation. A December 6, 2006, inspector general report summarized the findings of this investigation indicating that water was poured on al-Hawsawi while he was lying on the floor in a prone position, which, in the opinion of at least one CIA interrogator quoted in the report, "can easily approximate waterboarding."<sup>621</sup> The OIG could not corroborate whether al-Hawsawi was strapped to the waterboard when he was interrogated at DETENTION SITE COBALT. Both of the interrogators who subjected al-Hawsawi to the CIA's enhanced interrogation techniques on April 6, 2003, said that al-Hawsawi cried out for God while the

<sup>617</sup> Email from: [REDACTED], using [REDACTED] [REDACTED] account; to: [REDACTED] and [REDACTED]; subject: Al-Hawsawi Incident; date: November 21, 2003.

<sup>618</sup> For additional details, see Volume III.

<sup>619</sup> Email from: [REDACTED], using [REDACTED] [REDACTED] account; to: [REDACTED] and [REDACTED]; subject: Al-Hawsawi Incident; date: November 21, 2003.

<sup>620</sup> Email from: [REDACTED], using [REDACTED] [REDACTED] account; to: [REDACTED] and [REDACTED]; subject: Al-Hawsawi Incident; date: November 21, 2003. Volume III of the Committee Study includes a CIA photograph of a wooden waterboard at DETENTION SITE COBALT. As detailed in the full Committee Study, there are no records of the CIA using the waterboard interrogation technique at COBALT. The waterboard device in the photograph is surrounded by buckets, with a bottle of unknown pink solution (filled two thirds of the way to the top) and a watering can resting on the wooden beams of waterboard. In meetings between the Committee staff and the CIA in the summer of 2013, the CIA was unable to explain the details of the photograph, to include the buckets, solution, and watering can, as well as the waterboard's presence at DETENTION SITE COBALT.

<sup>621</sup> CIA OIG Disposition Memorandum, "Alleged Use of Unauthorized Interrogation Techniques" OIG Case 2004-7604-IG, December 6, 2006.

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water was being poured on him and one of the interrogators asserted that this was because of the cold temperature of the water. Both of the interrogators also stated that al-Hawsawi saw the waterboard and that its purpose was made clear to him. The inspector general report also indicates that al-Hawsawi's experience reflected "the way water dousing was done at [DETENTION SITE COBALT]," and that this method was developed with guidance from CIA CTC attorneys and the CIA's Office of Medical Services.<sup>622</sup>

(TSA////NF) During the same time that al-Hawsawi claimed he was placed on the waterboard in April 2003, a CIA linguist claimed that CIA detainee Abu Hazim had also been water doused in a way that approximated waterboarding.<sup>623</sup> , a linguist in Country  from , 2003, until , 2003, told the OIG that:

"when water dousing was used on Abu Hazim, a cloth covered Abu Hazim's face, and [  (CIA OFFICER 1)] poured cold water directly on Abu Hazim's face to disrupt his breathing. [The linguist] said that when Abu Hazim turned blue, Physician's Assistant [ ] removed the cloth so that Abu Hazim could breathe."<sup>624</sup>

(TSA////NF) This allegation was reported to the CIA inspector general on August 18, 2004. The CIA reported this incident as a possible criminal violation on September

<sup>622</sup> CIA OIG Disposition Memorandum, "Alleged Use of Unauthorized Interrogation Techniques" OIG Case 2004-7604-1G, December 6, 2006.

<sup>623</sup> An accusation related to an additional detainee was included in a September 6, 2012, Human Rights Watch report entitled, "Delivered Into Enemy Hands." The report asserts that documents and interviews of former detainees contradict CIA claims that "only three men in US custody had been waterboarded." Specifically, the report states that Mohammed Shoroqiya, aka Abd al-Karim, "provided detailed and credible testimony that he was waterboarded on repeated occasions during US interrogations in Afghanistan." According to the report, Mohammed Shoroqiya stated that a hood was placed over his head and he was strapped to a "wooden board." The former CIA detainee stated that after being strapped to the waterboard, "then they start with the water pouring... They start to pour water to the point where you feel like you are suffocating." As detailed in the full Committee Study, Mohammed Shoroqiya, aka Abd al-Karim, was rendered to CIA custody at DETENTION SITE  on April , 2003. While there are no CIA records of Mohammed Shoroqiya, aka Abd al-Karim, being subjected to the waterboard at DETENTION SITE , the full nature of the CIA interrogations at DETENTION SITE  remains largely unknown. Detainees at DETENTION SITE  were subjected to techniques that were not recorded in cable traffic, including multiple periods of sleep deprivation, required standing, loud music, sensory deprivation, extended isolation, reduced quantity and quality of food, nudity, and "rough treatment." As described, Volume III of the Committee Study includes a CIA photograph of a wooden waterboard at DETENTION SITE . As detailed in the full Committee Study, there are no records of the CIA using the waterboard interrogation technique at DETENTION SITE . The waterboard device in the photograph is surrounded by buckets, with a bottle of unknown pink solution (filled two thirds of the way to the top) and a watering can resting on the wooden beams of waterboard. In meetings between the Committee staff and the CIA in the summer of 2013, the CIA was unable to explain the details of the photograph, to include the buckets, solution, and watering can, as well as the waterboard's presence at DETENTION SITE . In response to the allegations in the September 2012 Human Rights Watch report, the CIA stated: "The agency has been on the record that there are three substantiated cases in which detainees were subjected to the waterboarding technique under the program." See "Libyan Alleges Waterboarding by CIA, Report Says," *New York Times*, September 6, 2012.

<sup>624</sup> CIA OIG Disposition Memo, "Alleged Use of Unauthorized Techniques," dated December 6, 2006. 2004-7717-16.

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10, 2004, to the U.S. Attorney's Office in the Eastern District of Virginia.<sup>625</sup> The inspector general report concluded that there was no corroboration of the linguist's allegation, stating, "[t]here is no evidence that a cloth was placed over Abu Hazim's face during water dousing or that his breathing was impaired."<sup>626</sup>

5. *Hambali Fabricates Information While Being Subjected to the CIA's Enhanced Interrogation Techniques*

(TS//~~UNCLASSIFIED~~) In the summer of 2003, the CIA captured three Southeast Asian operatives: Zubair,<sup>627</sup> Lillie,<sup>628</sup> and Hambali. (These captures are discussed later in this summary in the section entitled, "The Capture of Hambali.")<sup>629</sup>

(TS//~~UNCLASSIFIED~~) In August 2003, Hambali was captured and transferred to CIA custody.<sup>630</sup> Despite assessments that Hambali was cooperative in the interview process without "the use of more intrusive standard interrogation procedures much less the enhanced measures," CIA interrogators requested and obtained approval to use the CIA's enhanced interrogation techniques on Hambali approximately a month after his transfer to CIA custody.<sup>631</sup> In late 2003, Hambali recanted most of the significant information he had provided to interrogators during the use of the CIA's enhanced interrogation techniques, recantations CIA officers assessed to be credible.<sup>632</sup> According to a CIA cable:

<sup>625</sup> CIA IG Disposition Memo, "Alleged Use of Unauthorized Techniques," dated December 6, 2006. 2004-77717-16.

<sup>626</sup> CIA IG Disposition Memo, "Alleged Use of Unauthorized Techniques," dated December 6, 2006. 2004-77717-16.

<sup>627</sup> [REDACTED] 84854 [REDACTED]; [REDACTED] 87426 (111223Z AUG 03). Lillie was subjected to the CIA's enhanced interrogation techniques almost immediately upon his arrival at DETENTION SITE COBALT, on August [REDACTED], 2003. He was "stripped of his clothing," and "placed in a cell in the standing sleep deprivation position, in darkness." (See [REDACTED] 1242 (151914Z AUG 03).) A day later an interrogation plan for Lillie, including the use of the CIA's enhanced interrogation techniques, was submitted to CIA Headquarters on August [REDACTED], 2003. (See [REDACTED] 1243 (152049Z AUG 03).) CIA Headquarters approved the use of the CIA's enhanced interrogation techniques on Lillie on the following day, August [REDACTED], 2003. (See HEADQUARTERS [REDACTED] ( [REDACTED] AUG 03).) As described, the Committee's count of detainees subjected to unauthorized techniques did not include detainees such as Lillie, who were subjected to the CIA's "standard" techniques prior to authorization from CIA Headquarters, but for whom authorization from CIA Headquarters was acquired shortly thereafter. As noted, the January 2003 guidelines required advance approval of such techniques "whenever feasible."

<sup>629</sup> [REDACTED] 9515 [REDACTED]; [REDACTED] 87617 [REDACTED]; [REDACTED] 87414 [REDACTED] "Hambali Capture." For additional details, see Volume II.

<sup>630</sup> [REDACTED] 87617 [REDACTED]; [REDACTED] 1271 [REDACTED] AUG 03); [REDACTED] 1267 [REDACTED] AUG 03).

The cable also noted that CIA contractor Hammond DUNBAR had arrived at the detention site and was participating in Hambali's interrogations as an interrogator. The "psychological assessment" portion of the cable was attributed to a CIA staff psychologist, however, and not to DUNBAR.

<sup>632</sup> CIA officers interrogating Hambali in November 2003 wrote about Hambali's "account of how, through statements read to him and constant repetition of questions, he was made aware of what type of answers his questioners wanted. [Hambali] said he merely gave answers that were similar to what was being asked and what he inferred the interrogator or debriefer wanted, and when the pressure subsided or he was told that the information he gave was okay, [Hambali] knew that he had provided the answer that was being sought." The cable states, "Base assesses [Hambali]'s admission of previous fabrication to be credible. [Hambali]'s admission came after three

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"he had provided the false information in an attempt to reduce the pressure on himself ... and to give an account that was consistent with what [Hambali] assessed the questioners wanted to hear."<sup>633</sup>

(TS// [REDACTED] //NF) CIA officers later suggested that the misleading answers and resistance to interrogation that CIA interrogators cited in their requests to use the CIA's enhanced interrogation techniques against Hambali and an associated CIA detainee, Lillie, may not have been resistance to interrogation, but rather the result of issues related to culture and their poor English language skills.<sup>634</sup>

6. *After the Use of the CIA's Enhanced Interrogation Techniques, CIA Headquarters Questions Detention of Detainee and Recommends Release; Detainee Transferred to U.S. Military Custody and Held for An Additional Four Years*

(TS// [REDACTED] //NF) In October 2003, the CIA interrogated Arsala Khan, an Afghan national in his mid-fifties who was believed to have assisted Usama bin Laden in his escape through the Tora Bora Mountains in late 2001.<sup>635</sup> After 56 hours of standing sleep deprivation, Arsala Khan was described as barely able to enunciate, and being "visibly shaken by his hallucinations depicting dogs mauling and killing his sons and family." According to CIA cables, Arsala Khan "stated that [the interrogator] was responsible for killing them and feeding them to the dogs."<sup>636</sup>

(TS// [REDACTED] //NF) Arsala Khan was subsequently allowed to sleep.<sup>637</sup> Two days later, however, the interrogators returned him to standing sleep deprivation. After subjecting Khan to 21 additional hours of sleep deprivation, interrogators stopped using the CIA's enhanced

weeks of daily debriefing sessions with [the case officer] carried out almost entirely in Bahasa Indonesia. [Hambali] has consistently warmed to [the case officer's] discussions with him, and has provided to [the case officer] additional information that he had avoided in the past... More tellingly, [Hambali] has opened up considerably to [the case officer] about his fears and motivations, and has taken to trusting [the case officer] at his word. [Hambali] looks to [the case officer] as his sole confidant and the one person who has [Hambali]'s interest in mind..." See [REDACTED] 1142 (301055Z NOV 03). This cable appears to have been retransmitted the following day as [REDACTED] 1144 (010823Z DEC 03).

<sup>633</sup> [REDACTED] 1142 (301055Z NOV 03)  
<sup>634</sup> [REDACTED] 1072 (110606Z OCT 03); [REDACTED] 1075 (111828Z OCT 03); [REDACTED] 1142 (301055Z NOV 03); [REDACTED] 1158 (081459Z DEC 03); [REDACTED] 1604 (191232Z JAN 04). After an Indonesian speaker was deployed to debrief Hambali, the debriefer "got the distinct impression [Hambali] was just responding 'yes' in the typical Indonesian cultural manner when they [sic] do not comprehend a question." The CIA cable then noted that, "[j]ust to clarify, [the Indonesian speaking debriefer] then posed the same question in Indonesian," and "[w]ithout pause, [Hambali] replied with a direct contradiction, claiming that on 20 September 2001, he was in Karachi, not Qandahar." (See [REDACTED] 1075 (111828Z OCT 03).) A January 2004 cable stated that "Lillie is of limited value," adding that "[h]is English is very poor, and we do not have a Malay linguist." See [REDACTED] 1604 (191232Z JAN 04). See also detainee reviews in Volume III for additional information.

<sup>635</sup> WASHINGTON [REDACTED]  
<sup>636</sup> [REDACTED] 48122 [REDACTED] 1393 (201006Z OCT 03). The information was also released in [REDACTED] CIA records indicate that the CIA's interrogations of Arsala Khan resulted in one disseminated intelligence report, derived from information Khan provided the day he experienced the hallucinations. See [REDACTED], via CIA WASHINGTON DC [REDACTED].

<sup>637</sup> [REDACTED] 1393 (201006Z OCT 03)

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interrogation techniques "[d]ue to lack of information from [Arsala Khan] pinning him directly to a recent activity."<sup>638</sup> Three days after the reporting about Khan's hallucinations, and after the interrogators had already subjected Khan to the additional 21 hours of standing sleep deprivation (beyond the initial 56 hours), CIA Headquarters sent a cable stating that RDG and the Office of Medical Services believed that Arsala Khan should not be subjected to additional standing sleep deprivation beyond the 56 hours because of his hallucinations.<sup>639</sup>

(TS///NF) After approximately a month of detention and the extensive use of the CIA's enhanced interrogation techniques on Arsala Khan, the CIA concluded that the "detainee Arsala Khan does not appear to be the subject involved in... current plans or activities against U.S. personnel or facilities," and recommended that he be released to his village with a cash payment.<sup>640</sup> CIA interrogators at DETENTION SITE COBALT instead transferred him to U.S. military custody, where he was held for an additional four years despite the development of significant intelligence indicating that the source who reported that Arsala Khan had aided Osama bin Laden had a vendetta against Arsala Khan's family.<sup>641</sup>

7. A Year After DETENTION SITE COBALT Opens, the CIA Reports "Unsettling Discovery That We Are Holding a Number of Detainees About Whom We Know Very Little"

(TS///NF) In the fall of 2003, CIA officers began to take a closer look at the CIA detainees being held in Country , raising concerns about both the number and types of detainees being held by the CIA. CIA officers in Country  provided a list of CIA detainees to CIA Headquarters, resulting in the observation by CIA Headquarters that they had not previously had the names of all 44 CIA detainees being held in that country. At the direction of CIA Headquarters, the Station in Country  "completed an exhaustive search of all available records in an attempt to develop a clearer understanding of the [CIA] detainees." A December 2003 cable from the Station in Country  to CIA Headquarters stated that:

"In the process of this research, we have made the unsettling discovery that we are holding a number of detainees about whom we know very little. The majority of [CIA] detainees in [Country ] have not been debriefed for months and, in some cases, for over a year. Many of them appear to us to have no further intelligence value for [the CIA] and should more properly be turned over to the [U.S. military], to [Country ] authorities or to third countries for further investigation and possibly prosecution. In a few cases, there does not appear to be enough evidence to continue incarceration, and, if this is in fact the case, the detainees should be released."<sup>642</sup>

<sup>638</sup>  1396  
<sup>639</sup> HEADQUARTERS  
<sup>640</sup> HEADQUARTERS  
<sup>641</sup> See, for example,  1407  1407  
 2229 HEADQUARTERS  
1080 1495 1375 1375 3158  
<sup>642</sup> HEADQUARTERS 1528

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(TS// [REDACTED] //NF) Records indicate that all of these CIA detainees had been kept in solitary confinement. The vast majority of these detainees were later released, with some receiving CIA payments for having been held in detention.<sup>643</sup>

8. *CIA Detention Sites in Country [REDACTED] Lack Sufficient Personnel and Translators to Support the Interrogations of Detainees*

(TS// [REDACTED] //NF) Throughout 2003, the CIA lacked sufficient personnel and adequate translators to conduct debriefings and interrogations in Country [REDACTED]. Because of this personnel shortage, a number of detainees who were transferred to CIA custody were not interrogated or debriefed by anyone for days or weeks after their arrival at CIA detention facilities in Country [REDACTED].<sup>644</sup> As noted in a cable from the CIA Station in Country [REDACTED], in April 2003:

"Station is supporting the debriefing and/or interrogation of a large number of individuals... and is constrained by a lack of personnel which would allow us to fully process them in a timely manner."<sup>645</sup>

I. Other Medical, Psychological, and Behavioral Issues

1. *CIA Interrogations Take Precedence Over Medical Care*

(TS// [REDACTED] //NF) While CIA Headquarters informed the Department of Justice in July 2002 "that steps will be taken to ensure that [Abu Zubaydah's] injury is not in any way exacerbated by the use of these [enhanced interrogation] methods,"<sup>646</sup> CIA Headquarters informed CIA interrogators that the interrogation process would take "precedence" over Abu Zubaydah's medical care.<sup>647</sup> Beginning on August 4, 2002, Abu Zubaydah was kept naked, fed a "bare bones" liquid diet, and subjected to the non-stop use of the CIA's enhanced interrogation techniques.<sup>648</sup> On August 15, 2002, medical personnel described how Abu Zubaydah's interrogation resulted in the "steady deterioration" of his surgical wound from April 2002.<sup>649</sup> On

<sup>643</sup> This included Sayed Habib (\$ [REDACTED]), Zamein ("a nominal payment"), Modin Nik Muhammed (\$ [REDACTED]), and Ali Saeed Awadh (\$ [REDACTED]). See Volume III for additional details.

<sup>644</sup> For detailed information, see Volume III.

<sup>645</sup> [REDACTED] 36229 (060943Z APR 03). See also detainee reviews for Lillie, Hambali, Mustafa al-Hawsawi, and Suleiman Abdullah.

<sup>646</sup> See Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative."

<sup>647</sup> ALEC [REDACTED] (182321Z JUL 02)

<sup>648</sup> See Abu Zubaydah detainee review in Volume III for additional information, as well as email from: [REDACTED], to: [REDACTED] and [REDACTED], subject: 15 Aug Clinical; date: August 15, 2002, at 06:54 AM.

<sup>649</sup> An email to OMS stated: "We are currently providing absolute minimum wound care (as evidenced by the steady deterioration of the wound), [Abu Zubaydah] has no opportunity to practice any form of hygienic self care (he's filthy), the physical nature of this phase dictates multiple physical stresses (his reaction to today's activity is I believe the culprit for the superior edge separation), and nutrition is bare bones (six cans of ensure daily)." See email from: [REDACTED], to: [REDACTED] and [REDACTED], subject: 15 Aug Clinical; date: August 15, 2002, at 06:54 AM.

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August 20, 2002, medical officers wrote that Abu Zubaydah's wound had undergone "significant" deterioration.<sup>650</sup> Later, after one of Abu Zubaydah's eyes began to deteriorate,<sup>651</sup> CIA officers requested a test of Abu Zubaydah's other eye, stating that the request was "driven by our intelligence needs vice humanitarian concern for AZ." The cable relayed, "[w]e have a lot riding upon his ability to see, read and write."<sup>652</sup>

(TS// [REDACTED] //NF) In April 2003, CIA detainees Abu Hazim and Abd al-Karim each broke a foot while trying to escape capture and were placed in casts.<sup>653</sup> CIA cables requesting the use of the CIA's enhanced interrogation techniques on the two detainees stated that the interrogators would "forego cramped confinement, stress positions, walling, and vertical shackling (due to [the detainees'] injury)."<sup>654</sup> Notwithstanding medical concerns related to the injuries, both of these detainees were subjected to one or more of these CIA enhanced interrogation techniques prior to obtaining CIA Headquarters approval.<sup>655</sup>

(TS// [REDACTED] //NF) In the case of Abu Hazim, on May 4, 2003, the CIA regional medical officer examined Abu Hazim and recommended that he avoid all weight bearing activities for an additional five weeks due to his broken foot.<sup>656</sup> In the case of Abd al-Karim, on April 18, 2003, a CIA physician assistant recommended that al-Karim avoid extended standing for "a couple of weeks."<sup>657</sup> Six days later, on April 24, 2003, CIA Headquarters reviewed x-rays of al-Karim's foot, diagnosing him with a broken foot, and recommending no weight bearing and the use of crutches for a total of three months.<sup>658</sup> Despite these recommendations, on May 10,

<sup>650</sup> [REDACTED] 10647 (201331Z AUG 02); [REDACTED] 10654 (211318Z AUG 02); [REDACTED] 10679 (250932Z AUG 02)

<sup>651</sup> Records indicate that Abu Zubaydah ultimately lost the eye. See [REDACTED] 11026 (070729Z OCT 02).

<sup>652</sup> [REDACTED] 10679 (250932Z AUG 02); [REDACTED] 11026 (070729Z OCT 02)

<sup>653</sup> [REDACTED] 44147 ; [REDACTED] 36862 (181352Z APR 03)

<sup>654</sup> [REDACTED] 36908 ; [REDACTED] 36862 (181352Z APR 03); [REDACTED]

To accommodate Abu Hazim's and Abd al-Karim's injuries, the cable stated that, rather than being shackled standing during sleep deprivation, the detainees would be "seated, secured to a cell wall, with intermittent disruptions of normal sleeping patterns." For water dousing, the detainees' injured legs would be "wrapped in plastic." The requests were approved. See DIRECTOR [REDACTED]; DIRECTOR [REDACTED]

<sup>655</sup> With regard to Abu Hazim, on April 24, 2003, an additional CIA Headquarters approval cable was sent to DETENTION SITE COBALT authorizing interrogator [REDACTED] to use the attention grasp, facial insult slap, abdominal slap, water dousing, and sleep deprivation up to 72 hours; the cable did not approve the use of walling or the facial hold. (See DIRECTOR [REDACTED]) Despite the lack of approval, walling was used against Abu Hazim on April 28-29, 2003, and the facial hold was used on April 27, 2003. (See [REDACTED] 37411 (291829Z APR 03); [REDACTED] 37410 (291828Z APR 03); [REDACTED] 37509 (021309Z MAY 03).) A May 10, 2003, CIA Headquarters cable approved walling and the facial grasp. (See DIRECTOR [REDACTED] MAY 03.) Abd al-Karim was also subjected to unapproved CIA enhanced interrogation techniques that the detention site initially indicated would not be used due to the detainee's injuries. Without approval from CIA Headquarters, CIA interrogators subjected Abd al-Karim to cramped confinement on April 19-20, 2003; stress positions on April 21, 2003; and walling on April 21, and 29, 2003. (See [REDACTED] 37121 (221703Z APR 03); [REDACTED] 37152 (231424Z APR 03); [REDACTED] 37202 (250948Z APR 03); [REDACTED] 37508 (021305Z MAY 03).) On

May 10, 2003, CIA Headquarters approved an expanded list of CIA enhanced interrogation techniques that could be used against Abd al-Karim, including walling and stress positions. See DIRECTOR [REDACTED] MAY 03.

<sup>656</sup> DIRECTOR [REDACTED] MAY 03)

<sup>657</sup> [REDACTED] 36862 (181352Z APR 03)

<sup>658</sup> DIRECTOR [REDACTED]

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2003, CIA interrogators believed that both Hazim and al-Karim were "strong mentally and physically due to [their] ability to sleep in the sitting position."<sup>659</sup> On May 12, 2003, a different CIA physician assistant, who had not been involved in the previous examinations determining the need for the detainees to avoid weight bearing, stated that it was his "opinion" that Abu Hazim's and Abd al-Karim's injuries were "sufficiently healed to allow being placed in the standing sleep deprivation position."<sup>660</sup> He further reported that he had "consulted with [CIA's Office of Medical Services] via secure phone and OMS medical officer concurred in this assessment."<sup>661</sup> CIA Headquarters approved the use of standing sleep deprivation against both detainees shortly thereafter.<sup>662</sup> As a result, both detainees were placed in standing sleep deprivation. Abu Hazim underwent 52 hours of standing sleep deprivation from June 3-5, 2003,<sup>663</sup> and Abd al-Karim underwent an unspecified period of standing sleep deprivation on May 15, 2003.<sup>664</sup>

(TS//NOFORN) CIA detainee Asadallah was left in the standing sleep deprivation position despite a sprained ankle. Later, when Asadallah was placed in stress positions on his knees, he complained of discomfort and asked to sit. Asadallah was told he could not sit unless he answered questions truthfully.<sup>665</sup>

2. CIA Detainees Exhibit Psychological and Behavioral Issues

(TS//NOFORN) Psychological and behavioral problems experienced by CIA detainees, who were held in austere conditions and in solitary confinement, also posed

<sup>659</sup> [REDACTED] 38262 (150541Z MAY 03); [REDACTED] 38161 (131326Z MAY 03)  
<sup>660</sup> [REDACTED] 38161 (131326Z MAY 03)  
<sup>661</sup> [REDACTED] 38161 (131326Z MAY 03)

<sup>662</sup> See DIRECTOR [REDACTED] (MAY 03) for Abu Hazim; and DIRECTOR [REDACTED] (MAY 03) for Abd al-Karim.

<sup>663</sup> [REDACTED] 39582 (041743Z JUN 03); [REDACTED] 39656 (060955Z JUN 03)  
<sup>664</sup> [REDACTED] 38365 (170652Z MAY 03)

<sup>665</sup> Asadallah was also placed in a "small isolation box" for 30 minutes, without authorization and without discussion of how the technique would affect his ankle. (See [REDACTED] 34098 [REDACTED] [REDACTED] 34294 [REDACTED] [REDACTED] 34310 [REDACTED].)

While CIA records contain information on other detainee medical complaints (see Volume III), those records also suggest that detainee medical complaints could be underreported in CIA medical records. For example, CIA medical records consistently report that CIA detainee Ranzi bin al-Shihb had no medical complaints. However, CIA interrogation records indicate that when bin al-Shihb had previously complained of ailments to CIA personnel, he was subjected to the CIA's enhanced interrogation techniques and told by CIA interrogators that his medical condition was not of concern to the CIA. (See [REDACTED] 10591 (252002Z FEB 03); [REDACTED] 10627 (281949Z FEB 03).) In testimony on April 12, 2007, CIA Director Michael Hayden referenced medical care of detainees in the context of the ICRC report on CIA detentions. Hayden testified to the Committee: "The medical section of the ICRC report concludes that the association of CIA medical officers with the interrogation program is 'contrary to international standards of medical ethics.' That is just wrong. The role of CIA medical officers in the detainee program is and always has been and always will be to ensure the safety and the well-being of the detainee. The placement of medical officers during the interrogation techniques represents an extra measure of caution. Our medical officers do not recommend the employment or continuation of any procedures or techniques. The allegation in the report that a CIA medical officer threatened a detainee, stating that medical care was conditional on cooperation is blatantly false. Health care has always been administered based upon detainee needs. It's neither policy nor practice to link medical care to any other aspect of the detainee program." This testimony was incongruent with CIA records.

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management challenges for the CIA.<sup>666</sup> For example, later in his detention, Ramzi bin al-Shibh exhibited behavioral and psychological problems, including visions, paranoia, insomnia, and attempts at self-harm.<sup>667</sup> CIA psychologists linked bin al-Shibh's deteriorating mental state to his isolation and inability to cope with his long-term detention.<sup>668</sup> Similarly, 'Abd al-Rahim al-Nashiri's unpredictable and disruptive behavior in detention made him one of the most difficult detainees for the CIA to manage. Al-Nashiri engaged in repeated belligerent acts, including throwing his food tray,<sup>669</sup> attempting to assault detention site personnel,<sup>670</sup> and trying to damage items in his cell.<sup>671</sup> Over a period of years, al-Nashiri accused the CIA staff of drugging or poisoning his food and complained of bodily pain and insomnia.<sup>672</sup> As noted, at one point, al-Nashiri launched a short-lived hunger strike, and the CIA responded by force feeding him rectally.<sup>673</sup> An October 2004 psychological assessment of al-Nashiri was used by the CIA to advance its discussions with National Security Council officials on establishing an "endgame" for the program.<sup>674</sup> In July 2005, CIA Headquarters expressed concern regarding al-Nashiri's "continued state of depression and uncooperative attitude."<sup>675</sup> Days later a CIA psychologist assessed that al-Nashiri was on the "verge of a breakdown."<sup>676</sup>

(TS// [REDACTED] ) (NF) Beginning in March 2004, and continuing until his rendition to U.S. military custody at Guantanamo Bay in September 2006, Majid Khan engaged in a series of hunger strikes and attempts at self-mutilation that required significant attention from CIA detention site personnel. In response to Majid Khan's hunger strikes, medical personnel

<sup>666</sup> For additional details, see Volume III.

<sup>667</sup> [REDACTED] 1759 (021319Z OCT 04); HEADQUARTERS [REDACTED] (040023Z NOV 05); [REDACTED] 1890 (171225Z NOV 04); [REDACTED] 1878 (140915Z NOV 04); [REDACTED] 1930 (061620Z DEC 04); [REDACTED] 2207 (111319Z APR 05); [REDACTED] 2210 (141507Z APR 05); [REDACTED] 2535 (051805Z JUL 05); [REDACTED] 2589 (120857Z JUL 05); [REDACTED] 2830 (291304Z AUG 05); [REDACTED] 1890 (171225Z NOV 04); [REDACTED] 1893 (200831Z NOV 04); CIA document entitled, "Detainee Talking Points for ICRC Rebuttal, 12 April 2007"; [REDACTED] 2210 (141507Z APR 05); [REDACTED] 2535 (051805Z JUL 05); [REDACTED] 2210 (141507Z APR 05); [REDACTED] 2535 (051805Z JUL 05); [REDACTED] 2830 (291304Z AUG 05); [REDACTED] 1930 (061620Z DEC 04); [REDACTED] 2210 (141507Z APR 05)

<sup>668</sup> [REDACTED] 2210 (141507Z APR 05); [REDACTED] 2535 (051805Z JUL 05); [REDACTED] 2830 (291304Z AUG 05)

<sup>669</sup> [REDACTED] 1691 (081609Z SEP 04); [REDACTED] 1716 (180742Z SEP 04); [REDACTED] 1998 (020752Z JAN 05); [REDACTED] 2023 (151735Z JAN 05); [REDACTED] 2515 (301946Z JUN 05); [REDACTED] 1150 (282019Z NOV 03)

<sup>670</sup> [REDACTED] 1029 (291750Z JUN 06); [REDACTED] 1142 (041358Z AUG 06); [REDACTED] 1543 (111600Z AUG 04); [REDACTED] 1716 (180742Z SEP 04); [REDACTED] 3051 (301235Z SEP 05); [REDACTED] 1029 (291750Z JUN 06)

<sup>671</sup> See, for example, [REDACTED] 2474 (251622Z JUN 05); [REDACTED] 2673 (021451Z AUG 05); [REDACTED] 1716 (180742Z SEP 04)

<sup>672</sup> See, for example, [REDACTED] 1356 (011644Z JUL 04); [REDACTED] 1880 (140917Z NOV 04); [REDACTED] 1959 (111700Z DEC 04); [REDACTED] 1962 (121029Z DEC 04); [REDACTED] 1959 (111700Z DEC 04); [REDACTED] 2038 (211558Z JAN 05); [REDACTED] 1091 (031835Z NOV 03); [REDACTED] 1266 (052309Z JAN 04); [REDACTED] 1630 (271440Z MAR 04)

<sup>673</sup> [REDACTED] 1203 (231709Z MAY 04); [REDACTED] 1202 (231644Z MAY 04). CIA records indicate that at least five detainees were subjected to rectal rehydration or rectal feeding: Abu Zubaydah, Abd al-Rahim al-Nashiri, Khalid Shaykh Mohammad, Majid Khan, and Marwan al-Jabbur. See Volume III for additional details.

<sup>674</sup> Email from: [REDACTED]; to: [REDACTED], [DETENTION SITE BLACK [REDACTED]]; cc: [REDACTED]; subject: Interrogator Assessments/Request for Endgame Views; date: October 30, 2004.

<sup>675</sup> HEADQUARTERS [REDACTED] (282217Z JUL 05)

<sup>676</sup> CIA Sargetime exchange, dated 29JUL05 08:01:51 - 08:50:13; between [REDACTED] and [REDACTED]

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"enhanced" interrogation technique, while sleep deprivation under 72 hours was defined as a "standard" CIA interrogation technique. To avoid using an "enhanced" interrogation technique, CIA officers subjected Khallad bin Attash to 70 hours of standing sleep deprivation, two hours less than the maximum. After allowing him four hours of sleep, bin Attash was subjected to an additional 23 hours of standing sleep deprivation, followed immediately by 20 hours of seated sleep deprivation.<sup>692</sup>

(TS//NF) Unlike during most of the CIA's interrogation program, during the time that CIA Headquarters was seeking policy reaffirmation, the CIA responded to infractions in the interrogation program as reported through CIA cables and other communications. Although [REDACTED], the chief of the interrogations program in RDG, does not appear to have been investigated or reprimanded for training interrogators on the abdominal slap before its use was approved,<sup>693</sup> training significant numbers of new interrogators to conduct interrogations on potentially compliant detainees,<sup>694</sup> or conducting large numbers of water dousing on detainees without requesting or obtaining authorization,<sup>695</sup> the CIA removed his certification to conduct interrogations in late July 2003 for placing a broom handle behind the knees of a detainee while that detainee was in a stress position.<sup>696</sup> CIA Headquarters also decertified two other interrogators, [REDACTED] [CIA OFFICER 1] and [REDACTED], in the same period, although there are no official records of why those decertifications occurred.<sup>697</sup>

2. *The CIA Provides Inaccurate Information to Select Members of the National Security Council, Represents that "Termination of This Program Will Result in Loss of Life, Possibly Extensive"; Policymakers Reauthorize Program*

(TS//NF) On July 29, 2003, DCI Tenet and CIA General Counsel Muller attended a meeting with Vice President Cheney, National Security Advisor Rice, Attorney General Ashcroft, and White House Counsel Gonzales, among others, seeking policy

<sup>692</sup> Bin Attash has one leg, which swelled during standing sleep deprivation, resulting in the transition to seated sleep deprivation. He was also subjected to nudity and dietary manipulation during this period. See [REDACTED] 12371 (212121Z JUL 03); [REDACTED] 12385 (222045Z JUL 03); and [REDACTED] 12389 (232040Z JUL 03).

<sup>693</sup> HVT Training and Curriculum, November 2, 2002, at 17.

<sup>694</sup> HVT Training and Curriculum, November 2, 2002, at 17.

<sup>695</sup> See, for example, [REDACTED] 10168 (092130Z JAN 03); Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 7, 2003; CIA Office of Inspector General, Special Review: Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), May 7, 2004; [REDACTED] 10168 (092130Z JAN 03); [REDACTED] 34098 [REDACTED]; [REDACTED] 34179 (262200Z FEB 03); [REDACTED] 34294 [REDACTED]; [REDACTED] 34310 [REDACTED]; [REDACTED] 34757 (101742Z MAR 03); and [REDACTED] 35025 (161321Z MAR 03).

<sup>696</sup> April 7, 2005, Briefing for Blue Ribbon Panel: CIA Rendition, Detention, and Interrogation Programs at 22; Memorandum for Chief, [REDACTED], via [REDACTED] CTC Legal from Chief, CTC/RDG, July 28, 2003, Subject: Decertification of former Interrogator. Document not signed by [REDACTED] because he was "not available for signature."

<sup>697</sup> See Memorandum for Chief, [REDACTED], via [REDACTED] CTC Legal from Chief, CTC/RDG, July 28, 2003, Subject: Decertification of former Interrogator, signed by [REDACTED] [CIA OFFICER 1] on July 29, 2003; and April 7, 2005, Briefing for Blue Ribbon Panel: CIA Rendition, Detention, and Interrogation Programs at 22; Memorandum for Chief, [REDACTED], via [REDACTED] CTC Legal from Chief, CTC/RDG, July 28, 2003, Subject: Decertification of former Interrogator.

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Powell would blow his stack if he were to be briefed on what's been going on.<sup>702</sup>

(TS// [REDACTED] //NF) National Security Advisor Rice, however, subsequently decided that Secretary of State Colin Powell and Secretary of Defense Donald Rumsfeld should be briefed on the CIA interrogation program prior to recertification of the covert action.<sup>703</sup> As described, both were then formally briefed on the CIA program for the first time in a 25 minute briefing on September 16, 2003.<sup>704</sup>

(TS// [REDACTED] //NF) On September 4, 2003, CIA records indicate that CIA officials may have provided Chairman Roberts, Vice Chairman Rockefeller, and their staff directors a briefing regarding the Administration's reaffirmation of the program.<sup>705</sup> Neither the CIA nor the Committee has a contemporaneous report on the content of the briefing or any confirmation that the briefing occurred.

K. Additional Oversight and Outside Pressure in 2004: ICRC, Inspector General, Congress, and the U.S. Supreme Court

1. ICRC Pressure Leads to Detainee Transfers; Department of Defense Official Informs the CIA that the U.S. Government "Should Not Be in the Position of Causing People to Disappear"; the CIA Provides Inaccurate Information on CIA Detainee to the Department of Defense

(TS// [REDACTED] //NF) In January 2004, the ICRC sent a letter to [REDACTED] indicating that it was aware that the United States Government was holding unacknowledged detainees in several facilities in Country [REDACTED] "incommunicado for extensive periods of time, subjected to unacceptable conditions of internment, to ill treatment and torture, while deprived of any possible recourse."<sup>706</sup> According to the CIA, the letter included a "fairly complete list" of CIA detainees to whom the ICRC had not had access.<sup>707</sup> This prompted CIA Headquarters to conclude that it was necessary to reduce the number of detainees in CIA custody.<sup>708</sup> The CIA subsequently transferred at least 25 of its detainees in Country [REDACTED] to the U.S. military and foreign governments. The CIA also released five detainees.<sup>709</sup>

<sup>702</sup> Email from: John Rizzo; to: [REDACTED]; subject: Rump PC on interrogations; date: July 31, 2003.

<sup>703</sup> August 5, 2003, Memorandum for the Record from Scott Muller, Subject: Review of Interrogation Program, July 29, 2003.

<sup>704</sup> September 26, 2003, CIA Memorandum for the Record from Muller, Subject: CIA Interrogation Program.

<sup>705</sup> September 4, 2003, CIA Memorandum for the Record, Subject: Member Briefing.

<sup>706</sup> January 6, 2004, Letter from [REDACTED]

<sup>707</sup> HEADQUARTERS [REDACTED]

<sup>708</sup> HEADQUARTERS [REDACTED]; [REDACTED] 1603 [REDACTED]

<sup>709</sup> See, for example, DIRECTOR [REDACTED]; DIRECTOR [REDACTED];

[REDACTED] 1696 [REDACTED]; DIRECTOR [REDACTED]; DIRECTOR [REDACTED];

[REDACTED]; HEADQUARTERS [REDACTED]; HEADQUARTERS [REDACTED];

[REDACTED]; [REDACTED] 2308 [REDACTED]; [REDACTED] 2335

[REDACTED] 1001 [REDACTED]

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Department of Defense did not believe an adequate articulation of military necessity or national security reasons warranting nondisclosure existed, that "DoD is tired of 'taking hits' for CIA 'ghost detainees,'" and that the U.S. government "should not be in the position of causing people to 'disappear.'"<sup>718</sup>

(TS///NF) Despite numerous meetings and communications within the executive branch throughout 2004, the United States did not formally respond to the January 6, 2004, ICRC letter until June 13, 2005.<sup>719</sup>

2. *CIA Leadership Calls Draft Inspector General Special Review of the Program "Imbalanced and Inaccurate," Responds with Inaccurate Information; CIA Seeks to Limit Further Review of the CIA's Detention and Interrogation Program by the Inspector General*

(TS///NF) The CIA's Office of the Inspector General (OIG) was first informed of the CIA's Detention and Interrogation Program in November 2002, nine months after Abu Zubaydah became the CIA's first detainee. As described, the information was conveyed by the DDO, who also informed the OIG of the death of Gul Rahman. In January 2003, the DDO further requested that the OIG investigate allegations of unauthorized interrogation techniques against 'Abd al-Rahim al-Nashiri. Separately, the OIG "received information that some employees were concerned that certain covert Agency activities at an overseas detention and interrogation site might involve violations of human rights," according to the OIG's Special Review.<sup>720</sup>

(TS///NF) During the course of the OIG's interviews, numerous CIA officers expressed concerns about the CIA's lack of preparedness for the detention and interrogation of Abu Zubaydah.<sup>721</sup> Other CIA officers expressed concern about the analytical assumptions driving interrogations,<sup>722</sup> as well as the lack of language and cultural background among

<sup>718</sup> Email from: [REDACTED]; to: John Rizzo, [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], Jose Rodriguez, John P. Mudd, [REDACTED], [REDACTED], [REDACTED]; subject: DoD's position on ICRC notification; date: September 13, 2004.

<sup>719</sup> June 13, 2005, Letter to ICRC, responding to 2004 ICRC *note verbale*.

<sup>720</sup> Special Review, Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), 7 May 2004, (DTS #2004-2710).

<sup>721</sup> The chief of Station in the country that hosted the CIA's first detention site told the OIG that "[t]he Reports Officers did not know what was required of them, analysts were not knowledgeable of the target, translators were not native Arab speakers, and at least one of the [chiefs of Base] had limited field experience." See interview report of [REDACTED], Office of the Inspector General, May 20, 2003. According to [REDACTED] of CTC Legal, there was no screening procedure in place for officers assigned to DETENTION SITE GREEN. See interview of [REDACTED] by [REDACTED] and [REDACTED], Office of the Inspector General, February 14, 2003. See also interview of [REDACTED], Office of the Inspector General, March 24, 2003.

<sup>722</sup> In addition to the statements to the OIG described above, regarding the interrogation of Abu Zubaydah, CIA officers expressed more general concerns. As [REDACTED] noted, the assumptions at CIA Headquarters that Abu Zubaydah "knew everything about Al-Qa'ida, including details of the next attack" reflected how "the 'Analyst vs. Interrogator' issue ha[d] been around from 'day one.'" (See interview of [REDACTED], Office of the Inspector General, February 27, 2003.) According to Chief of Interrogations [REDACTED], subject matter experts often provided interrogation requirements that were "not valid or well thought out," providing the example of Mustafa al-Hawsawi. (See interview of [REDACTED], Office of the Inspector General, April 7, 2003.) Senior CIA

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members of the interrogation teams.<sup>723</sup> Some CIA officers described pressure from CIA Headquarters to use the CIA's enhanced interrogation techniques, which they attributed to faulty analytical assumptions about what detainees should know.<sup>724</sup> As the chief of RDG, [REDACTED], stated to the OIG in a February 2003 interview:

"CTC does not know a lot about al-Qa'ida and as a result, Headquarters analysts have constructed 'models' of what al-Qa'ida represents to them. [REDACTED] noted that the Agency does not have the linguists or subject matter experts it needs. The questions sent from CTC/Usama bin Laden (UBL) to the interrogators are based on SIGINT [signals intelligence] and other intelligence that often times is incomplete or wrong. When the detainee does not respond to the question, the assumption at Headquarters is that the detainee is holding back and 'knows' more, and consequently, Headquarters recommends resumption of EITs. This difference of opinion between the interrogators and Headquarters as to whether the detainee is 'compliant' is the type of ongoing pressure the interrogation team is exposed to. [REDACTED] believes the waterboard was used 'recklessly' -- 'too many times' on Abu Zubaydah at [DETENTION SITE GREEN], based in part on faulty intelligence."<sup>725</sup>

interrogator [REDACTED] told the OIG that interrogators "suffered from a lack of substantive requirements from CIA Headquarters," and that "in every case so far, Headquarters' model of what the detainee should know is flawed." [REDACTED] told the OIG that "I do not want to beat a man up based on what Headquarters says he should know," commenting that, "I want my best shot on something he (the detainee) knows, not a fishing expedition on things he should know." (See interview of [REDACTED], Office of the Inspector General, April 30, 2003.) Two interviewees told the OIG that requirements were sometimes based on inaccurate or improperly translated intercepts. See interview of interrogator [REDACTED], Office of the Inspector General, March 24, 2003; interview of [REDACTED] [former chief of Station in the country that hosted the CIA's first detention site], Office of the Inspector General, May 29, 2003.

<sup>723</sup> One interviewee noted that several interrogators with whom he had worked insisted on conducting interrogations in English to demonstrate their dominance over the detainee. (See interview report of [REDACTED], Office of the Inspector General, March 17, 2003.) The CIA's June 2003 Response acknowledges that "[t]he program continued to face challenges in identifying sufficient, qualified staff -- particularly language-qualified personnel -- as requirements imposed by Agency involvement in Iraq increased."

<sup>724</sup> According to [REDACTED] of CTC Legal, "[t]he seventh floor [CIA leadership] can complicate the process because of the mindset that interrogations are the silver bullet [and CIA leadership is] expecting immediate results." (See interview of [REDACTED], Office of the Inspector General, February 14, 2003.) Senior Interrogator [REDACTED] provided the example of Khalid bin Attash, who, he told the OIG, was determined by the chief of Base at DETENTION SITE BLUE not to "warrant" the CIA's enhanced interrogation techniques. According to [REDACTED], debriefer [REDACTED] called ALEC Station and told them to "go to the man" in advocating for the use of the CIA's enhanced interrogation techniques, claiming that bin Attash was holding back information. (See interview of [REDACTED], Office of the Inspector General, April 30, 2003.) [REDACTED] described the "inherent tension that occasionally exists between officers at the interrogation facilities and those at Headquarters who view the detainees as withholding information." [REDACTED] provided the example of Abu Yasir al-Jaza'iri. (See interview of [REDACTED], Office of the Inspector General, May 8, 2003.) [REDACTED] also described disagreements on whether to subject detainees to the CIA's enhanced interrogation techniques as a "field versus Headquarters issue." (See interview of [REDACTED], Office of the Inspector General, August 18, 2003.) As described, interviewees also described pressure from CIA Headquarters related to the interrogations of KSM and Abu Zubaydah.

<sup>725</sup> Interview of [REDACTED], Office of the Inspector General, February 21, 2003.

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attacks involving hundreds, if not thousands, of casualties."<sup>729</sup> A review of CIA records found that the representations in the Pavitt materials were almost entirely inaccurate.<sup>730</sup>

(TS//~~NOFORN~~) In addition to conveying inaccurate information on the operation, management, and effectiveness of the CIA program, CIA leadership continued to impede the OIG in its efforts to oversee the program. In July 2005, Director Goss sent a memorandum to the inspector general to "express several concerns regarding the in-depth, multi-faceted review" of the CIA's CTC. The CIA director wrote that he was "increasingly concerned about the cumulative impact of the OIG's work on CTC's performance," adding that "[t]o my knowledge, Congress is satisfied that you are meeting its requirements" with regard to the CIA's Detention and Interrogation Program.<sup>731</sup> At the time, however, the vice chairman of the Senate Select Committee on Intelligence was seeking a Committee investigation of the CIA program, in part because of the aspects of the program that were not being investigated by the Office of Inspector General.<sup>732</sup> In April 2007, CIA Director Michael Hayden had his "Senior Councilor"—an individual within the CIA who was accountable only to the CIA director—conduct a review of the inspector general's practices. Defending the decision to review the OIG, the CIA told the Committee that there were "morale issues that the [CIA] director needs to be mindful of," and that the review had uncovered instances of "bias" among OIG personnel against the CIA's Detention and Interrogation Program.<sup>733</sup> In 2008, the CIA director announced the results of his review of the OIG to the CIA work force and stated that the inspector general had "chosen to take a number of steps to heighten the efficiency, assure the quality, and increase the transparency of the investigative process."<sup>734</sup>

### *3. The CIA Does Not Satisfy Inspector General Special Review Recommendation to Assess the Effectiveness of the CIA's Enhanced Interrogation Techniques*

(TS//~~NOFORN~~) The final May 2004 OIG Special Review included a recommendation that the CIA's DDO conduct a study of the effectiveness of the CIA's interrogation techniques within 90 days. Prompted by the recommendation, the CIA tasked two senior CIA officers to lead "an informal operational assessment of the CIA detainee program." The reviewers were tasked with responding to 12 specific terms of reference, including an assessment of "the effectiveness of each interrogation technique and environmental deprivation"

<sup>729</sup> Memorandum to the Inspector General from James Pavitt, CIA's Deputy Director for Operations, dated February 27, 2004, with the subject line, "Comments to Draft IG Special Review, 'Counterterrorism Detention and Interrogation Program' (2003-7123-IG)," Attachment, "Successes of CIA's Counterterrorism Detention and Interrogation Activities," dated February 24, 2004.

<sup>730</sup> For additional information, see Volume II.

<sup>731</sup> July 21, 2005, Memorandum for Inspector General from Porter J. Goss, Director, Central Intelligence Agency re: New IG Work Impacting the CounterTerrorism Center.

<sup>732</sup> Transcript of business meeting, April 14, 2005 (DTS #2005-2810).

<sup>733</sup> Committee Memorandum for the Record, "Staff Briefing with Bob Deitz on his Inquiry into the Investigative Practices of the CIA Inspector General," October 17, 2007 (DTS #2007-4166); Committee Memorandum for the Record, "Notes from Meetings with John Helgeson and Bob Deitz in late 2007 and early 2008" (DTS #2012-4203); Committee Memorandum for the Record, "Staff Briefing with CIA Inspector General John Helgeson" (DTS #2007-4165).

<sup>734</sup> Letter from DCIA Michael Hayden to Senator John D. Rockefeller IV, January 29, 2008 (DTS #2008-0606).

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to determine if any techniques or deprivation should be "added, modified, or discontinued."<sup>735</sup> According to a CIA memorandum from the reviewers, their review was based on briefings by CTC personnel, "a discussion with three senior CTC managers who played key roles in running the CIA detainee program," and a review of nine documents, including the OIG Special Review and an article by the CIA contractors who developed the CIA's enhanced interrogation techniques, Hammond DUNBAR and Grayson SWIGERT.<sup>736</sup> As described in this summary, and in more detail in Volume II, these documents contained numerous inaccurate representations regarding the operation and effectiveness of the CIA program. There are no records to indicate the two senior CIA officers reviewed the underlying interrogation cables and intelligence records related to the representations. Their resulting assessment repeated information found in the documents provided to them and reported that the "CIA Detainee Program is a success, providing unique and valuable intelligence at the tactical level for the benefit of policymakers, war fighters, and the CIA's covert action operators." The assessment also reported that regulations and procedures for handling detainees were "adequate and clear," and that the program had responded swiftly, fairly, and completely to deviations from the structured program.<sup>737</sup> Nonetheless, the assessment came to the conclusion that detention and interrogations activities should not be conducted by the CIA, but by "experienced U.S. law enforcement officers," stating:

"The Directorate of Operations (DO) should not be in the business of running prisons or 'temporary detention facilities.' The DO should focus on its core mission: clandestine intelligence operations. Accordingly, the DO should continue to hunt, capture, and render targets, and then exploit them for intelligence and ops leads once in custody. The management of their incarceration and interrogation should be conducted by appropriately experienced U.S. law enforcement officers, because that is their charter and they have the training and experience."<sup>738</sup>

(TSA//NOFORN) The assessment noted that the CIA program required significant resources at a time when the CIA was already stretched thin. Finally, the authors wrote that they "strongly believe" that the president and congressional oversight members should receive a

<sup>735</sup> May 12, 2004, Memorandum for Deputy Director for Operations from [REDACTED], Chief, Information Operations Center, and Henry Crumpton, Chief, National Resources Division, via Associate Deputy Director for Operations, with the subject line, "Operational Review of CIA Detainee Program."

<sup>736</sup> May 12, 2004, Memorandum for Deputy Director for Operations from [REDACTED], Chief, Information Operations Center, and Henry Crumpton, Chief, National Resources Division, via Associate Deputy Director for Operations, with the subject line, "Operational Review of CIA Detainee Program." The CIA's June 2013 Response states, "[w]e acknowledge that the Agency erred in permitting the contractors to assess the effectiveness of enhanced techniques. They should not have been considered for such a role given their financial interest in continued contracts from CIA."

<sup>737</sup> May 12, 2004, Memorandum for Deputy Director for Operations from [REDACTED], Chief, Information Operations Center, and Henry Crumpton, Chief, National Resources Division, via Associate Deputy Director for Operations re Operational Review of CIA Detainee Program. For additional information, see Volume II.

<sup>738</sup> May 12, 2004, Memorandum for Deputy Director for Operations from [REDACTED], Chief, Information Operations Center, and Henry Crumpton, Chief, National Resources Division, via Associate Deputy Director for Operations re Operational Review of CIA Detainee Program.

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"Action Requested: None. This memorandum responds to your request for an independent study of the foreign intelligence efficacy of using enhanced interrogation techniques. There is no way to conduct such a study. What we can do, however, if [sic] set forth below the intelligence the Agency obtained from detainees who, before their interrogations, were not providing any information of intelligence [value]."<sup>744</sup>

(TS//~~NOFORN~~) Under a section of the memorandum entitled, "Results," the CIA memo asserts that the "CIA's use of DOJ-approved enhanced interrogation techniques, as part of a comprehensive interrogation approach, has enabled CIA to disrupt terrorist plots [and] capture additional terrorists." The memorandum then lists examples of "[k]ey intelligence collected from HVD interrogations *after* applying interrogation techniques," which led to "disrupt[ed] terrorist plots" and the "capture [of] additional terrorists." The examples include: the "Karachi Plot," the "Heathrow Plot," "the 'Second Wave'" plotting, the identification of the "the Guraba Cell," the identification of "Issa al-Hindi," the arrest of Abu Talha al-Pakistani, "Hambali's Capture," information on Jaffar al-Tayyar, the "Dirty Bomb" plot, the arrest of Sajid Badat, and information on Shkai, Pakistan. CIA records do not indicate when, or if, this memorandum was provided to the national security advisor.<sup>745</sup>

(TS//~~NOFORN~~) A subsequent CIA memorandum, dated March 5, 2005, concerning an upcoming meeting between the CIA director and the national security advisor on the CIA's progress in completing the OIG recommended review of the effectiveness of the CIA's enhanced interrogation techniques states, "we [CIA] believe this study is much needed and should be headed up by highly respected national-level political figures with widely recognized reputations for independence and fairness."<sup>746</sup>

(TS//~~NOFORN~~) On March 21, 2005, the director of the CTC formally proposed the "establishment of an independent 'blue ribbon' commission... with a charter to study our EITs."<sup>747</sup> The CIA then began the process of establishing a panel that included ~~\_\_\_\_\_~~ and ~~\_\_\_\_\_~~. Both panelists received briefings and papers from CIA personnel who participated in the CIA's Detention and Interrogation Program. ~~\_\_\_\_\_~~ [the first panelist] wrote: "It is clear from our discussions with both DO and DI officers that the program is deemed by them to be a great success, and I would concur. The EITs, as part of the overall program, are credited with enabling the US to disrupt terrorist plots, capture additional terrorists, and collect a high volume of useful intelligence on al-Qa'ida (AQ)... There are accounts of numerous plots against the US and the West that were revealed as a result of HVD

<sup>744</sup> December 2004 CIA Memorandum to "National Security Advisor," from "Director of Central Intelligence," Subject: "Effectiveness of the CIA Counterterrorist Interrogation Techniques."

<sup>745</sup> December 2004 CIA Memorandum to "National Security Advisor," from "Director of Central Intelligence," Subject: "Effectiveness of the CIA Counterterrorist Interrogation Techniques." Italics in original.

<sup>746</sup> March 5, 2005, Talking Points for Weekly Meeting with National Security Advisor re CIA Proposal for Independent Study of the Effectiveness of CTC Interrogation Program's Enhanced Interrogation Techniques.

<sup>747</sup> March 21, 2005, Memorandum for Deputy Director for Operations from Robert L. Grenier, Director DCI Counterterrorism Center, re Proposal for Full-Scope Independent Study of the CTC Rendition, Detention, and Interrogation Programs.

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interrogations." He also observed, however, that "[n]either my background nor field of expertise particularly lend themselves to judging the effectiveness of interrogation techniques, taken individually or collectively."<sup>748</sup> [redacted] (the second panelist) concluded that "there is no objective way to answer the question of efficacy," but stated it was possible to "make some general observations" about the program based on CIA personnel assessments of "the quality of the intelligence provided" by CIA detainees. Regarding the effectiveness of the CIA's enhanced interrogation techniques, he wrote: "here enters the epistemological problem. We can never know whether or not this intelligence could have been extracted through alternative procedures. Spokesmen from within the organization firmly believe it could not have been."<sup>749</sup>

4. *The CIA Wrongfully Detains Khalid Al-Masri; CIA Director Rejects Accountability for Officer Involved*

(TS//NOFORN) After the dissemination of the draft CIA Inspector General Special Review in early 2004, approvals from CIA Headquarters to use the CIA's enhanced interrogation techniques adhered more closely to the language of the DCI guidelines. Nonetheless, CIA records indicate that officers at CIA Headquarters continued to fail to properly monitor justifications for the capture and detention of detainees, as well as the justification for the use of the CIA's enhanced interrogation techniques on particular detainees.<sup>750</sup>

(TS//NOFORN) For example, on January [redacted], 2004, the CIA rendered German citizen Khalid al-Masri to a Country [redacted] facility used by the CIA for detention purposes. The rendition was based on the determination by officers in the CIA's ALEC Station that "al-Masri knows key information that could assist in the capture of other al-Qa'ida operatives that pose a serious threat of violence or death to U.S. persons and interests and who may be planning terrorist activities."<sup>751</sup> The cable did not state that Khalid al-Masri himself posed a serious threat of violence or death, the standard required for detention under the September 17, 2001, Memorandum of Notification (MON).

(TS//NOFORN) CIA debriefing cables from Country [redacted] on January 27, 2004, and January 28, 2004, note that Khalid al-Masri "seemed bewildered on why he has been sent to this particular prison,"<sup>752</sup> and was "adamant that [CIA] has the wrong person."<sup>753</sup> Despite doubts from CIA officers in Country [redacted] about Khalid al-Masri's links to terrorists, and RDG's concurrence with those doubts, different components within the CIA disagreed on the process for his release.<sup>754</sup> As later described by the CIA inspector general, officers in ALEC Station continued to think that releasing Khalid al-Masri would pose a threat to U.S. interests and that

<sup>748</sup> September 2, 2005 Memorandum from [redacted] to Director Porter Goss, CIA re Assessment of EITs Effectiveness. For additional information, see Volume II.

<sup>749</sup> September 23, 2005 Memorandum from [redacted] to the Honorable Porter Goss, Director, Central Intelligence Agency re Response to Request from Director for Assessment of EIT Effectiveness. For additional information, see Volume II.

<sup>750</sup> For additional information, see Volume III.

<sup>751</sup> [redacted] 1658 [redacted] JAN 04); ALEC [redacted] [redacted] JAN 04)

<sup>752</sup> [redacted] 54305 [redacted]

<sup>753</sup> [redacted] 54301 [redacted]

<sup>754</sup> [redacted] 1871 [redacted] HEADQUARTERS [redacted] (0223412 APR 04)

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monitoring should be required, while those in the CIA's [REDACTED] Division did not want to notify the German government about the rendition of a German citizen.<sup>755</sup> Because of the significance of the dispute, the National Security Council settled the matter, concluding that al-Masri should be repatriated and that the Germans should be told about al-Masri's rendition.<sup>756</sup>

(TS//~~UNCLASSIFIED~~//NF) On May [REDACTED], 2004, Khalid al-Masri was transferred from Country [REDACTED] to [REDACTED].<sup>757</sup> After al-Masri arrived in [REDACTED], CIA officers released him and sent him toward a fake border crossing, where the officers told him he would be sent back to Germany because he had entered [REDACTED] illegally.<sup>758</sup> At the time of his release, al-Masri was provided 14,500 Euros,<sup>759</sup> as well as his belongings.<sup>760</sup>

(TS//~~UNCLASSIFIED~~//NF) On July 16, 2007, the CIA inspector general issued a Report of Investigation on the rendition and detention of Khalid al-Masri, concluding that "[a]vailable intelligence information did not provide a sufficient basis to render and detain Khalid al-Masri," and that the "Agency's prolonged detention of al-Masri was unjustified."<sup>761</sup> On October 9, 2007, the CIA informed the Committee that it "lacked sufficient basis to render and detain al-Masri," and that the judgment by operations officers that al-Masri was associated with terrorists who posed a threat to U.S. interests "was not supported by available intelligence." The CIA director nonetheless decided that no further action was warranted against [REDACTED], then the deputy chief of ALEC Station, who advocated for al-Masri's rendition, because "[t]he Director strongly believes that mistakes should be expected in a business filled with uncertainty and that, when they result from performance that meets reasonable standards, CIA leadership must stand behind the officers who make them." The notification also stated that "with regard to counterterrorism operations in general and the al-Masri matter in particular, the Director believes the scale tips decisively in favor of accepting mistakes that over connect the dots against those that under connect them."<sup>762</sup>

<sup>755</sup> CIA Office of Inspector General, Report of Investigation, The Rendition and Detention of German Citizen Khalid al-Masri (2004-7601-IG), July 16, 2007.

<sup>756</sup> CIA Office of Inspector General, Report of Investigation, The Rendition and Detention of German Citizen Khalid al-Masri (2004-7601-IG), July 16, 2007.

<sup>757</sup> [REDACTED] 2507

<sup>758</sup> [REDACTED] 42655

<sup>759</sup> Using May 2004 exchange rates, this amounted to approximately \$17,000.

<sup>760</sup> [REDACTED] 42655

<sup>761</sup> CIA Office of Inspector General, Report of Investigation, The Rendition and Detention of German Citizen Khalid al-Masri (2004-7601-IG), July 16, 2007.

<sup>762</sup> Referring to [REDACTED] and a second CTC officer named in the OIG's Report of Investigation, the notification to Congress stated that the director "does not believe that... the performance of the two named CTC officers fall below a reasonable level of professionalism, skill, and diligence as defined in CIA's Standard for Employee Accountability." The notification also stated that there was a "high threat environment" at the time of the rendition, which "was essentially identical to the one in which CTC employees, including the two in question here, previously had been sharply criticized for not connecting the dots prior to 9/11." The notification acknowledged "an insufficient legal justification, which failed to meet the standard prescribed in the (MON)," and referred to the acting general counsel the task of assessing legal advice and personal accountability. Based on recommendations from the inspector general, the CIA "developed a template for rendition proposals that makes clear what information is required, including the intelligence basis for that information." (See Congressional notification, with the subject, "CIA Response to OIG Investigation Regarding the Rendition and Detention of German Citizen Khalid al-Masri," dated October 9, 2007 (DTS #2007-4026).) The last CIA detainee, Muhammad Rahim, had already been rendered to CIA custody by the time of this notification. The CIA's June 2013 Response points to a review of analytical

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5. Hassan Ghul Provides Substantial Information—Including Information on a Key UBL Facilitator—Prior to the CIA's Use of Enhanced Interrogation Techniques

(TS//~~FOUO~~) foreign authorities captured Hassan Ghul in the Iraqi Kurdistan Region on January [REDACTED], 2004.<sup>763</sup> After his identity was confirmed on January [REDACTED], 2004,<sup>764</sup> Ghul was rendered from U.S. military custody to CIA custody at DETENTION SITE COBALT on January [REDACTED], 2004.<sup>765</sup> The detention site interrogators, who, according to CIA records, did not use the CIA's enhanced interrogation techniques on Ghul, sent at least 21 intelligence reports to CIA Headquarters based on their debriefings of Hassan Ghul from the two days he spent at the facility.<sup>766</sup>

(TS//~~FOUO~~) As detailed in this summary, and in greater detail in Volume II, CIA records indicate that the most accurate CIA detainee reporting on the facilitator who led to Osama bin Laden (UBL) was acquired from Hassan Ghul—prior to the use of the CIA's enhanced interrogation techniques.<sup>767</sup> Ghul speculated that "UBL was likely living in (the)

training arising out of the al-Masri rendition, but states that, "[n]onetheless, we concede that it is difficult in hindsight to understand how the Agency could make such a mistake, take too long to correct it, determine that a flawed legal interpretation contributed, and in the end only hold accountable three CTC attorneys, two of whom received only an oral admonition."

<sup>763</sup> [REDACTED] 21753 [REDACTED]; HEADQUARTERS [REDACTED] JAN 04)

<sup>764</sup> HEADQUARTERS [REDACTED] JAN 04). The CIA confirmed that the individual detained matched the biographical data on Hassan Ghul. Khalid Shaykh Muhammad and Khalid bin Attash confirmed that a photo provided was of Ghul. See [REDACTED] 1260 [REDACTED] JAN 04).

<sup>765</sup> [REDACTED] 1642 [REDACTED] JAN 04); DIRECTOR [REDACTED] JAN 04)

<sup>766</sup> [REDACTED] 54194 [REDACTED] JAN 04); [REDACTED] 1644 [REDACTED] JAN 04), later

released as HEADQUARTERS [REDACTED] JAN 04); [REDACTED] 1645 [REDACTED] JAN 04),

later released as HEADQUARTERS [REDACTED] JAN 04); [REDACTED] 1646 [REDACTED] JAN

04), later released as HEADQUARTERS [REDACTED] JAN 04); [REDACTED] 1647 [REDACTED] CIA

JAN 04), later released as HEADQUARTERS [REDACTED] JAN 04); [REDACTED] 1651 [REDACTED] FEB 04);

[REDACTED] 1650 [REDACTED] JAN 04); [REDACTED] 1652 [REDACTED] JAN 04), later released as [REDACTED] 1654 [REDACTED] JAN 04);

DIRECTOR [REDACTED] JAN 04); [REDACTED] 1655 [REDACTED] JAN 04), later released as [REDACTED] 1677 [REDACTED] FEB 04);

[REDACTED] 1657 [REDACTED] JAN 04); [REDACTED] 1679 [REDACTED] JAN 04); [REDACTED] 1680 [REDACTED] JAN 04);

[REDACTED] 1681 [REDACTED] JAN 04), later released as [REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

[REDACTED] 1685 [REDACTED] JAN 04), later released as [REDACTED] 1687 [REDACTED] JAN 04), later released as [REDACTED] 1688 [REDACTED] JAN 04), later released as [REDACTED] 1690 [REDACTED] JAN 04);

<sup>767</sup> As the dissemination of 21 intelligence reports suggests, information in CIA records indicates Hassan Ghul was cooperative prior to being subjected to the CIA's enhanced interrogation techniques. In an interview with the CIA Office of Inspector General, a CIA officer familiar with Ghul's initial interrogations stated, "He sang like a tweetie bird. He opened up right away and was cooperative from the outset." (See December 2, 2004, interview with [REDACTED], Chief, DO, CTC UBL Department, [REDACTED]) CIA records reveal that Ghul's information on Abu Ahmad al-Kuwaiti was disseminated while Ghul was at DETENTION SITE COBALT, prior to the initiation of the CIA's enhanced interrogation techniques. On April 16, 2013, the Council on Foreign Relations hosted a forum in relation to the screening of the film, "Manhunt." The forum included former CIA officer Nada Bakos, who states in the film that Hassan Ghul provided the critical information on Abu Ahmad al-Kuwaiti to Kurdish officials prior to entering CIA custody. When asked about the interrogation techniques used by the Kurds,

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Peshawar area," and that "it was well known that he was always with Abu Ahmed [al-Kuwaiti]."<sup>768</sup> Ghul described Abu Ahmad al-Kuwaiti as UBL's "closest assistant,"<sup>769</sup> who couriered messages to al-Qa'ida's chief of operations, and listed al-Kuwaiti as one of three individuals likely with UBL.<sup>770</sup> Ghul further speculated that:

"UBL's security apparatus would be minimal, and that the group likely lived in a house with a family somewhere in Pakistan.... Ghul speculated that Abu Ahmed likely handled all of UBL's needs, including moving messages out to Abu Faraj [al-Libi]...."<sup>771</sup>

(TS//~~NOFORN~~) During this same period, prior to the use of the CIA's enhanced interrogation techniques, Ghul provided information related to Abu Musab al-Zarqawi, Abu Faraj al-Libi (including his role in delivering messages from UBL), Jaffar al-Tayyar, 'Abd al-Hadi al-Iraqi, Hamza Rubi'a, Shaik Sa'id al-Masri, Sharif al-Masri, Abu 'Abd al-Rahman al-Najdi, Abu Taffa al-Pakistani, and numerous other al-Qa'ida operatives. He also provided information on the locations, movements, operational security, and training of al-Qa'ida leaders living in Shkai, Pakistan, as well as on the visits of other leaders and operatives to Shkai.<sup>772</sup> Ghul's reporting on Shkai, which was included in at least 16 of the 21 intelligence reports,<sup>773</sup> confirmed earlier reporting that the Shkai valley served as al-Qa'ida's command and control center after the group's 2001 exodus from Afghanistan.<sup>774</sup> Notwithstanding these facts, in March

Bakos stated: "...honestly, Hassan Ghul... when he was being debriefed by the Kurdish government, he literally was sitting there having tea. He was in a safe house. He wasn't locked up in a cell. He wasn't handcuffed to anything. He was—he was having a free flowing conversation. And there's—you know, there's articles in Kurdish papers about sort of their interpretation of the story and how forthcoming he was." (See [www.cfr.org/courterterrorism/film-screening-manhunt/p30560](http://www.cfr.org/courterterrorism/film-screening-manhunt/p30560).) Given the unusually high number of intelligence reports disseminated in such a short time period, and the statements of former CIA officer Bakos, the Committee requested additional information from the CIA on Ghul's interrogation prior to entering CIA custody. The CIA wrote on October 25, 2013: "We have not identified any information in our holdings suggesting that Hassan Gul first provided information on Abu Ahmad while in [foreign] custody." No information was provided on Hassan Ghul's intelligence reporting while in U.S. military detention. See DTS #2013-3152.

768	HEADQUARTERS		JAN 04)		
769		1679	JAN 04)		
770		1679	JAN 04)		
771	HEADQUARTERS		JAN 04)		
772		1647	JAN 04);	1654	JAN 04);
		1677	JAN 04);	1679	JAN 04);
		1685	JAN 04)		
773		54194	JAN 04);	1644	JAN 04);
		1646	JAN 04);	1647	JAN 04);
		1654	JAN 04);	1655	JAN 04);
		1677	JAN 04);	1679	JAN 04);
		1685	JAN 04);	1656	JAN 04);
		1678	JAN 04);	1650	JAN 04);
		1651	JAN 04);	1657	JAN 04);
		1687	JAN 04);	1690	JAN 04)

<sup>774</sup> Email from: [REDACTED]; to: [REDACTED]; subject: Re: Detainee Profile on Hassan Ghul for coord; date: December 30, 2005, at 8:14:04 AM.

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2005, the CIA represented to the Department of Justice that Hassan Ghul's reporting on Shkai was acquired "after" the use of the CIA's enhanced interrogation techniques.<sup>775</sup>

(TS//NF) After two days of questioning at DETENTION SITE COBALT and the dissemination of 21 intelligence reports, Ghul was transferred to DETENTION SITE BLACK.<sup>776</sup> According to CIA records, upon arrival, Ghul was "shaved and barbered, stripped, and placed in the standing position against the wall" with "his hands above his head" with plans to lower his hands after two hours.<sup>777</sup> The CIA interrogators at the detention site then requested to use the CIA's enhanced interrogation techniques on Ghul, writing:

"[the] interrogation team believes, based on [Hassan Ghul's] reaction to the initial contact, that his al-Qa'ida briefings and his earlier experiences with U.S. military interrogators have convinced him there are limits to the physical contact interrogators can have with him. The interrogation team believes the approval and employment of enhanced measures should sufficiently shift [Hassan Ghul's] paradigm of what he expects to happen. The lack of these increased [sic] measures may limit the team's capability to collect critical and reliable information in a timely manner."<sup>778</sup>

(TS//NF) CIA Headquarters approved the request the same day.<sup>779</sup> Following 59 hours of sleep deprivation,<sup>780</sup> Hassan Ghul experienced hallucinations, but was told by a psychologist that his reactions were "consistent with what many others experience in his condition," and that he should calm himself by telling himself his experiences are normal and will subside when he decides to be truthful.<sup>781</sup> The sleep deprivation, as well as other enhanced interrogations, continued,<sup>782</sup> as did Ghul's hallucinations.<sup>783</sup> Ghul also complained of back pain and asked to see a doctor,<sup>784</sup> but interrogators responded that the "pain was normal, and would stop when [Ghul] was confirmed as telling the truth." A cable states that "[i]nterrogators told [Ghul] they did not care if he was in pain, but cared only if he provided complete and truthful information."<sup>785</sup> A CIA physician assistant later observed that Hassan Ghul was experiencing "notable physiological fatigue," including "abdominal and back muscle pain/spasm, 'heaviness' and mild paralysis of arms, legs and feet [that] are secondary to his hanging position and extreme

<sup>775</sup> March 2, 2005, Memorandum for Steve Bradbury from [redacted], [redacted] Legal Group, DCI Counterterrorist Center, re: Effectiveness of the CIA Counterterrorism Interrogation Techniques. Italics in original. For additional representations, see Volume II.

<sup>776</sup> [redacted] 1283 [redacted] JAN 04)  
<sup>777</sup> [redacted] 1285 [redacted] JAN 04)  
<sup>778</sup> [redacted] 1285 [redacted] JAN 04)  
<sup>779</sup> HEADQUARTERS [redacted] JAN 04)  
<sup>780</sup> [redacted] 1299 [redacted] JAN 04)  
<sup>781</sup> [redacted] 1299 [redacted] JAN 04)  
<sup>782</sup> [redacted] 1308 [redacted] JAN 04)  
<sup>783</sup> [redacted] 1308 [redacted] JAN 04); [redacted] 1312 [redacted] JAN 04).

The CIA's June 2013 Response states that when hallucinations occurred during sleep deprivation, "medical personnel intervened to ensure a detainee would be allowed a period of sleep." As described in this summary, and more extensively in Volume III, CIA records indicate that medical personnel did not always intervene and allow detainees to sleep after experiencing hallucinations.

<sup>784</sup> [redacted] 1299 [redacted] JAN 04)  
<sup>785</sup> [redacted] 1299 [redacted] JAN 04). See Volume III for similar statements made to CIA detainees.

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degree of sleep deprivation," but that Ghul was clinically stable and had "essentially normal vital signs," despite an "occasional premature heart beat" that the cable linked to Ghul's fatigue.<sup>785</sup> Throughout this period, Ghul provided no actionable threat information, and as detailed later in this summary, much of his reporting on the al-Qa'ida presence in Shkai was repetitive of his reporting prior to the use of the CIA's enhanced interrogation techniques. Ghul also provided no other information of substance on UBL facilitator Abu Ahmad al-Kuwaiti.<sup>787</sup> Nonetheless, on May 5, 2011, the CIA provided a document to the Committee entitled, "Detainee Reporting on Abu Ahmad al-Kuwaiti," which lists Hassan Ghul as a CIA detainee who was subjected to the CIA's enhanced interrogation techniques and who provided "Tier One" information "link[ing] Abu Ahmad to Bin Ladin."<sup>788</sup> Hassan Ghul was [REDACTED], and later released.<sup>789</sup> [REDACTED]<sup>790</sup>

6. Other Detainees Wrongfully Held in 2004; CIA Sources Subjected to the CIA's Enhanced Interrogation Techniques; CIA Officer Testifies that the CIA Is "Not Authorized" "to Do Anything Like What You Have Seen" in Abu Ghraib Photographs

(TS//[REDACTED]//NF) In March 2004, the CIA took custody of an Afghan national who had sought employment at a U.S. military base because he had the same name (Gul Rahman) as an individual believed to be targeting U.S. military forces in Afghanistan.<sup>791</sup> During the period in which the Afghan was detained, the CIA obtained signals intelligence of their true target communicating with his associates. DNA results later showed conclusively that the Afghan in custody was not the target. Nonetheless, the CIA held the detainee in solitary confinement for approximately a month before he was released with a nominal payment.<sup>792</sup>

(TS//[REDACTED]//NF) In the spring of 2004, after two detainees were transferred to CIA custody, CIA interrogators proposed, and CIA Headquarters approved, using the CIA's enhanced interrogation techniques on one of the two detainees because it might cause the detainee to provide information that could identify inconsistencies in the other detainee's story.<sup>793</sup> After both detainees had spent approximately 24 hours shackled in the standing sleep deprivation position, CIA Headquarters confirmed that the detainees were former CIA sources.<sup>794</sup> The two detainees had tried to contact the CIA on multiple occasions prior to their detention to inform the CIA of their activities and provide intelligence. The messages they had sent to the CIA [REDACTED]

<sup>786</sup> [REDACTED] 1308 [REDACTED] JAN 04)

<sup>787</sup> See Volume II for additional information.

<sup>788</sup> See CIA letter to the Senate Select Committee on Intelligence, dated May 5, 2011, which includes a document entitled, "Background Detainee Information on Abu Ahmed al-Kuwaiti," with an accompanying six-page chart entitled, "Detainee Reporting on Abu Ahmed al-Kuwaiti" (DTS #2011-2004).

<sup>789</sup> [REDACTED] 2441 [REDACTED]; HEADQUARTERS [REDACTED] 1635  
[REDACTED] 1775 [REDACTED] 1712 [REDACTED]; HEADQUARTERS [REDACTED]  
[REDACTED] 173426

<sup>790</sup> See [REDACTED]

<sup>791</sup> The individual detained and the individual believed to be targeting U.S. forces were different from the Gul Rahman who died at DETENTION SITE COBALT.

<sup>792</sup> [REDACTED] 2033 [REDACTED]

<sup>793</sup> [REDACTED] 2186 ((REDACTED))

<sup>794</sup> ALEC [REDACTED] ((REDACTED))

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[REDACTED] were not translated until after the detainees were subjected to the CIA's enhanced interrogation techniques.<sup>795</sup>

(TS// [REDACTED] //NF) During this same period in early 2004, CIA interrogators interrogated Adnan al-Libi, a member of the Libyan Islamic Fighting Group. CIA Headquarters did not approve the use of the CIA's enhanced techniques against al-Libi, but indicated that interrogators could use "standard" interrogation techniques, which included up to 48 hours of sleep deprivation.<sup>796</sup> CIA interrogators subsequently reported subjecting Adnan al-Libi to sleep deprivation sessions of 46.5 hours, 24 hours, and 48 hours, with a combined three hours of sleep between sessions.<sup>797</sup>

(TS// [REDACTED] //NF) Beginning in late April 2004, a number of media outlets published photographs of detainee abuse at the Department of Defense-run Abu Ghraib prison in Iraq. The media reports caused members of the Committee and individuals in the executive branch to focus on detainee issues. On May 12, 2004, the Committee held a lengthy hearing on detainee issues with Department of Defense and CIA witnesses. The CIA used the Abu Ghraib abuses as a contrasting reference point for its detention and interrogation activities. In a response to a question from a Committee member, CIA Deputy Director McLaughlin said, "we are not authorized in [the CIA program] to do anything like what you have seen in those photographs."<sup>798</sup> In response, a member of the Committee said, "I understand," and expressed the understanding, consistent with past CIA briefings to the Committee, that the "norm" of CIA's interrogations was "transparent law enforcement procedures [that] had developed to such a high level... that you could get pretty much what you wanted." The CIA did not correct the Committee member's misunderstanding that CIA interrogation techniques were similar to techniques used by U.S. law enforcement.<sup>799</sup>

7. *The CIA Suspends the Use of its Enhanced Interrogation Techniques, Resumes Use of the Techniques on an Individual Basis; Interrogations are Based on Fabricated, Single Source Information*

(TS// [REDACTED] //NF) In May 2004, the OLC, then led by Assistant Attorney General Jack Goldsmith, informed the CIA's Office of General Counsel that it had never formally opined on whether the use of the CIA's enhanced interrogation techniques in the CIA's program was

<sup>795</sup> HEADQUARTERS [REDACTED] ((REDACTED)). For more information on AL-TURKI and AL-MAOREBI, see Volume III.

<sup>796</sup> See Volume I and II, including HEADQUARTERS [REDACTED]. In November 2003, CIA General Counsel Scott Muller sent an email to [REDACTED] suggesting "changing the sleep deprivation line as [sic] between enhanced and standard from 72 to 48 hours." (See November 23, 2003, email from Scott Muller to [REDACTED], cc: John Rizzo, Subject: Al-Hawsawi Incident.) On January 10, 2004, CIA Headquarters informed CIA detention sites of the change, stating that sleep deprivation over 48 hours would now be considered an "enhanced" interrogation technique. See HEADQUARTERS [REDACTED] (101713Z JAN 04).

<sup>797</sup> [REDACTED] 1888 (091823Z MAR 04); [REDACTED] 1889 (091836Z MAR 04).

There is no indication in CIA records that CIA Headquarters addressed the repeated use of "standard" sleep deprivation against Adnan al-Libi. For more information, see Volume III detainee report for Adnan al-Libi.

<sup>798</sup> Transcript of Senate Select Committee on Intelligence hearing, May 12, 2004 (DTS #2004-2332).

<sup>799</sup> Transcript of Senate Select Committee on Intelligence hearing, May 12, 2004 (DTS #2004-2332).

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consistent with U.S. constitutional standards.<sup>800</sup> Goldsmith also raised concerns about divergences between the CIA's proposed enhanced interrogation techniques, as described in the August 1, 2002, memorandum, and their actual application, as described in the CIA Inspector General's Special Review.<sup>801</sup> In late May 2004, DCI Tenet suspended the use of the CIA's "enhanced" and "standard" interrogation techniques, pending updated approvals from the OLC.<sup>802</sup> On June 4, 2004, DCI Tenet issued a formal memorandum suspending the use of the CIA's interrogation techniques, pending policy and legal review.<sup>803</sup> The same day, the CIA sought reaffirmation of the program from the National Security Council.<sup>804</sup> National Security Advisor Rice responded, noting that the "next logical step is for the Attorney General to complete the relevant legal analysis now in preparation."<sup>805</sup>

(TS// [REDACTED] //NF) On June [REDACTED], 2004, a foreign government captured Janat Gul, an individual believed, based on reporting from a CIA source, to have information about al-Qa'ida plans to attack the United States prior to the 2004 presidential election.<sup>806</sup> In October 2004, the CIA source who provided the information on the "pre-election" threat and implicated Gul and others admitted to fabricating the information. However, as early as March 2004, CIA officials internally expressed doubts about the validity of the CIA source's information.<sup>807</sup>

(TS// [REDACTED] //NF) On July 2, 2004, the CIA met with National Security Advisor Rice, other National Security Council officials, White House Counsel Alberto Gonzales, as well as the attorney general and the deputy attorney general, to seek authorization to use the CIA's enhanced interrogation techniques, specifically on Janat Gul.<sup>808</sup> The CIA represented that CIA

<sup>800</sup> May 25, 2004, Talking Points for DCI Telephone Conversation with Attorney General: DOJ's Legal Opinion re CIA's Counterterrorist Program (CT) Interrogation. Letter from Assistant Attorney General Jack L. Goldsmith III to Director Tenet, June 18, 2004 (DTS #2004-2710).

<sup>801</sup> May 27, 2004, letter from Assistant Attorney General Goldsmith to General Counsel Muller.

<sup>802</sup> May 24, 2003, Memorandum for the Record from [REDACTED], subject: Memorandum of Meeting with the DCI Regarding DOJ's Statement that DOJ has Rendered No Legal Opinion on Whether CIA's Use of Enhanced Interrogation Techniques would meet Constitutional Standards. Memorandum for Deputy Director for Operations from Director of Central Intelligence, June 4, 2004, re: Suspension of Use of Interrogation Techniques.

<sup>803</sup> June 4, 2004, Memorandum for Deputy Director for Operations from Director of Central Intelligence, re: Suspension of Use of Interrogation Techniques. On June 2, 2004, George Tenet informed the President that he intended to resign from his position on July 11, 2004. The White House announced the resignation on June 3, 2004.

<sup>804</sup> June 4, 2004, Memorandum for the National Security Advisor from DCI George Tenet, re: Review of CIA Interrogation Program.

<sup>805</sup> June 2004, Memorandum for the Honorable George J. Tenet, Director of Central Intelligence from Condoleezza Rice, Assistant to the President for National Security Affairs, re: Review of CIA's Interrogation Program.

<sup>806</sup> [REDACTED] 39254 [REDACTED]; ALEC [REDACTED]; [REDACTED] 3121 [REDACTED]

<sup>807</sup> The former chief of the CIA's Bin Ladin Unit wrote in a March [REDACTED], 2004, email that the reporting was "vague" and "worthless in terms of actionable intelligence." He suggested that the reporting "would be an easy way [for al-Qa'ida] to test" the loyalty of the source, given al-Qa'ida's knowledge that leaked threat reporting "causes panic in Washington." (See email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED].) [REDACTED]; subject: could AQ be testing [ASSET Y] and [source name REDACTED]?: date: March [REDACTED], 2004, at 06:55 AM.) ALEC Station officer [REDACTED] expressed similar doubts in response to the email. See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED]. [REDACTED]; subject: Re: could AQ be testing [ASSET Y] and [source name REDACTED]?: date: March [REDACTED], 2004, at 07:52:32 AM. See also [REDACTED] 1411 ([REDACTED] 04).

<sup>808</sup> July 2, 2004, CIA Memorandum re Meeting with National Adviser Rice in the White House Situation Room, re Interrogations and Detainee Janat Gul, July 2, 2004.

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"interrogations have saved American lives," that more than half of the CIA detainees would not cooperate until they were interrogated using the CIA's enhanced interrogation techniques,<sup>809</sup> and that "unless CIA interrogators can use a full range of enhanced interrogation methods, it is unlikely that CIA will be able to obtain current threat information from Gul in a timely manner."<sup>810</sup> Janat Gul was not yet in CIA custody.<sup>811</sup>

(TS// [REDACTED] //NF) On July 6, 2004, National Security Advisor Rice sent a memorandum to DCI Tenet stating that the CIA was "permitted to use previously approved enhanced interrogation methods for Janat Gul, with the exception of the waterboard." Rice offered "to assist [the CIA] in obtaining additional guidance from the Attorney General and NSC Principals on an expedited basis" and noted the CIA's agreement to provide additional information about the waterboard technique in order for the Department of Justice to assess its legality. Rice's memorandum further documented that the CIA had informed her that "Gul likely has information about prelection terrorist attacks against the United States as a result of Gul's close ties to individuals involved in these alleged plots."<sup>812</sup>

(TS// [REDACTED] //NF) In a meeting on July 20, 2004, National Security Council principals, including the vice president, provided their authorization for the CIA to use its enhanced interrogation techniques—again, with the exception of the waterboard—on Janat Gul. They also directed the Department of Justice to prepare a legal opinion on whether the CIA's enhanced interrogation techniques were consistent with the Fifth and Fourteenth Amendments to the U.S. Constitution.<sup>813</sup> On July 22, 2004, Attorney General John Ashcroft sent a letter to Acting DCI John McLaughlin stating that nine interrogation techniques (those addressed in the August 1, 2002, memorandum, with the exception of the waterboard) did not violate the U.S. Constitution or any statute or U.S. treaty obligations, in the context of the interrogation of Janat Gul.<sup>814</sup> For the remainder of 2004, the CIA used its enhanced interrogation techniques on three detainees—Janat Gul, Sharif al-Masri, and Ahmed Khalfan Ghailani—with individualized approval from the Department of Justice.<sup>815</sup>

(TS// [REDACTED] //NF) After being rendered to CIA custody on July [REDACTED], 2004, Janat Gul was subjected to the CIA's enhanced interrogation techniques, including continuous sleep deprivation, facial holds, attention grasps, facial slaps, stress positions, and walling,<sup>816</sup> until he

<sup>809</sup> At the time of this CIA representation, the CIA had held at least 109 detainees and subjected at least 33 of them (30 percent) to the CIA's enhanced interrogation techniques.

<sup>810</sup> July 6, 2004, Memorandum from Condoleezza Rice, Assistant to the President for National Security Affairs, to the Honorable George Tenet, Director of Central Intelligence, re Janat Gul, CIA Request for Guidance Regarding Interrogation of Janat Gul, July 2, 2004.

<sup>811</sup> For additional details, see Volume III.

<sup>812</sup> July 6, 2004, Memorandum from Condoleezza Rice, Assistant to the President for National Security Affairs, to the Honorable George Tenet, Director of Central Intelligence, re Janat Gul.

<sup>813</sup> July 29, 2004, Memorandum for the Record from CIA General Counsel Scott Muller, "Principals Meeting relating to Janat Gul on 30 July 2004."

<sup>814</sup> The one-paragraph letter did not provide legal analysis or substantive discussion of the interrogation techniques. Letter from Attorney General Ashcroft to Acting DCI McLaughlin, July 22, 2004 (DTS #2009-1810, Tab 4).

<sup>815</sup> See Volume III for additional details.

<sup>816</sup> [REDACTED] 1512 [REDACTED] 04); [REDACTED] 1519 [REDACTED] 04); [REDACTED] 1521 [REDACTED] 04); [REDACTED] 1530 [REDACTED] 04); [REDACTED] 1537 [REDACTED] 04); [REDACTED] 1541 [REDACTED] 04); [REDACTED] 1542 [REDACTED] 04)

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experienced auditory and visual hallucinations.<sup>817</sup> According to a cable, Janat Gul was "not oriented to time or place" and told CIA officers that he saw "his wife and children in the mirror and had heard their voices in the white noise."<sup>818</sup> The questioning of Janat Gul continued, although the CIA ceased using the CIA's enhanced interrogation techniques for several days. According to a CIA cable, "[Gul] asked to die, or just be killed."<sup>819</sup> After continued interrogation sessions with Gul, on August 19, 2004, CIA detention site personnel wrote that the interrogation "team does not believe [Gul] is withholding imminent threat information."<sup>820</sup> On August 21, 2004, a cable from CIA Headquarters stated that Janat Gul "is believed" to possess threat information, and that the "use of enhanced techniques is appropriate in order to obtain that information."<sup>821</sup> On that day, August 21, 2004, CIA interrogators resumed using the CIA's enhanced interrogation techniques against Gul.<sup>822</sup> Gul continued not to provide any reporting on the pre-election threat described by the CIA source.<sup>823</sup> On August 25, 2004, CIA interrogators sent a cable to CIA Headquarters stating that Janat Gul "may not possess all that [the CIA] believes him to know."<sup>824</sup> The interrogators added that "many issues linking [Gul] to al-Qaida are derived from single source reporting" (the CIA source).<sup>825</sup> Nonetheless, CIA interrogators continued to question Gul on the pre-election threat. According to an August 26, 2004, cable, after a 47-hour session of standing sleep deprivation, Janat Gul was returned to his cell, allowed to remove his diaper, given a towel and a meal, and permitted to sleep.<sup>826</sup> In October 2004, the CIA conducted a [REDACTED] of the CIA source who had identified Gul as having knowledge of attack planning for the pre-election threat. [REDACTED], the CIA source admitted to fabricating the information.<sup>827</sup> Gul was subsequently transferred to a foreign government. On [REDACTED] informed the CIA that Janat Gul had been released.<sup>828</sup>

(TS// [REDACTED] //NF) Janat Gul never provided the threat information the CIA originally told the National Security Council that Gul possessed. Nor did the use of the CIA's enhanced interrogation techniques against Gul produce the "immediate threat information that could save American lives," which had been the basis for the CIA to seek authorization to use the techniques. As described elsewhere in this summary, the CIA's justification for employing its enhanced interrogation techniques on Janat Gul—the first detainee to be subjected to the techniques following the May 2004 suspension—changed over time. After having initially cited Gul's knowledge of the pre-election threat, as reported by the CIA's source, the CIA began representing that its enhanced interrogation techniques were required for Gul to deny the existence of the threat, thereby disproving the credibility of the CIA source.<sup>829</sup>

- 817 [REDACTED] 1541 [REDACTED] (04)
- 818 [REDACTED] 1541 [REDACTED] (04)
- 819 [REDACTED] 1567 [REDACTED] (04)
- 820 [REDACTED] 1574 [REDACTED] (04)
- 821 HEADQUARTERS [REDACTED] (04)
- 822 [REDACTED] 1603 [REDACTED] (04)
- 823 [REDACTED] 1603 [REDACTED] (04)
- 824 [REDACTED] 1622 [REDACTED] (04)
- 825 [REDACTED] 1622 [REDACTED] (04)
- 826 [REDACTED] 1622 [REDACTED] (04)
- 827 [REDACTED] 1411 [REDACTED] (04). See Volume III for additional information.
- 828 [REDACTED] 3398 [REDACTED] 5492 [REDACTED]

<sup>829</sup> Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of

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(TS//NF) On August 11, 2004, in the midst of the interrogation of Janat Gul using the CIA's enhanced interrogation techniques, CIA attorney [redacted] wrote a letter to Acting Assistant Attorney General Dan Levin with "brief biographies" of four individuals whom the CIA hoped to detain. Given the requirement at the time that the CIA seek individual approval from the Department of Justice before using the CIA's enhanced interrogation techniques against a detainee, the CIA letter states, "[w]e are providing these preliminary biographies in preparation for a future request for a legal opinion on their subsequent interrogation in CIA control." Two of the individuals—Abu Faraj al-Libi and Hamza Rabi'a—had not yet been captured, and thus the "biographies" made no reference to their interrogations or the need to use the CIA's enhanced interrogation techniques. The third individual, Abu Talha al-Pakistani, was in foreign government custody. His debriefings by a foreign government, [redacted], were described in the letter as "only moderately effective" because Abu Talha was "distracting [those questioning him] with noncritical information that is truthful, but is not related to operational planning." The fourth individual, Ahmed Khalifa Ghailani, was also in foreign government custody and being debriefed by foreign government officials [redacted]. According to the letter, Ghailani's foreign government debriefings were "ineffective" because Ghailani had "denied knowledge of current threats." The letter described reporting on the pre-election threat—much of which came from the CIA source—in the context of all four individuals.<sup>830</sup> Ahmed Ghailani and Abu Faraj al-Libi were eventually rendered to CIA custody and subjected to the CIA's enhanced interrogation techniques.

(TS//NF) On September [redacted], 2004, after the CIA had initiated a counterintelligence review of the CIA source who had reported on the pre-election threat, but prior to the CIA source's [redacted], the CIA took custody of Sharif al-Masri, whom the CIA source had reported would also have information about the threat.<sup>831</sup> Intelligence provided by Sharif al-Masri while he was in foreign government custody resulted in the dissemination of more than 30 CIA intelligence reports.<sup>832</sup> After entering CIA custody, Sharif al-Masri expressed his intent to cooperate with the CIA, indicating that he was frightened of interrogations because he had been tortured while being interrogated in [redacted].<sup>833</sup> The CIA nonetheless sought approval to use the CIA's enhanced interrogation techniques against al-Masri because of his failure to provide information on the pre-election threat.<sup>834</sup>

(TS//NF) After approximately a week of interrogating al-Masri using the CIA's enhanced interrogation techniques, including sleep deprivation that coincided with

United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May Be Used in the Interrogation of High Value al Qaeda Detainees, at 11. See section of this summary and Volume II entitled, "The Assertion that CIA Detainees Subjected to Enhanced Interrogation Techniques Help Validate CIA Sources."

<sup>830</sup> Letter from [redacted], Assistant General Counsel, to Dan Levin, Acting Assistant Attorney General, [redacted], 2004.

<sup>831</sup> WASHINGTON [redacted] 04); [redacted] 19045 [redacted] MAR 04). See HEADQUARTERS [redacted] 04); [redacted] 4267 [redacted] 04).

<sup>832</sup> See, for example, [redacted]

<sup>833</sup> [redacted] and [redacted] 24611 [redacted] 3191 [redacted] 3192 [redacted] HEADQUARTERS [redacted]

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CIA Headquarters directed the CIA Station in Country [REDACTED] to "think big" about how CIA Headquarters could support Country [REDACTED]'s [REDACTED].<sup>843</sup> After the Station initially submitted relatively modest proposals, CIA Headquarters reiterated the directive, adding that the Station should provide a "wish list."<sup>844</sup> In [REDACTED] 2003, the Station proposed a more expansive \$ [REDACTED] million in [REDACTED] subsidies.<sup>845</sup> [REDACTED] subsidy payments, intended in part as compensation for support of the CIA detention program, rose as high as \$ [REDACTED] million.<sup>846</sup> By [REDACTED] 2003, after an extension of five months beyond the originally agreed upon timeframe for concluding CIA detention activities in Country [REDACTED], both bin al-Shibh and al-Nashiri had been transferred out of Country [REDACTED] to the CIA detention facility at Guantanamo Bay, Cuba.<sup>847</sup>

9. U.S. Supreme Court Action in the Case of *Rasul v. Bush* Forces Transfer of CIA Detainees from Guantanamo Bay to Country [REDACTED]

(TS//[REDACTED]//NF) Beginning in September 2003, the CIA held a number of detainees at CIA facilities on the grounds of, but separate from, the U.S. military detention facilities at Guantanamo Bay, Cuba.<sup>848</sup> In early January 2004, the CIA and the Department of Justice began discussing the possibility that a pending U.S. Supreme Court case, *Rasul v. Bush*, might grant *habeas corpus* rights to the five CIA detainees then being held at a CIA detention facility at

[REDACTED] although CIA Headquarters asked the CIA Station to "advise if additional funds may be needed to keep [the facility] viable over the coming year and beyond." CIA Headquarters added, "we cannot have enough blacksite hosts, and we are loathe to let one we have slip away." Country [REDACTED] never hosted CIA detainees. See HEADQUAR [REDACTED]; [REDACTED] 5298 [REDACTED]; HEADQUAR [REDACTED]

<sup>843</sup> ALEC [REDACTED] 03). In an interview on the CIA program, [REDACTED] noted that the program had "more money than we could possibly spend we thought, and it turned out to be accurate." In the same interview, he stated that "in one case, we gave [REDACTED] \$ [REDACTED],000,000 [REDACTED]. Myself and José [Rodriguez] [REDACTED]. We never counted it. I'm not about to count that kind of money for a receipt." The boxes contained one hundred dollar bills. [REDACTED] did not identify the recipient of the \$ [REDACTED] million. See transcript of Oral History Interview, Interviewee: [REDACTED] (RJ) - October 13, 2006, Interviewer: [REDACTED] and [REDACTED].

<sup>844</sup> ALEC [REDACTED] 03)

<sup>845</sup> ALEC [REDACTED]

<sup>846</sup> See DTS #2010-2448.

<sup>847</sup> [REDACTED] 2498 [REDACTED]

<sup>848</sup> April [REDACTED], 2003, Memorandum for Director, DCI Counterterrorist Center, from [REDACTED], Chief Renditions and Detainees Group, via [REDACTED], Counterterrorist Center, Chief of Operations, [REDACTED], Chief, [REDACTED], Subject: Request to Relocate High-Value Detainees to an Interim Detention Facility at Guantanamo. See also DIRECTOR [REDACTED]. CIA detainees were held at two facilities at Guantanamo Bay, DETENTION SITE MAROON and DETENTION SITE INDIGO. (See Quarterly Review of Confinement Conditions for CIA Detainees, Coverage Period: [REDACTED].) A third CIA detention facility, DETENTION SITE RED [REDACTED]

[REDACTED] See [REDACTED] 3897 [REDACTED] 3445 [REDACTED] 9754 [REDACTED] 8405 [REDACTED] 8408 [REDACTED] and September 1, 2006, Memorandum of Agreement Between the Department of Defense (DOD) and the Central Intelligence Agency (CIA) Concerning the Detention by DOD of Certain Terrorists at a Facility at Guantanamo Bay Naval Station.

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Guantanamo Bay.<sup>849</sup> Shortly after these discussions, CIA officers approached the [REDACTED] in Country [REDACTED] to determine if it would again be willing to host these CIA detainees, who would remain in CIA custody within an already existing Country [REDACTED] facility.<sup>850</sup> By January [REDACTED], 2004, the [REDACTED] in Country [REDACTED] had agreed to this arrangement for a limited period of time.<sup>851</sup>

(TS// [REDACTED]//NF) Meanwhile, CIA General Counsel Scott Muller asked the Department of Justice, the National Security Council, and the White House Counsel for advice on whether the five CIA detainees being held at Guantanamo Bay should remain at Guantanamo Bay or be moved pending the Supreme Court's decision.<sup>852</sup> After consultation with the U.S. solicitor general in February 2004, the Department of Justice recommended that the CIA move four detainees out of a CIA detention facility at Guantanamo Bay pending the Supreme Court's resolution of the case.<sup>853</sup> The Department of Justice concluded that a fifth detainee, Ibn Shaykh al-Libi, did not need to be transferred because he had originally been detained under military authority and had been declared to the ICRC.<sup>854</sup> Nonetheless, by April [REDACTED], 2004, all five CIA detainees were transferred from Guantanamo Bay to other CIA detention facilities.<sup>855</sup>

(TS// [REDACTED]//NF) Shortly after placing CIA detainees within an already existing Country [REDACTED] facility for a second time, tensions arose between the CIA and [REDACTED] Country [REDACTED].<sup>856</sup> In [REDACTED] 2004, CIA detainees in a Country [REDACTED] facility claimed to hear cries of pain from other detainees presumed to be in the [REDACTED] facility.<sup>857</sup> When the CIA chief of Station approached the [REDACTED]

<sup>849</sup> Email from: Scott W. Muller, to: [REDACTED], [REDACTED]; cc: [REDACTED]; subject: Detainees in Gitmo; date: January [REDACTED], 2004.

<sup>850</sup> See HEADQUARTERS [REDACTED], [REDACTED] 1845 [REDACTED]. The CIA's long-term facility in Country [REDACTED], which the CIA Station in Country [REDACTED] had wanted was a drain on the Station's resources, had not yet been completed. See [REDACTED] 1785 [REDACTED].

<sup>851</sup> [REDACTED] 1679 [REDACTED].

<sup>852</sup> Email from: Scott Muller, to: James Pavitt, [REDACTED]; cc: George Tenet, John McLaughlin, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: CIA Detainees at GITMO; date: February [REDACTED], 2004.

<sup>853</sup> Email from: Scott Muller, to: James Pavitt, [REDACTED]; cc: George Tenet, John McLaughlin, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: CIA Detainees at GITMO; date: February [REDACTED], 2004.

<sup>854</sup> Email from: Scott Muller, to: James Pavitt, [REDACTED]; cc: George Tenet, John McLaughlin, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: CIA Detainees at GITMO; date: February [REDACTED], 2004.

[REDACTED] See [REDACTED] 10255 [REDACTED]; ALEC [REDACTED]; [REDACTED] 13698 [REDACTED]; ALEC [REDACTED]

[REDACTED] 1672 [REDACTED]; [REDACTED] 1674 [REDACTED]

[REDACTED] 1898 [REDACTED]. For additional details of the CIA's interactions with Country [REDACTED], see Volume I.

<sup>857</sup> Among the detainees making this claim was Ibn Shaykh al-Libi, who had previously been rendered from CIA custody to [REDACTED]. A Libyan national, Ibn Shaykh al-Libi reported while in [REDACTED] custody that Iraq was supporting al-Qa'ida and providing assistance with chemical and biological weapons. Some of this information was cited by Secretary Powell in his speech to the United Nations, and was used as a justification for the 2003 invasion of Iraq. Ibn Shaykh al-Libi recanted the claim after he was rendered to CIA custody on February [REDACTED], 2003, claiming that he had been tortured by the [REDACTED], and only told them what he assessed they wanted to hear. For more details, see Volume III. While in Country [REDACTED], al-Libi told CIA debriefers that the "sobbing and yelling" he

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[REDACTED] about the accounts of the CIA detainees, the [REDACTED] stated with "bitter dismay" that the bilateral relationship was being "tested."<sup>858</sup> There were also counterintelligence concerns relating to CIA detainee Ramzi bin al-Shibh, who had attempted to influence a Country [REDACTED] officer.<sup>859</sup> These concerns contributed to a request from [REDACTED] in [REDACTED] 2004 for the CIA to remove all CIA detainees from Country [REDACTED].<sup>860</sup>

(TS//[REDACTED]//NF) In [REDACTED] 2004, when the chief of Station in Country [REDACTED] again approached the [REDACTED] with allegations from CIA detainees about the mistreatment of Country [REDACTED] detainees [REDACTED] in the facility, the chief of Station received an angry response that, as he reported to CIA Headquarters, "starkly illustrated the inherent challenges [of] [REDACTED]."<sup>861</sup> According to the chief of Station, Country [REDACTED] saw the CIA as "querulous and unappreciative recipients of their [REDACTED] cooperation."<sup>861</sup> By the end of 2004, relations between the CIA and Country [REDACTED] deteriorated, particularly with regard to intelligence cooperation.<sup>862</sup> The CIA detainees were transferred out of Country [REDACTED] in [REDACTED] 2005.<sup>863</sup>

(TS//[REDACTED]//NF) Beginning in [REDACTED] 2005, the [REDACTED] in Country [REDACTED] insisted, over the CIA's opposition, to brief Country [REDACTED]'s [REDACTED] on the effort to establish a more permanent and unilateral CIA detention facility, which was under construction. A proposed phone call to the [REDACTED] from Vice President Cheney to solidify support for CIA operations in Country [REDACTED] was complicated by the fact that Vice President Cheney had not been told about the locations of the CIA detention facilities. The CIA wrote that there was a "primary need" to "eliminate any possibility that [REDACTED] could explicitly or implicitly refer to the existence of a black site in [the country]" during the call with the vice president.<sup>864</sup> There are no indications that the call occurred. The [REDACTED] of Country [REDACTED] nonetheless approved the unilateral CIA detention facility, which cost \$[REDACTED] million, but was never used by the CIA.<sup>865</sup> By [REDACTED] 2006, the CIA was working with Country [REDACTED] to decommission what was described as the "aborted" project.<sup>866</sup>

heard reminded him of what he previously endured in [REDACTED] custody and it sounded to him like a prisoner had been tied up and beaten. See [REDACTED] 1989 [REDACTED]

<sup>858</sup> [REDACTED] 2010 [REDACTED]

<sup>859</sup> [REDACTED] 2010 [REDACTED]

<sup>860</sup> [REDACTED] 2317 [REDACTED]. The CIA's June 2013 Response states that "[i]t was only as leaks detailing the program began to emerge that foreign partners felt compelled to alter the scope of their involvement." As described above, the tensions with Country [REDACTED] were unrelated to press leaks.

<sup>861</sup> [REDACTED] 2602 [REDACTED]

<sup>862</sup> See [REDACTED] 2318 [REDACTED]; [REDACTED] 31281 [REDACTED]; and [REDACTED] 2783 [REDACTED]. Country [REDACTED] officials refused to provide the CIA with counterterrorism information, including information obtained through CIA-funded [REDACTED]. See [REDACTED] 31281 [REDACTED]

<sup>863</sup> HEADQUARTERS [REDACTED]

<sup>864</sup> HEADQUARTERS [REDACTED]

<sup>865</sup> [REDACTED] and CTC [REDACTED] RDG, "Evolution of the Program."

<sup>866</sup> [REDACTED] 3706 ([REDACTED] [REDACTED])

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the "natural and progressive effects of long-term solitary confinement on detainees" and ongoing behavioral problems.<sup>871</sup>

(TS// [REDACTED] //NF) With respect to the personnel at DETENTION SITE BLACK, the chief of Base wrote:

"I am concerned at what appears to be a lack of resolve at Headquarters to deploy to the field the brightest and most qualified officers for service at [the detention site]. Over the course of the last year the quality of personnel (debriefers and [security protective officers]) has declined significantly. With regard to debriefers, most are mediocre, a handful [sic] are exceptional and more than a few are basically incompetent. From what we can determine there is no established methodology as to the selection of debriefers. Rather than look for their best, managers seem to be selecting either problem, underperforming officers, new, totally inexperienced officers or whomever seems to be willing and able to deploy at any given time. We see no evidence that thought is being given to deploying an 'A-Team.' The result, quite naturally, is the production of mediocre or, I dare say, useless intelligence....

We have seen a similar deterioration in the quality of the security personnel deployed to the site.... If this program truly does represent one of the agency's most secret activities then it defies logic why inexperienced, marginal, underperforming and/or officers with potentially significant [counterintelligence] problems are permitted to deploy to this site. It is also important that we immediately inact [sic] some form of rigorous training program."<sup>872</sup>

(TS// [REDACTED] //NF) A CIA OIG audit completed in June 2006 "found that personnel assigned to CIA-controlled detention facilities, for the most part, complied with the standards and guidelines in carrying out their duties and responsibilities." The OIG also found that, "except for the shortage of debriefers, the facilities were staffed with sufficient numbers and types of personnel." The lack of debriefers, however, was described as "an ongoing problem" for the program. According to the audit, there were extended periods in 2005 when the CIA's DETENTION SITE ORANGE in Country [REDACTED] had either one or no debriefers. At least twice in the summer of 2005, the chief of Station in that country requested additional debriefers, warning that intelligence collection could suffer. Months later, in January 2006, the chief of Base at the detention site advised CIA Headquarters that "the facility still lacked debriefers to support intelligence collection requirements, that critical requirements were 'stacking up,' and that gaps in the debriefing of detainees were impacting the quantity and quality of intelligence reporting and would make the work of future debriefers more difficult."<sup>873</sup>

<sup>871</sup> Email from: [REDACTED] (COB DETENTION SITE BLACK); to: [REDACTED], [REDACTED]; subject: General Comments; date: April 15, 2005.

<sup>872</sup> Email from: [REDACTED] (COB DETENTION SITE BLACK); to: [REDACTED], [REDACTED]; subject: General Comments; date: April 15, 2005.

<sup>873</sup> Report of Audit, CIA-controlled Detention Facilities Operated Under the 17 September 2001 Memorandum of Notification, Report No. 2005-0017-AS, June 14, 2006, at DTS # 2006-2793. As further described in the

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## M. Legal and Operational Challenges in 2005

## 1. Department of Justice Renews Approval for the Use of the CIA's Enhanced Interrogation Techniques in May 2005

(TS//~~UNCLASSIFIED~~//NF) On May 10, 2005, the new acting assistant attorney general for OLC, Steven Bradbury, issued two legal memoranda. The first analyzed whether the individual use of the CIA's 13 enhanced interrogation techniques—including waterboarding, as well as a number of interrogation techniques that had been used in 2003 and 2004, but had not been analyzed in the original August 1, 2002, OLC memorandum—were consistent with the criminal prohibition on torture.<sup>874</sup> The second memorandum considered the combined use of the CIA's enhanced interrogation techniques.<sup>875</sup> Both legal memoranda concluded that the use of the CIA's enhanced interrogation techniques did not violate the torture statute.

(TS//~~UNCLASSIFIED~~//NF) On May 26, 2005, the CIA inspector general, who had been provided with the two OLC memoranda, wrote a memo to the CIA director recommending that the CIA seek additional legal guidance on whether the CIA's enhanced interrogation techniques and conditions of confinement met the standard under Article 16 of the Convention Against Torture.<sup>876</sup> The inspector general noted that "a strong case can be made that the Agency's authorized interrogation techniques are the kinds of actions that Article 16 undertakes to prevent," adding that the use of the waterboard may be "cruel" and "extended detention with no clothing would be considered 'degrading' in most cultures, particularly Muslim." The inspector general further urged that the analysis of conditions was equally important, noting that the inspector general's staff had "found a number of instances of detainee treatment which arguably violate the prohibition on cruel, inhuman, and/or degrading treatment."<sup>877</sup>

Committee Study, the Inspector General audit described how the CIA's detention facilities were not equipped to provide detainees with medical care. The audit described unhygienic food preparation, including at a facility with a "rodent infestation," and noted that a physician assistant attributed symptoms of acute gastrointestinal illness and giardiasis experienced by six staff and a detainee to food and water contamination. The audit further identified insufficient guidelines covering possible detainee escape or the death of a detainee.

<sup>874</sup> See Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. §§ 2340-2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee.

<sup>875</sup> See Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. §§ 2340-2340A to the Combined Use of Certain Techniques That May Be Used in the Interrogation of High Value al Qaeda Detainees.

<sup>876</sup> May 26, 2005, Memorandum for Director, Central Intelligence Agency, from John Helgerson, Inspector General, re: Recommendation for Additional Approach to Department of Justice Concerning Legal Guidance on Interrogation Techniques.

<sup>877</sup> May 26, 2005, Memorandum for Director, Central Intelligence Agency, from John Helgerson, Inspector General, re: Recommendation for Additional Approach to Department of Justice Concerning Legal Guidance on Interrogation Techniques.

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complained of a loss of hearing, repeatedly telling him to stop pretending he could not hear well.<sup>892</sup> Although the interrogators indicated that they believed al-Libi's complaint was an interrogation resistance technique, Abu Faraj al-Libi was fitted for a hearing aid after his transfer to U.S. military custody at Guantanamo Bay in 2006.<sup>893</sup> Despite the repeated and extensive use of the CIA's enhanced interrogation techniques on Abu Faraj al-Libi, CIA Headquarters continued to insist throughout the summer and fall of 2005 that Abu Faraj al-Libi was withholding information and pressed for the renewed use of the techniques. The use of the CIA's enhanced interrogation techniques against Abu Faraj al-Libi was eventually discontinued because CIA officers stated that they had no intelligence to demonstrate that Abu Faraj al-Libi continued to withhold information, and because CIA medical officers expressed concern that additional use of the CIA's enhanced interrogation techniques "may come with unacceptable medical or psychological risks."<sup>894</sup> After the discontinuation of the CIA's enhanced interrogation techniques, the CIA asked Abu Faraj al-Libi about UBL facilitator Abu Ahmad al-Kuwaiti for the first time.<sup>895</sup> Abu Faraj al-Libi denied knowledge of al-Kuwaiti.<sup>896</sup>

3. CIA Acquires Two Detainees from the U.S. Military

(TS//~~NOFORN~~) Another legal issue in late 2005 was related to the U.S. Department of Defense's involvement in CIA detention activities. In September 2005, the CIA and the Department of Defense signed a Memorandum of Understanding on this subject,<sup>897</sup> and the U.S. military agreed to transfer two detainees, Ibrahim Jan and Abu Ja'far al-Iraqi, to CIA custody. Both were held by the U.S. military without being registered with the ICRC for over 30 days, pending their transfer to CIA custody.<sup>898</sup> The transfer of Abu Ja'far al-Iraqi took place notwithstanding Department of State concerns that the transfer would be inconsistent with statements made by the secretary of state that U.S. forces in Iraq would remain committed to the law of armed conflict, including the Geneva Conventions.<sup>899</sup>

<sup>892</sup> [REDACTED] 2499 (262123Z JUN 05)

<sup>893</sup> [REDACTED]  
[REDACTED]  
[REDACTED]

<sup>894</sup> Email from: [REDACTED] to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: [REDACTED] Response to DDO Tasking of 7 July on Abu Faraj Interrogation; date: July 8, 2005, at 06:16 PM.

<sup>895</sup> DIRECTOR [REDACTED] (121847Z JUL 05); HEADQUARTERS [REDACTED] (121847Z JAN 04); [REDACTED] 20361 (291232Z JAN 04); DIRECTOR [REDACTED] (040522Z MAY 04)

<sup>896</sup> [REDACTED] 29454 (131701Z JUL 05)

<sup>897</sup> Memorandum of Understanding Concerning DOD Support to CIA with Sensitive Capture and Detention Operations in the War on Terrorism.

<sup>898</sup> See email from: [REDACTED], [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: DoD Request for a list of HVTs not to be issued ISN numbers. The email stated: "In conjunction with discussions between CIA and DoD over the weekend regarding our request to have the military render Ibrahim Jan to our custody and NOT issuing him an ISN number, DoD has requested CIA provide a list of HVTs to whom, if captured, the military should NOT issue ISN numbers" (emphasis in original). See [REDACTED] 1505 [REDACTED] OCT 05).

<sup>899</sup> July [REDACTED], 2005 Memorandum for Joint Staff [REDACTED] from [REDACTED], re: Interim Guidance Regarding [REDACTED].

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(TS// [REDACTED] //NF) In early 2005, the CIA again sought an "endgame" policy for its detainees, citing its unstable relations with host governments and its difficulty in identifying additional countries to host CIA detention facilities.<sup>905</sup> Talking points prepared for the CIA director for a meeting with the national security advisor made the following appeal:

"CIA urgently needs [the President of the United States] and Principals Committee direction to establish a long-term disposition policy for the 12 High-Value detainees (HVD)s we hold in overseas detention sites. Our liaison partners who host these sites are deeply concerned by [REDACTED]<sup>906</sup> press leaks, and they are increasingly skeptical of the [U.S. government's] commitment to keep secret their cooperation.... A combination of press leaks, international scrutiny of alleged [U.S. government] detainee abuse, and the perception that [U.S. government] policy on detainees lacks direction is eroding our partners' trust in U.S. resolve to protect their identities and supporting roles. If a [U.S. government] plan for long-term [detainee] disposition does not emerge soon, the handful of liaison partners who cooperate may ask us to close down our facilities on their territory. Few countries are willing to accept the huge risks associated with hosting a CIA detention site, so shrinkage of the already small pool of willing candidates could force us to curtail our highly successful interrogation and detention program. Fear of public exposure may also prompt previously cooperative liaison partners not to accept custody of detainees we have captured and interrogated. Establishment of a clear, publicly announced [detainee] 'endgame' - one sanctioned by [the President of the United States] and supported by Congress - will reduce our partners' concerns and rekindle their enthusiasm for helping the US in the War on Terrorism."<sup>907</sup>

(TS// [REDACTED] //NF) In March 2005, talking points prepared for the CIA director for a discussion with the National Security Council Principals Committee stated that it was:

<sup>905</sup> The CIA's June 2013 Response states that an "important factor" contributing to the slower pace of CIA detention operations was al-Qa'ida's relocation to the FATA, which "made it significantly more challenging [for the Pakistani government] to mount capture operations resulting in renditions and detentions by the RDI program." A review of CIA records by the Committee found that legal, policy, and other operational concerns dominated internal deliberations about the program. In 2005, CIA officers asked [REDACTED] officials to render two detainees to CIA custody, one [REDACTED] and one [REDACTED]. [REDACTED] neither detainee was transferred to CIA custody. CIA officers noted that obtaining custody of detainees held by a foreign government during this period was becoming increasingly difficult, highlighting that [REDACTED]. " In March 2006, Director Goss testified to the Committee that lack of space was the limiting factor in taking custody of additional detainees. See HEADQUARTERS [REDACTED]; HEADQUARTERS [REDACTED]; email from: [REDACTED], [REDACTED] to: [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: for coord, pls: D/CIA talking points [REDACTED] re rendition of [REDACTED] 6702 [REDACTED]; HEADQUARTERS [REDACTED]; and transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

<sup>906</sup> Text redacted by the CIA prior to provision to Committee members at the U.S. Senate.

<sup>907</sup> See CIA document dated, January 12, 2005, entitled, "DCI Talking Points for Weekly Meeting with National Security Advisor."

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[REDACTED], the CIA recommended the immediate transfer of CIA detainees to Department of Defense custody.<sup>915</sup> When the Department of Defense rejected the proposal, the National Security Council directed the CIA to prepare other options.<sup>916</sup> Meanwhile, two U.S. ambassadors, one in [REDACTED] and another in [REDACTED], inquired whether Secretary of State Rice had been briefed on the impending *Washington Post* article and sought to speak to the secretary herself to ensure that the CIA program was authorized. According to CIA documents, Secretary Rice was not aware of the specific countries where the CIA detention facilities were located.<sup>917</sup> In lieu of a phone call from Secretary Rice, the CIA recommended that the State Department's Counterterrorism Coordinator and former CTC DDO, Henry Crumpton, call the ambassadors.<sup>918</sup> The *Washington Post* published an article about CIA detention sites on November 2, 2005.<sup>919</sup>

(TS//) (NF) The publication of the *Washington Post* article resulted in a demarche to the United States from [REDACTED], which also suggested that [REDACTED] contribution [REDACTED] could be in jeopardy.<sup>920</sup> The United States also received a demarche from [REDACTED].<sup>921</sup> According to a CIA cable, U.S. representatives to [REDACTED] feared that "if another shoe were to drop," there would be considerable ramifications for U.S. relations with [REDACTED] on a number of issues that depended on U.S. credibility in the area of human rights. The representatives also "questioned whether the gravity of this potential problem is fully appreciated in Washington."<sup>922</sup>

<sup>915</sup> The other options put forward by the CIA were transfer of CIA detainees [REDACTED], which the CIA anticipated would release the detainees after a short period. The CIA also proposed its own outright release of the detainees. See CIA document entitled D/CIA Talking Points for use at [REDACTED] Principals Meeting (2005).

<sup>916</sup> HEADQUARTERS [REDACTED]

<sup>917</sup> Talking Points for Dr. J.D. Crouch for telephone calls to Ambassadors in [REDACTED] regarding possibility of forthcoming Dana Priest press article; email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Phone Call with State/L re Ambassadors who want to speak to the SecState; date: [REDACTED], at 06:45 PM.

<sup>918</sup> Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Phone Call with State/L re Ambassadors who want to speak to the SecState; date: October 24, 2005, at 06:45 PM; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Phone call from S/CT Amb. Hank Crumpton to Ambassador in [REDACTED]; date: November 1, 2005, at 6:13:21 PM. After the subsequent press revelations, the U.S. ambassador in Country [REDACTED] asked again about whether the secretary of state had been briefed, prompting the CIA Station in Country [REDACTED] to note in a cable that briefing U.S. officials outside of the CIA "would be a significant departure from current policy." See [REDACTED] [REDACTED].

<sup>919</sup> [REDACTED] " See "CIA

Holds Terror Suspects in Secret Prisons," the *Washington Post*, November 2, 2005. [REDACTED]

See cable to [REDACTED] at HEADQUAR [REDACTED]; cables to [REDACTED] at HEADQUAR [REDACTED] and HEADQUAR [REDACTED]; and cable to [REDACTED] at HEADQUAR [REDACTED].

<sup>920</sup> 52485 [REDACTED]; Memorandum from D/CIA Goss to Hadley, Townsend and Negroponte.

<sup>921</sup> 83053 [REDACTED]

<sup>922</sup> 83053 [REDACTED]

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(TS//NF) By the time a CIA team visited the Country [redacted] detention site in late 2006, the CIA had already invested \$ [redacted] million in the new facility. Describing the absence of adequate emergency medical care options as "unacceptable," the chief of RDG recommended in a draft memo that construction efforts be abandoned for this reason.<sup>950</sup> The following day, an edited version of the same memo described the issue as a "challenge," but did not recommend that the CIA cease construction of the facility.<sup>951</sup> The resulting CIA detention facility, which would eventually cost \$ [redacted] million, was never used by the CIA. Press reports about the CIA's Detention and Interrogation Program that appeared in [redacted] and [redacted] eventually forced the CIA to pass possession of the unused facility to the Country [redacted] government.<sup>952</sup>

(TS//NF) In early January 2006, officials at the Department of Defense informed CIA officers that Secretary of Defense Rumsfeld had made a formal decision not to accept any CIA detainees at the U.S. military base at Guantanamo Bay, Cuba.<sup>953</sup> At the time, the CIA was holding 28 detainees in its two remaining facilities, DETENTION SITE VIOLET, in Country [redacted], and DETENTION SITE ORANGE, in Country [redacted].<sup>954</sup> In preparation for a meeting with Secretary of Defense Rumsfeld on January 6, 2006, CIA Director Goss was provided a document indicating that the Department of Defense's position not to allow the transfer of CIA detainees to U.S. military custody at Guantanamo Bay "would cripple legitimate end game planning" for the CIA.<sup>955</sup> The talking points for that meeting suggested that Director Goss tell Secretary Rumsfeld that the:

"only viable 'endgame' for continued US Government custody of these most dangerous terrorists is a transfer to GTMO... [a]bsent the availability of GTMO and eventual DoD custody, CIA will necessarily have to begin transferring those detainees no longer producing intelligence to third countries,

to provide inpatient care for detainees," and concluded that CIA detention facilities were not equipped to provide emergency medical care to detainees. The audit team did not visit the facility in Country [redacted], but stated, with regard to another country, Country [redacted], that "CIA funds have been wasted in constructing and equipping a medical facility that was later determined not to be a viable option for providing inpatient care for detainees." See Report of Audit, CIA-controlled Detention Facilities Operated Under the 17 September 2001 Memorandum of Notification, Report No. 2005-0017-AS, June 14, 2006, at DTS # 2006-2793. The CIA's [redacted] supervised the CIA's Renditions and Detention Group.

<sup>950</sup> [redacted] 2006, Memorandum for the Record, to: C/CTC [redacted], from: C/CTC [redacted]/RDG, re: Site Visit to [redacted] and Recommendations.

<sup>951</sup> See [redacted] 2006, Memorandum for the Record, to: C/CTC [redacted], from: C/CTC [redacted]/RDG, re: Site Visit to [redacted] and Recommendations (2).

<sup>952</sup> Congressional Notification: Central Intelligence Agency Response to Host Country Government Order to Vacate an Inactive Blacksite Detention Facility, [redacted] (DTS #2009-3711); SSCI Memorandum for the Record, [redacted]; CIA Document, RDI Program Background Brief for Leon Panetta, 2009.

<sup>953</sup> DCIA Talking Points for 6 January 2006 Breakfast with Secretary of Defense, re: SecDef Refusal to Take CIA Detainees on GTMO.

<sup>954</sup> See CIA Memo, "As of 01 January 2006, there were 28 HVDs in CIA custody." As noted above, DETENTION SITE VIOLET in Country [redacted] would be closed in [redacted] 2006.

<sup>955</sup> DCIA Talking Points for 6 January 2006 Breakfast with Secretary of Defense, re: SecDef Refusal to Take CIA Detainees on GTMO.

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which may release them, or [the CIA itself may need to] outright release them."<sup>956</sup>

(TS//~~UNCLASSIFIED~~//NF) After Secretary Rumsfeld declined to reconsider his decision not to allow the transfer of CIA detainees to U.S. military custody at Guantanamo Bay, CIA officers proposed elevating the issue to the president. CIA officers prepared talking points for Director Goss to meet with the president on the "Way Forward" on the program on January 12, 2006.<sup>957</sup> The talking points recommended that the CIA director "stress that absent a decision on the long-term issue (so called 'endgame') we are stymied and the program could collapse of its own weight."<sup>958</sup> There are no records to indicate whether Director Goss made this presentation to the president.

(TS//~~UNCLASSIFIED~~//NF) In 2005 and 2006, the CIA transferred detainees from its custody to at least nine countries, including ~~UNCLASSIFIED~~, as well as to the U.S. military in Iraq. Many of these detainees were subsequently released.<sup>959</sup> By May 2006, the CIA had 11 detainees whom it had identified as candidates for prosecution by a U.S. military commission. The remaining detainees were described as having "repatriation options open."<sup>960</sup>

6. *The CIA Considers Changes to the CIA Detention and Interrogation Program Following the Detainee Treatment Act, Hamdan v. Rumsfeld*

(TS//~~UNCLASSIFIED~~//NF) Following the passage of the Detainee Treatment Act in December 2005, the CIA conducted numerous discussions with the National Security Council principals about modifications to the program that would be acceptable from a policy and legal standpoint. In February 2006, talking points prepared for CIA Director Goss noted that National Security Advisor Stephen Hadley:

"asked to be informed of the criteria CIA will use before accepting a detainee into its CIA Counterterrorist Rendition, Detention, and Interrogation Program, stating that he believed CIA had in the past accepted detainees it should not have."<sup>961</sup>

(TS//~~UNCLASSIFIED~~//NF) The CIA director proposed future criteria that would require not only that CIA detainees meet the standard in the MON, but that they possess information about threats to the citizens of the United States or other nations, and that detention in a CIA facility

<sup>956</sup> DCIA Talking Points for 6 January 2006 Breakfast with Secretary of Defense, re: SecDef Refusal to Take CIA Detainees on GTMO.

<sup>957</sup> DCIA Talking Points for 12 January 2006 Meeting with the President, re: Way Forward on Counterterrorist Rendition, Detention and Interrogation Program.

<sup>958</sup> DCIA Talking Points for 12 January 2006 Meeting with the President, re: Way Forward on Counterterrorist Rendition, Detention and Interrogation Program.

<sup>959</sup> See Volume I for additional details.

<sup>960</sup> May 18, 2006, Deputies Committee (Un-DC) Meeting, Preliminary Detainee End Game Options. For additional information, see Volume I.

<sup>961</sup> DCIA Talking Points for 9 February 2006 Un-DC, re: Future of the CIA Counterterrorist Rendition, Detention, and Interrogation Program - Detainees.

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**Declaration of Dr. Sondra S. Crosby**

1. I am a licensed physician in the Commonwealth of Massachusetts and am board certified in the specialty of Internal Medicine. I graduated from the University of Washington School of Medicine, and received my clinical training at the Boston City Hospital (now Boston Medical Center) residency program in Internal Medicine. Currently, I am an Associate Professor of Medicine and Public Health, at the Boston University Schools of Medicine and Public Health, in the Departments of Medicine, and Health Law, Bioethics, and Human Rights, and a member of the Section of General Internal Medicine at Boston Medical Center.

2. My clinical practice focuses on care of asylum seekers and refugees, most of whom have experienced torture. I have taught extensively on the medical care and evaluation of refugees and survivors of torture, and I have given invited presentations throughout the United States and internationally on various topics related to caring for survivors of torture. I have taught and mentored Istanbul Protocol evaluation and documentation in Bishkek, Kyrgyzstan; Dushanbe, Tajikistan; Istanbul, Turkey, Reyhanli, Turkey, Almaty, Kazakhstan, and Amman, Jordan as a medical consultant for Physicians for Human Rights. I have given workshops on the preparation of medical affidavits and have lectured in the Asylum Officers Basic Training Course in Lansdowne, VA on medical forensic findings in asylum cases.

3. In addition, I have published scholarly papers in *The New England Journal of Medicine*, *The Journal of the American Medical Association (JAMA)*, *Annals of Internal Medicine*, *The British Medical Journal*, *The Journal of General Internal Medicine*, *The Laryngoscope*, *The British Journal of Ophthalmology*, and *Urology* among others, on my work in caring for survivors of torture.

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4. I have been qualified as an expert witness in United States Immigration Court in Boston, Federal District Court for the District of Columbia, and the Military Commission Court in Guantánamo Bay, Cuba (United States v. Al-Nashiri). I have written over 300 affidavits documenting medical and psychological sequelae of torture.

5. I have evaluated and examined nearly 1000 survivors of torture in my medical practice. I am consultant to Physicians for Human Rights, and have evaluated the effects of torture, cruel, inhuman, and degrading treatment and displacement on Darfuri women living in a Refugee Camp in Chad, and former detainees in US detention at Guantánamo Bay, and at other sites in Iraq and Afghanistan. Furthermore, I have served as a medical forensic expert for the Bahrain Independent Commission of Inquiry, investigating allegations of torture.

6. I am co-founder and director of the Forensic Medical Evaluation Group, a multidisciplinary group at Boston University School of Medicine and Boston Medical Center, providing evaluation and documentation of physical and psychological evidence of torture and abuse.

7. On March 7, 2012, I was appointed by the Department of Defense as an expert in the field of internal medicine and the treatment of victims of torture to consult with defense counsel representing Abd Al-Rahim Al-Nashiri and to conduct an evaluation of Mr. Al-Nashiri's physical and mental condition.

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8. I have reviewed both classified and unclassified records including records of Mr. Al-Nashiri's treatment while in the custody of the CIA. I have met with Mr. Al-Nashiri on multiple occasions at Guantánamo Bay. I have evaluated Mr. Al-Nashiri for approximately 30 hours. My medical evaluation (physical and psychological) was based on the Istanbul Protocol, which is the international standard for the medicolegal investigation of torture.

9. I have spoken with Barry Rosenfeld, a psychologist also employed by the Al-Nashiri defense team. Dr. Rosenfeld did a mental status evaluation of Mr. Al-Nashiri at the request of the defense.

10. I have reviewed the publicly available findings of the military competency board that evaluated Mr. Al-Nashiri at the request of the prosecution. I concur with the competency board's findings that Mr. Al-Nashiri suffers from Post-Traumatic Stress Disorder ("PTSD") and major depression.

11. I have also reviewed the unclassified SSCI Torture Report and the declassified CIA Inspector General Investigation, which were both released by the Government and detailed certain aspects of the CIA's Rendition, Detention, and Interrogation ("RDI") program. These reports revealed that Mr. Al-Nashiri was waterboarded, subjected to mock execution, anal rape, and other forms of torture. According to these reports, the goal of the RDI program was to induce a detainee to a state of "learned helplessness." A concept coined by experimental psychologist Dr. Martin Seligman in the 1960s, inducing "learned helplessness" consisted of restraining dogs and subjecting them to random and repeated electric shocks. Dogs that could not control or influence their suffering in any way "learned" to become helpless, collapsing into a state of passivity. Dr. Seligman found that if a researcher inflicted uncontrollable pain on a dog over a long enough period of time, the animal abandoned any attempt to escape its confinement or avoid further pain, even if given the opportunity. Mr. Al-Nashiri was in essence, broken down in the same way as the dogs in the experiments.

12. Based on my own evaluation of the records made available to me, my conversations with Dr. Rosenfeld and my own evaluations of and conversations with Mr. Al-Nashiri personally, it is my conclusion that Mr. Al-Nashiri suffers from complex posttraumatic stress disorder as a result of extreme physical, psychological, and sexual torture inflicted upon him by the United States. In my opinion, the CIA also succeeded in inducing "learned helplessness" in Mr. Al-Nashiri. The result is that Mr. Al-Nashiri is most likely irreversibly damaged by torture that was unusually cruel and designed to break him. Indeed, in my many years of experience treating torture victims from around the world, Mr. Al-Nashiri presents as one of the most severely traumatized individuals I have ever seen. Making matters worse, there is no present effort to treat the damage, and there appear to be efforts to block others from giving him appropriate clinical care.

13. The physical and psychological diagnoses of Mr. Al-Nashiri are compelling. One suffering from complex PTSD would be expected to be hypervigilant, suffer from intrusive recollections and flashbacks, sleep disorders, nightmares and other recognized sequelae of torture. Mr. Al-Nashiri displays every symptom of complex PTSD. He suffers chronic nightmares, the content of which, while classified, in my opinion directly relate to the specific physical, emotional and sexual torture inflicted upon Mr. Al-Nashiri while in US custody. He experiences flashbacks, which are triggered frequently by reminders of torture.



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14. The torture experienced by Mr. Al-Nashiri has fractured his trust in humanity, which has damaged his ability to interact with all humans, including counsel, doctors, other detainees, and even family. While much of Mr. Al-Nashiri's treatment remains classified, there is no question that Mr. Al-Nashiri was tortured at the hands of the CIA and that his current symptoms and poor health directly relate to that torture.

15. My physical examination of Mr. Al-Nashiri strongly supported his account of torture. This examination included a detailed history of historical and current physical symptoms, in addition to examination findings, including scars. Many of his physical ailments, notably chronic pain, can be linked to torture techniques utilized during his detention.

16. Despite the passage of time between Mr. Al-Nashiri's direct torture in CIA custody and the present, he shows little sustained improvement. Although, even in the best of circumstances, the horrific and calculated nature of his torture would be expected to have long lasting effects, there are multiple factors that are unique to Guantánamo and the military proceedings against him that are further exacerbating his symptoms and suffering.

17. A principal factor in Mr. Al-Nashiri's current condition is that Guantánamo itself was one of the so-called "black sites" in which Mr. Al-Nashiri was held, during his period of secret detention in the RDI program. It is difficult to overstate the pervasive consequences of this. On a periodic basis Mr. Al-Nashiri is confronted with reminders (visual, audible) of his time in CIA custody. Seeing these reminders particularly when shackled as he often is while moved to and from meetings with counsel and to court, triggers traumatic stress and causes him intense anxiety, dissociation, and painful flashbacks to his experience of torture.

18. His deterioration is exacerbated by the lack of appropriate mental health treatment at Guantánamo. Based on my assessment and vast experience caring for survivors of torture, the physical and mental health care afforded to him is woefully inadequate to his medical needs. A significant factor in my opinion is that medical professionals, including mental health care providers, have apparently been directly or indirectly instructed not to inquire into the causes of Mr. Al-Nashiri's mental distress, and as a consequence, he remains misdiagnosed and untreated. Any discussion of his experience of torture, which is the primary cause of his most chronic physical and mental ailments, appears to be off limits. I base this opinion on my review of medical records and the public testimony of "Dr. 97," who was Mr. Al-Nashiri's attending mental healthcare provider until recently. Dr. 97 changed his diagnosis of Mr. Al-Nashiri from PTSD to Narcissistic Personality Disorder shortly in advance of a hearing that involved the adequacy of Mr. Al-Nashiri's medical care. This is professionally irresponsible and is representative of the quality of mental health care that Mr. Al-Nashiri receives.

19. Lack of adequate mental health treatment is exacerbating Mr. Al-Nashiri's suffering and instability, and he continues to suffer from ongoing PTSD symptoms including somatic complaints, nightmares, hypervigilance, flashbacks, numbing, and a host of other symptoms.

20. The procedures and circumstances of the Mr. Al-Nashiri conditions of confinement and military trial process are sources of triggering events. The lack of treatment has left Mr. Al-Nashiri without the tools necessary to self-regulate his emotional responses to triggering events that others may not perceive. Without realizing it, guards, military trial personnel and even Mr.

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Al-Nashiri's defense team may do or say things that seem benign, or at least manageable in terms of their emotional valence, but which are profoundly and disproportionately upsetting to Mr. Al-Nashiri. The absence of an adequate mental health support system in Guantánamo causes each of these episodes to exacerbate Mr. Al-Nashiri's complex PTSD.

The environment in Guantánamo lacks stability or any sense of relative safety. This lack of stability profoundly exacerbates Mr. Al-Nashiri's complex PTSD. I understand from public court filings that the policies and procedures within the detention facilities are highly variable and unpredictable. This appears to be at least partially the result of an unstable command environment. Most of the detention personnel are stationed in Guantánamo for only 6 to 18 months. In addition, multiple chains of command are responsible for various aspects of his detention, the military trial process, and his health care. A key strategy of the CIA's RDI program was to keep the detention facility's policies and procedures unpredictable in order to induce helplessness. Whether deliberate or not in Guantánamo, the effect on Mr. Al-Nashiri is the same.

21. This chronic uncertainty conspires to present him with ever-changing rules and procedures, whose rationales are obscure to the point of arbitrary. While healthy adults might be able to accept that this atmosphere of uncertainty is now only incidental and a consequence of bureaucratic mismanagement, Mr. Al-Nashiri has no way of differentiating this from the government's prior deliberate efforts to destabilize his personality. Whatever the genesis of the chronic uncertainty, the effect is the same. There is an almost daily retraumatization of Mr. Al-Nashiri and no adequate mental health care to provide him the tools to deal with that.

22. At present, the military trial process is a principal driver of this instability. Rules governing hearings and how the issues will be dealt with are highly fluid and unpredictable. Moreover, the military judges have responded to defense requests pertaining to Mr. Al-Nashiri's conditions of confinement by stating that they have no power to control the various agencies that impact Mr. Al-Nashiri's well-being, such as the command that is responsible for control over the facility where Mr. Al-Nashiri is housed or the medical staff at Guantánamo. To be clear, I have no insight into the merits on any issue other than issues pertaining to Mr. Al-Nashiri's health care. However, in my opinion, the inability or unwillingness of the presiding judge to act on the merits of issues directly impacting Mr. Al-Nashiri's conditions of confinement and consequently his mental health contributes to a general atmosphere of arbitrariness that, given the stakes involved, exacerbates his trauma.

23. Given that the military trial is seeking to impose the death penalty against him, the ad hoc character of the proceedings causes Mr. Al-Nashiri profound anxiety. This anxiety is exacerbated by the fact that often his own defense counsel are typically unable explain or predict the course of the proceedings to him, to articulate applicable rules and standards, or set reasonable expectations for what will transpire. Indeed, given the ad hoc nature of the proceedings, it is unclear if or when a trial will occur.

24. One of the most destabilizing aspects of the military trial process is the lack of continuity of Mr. Al-Nashiri's defense team. Only one of his lawyers who were present at the beginning of the proceedings in 2011 remains. I understand that this is a consequence of military personnel rules. But Mr. Al-Nashiri is ill equipped to understand, let alone cope with, the loss of lawyers with whom he has developed relationships of varying degrees of trust. Particularly significant in

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my opinion is the loss of CMDR Brian Mizer with whom Mr. Al-Nashiri had a particularly trusting relationship. CMDR Mizer's departure, over Nashiri's objection, is particularly damaging. He also had a relationship with Ms. Nancy Hollander, which was involuntarily severed. While other lawyers have departed with Mr. Al-Nashiri's understanding, the chronic turnover in his defense team contributes to the lack of stability in his world. This has a significantly deleterious effect on his ability to cope with circumstances and undermines his ability to trust others who claim to be helping him.

25. Another aspect of the military trial process that causes a great deal of anxiety and traumatization is his periodic exclusion from the proceedings. When the military commission goes into "closed session," not only is Mr. Al-Nashiri excluded from the courtroom, but his attorneys are prevented from explaining to him what transpires or providing specifics as to why the session was closed in the first place. This in my opinion seriously interferes with his ability to trust his attorneys. What is more, he is generally aware that sessions are closed when issues relating to his torture are being discussed. This causes him acute distress associated with his exclusion from a discussion of his own experiences.

26. In my opinion, a capital trial of Mr. Al-Nashiri in the current Military Commission regime will have a profoundly harmful and possibly long lasting effect upon him, in addition to the permanent harm already inflicted. While I would expect a capital trial in any court to be stressful, my knowledge of the more predictable procedures of federal confinement and trials causes me to believe that the contemplated military trial is stressful on a different order of magnitude and, given Mr. Al-Nashiri's situation and fragile psychological state induced by torture, exponentially more harmful.

27. Indeed, I have serious doubts about Mr. Al-Nashiri's ability remain physically or mentally capable of handling the physical and emotional stress of the military trial process. As things stand, hearings in Guantánamo have lasted no more than a few days a week, perhaps one week per month. When a trial, expected to last several months, begins and trial proceedings are held daily and particularly when issues surrounding his torture are litigated in an adversarial setting, I fear that Mr. Al-Nashiri will eventually decompensate. Without adequate mental health support and in light of the unusual and unpredictable character of the proceedings, there is a strong likelihood that this decompensation will have a permanently disabling effect on his personality and his capacity to cooperate meaningfully with his attorneys.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 24, 2015.

*Sondra Crosby M.D.*  
Sondra S. Crosby, M.D.

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Center for Forensic Behavioral Sciences  
Walter Reed National Military Medical Center  
6000 MacArthur Blvd, Ste 1099, Bethesda, MD 20814

28 March 2013

Memorandum For: Mr. Richard Kammen, civilian learned council, and CDR(S) Stephen Reyes,  
JAGC, USN

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al  
Nashiri: ISN#10015

1. IDENTIFYING INFORMATION

Mr. Nashiri is a 47 year-old single, Middle Eastern, male of Saudi Arabian and Yemeni decent who has been in US custody for approximately ten years. Mr. Nashiri is currently incarcerated at Guantanamo Bay, Cuba.

2. REASON FOR REFERRAL

Mr. Nashiri is referred for the purpose of conducting a Sanity Board in accordance with Rules for Military Commission (R.M.C.) 706. According to the supporting documentation provided with the Sanity Board Order, a government motion dated 15 November 2012 raised concern that the accused may not be competent to stand trial due to a mental condition. The government's inquiry is based on several comments made by the accused during a motions hearing on 24 October 2012 referencing his "bad nerves" and poor treatment/threats from the guards which preclude him from attending court proceedings. The current Board is comprised of one psychiatrist and one psychologist assigned to the Center for Forensic Behavioral Sciences (CFBS) at Walter Reed National Military Medical Center (WRNMMC) and one psychologist assigned to United States Army Recruiting Command (USAREC): Lieutenant Colonel (LTC) David Johnson, M.D., Major (MAJ) [REDACTED] Psy.D., and MAJ [REDACTED] Psy.D., respectively.

The Sanity Board Order requires that the following three questions be addressed by the Board:

- a. Is the accused presently suffering from a mental disease or defect?
- b. What is the clinical psychiatric diagnosis?
- c. Does the mental disease or defect render the accused mentally incompetent to understand the nature of the proceedings against him or cooperate intelligently in or conduct his defense?

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### 3. LIST OF CHARGES

#### CHARGE I: VIOLATION OF 10 U.S.C. § 950t(17), USING TREACHERY OR PERFDY

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 12 October 2000, in the context of and associated with hostilities, invite the confidence and belief of one or more persons onboard USS COLE (DDG 67), that two men dressed in civilian clothing, waving at the crewmembers onboard USS COLE (DDG 67), and operating a civilian boat, were entitled to protection under the law of war, and intending to betray that confidence and belief, did thereafter make use of that confidence and belief to detonate explosives hidden on said civilian boat alongside USS COLE (DDG 67), killing 17 persons (see Charge II for a list of deceased) and injuring one or more persons, all crewmembers onboard USS COLE (DDG 67).

#### CHARGE II: VIOLATION OF 10 U.S.C. § 950t(15), MURDER IN VIOLATION OF THE LAW OF WAR

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 12 October 2000, in the context of and associated with hostilities, in violation of the law of war, to wit: by committing an act of perfidy, said act of perfidy being two men dressing in civilian clothing, waving at the crewmembers onboard USS COLE (DDG 67), and operating and detonating an explosives-laden civilian boat alongside a United States naval vessel, intentionally and unlawfully kill the following 17 persons:

1. HT3 Kenneth E. Clodfelter, USN;
2. ETC Richard Costelow, USN;
3. MSSN Lakeina M. Francis, USN;
4. ITSN Timothy L. Gauna, USN;
5. SMSN Cherone L. Gunn, USN;
6. ITSN James R. McDaniels, USN;
7. EN2 Marc I. Nieto, USN;
8. EW3 Ronald S. Owens, USN;
9. SN Lakiba N. Palmer, USN;
10. ENFA Joshua L. Parlett, USN;
11. FN Patrick H. Roy, USN;
12. EW2 Kevin S. Rux, USN;
13. MS3 Ronchester M. Santiago, USN;
14. OS2 Timothy L. Saunders, USN;
15. FN Gary G. Swenchonis, Jr., USN;
16. ENS Andrew Triplett, USN; and
17. SN Craig B. Wibberley, USN.

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ISN#10015

**CHARGE III: VIOLATION OF 10 U.S.C. § 950(15), 10 U.S.C. § 950(28), ATTEMPTED  
MURDER IN VIOLATION OF THE LAW OF WAR**

Specification 1: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 3 January 2000, in the context of and associated with hostilities, with the specific intent to commit Murder in Violation of the Law of War, attempt to intentionally and unlawfully kill one or more persons onboard USS THE SULLIVANS (DDG 68), in violation of the law of war, to wit: by committing an act of perfidy, and committing acts that amount to more than mere preparation, and to effect the commission of Murder in Violation of the Law of War, the said NASHIRI rented real property, acquired a boat, acquired explosives, then altered, assembled and launched an explosives-laden boat, after ordering those onboard to perfidiously approach USS THE SULLIVANS (DDG 68), and then to detonate the explosives so as to damage and sink USS THE SULLIVANS (DDG 68), and to kill one or more persons onboard that vessel.

Specification 2: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 12 October 2000, in the context of and associated with hostilities, with the specific intent to commit the offense of Murder in Violation of the Law of War, attempt to intentionally and unlawfully kill one or more persons onboard USS COLE (DDG 67), in violation of the law of war, to wit: by committing an act of perfidy, and committing acts that amount to more than mere preparation, and to effect the commission of Murder in Violation of the Law of War, the said NASHIRI rented real property, acquired a boat, acquired explosives, altered the boat, and ordered those onboard to launch the explosives-laden boat, to perfidiously approach USS COLE (DDG 67), and to detonate the explosives while alongside USS COLE (DDG 67) so as to damage and sink USS COLE (DDG 67), and to kill one or more persons onboard that vessel.

**CHARGE IV: VIOLATION OF 10 U.S.C. § 950(24), TERRORISM**

Specification 1: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 12 October 2000, in the context of and associated with hostilities, and in a manner calculated to influence and affect the conduct of the United States government by intimidation and coercion and to retaliate against the United States government, engage in an act that evinced a wanton disregard for human life, to wit: intentionally detonating an explosives-laden boat alongside USS COLE (DDG 67), resulting in the deaths of seventeen persons (see Charge H for a list of deceased) and the infliction of great bodily harm on one or more persons, all crewmembers onboard USS COLE (DDG 67).

Specification 2: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around the coast of Al Mukallah, Yemen, on or about 6 October 2002, in the context of and associated with hostilities, and in a manner calculated to influence and affect the conduct of the United States government

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by intimidation and coercion and to retaliate against the United States government, intentionally kill and inflict great bodily harm on one or more protected persons and engage in an act that evinced a wanton disregard for human life, to wit: detonating an explosives-laden boat alongside *MV Limburg*, resulting in the death of one civilian person, Mr. Atanas Atanasov, onboard *MV Limburg*.

CHARGE V: VIOLATION OF 10 U.S.C. § 950t(29), CONSPIRACY

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, at multiple locations in and around Yemen, Afghanistan, Pakistan, Saudi Arabia, the United Arab Emirates (hereinafter "UAE"), Qatar, Bosnia, the Middle East, the Arabian Peninsula, and other locations, in the context of and associated with hostilities, from an unknown date prior to approximately August 1996, through approximately October 2002, willfully conspire, agree, and join with at least one of the following:

- a. Usama bin Laden
- b. Ayman Al Zawahiri
- c. Mohammed Atef
- d. Mushin Musa Matwalli Atwah
- e. Walid Muhammad Salih Mubarak bin 'Attash
- f. Jamal Ahmed Mohammed Ali Al-Badawi
- g. Fand Mohammed Ahmed Al-Quso
- h. Hassan Sa'id Awad Al Khamri
- i. Ibrahim Al-Thawar
- j. Taha Ibrahim Hussein Al-Abdal
- k. Hadi Muhammad Salih Al-Wirsh
- l. Nasser Ahmad Nasser Al-Bahri
- m. Khalid Ibn Muhammad Al Juhani
- n. Fawzi Muhammad `Abd-Al-Qawi Al-Wajih
- o. Fawzi Yahya Qaim Al-Hababi
- p. Muneer Al Sharabi
- q. Walid Al-Shaybah
- r. Mohammad Rashed Daoud Al-Owhali
- s. Jihad Muhammad Abdah Ali Abdullah Al-Harazi
- t. Ali Hamza Ahmed Suliman Al-Bahlul
- u. Nasir 'Awad
- v. Husayn Al-Badawi;
- w. Ahmed Mohammed at Darbi
- x. Umar Sa'id Hassan Jarullah
- y. Muhammed Sa'id Ali Hasan Al-Amari
- z. and others, both known and unknown;

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to commit Terrorism and Murder in Violation of the Law of War, both offenses triable by military commission, with the conspiracy resulting in the death of one or more victims and, knowing that Terrorism and Murder in Violation of the Law of War were the unlawful purpose of the conspiracy, and intending his actions to further the unlawful purpose of the conspiracy, the said NASHIRI did knowingly commit at least one of the following overt acts:

1. Between approximately 1994 and 1999, NASHIRI and co-conspirators joined a call to jihad against the enemies of Islam by Usama bin Laden ("bin Laden"). NASHIRI and the co-conspirators traveled to locations such as Bosnia, Tajikistan, and Afghanistan. In these locations NASHIRI and co-conspirators attended training camps either run by or associated with al Qaeda. NASHIRI trained in or gave training in military tactics, including but not limited to, training on combat, weapons, bomb-making, and assassination. NASHIRI and the co-conspirators then participated in, or attempted to participate in, jihad by fighting in brigades of mujahideen.
2. Between approximately 1996 and 1999, NASHIRI and co-conspirators met personally with bin Laden and other high-ranking members of al Qaeda and some of the co-conspirators swore an oath of allegiance to bin Laden. During this time period, NASHIRI developed relationships with individuals who would later assist him in what would become known as the "boats operation."
3. In approximately late 1997 to 1998, NASHIRI discussed with bin Laden plans for a boats operation to attack ships in the Arabian Peninsula, a plan which previously had been discussed by bin Laden and Walid Muhammad Salih Mubarak bin 'Attash ("Khallad").
4. NASHIRI, bin Laden and Khallad ultimately planned al Qaeda's boats operation, which came to encompass at least three separate terrorist attacks: an attempted attack on USS THE SLTLLIVANS (DDG 68) on 3 January 2000; a completed attack on USS COLE (DDG 67) on 12 October 2000; and a completed attack on a French supertanker, *MV Limburg*, on 6 October 2002.
5. In approximately 1998, at the direction of bin Laden, NASHIRI and Khallad travelled to Yemen, at the southern tip of the Arabian Peninsula, to prepare for the boats operation. NASHIRI scouted the Al-Hudaydah area of Yemen and conducted surveillance of ship traffic in the region. As NASHIRI and Khallad collected information, they and bin Laden began to focus their attention on mounting an attack in Aden Harbor.
6. In approximately the summer of 1998, in response to direction by bin Laden, NASHIRI and Khallad assisted in another al Qaeda plot, simultaneous attacks on United States embassies in Kenya and Tanzania in East Africa, where NASHIRI provided a fraudulent Yemeni passport used by one of the suicide bombers to enter Kenya immediately before the attack on the Embassy of the United States in Nairobi,

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Kenya, and where Khallad provided that same suicide bomber with details of the attack plan.

7. In approximately early 1999, at the direction of bin Laden, NASHIRI and Khallad continued preparing for the boats operation, including (but not limited to) obtaining and storing explosives for use in the boats operation. NASHIRI then left Yemen because Khallad had been arrested by Yemeni authorities.
8. After Khallad's arrest and subsequent release from jail in May 1999, NASHIRI returned to Yemen with instructions from bin Laden. NASHIRI took control of the boats operation, at the direction of bin Laden, due to unwanted attention Khallad received as a result of his arrest. NASHIRI took over preparations for the boats operation, and Khallad returned to Afghanistan.
9. During late 1999 and early 2000, NASHIRI spoke with Khallad on the phone several times to relay information about the boats operation, and on at least one occasion Khallad relayed this information to bin Laden.
10. Between approximately the summer of 1999 and the winter of 1999, NASHIRI continued making preparations to implement al Qaeda's boats operation, some of which he accomplished personally and some of which he directed others to accomplish. These preparations included, but were not limited to, enlisting the assistance of additional co-conspirators, purchasing vehicles, purchasing a boat and materials, renting houses to store the boat and materials and to assemble the attack boat, and obtaining false identification documents.
11. On or about 3 January 2000, the first boats operation attack commenced when, at NASHIRI's direction, at least two of the co-conspirators launched a boat packed with explosives from the Madinat Al-Shaab beach area into Aden Harbor, intending to steer it toward a United States warship, USS THE SULLIVANS (DDG 68), which was refueling nearby. The attack ultimately failed when the explosives-laden boat beached in the surf of Aden Harbor.
12. On or about 4-6 January 2000, NASHIRI and other co-conspirators recovered the attack boat from the beach at Madinat Al-Shaab, on the edge of Aden Harbor. NASHIRI and other co-conspirators recovered the boat, its motor, its cargo of explosives, and other materials used in the attempted attack. During these recovery efforts, NASHIRI claimed ownership of the attack boat and the motor. NASHIRI and the other co-conspirators ultimately used a front-end loader, crane, and flatbed truck to recover and take physical possession of the attack boat and return it to its storage location in Aden.
13. After the attempted attack on USS THE SULLIVANS (DDG 68) in January 2000 but

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- before approximately September 2000, NASHIRI returned to Afghanistan, where he and Khallad met with bin Laden and other high-ranking members of al Qaeda at bin Laden's compound in Qandahar.
14. After the attempted attack on USS THE SULLIVANS (DDG 68) in January 2000 but before approximately September 2000, NASHIRI received additional training in Afghanistan from an al Qaeda explosives expert.
  15. After the attempted attack on USS THE SULLIVANS (DDG 68) in January 2000 but before approximately September 2000, NASHIRI tested the explosives he recovered from the failed attack to make certain they were still usable for future attacks.
  16. Later in 2000, after returning from Afghanistan, NASHIRI continued preparations -- some of which he accomplished personally and some of which he directed others to accomplish -- for a second boats operation attack. These preparations included, but were not limited to, renting another house from which to conduct surveillance of Aden Harbor, repairing and re-fitting the attack boat, transferring ownership of and registering the attack boat, purchasing another vehicle, securing another location at which to store the attack boat, testing the attack boat on the waters of Aden Harbor, making arrangements for the attack to be videotaped, and hiring a crane operator to launch the attack boat.
  17. During approximately the summer of 2000, NASHIRI informed Khallad that the boats operation was nearly ready and that bin Laden should send the suicide bombers.
  18. In or about September 2000, NASHIRI informed Khallad that the boats operation was ready to execute and further informed Khallad that he had already chosen the suicide bombers for the attack.
  19. In or about September 2000, NASHIRI spoke again with Khallad, who relayed to NASHIRI a directive from bin Laden that NASHIRI leave Yemen before the attack and return to Afghanistan.
  20. At some point after January 2000, but prior to 12 October 2000, NASHIRI filled the attack boat with explosives in preparation for the attack.
  21. In approximately September or October 2000, prior to the attack, NASHIRI left Yemen, as instructed by bin Laden. NASHIRI met Khallad, and the two traveled together to Qandahar, Afghanistan, to meet with bin Laden. NASHIRI informed bin Laden that an attack on a United States warship in Aden was imminent.
  22. On or about 12 October 2000, pursuant to NASHIRI's instructions, the coconspirators removed the attack boat from its storage location, drove the attack boat to the launch site and, using a crane, lowered it into the water.

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23. On or about 12 October 2000, as a result of planning and preparation by NASHIRI and others, the suicide bombers, at the direction of NASHIRI, dressed in civilian clothes, piloted the explosives-laden boat to where USS COLE (DDG 67) was refueling, offered friendly gestures to several crew members, and brought their boat alongside USS COLE (DDG 67), roughly amidships. Once alongside at approximately 11:18 a.m. (local), the suicide bombers detonated the explosives, blasting a hole in the side of USS COLE (DDG 67) approximately 30 feet in diameter, killing 17 crewmembers and injuring at least 37 crewmembers. The suicide bombers died in the attack.
24. In approximately May 2001, NASHIRI met with bin Laden and another high-ranking member of al Qaeda at bin Laden's compound in Qandahar.
25. In approximately 2001 and 2002, NASHIRI continued al Qaeda's boats operation by directing acts which included, but were not limited to, acquiring a boat for use in the attack, acquiring explosives for use in the attack, transferring ownership and registration of the boat, and obtaining a global positioning system (GPS) device for use in planning the attack. NASHIRI supplied the necessary resources, planned the attack, and directed the transfer of money for use an upcoming attack.
26. In approximately 2001 and 2002, NASHIRI and other co-conspirators implemented operational security measures to avoid detection.
27. On or about 6 October 2002, near the port of Al Mukallah, Yemen, as a result of planning by NASHIRI and others, suicide bombers, at the direction of NASHIRI, used an explosives-laden boat to attack the French supertanker *MV Limburg*. The explosion blasted a hole through the hull of the ship, resulting in the death of a crewmember, injury to approximately 12 crewmembers, and spillage of approximately 90,000 barrels of oil into the Gulf of Aden.

**CHARGE VI: VIOLATION OF 10 U.S.C. § 950a(13), INTENTIONALLY CAUSING  
SERIOUS BODILY INJURY**

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, in the context of and associated with hostilities, on or about 12 October 2000, intentionally cause serious injury to the body of one or more persons, all crewmembers onboard USS COLE (DDG 67), with unlawful force and violence, in violation of the law of war, to wit: perfidiously operating and detonating an explosives-laden vessel alongside USS COLE (DDG 67).

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**CHARGE VII: VIOLATION OF 10 U.S.C. § 950t(16), DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR**

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 12 October 2000, in the context of and associated with hostilities, intentionally destroy property belonging to another person, without that person's consent, in violation of the law of war, to wit: two men perfidiously approaching USS COLE (DDG 67), and detonating concealed explosives, resulting in the destruction of USS COLE (DDG 67), destruction of supplies and rations located onboard USS COLE (DDG 67), and destruction of personal effects located onboard USS COLE (DDG 67).

**CHARGE VIII: VIOLATION OF 10 U.S.C. § 950t(16), 10 U.S.C. § 950t(28), ATTEMPTED DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR**

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around Aden, Yemen, on or about 3 January 2000, in the context of and associated with hostilities, with the specific intent to commit the offense of Destruction of Property in Violation of the Law of War, attempt to intentionally destroy property belonging to another, without the lawful owner's consent, to wit: USS THE SULLIVANS (DDG 68), by committing certain overt acts, in violation of the law of war, including, but not limited to, renting real property, acquiring a boat, acquiring explosives, altering a boat, and assembling and launching a boat; the said NASHIRI's actions amounted to more than mere preparation and tended to effect the commission of Destruction of Property in Violation of the Law of War, to wit: two men perfidiously dressing in civilian clothing and operating an explosives-laden civilian vessel, in an attempt to detonate said explosives-laden civilian vessel alongside USS THE SULLIVANS (DDG 68), which would have resulted in the destruction of USS THE SULLIVANS (DDG 68), destruction of supplies and rations located onboard USS THE SULLIVANS (DDG 68), and destruction of personal effects located onboard USS THE SULLIVANS (DDG 68).

**CHARGE IX: VIOLATION OF 10 U.S.C. § 950t(2), ATTACKING CIVILIANS**

Specification: In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around the coast of Al Mukallah, Yemen, on or about 6 October 2002, in the context of and associated with hostilities, intentionally attack civilian persons onboard *MV Limburg*, a civilian oil tanker crewed by civilian personnel, who were not engaged in any direct and active hostilities, and that resulted in the death of one person, Atanas Atanasov, and the said Nashiri knew that such targets were in a civilian status.

~~TOP SECRET~~ [REDACTED] ~~NOT YET REVIEWED BY OCA~~

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**CHARGE X VIOLATION OF 19 U.S.C. § 950t(3), ATTACKING CIVILIAN OBJECTS**

In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around the coast of Al Mukallah, Yemen, on or about 6 October 2002, in the context of and associated with hostilities, intentionally attack civilian persons onboard *MV Limburg*, a civilian oil tanker crewed by civilian personnel, not a military objective, and the said Nashiri knew that such targets was not a military objective.

**CHARGE XI VIOLATION OF 19 U.S.C. § 950t(23), HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT**

In that Abd al Rahim Hussayn Muhammad al NASHIRI, an alien unprivileged enemy belligerent subject to trial by military commission, did, in or around the coast of Al Mukallah, Yemen, on or about 6 October 2002, in the context of and associated with hostilities, intentionally endanger the safe navigation of a vessel, *MV Limburg*, not a military objective, to wit: by causing damage to the operational ability and navigation of the *MV Limburg*, and resulting in the death of one crewmember, Atanas Atanasov.

**4. STATEMENT OF NON-CONFIDENTIALITY:**

Mr. Nashiri was informed of the non-confidential nature of this evaluation. He was informed that a full report of the evaluation would be sent to his Defense Counsel, and that a summarized report consisting only of the Board's answers to the court's questions would be sent to the Trial Counsel. He was informed that Sanitary Board members may be called to testify, and that the information obtained from this evaluation, as well as the conclusions thereof, could be made public. He voiced an understanding of these warnings and agreed to participate in the evaluation.

**5. SOURCES OF INFORMATION:**

- a. Interview with Mr. Nashiri, on 12, 13, and 14 Mar 2013, for a total of 11 hours
- b. Interview with LTC Masucco, SJA for Guantanamo Bay (GTMO), at GTMO, regarding movement procedures of Mr. Nashiri for legal proceedings, on 14 Mar 2013 for 30 minutes
- c. Interview with TFP Psychiatrist (Mr. Nashiri's military psychiatrist) at GTMO on 14 Mar 2013 for 30 minutes
- d. Site visit of the holding cell and courtroom that Mr. Nashiri attends for court purposes, conducted with [REDACTED] on 14 Mar 2013 for 90 minutes
- e. R.M.C. 706 Order
- f. Charge Sheet
- g. Memorandum for the R.M.C. 706 Board Members, written by Richard Karmen, Learned Counsel, on 14 Feb 2013, with Appendix 1: Amicus Curiae by Physicians for Human Rights and Appendix 2: Statement on Access to Relevant Medical and Other Health

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Records and Relevant Legal Records for Forensic Medical Evaluations of Alleged Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (The Istanbul Protocol) by the International Forensic Expert Group

- h. Government Motion dated 3 Apr 2012 (AE 064)
- i. Government Request for Discovery dated 28 Mar 2012 (AE 064)
- j. Government Motion dated 2 Oct 2012 (AE 122A)
- k. Government Motion dated 15 Nov 2012 (AE 140)
- l. Declaration by CDR Jennifer A. Strazza regarding her discussions with Mr. Nashiri, dated 4 Sep 2012 (AE 122A)
- m. Declaration by CDR Jennifer A. Strazza regarding internal movements of Mr. Nashiri, dated 2 Oct 2012 (AE 122A)
- n. U.S. Marshals Policy on use of restraints in prisoner operations (AE 122A)
- o. Transcript of Military Commission hearing including testimony by Dr. Vincent Iacopino dated 5 Feb 2013
- p. Transcript of Military Commission hearing dated 24 Oct 2012
- q. Video footage of transport of Mr. Nashiri from his cell to the holding cell at the courthouse, during which transport he complained about a wrist injury due to the guards (includes shackling, walking, ride in vehicle, and metal detection)
- r. CIA Office of the Inspector General (OIG) report, redacted open-source version obtained by Defense through the internet, dated 7 May 2004
- s. CIA Office of the Inspector General (OIG) report, redacted version supplied by the Government, dated 7 May 2004
- t. Document entitled "Open-source Government Information about the CIA Rendition, Detention and Interrogation (RDI) Program, by Newell, dated 21 May 2011 (142 pages)
- u. Interview with Mr. Nashiri conducted by SA Stephen Gaudin of the FBI, SA Robert McFadden of CIFA, and SA Kristen Sendlein of AFOSI, 34 pages long, dated 2 Feb 2007
- v. Summaries of interrogations of Mr. Nashiri from late 2002 through 2006 [REDACTED]
- w. Psychological assessment notes of Mr. Nashiri from late 2002 through 2006 [REDACTED]
- x. Medical assessment notes of Mr. Nashiri from late 2002 through 2006 [REDACTED]
- y. Medical Notes, Doctor's Orders, Laboratories, Radiological Studies, Procedures, and Medication Administration Record (MAR) from GTMO from 10 Sep 2006 to 31 Oct 2011
- z. Psychiatric Notes from GTMO from 8 Sep 2006 to 31 Oct 2011
- aa. Incident Screening Form from Delta Clinic, GTMO, dated 11 Oct 2006 regarding Mr. Nashiri's allegation of abuse
- bb. Incident Screening Form from Delta Clinic, GTMO, dated 19 Nov 2006 regarding Mr. Nashiri's allegation of abuse
- cc. Incident Screening Form from Delta Clinic, GTMO, dated 23 Nov 2006 regarding Mr. Nashiri's allegation of abuse
- dd. Incident Screening Form from Delta Clinic, GTMO, dated 6 Jun 2007 regarding Mr. Nashiri's allegation of abuse

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**SOURCES OF INFORMATION RELATED TO PROVING THE ALLEGED CRIMES  
AND COMBATANT STATUS**

- 1) Overt Acts Documents OA 1-27. [REDACTED]
- 2) FBI Statement of [REDACTED]
- 3) FBI Statement of [REDACTED]
- 4) FBI Statement of [REDACTED]
- 5) FBI Statement of [REDACTED]
- 6) FBI Statement of [REDACTED]
- 7) FBI Statement of [REDACTED]
- 8) FBI Statement of [REDACTED]
- 9) FBI Statement of [REDACTED]
- 10) FBI Statement of [REDACTED]
- 11) FBI Statement of [REDACTED]
- 12) FBI Statement of [REDACTED]
- 13) NCIS Statement of Abu Badr, dated 10 Jun 2004
- 14) CIIP Statement of Abu Badr, dated 29 Sep 2004
- 15) FBI Statement of [REDACTED]
- 16) FBI Statement of [REDACTED]
- 17) FBI Statement of [REDACTED]
- 18) FBI Laboratory Report on evidence from the USS Cole, [REDACTED]
- 19) Certificate of Non-Existence of Record regarding Mr. Nashiri, by Mike Quinn at  
Department of Homeland Security, in the 30<sup>th</sup> of a month in 2008 (month was cut off on  
the copy)
- 20) NCIS Limburg Investigation Report dated 11 Oct 2002
- 21) [REDACTED]
- 22) USS Cole victim death certificates
- 23) List of USS Cole victim injuries
- 24) Statement by USN Sailor [REDACTED] in regards to the USS Cole  
bombing
- 25) Statement by redacted USN Sailor on unknown date in regards to USS Cole bombing
- 26) Statement by redacted USN Sailor on unknown date in regards to USS Cole repair
- 27) Statement by RADM Edward S. Hebner on an unknown date in regards to his prior  
command of the USS The Sullivans
- 28) Interview with Usama Bin Laden's Bodyguard, author unknown, on 20 Aug 2004
- 29) Translation of "Declaration of Holy War Against the Americans Who are Occupying the  
Land of the Two Holy Places" by Usama Bin Laden, provided by the Government
- 30) Translation of "The International Islamic Front for Jihad against the Jews and the  
Crusaders" by Usama Bin Laden, provided by the Government
- 31) Translation of "The Islamic Nuclear Bomb" by Usama Bin Laden, provided by the  
Government

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- 32) Transcript of CNN Interview of Usama Bin Laden on 20 Mar 1997, provided by the Government
- 33) Press Briefing on U.S. Strikes in Sudan and Afghanistan by Secretary of State Madeleine K. Albright and National Security Advisor Sandy Berger on 20 Aug 1998, provided by the Government
- 34) Fact Sheet on Usama Bin Laden released by the U.S. Department of State on 21 Aug 1998, provided by the Government
- 35) DoD Memoranda from Feb-Mar 2007 regarding the determination of combatant status for Mr. Nashiri by the Combatant Status Review Tribunal (CSRT)
- 36) Verbatim Transcript of CSRT Hearing to determine combatant status of Mr. Nashiri, including testimony by Mr. Nashiri, dated 14 Mar 2007
- 37) Memorandum entitled "Unclassified Summary of Basis for Tribunal Decision" by the Tribunal President, undated
- 38) Several Detainee Election Forms and affiliated hand-written documents containing answers and statements given by Mr. Nashiri as part of the CSRT process, including two allegations of abuse

#### 6. SOURCES OF INFORMATION NOT AVAILABLE:

The Board requested to speak with the defense expert, Dr. Rosenfeld, but was told that he was not available until after 1 Apr 2013.

#### 7. GOVERNMENT'S VERSION OF THE OFFENSE:

The government contends that the accused is involved with the planning of multiple terrorist attacks against the United States and its allies. Specifically these attacks include the attempted attack on the The USS Sullivans (DDG 68) on 3 January 2000, and the attacks on the USS Cole (DDG 67) on 12 October 2000 and on the French supertanker MV *Limburg* on 6 October 2002. In total these attacks resulted in the deaths of eighteen people, serious injury to many others, and significant property damage.

#### 8. ACCUSED'S VERSION OF THE OFFENSE

Mr. Nashiri reported that he understood that he is accused of planning the bombing of the USS Cole and the MV *Limburg* but emphatically denied any involvement with the bombing. The accused stated that he did not know the individuals involved with the bombing and that "I'm not apart of their gang." He indicated that "the problem is" he has met a number of individuals during his travels and business ventures and as a result he is being blamed for a crime he did not commit due to guilt by association.

- Mr. Nashiri's account of the events mentioned above are at odds with a report dated 2 February 2007 in which he was interviewed for three days by the Federal Bureau of Investigations (FBI), Counterintelligence Field Activity (CIFA), and Air Force Office of Special

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Investigations (AFOSI). According to the report the accused knew and stayed with multiple individuals involved with the USS Cole bombing and routinely transported money from Afghanistan to Yemen on the orders of Bin Laden.

#### **9. BRIEF DEVELOPMENTAL HISTORY SUMMARY**

Mr. Nashiri was born and raised in Mecca, Saudi Arabia. He was raised by both of his parents and is one of 12 children born to his parents. He has six brothers and five sisters. He indicated that his family was not rich, but he grew up in a "joyful house" and had a "normal" childhood. His family was not well-known or famous but since he grew up in a "respected area, lots of moms and dads would give me attention." He reported that he was active in extracurricular activities such as sports and was particularly good at soccer, running, and gymnastics. The accused reported that during his adolescent years he considered everyone to be his friend but he did not have a specific friend (a best friend) and viewed everyone as equal. He considered himself quiet as a child.

#### **10. BRIEF RELATIONSHIP HISTORY SUMMARY**

Mr. Nashiri explained that he did not start dating until after he left Saudi Arabia (age 27) but did not elaborate any further on his romantic relationships. He reported that he was interested in meeting and marrying American or Western women.

#### **11. BRIEF EDUCATION HISTORY SUMMARY**

Mr. Nashiri reported that he was not smart but was successful in his studies. He stated that he did not put in much effort in his studies due to a lack of interest but if he had he would have been "spectacular." He reported that he did not take notes or do his homework in school because he could understand the material and did not see the need to do so. He also stated that he would only need to review 30 minutes prior to taking a test. He reported that his main focus in school was on economics and administration. He was also good in most subjects especially arithmetic, chemistry, and physics, but was "poor in English." He reported that every time he failed English he had to repeat the entire grade which resulted in him repeating every grade in middle school and high school. He reported that the average student graduated high school at the age of eighteen but due to failing English he graduated high school at the age of 25 or 26. He reported that he wanted to drop out of high school but decided against it because his parents wanted him to stay in school, especially his mother. He denied that his grade repeats caused him embarrassment or harassment from his peers. He reported that many other students had problems with English as well.

- The notes written by a psychologist in early 2003 during interrogation sessions indicate that Mr. Nashiri had problems with paying attention in class and remembering information and that his concentration problem had been long-standing.

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## **12. BRIEF OCCUPATIONAL HISTORY SUMMARY**

Mr. Nashiri reported that his first job was at age of seven, as a juice vender, in which he sold juice from his mother's fridge. During his adolescence he worked as a laborer and assisted in operating his father's construction business. He enjoyed working around his father but did not like the overall work because he thought it was exhausting. He reported that prior to leaving Saudi Arabia, at age 27, he worked at a variety of jobs to include driving a taxi, selling clothes, and owning a restaurant that catered to Hajj tourists. According to Mr. Nashiri he worked at each job for approximately six to seven months, and could "succeed" at anything he put effort into. When asked about his other business ventures prior to leaving Saudi Arabia he reported that he "tried many things" and that he made "a little bit" of money. He reported being generally successful in most business ventures he undertook. He also reported having business ventures outside of Saudi Arabia. In particular he tried to establish businesses in Yemen and Afghanistan. He indicated that he wanted to sell fish in Yemen but did not elaborate further. He did not elaborate on his business ventures in Afghanistan. At some point, he took up a cause of wanting to improve the treatment of prisoners. He based this on reading about unjust politically-motivated imprisonments in Morocco, and knowing that his uncle in a Saudi prison had "everything" he needed. He wanted to create a humanitarian organization for prisoner rights in countries other than Saudi Arabia.

- According to a report dated 2 February 2007, detailing a three day interview between Mr. Nashiri and the FBI, CIFA, and AFOSI, Mr. Nashiri told interviewers that he was a very successful businessman and at one time had a net worth of one million dollars (US). He explained that he left Saudi Arabia to join the jihad because he had become disillusioned with personal profit and being a businessman did not fulfill him in his quest to change the situation in Saudi Arabia.

## **13. BRIEF TRAVEL SUMMARY BETWEEN 1993 AND 2002**

He indicated that from 1993 until his arrest for the current charges he "traveled extensively." When questioned about his motivation for this extensive traveling, he indicated that he traveled to places where the indigenous peoples were having similar struggles as Saudi Arabia (i.e., political and economic discontent) to "see how these people were doing it, how they were making changes for the better" in their political and economical systems. He hoped he might play some part in helping to solve the "problems of others" and reported he visited with humanitarian organizations during his travels. He reported that there were no armed conflicts occurring in the places he travelled to.

- The above account is at odds with the 2 February 2007 interview with the FBI, CIFA, and AFOSI. According to this interview Mr. Nashiri's stated reason for traveling outside of Saudi Arabia during this time period was to fight for Muslims and because he and Bin Laden had the same goals "which was to expel the US from the Arabian Gulf and Peninsula."

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#### 14. BRIEF LEGAL HISTORY SUMMARY

Mr. Nashiri indicated he had no legal history prior to being arrested in Dubai in 2002 for the current charges. Records review indicates that during his combatant status review process, on or about 14 March 2007, he stated that he was wanted by both Saudi and Yemeni officials for his alleged involvement in smuggling rockets into Saudi Arabia. He also provided a similar statement to FBI authorities (i.e., that he was wanted for alleged arms smuggling by Saudi and Yemeni officials). In this same interview he reported being arrested in Yemen for fishing without a license but was quickly released.

#### 15. FAMILY LEGAL HISTORY

Mr. Nashiri reported that he had an uncle who was in prison in Saudi Arabia due to using and selling "hashish and other drugs." He also reported that his cousin was involved with the bombing of American Embassy in Nairobi. He indicated that there was no other family arrest history.

#### 16. MR. NASHIRI'S REPORT OF EVENTS WHILE IN US CUSTODY

By all accounts the accused was held from late 2002 until 2006 at various "black sites" while in US custody and prior to arriving at his current location. The following table summarizes Mr. Nashiri's account for the above caption timeframe. The locations provided below are per his report and are uncorroborated at this time.

Timeframe	Location	What Occurred
Circa October 2002 (approximately one month)	Dubai	<ul style="list-style-type: none"> <li>Initial arrest; interrogated and transferred to US custody</li> <li>He reported that he was not allowed to sleep, was beaten, and bung by his hands</li> <li>He reported that he was beaten only during interrogations but was allowed to rest when he was not interrogated.</li> </ul>
Circa November 2002 (approximately one month)	Unknown Location	<ul style="list-style-type: none"> <li>During his transfer to this location ice was put down his shirt while still on the plane</li> <li>He was forced to keep his hands on a wall and not given food for three days</li> </ul>
Unknown dates but he reported that he was held for	Unknown Location	<ul style="list-style-type: none"> <li>He reported that he was tortured to include having "water poured</li> </ul>

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~~TS-SCL [REDACTED] NOT YET REVIEWED BY OCA~~

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approximately six months		on me", being "dunk" in water, being hung from the ceiling, was kept "cold as ice-cream", and being physically assaulted.
Unknown dates but he reported that he was held for approximately six months	[REDACTED]	<ul style="list-style-type: none"> <li>• He reported that he did not experience any ill treatment during this time</li> </ul>
Unknown dates but he reported that he was held for approximately six months	[REDACTED]	<ul style="list-style-type: none"> <li>• He reported a general continuation of the above interrogation techniques and his belief that his interrogators were "putting something" in his food which caused him to have headaches, arm and joint pain, and gastrointestinal issues (such as diarrhea and constipation)</li> <li>• He also reported that he would hear bullet sounds from the hallway</li> <li>• He reported being yelled at, threatened, slapped, slammed against the wall, chained, and threatened.</li> </ul>
Unknown dates but he reported that he was held for approximately two years	[REDACTED]	<ul style="list-style-type: none"> <li>• He reported that the food and his treatment was "bad" but did not elaborate.</li> </ul>
Unknown dates but he reported that he was held for approximately six months	[REDACTED]	<ul style="list-style-type: none"> <li>• Mr. Nashiri reported a continuation of experiences as captured in the two boxes immediately above.</li> </ul>
Unknown dates but he reported that he was held for approximately six months	[REDACTED]	<ul style="list-style-type: none"> <li>• During this time he reported that he was allowed to use the gym, had a computer and TV in his room, and was allowed to cook for himself</li> <li>• He believes that he was returned to good health and allowed to get stronger because he would be evaluated by physicians at his next transfer site</li> </ul>

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~~TS-SCI [REDACTED] NOT YET REVIEWED BY OCA~~

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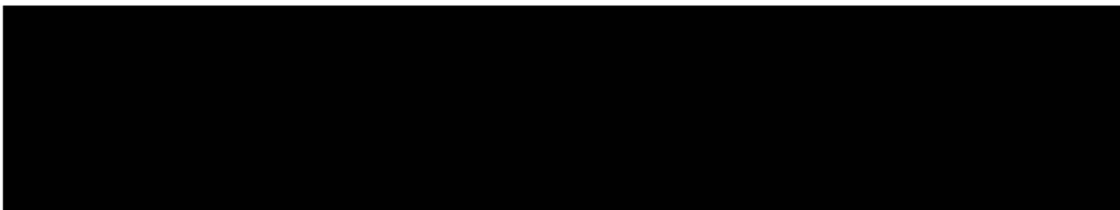
- Custodial records for the time period in question (late 2002 thru 2006) were reviewed. These records indicate that Mr. Nashiri experienced a number of enhanced interrogation techniques while in US custody. His experiences included: walling, water boarding, facial slaps, attention grabs, sleeping in various size boxes, sleep deprivation, hooding, being stripped naked, being shackled to a floor, exposure to cold temperatures in his cell, ambient noise, and someone racking a gun and revving a power drill near his person.

The following table summarizes Mr. Nashiri's account of his treatment in US custody since leaving the "black sites" and being placed under US military jurisdiction in Guantanamo Bay, Cuba.

Timeframe	Location	What Occurred
2006-Present	GTMO, Cuba	<ul style="list-style-type: none"> <li>• He reported that his treatment has varied but he does not report experiencing the harsh treatment he experienced during his first five years in US custody</li> <li>• He reported that his treatment and mood improved after approximately one to one-and-a-half years in due to a change in the guard force.</li> <li>• He reported that "some of the guards are strong but most are okay."</li> <li>• He reported that his "nerves" tend to improve or worsen depending on his perceived treatment and rule enforcement by the guards.</li> </ul>

## 17. PSYCHIATRIC HISTORY

### a. Pre-Confinement Psychiatric History

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[REDACTED]

b. Pre-Confinement Medical History

[REDACTED]

c. Pre-Confinement Abuse History

He reported that at age five he was struck by one of his school professors because he could not remember the national anthem. He did not report the incident to his family because his parents "were weak" and "they didn't want to cause trouble." He reported that this was the only incident of an abusive nature that he experienced prior to his arrest and subsequent detention on the current charges.

**18. SUMMARY OF PSYCHOLOGICAL, PSYCHIATRIC, AND MEDICAL STATUS  
DURING U.S. CUSTODY LATE 2002 – LATE 2005**

Note that the sources for the following review consisted of anonymous "summaries" written in all-capital letters, without the usual formatting or specialized pages usually associated with medical record-keeping, and without precise dates.

a. Review of Medical/Psychological Notes and Interrogation Logs from 2002 ~~TS-SC~~

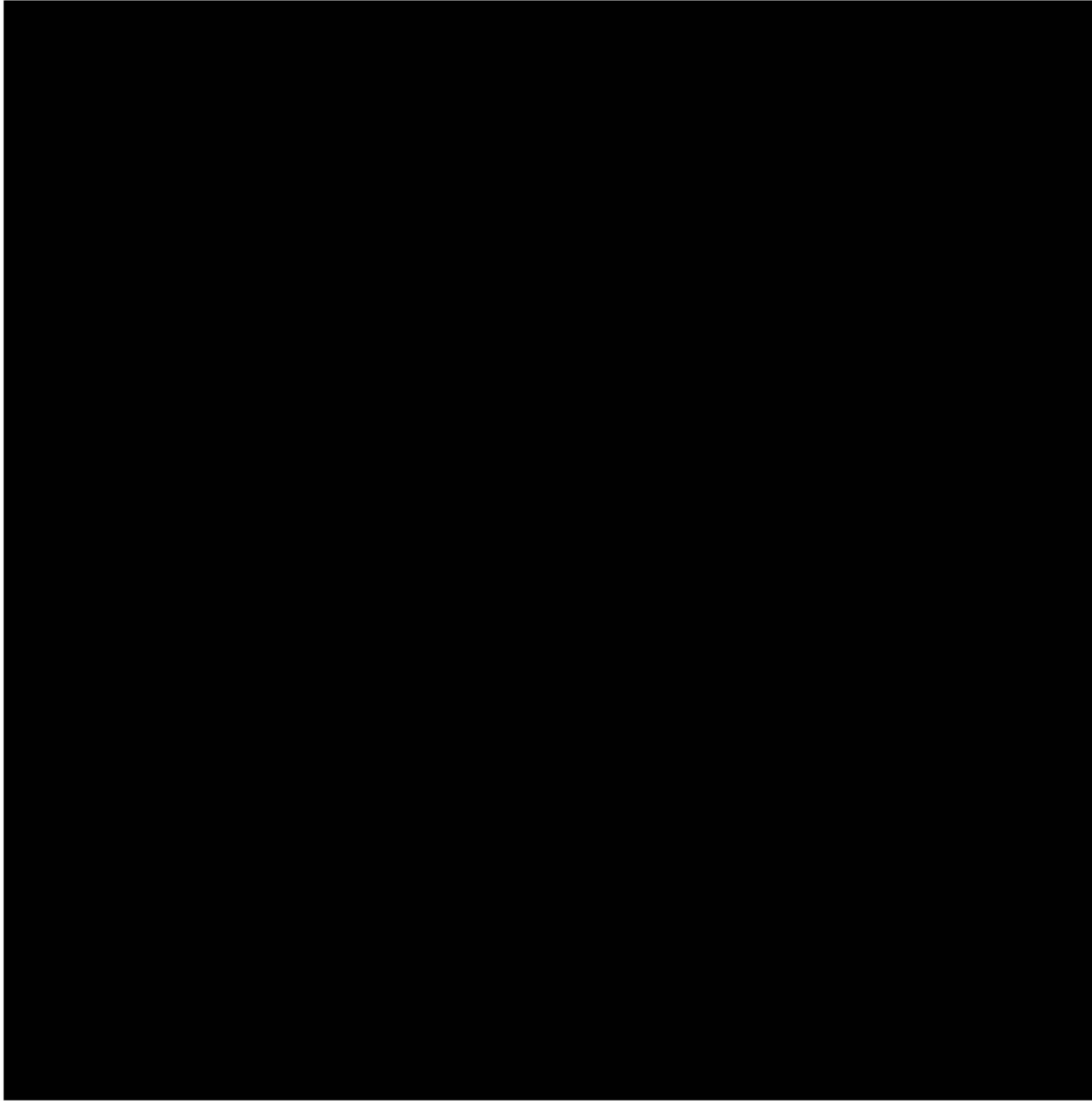
[REDACTED]

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b. Review of Medical/Psychological Notes and Interrogation Logs from 2003 ~~TS-SCL~~



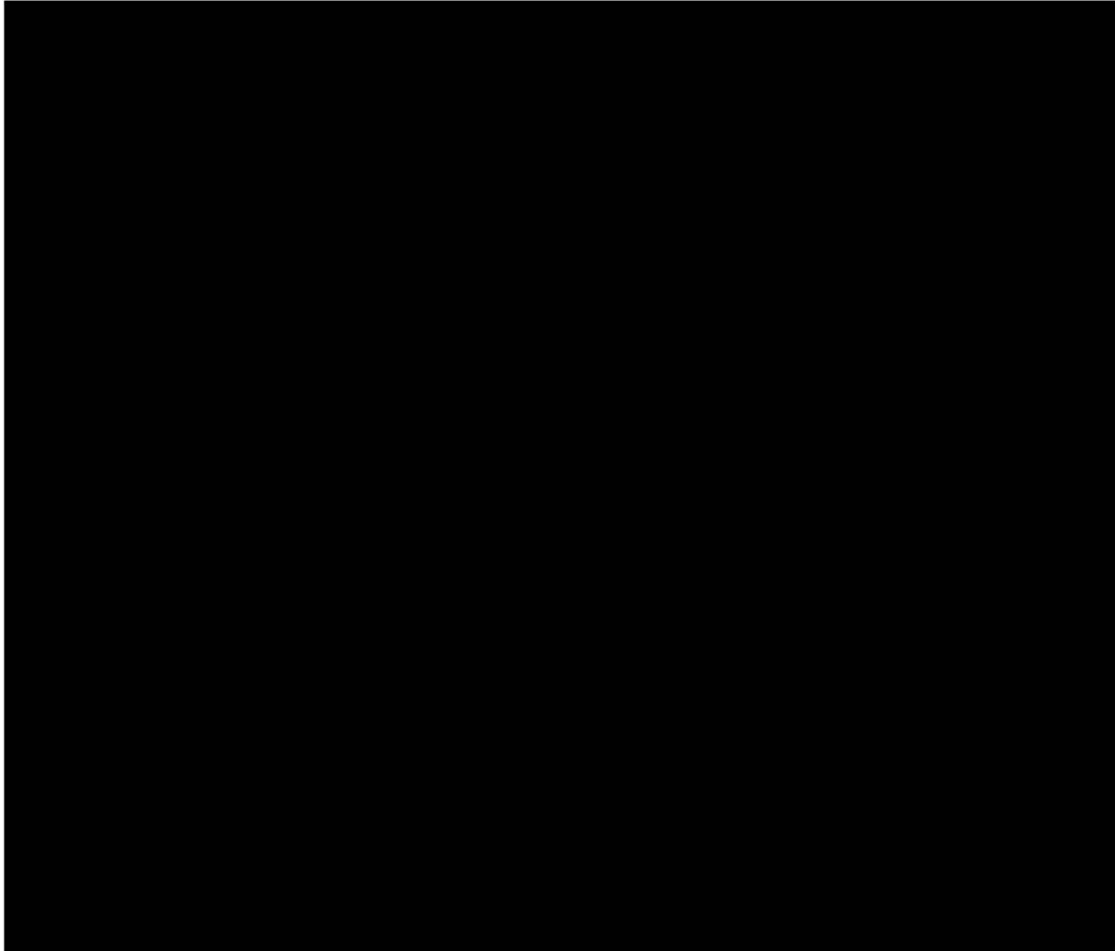
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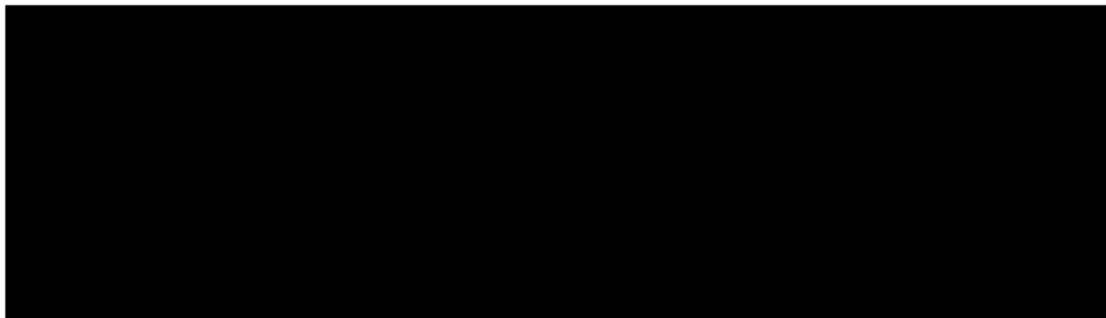
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~~TS-SCH [REDACTED] NOT YET REVIEWED BY OCA~~

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c. Review of Medical/Psychological Notes and Interrogation Logs from 2004~~TS-SCH~~



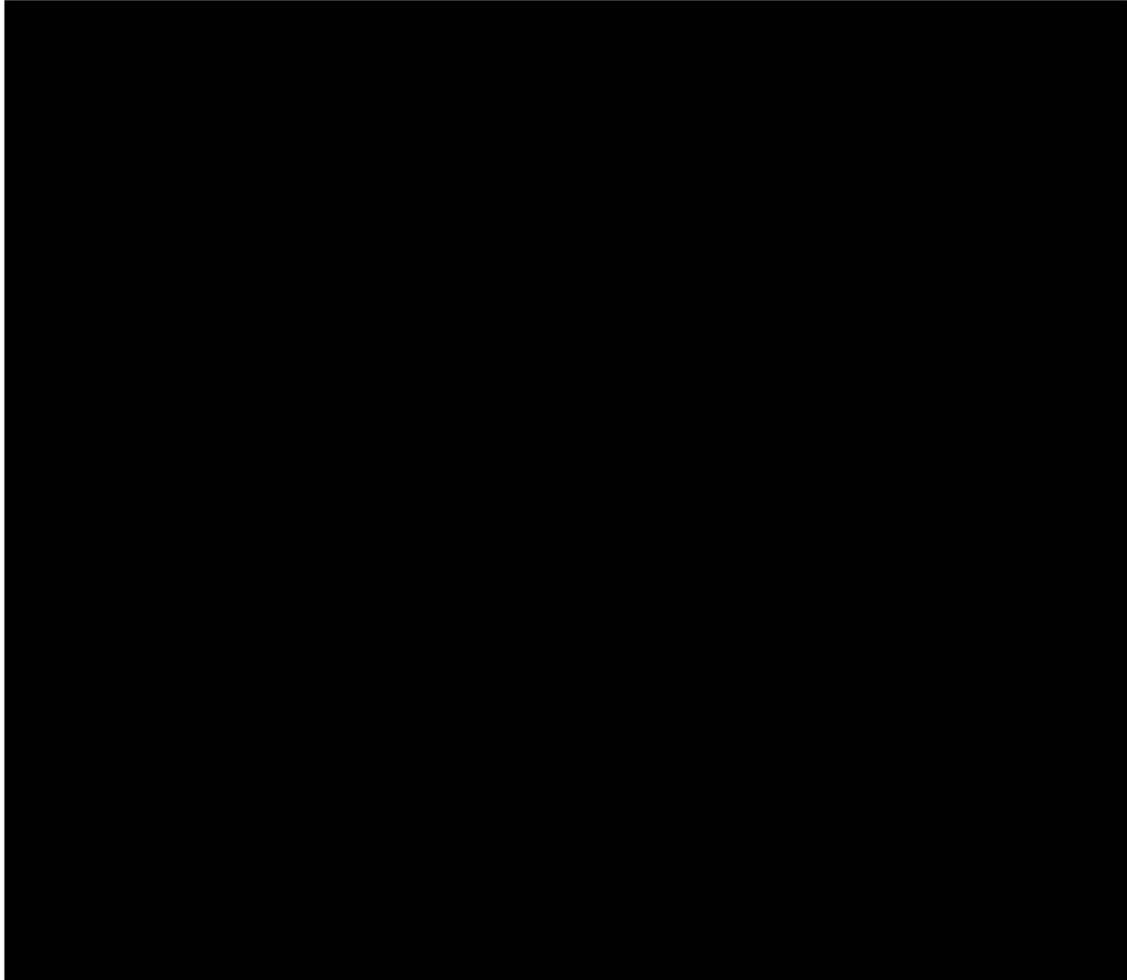
~~TS-SCH [REDACTED] NOT YET REVIEWED BY OCA~~



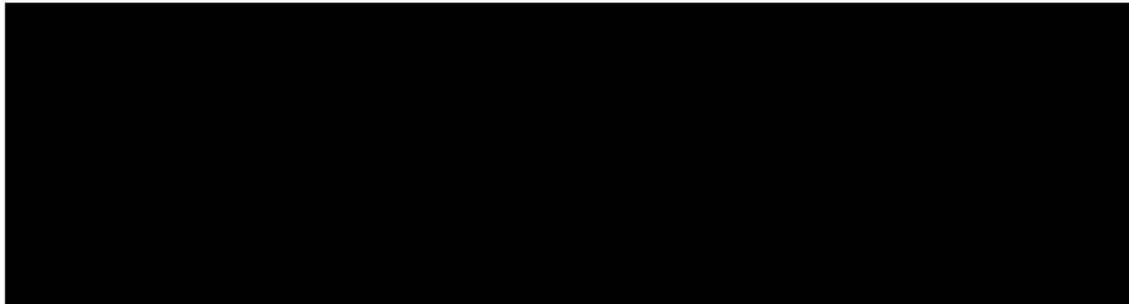
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~~TS-SGL [REDACTED] NOT YET REVIEWED BY OCA~~

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d. Review of Medical/Psychological Notes and Interrogation Logs from 2005



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[REDACTED]

**19. SUMMARY OF PSYCHOLOGICAL, PSYCHIATRIC, AND MEDICAL STATUS  
DURING U.S. CUSTODY FROM SEP 2006 – 2011**

**a. Review of Medical and Psychiatric Records from 2006**

Note: at this point, a pure medical record with psychiatric/psychological notes begins, very different from the above note summaries from 2002-2006.

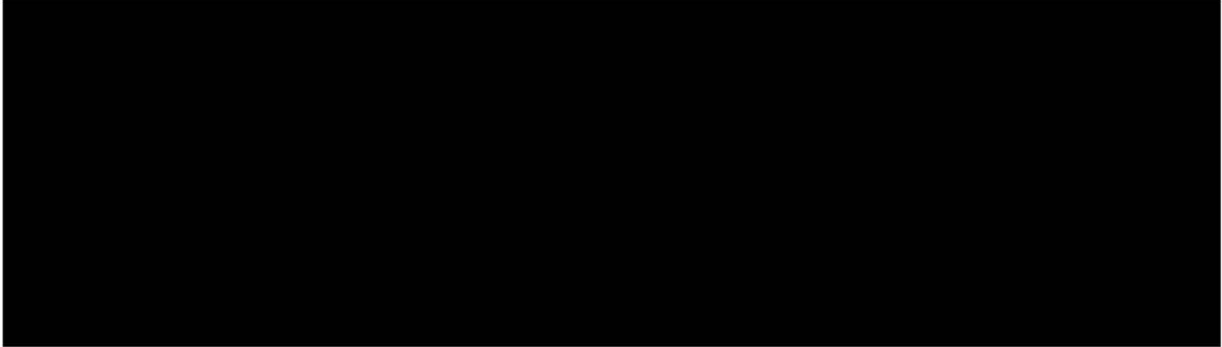
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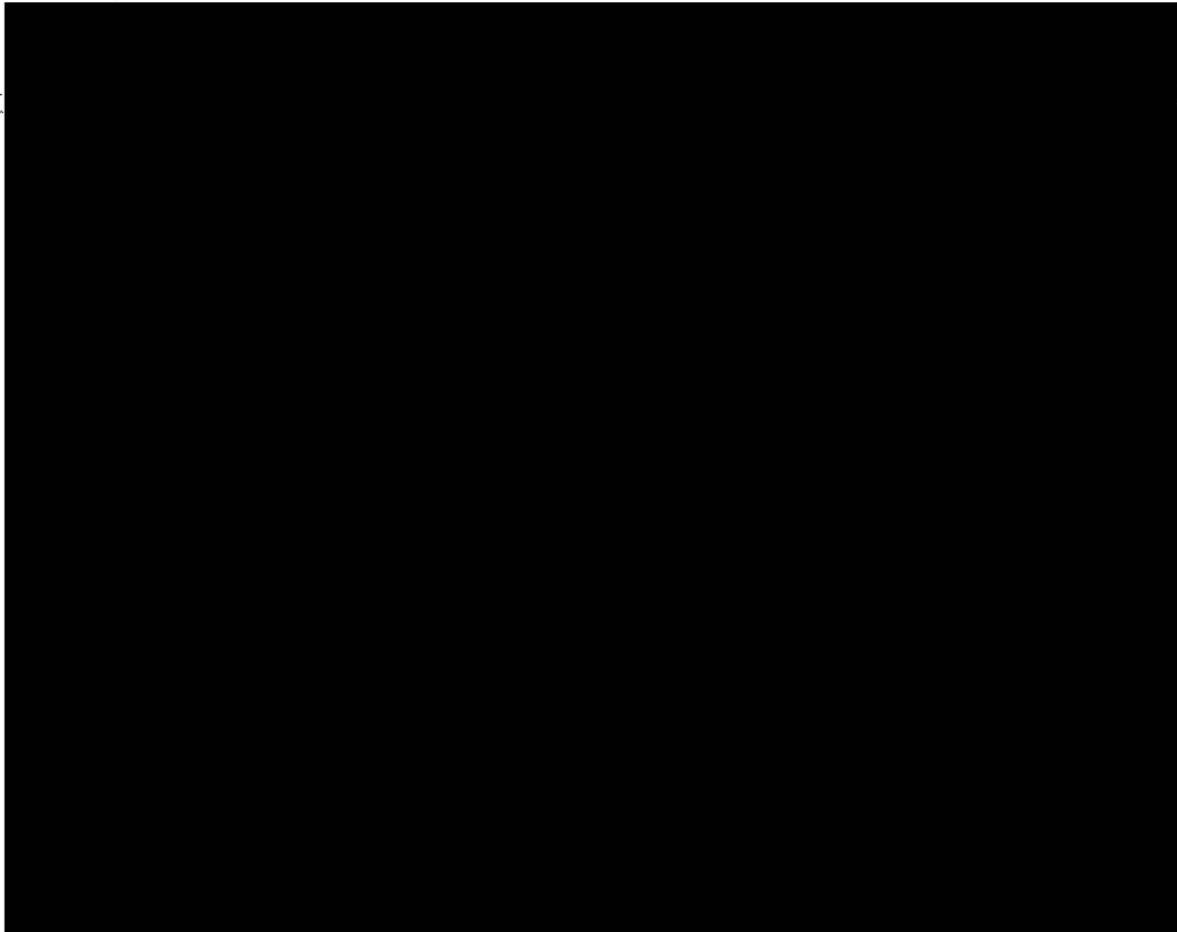
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**b. Review of Medical and Psychiatric Records from 2007**

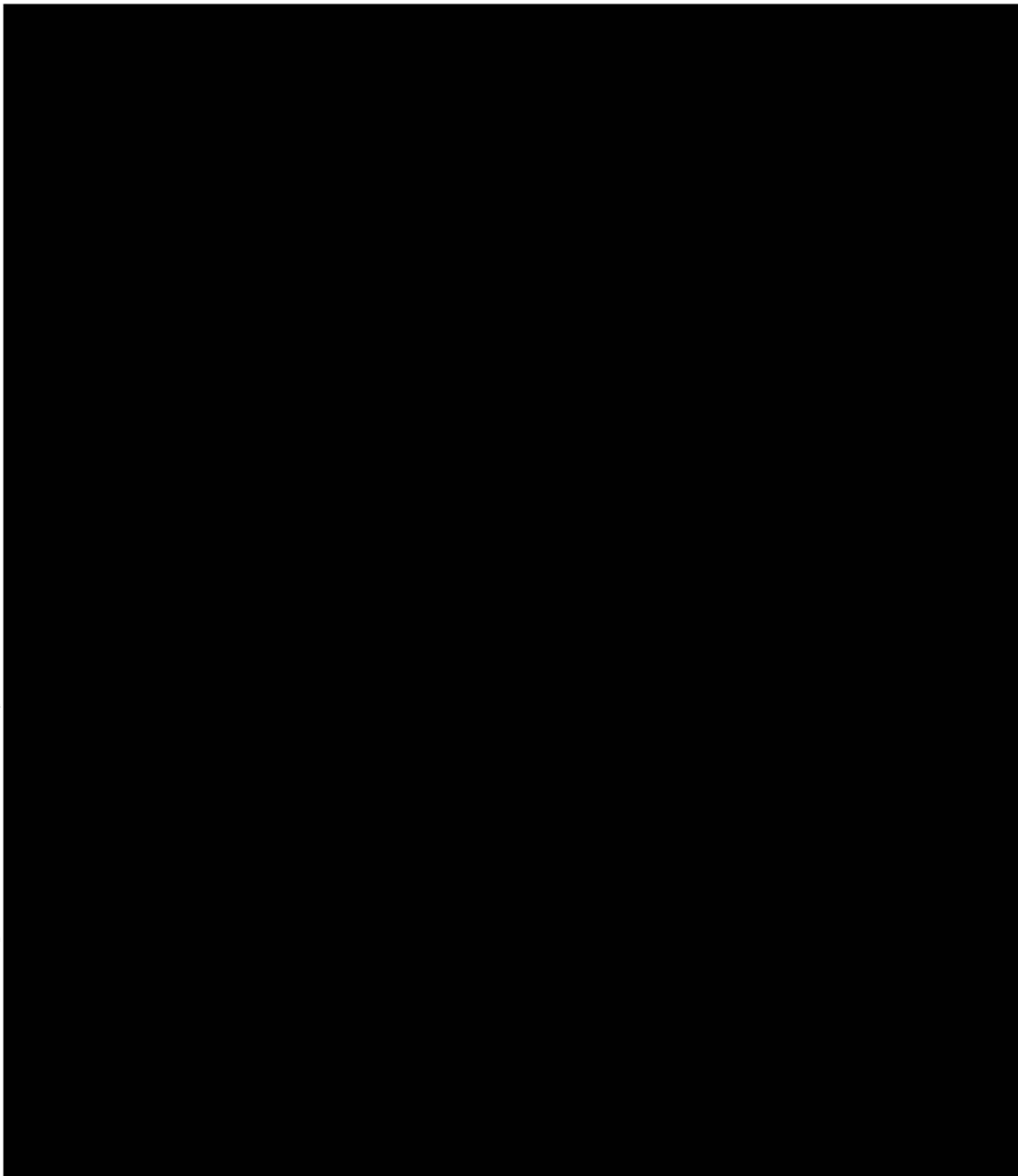


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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



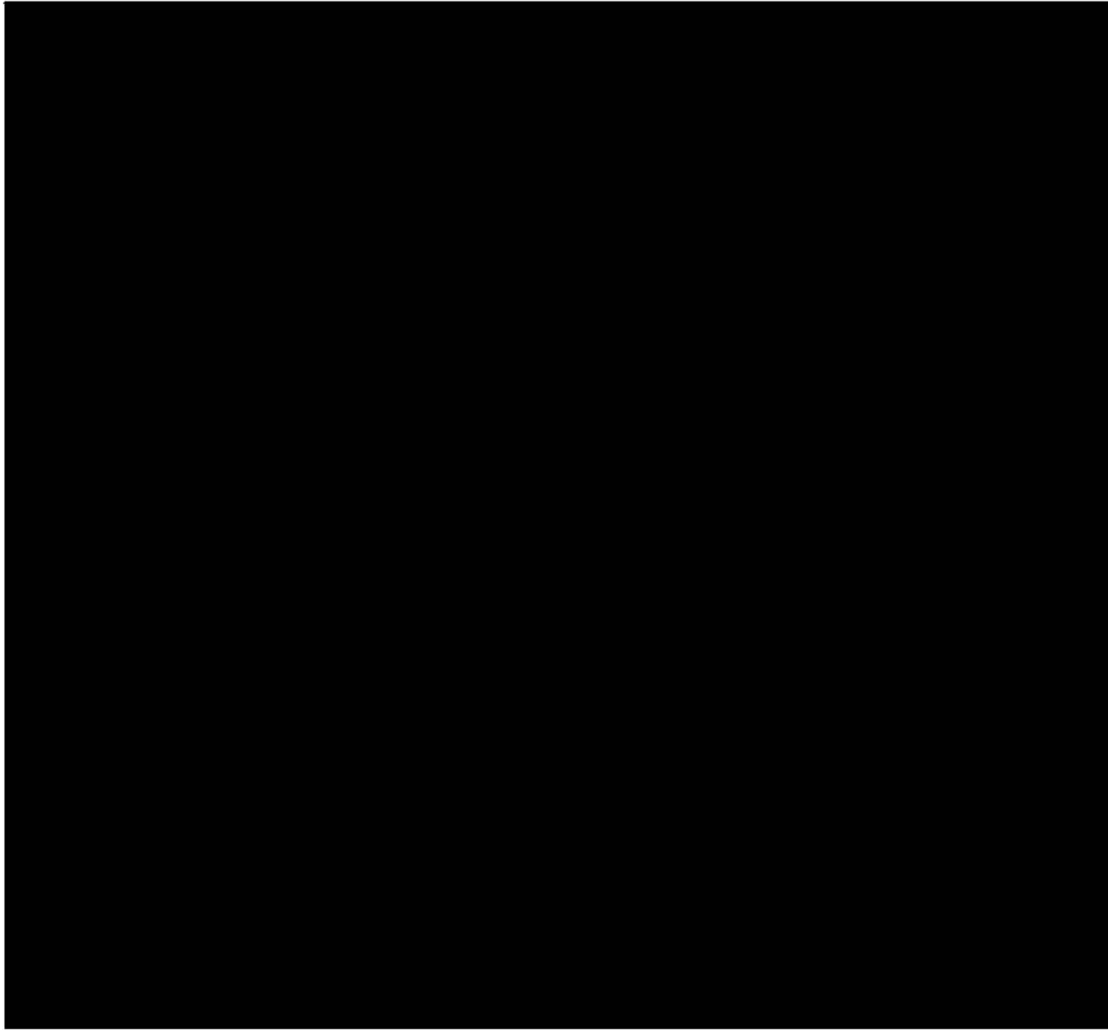
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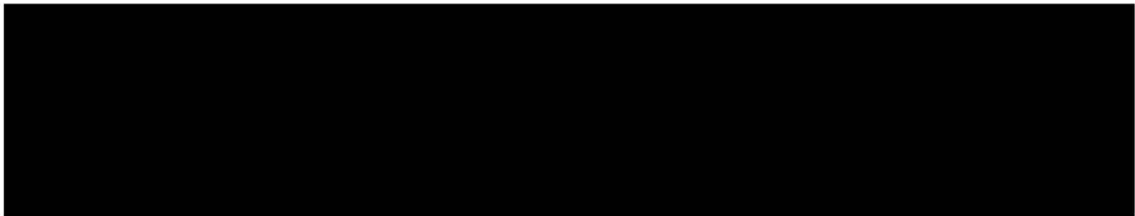
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015

**c. Review of Medical and Psychiatric Records from 2008**



**d. Review of Medical and Psychiatric Records from 2009**

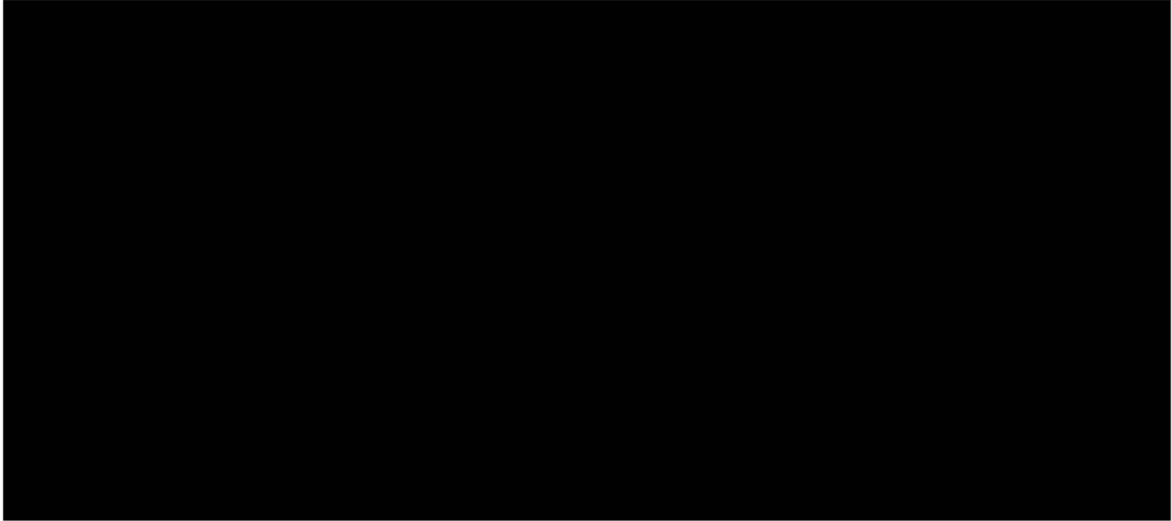


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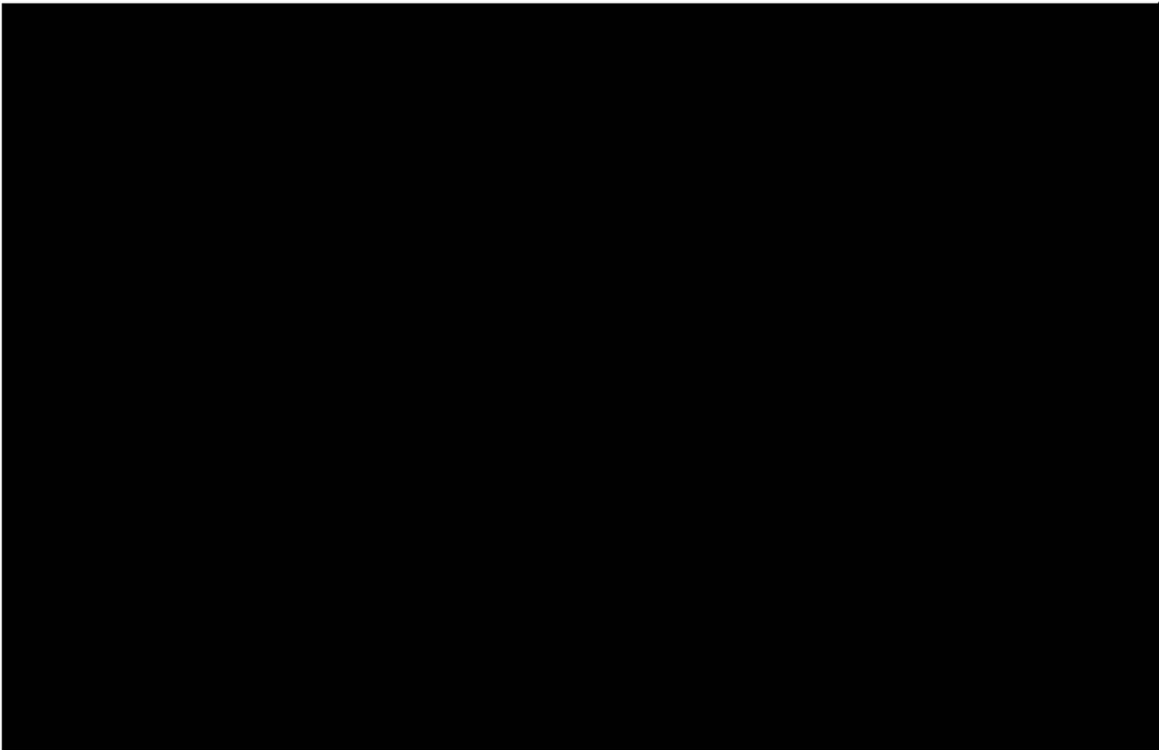
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



e. Review of Psychiatric Records from 2010 [Secret]

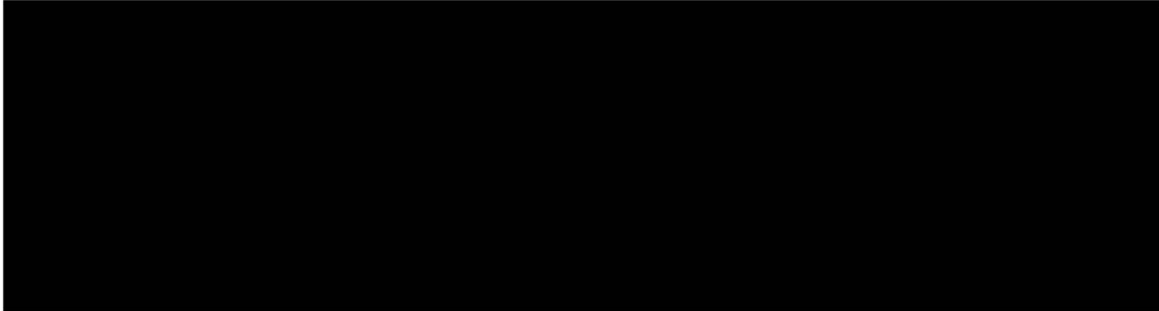


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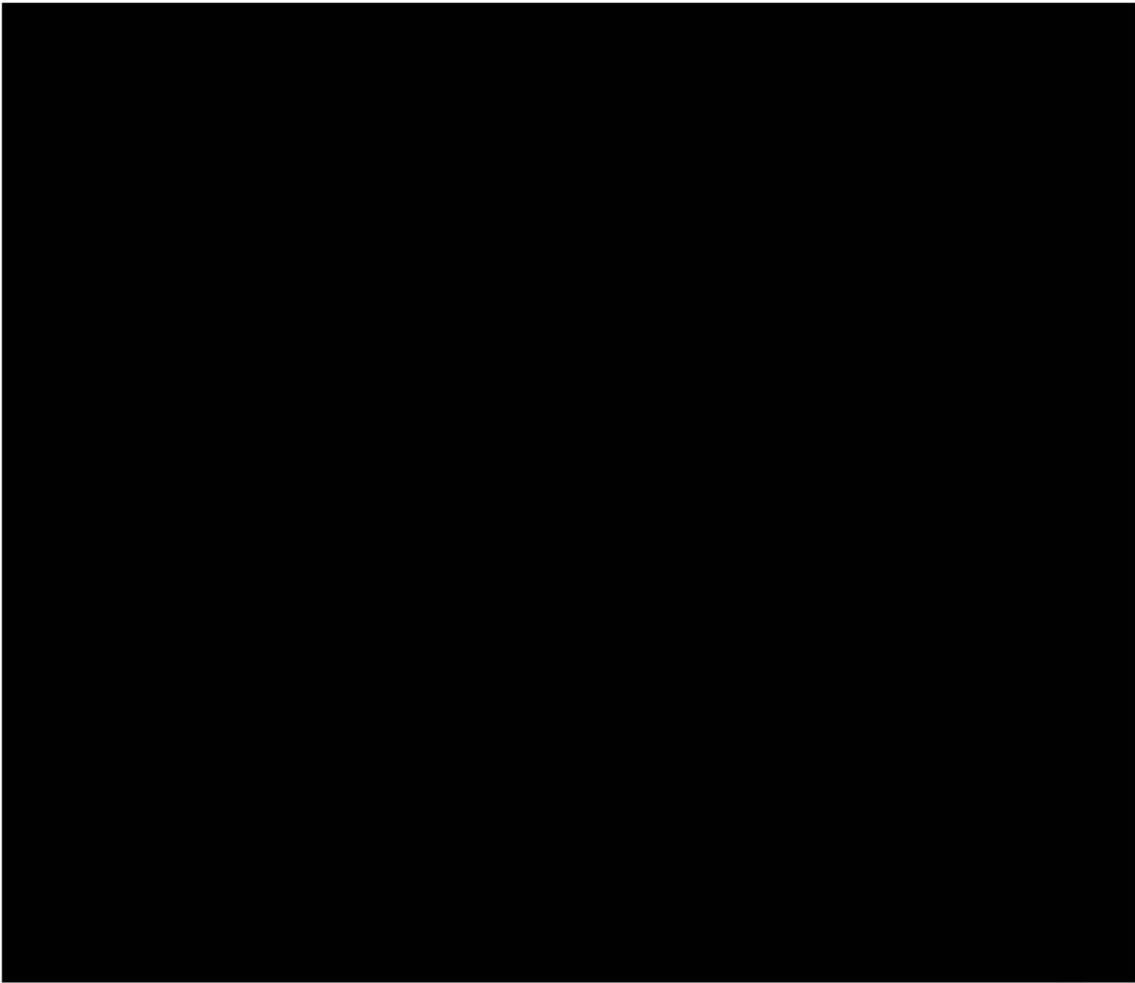
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**I. Review of Medical and Psychiatric Records from 2011**

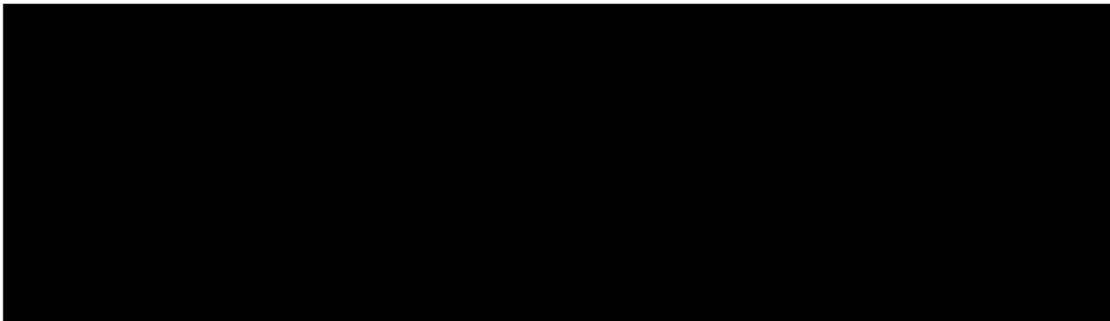


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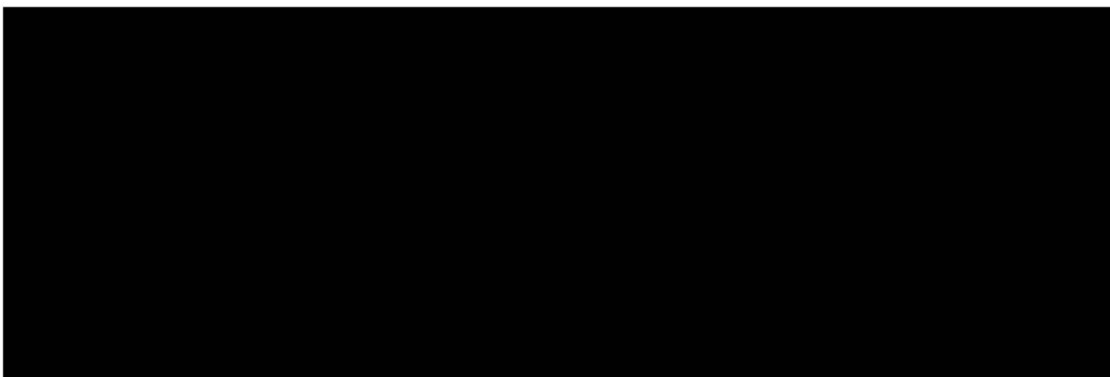
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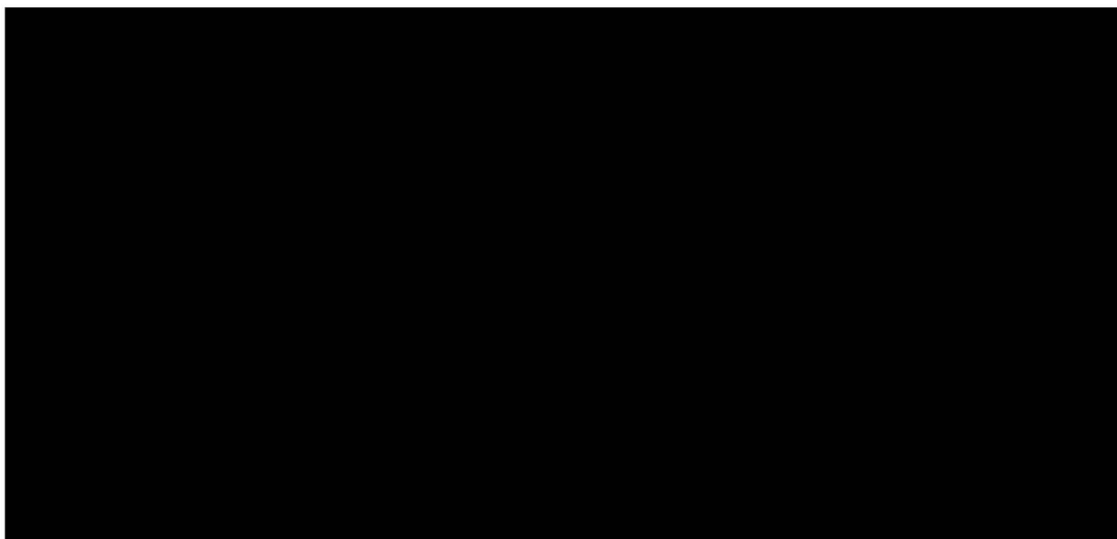
SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**20. LABORATORY RESULTS**



**21. PSYCHIATRIC SYMPTOMS REPORTED DURING CURRENT EVALUATION**



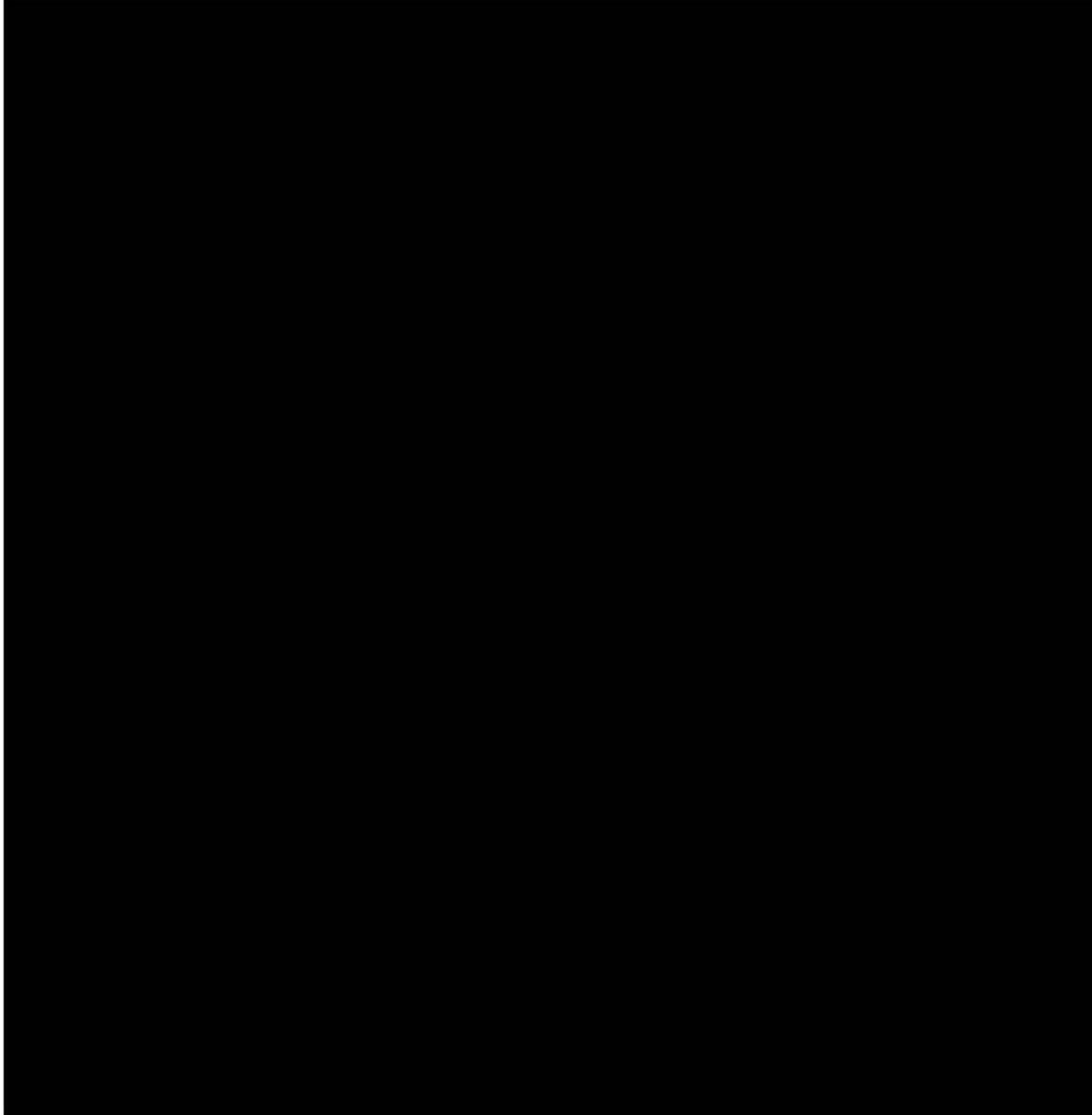
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ISN#10015



**22. FAMILY PSYCHIATRIC HISTORY**



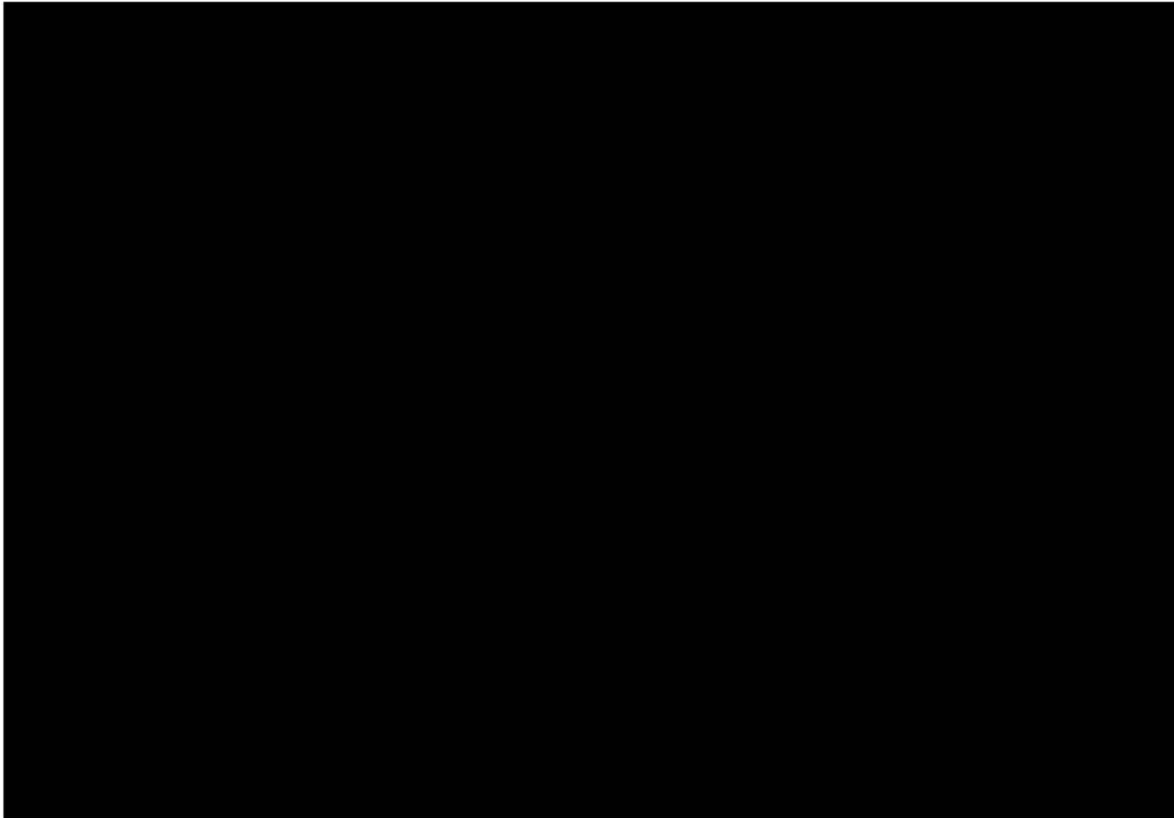
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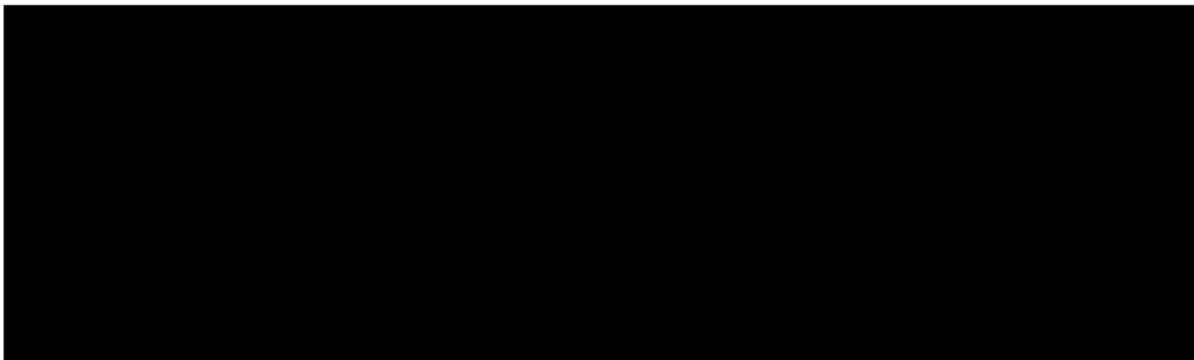
SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015

**23. ISSUES WITH TRANSPORTATION TO THE COURTHOUSE**



**24. COLLATERAL INTERVIEWS**

*TFP Psychiatrist*



~~TS SC [REDACTED] NOT YET REVIEWED BY OCA~~

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~~TS-SCI~~ [REDACTED] ~~NOT YET REVIEWED BY OCA~~

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015

[REDACTED]

*LTC Masucco*

The Board interviewed LTC Masucco, the Staff Judge Advocate for GTMO. LTC Masucco

[REDACTED]

**25. MENTAL STATUS EXAM**

Mr. Nashiri stated that he is a 47-year old single, never married Arabic male of medium height and build. He was dressed appropriately according to camp regulations, displayed hygiene appropriate to his situation and setting, and generally maintained a relaxed posture which was exhibited by his leaning back in his chair. Mr. Nashiri was polite, pleasant, and cooperative throughout the interview. On multiple occasions during each interview he discussed his perceived mistreatment by the guards, changes in camp policies, and his request that the Board make the judge aware of his current mistreatment. He used story telling and gave examples that were easily understandable to the Board members whenever he was attempting to make a point. He was observed to raise his voice or gesture with his hands especially when emphasizing a point to the Board that was important to him such as his perceived mistreatment by the new guard staff.

During the boards first encounter with Mr. Nashiri he initially reported his mood as "good," but later he clarified that his mood is "closer to sad then happy" due to his perceived treatment by the current guard force. The accused indicated that his treatment by the new guard unit is his main stressor. When Mr. Nashiri was asked to describe his first five years in US custody a noticeable change in his demeanor was observed. Mr. Nashiri gave a nervous laugh, paused in his speech for a few moments, and then began to rub his arms before describing his experiences.

[REDACTED]

~~TS-SCI~~ [REDACTED] ~~NOT YET REVIEWED BY OCA~~

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~~TS SCI [REDACTED] NOT YET REVIEWED BY OCA~~

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015

[REDACTED]

**26. DIAGNOSTIC ASSESSMENT**

[REDACTED]

**Axis I Diagnosis: Major Clinical Syndromes**

Mr. Nashiri currently meets criteria for Posttraumatic Stress Disorder (PTSD) and Major Depressive Disorder, Recurrent, Moderate, Chronic. [REDACTED]

[REDACTED]

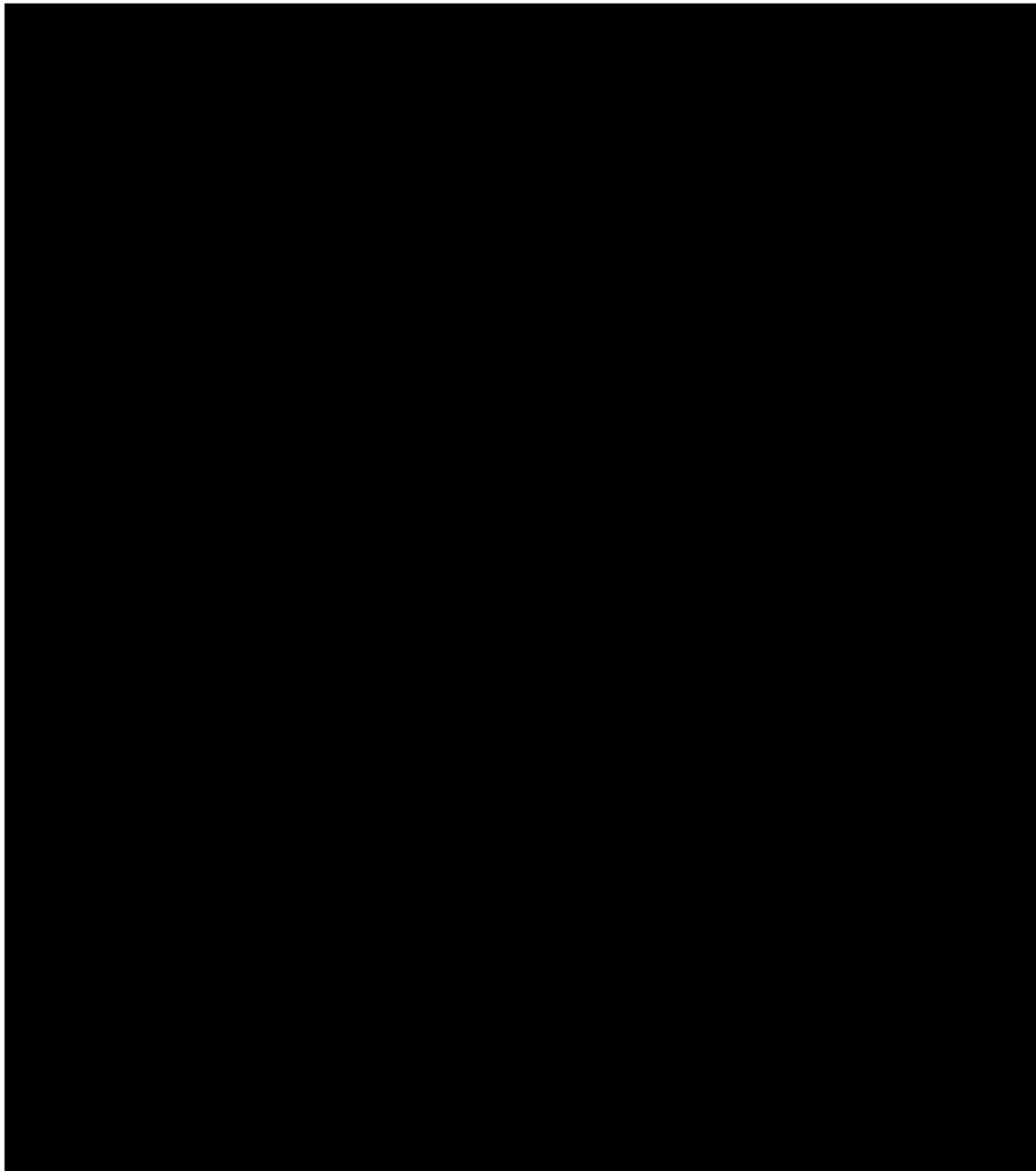
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



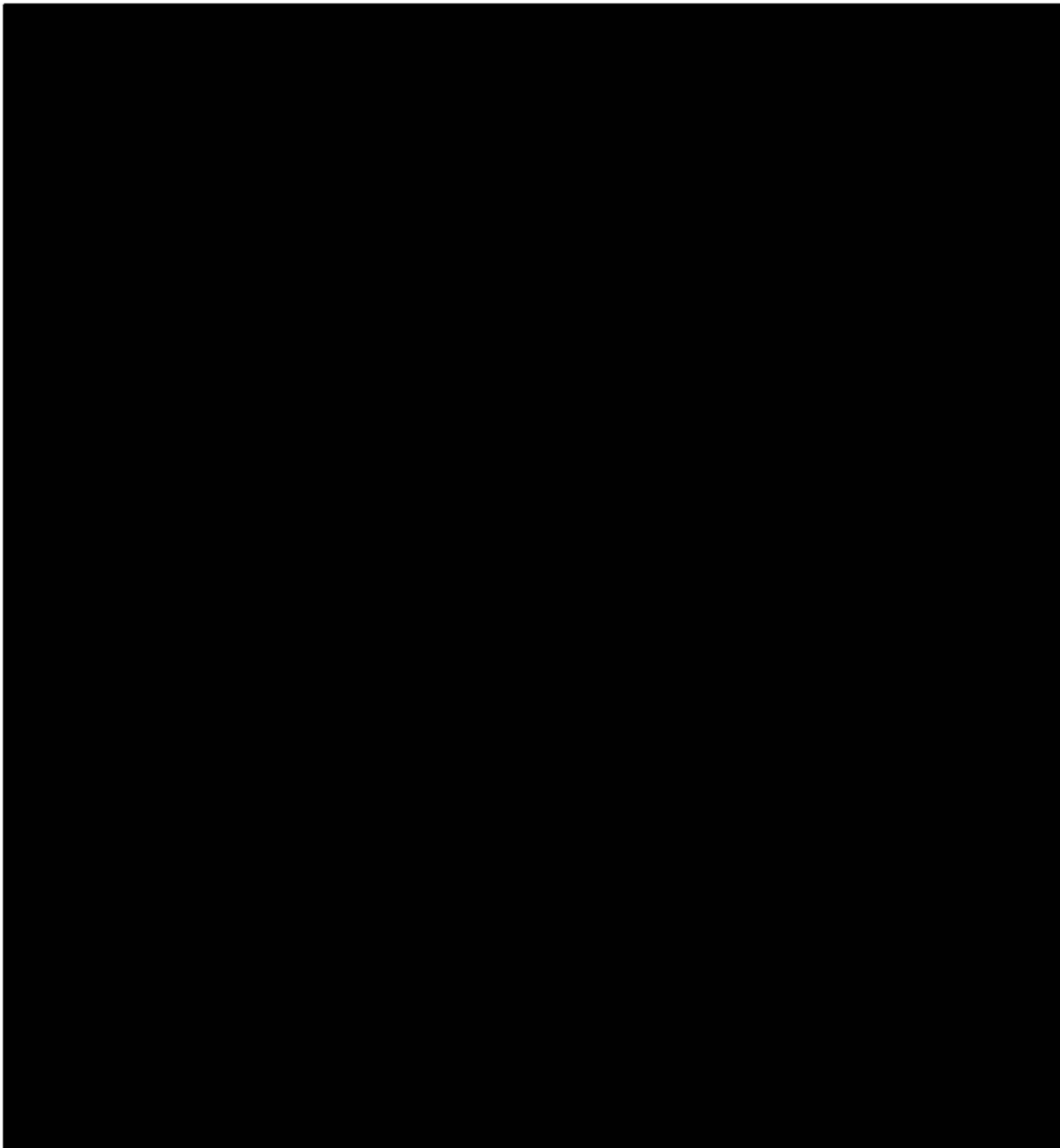
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



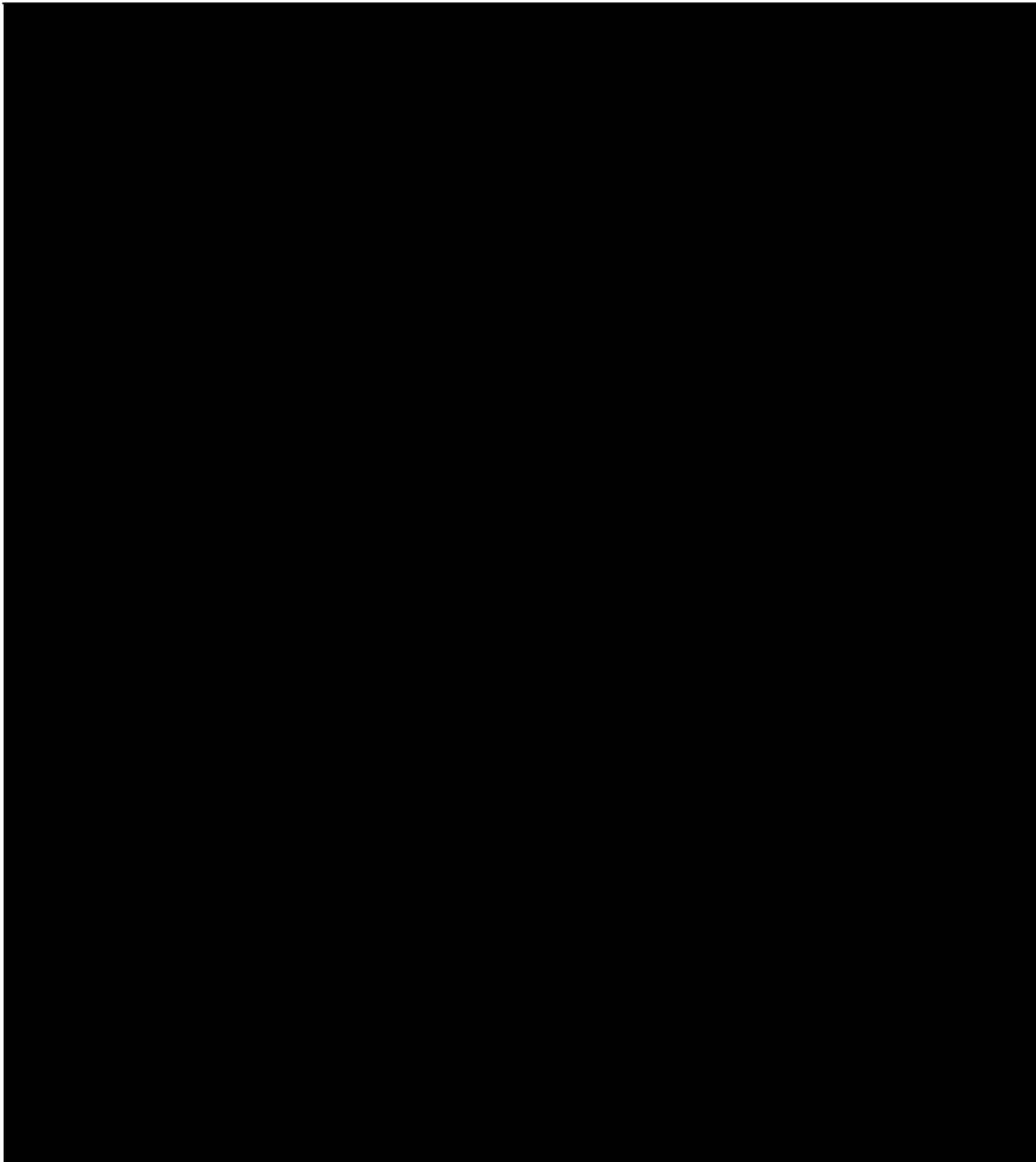
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



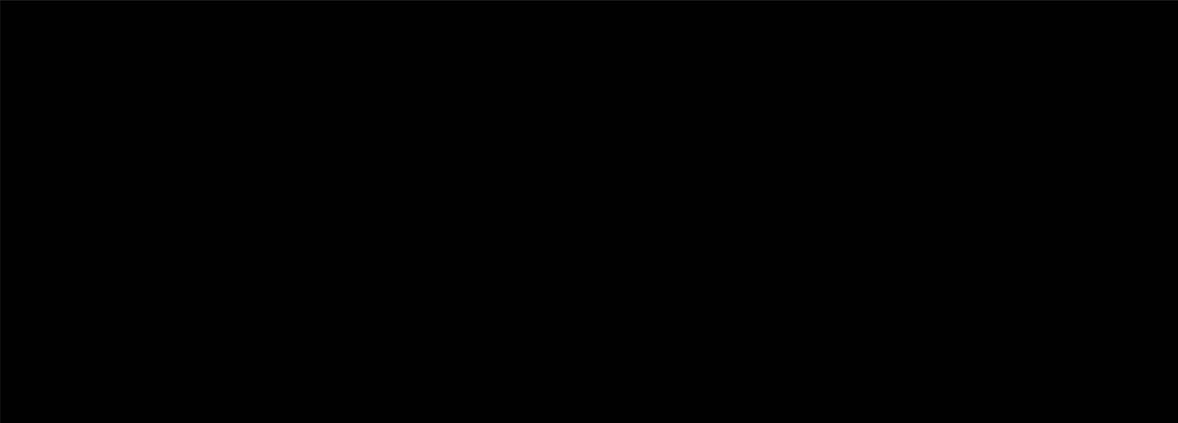
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Class App. 165

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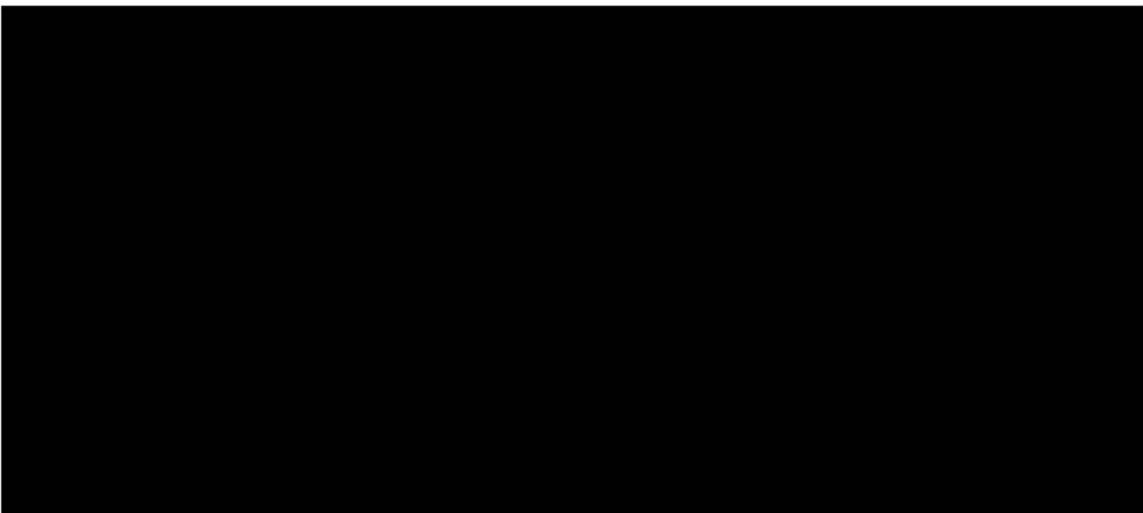
SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**Axis II Diagnosis: Personality Disorders and Intellectual Disability**

**Personality Disorder**

According to the DSM-IV-TR, the essential feature of a Personality Disorder is an enduring pattern of inner experience and behavior that markedly deviates from the expectations of the individual's culture and is manifested in at least two of the following areas: cognition, affect, interpersonal functioning, or impulse control. This enduring pattern is inflexible and pervasive across a broad range of personal and social situations and lead to clinically significant distress or impairment. In addition, the pattern is stable and can be traced back to adolescence or early adulthood.



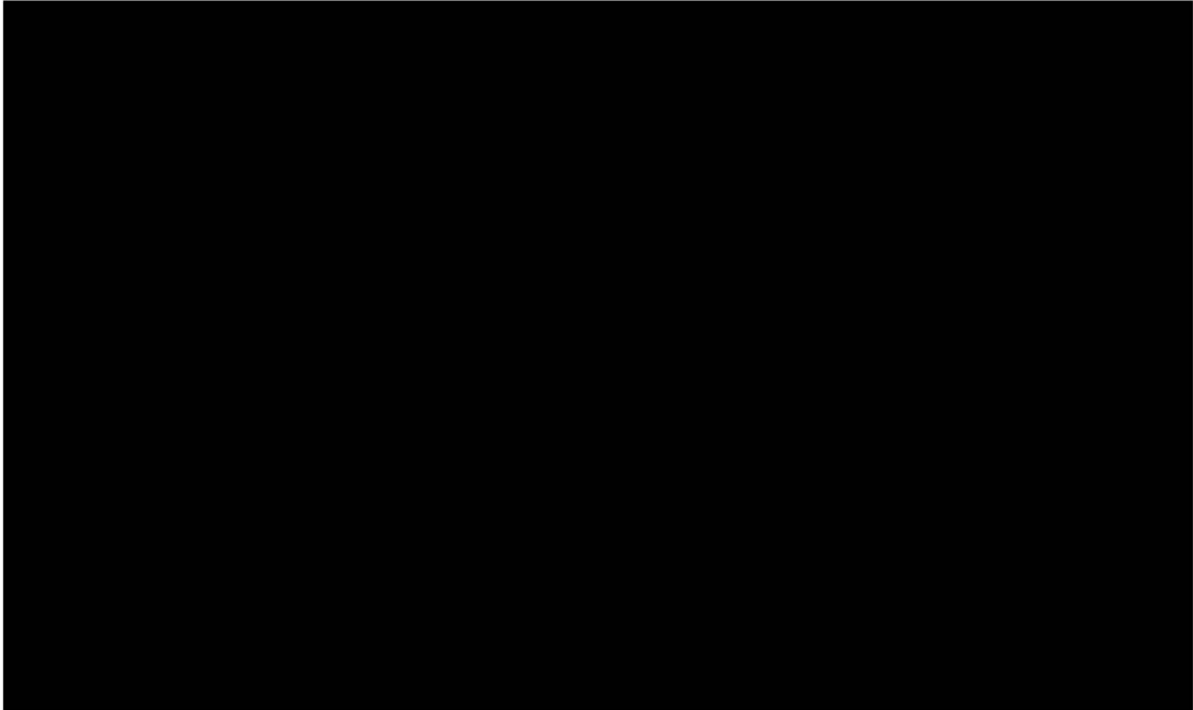
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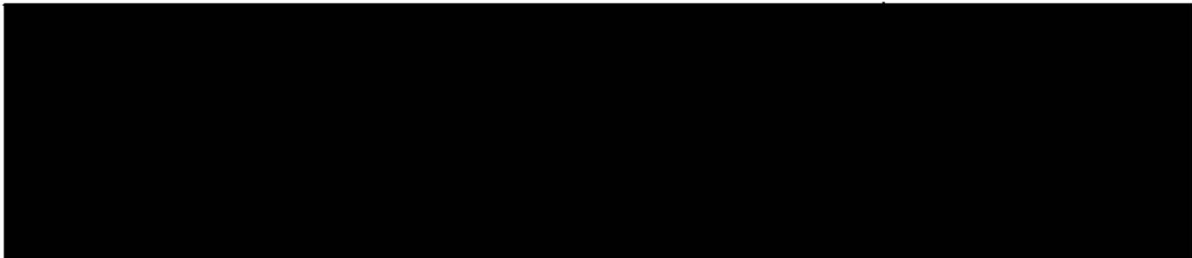
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~~TS-SC~~ [REDACTED] NOT YET REVIEWED BY OCA

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**Axis III Diagnosis: Medical Conditions affecting Psychiatric Functioning**



**Axis IV: Psychosocial Stressors**

Axis IV is used for reporting psychosocial and environmental stressors that may affect the diagnosis, treatment, and prognosis of mental disorders.



**Axis V: Global Assessment of Functioning (GAF)**

~~TS-SC~~ [REDACTED] NOT YET REVIEWED BY OCA

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~~TS SC [REDACTED] NOT YET REVIEWED BY OCA~~

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015

The Global Assessment of Functioning (GAF) is for reporting the clinician's judgment of the individual's overall level of functioning and carrying out activities of daily living. This information is useful in planning treatment, measuring its impact, and in predicting outcome. The GAF is a 100-point scale that measures an individual's overall level of psychological, social, and occupational functioning on a hypothetical continuum of mental health and mental illness and ranges from a low of 1 (persistent danger of hurting self or others) to a high of 100 (superior functioning).

At present, Mr. Nashiri is assigned a GAF of 51 - 60. [REDACTED]

**27. FORENSIC OPINION (CURRENT PSYCHIATRIC DIAGNOSIS)**

*What is the clinical psychiatric diagnosis?*

In our opinion, to a reasonable degree of psychological certainty, at the time of the evaluation, Mr. Nashiri qualified for the following diagnoses:

**DSM-IV-TR DIAGNOSIS (Current):**

Axis I:	309.81	Posttraumatic Stress Disorder (PTSD)
	296.32	Major Depressive Disorder, Recurrent, Moderate, Chronic
Axis II:	No diagnosis	Narcissistic, Antisocial, and Histrionic personality features
Axis III:		None
Axis IV:		Problems related to interaction with the legal system/crime Other psychosocial and environmental problems
Axis V:	GAF = 51-60	(Current)

**28. FORENSIC OPINION (COMPETENCY TO STAND TRIAL)**

The results of the Boards evaluation, alongside a comprehensive review of the full scope of forensic evaluation tools, including clinical interview, collateral data, medical and psychiatric records, and investigative materials, conclude that Mr. Nashiri has no significant deficits in his factual and rational understanding of the criminal proceedings for which he is charged and can adequately and appropriately consult with his counsel in his defense.

[REDACTED]

39

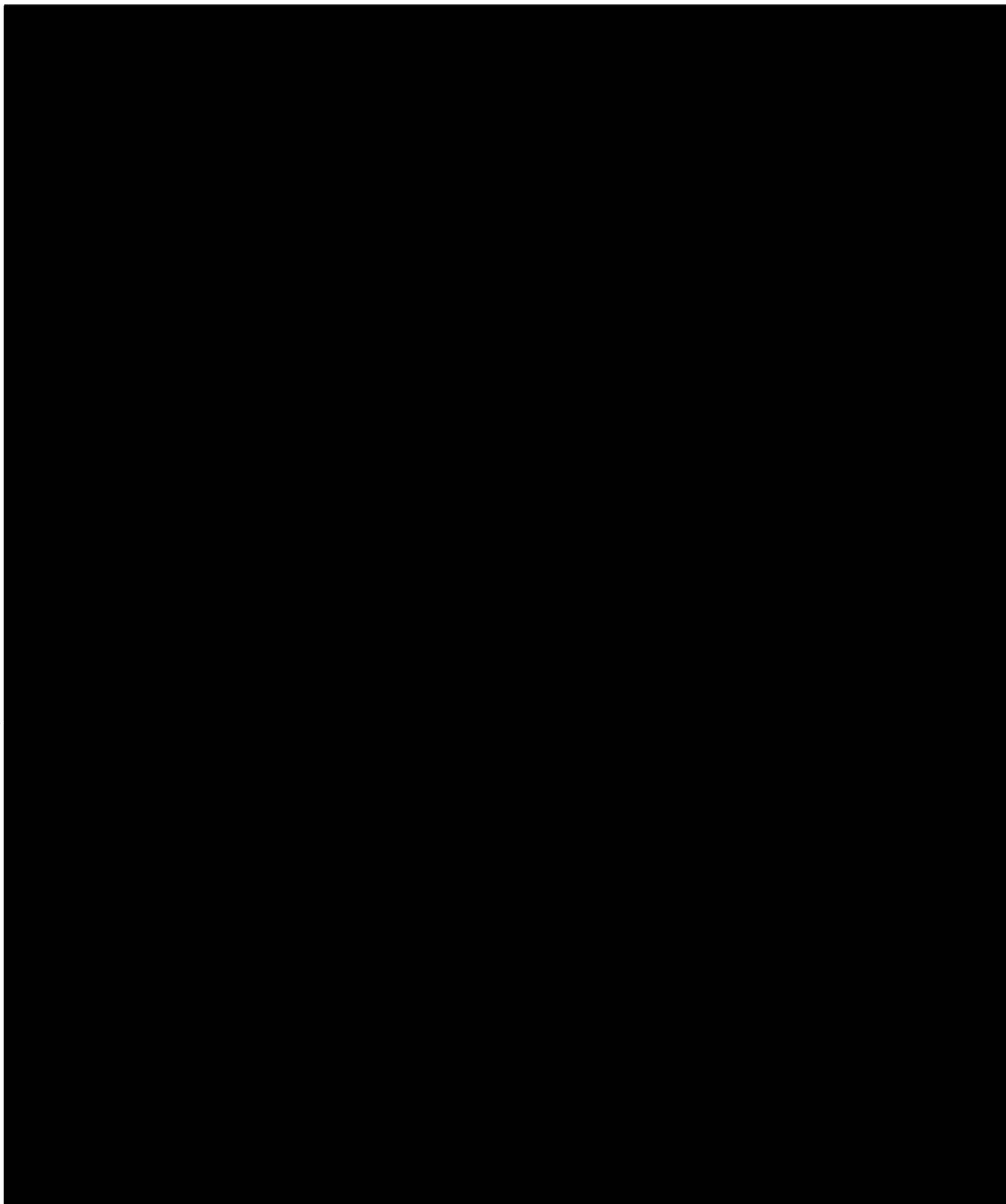
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ISN#10015



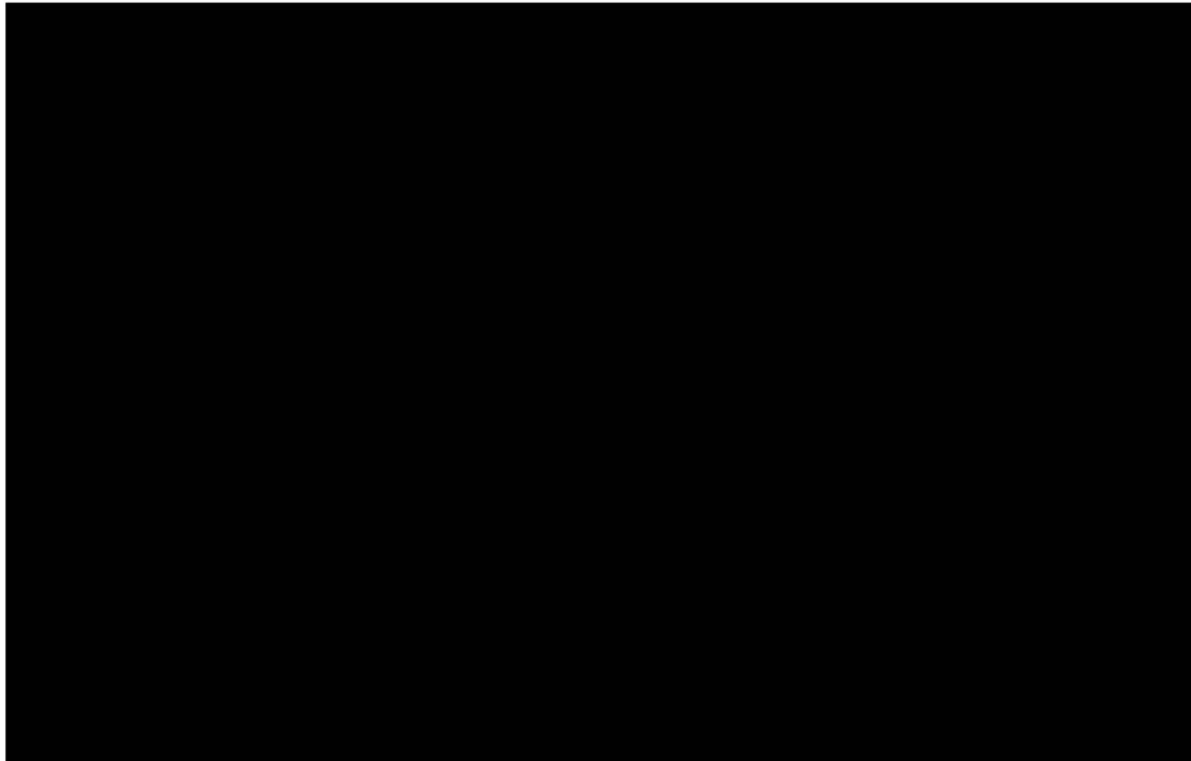
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~~TS SC [REDACTED] NOT YET REVIEWED BY OCA~~

SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



**29. LIMITS OF DATA INTERPRETATION**

This report is based on a large amount of information obtained from multiple sources though not exhaustive. We believe that all information contained herein is accurate and provides an adequate basis to form both clinical and forensic opinions to a reasonable degree of psychological and medical certainty. However, if any information is substantially inaccurate, we would appreciate it if this were immediately called to our attention. In addition, should we learn of any additional new information which casts substantial doubt upon either our clinical or forensic opinions, we will immediately notify the offices of Trial Counsel and Defense Counsel, and write an addendum to this report.

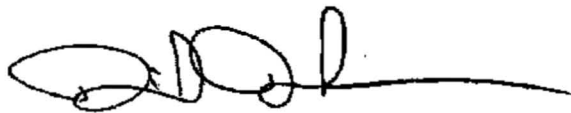
Questions regarding this case can be directed to LTC Johnson, at the Walter Reed National Military Medical Center (WRNMMC) Center for Behavioral Sciences (CFBS), [REDACTED]

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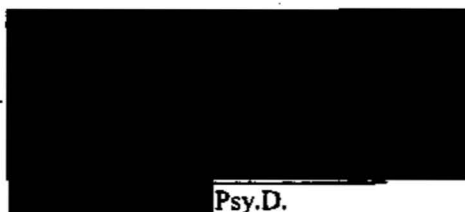
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SUBJECT: RMC 706 Sanity Board Evaluation of Abd Al Rahim Hussayn Muhammad Al Nashiri:  
ISN#10015



David Johnson, M.D.  
LTC, MC, USA  
Forensic Psychiatrist  
Program Director,  
NCC Forensic Psychiatry Fellowship



Psy.D.

MAJ, MSC, USA  
Forensic Psychology Fellow  
Walter Reed National Military Medical Center



Psy.D.

MAJ, MSC, USA  
Forensic Psychologist  
Behavioral Health Consultant, USAREC

~~TOP SECRET//SI//NF//NOFORN//REL//SI~~

Class App. 171

Kingdom of Saudi Arabia

Ministry of Education

Education's Administration in Makkah

King Fahd developed secondary school

Name of student: Abdul Fatah bin Abdul Wahid bin Abdul Nasser

Student's number: 8872100015

Child's school from where he graduated: Al-Falshah in Makkah

Name of the school: Al-Falshah, school #40811111

Department: 192/7/192/11111

Unit number: 192/11111

Class

Unit number: 8872100015

Registration number: 8872100015

Registration number: 8872100015

Registration number: 8872100015

Registration number: 8872100015

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Registration number: 8872100015

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*Central Intelligence Agency  
Inspector General*

# REPORT OF INVESTIGATION



**(S) UNAUTHORIZED INTERROGATION TECHNIQUES AT**

[REDACTED]  
(2003-7123-1C)

29 October 2003

[REDACTED]

[REDACTED]

[REDACTED]

Copy 4

[REDACTED]

Handle Via HUMINT Control  
System Channels Only

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10015-00118836

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48 [REDACTED]

[REDACTED] held his first session with Al-Nashiri that evening. By the following evening,

[REDACTED] had

assessed Al-Nashiri as withholding information and that [REDACTED] was keeping Al-Nashiri hooded and handcuffed to the wall.

Al-Nashiri was also initially kept nude. [REDACTED]

directed that Al-Nashiri's clothing be removed because he wanted to withdraw all the privileges [REDACTED] had given Al-Nashiri, during which

Al-Nashiri's cooperation had declined. [REDACTED]

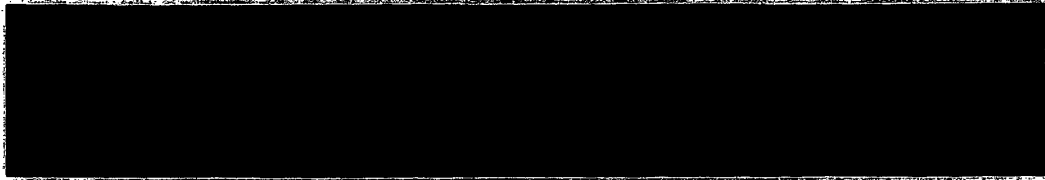
[REDACTED] Al-Nashiri was again kept hooded and handcuffed to the wall overnight. [REDACTED]

[REDACTED] after multiple sessions with Al-Nashiri between [REDACTED] he was becoming

submissive and [REDACTED] had begun to improve his standard of living by giving him things, including additional layers of clothes.<sup>15</sup>

[REDACTED] then reported having given Al-Nashiri another article of

clothing on [REDACTED]



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~~TOP SECRET~~ [REDACTED] ~~NOFORN//SI~~

[REDACTED]

and [REDACTED] both said they did not intend for Al-Nashiri to fear for his life; their intent was to get Al-Nashiri to cooperate and provide information.

51. (TS) [REDACTED] Because the [REDACTED] secure the detainees and control all detainee movements, [REDACTED] briefed them on the plan to use a handgun. [REDACTED] instructed them to clear a [REDACTED] handgun and move Al-Nashiri to another cell in a rougher manner intended to mentally jolt him from the previous routine.

[REDACTED]

~~TOP SECRET~~ [REDACTED] ~~NOFORN//SI~~

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~~TOP SECRET~~ [REDACTED] ~~TOP SECRET~~

52. [REDACTED] roughly moved Al-Nashiri to another cell where he sat hooded, naked, and shackled. [REDACTED] said he entered the cell and racked the unloaded handgun close to Al-Nashiri's hooded head. [REDACTED] said he instructed [REDACTED] to remove Al-Nashiri's hood after he racked the handgun so that Al-Nashiri could see the handgun.

53. [REDACTED] [REDACTED] said they observed [REDACTED] point the barrel of the handgun at Al-Nashiri's right temple. [REDACTED] who watched from outside the cell, said [REDACTED] either pointed the handgun at Al-Nashiri's head or laid it alongside his head. [REDACTED] could not tell from his angle. [REDACTED] said he thought Al-Nashiri was unhooded when the handgun touched his head. [REDACTED] said Al-Nashiri began to cry when [REDACTED] racked or pointed the handgun at his head, a point disputed by [REDACTED]. [REDACTED] denied pointing the barrel of the handgun at Al-Nashiri or otherwise touching him with it.

54. [REDACTED] On what was probably the same day, but after the use of the handgun, [REDACTED] decided to use a power drill to frighten Al-Nashiri, also in furtherance of obtaining information. [REDACTED]

[REDACTED] entered Al-Nashiri's cell while the [REDACTED] were shackling him in the standing position. [REDACTED] revved the power drill, catching [REDACTED] by surprise. According to [REDACTED] and [REDACTED] who was in the cell during the power drill incident, the power drill did not house a bit. [REDACTED]

[REDACTED] said the power drill housed a bit or had an attachment that looked like a screwdriver. During the power drill incident, Al-Nashiri stood naked and hooded; he flinched and shook, but did not cry. By all accounts, [REDACTED] did not touch Al-Nashiri with the power drill and Al-Nashiri could not see the power drill.

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*Central Intelligence Agency  
Inspector General*

# SPECIAL REVIEW



~~(TS)~~ **COUNTERTERRORISM DETENTION AND  
INTERROGATION ACTIVITIES  
(SEPTEMBER 2001 - OCTOBER 2003)  
(2003-7123-IG)**

7 May 2004

Copy 38

10015-00118678

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address the use of props to imply a physical threat to a detainee, nor did it specifically address the issue of whether or not Agency officers could improvise with any other techniques. No formal mechanisms were in place to ensure that personnel going to the field were briefed on the existing legal and policy guidance.

### Specific Unauthorized or Undocumented Techniques

90. ~~(TS)~~ [REDACTED] This Review heard allegations of the use of unauthorized techniques [REDACTED]. The most significant, the handgun and power drill incident, discussed below, is the subject of a separate OIG investigation. In addition, individuals interviewed during the Review identified other techniques that caused concern because DoJ had not specifically approved them. These included the making of threats, blowing cigar smoke, employing certain stress positions, the use of a stiff brush on a detainee, and stepping on a detainee's ankle shackles. For all of the instances, the allegations were disputed or too ambiguous to reach any authoritative determination regarding the facts. Thus, although these allegations are illustrative of the nature of the concerns held by individuals associated with the CTC Program and the need for clear guidance, they did not warrant separate investigations or administrative action.

### Handgun and Power Drill

91. ~~(TS)~~ [REDACTED] interrogation team members, whose purpose it was to interrogate Al-Nashiri and debrief Abu Zubaydah, initially staffed [REDACTED]. The interrogation team continued EITs on Al-Nashiri for two weeks in December 2002 [REDACTED] they assessed him to be "compliant." Subsequently, CTC officers at Headquarters [REDACTED] and sent a [REDACTED] senior operations officer (the debriefer) [REDACTED] to debrief and assess Al-Nashiri.

92. ~~(TS)~~ [REDACTED] The debriefer assessed Al-Nashiri as withholding information, at which point [REDACTED] reinstated [REDACTED] hooding, and handcuffing. Sometime between [REDACTED]

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28 December 2002 and 1 January 2003, the debriefer used an unloaded semi-automatic handgun as a prop to frighten Al-Nashiri into disclosing information.<sup>44</sup> After discussing this plan with [REDACTED] the debriefer entered the cell where Al-Nashiri sat shackled and racked the handgun once or twice close to Al-Nashiri's head.<sup>45</sup> On what was probably the same day, the debriefer used a power drill to frighten Al-Nashiri. With [REDACTED] consent, the debriefer entered the detainee's cell and revved the drill while the detainee stood naked and hooded. The debriefer did not touch Al-Nashiri with the power drill.

93. (S//NF) The [REDACTED] and debriefer did not request authorization or report the use of these unauthorized techniques to Headquarters. However, in January 2003, newly arrived TDY officers [REDACTED] who had learned of these incidents reported them to Headquarters. OIG investigated and referred its findings to the Criminal Division of DoJ. On 11 September 2003, DoJ declined to prosecute and turned these matters over to CIA for disposition. These incidents are the subject of a separate OIG Report of Investigation.<sup>46</sup>

### Threats

94. (S//NF) [REDACTED] During another incident [REDACTED] the same Headquarters debriefer, according to [REDACTED] who was present, threatened Al-Nashiri by saying that if he did not talk, "We could get your mother in here," and, "We can bring your family in here." The [REDACTED] debriefer reportedly wanted Al-Nashiri to infer, for psychological reasons, that the debriefer might be [REDACTED] intelligence officer based on his Arabic dialect, and that Al-Nashiri was in [REDACTED] custody because it was widely believed in Middle East circles that an [REDACTED] interrogation technique involves

<sup>44</sup> (S//NF) This individual was not a trained interrogator and was not authorized to use SIFs.

<sup>45</sup> (S//NF) Racking is a mechanical procedure used with firearms to chamber a bullet or simulate a bullet being chambered.

<sup>46</sup> (S//NF) Unauthorized Interrogation Techniques [REDACTED], 29 October 2003.

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~~TOP SECRET~~~~NOFORN//MR~~

sexually abusing female relatives in front of the detainee. The debriefer denied threatening Al-Nashiri through his family. The debriefer also said he did not explain who he was or where he was from when talking with Al-Nashiri. The debriefer said he never said he was [REDACTED] intelligence officer but let Al-Nashiri draw his own conclusions.

95. (TS// [REDACTED]) An experienced Agency interrogator reported that the [REDACTED] interrogators threatened Khalid Shaykh Muhammad [REDACTED]. According to this interrogator, the [REDACTED] interrogators said to Khalid Shaykh Muhammad that if anything else happens in the United States, "We're going to kill your children." According to the interrogator, one of the [REDACTED] interrogators said [REDACTED]

[REDACTED] With respect to the report provided to him of the threats [REDACTED] that report did not indicate that the law had been violated.

### Smoke

96. (TS// [REDACTED]) An Agency [REDACTED] interrogator admitted that, in December 2002, he and another [REDACTED] smoked cigars and blew smoke in Al-Nashiri's face during an interrogation. The interrogator claimed they did this to "cover the stench" in the room and to help keep the interrogators alert late at night. This interrogator said he would not do this again based on "perceived criticism." Another Agency interrogator admitted that he also smoked cigars during two sessions with Al-Nashiri to mask the stench in the room. He claimed he did not deliberately force smoke into Al-Nashiri's face.

Class App. 180

~~TOP SECRET//~~~~NOFORN//MR~~**Stress Positions**

97. (TS//) - OIG received reports that interrogation team members employed potentially injurious stress positions on Al-Nashiri. Al-Nashiri was required to kneel on the floor and lean back. On at least one occasion, an Agency officer reportedly pushed Al-Nashiri backward while he was in this stress position. On another occasion,  said he had to intercede after  expressed concern that Al-Nashiri's arms might be dislocated from his shoulders.  explained that, at the time, the interrogators were attempting to put Al-Nashiri in a standing stress position. Al-Nashiri was reportedly lifted off the floor by his arms while his arms were bound behind his back with a belt.

**Stiff Brush and Shackles**

98. (TS//) interrogator reported that he witnessed other techniques used on Al-Nashiri that the interrogator knew were not specifically approved by DoJ. These included the use of a stiff brush that was intended to induce pain on Al-Nashiri and standing on Al-Nashiri's shackles, which resulted in cuts and bruises. When questioned, an interrogator who was at  acknowledged that they used a stiff brush to bathe Al-Nashiri. He described the brush as the kind of brush one uses in a bath to remove stubborn dirt. A CTC manager who had heard of the incident attributed the abrasions on Al-Nashiri's ankles to an Agency officer accidentally stepping on Al-Nashiri's shackles while repositioning him into a stress position.

**Waterboard Technique**

99. (TS//) The Review determined that the interrogators used the waterboard on Khalid Shaykh Muhammad in a manner inconsistent with the SERE application of the waterboard and the description of the waterboard in the DoJ OLC opinion, in that the technique was used on Khalid Shaykh Muhammad a large number of times. According to the General Counsel, the Attorney

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Class.App. 181

~~SECRET//NOFORN~~

(b)(3) NatSecAct

Date: 200402 [redacted]

(b)(3) CIAAct

TO: James L. Pavitt@DO [redacted]

(b)(6)

FROM: Scott W. Muller

CC: George J. Tenet@DCI; John E. McLaughlin@DCI; John H. Moseman@DCI; [redacted]

(b)(1)

(b)(3) CIAAct

(b)(3) NatSecAct

(b)(6)

SUBJECT: CIA Detainees at GITMO.

----- BODY -----

(b)(1)

(b)(3) NatSecAct

(b)(5)

In light of the Supreme Court's acceptance of a case presenting the question of whether GITMO is US territory , we asked DOJ for its advice on whether the CIA detainees should remain at GITMO or be moved out pending the Supreme Court decision. We also raised the issue with NSC and White House Counsel. Pat Philbin (OLC) called this afternoon and advised that, as agreed in an earlier conversation with White House counsel and others, the Solicitor General had been consulted. Philbin reported that DOJ (including specifically the Solicitor General) recommended that CIA move the detainees (except al-Libi) out of GITMO at this time.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(5)  
(b)(6)

~~SECRET//NOFORN~~

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Class.App. 182  
Approved for Release: 2016/06/10 C06552081

(b)(3) NatSecAct

TOP SECRET [redacted] /NOFORN

From: John A. Rizzo

To: Michael V. Hayden, Stephen R. Kappes, Michael J. Morell

Cc: [redacted] (b)(3) CIAAct

Bcc: [redacted] (b)(6)

Subject: Fw: 8 November 2006 Meeting with ICRC Reps

Date: 11/9/2006 1:51:34 PM

(b)(3) CIAAct  
(b)(5)  
(b)(6)

[redacted] As described to us, albeit in summary form, what the detainees allege actually does not sound that far removed from the reality.

(b)(5)

[redacted] And the ICRC, for its part, seems to find their stories largely credible, having put much stock in the fact that the story each detainee has told about his transfer, treatment and conditions of confinement

TOP SECRET/ [redacted] (b)(1) /NOFORN  
(b)(3) NatSecAct

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Approved for Release: 2016/06/10 C06552081

(b)(3) NatSecAct

~~TOP SECRET~~ / ~~NOFORN~~

was basically consistent, even though they had been incommunicado with each other throughout their detention by us .

----- Forwarded by John A. Rizzo/STF/AGENCY on 11/09/2006 01:20 PM -----

(b)(1) (b)(3) CIAAct

(b)(3) NatSecAct Text of (b)(6)

ATTORNEY WORK PRODUCT/ATTORNEY-CLIENT PRIVILEGED INFORMATION/DELIBERATIVE  
PROCESS PRIVILEGED DOCUMENT

(b)(3) CIAAct

(b)(6) CTC/LGL (b)(3) CIAAct

11/09/2006 12:25 PM

To: John A. Rizzo/STF/AGENCY@WMA, (b)(3) CIAAct  
(b)(6)

(b)(3) CIAAct  
(b)(6)  
  
(b)(3) CIAAct  
(b)(6)

cc:

Subject: 8 November 2006 Meeting with ICRC Reps

(b)(5)  
(b)(6)

~~TOP SECRET~~ (b)(1) (b)(3) NatSecAct / ~~NOFORN~~

Approved for Release: 2016/06/10 C06552081

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

Approved for Release: 2016/06/10 C06541516  
Class.App. 184

~~CONFIDENTIAL//K1~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

(b)(3) CIAAct  
(b)(3) NatSecAct

Office: CTC/RG

[Redacted]



01/22/03 10:22 AM

To: [Redacted]  
cc: [Redacted]

Subject: Re: [Redacted]

This morning I informed the front office of CTC that I will no longer be associated in any way with the interrogation program due to serious reservation I have about the current state of affairs. Instead, I will be retiring shortly. This is a train wreck waiting to happen and I intend to get the hell off the train before it happens.

Original Text of [Redacted] (b)(1)  
Original Text of [Redacted] (b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

(b)(3) CIAAct  
(b)(3) NatSecAct

22 January 2003

MEMORANDUM FOR:

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

FROM:

OFFICE:

SUBJECT:

REFERENCE:

[Large redacted area]

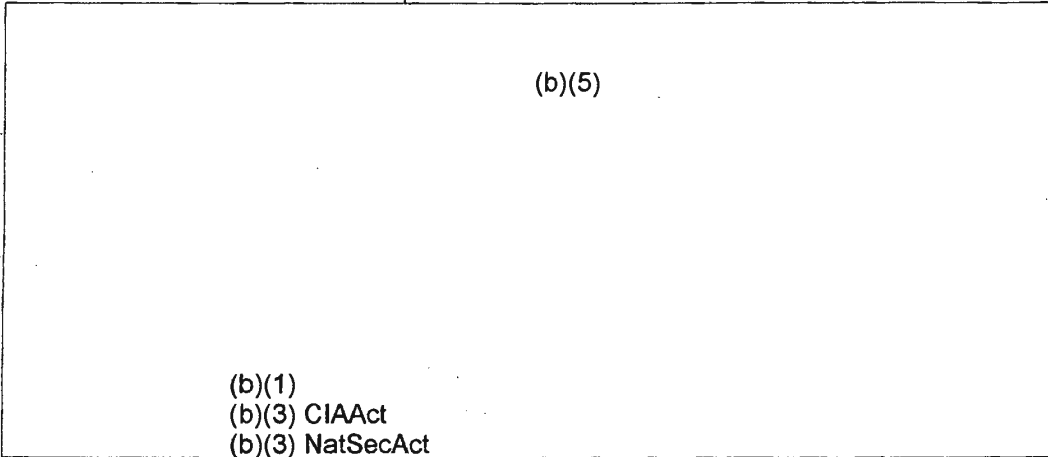
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(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(5)  
(b)(6)

~~CONFIDENTIAL//K1~~

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Class.App. 185

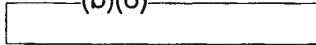
~~CONFIDENTIAL//SI~~



(b)(5)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

CC:



Sent on 22 January 2003 at 10:19:22 AM

~~CONFIDENTIAL//SI~~

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Approved for Release: 2016/06/10 C06541511  
Class.App. 186

(b)(3) CIAAct  
(b)(3) NatSecAct

22 January 2003

MEMORANDUM FOR:

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

FROM:

OFFICE:

SUBJECT: (b)(3) CIAAct

REFERENCE: (b)(6)

(b)(3) CIAAct

CONCERNS OVER REVISED INTERROGATION PLAN FOR NASHIRI

Below is a cable that I drafted which I don't expect to go  
anywhere but I want it entered for the record.

(b)(5)  
(b)(6)

(b)(3) CIAAct  
(b)(6)

Originator

~~SECRET~~

STAFF

Previous Reviewer(s)

Current Reviewer

Future Reviewer(s)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

TO: IMMEDIATE

(b)(1)  
(b)(3) NatSecAct

~~SECRET//X1~~

Approved for Release: 2016/06/10 C06541511  
Class.App. 187

FROM:

[Redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

SUBJECT: CONCERNS OVER REVISED INTERROGATION PLAN FOR NASHIRI

REF: (b)(1)  
(b)(3) NatSecAct

TEXT:

1. ACTION REQUIRED: NONE, FYI.

2. APPRECIATE REF DETAILED INTERROGATION PLAN FOR NASHIRI, HOWEVER, WE HAVE SERIOUS RESERVATIONS WITH THE CONTINUED USE OF ENHANCED TECHNIQUES WITH NASHIRI (SUBJECT) AND ITS LONG TERM IMPACT ON HIM. SUBJECT HAS BEEN HELD FOR THREE MONTHS IN VERY DIFFICULT CONDITIONS, BOTH PHYSICALLY AND MENTALLY. IT IS THE ASSESSMENT OF PRIOR INTERROGATORS THAT NASHIRI HAS BEEN MAINLY TRUTHFUL AND IS NOT WITHHOLDING SIGNIFICANT INFORMATION. TO

(b)(1) CONTINUE TO USE ENHANCED TECHNIQUE WITHOUT CLEAR INDICATIONS THAT  
(b)(3) CIAAct WITHHOLDING IMPORTANT INFO IS EXCESSIVE AND MAY CAUSE HIM TO  
(b)(3) NatSecAct CEASE COOPERATION ON ANY LEVEL. SUBJECT MAY COME TO THE  
(b)(6) CONCLUSION THAT WHETHER HE COOPERATES OR NOT, HE WILL CONTINUALLY  
BE SUBJECTED TO ENHANCED TECHNIQUES, THEREFORE, WHAT IS THE

(b)(1) INCENTIVE FOR CONTINUED COOPERATION. ALSO, BOTH C/CTC/RG AND HVT  
(b)(3) NatSecAct INTERROGATOR [ ] WHO DEPARTED [ ] IN [ ] JANUARY, BELIEVE  
CONTINUED ENHANCED METHODS MAY PUSH SUBJECT OVER THE EDGE

(b)(3) NatSecAct PSYCHOLOGICALLY.

3. ANOTHER AREA OF CONCERN IS THE USE OF THE PSYCHOLOGIST AS AN INTERROGATOR. THE ROLE OF THE OPS PSYCHOLOGIST IS TO BE A DETACHED OBSERVER AND SERVE AS A CHECK ON THE INTERROGATOR TO PREVENT THE INTERROGATOR FROM ANY UNINTENTIONAL EXCESS OF

SECRET//X1

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Class.App. 188

PRESSURE WHICH MIGHT CAUSE PERMANENT PSYCHOLOGICAL HARM TO THE  
SUBJECT. THE MEDICAL OFFICER IS ON HAND TO PROVIDE THE SAME  
PROTECTION FROM PHYSICAL ACTIONS THAT MIGHT HARM THE SUBJECT.

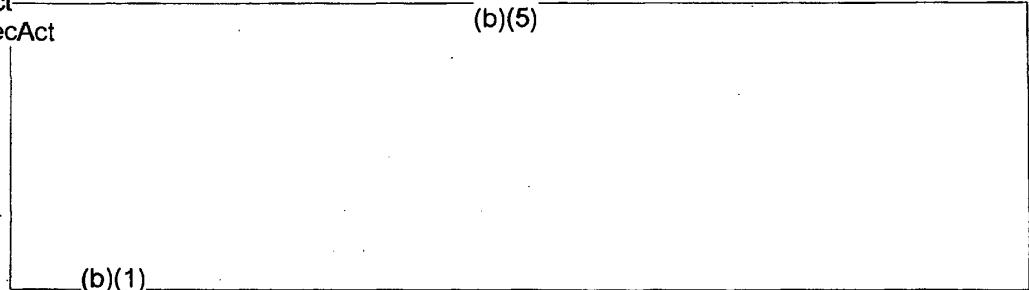
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

HEREFORE, THE MEDICAL OFFICER AND THE PSYCHOLOGIST SHOULD NOT  
SERVE AS AN INTERROGATOR, WHICH IS A CONFLICT OF RESPONSIBILITY.

WE NOTE THAT REF CONTAINS A PSYCHOLOGICAL INTERROGATION  
ASSESSMENT BY (b)(3) CIAAct PSYCHOLOGIST WHICH IS TO BE  
CARRIED OUT BY INTERROGATOR WE HAVE A PROBLEM WITH HIM  
CONDUCTING BOTH ROLES SIMULTANEOUSLY.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)

(b)(5)



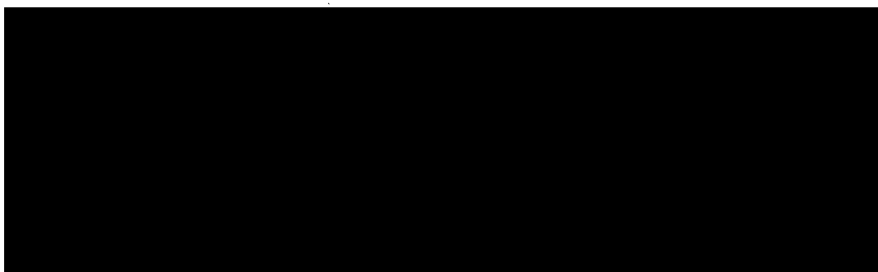
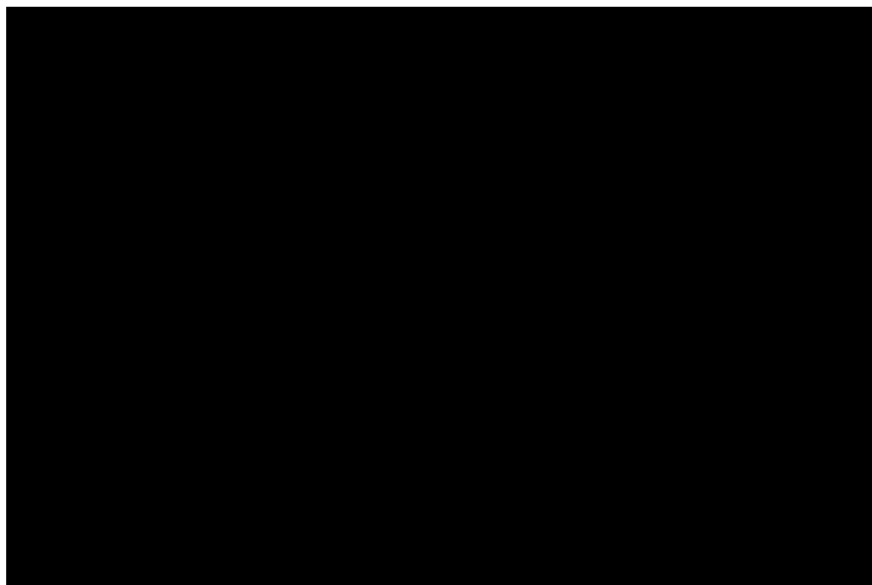
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(b)(3) NatSecAct  
(b)(6)

CC:  
Sent on 22 January 2003 at 11:25:11 AM

SECRET//X1

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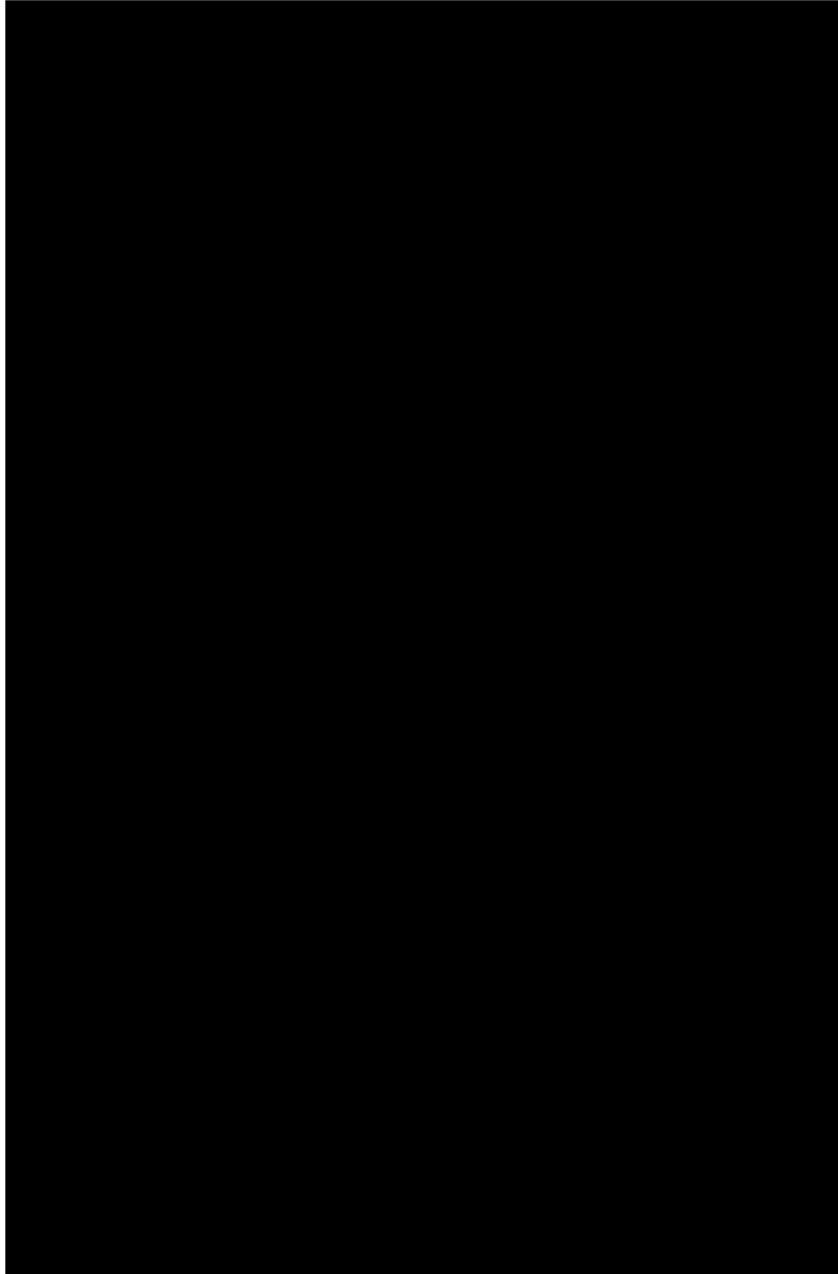


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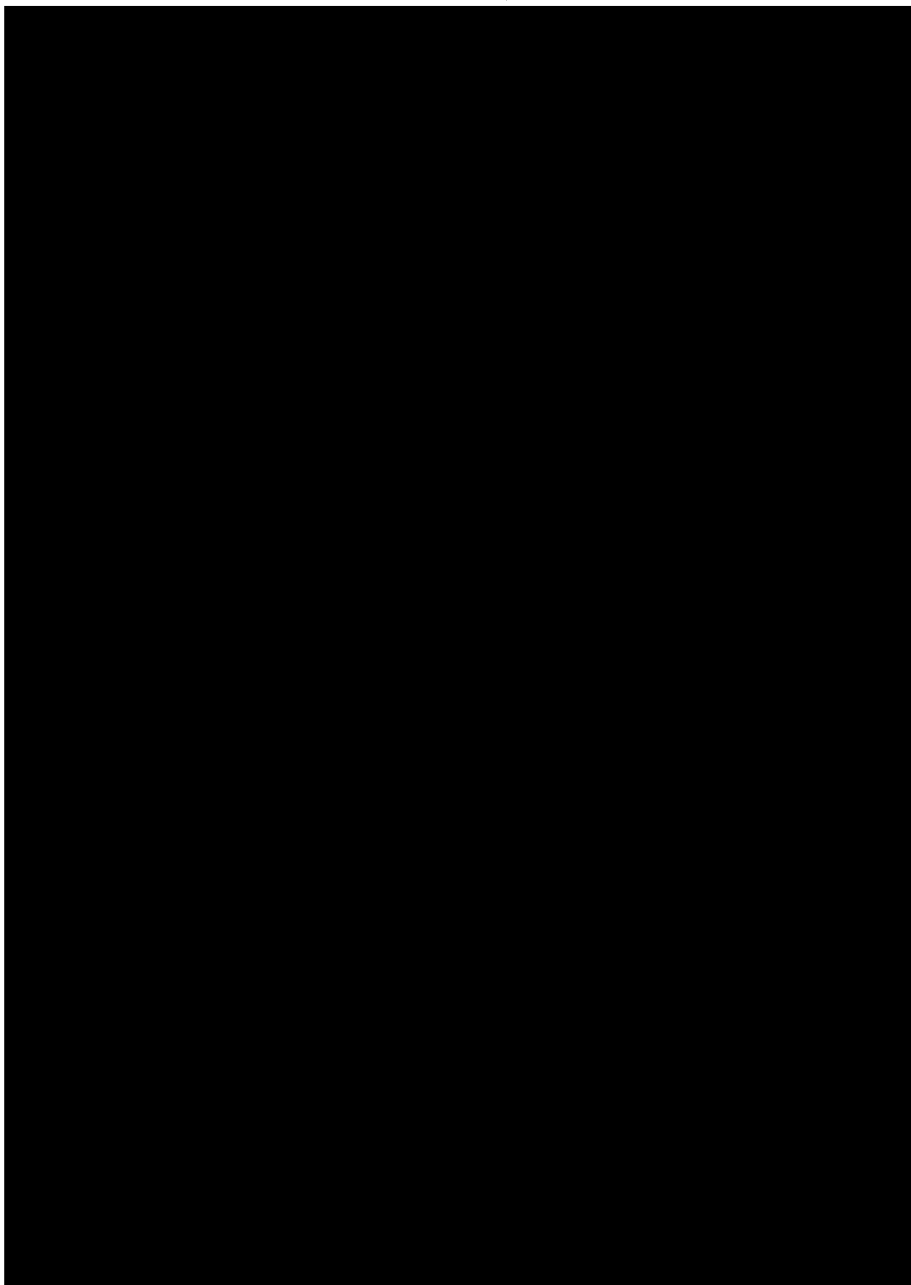
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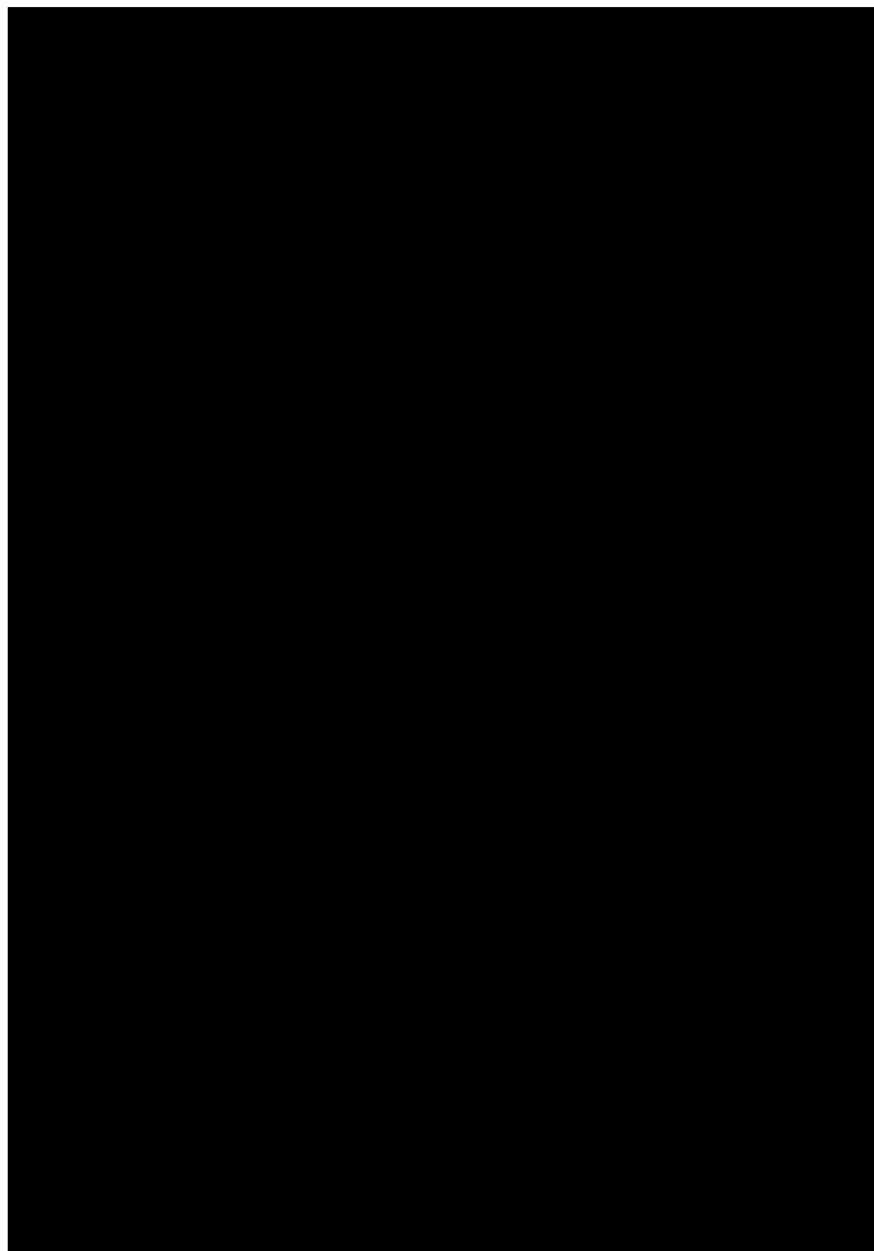
Class.App. 191



Class.App. 192

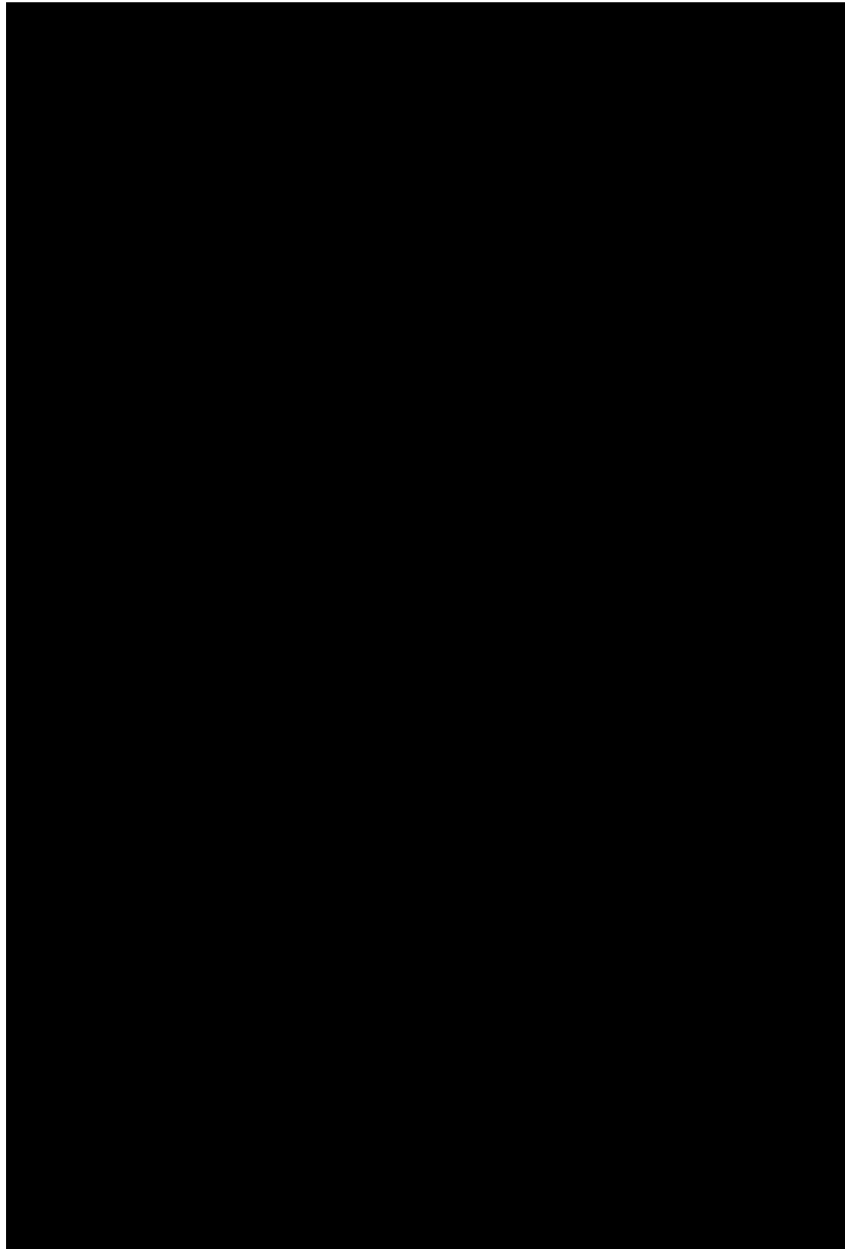


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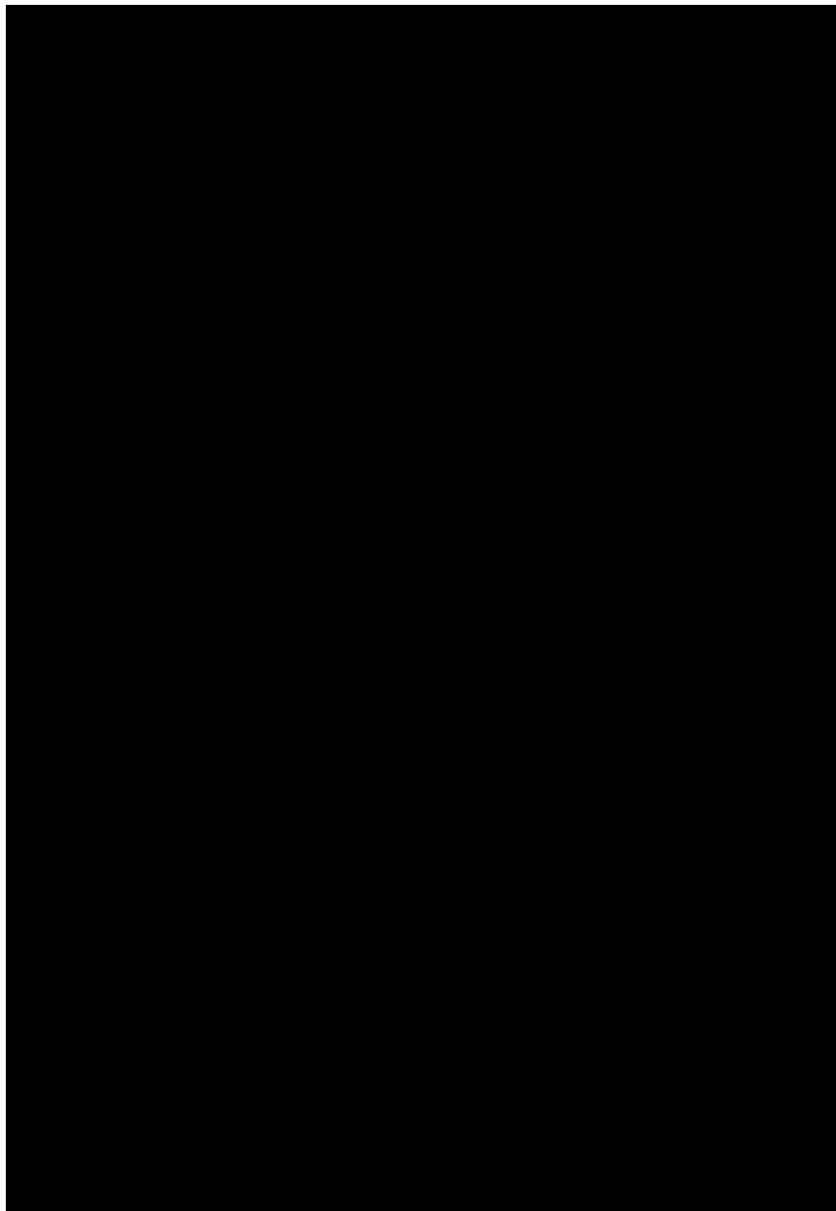
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Class.App. 194

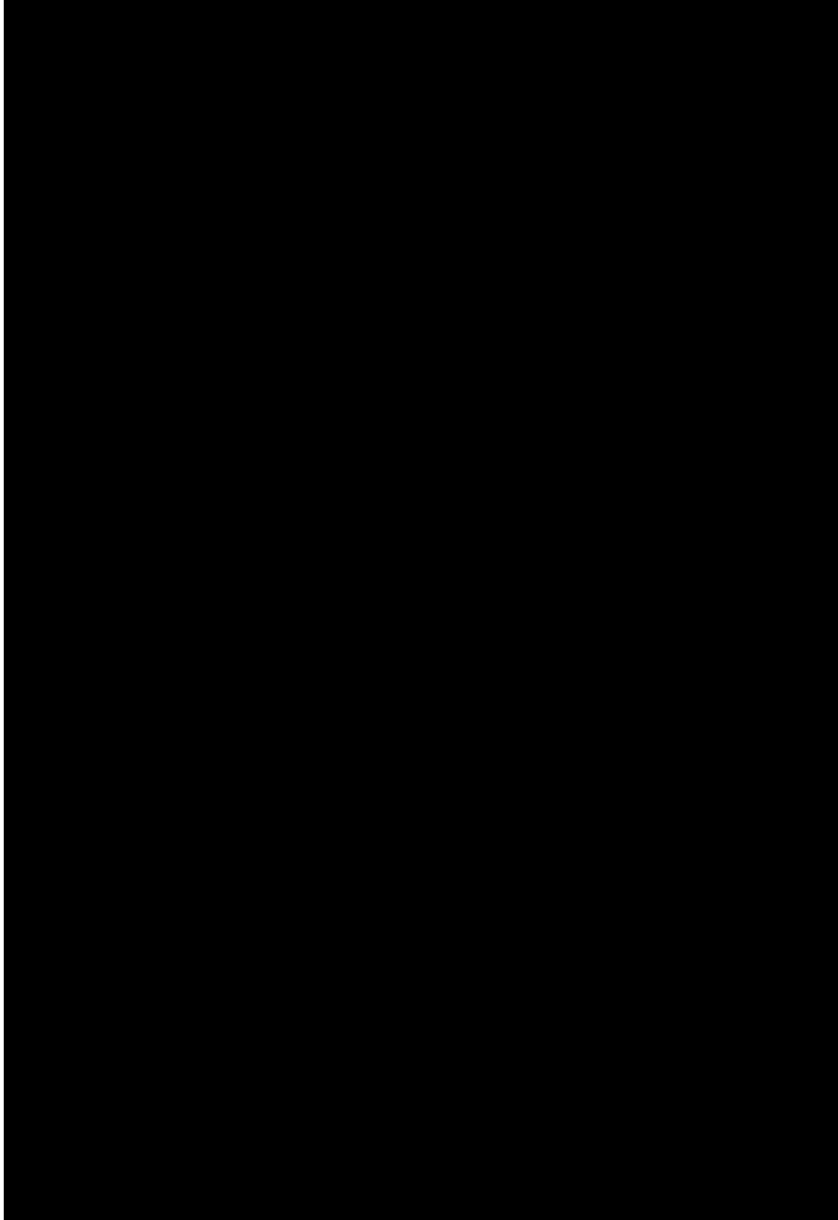


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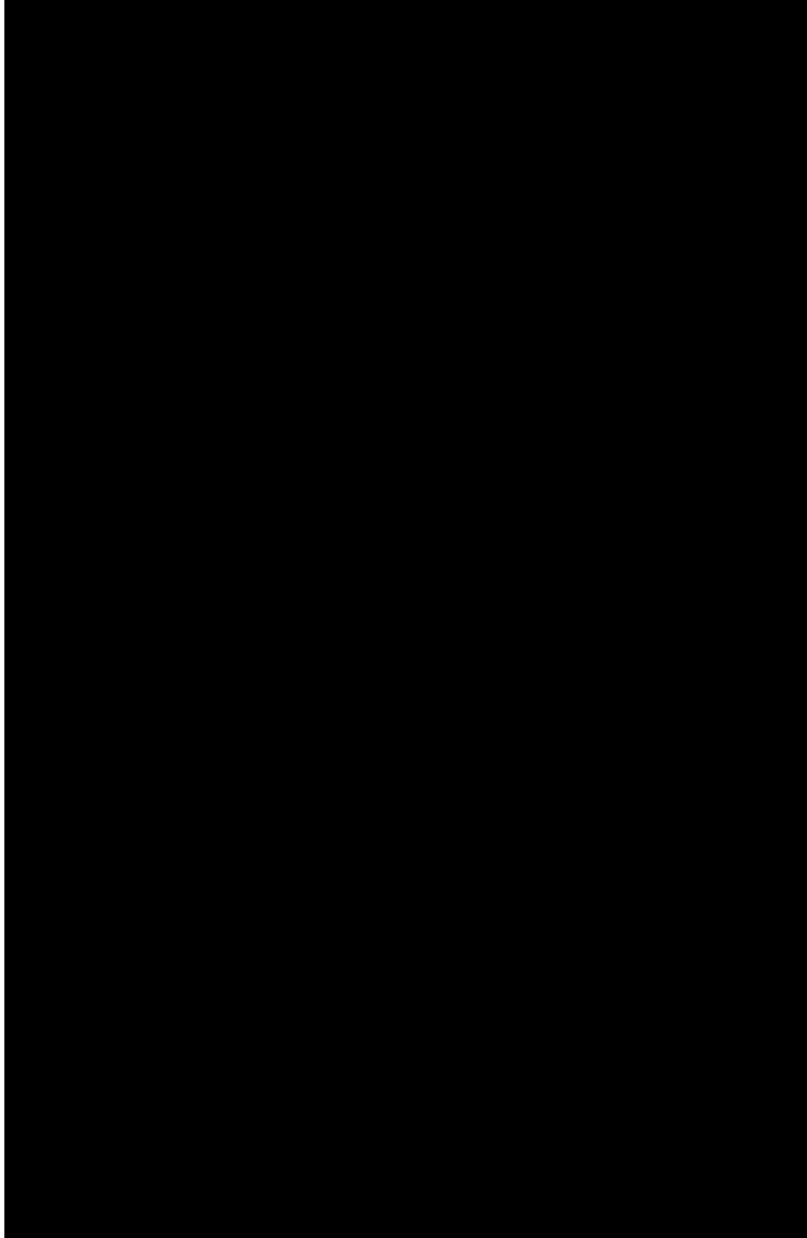


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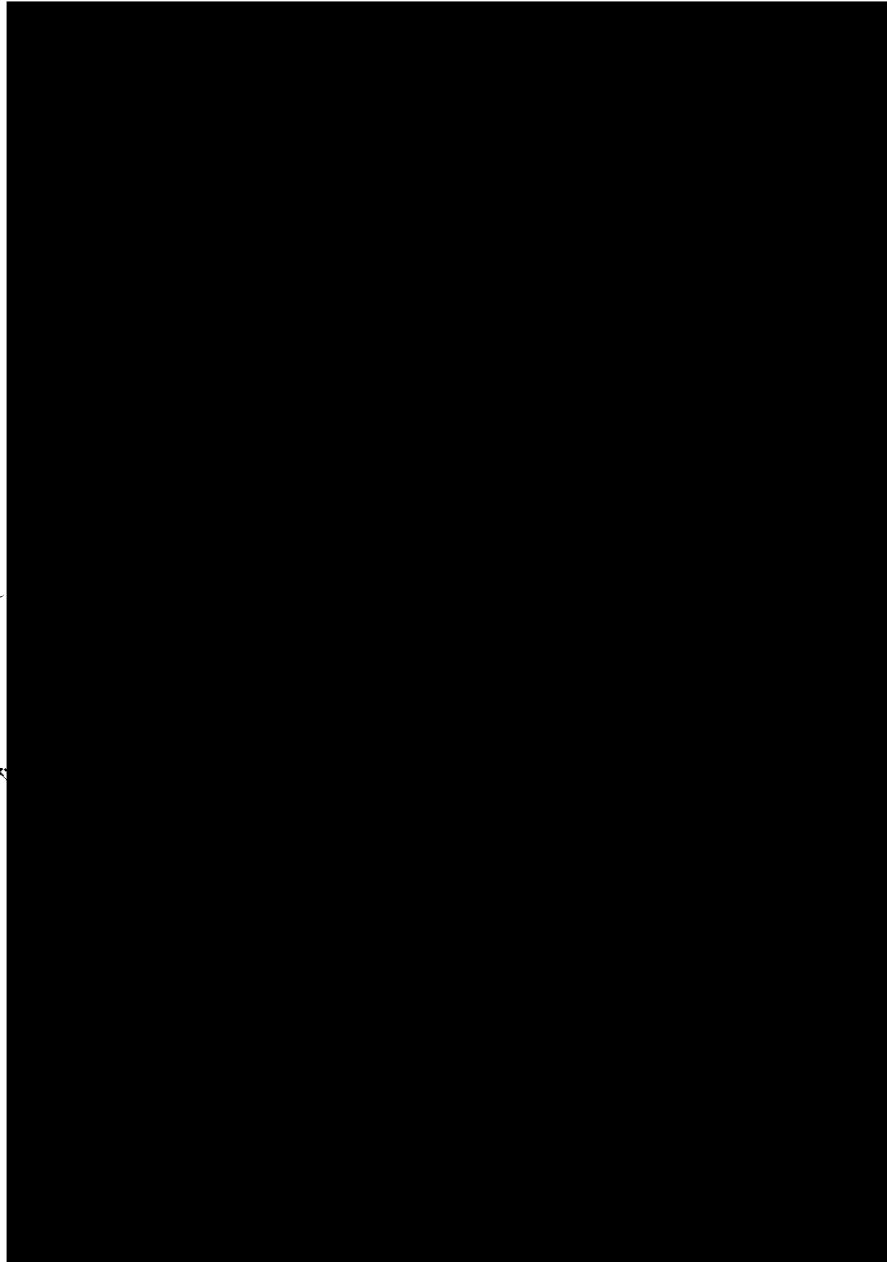
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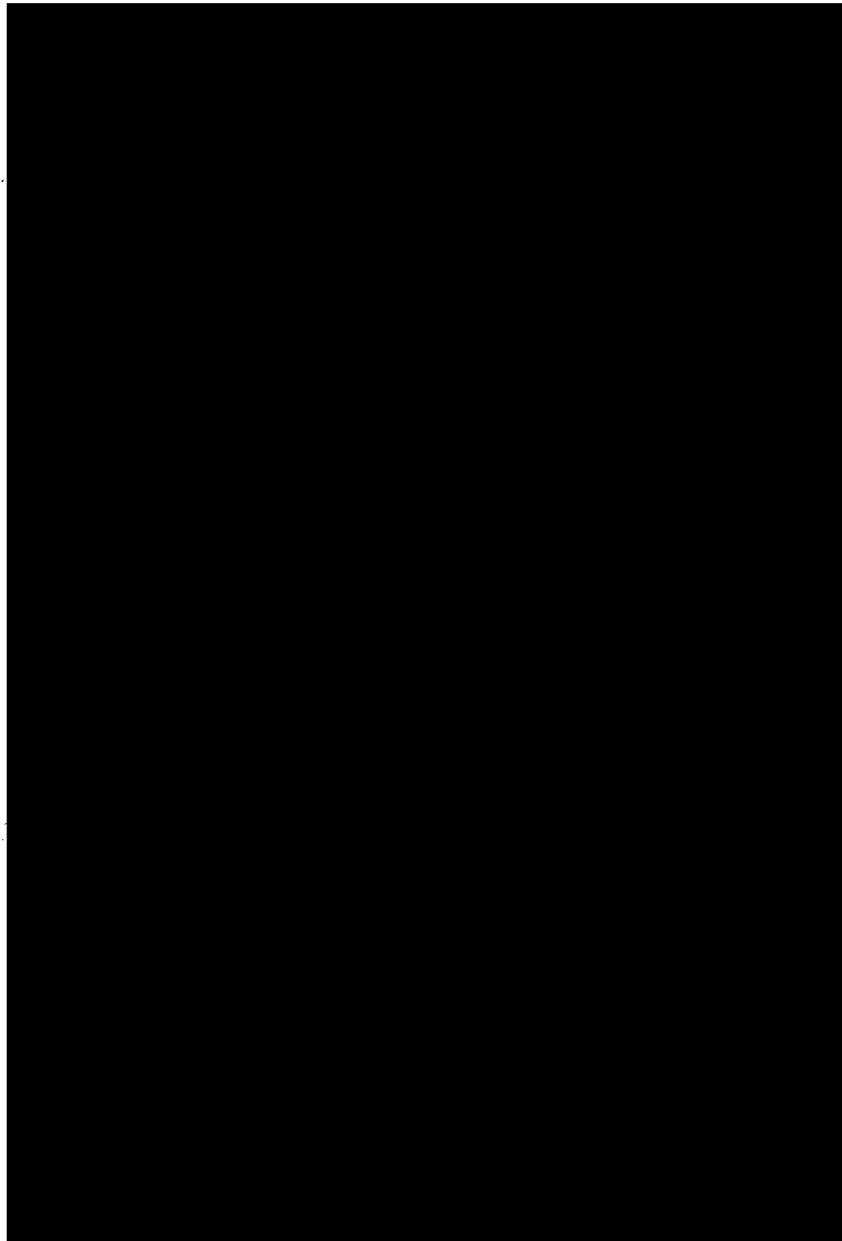


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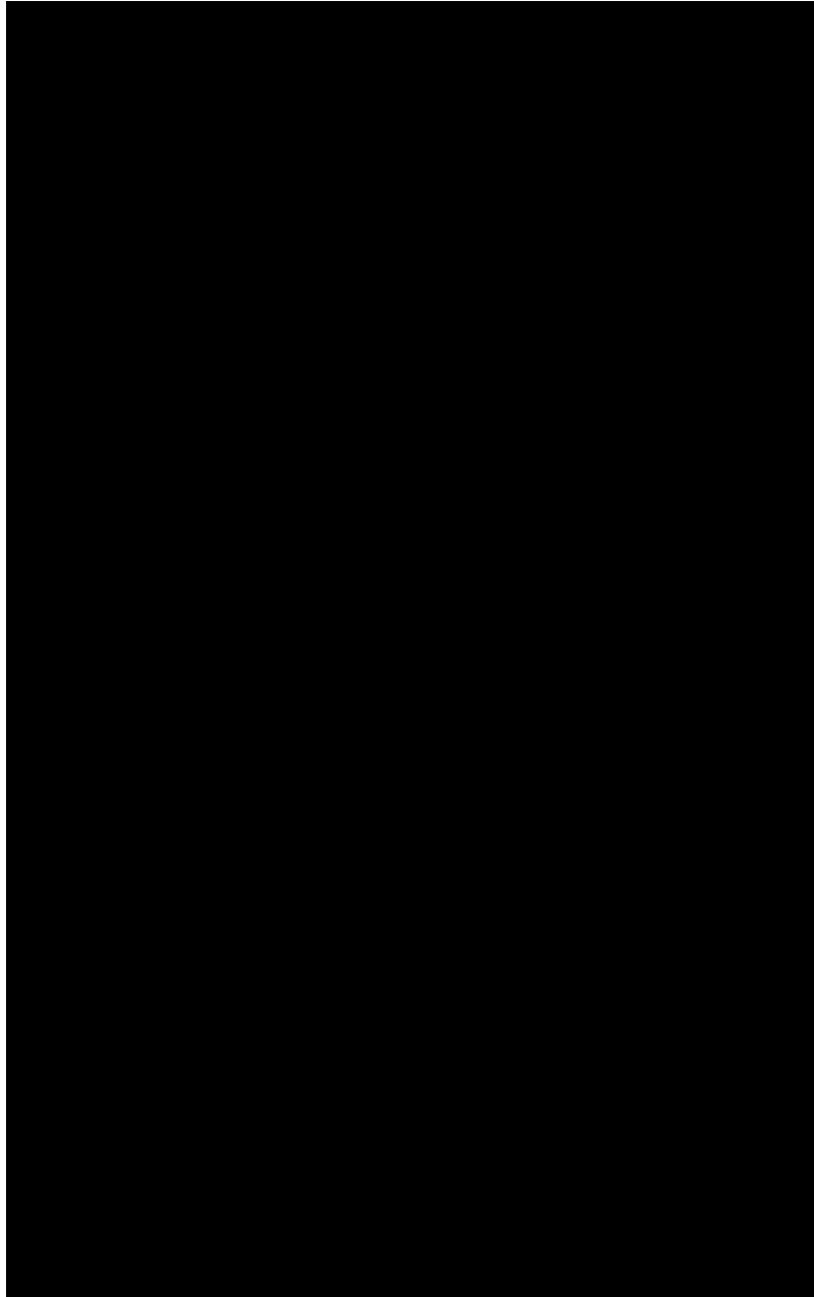
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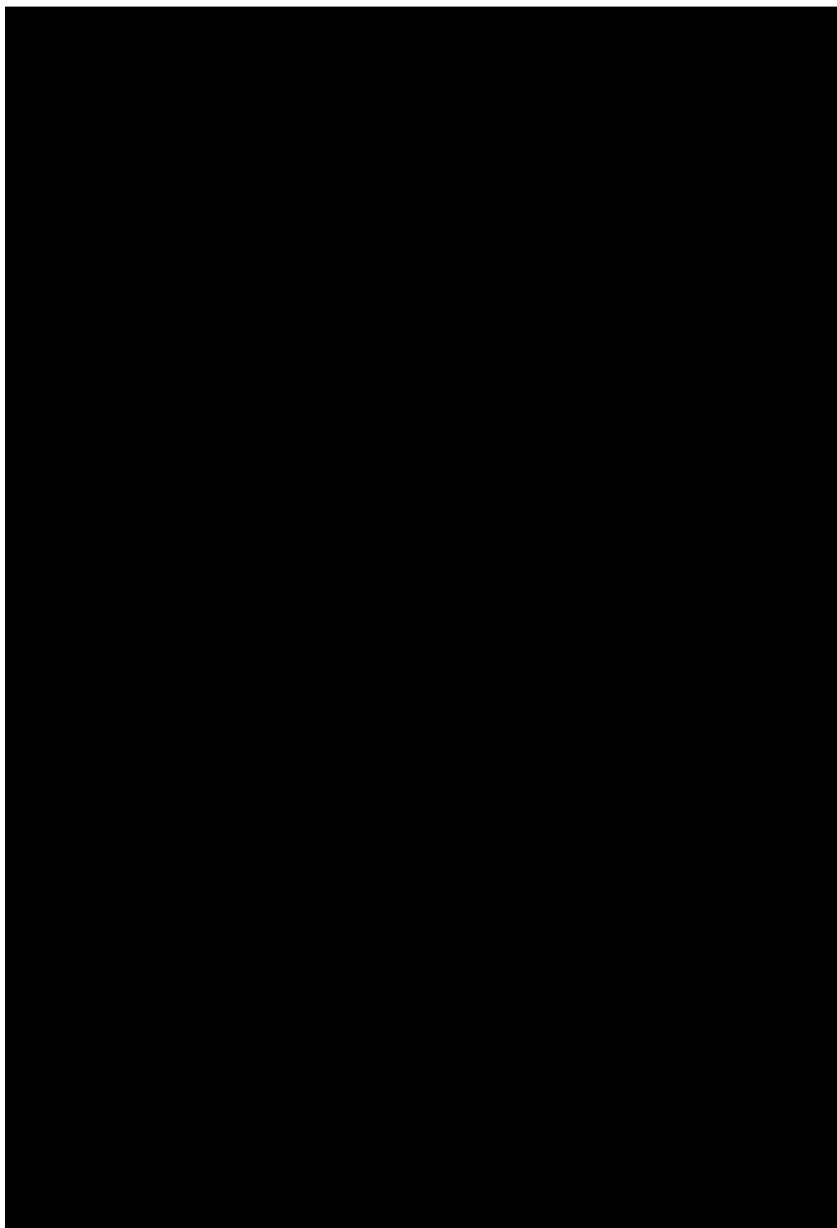
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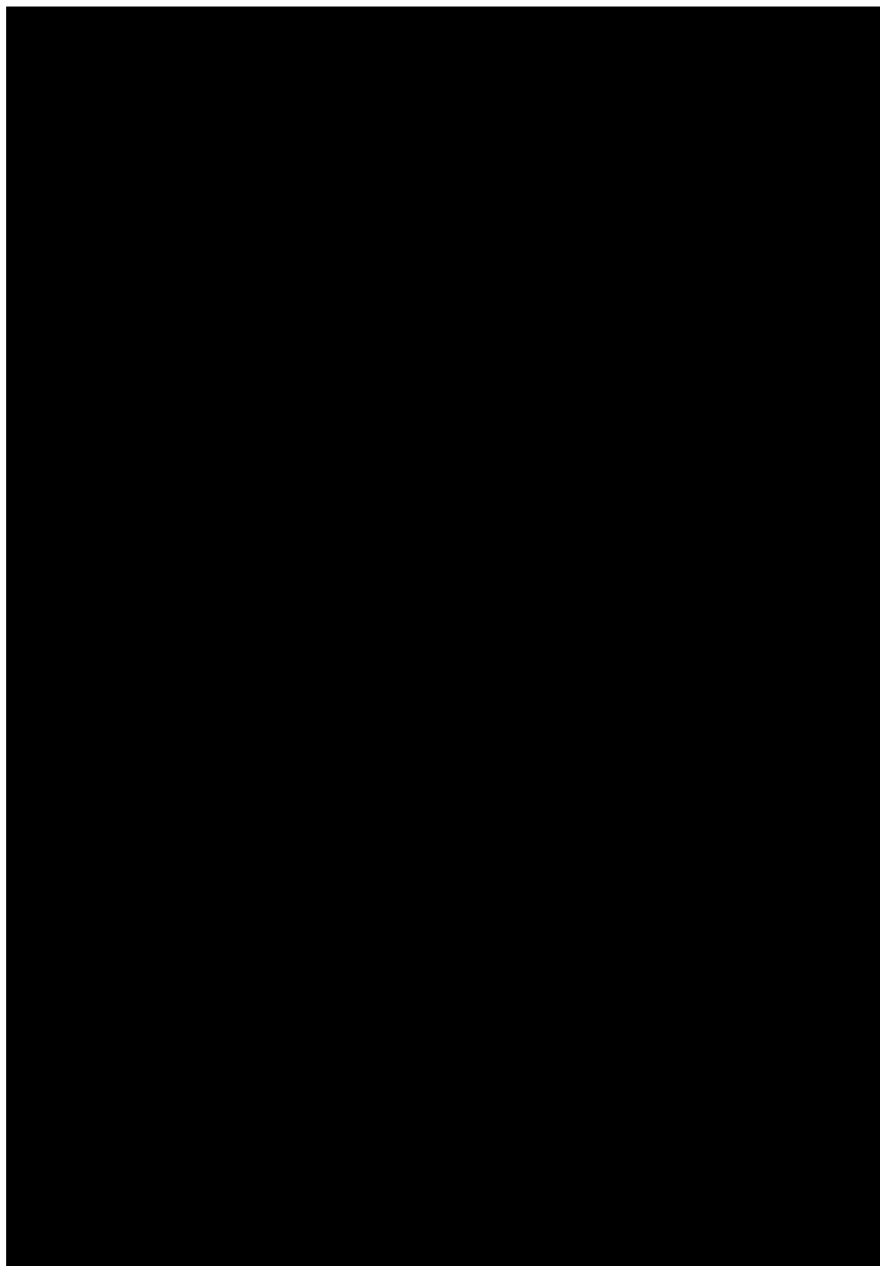
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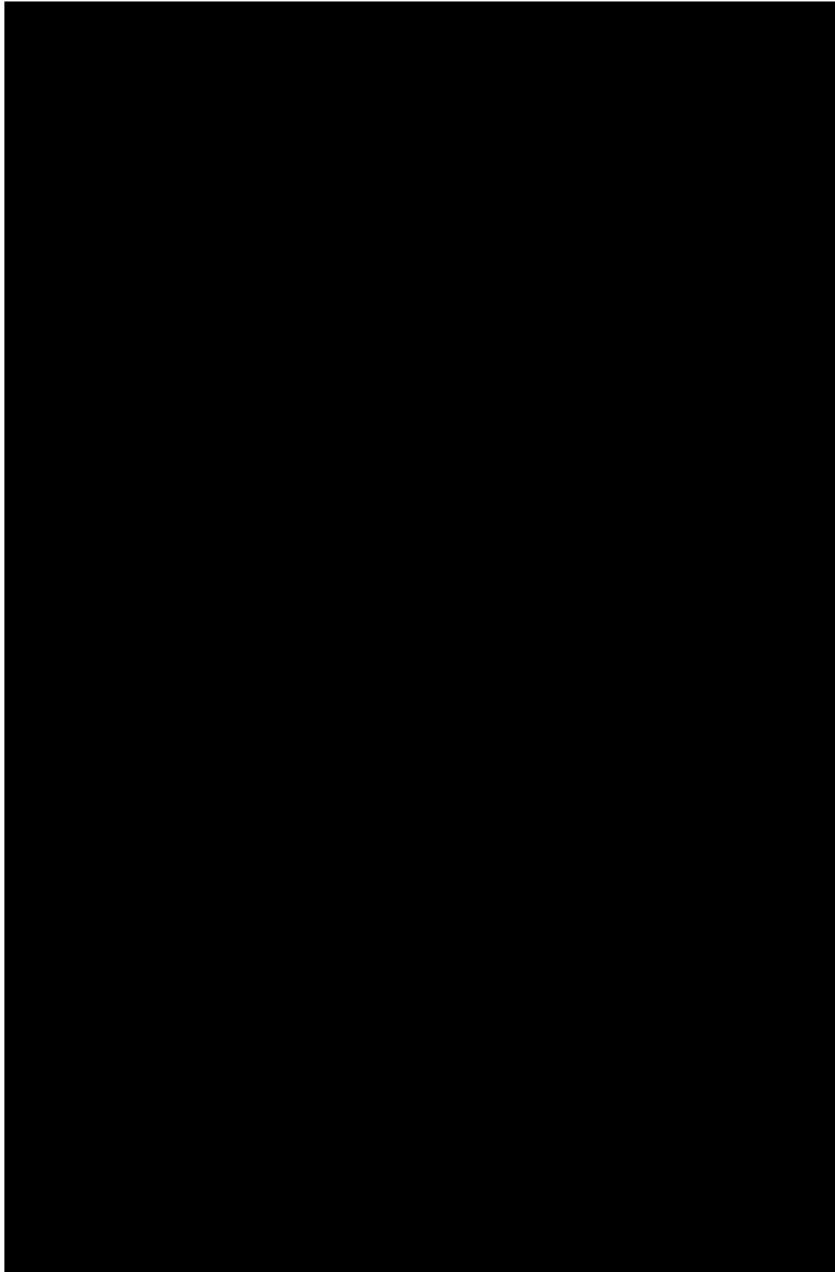
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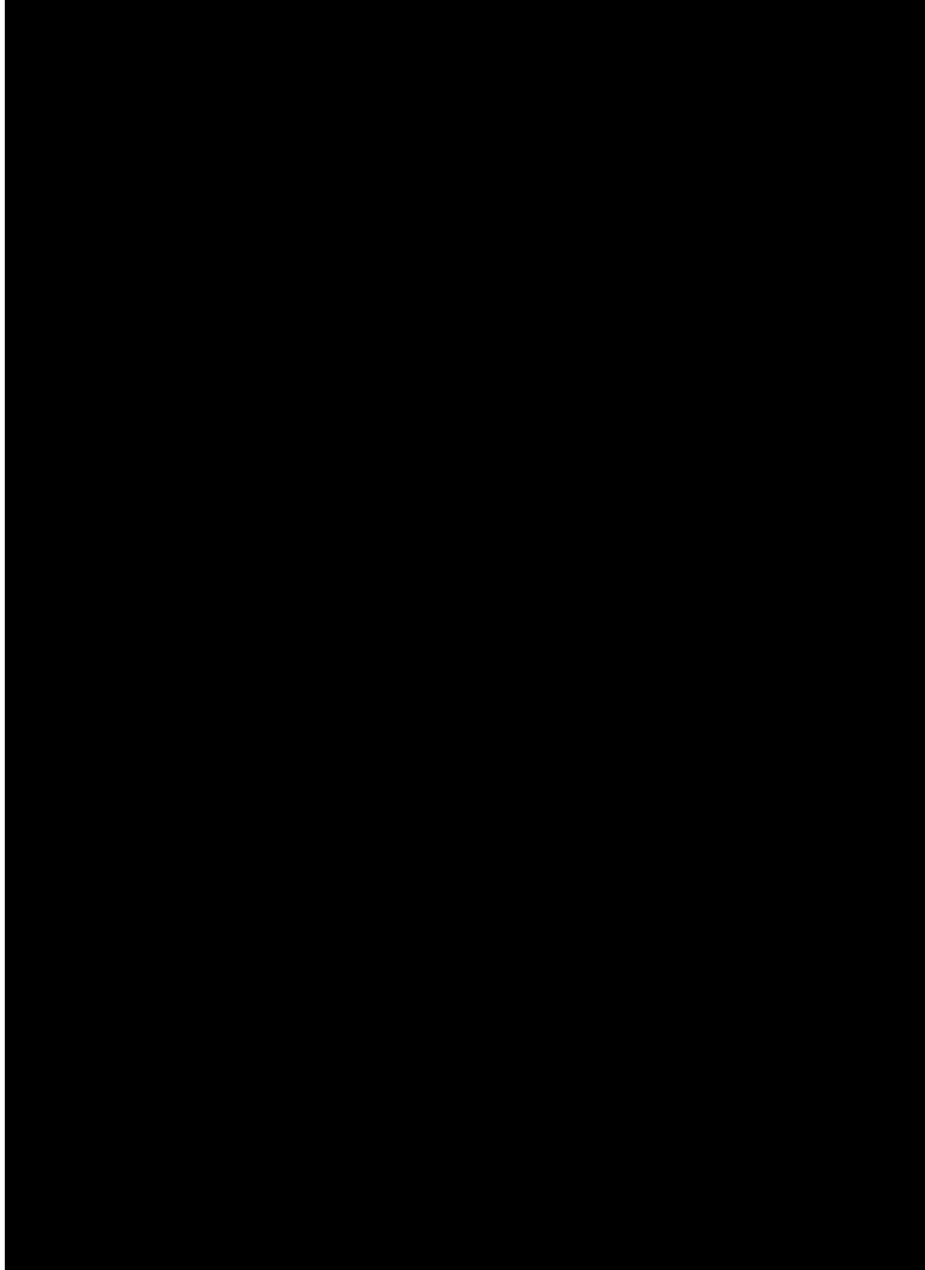
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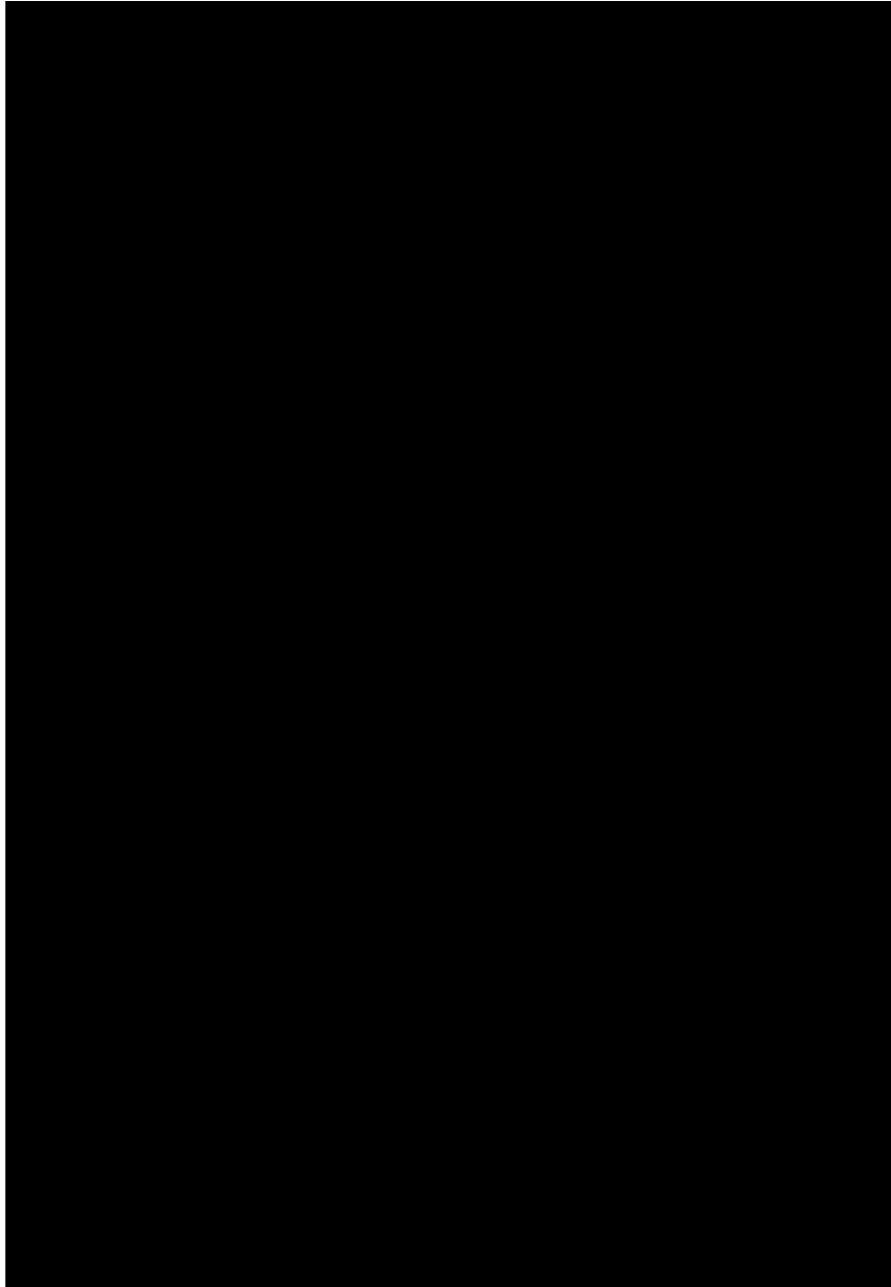
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Class.App. 207



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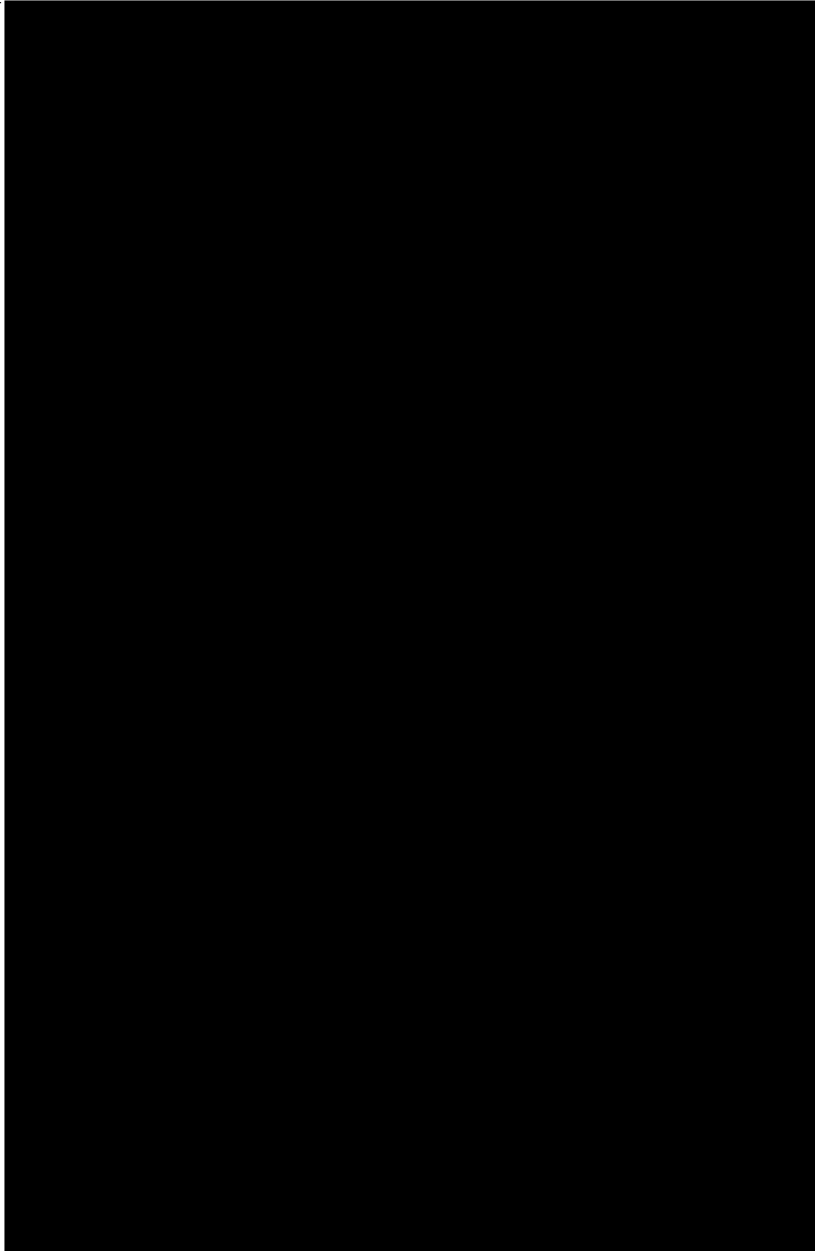
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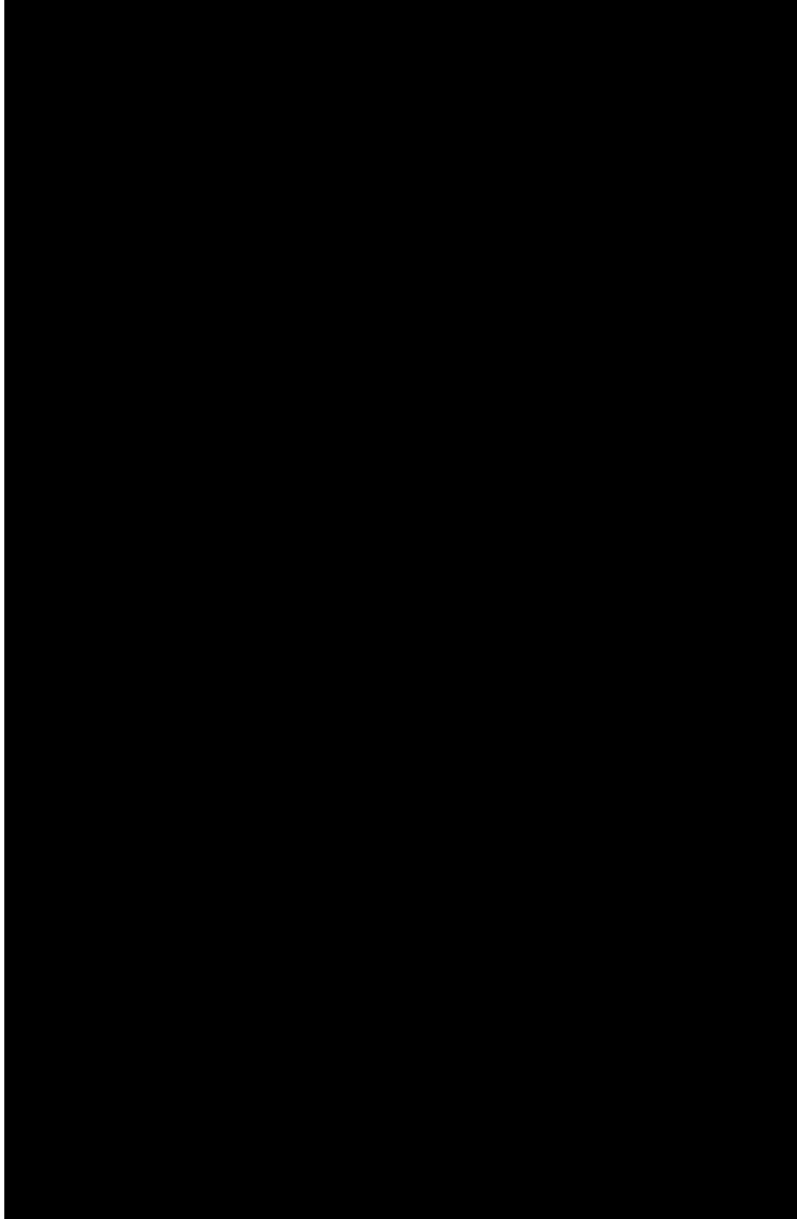
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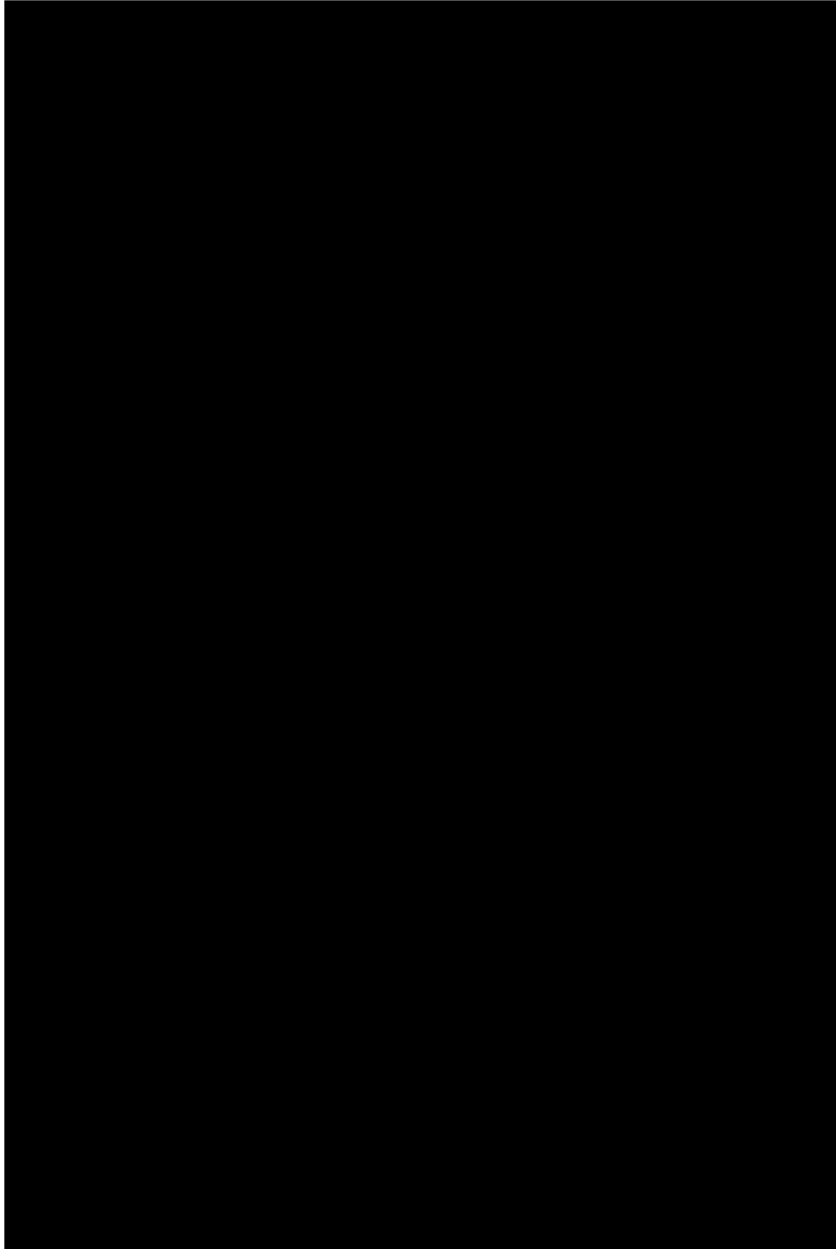
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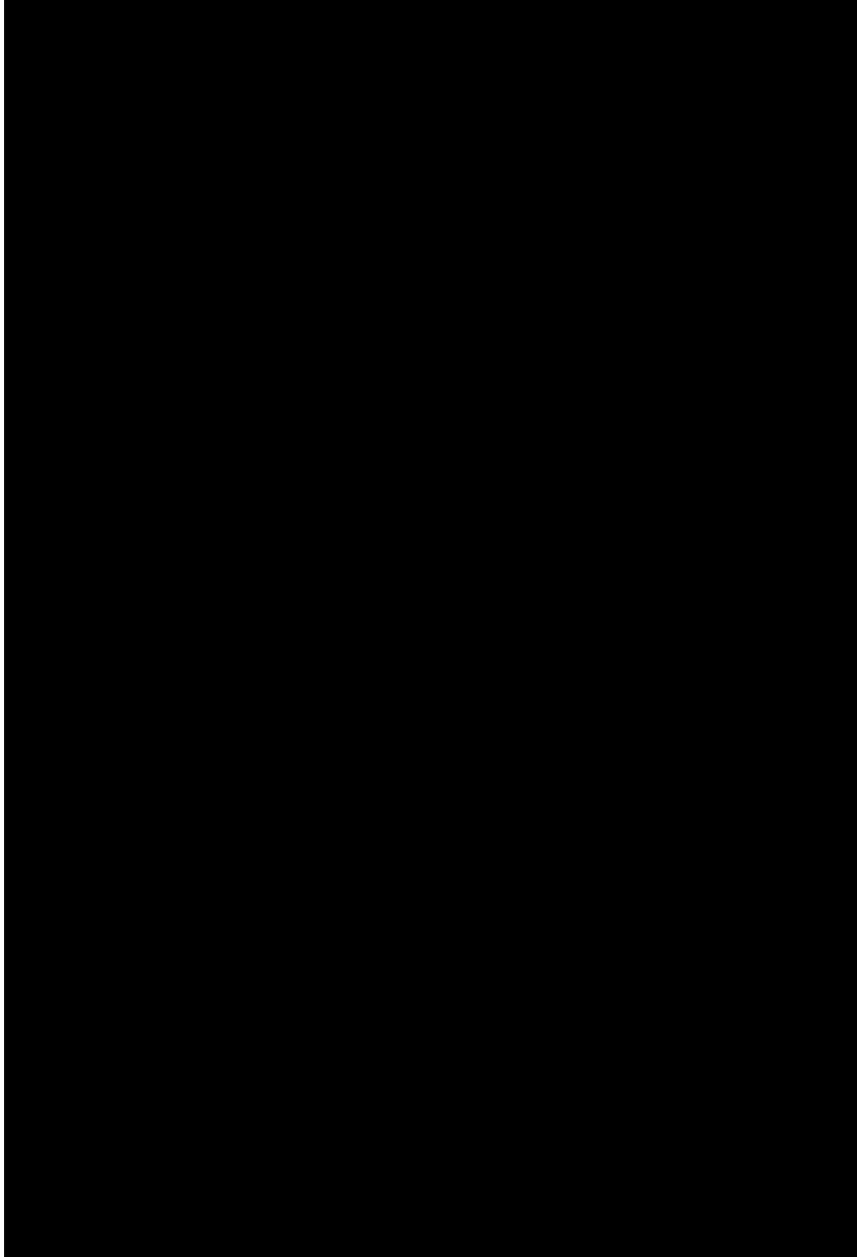
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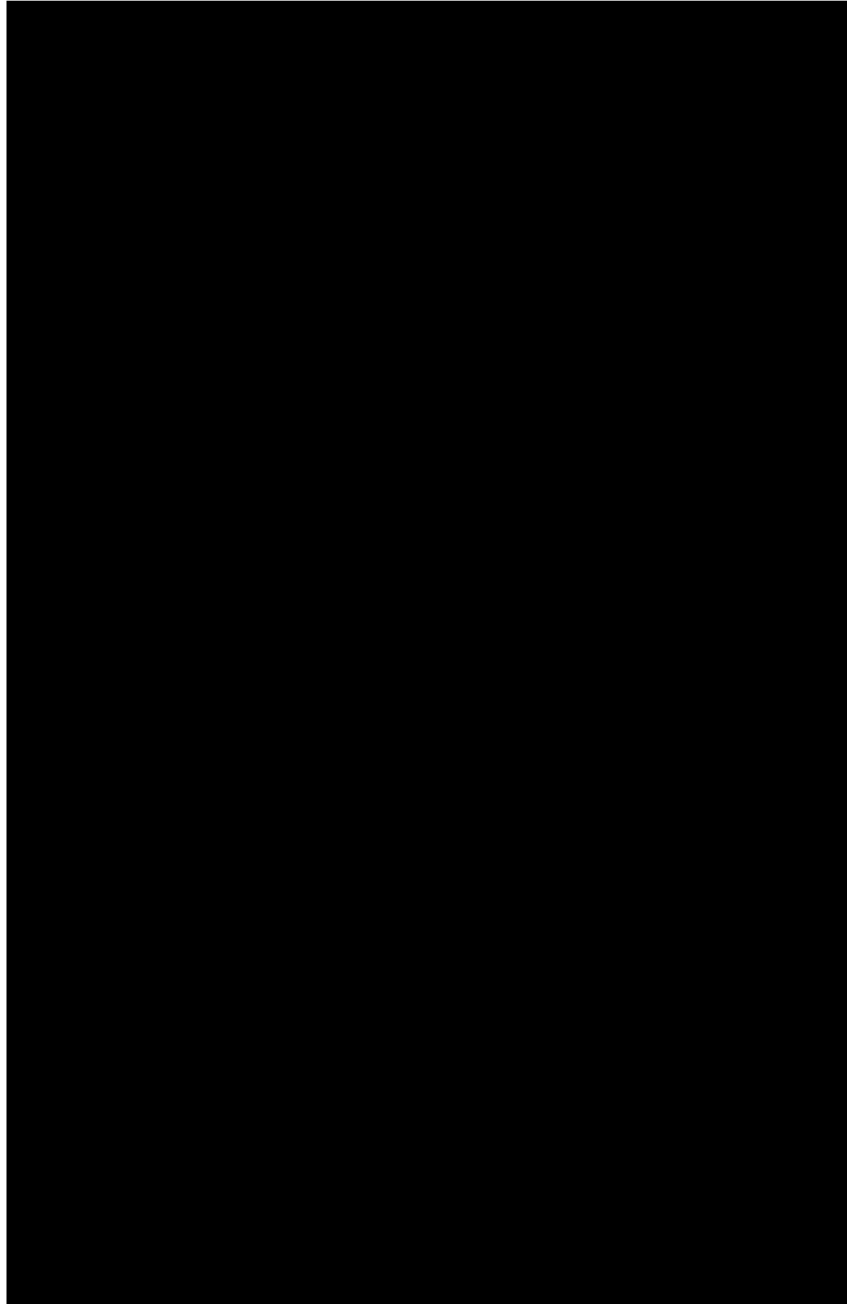
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Class.App. 212



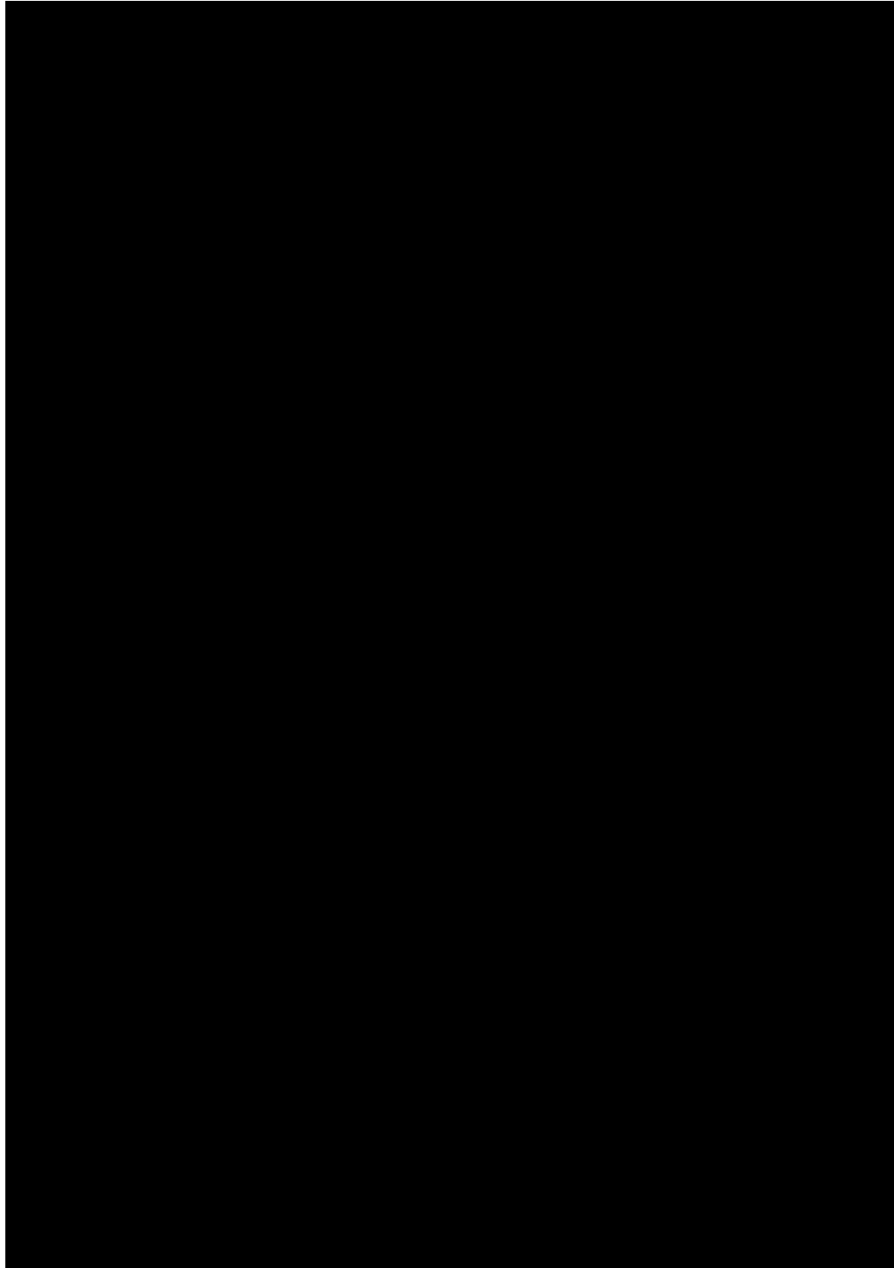
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Class.App. 213

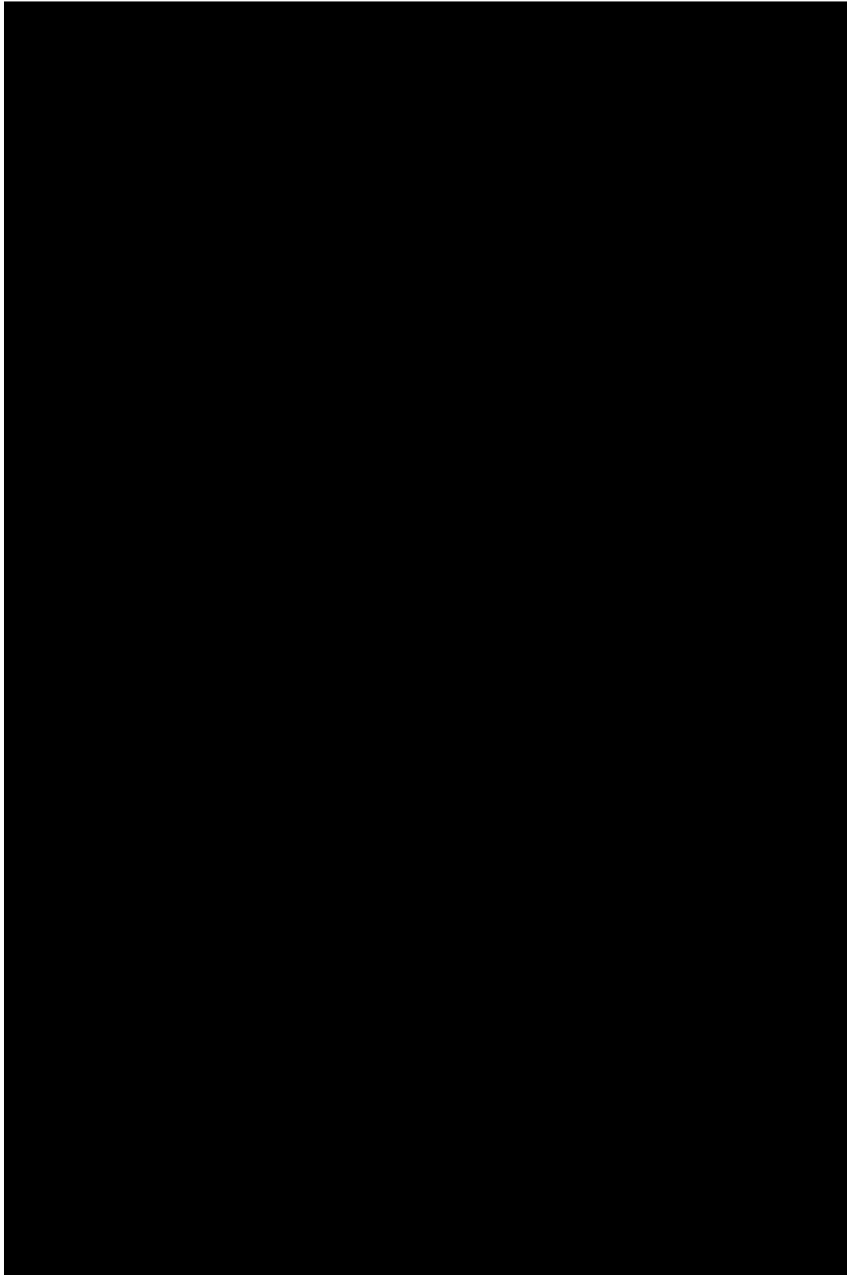




Class.App. 214



Class.App. 215



Class.App. 216

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 in camera ex parte submissions with de minimis notice to the  
2 other side. We continue to ask you to interpret Rule 703 in  
3 that way, the Commission statute 703.

4           If you say, you know, we agree with the defense,  
5 the Commission agrees with the defense, the Commission  
6 interprets Rule 703 to provide for this, that becomes the law  
7 of this case. And I do not believe, as I understand the  
8 process, the Convening Authority in this case any more than  
9 the Convening Authority at Fort Lewis or on a battleship or  
10 wherever the Convening Authority may be has the authority to  
11 say to a federal judge -- to a commission judge, a military  
12 judge, I'm sorry, I'm not going to follow your rule, your  
13 ruling. I don't believe the Convening Authority has that  
14 authority. And frankly, I don't believe the Convening  
15 Authority would take that position. I think the Convening  
16 Authority has the responsibility to follow the decisions and  
17 the interpretations of the statute by a military judge. And I  
18 have trouble envisioning the Convening Authority saying, "I  
19 don't care what your interpretation of the law is, I'm not  
20 going to follow it."

21           Now, there is another part of this, Your Honor,  
22 which I think is really important. As I understand the  
23 process, let's say we go to the Convening Authority and we

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

Class.App. 217

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 submit and we want witness X ----

2 MJ [COL POHL]: Just to be clear, we are talking about  
3 assistance here ----

4 LDC [MR. KAMMEN]: Yes.

5 MJ [COL POHL]: ---- not witnesses.

6 LDC [MR. KAMMEN]: We want ----

7 MJ [COL POHL]: A major distinction talking about expert  
8 assistance.

9 LDC [MR. KAMMEN]: We want to employ consultant X to  
10 help us in this regard.

11 MJ [COL POHL]: Okay.

12 LDC [MR. KAMMEN]: And the Convening Authority says no.

13 MJ [COL POHL]: Okay.

14 LDC [MR. KAMMEN]: We have the authority to come to you  
15 and ask you to revisit that and if you say, you know, I'm  
16 going to side with the defense, I order -- I authorize the  
17 defense to employ consultant X, to employ expert witness X,  
18 and I order the Convening Authority to pay for it, the  
19 Convening Authority has no authority not to pay for it. So at  
20 the end of the day, you control the courtroom, not the  
21 Convening Authority.

22 MJ [COL POHL]: We can discuss -- thank you. We can  
23 discuss how orders are enforced in an Article I court, because

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

Class.App. 218

*UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT*

1 it is my view I don't order him to pay anything. I would  
2 order him to produce or abate the proceedings. That is my  
3 implementing system.

4 Let me go back to a basic question which I should  
5 have asked last time. What do you mean by "de minimis  
6 notice"? Perhaps we may be arguing about something that  
7 really doesn't matter.

8 LDC [MR. KAMMEN]: What we envision and what I think  
9 the Government envisions is that if we sent in a request to  
10 the Convening Authority that we would like to employ witness  
11 X, we would -- following the federal court and the state court  
12 model, we would send a notice to the Government saying on  
13 such-and-such a date the defense has requested the opportunity  
14 to employ a witness or filed an ex parte request with the  
15 Convening Authority. It would not identify the witness, would  
16 not identify the subject matter, it would simply tell them  
17 that we had had ex parte communications -- submitted an  
18 ex parte request to the Convening Authority.

19 MJ [COL POHL]: Okay. If you were to -- and I'm just  
20 going to pick an example out of the air, I don't know if it  
21 applies to this case.

22 LDC [MR. KAMMEN]: Sure.

23 MJ [COL POHL]: If you were -- if the rule was

*UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT*

Class.App. 219

**UNOFFICIAL/UNAUTHENTICATED TRANSCRIPT**

1 MJ [COL POHL]: So let me go through the 505 procedure  
2 and then we say the initial thing is whether or not, again  
3 applying the standard, but they say -- defense says we want to  
4 discuss this with our accused to prepare for his defense, is  
5 that part of the 505 procedure also?

6 ATC [MR. SHER]: It is not.

7 MJ [COL POHL]: Okay. So the first time the accused  
8 would hear this evidence would be in court during the case in  
9 chief? Is that the government's position?

10 ATC [MR. SHER]: Well, it is with the exception of,  
11 again, I mean, stuff that he knows he can talk about with  
12 them.

13 MJ [COL POHL]: Okay.

14 ATC [MR. SHER]: Which really narrows the subset of ----

15 MJ [COL POHL]: I got your position. Let me ask you  
16 about the second part though, because you carefully used the  
17 word "case in chief." How about presentencing, does the  
18 government intend to use any classified information in  
19 presentencing that ----

20 ATC [MR. SHER]: No, the government is not going to rely  
21 on classified information.

22 MJ [COL POHL]: So when you said your case in chief,  
23 you're saying -- I understand, Mr. Sher, you're going to be

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1 held to this. You're saying the government does not intend to  
2 use any classified information in its case in chief or in its  
3 presentencing presentation?

4 ATC [MR. SHER]: That's correct.

5 MJ [COL POHL]: Okay.

6 ATC [MR. SHER]: May I have one second, sir?

7 MJ [COL POHL]: Sure.

8 ATC [MR. SHER]: The reality is, Your Honor, there's a  
9 very small set of -- a small subset of information that may  
10 not be shared with the accused. Again, he can access all of  
11 the discovery that's not classified, and only 14 percent of  
12 what's produced is classified. And the accused can talk,  
13 again, with his attorneys about whatever information he knows.

14 That narrow limitation on the accused's right to  
15 learn classified information from his attorneys does not deny  
16 him right to counsel. The Fourth Circuit found that in  
17 Moussaoui, which was a capital case. They found it in  
18 Abu Ali. Second Circuit came to the same conclusion in  
19 Embassy Bombings, and, again Marzook is another instance,  
20 pretrial hearings, suppression hearing where the government  
21 produced documentary and testimonial evidence outside the  
22 presence of the accused.

23 The defense hasn't cited to any case where any

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1 court has sanctioned the government by dismissing the capital  
2 referral because an uncleared accused can't access classified  
3 information. The only case they cited today was the  
4 Gardner v. Florida case. A jury sentenced an accused to life,  
5 the trial judge increased that punishment to death on his own  
6 based on information never shared with the accused, never  
7 shared with his lawyers. They had zero opportunity to explain  
8 or work through that issue. That is not the case here. The  
9 accused has at least five cleared defense counsel that are  
10 representing his interests and that can access the classified  
11 information.

12 In Abu Ali, which is a Fourth Circuit case I think  
13 in 2008, the court didn't allow the accused or his uncleared  
14 counsel to attend hearings involving classified information,  
15 they didn't allow his -- the accused or his uncleared counsel,  
16 which were his lead counsel, to review classified information  
17 or to cross-examine government witnesses that were relating  
18 classified information, relating to classified information.  
19 Rather, the accused had to have his cleared defense counsel do  
20 so.

21 Your Honor, the statute's clear, the accused may  
22 not access classified information pretrial. He is in no  
23 different a position than a criminal defendant tried in

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1 Article III courts or courts-martial, and the commission  
2 should deny the defense motion. Thank you.

3 MJ [COL POHL]: Thank you.

4 Mr. Kammen.

5 LDC [MR. KAMMEN]: In Abu Ali there was a cleared  
6 defense counsel who had access to classified information, same  
7 as here, but the accused and the uncleared lawyers had access  
8 to unclassified summaries, completely different than what  
9 exists here. There are no unclassified summaries. There is  
10 no bridge.

11 In Moussaoui, there was a procedure under which  
12 Moussaoui had access to unclassified summaries of material.  
13 And I think it's important because Moussaoui ended up  
14 ultimately pleading guilty to the underlying charge, and it  
15 was simply a sentencing case. The court really didn't reach  
16 the issue of whether or not even that was appropriate in a  
17 capital case. And Moussaoui is, I believe, the only capital  
18 case where this has been an issue.

19 In the other case that the prosecutor cited, as I  
20 recall, there were four documents that maybe were a total of a  
21 couple hundred words that were withheld from the accused, not  
22 14 percent of the evidence. It doesn't say -- the  
23 Sixth Amendment doesn't say the accused has a right to

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1 call him, a warden, am I supposed to fire him?

2 LDC [MR. KAMMEN]: Absolutely not. But you can't look  
3 at things in a vacuum. And so if the doctors say I'm not  
4 doing this or I'm not doing that or this or that and it's  
5 because of the atmosphere in which they operate, that's  
6 something the record should reflect.

7 MJ [COL POHL]: Okay.

8 LDC [MR. KAMMEN]: Because ultimately it is the warden's  
9 responsibility to run the prison, to run the jail.

10 MJ [COL POHL]: But is this -- it sounds to me -- I read  
11 your pleading and I understand your connection to this case.  
12 The government apparently doesn't, but I do.

13 LDC [MR. KAMMEN]: Okay.

14 MJ [COL POHL]: But a lot of this sounds like conditions  
15 of confinement to me, what you're talking about.

16 LDC [MR. KAMMEN]: Well, it's -- it's conditions of  
17 confinement, it's medical care.

18 MJ [COL POHL]: That's a condition of confinement.

19 LDC [MR. KAMMEN]: Okay. All right.

20 MJ [COL POHL]: Okay. So my piece is generally not  
21 conditions of confinement unless there's a nexus to the  
22 commission. Conditions of confinement on a general basis may  
23 be appropriate in some forum habeas, whatever, I'm not going

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1 to get into that. So that's where we're at.

2 LDC [MR. KAMMEN]: Well, actually I think -- and I  
3 appreciate you mentioning this, because under the new case of  
4 Aamer v. Obama, I think it's now clear that you can get into  
5 that. Because that ----

6 MJ [COL POHL]: Well, they can get into it. They ----

7 LDC [MR. KAMMEN]: I don't think you're in a different  
8 position than a habeas judge, anybody who's supervising an  
9 inmate who's in Guantanamo who's receiving arguably inadequate  
10 medical care. Aamer stands for the proposition that the judge  
11 presiding over his case has the authority to look at that  
12 medical care.

13 MJ [COL POHL]: Okay. We don't particularly need to get  
14 into that discussion too much because there's habeas relief  
15 that I'm not sure is within the purview of myself, but that's  
16 not the issue before me, so let's not get to that.

17 Back to -- you said Colonel Bogdan is necessary  
18 because he's the warden and these other doctors are necessary  
19 to say what they're ----

20 LDC [MR. KAMMEN]: Because here's the -- as you said, as  
21 you point out, they're going to have to explain what they are  
22 or are not doing. You know, the government says, well, they  
23 want to -- as you said to the government, well, if you want to

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1 bring in their own -- I mean, you know, the person who knows  
2 more about what the records mean are the person -- or the  
3 people who created the records.

4 MJ [COL POHL]: Yeah, but this is your motion, your  
5 burden, and you want to bring in Dr. Crosby as a -- probative  
6 of stuff, and now you want to bring these other people in to  
7 say that the other medical people -- to explain how they're  
8 deficient.

9 LDC [MR. KAMMEN]: Right. It is our motion, it is our  
10 burden, and we should have the opportunity to present our  
11 motion and our burden the way we think is appropriate.

12 MJ [COL POHL]: Well, within appropriate limitations,  
13 you're correct.

14 LDC [MR. KAMMEN]: Sure. And, you know, the way it  
15 would work at a minimum certainly in -- you know, establish  
16 the nature of, the overarching nature of how the place is run  
17 and how medical care is provided. We would call the doctors,  
18 you know, what's your training? What's your knowledge about  
19 PTSD? Did -- were you aware of this diagnosis? Upon learning  
20 of this diagnosis what, if anything, did you change? What did  
21 you do? Did you meet with Dr. Crosby? Yes, no, why, why not?  
22 And, of course, with Dr. Crosby, her opinion is that the  
23 medical care here is wholly inadequate for people who suffer

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1 that?

2 MJ [COL POHL]: Lieutenant, what does that got to do with  
3 her current qualifications?

4 ATC [LT DAVIS]: Your Honor, the defense has offered her  
5 as an expert in this field, and it's quite an undefined field.  
6 So by describing the process by which somebody might gain  
7 certification, I'm trying to get a sense of.

8 MJ [COL POHL]: Someone might gain this hypothetical  
9 certification that currently doesn't exist. That's what we're  
10 talking about?

11 ATC [LT DAVIS]: Apparently it's in the works, Your Honor,  
12 and I think it lays out kind of what exactly this field is, or  
13 maybe it doesn't. But from the government's position, this is  
14 an amorphous field that we're trying to get some -- some  
15 specifics on.

16 MJ [COL POHL]: I'll give you some leeway, but we're  
17 talking about her qualifications. Okay? We're not talking  
18 about qualifications of other potential students in the  
19 future. It's her qualifications to give an expert opinion on  
20 what it's being offered as.

21 ATC [LT DAVIS]: Yes, sir.

22 MJ [COL POHL]: Okay. Go ahead.

23 Questions by the Assistant Trial Counsel [LT DAVIS]:

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1 Q. So, ma'am, I'll repeat the question. When we're  
2 talking about this potential certificate program, what would  
3 go into somebody being able to obtain a certificate like that?

4 A. All right. Well, it depends -- this could be a long  
5 conversation, so ----

6 MJ [COL POHL]: Could you give the short, Reader's Digest  
7 version?

8 WIT: I will try to do that.

9 A. Certainly there are programs that teach  
10 documentation of torture and ill treatment, both physical and  
11 psychological, based on the Istanbul Protocol. I have been  
12 involved in those programs. There are a group of experts in  
13 the United States who are recognized nationally and  
14 internationally as experts in the documentation of torture and  
15 ill treatment. I'm one of those experts.

16 I'm not sure the other part of your question is  
17 actually relevant, but I'll answer it. My aim is to actually  
18 create -- to create a subspecialty in medical forensics and  
19 documentation of torture. That's something that's probably  
20 ten years down the road. But I'm not sure how it's relevant  
21 here today.

22 ATC [LT DAVIS]: Can I have a moment, Your Honor?

23 Your Honor, the government has no more questions,

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1 A. Any -- any -- all of his time anywhere.

2 Q. Does the failure to take that history, does that  
3 fall below a minimum standard of care?

4 A. In my opinion, yes.

5 Q. How does this shortfall, this inadequacy affect  
6 Mr. Nashiri even today?

7 A. I can give what my current diagnoses are, right?

8 Q. Yes, you can.

9 A. Mr. Nashiri suffers from post-traumatic stress  
10 disorder that has not been addressed -- or it hasn't been  
11 diagnosed except for a brief period, or treated. He suffers  
12 from chronic pain. He suffers from anal-rectal complaints,  
13 and all of these are documented in the unclassified records.  
14 Multiple other physical complaints, headaches, chest pain,  
15 joint pain, stomach pain. These are all symptoms that are  
16 highly prevalent in people who have suffered torture and to  
17 have chronic PTSD. These are all kind of red flags.

18 And the fact that the medical record documents that  
19 Mr. Nashiri has had to some extent workups for these  
20 complaints that are appropriate, but nobody's put together the  
21 picture. It's like the elephant in the room. I believe  
22 there's a huge psychosomatic component to a lot of his current  
23 physical suffering and psychological suffering that is related

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1 to his torture that was never diagnosed.

2 Q. Do you know whether that diagnosis was -- that  
3 failure to diagnose was a deliberate choice or a negligent  
4 choice? Can you make ----

5 ATC [LT DAVIS]: Objection, calls for speculation.

6 MJ [COL POHL]: Sustained.

7 ADDC [MAJ HURLEY]: She is an expert that can make --  
8 apply her expertise to a diagnosis and say I find this to be a  
9 deliberate cause or merely a negligent cause or, Major Hurley,  
10 I don't know the answer to that question. I mean, she is,  
11 after all, an expert that's reviewing a medical record, sir.

12 MJ [COL POHL]: That's beyond the scope of her expertise.  
13 Objection sustained. Next question.

14 **Questions by the Assistant Detailed Defense Counsel**

15 [MAJ HURLEY]:

16 Q. Let's talk about that PTSD example that you  
17 discussed. And this goes to the inadequacy of the patient  
18 history from Mr. Nashiri, right? The diagnosis of PTSD in  
19 March of 2013 is what I'm talking about.

20 A. Okay.

21 Q. And ----

22 A. What's your question?

23 Q. My question is, have you reviewed records that

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1 happens frequently?

2 WIT: My understanding is nine months, yes. That ----

3 MJ [COL POHL]: Okay.

4 WIT: That's frequent because of continuity of care  
5 reasons.

6 MJ [COL POHL]: Okay. Got it.

7 **Questions by the Assistant Detailed Defense Counsel**

8 [MAJ HURLEY]:

9 Q. Does this staff turnover rate make continuity of  
10 care here on Guantanamo Bay difficult?

11 A. In my opinion, it does, and you know, one of -- just  
12 one of the basic tenets of caring for traumatized patients,  
13 people with PTSD, is having an established, ongoing  
14 therapeutic trusting relationship, and changing so often, I --  
15 is disruptive to care, and can certainly be adverse to the  
16 patient.

17 Q. In your examination or your evaluation of  
18 Mr. Nashiri and your evaluation of all of the other documents,  
19 does this continuity of care, does it still affect him today?

20 A. I would have to reveal classified information to  
21 answer that question.

22 Q. Thanks.

23 MJ [COL POHL]: Don't answer it. Next.

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1 Q. Now, let me just ask you this question straight  
2 away, Dr. Crosby: Do you have any idea how Guantanamo Bay  
3 doctors are trained?

4 A. No, sir, I do not. I -- I assume they graduate from  
5 medical school and residency like the rest of us. I don't  
6 know what specific training they might have before deployment  
7 to Guantanamo Bay.

8 Q. You've worked with military doctors before?

9 A. Yes, sir, I have.

10 Q. And on specific cases and in close capacities?

11 A. Yes.

12 Q. But you're not aware -- so that you understand that  
13 they are given not only their initial training as doctors but  
14 also continuing education in whatever field?

15 A. Correct, like all of us.

16 Q. Right. Like all clinicians and caregivers. But you  
17 have no idea how they're trained with respect to their  
18 deployments here to Guantanamo Bay?

19 A. I do not know what the specific curriculum is for  
20 training for doctors coming here specifically, no. I  
21 have ----

22 Q. Based on your review of the record, does that  
23 curriculum include taking an adequate trauma history?

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1 Q. ---- was there anything more that you wanted to  
2 discuss regarding the physical examination?

3 A. Yes. I'd like to finish the physical exam.  
4 Mr. al Nashiri also had a number of scars on his wrists, his  
5 legs, his ankles, that -- I can't tell you what the  
6 allegations were for either the musculoskeletal pain in the  
7 shoulders and the back or the scars, but I can say that they  
8 are consistent with the allegations and the history that he  
9 gave me.

10 Q. Thanks, Doctor.

11 Doctor, now let's -- what I want to do is direct  
12 your attention -- just hold on just one second. I need to  
13 organize my notes again. Thank you, ma'am, for bearing with  
14 me.

15 Let's talk about the -- again, the medical records.  
16 Did you find any, in your review of the medical records, red  
17 flags or items that would be consistent with your evaluation  
18 and your diagnosis of Mr. Nashiri?

19 A. Yes, I did.

20 Q. What -- can you briefly list some of those red  
21 flags?

22 A. I can. And let me explain this. Survivors of  
23 torture and trauma often don't come forward and offer a

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1 history of what has happened to them. They will often exhibit  
2 psychological distress through physical symptoms, and that's  
3 called somatization. That's very common. I see it every day.

4 MJ [COL POHL]: Doctor, can you do the court reporter a  
5 favor and spell somatization.

6 WIT: S-O-M-A-T-I-Z-A-T-I-O-N.

7 MJ [COL POHL]: Thank you. Go ahead.

8 A. So I -- we'll go through all of the red flags. So  
9 the first wave of red flags I saw were multiple complaints of  
10 somatic illness, joint pains, back pain, shoulder pain,  
11 headache, chest pain, knee pain. These are all very common.  
12 And when I reviewed the doctor's examination, the -- of course  
13 I did not examine Mr. al Nashiri during this time -- the  
14 physical findings -- the distress, the level of pain seemed  
15 out of proportion to the physical findings, and this is also  
16 very common in survivors of torture and trauma.

17 When people come to the office and they have  
18 multiple complaints but not a lot of physical findings, I am  
19 very concerned that there is a somatic component and there  
20 might be trauma happening in the background. Those are red  
21 flags.

22 Other red flags in Mr. al Nashiri are his persistent  
23 and chronic anal-rectal complaints, difficulty defecating,

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1 bleeding, hemorrhoids, pain with sitting for prolonged periods  
2 of time. This is very common in survivors of sexual assault.  
3 And I did review physical exam findings by multiple doctors at  
4 GTMO which documented different things at different times --  
5 they may have looked different to different people --  
6 including scarring, perianal keloid scarring, hemorrhoids,  
7 skin tags, and a fissure. So those were all diagnoses that I  
8 saw when Mr. al Nashiri was being evaluated for these  
9 anal-rectal complaints.

10 Q. Doctor, let me stop you there. I want to -- I know  
11 we have talked about two things, the first set of red flags  
12 and the second set. So if I could direct your attention back  
13 to the first set of red flags.

14 As you saw those red flags come up in the medical  
15 records, the corresponding histories that you would see -- or  
16 the records that you would see written out by what apparently  
17 are doctors, did they fully develop what may have been the  
18 causes of these red flags or problems?

19 A. There was no trauma history taken in any of the  
20 records that I read. And the -- in the records that I read,  
21 the physicians pursued the ailments and the complaints, I  
22 mean, I think to -- as best as they could, but without --  
23 without uncovering the underlying cause. They treated the

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1 symptoms without -- without treating the cause.

2 Q. And that same problem, treating the symptoms without  
3 treating the cause, did that come up with the second red flag,  
4 which was the anal-rectal problems that Mr. Nashiri suffers  
5 from?

6 A. In my opinion, yes.

7 Q. Was there an adequate history taken on this  
8 particular problem?

9 A. I did not see any history taken of a sexual assault.

10 Q. Continuing on with the red flags, Dr. Crosby, did  
11 you see any others in your review of the medical records?

12 A. I did see multiple behavioral psychological symptoms  
13 that Mr. al Nashiri exhibited that would alert me to the  
14 possibility of post-traumatic stress disorder, and I can list  
15 some of those.

16 Q. Please.

17 A. I don't have my notes in front of me. Severe sleep  
18 dysregulation; sleep disturbance; irritability, anger  
19 outbursts; sadness; decreased concentration, energy; avoidance  
20 behavior. Avoidance behavior is one of the clusters of  
21 symptoms we see in post-traumatic stress disorder, and there  
22 was evidence in the record that is unclassified that he  
23 avoided coming to appointments because of ear coverings and

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1 because some of the things that we've had to come to you about  
2 relate back to this. And when they have been addressed, and  
3 there have been times either -- I think that you have  
4 addressed it, or they've been addressed through the  
5 bureaucracy, things have improved.

6 I don't know quite what's classified, so there's one  
7 example ----

8 MJ [COL POHL]: Then ----

9 LDC [MR. KAMMEN]: ---- that really comes to mind, and had  
10 that not been improved, I'm not sure we would have a client  
11 sitting in court. I think he would just have opted out.

12 MJ [COL POHL]: Yeah, I think I know what you are  
13 referring to. I'm not sure it's classified.

14 LDC [MR. KAMMEN]: And that is referred to in some of this  
15 stuff.

16 So all of this really intertwines in ways that  
17 absolutely are unique, but we have an absolutely unique  
18 situation. It's not like Nashiri just walked in to  
19 Guantanamo. It's not like we don't know and it's not public  
20 that he was in CIA custody for four years.

21 The government, the CIA, acknowledges that he was  
22 waterboarded. They acknowledge that he was subjected to a  
23 mock execution. They acknowledge some other things, and

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Class.App. 237

# **HARD MEASURES**

**HOW AGGRESSIVE CIA ACTIONS AFTER 9/11  
SAVED AMERICAN LIVES**

**JOSE A. RODRIGUEZ, JR.**

**WITH BILL HARLOW**



THRESHOLD EDITIONS

*New York London Toronto Sydney New Delhi*



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HARD MEASURES

to AQ operative Walid bin Attash. Sadly, bin Attash wasn't connected to it at the time. Some of our people discovered that bin Attash had frequented online dating websites and described himself as someone who "Loves to travel—sometimes at a moment's notice." It took us six more months, but finally we captured him in Karachi in April 2003 and put a serious dent in his social life.

AZ's debriefing led directly to the arrest and detention of a number of other al-Qa'ida supporters, some of whom ended up residing with him at our black site. One particularly disreputable example was Abd al-Rahim al-Nashiri, who was captured in the fall of 2002. Al-Nashiri was the self-proclaimed "mastermind" of the bombing of the USS *Cole* on October 12, 2000, while the ship was at anchor in Aden, killing seventeen U.S. Navy sailors and very nearly sinking the \$250 million warship.

"Mastermind" was not an apt description of al-Nashiri. One of our interrogators described him to me as "the dumbest terrorist I have ever met." He was also one of the vilest. It is impossible to describe this gently, but al-Nashiri was a nose picker who delighted in plastering the wall of his cell with whatever he could excavate from his nostrils. He also enjoyed throwing food around his cell and refused to clean up his mess.

Abu Zubaydah suggested a way of dealing with al-Nashiri's disgusting habits. "Drag me into his cell," he said, "and throw me onto the floor. Don't be gentle about it. Order me to clean up my brother's mess. He will be ashamed and change his habits."

The scenario played out just as he had scripted it. Al-Nashiri was quick to pull AZ away from his cleanup chores and to promise that he would not put him in that position again.

We learned a lot from Abu Zubaydah, and not just the intelligence we collected. He also essentially gave us the playbook

Class.App. 239

# Enhanced Interrogation

Inside the Minds and Motives of the  
Islamic Terrorists Trying to Destroy America

JAMES E. MITCHELL, PHD  
with Bill Harlow



Class.App. 240

they secrets doesn't, then Allah will know and he will punish him. You  
ther must only use as much as Allah would expect to help the brother and  
no more. If you use more than you need to, Allah will know and he  
s for will punish you."  
ned.

'You **AT THE START** of the first enhanced interrogation al-Nashiri was  
given the opportunity to answer the bridging question before any  
not EITs were used. He refused. He also refused to answer any ques-  
ned. tions generated by the intelligence requirements. He would not talk  
oun- about attacks he was planning against American interests inside or  
nce a outside the United States, but he did say he would talk about the *Cole*  
nger, attack. He seemed proud of and almost bragged about the number  
wer- of Americans he had killed. But we weren't there for a confession.  
they When it became clear that he had no intention of cooperating, we  
ed or began to use the EITs.  
t lik-

At some point, following the headquarters-approved plan, al-  
Nashiri was waterboarded. But not without difficulty. He was a re-  
ally small guy. Security personnel had trouble securely strapping him  
to the large hospital gurney that the medical personnel wanted us to  
use as a waterboard at the time. When the guards stood the gurney  
up on end so that he could clear his sinuses, al-Nashiri would slide  
down, and his arms and hands would almost slip out from under the  
wide Velcro bands designed to hold him in place. We were concerned  
that he would fall off the gurney and get hurt. We were all feeling  
uncomfortable, but Bruce was the first to state it aloud.

The interrogation team discontinued waterboarding al-Nashiri  
after three sessions. Problems strapping him to the gurney were not  
the deciding factor. There was another, more compelling reason we  
stopped without trying to find an alternative method of securing al-  
Nashiri to the gurney.

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102      ENHANCED INTERROGATION

Al-Nashiri said the October 2002 attack on the French oil supertanker *Limburg* off the coast of Yemen was a remnant of that larger operation.

Al-Nashiri said that bin Ladin provided a lot of hands-on guidance. For example, he had given al-Nashiri exact specifications for the cargo ship he tasked him to purchase. Al-Nashiri said bin Ladin would work out the details of the terror attacks and then trust al-Nashiri to carry them out. Al-Nashiri said he wasn't so good at coming up with ideas and that made it hard for him after bin Ladin went underground. My impression of al-Nashiri was that he was very concrete in his thinking and had trouble adapting to unanticipated events when left without supervision and guidance from bin Ladin.

Al-Nashiri was captured in the UAE. He was living with a Chechen "escort" as a girlfriend and driving a new high-end BMW paid for with Allah's money: donations intended for jihad. I asked him about this because his big-spender lifestyle was so different from the simple lifestyles usually adopted by Islamic jihadists. He said that was the point. His spending and running around with an escort was intended to hide his al-Qa'ida affiliation. He said he even put on a Speedo swimsuit and frequented a large water park as part of his disguise.

"Really?" I said. "You spent Allah's money to play on a Slip'N Slide?"

He said, "Maybe I was casing the park for an operation."

I said, "Not really."

"No," he admitted. "I like water parks."

You can see that he was somewhat engaging. We thought that with patience and a knowledgeable debriefer, al-Nashiri could be nudged without physical coercion into providing fuller and more complete answers.

But we didn't get a chance to see if our impression was accurate.

create an opening for the use of noncoercive social influence techniques and were using that opening to shape gradually how fully and completely al-Nashiri answered questions.

Headquarters was still on the fence about whether enhanced measures should be restarted with al-Nashiri. The reason was that his answers were often so vague, it was clear he was holding back.

For example, although al-Nashiri would talk about his plans to attack the Diplomatic Quarter in Riyadh, he insisted he could not provide specifics. He insisted that he couldn't remember the location of the safe house where he stayed in Riyadh, not even the neighborhood, although he had been there for weeks. He also insisted that he could not recall which mosque he attended for Friday prayers, although he said several times that he went to the same mosque with the same people. Al-Nashiri maintained that none of this information was relevant. He said that because his men knew he had been captured, they would change safe houses and delay attacks in Riyadh. Al-Nashiri claimed that his men would determine the timetable for attacks and the specific targets on the basis of the way things unfolded on the ground in Riyadh and that he had no way of knowing those things. For these reasons, the analysts and targeters thought, as did we, that al-Nashiri was still withholding actionable information that could be used to disrupt attacks or capture his men. Some at headquarters thought that if he didn't quickly become more forthcoming, we should restart enhanced interrogations.

I had all this in the back of my mind while the chief interrogator and I were debating the wisdom of restarting enhanced interrogations on both detainees. I told him I could see an argument for restarting EITs on al-Nashiri but thought we had been making some progress at the last black site without them.

At some point, the chief interrogator became exasperated with me. He said that he was the CIA officer in charge of interrogations

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r- and I was "a fucking contractor with no real say in what happened at  
d this black site or anywhere else in the world as far as CIA activities  
were concerned."

d "Understood," I said. "I have been told that many times. Even  
at signed documents acknowledging that."

I then reiterated that I felt compelled to be clear with him that  
o I thought that it would be a mistake to restart enhanced interroga-  
t tions on Abu Zubaydah and that if he did and Abu Zubaydah sub-  
n sequently shut down, I would report my objections to headquarters,  
- specifically to the chief of the CTC, Jose Rodriguez.

at "It won't matter," he said. "No one at headquarters cares about  
s, your opinion."

h "Then why am I here?" I asked.

l- Shortly after that encounter, I watched the chief interrogator's  
n first interrogation of al-Nashiri. Before it started, the chief inter-  
l. interrogator introduced me to three men. All were newly minted inter-  
r rogators who had just graduated from the CIA's first interrogation  
- course. Until then I wasn't even aware there had been an interroga-  
g tion course. He said he had handpicked all of them and had taught  
t, portions of the course himself. They were at the black site, he said, to  
- obtain "practical experience" using enhanced interrogation methods  
e on al-Nashiri and Abu Zubaydah.

- "What if EITs aren't needed?" I asked.

- "Oh, we're going to need them," he assured me.

- The chief interrogator told me I wasn't allowed in the interroga-  
- tion room, and so I watched this first interrogation through a small  
r glass window in the door.

e In the room where interrogations were to be held, a cheap white  
n plastic table had been set up like a desk facing the center of the room.  
s Three flimsy lawn chairs were positioned behind it. The chief inter-  
rogator and two of his recent graduates were sitting in the chairs,

with the chief in the middle and the other two flanking him. A fourth interrogator moved around the room, ready to pitch in when the chief interrogator gave directions. There was no chair for the detainee.

Al-Nashiri, hooded and shackled, was brought into the room by one of the guards and positioned, standing like an errant schoolboy, across the table from the chief interrogator. The chief interrogator leaned over the table, removed al-Nashiri's hood, and introduced himself as "the man in charge." He instructed al-Nashiri to always address him as "sir." He then asked al-Nashiri if he understood. Al-Nashiri nodded, said "Yes," and shrugged, separating his hands, palms out, as far as his shackles allowed, but didn't speak further. That was typical of the way al-Nashiri sometimes responded to questions.

The chief interrogator screamed that al-Nashiri needed to answer when he was spoken to and say "sir" when addressing the chief interrogator. When al-Nashiri didn't respond immediately, the chief interrogator suddenly threw the table aside and grabbed al-Nashiri in an attention grasp. When he released him, two of the other interrogators put al-Nashiri in a stress position. They made him put his forehead against the wall and walk his feet back so that he was leaning at a forward angle, back straight and forehead against the wall in front of him. When his neck and shoulders looked like they were beginning to tire and he started to wobble, two of the interrogators held his arms out to his sides and leaned into him, pressing his forehead against the wall. Once he started to squeal, the interrogators pulled him away from the wall, forced him to his knees, and bent him over backward until his upper back and shoulders were touching the floor behind him, all the while screaming at him to answer the questions and address them as "sir." When it became apparent that al-Nashiri was limber enough to sit easily in a kneeling position

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with his back on the floor, the interrogators put a broomstick behind his knees. This time when they pushed him backward, al-Nashiri started to scream.

I was shocked, but not by their general approach: I recognized that. I surmised that much like many old-school military training instructors might, they were trying to condition compliance by focusing on absolute obedience to small demands. I had never asked al-Nashiri to address me as "sir." But it was a conditioning approach that sometimes was used to establish dominance right away. You see it used a lot, often poorly, in military and paramilitary settings.

It was the specific physically coercive techniques they were using that distressed and concerned me. I did not believe those techniques had been approved by the Justice Department. I was also concerned that the way the techniques were being applied placed undue strain on al-Nashiri's knees, back, and neck muscles. I was expecting medical personnel on-site to stop the interrogation. But that didn't happen.

I was sorting through my recollection of how the original authorization concerning stress positions had been worded to figure out if it was possible that these techniques were covered by it, when the chief interrogator stood al-Nashiri up and cinched his elbows together behind his back with a leather strap until they touched. Then the chief interrogator and one of the newly minted interrogators started lifting al-Nashiri's arms behind him, toward the ceiling. Al-Nashiri bent over and screamed.

I *knew* this had not been approved. I had seen less intense versions of the first two stress positions before—minus the broomstick behind the knees—during SERE training. I had even experienced them. Maybe I was wrong and more SERE techniques had been approved that I didn't know about, but the last technique and the use of a broomstick, no way.

The higher the chief interrogator lifted al-Nashiri's arms, the



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more al-Nashiri squealed and struggled. I became fearful that he would dislocate al-Nashiri's shoulders, and so I stuck my head into the room to stop the interrogation. It was headquarters policy that anyone could immediately stop interrogations at any time for any reason. Because of that policy, I fully expected them to stop. That is what we would have done at the black site I had just left.

"Get out!" the chief interrogator shouted at me. He sent the guard over to escort me out of the room.

"The things the interrogators are doing have not been approved by the Justice Department, and they should stop," I whispered to the guard when he was close enough to hear me. "I think they are going to dislocate al-Nashiri's shoulders. Headquarters policy is to stop interrogations when someone raises a concern about safety."

I had no idea what the guard thought. He was completely clothed in black, with his eyes hidden by mirrored goggles. I saw a tiny version of myself, angry and pointing at the chief interrogator, reflected back at me in the lenses. The guard nodded, walked to where the chief interrogator was standing glaring at me, and whispered something in his ear.

I mouthed "What?" and gestured, opening my hands, palms up. The chief interrogator pointed to the door, hissed for me to get out, and instructed the guard to escort me completely out of the interrogation room.

The interrogation was being observed by medical personnel and several others on closed circuit TV. I was surprised medical personnel had not intervened and said so. I expressed my concerns to them and the guards. I got a "so what can you do?" look from the medic. The guards said they were worried, but their hands were tied because they had been told the chief interrogator called all the shots. No one made any move to stop what was happening. It was clear that everyone there except me thought that what the chief interrogator

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was doing was authorized, believed they did not have the authority to stop him, or simply didn't want him angry with them.

In spite of my protests, during the remainder of that interrogation session and several sessions to follow, I watched the chief interrogator use a variety of physically coercive measures on al-Nashiri that I believed were not on the list of approved techniques. They included the two stress positions discussed earlier: dousing al-Nashiri with cold water while using a stiff-bristled brush to scrub his ass and balls and then his mouth and blowing cigar smoke in his face until he became nauseous. In place of waterboarding, one of the navy SERE schools used the exact same cigar-smoke-in-the-face technique I observed the chief interrogator and his newly minted apprentices use.

The chief interrogator was very angry at me when he came out of al-Nashiri's first interrogation. He got right up in my face and started hollering, "What the fuck is your malfunction?"

"You are doing things that are not approved," I said, talking over him. "I'm trying to look out for you as much as al-Nashiri."

"You are not allowed to interrupt interrogations," he said. "If you do it again, I will have the guards restrain you."

It got even uglier after that, but I was confident that if I could talk to someone running the program back at headquarters, this rogue disregard for what was and wasn't authorized would stop. I told him I wanted to call back to headquarters and talk to the chief of the CTC, Jose Rodriguez; he said I couldn't. I told him I wanted to talk to the CTC lawyers who had worked out the approvals for the techniques with the Justice Department; he told me I wasn't allowed to call anyone, "especially the fucking lawyers." I told him I wanted to send an e-mail back to my contract manager; he told me I couldn't. I told him I wanted to leave the black site. I would pay my own way home. He said I couldn't do that either.

I wished Bruce was with me as a witness to what was going on,

terrogators to place a wooden dowel behind the knees of detainees in stress positions. It was part of a lesson in an interrogation course he was running for the CIA. He even demonstrated its use in front of the class.

Bruce and I had been asked to "sit through" the course by the chief of RDI. When we saw what the chief interrogator was teaching, we immediately left the room and reported it to the chief of RDI. Later that day, the chief of RDI and the chief of SMD came out to where the interrogation course was being held and told the chief interrogator to "knock that shit off." But he didn't.

In July 2003 the New Sheriff was removed from the interrogation program because he once again used a wooden dowel behind the knees on a detainee he was interrogating. That incident was reported after the staff psychologist assigned to RDI told me he had seen the chief interrogator use the dowel. He asked me for my advice. I told the psychologist to report it immediately. He did, and the chief interrogator was promptly removed from the program, a sign that CIA leadership was cleaning house of rogue elements.

We were all shocked to hear that just a few weeks after his departure he died of an apparent heart attack.

**BUT I'M GETTING** ahead of myself. In early 2003, I was asked to return to the black site where the chief interrogator and I had had our dustup. When I got there, I was surprised to find out Bruce had been there ahead of me. He was rotating out as I was coming in.

The people at the black site were crackling with tension. A few weeks previously, a CIA officer with no interrogation training had tried inappropriately to frighten al-Nashiri into giving up information on imminent threats by threatening him with a handgun and a drill. The officer had approval from the more senior COB in charge

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of the site, but not from headquarters. They never would have permitted it. The threats didn't work, and Bruce had been sent in to clean up the mess.

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The incident had an emotionally disconcerting effect on CIA personnel on-site, especially the security personnel, many of whom had worked with us at the first black site. One senior security guard told me he "feared the wheels had come off" and was glad when Bruce showed up to put them back on.

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What that security officer said is an indication of how most of the CIA officers and contractors working at black sites felt. They wanted clear rules and firm guidance. There was tremendous pressure to get the information necessary to stop the next wave of attacks. There were a lot of moving parts. The work was exhausting and emotionally charged. Nobody wanted to do anything wrong. The people working at the sites wanted to know the left and right limits and had to be able to predict what the officers beside them were going to do next. They also wanted to know that headquarters had their backs.

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Headquarters responded quickly. The incident was investigated, the officers involved were disciplined, and the lessons learned were incorporated into headquarters policy and operating procedures. Rather than being an indication of a failed and corrupt program run by incompetents, as it has been portrayed by some in the media, the way this incident was handled indicated to me that accountability was important to the CIA's leadership. It also illustrated the importance of adhering to a set of DOJ-approved EITs rather than allowing officers to freelance, making up techniques on the fly to ramp up the pressure. Preventing this sort of freelancing was the reason I recommended that the CIA use SERE-derived interrogation techniques in the first place.

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uninformative and not responsive to the question, usually by leaving out critical details, emphasizing irrelevancies, or using language ploys to link details that are accurate standing alone but misleading when presented together. Watch politicians on the Sunday talk shows to see this technique in practice. I've seen this tactic trip up skilled interrogators and debriefers.

**EVEN SO, ONCE** KSM started looking for ways to answer questions, we could gradually back off the use of EITs and shift to social influence strategies to shape his cooperation. In the beginning of this phase we couldn't back off completely, because withholding information by hiding in the truth and other, less subtle resistance ploys had to be discouraged if we were going to move him to the debriefing stage. But at the same time, we didn't want to go back to full-on EITs that took him out of the moment, so to speak. At this stage, forcing him to deal with the question being asked was critical.

I had thought about this problem when helping the CIA put this program together. Earlier in this chapter I explained how the repeated pairings that occur in classical conditioning can result in something as benign as the sound of a buzzer evoking a reflexive response such as fear without any adverse event happening. We took advantage of this learning phenomenon to create an opportunity to use fewer EITs later by making the rolled-up towel we used to protect the detainees during walling an object that evoked fear.

Here is how we did that. In the limited time EITs were in play (detainees usually started trying to cooperate about seventy-two hours after EITs began), Bruce and I always started every interrogation with the same conditioning ritual. The detainee would be standing against the walling wall, hooded. The interrogator would enter the room and slowly and gently run the rolled towel over the

top of the detainee's head from the forehead to the back of the neck. We then would spend several minutes adjusting it, as if searching for the perfect grip. We did this because we wanted the towel to become a fear-inducing object: an omen of what might happen next, a harbinger of what was to come if they didn't cooperate. Once that Pavlovian association was formed, the towel represented a potential adverse consequence and elicited a conditioned fear response without our having to resort to the physical discomfort of EITs.

We put the towel around the necks of detainees each time they were questioned and used it to wall them if necessary. Later, when the detainees were in the beginning stages of transitioning out of EITs—sometimes cooperating and sometimes holding back—we would carry the towel into the room with us, put it around their necks, and slowly pull off their hoods. If they started answering questions, we would make a show of removing the towel, saying something like "I guess we won't be needing this today. But I'll put it over here just in case." If they started lying to us or being duplicitous, we would put the towel around their necks using the same slow ritual and wall them.

Later, as their cooperation increased, we would walk in, pull off the hood, show them the towel, and ask, "Am I going to need this?" They would usually reply "No," and we would say, "Okay. I'm going to take you at your word." And a noncoercive interrogation would begin.

Gradually we went from placing the towel in a detainee's sight line on a nearby table to making a show of moving it out of the room. At that stage, when detainees started holding back, we'd glance in the direction of the towel before actually moving toward it. More often than not, that was all it took to get them back on track. Finally, when detainees were in full debriefing mode, the rolled towel never made an appearance.

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an unnamed ex-FBI agent who turned out to be Ali Soufan. Leaks from the office of the CIA's inspector general made matters worse. Suddenly Bruce and I found our names showing up in media reports suggesting erroneously that we bore some responsibility for Abu Ghraib. We didn't. I had never been to Iraq, and neither had Bruce. Neither had we ever participated in anything even remotely like what happened at Abu Ghraib.

Throughout the remainder of 2004 and into 2005 and 2006, CIA headquarters repeatedly dialed back our authority to employ EITs.

On September 6, 2006, President Bush publicly acknowledged the existence of the CIA's detention and interrogation program which for some time had been one of the world's worst-kept secrets. The president announced that all the existing CIA detainees had been moved into military custody at Guantanamo Bay Naval Base. As a result, the CIA lost the ability to tap into its al-Qa'ida knowledge base. KSM University and the Terrorist Think Tank were closed for good. I understood and appreciated that it was important that high-value detainees, especially KSM, eventually be tried for their crimes: Americans had a right to justice. But I knew the nation would miss being able to rely on their collective understanding of al-Qa'ida terror networks, their knowledge of key players moving into al-Qa'ida leadership roles, and their capacity to help us make sense of coded or obscure messages.

I've already mentioned that the CIA suspended its use of EITs several times. The last time the CIA stood down its interrogation program, we were waiting for Congress to act on legislation related to the program. During that wait, interrogators were asked to provide a bare-bones list of EITs pulled from the list of those already approved that the CIA could submit to the DOJ for yet another review. The idea was that the shortened list would be used to seek congressional support. All the interrogators converged on Langley and spent several

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eral days putting together recommendations. Almost unanimously we agreed that only two EITs were required for the conditioning process: walling and sleep deprivation. The others, though occasionally useful, were not critical, and some, such as nudity, slaps, facial holds, dietary manipulation, and cramped confinement, Bruce and I now believed were unnecessary.

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We presented our recommendations to the midlevel CIA officers who were working the issue for the CIA's leadership. We told them we needed only walling and sleep deprivation. But the midlevel managers told us they already had told the senior leadership that the interrogators were going to recommend sleep deprivation, dietary manipulation, attention grasp, facial hold, facial slap, and abdominal slap but not walling. And they *were not* going back upstairs and telling the bosses that what they had told them earlier was wrong. They ordered the interrogators to sit down and write a recommendation for using the EITs they had told the bosses would be on the list.

Out of earshot of the others, Bruce and I told the midlevel managers that the use of the reduced set of EITs was likely to be ineffective if a detainee was skilled at resisting, accustomed to harsh conditions, and intent on protecting his secrets. We had learned over the preceding years that the EITs the midlevel managers intended to retain did not lend themselves to the conditioning process as reliably as walling did.

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We told them press leaks had removed the fear of the unknown associated with the CIA's interrogation program by making it clear that the objections to the agency's methods by some in Congress had watered down the EITs. That had not always been the case. Abdul Hadi al Iraqi was captured before the program had been completely gutted in the media. Abdul Hadi was held first by a foreign intelligence service and then by the U.S. military before he was transferred to CIA custody. In each instance he had steadfastly insisted that he



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was not Abdul Hadi despite the fact that when he was caught he was carrying identification documents with his photograph on them identifying him as such. Nothing they did could get him to admit who he was.

When Abdul al Hadi was transferred to CIA custody, Bruce and another interrogator did the neutral assessment to see if he would talk without the use of EITs. When Bruce took the hood off him Abdul al Hadi said, "I know who you are. I know what you can do. You don't have to do that to me. I will cooperate." And he did, without the use of EITs.

Thanks to the brouhaha in the press, that sort of capitulation from fear of the unknown was no longer likely. The terrorists knew that most of our harshest techniques had been removed from our kit bag and that many of the remaining ones were essentially bluffs.

Back at headquarters, the midlevel managers told Bruce and me that they were trying to save the program, and since they were not going to go back upstairs, it was either accept their list of EITs or nothing. Even though Bruce and I doubted that we could do the Pavlovian conditioning with the techniques that the midlevel managers had decided to keep, we reluctantly agreed to help them write up those recommendations.

It wasn't our call. It was a CIA policy decision. At that point, as consultants, our job was to help those who had hired us make the best case for the course of action they chose. I wouldn't have chosen that subset of EITs, but it wasn't my program. It was theirs.

The wheels on the program were now wobbling badly.

Even though we thought our job was to support the course of action the managers of the program decided to undertake, two CIA directors asked our opinions, and Bruce and I again voiced our concerns to them. At least once when Porter Goss was CIA director and then again later after General Michael Hayden took over, Bruce

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and I separately or together told the directors that walling and sleep deprivation were the only two EITs necessary and that the others were either completely unnecessary or likely to be far less effective. I remember General Hayden telling me that he heard me and understood and appreciated what I was telling him but that the CIA officers running the program had given him a list of what they said they needed and he was obliged to support them.

In June 2007, we were asked to provide a personal briefing to Secretary of State Condoleezza Rice outlining the reduced set of EITs. John Rizzo, the CIA's acting general counsel, accompanied us. The managers of the program made it clear to us that we were to be supportive of their pared-down list of EITs, and we did our best to be enthusiastic supporters. They told us what to cover: our backgrounds, the origins of the original set of EITs, the way the program had evolved, the safeguards, and so on. Secretary Rice was gracious and easy to talk to.

For our part we wanted to be sure that Secretary Rice had a clear mental picture of what the techniques actually looked like in use. Therefore, we illustrated a couple, much as I had for CIA Director Tenet in 2002. Rizzo and John Bellinger, the State Department's legal advisor, looked at us contemptuously, as if we were acting inappropriately or disrespectfully. They acted as if she were a hothouse rose. At one point they exchanged a glance that suggested that they thought Bruce and I were clumsy, unwashed street urchins who somehow had found their way into the royal castle's china closet with a hammer.

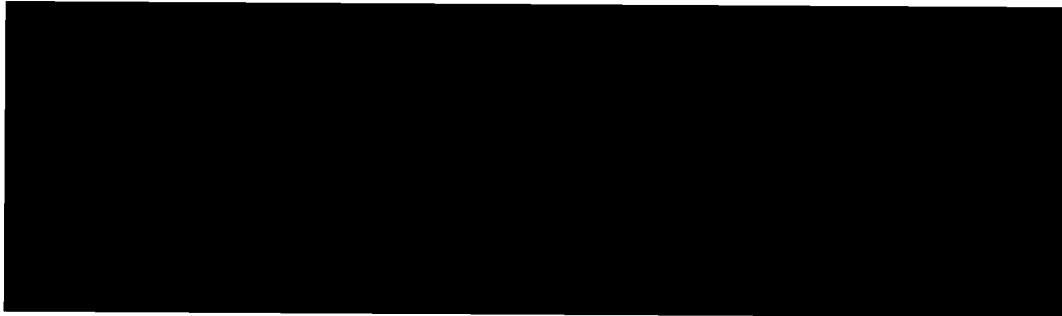
But we didn't care what they thought. We cared what Secretary Rice thought, and she seemed curious and interested. It wasn't Rizzo or Bellinger who would be asked to use the techniques and suffer any grief that came from that; it was us. We already had heard rumors that members of Congress who had been briefed from the beginning were starting to claim they had not been told about the program or

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**UNITED STATES V. AL-NASHIRI**  
**NARRATIVE SUMMARY DESCRIBING THE CONDITION OF THE ACCUSED'S**  
**CONFINEMENT AT EACH LOCATION, AND THE ACCUSED'S CONDITIONS**  
**DURING EACH MOVEMENT BETWEEN VARIOUS LOCATIONS**  
**(IN COMPLIANCE WITH THE MILITARY JUDGE'S 24 JUNE 2014 ORDER, AE 120AA, ¶ 13.c.)**

1. United Arab Emirates, CAPTURE, Location No. 1\*



2. Location No. 2



\* Each substitution provided in compliance with the Commission's Order at AE 120AA identifies locations by an assigned number where the CIA detained the accused. To maximize the import of the government's holistic approach to discovery, the numbering designation for a given location where the CIA detained the accused will remain consistent throughout the government's substitutions. For example, the government identified one location where the CIA detained the accused as "Location No. 2." Moving forward, the government will refer to this location as "Location No. 2." Similarly, the government identified one location where the CIA detained the accused as "Location No. 3." The government will refer to this location as "Location No. 3" in subsequent substitutions.



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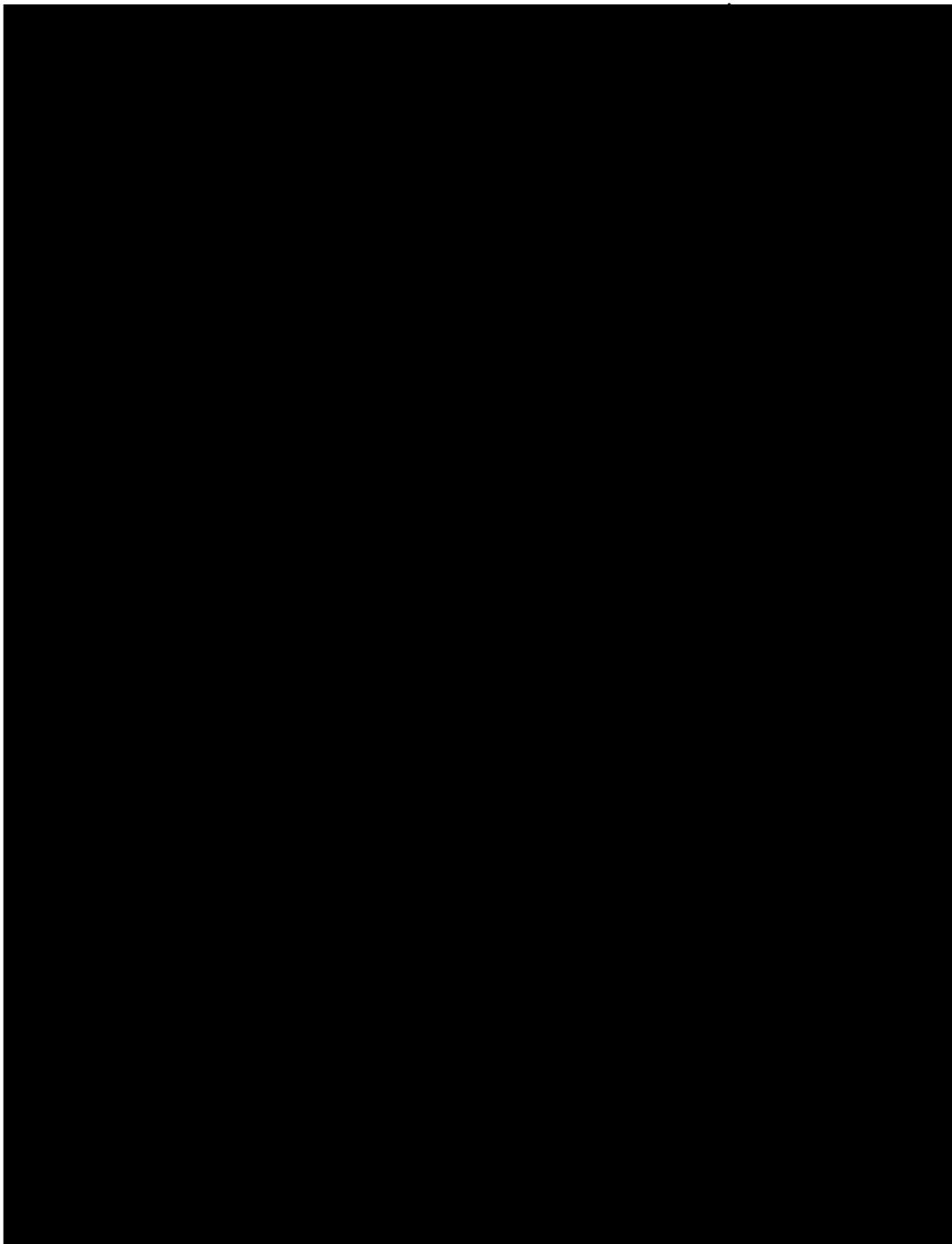
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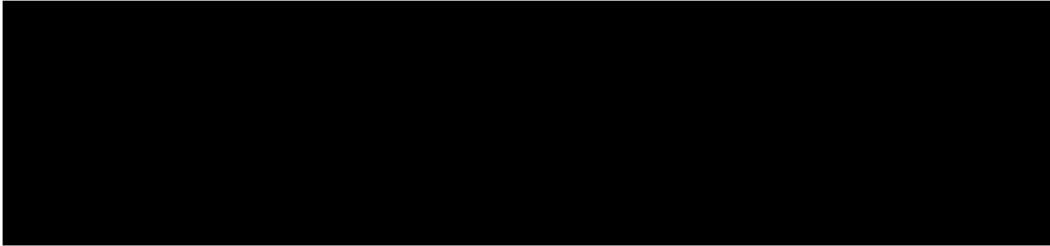
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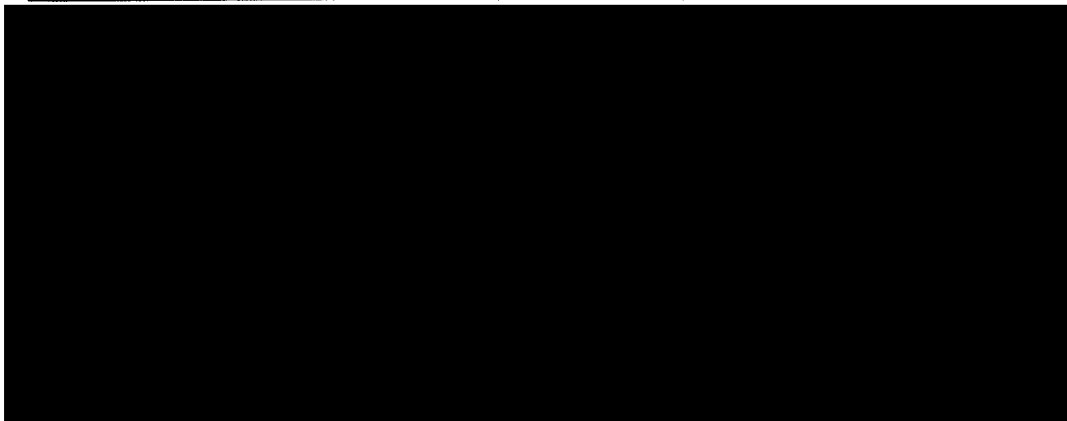
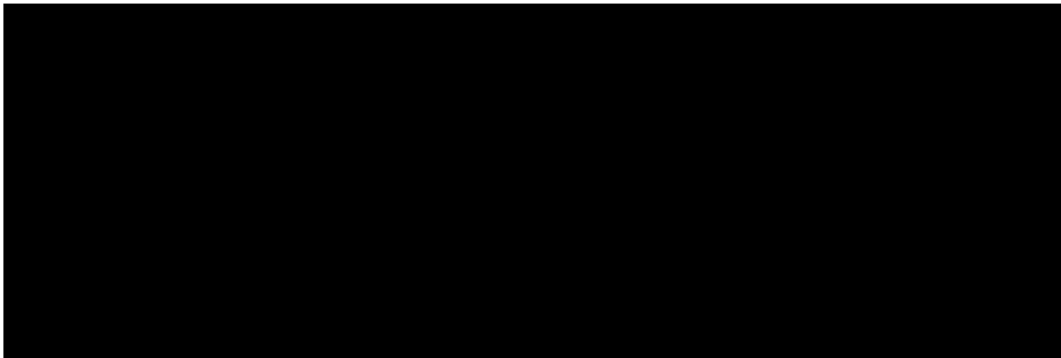
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Class.App. 258

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3. Location No. 3



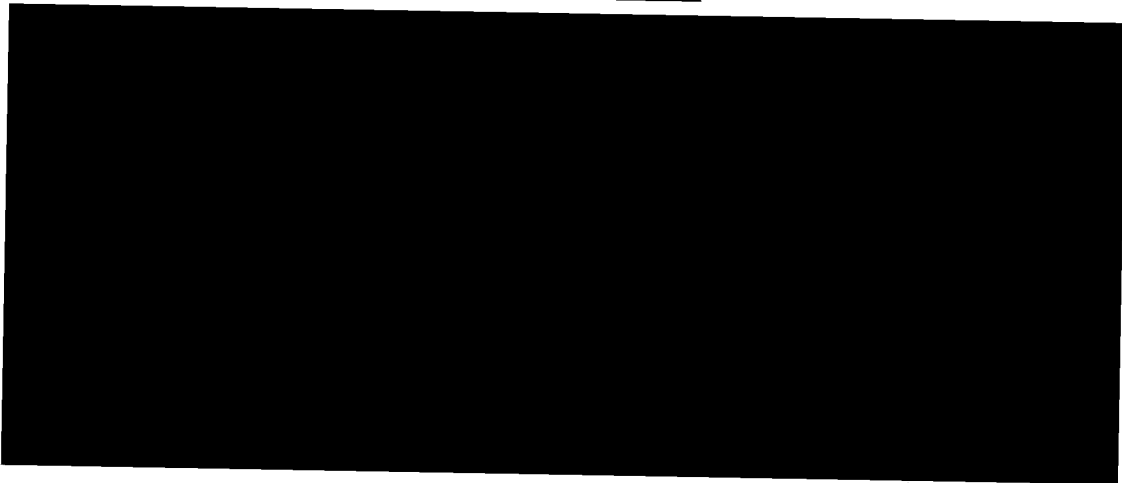
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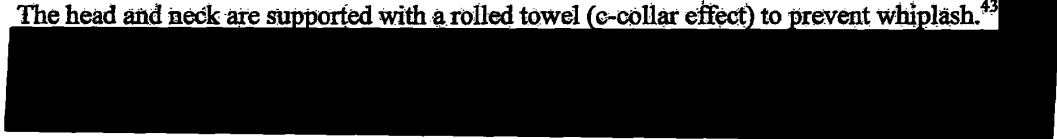
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Nashiri was often placed in a standing position against a walling board. A walling board is a false wall that creates a loud noise when struck, making the impact seem worse than it is.<sup>41</sup> The interrogator pulls the individual forward and firmly pushes him against the wall.<sup>42</sup> The head and neck are supported with a rolled towel (c-collar effect) to prevent whiplash.<sup>43</sup>



<sup>41</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, [redacted] CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 35, 7 May 2004, [redacted]

<sup>42</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, [redacted] CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 35, 7 May 2004, [redacted]

<sup>43</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, [redacted] CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 35, 7 May 2004, [redacted]



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[REDACTED]

[REDACTED]

Based on Department of Justice guidance, the large box must have been large enough to accommodate a person standing upright, and the small box should be large enough for a person to sit down.<sup>50</sup>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>50</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, [REDACTED]

[REDACTED]

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[REDACTED]

When being waterboarded, an individual is bound to an inclined board and the feet are elevated.<sup>63</sup> A cloth is placed over the forehead and eyes, and water poured in a controlled manner into the mouth, while the cloth is slowly lowered to cover the nose and mouth.<sup>64</sup> Air flow is slightly restricted, and water is poured for 20-40 seconds from a height of 12-24 inches.<sup>65</sup> The cloth is then lifted, and the individual is allowed to breathe for 3-4 breaths.<sup>66</sup>

[REDACTED] The attention grasp is an Enhanced Interrogation Technique in which one hand is placed on either side of individual's face to keep the head immobile. Fingertips are kept away from the eyes.<sup>70</sup> The insult slap is another Enhanced Interrogation Technique in which the interrogator slaps the individual's face with fingers slightly spread. Contact is between the tip of the chin and the bottom on the earlobe. The goal is not to induce long-term pain, but rather to induce shock and humiliation.<sup>71</sup>

[REDACTED]

[REDACTED]

[REDACTED]

<sup>63</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081.

<sup>64</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081.

<sup>65</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081.

<sup>66</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081.

<sup>70</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081

<sup>71</sup> Department of Justice Memorandum for John Rizzo (Aug. 1, 2002), CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, AE 303 SUM-081

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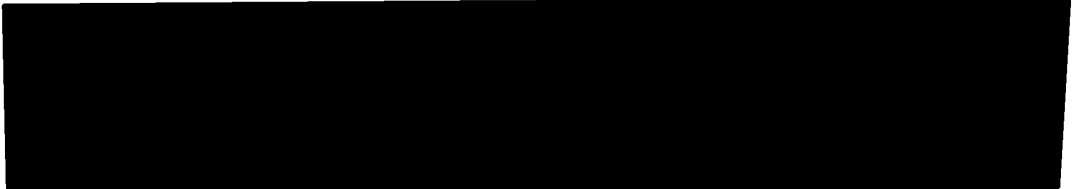
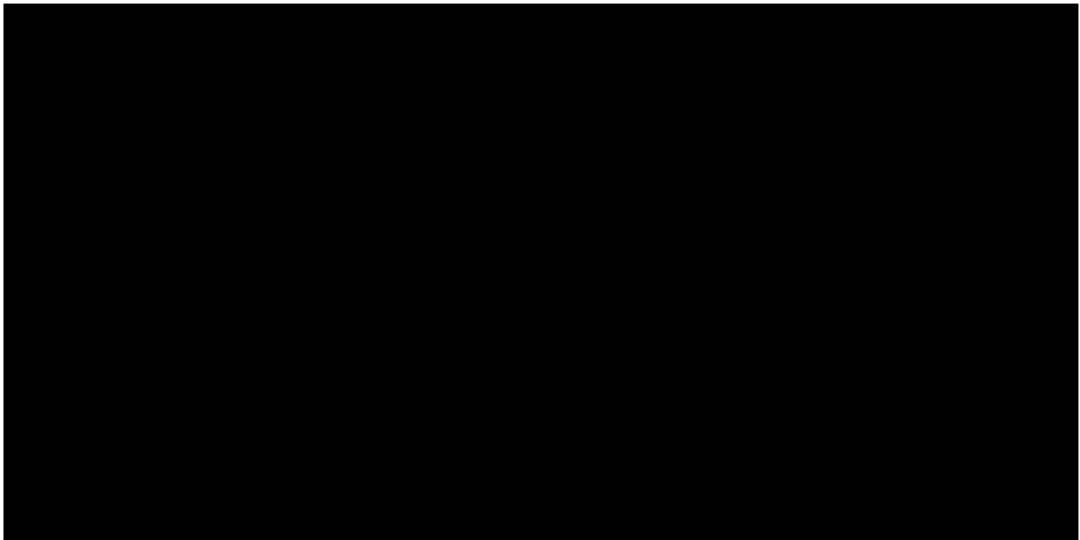
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Reports indicate that some of these forced bathing incidents involved brushes, including a "stiff brush."<sup>107</sup>



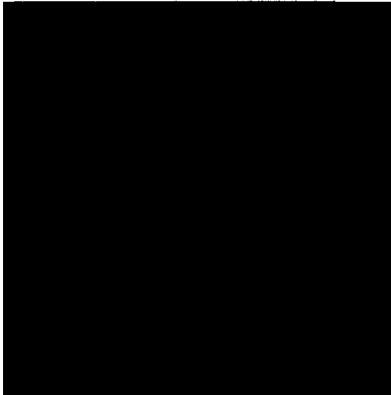
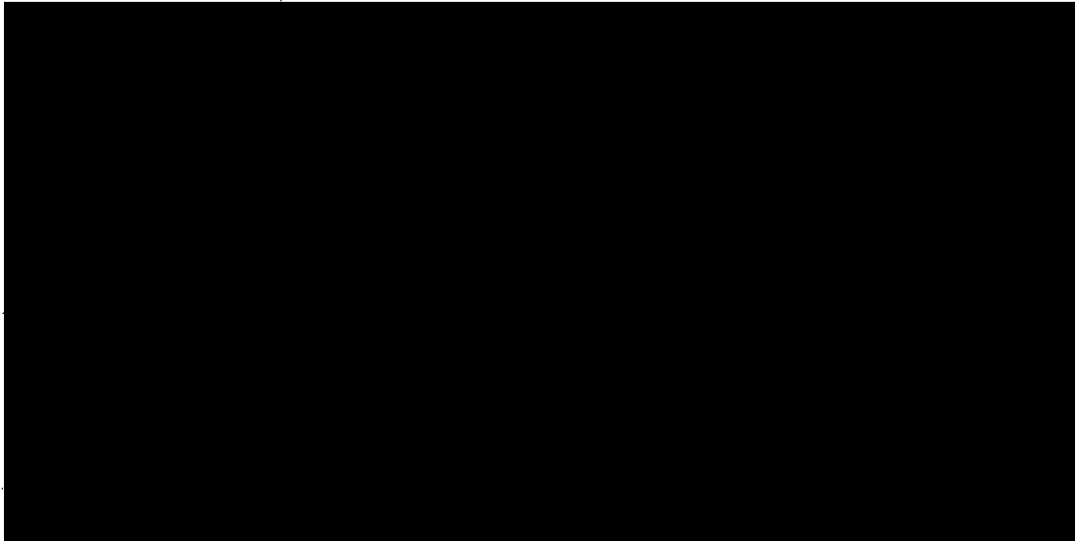
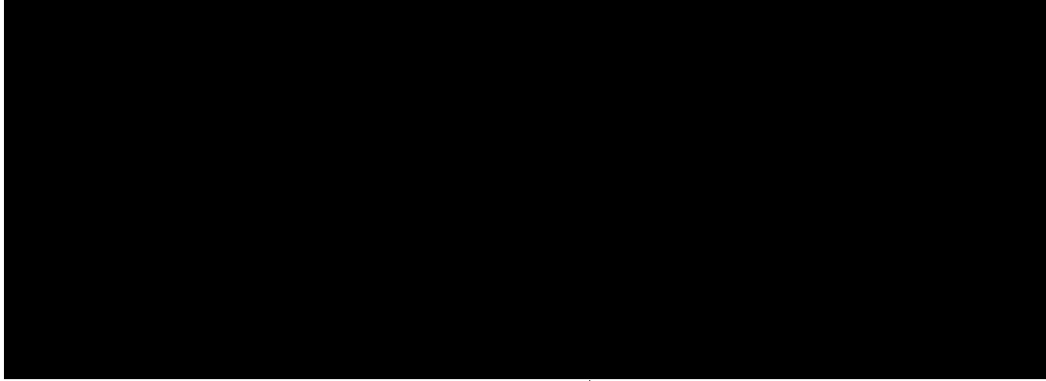
<sup>107</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003), 7 May 2004, ¶ 98 [REDACTED]

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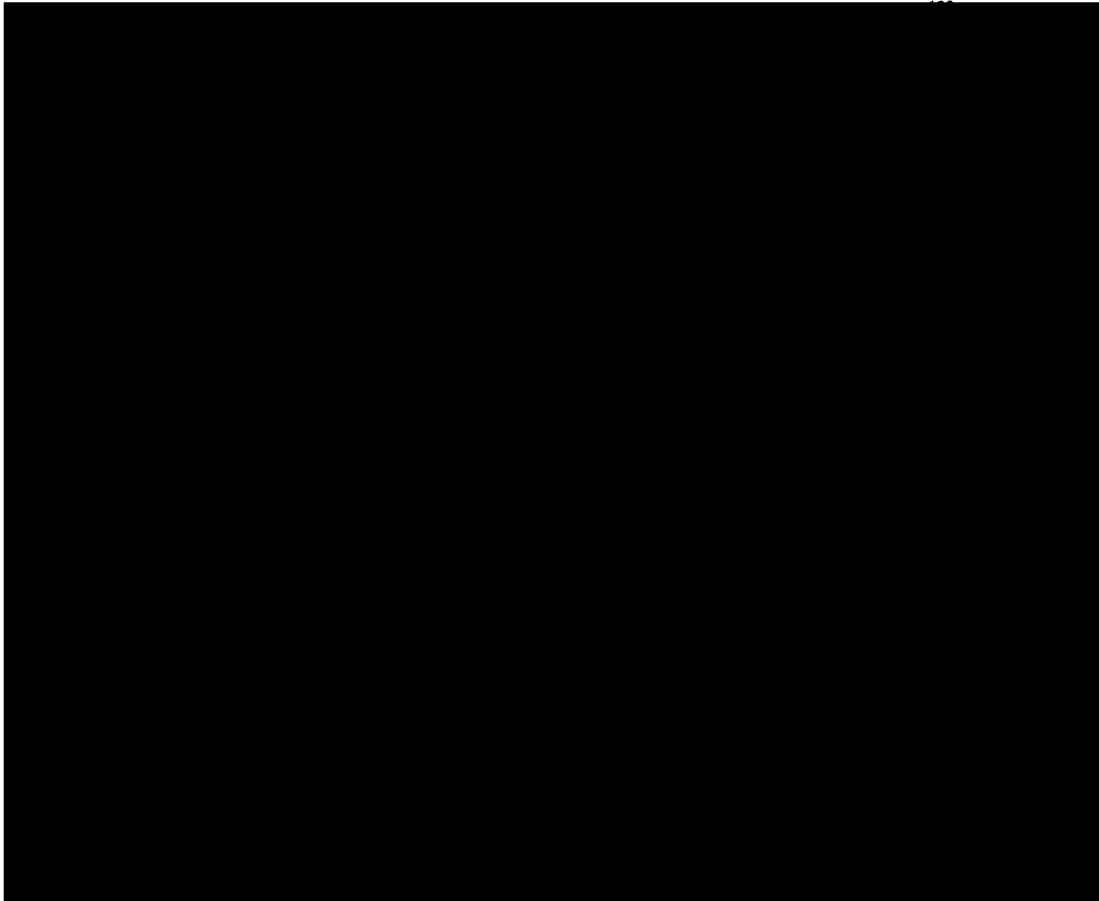


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Class.App. 265

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Class.App. 267

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Interrogator [redacted] conducted unauthorized interrogation techniques and used an unloaded semi-automatic handgun to frighten Nashiri into disclosing information.<sup>154</sup> [redacted]

[redacted]

[redacted]

Interrogator [redacted] also reportedly made threats toward Nashiri. Though Interrogator [redacted] did not tell Nashiri, the interrogator wanted Nashiri, for psychological reasons, to infer that Interrogator [redacted] was a foreign intelligence officer.<sup>165</sup> Interrogator [redacted] wanted Nashiri to infer this because it was widely believed that foreign interrogation techniques involved the sexual abuse of female relatives in front of a detainee.<sup>166</sup> It was reported Interrogator [redacted] told Nashiri that his family members, including his mother, could be subject to arrest and humiliation because of his actions.<sup>167</sup> [redacted] Interrogator [redacted] denied threatening Nashiri through his family. Interrogator [redacted] said he never told Nashiri he was a foreign intelligence officer, but let Nashiri draw his own conclusions.<sup>169</sup>

<sup>154</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 92, 7 May 2004, [redacted]

[redacted]

<sup>165</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 94, 7 May 2004, [redacted]

<sup>166</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 94, 7 May 2004, [redacted]

<sup>167</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 94, 7 May 2004, [redacted]

<sup>169</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 94, 7 May 2004, [redacted]

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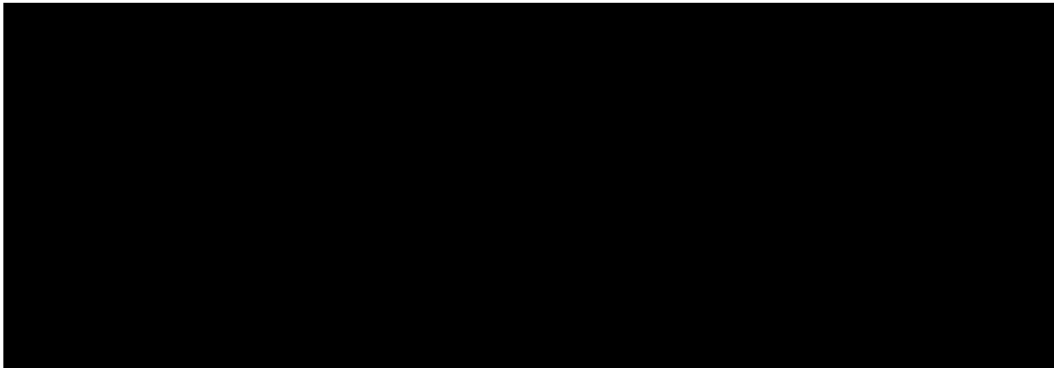
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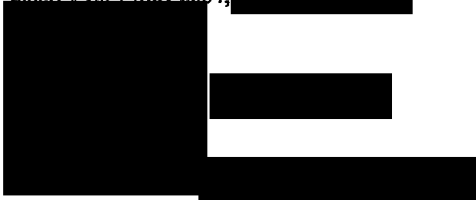
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Agency independent contractors have also indicated that they blew cigar smoke in Nashiri's face during interrogations.<sup>170</sup> Another [redacted] indicated that he smoked cigars in Nashiri's presence to mask the stench in the room, but did not blow smoke directly in his face.<sup>171</sup>

According to the Inspector General's 2004 report, interrogation team members employed stress positions on Nashiri.<sup>172</sup> Nashiri was required to kneel on the floor and lean back. On at least one occasion, Nashiri allegedly was pushed backward while in this stress position. On another occasion, Nashiri allegedly was lifted off the floor by his arms while his arms were bound behind his back with a belt, raising concerns that his arms might become dislocated from his shoulders.<sup>173</sup> A stiff brush allegedly was used to bathe Nashiri.<sup>174</sup> Moreover, cuts and bruises were caused to Nashiri's ankles by persons standing on his shackles.<sup>175</sup>



<sup>170</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 96, 7 May 2004, [redacted]  
<sup>171</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 96, 7 May 2004, [redacted]  
<sup>172</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 97, 7 May 2004, [redacted]  
<sup>173</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 97, 7 May 2004, [redacted]  
<sup>174</sup> CIA OIG Report on Counterterrorism, Detention, and Interrogation Activities (September 2001—October 2003) ¶ 98, 7 May 2004, [redacted]  
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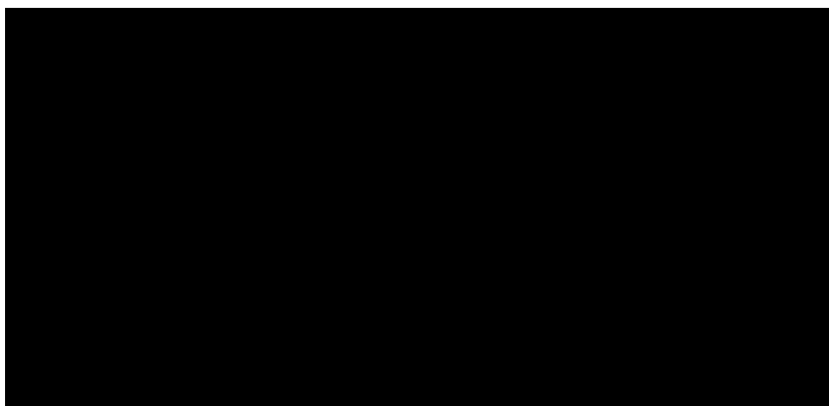
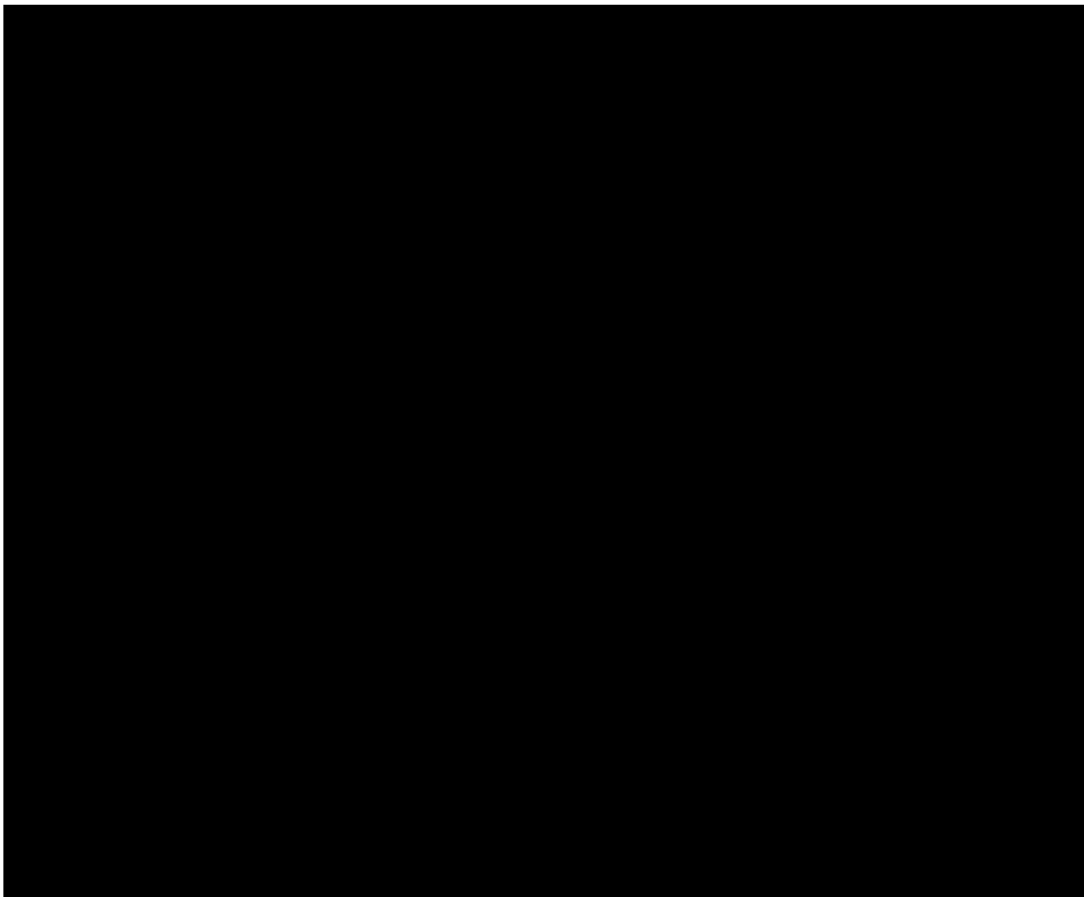
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5. Location No. 5



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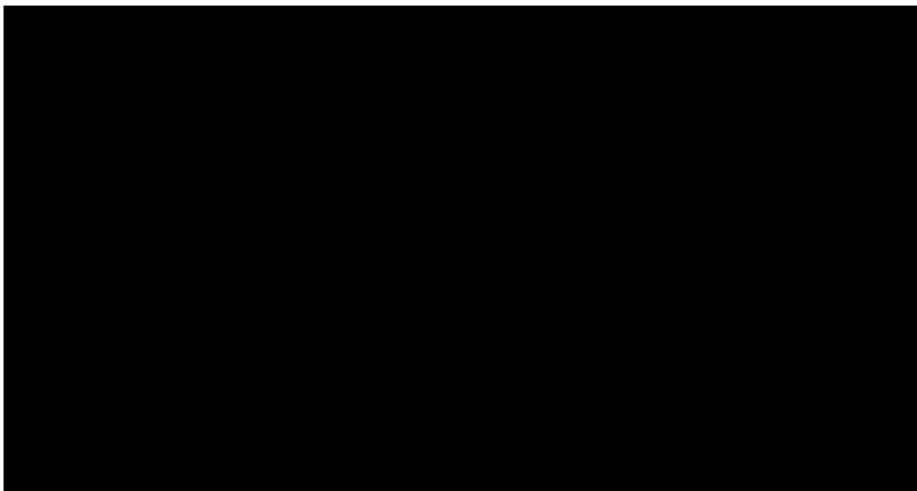
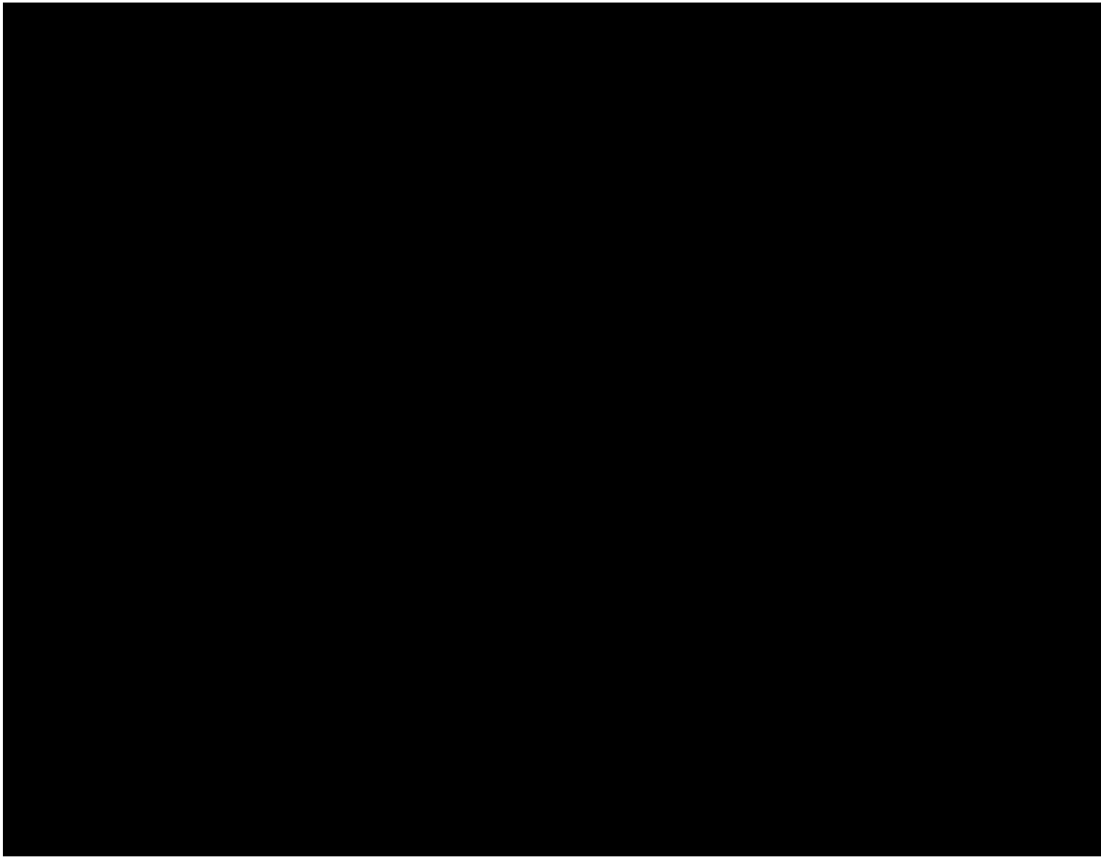


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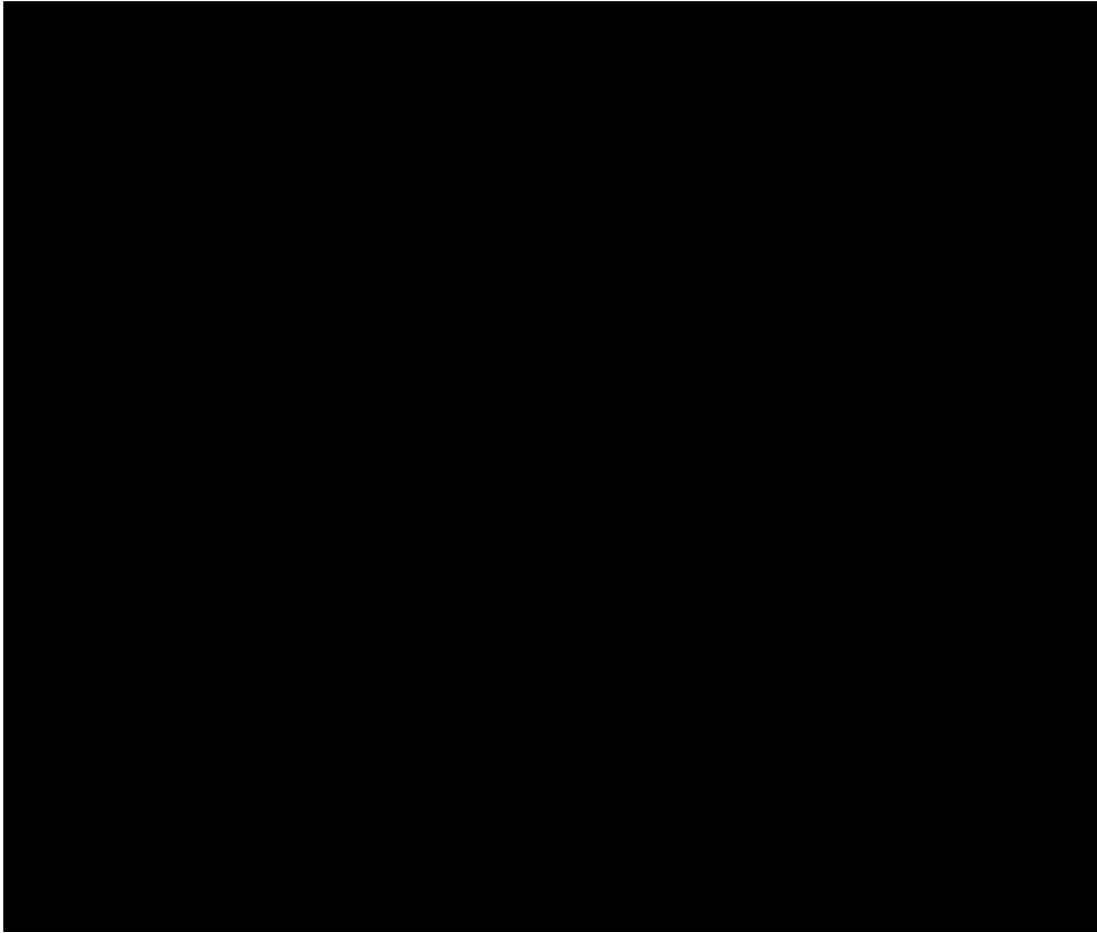


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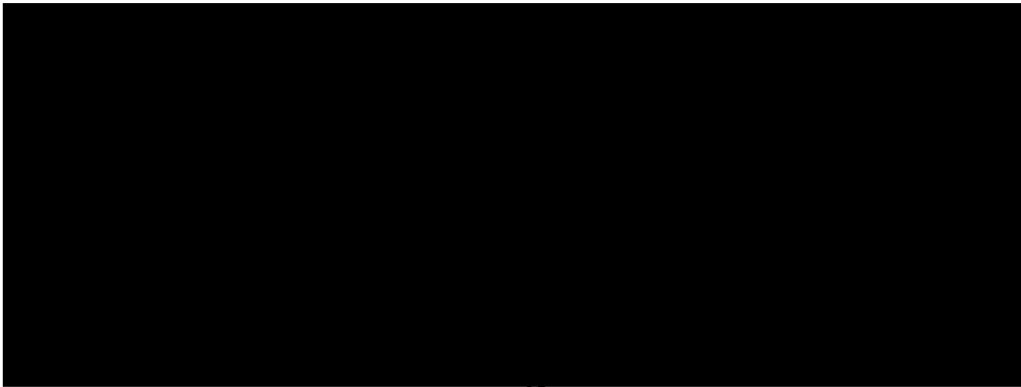
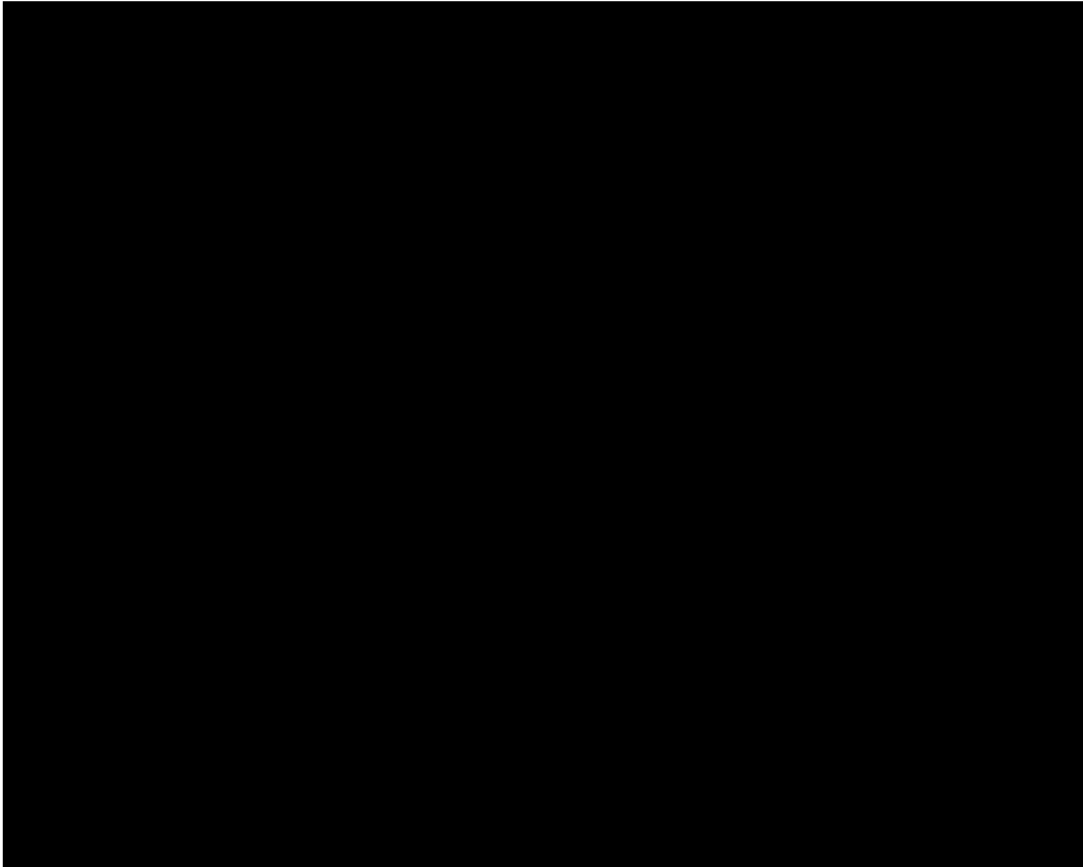
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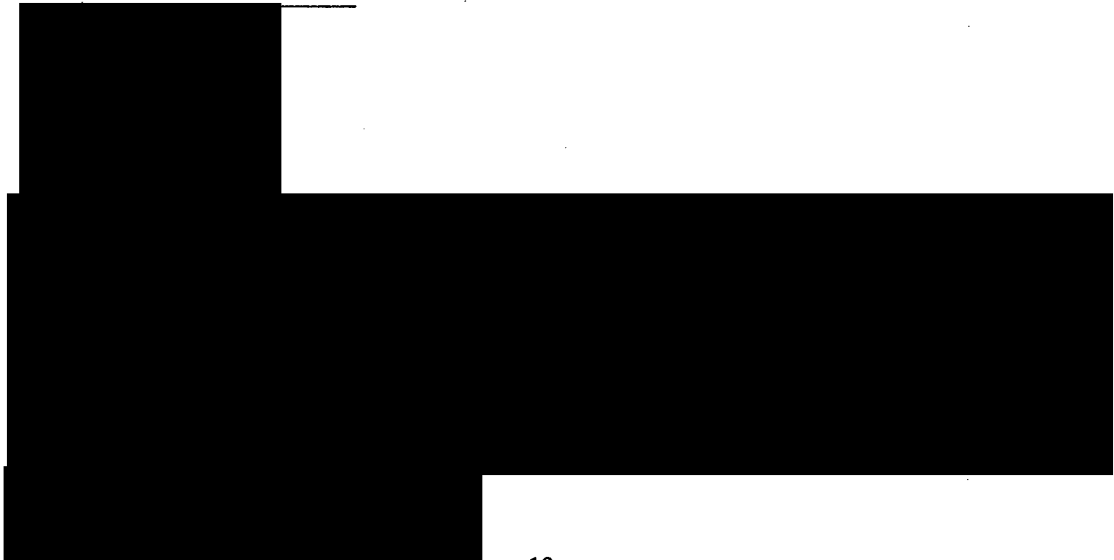


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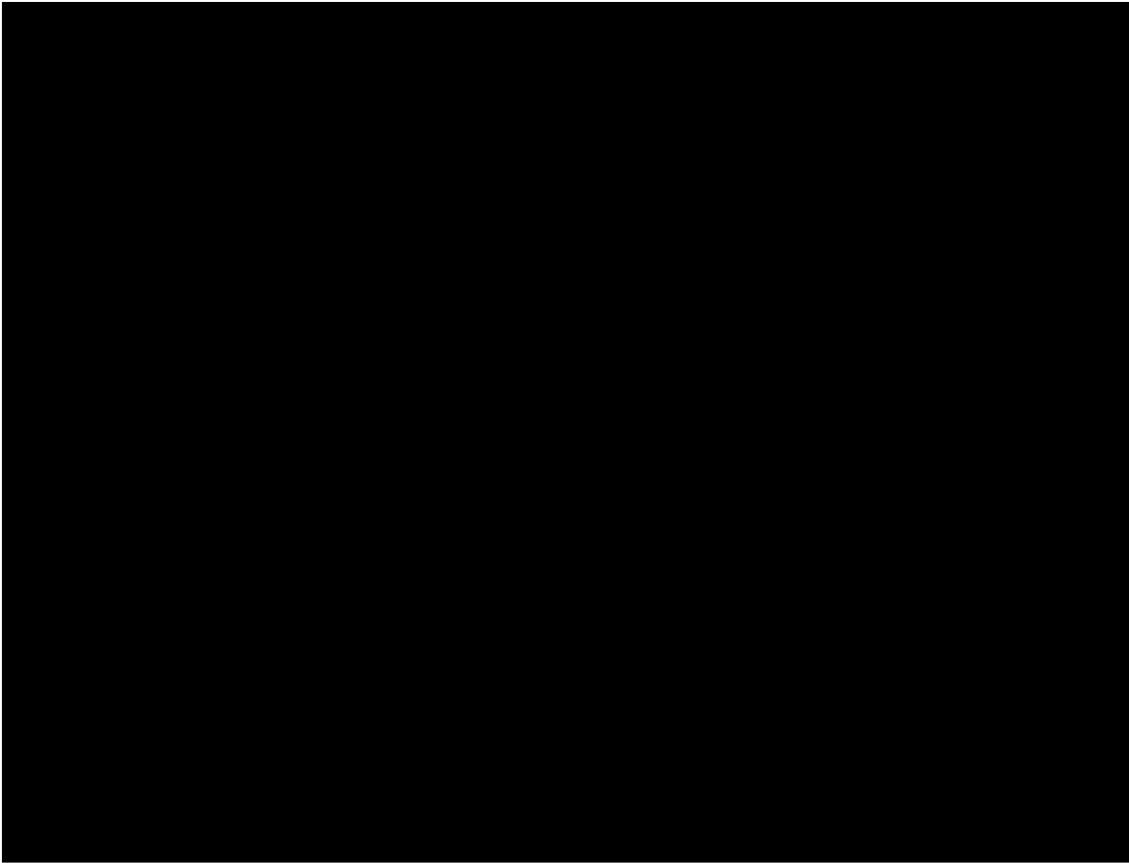


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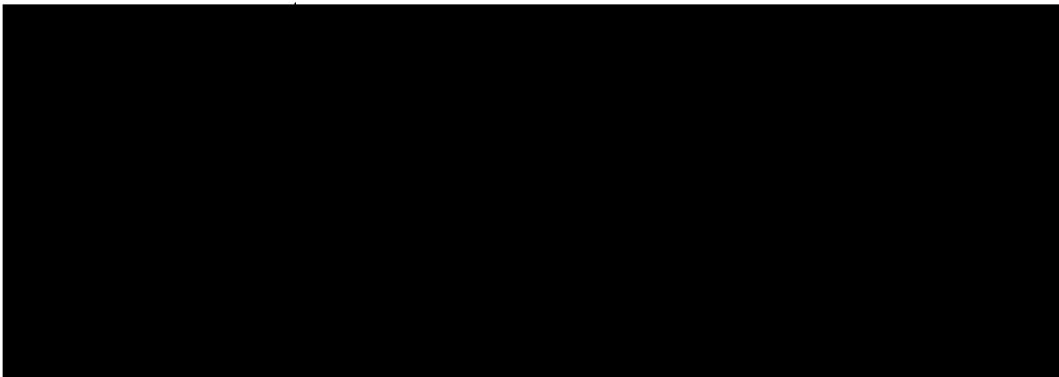
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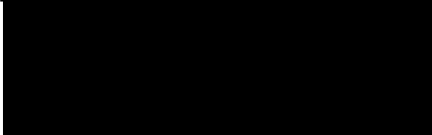
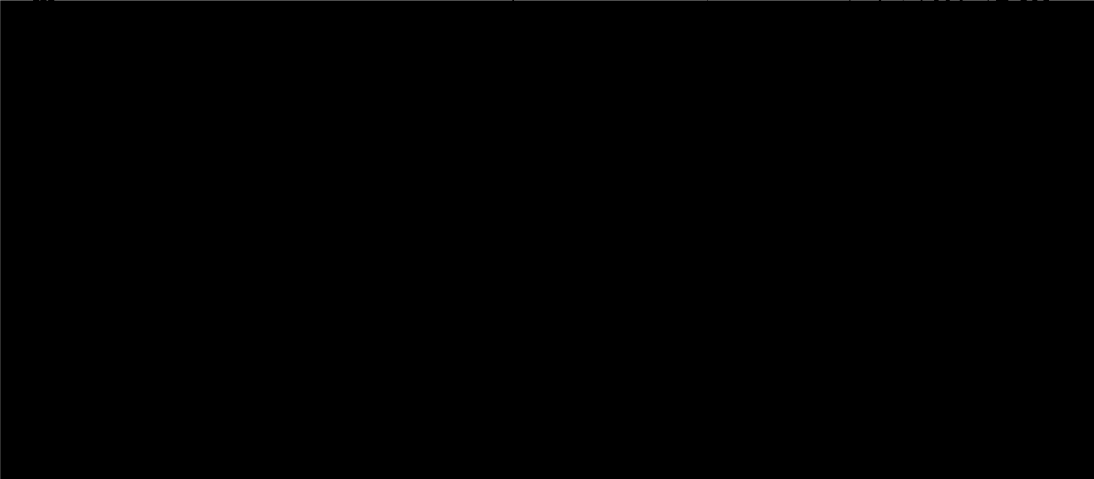
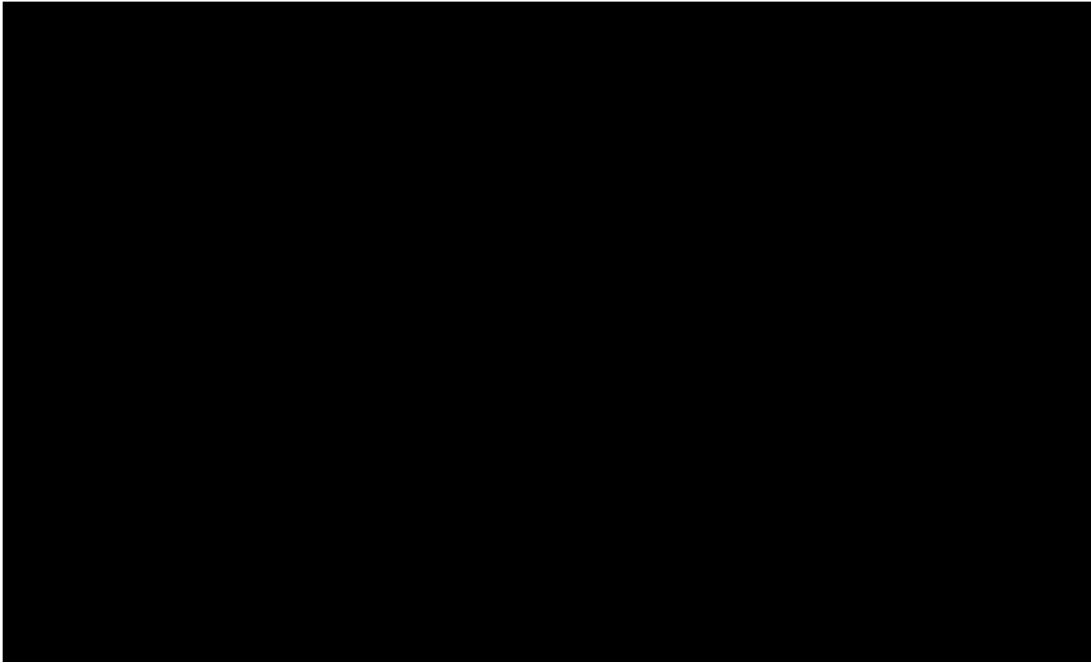


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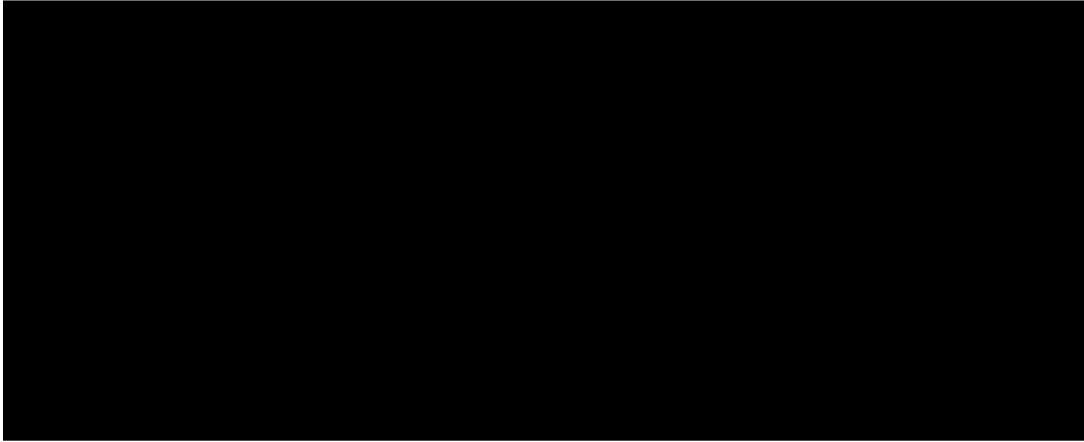


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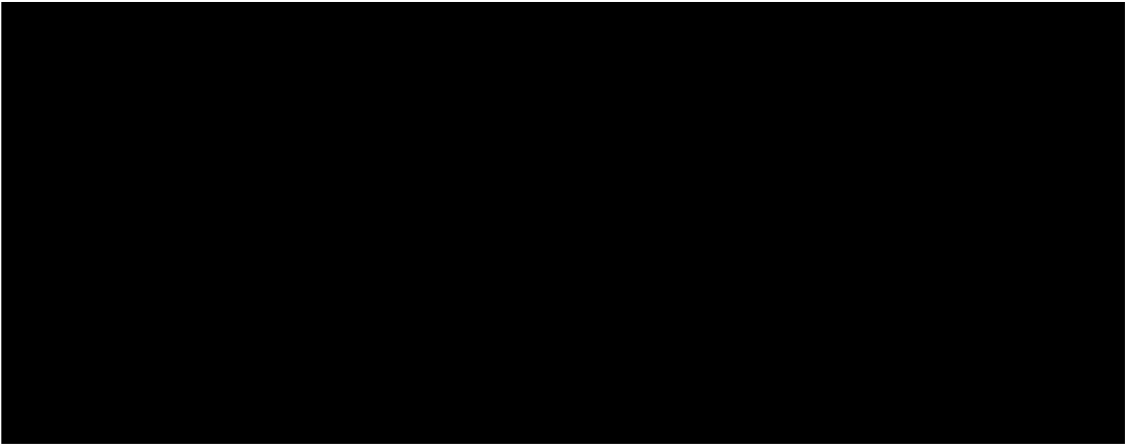
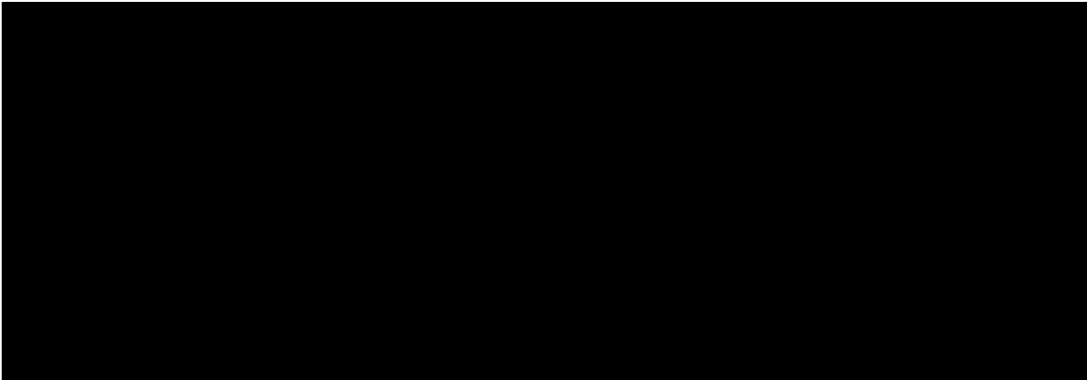
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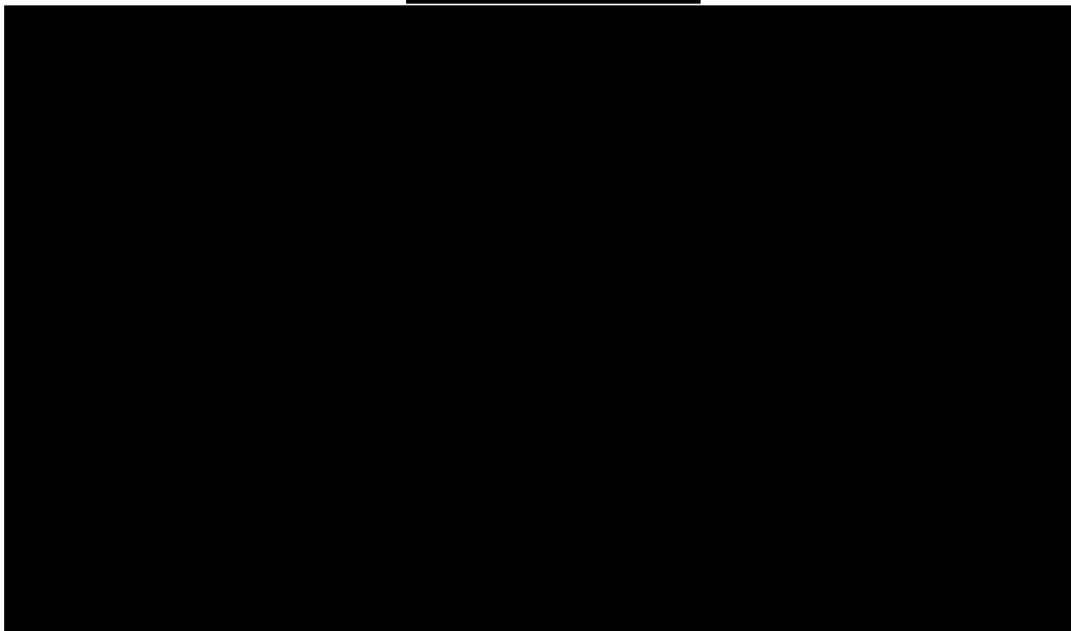
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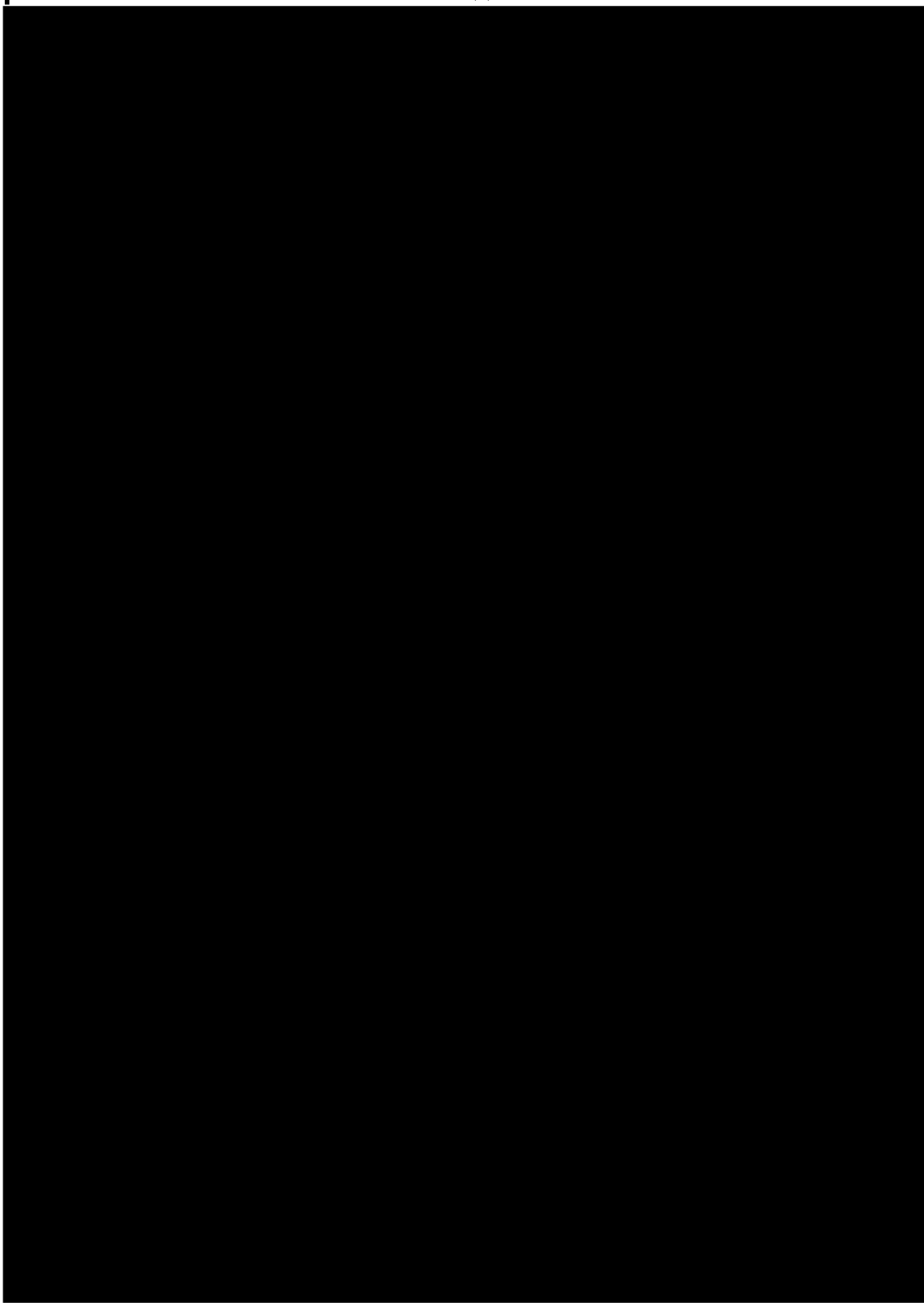
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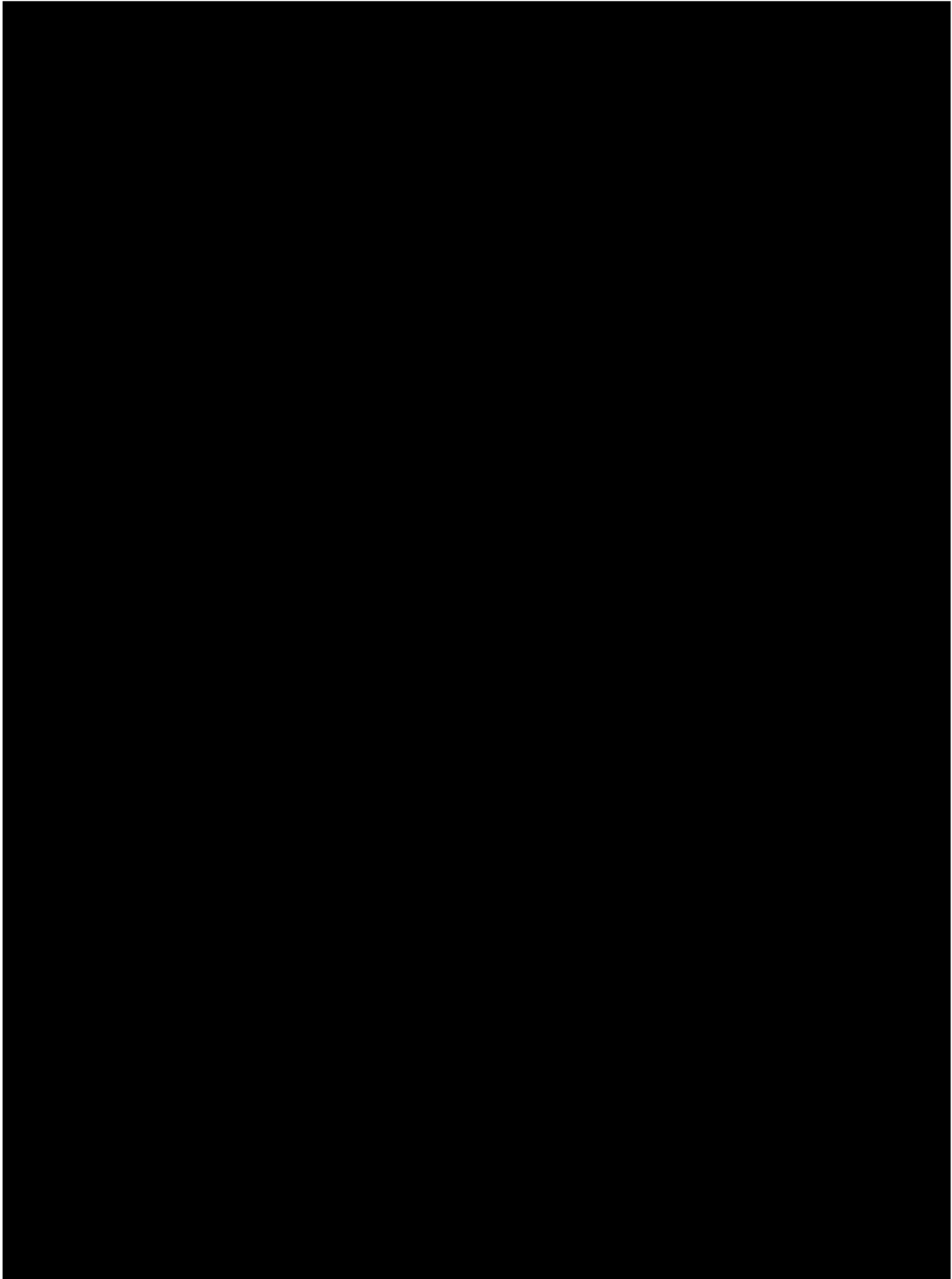
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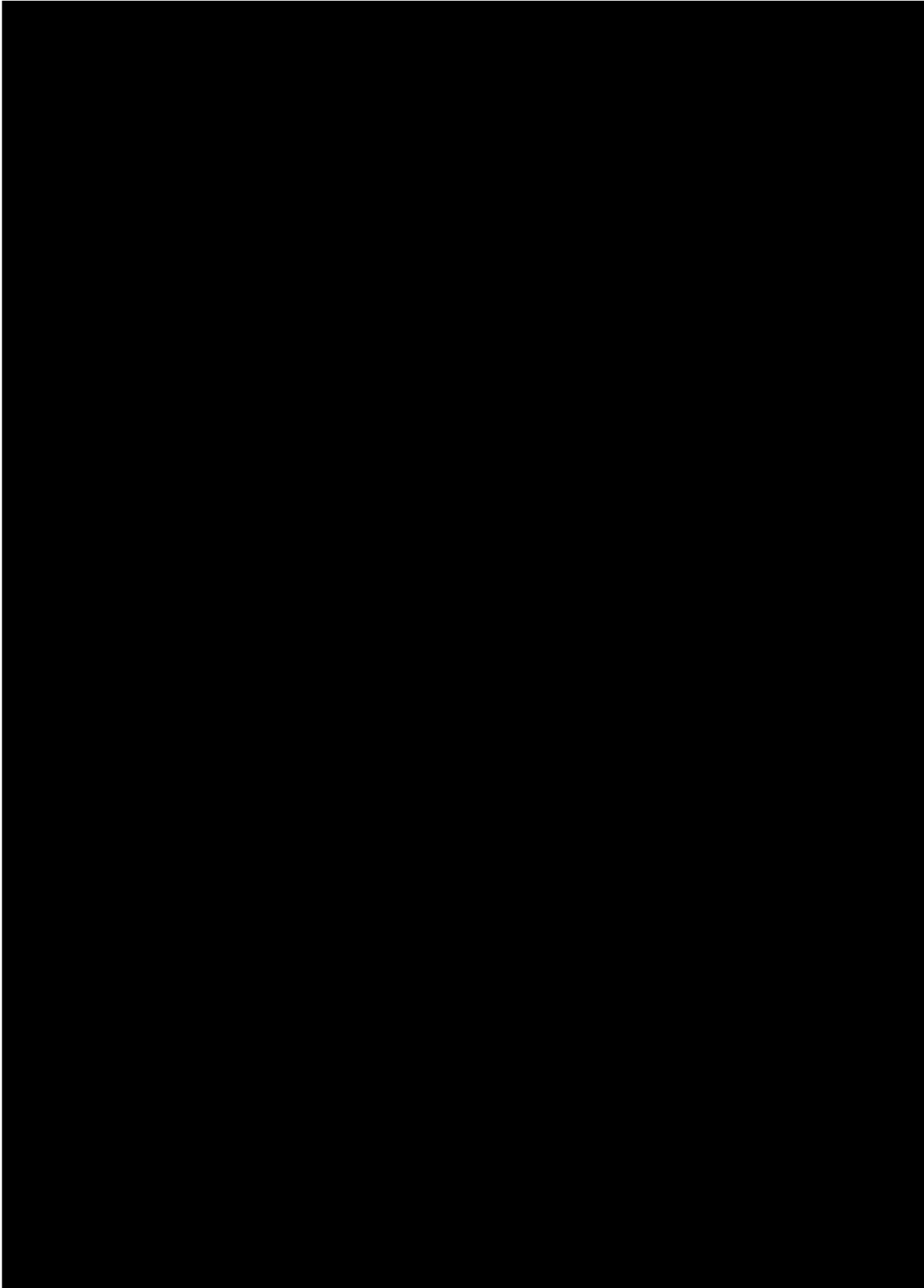
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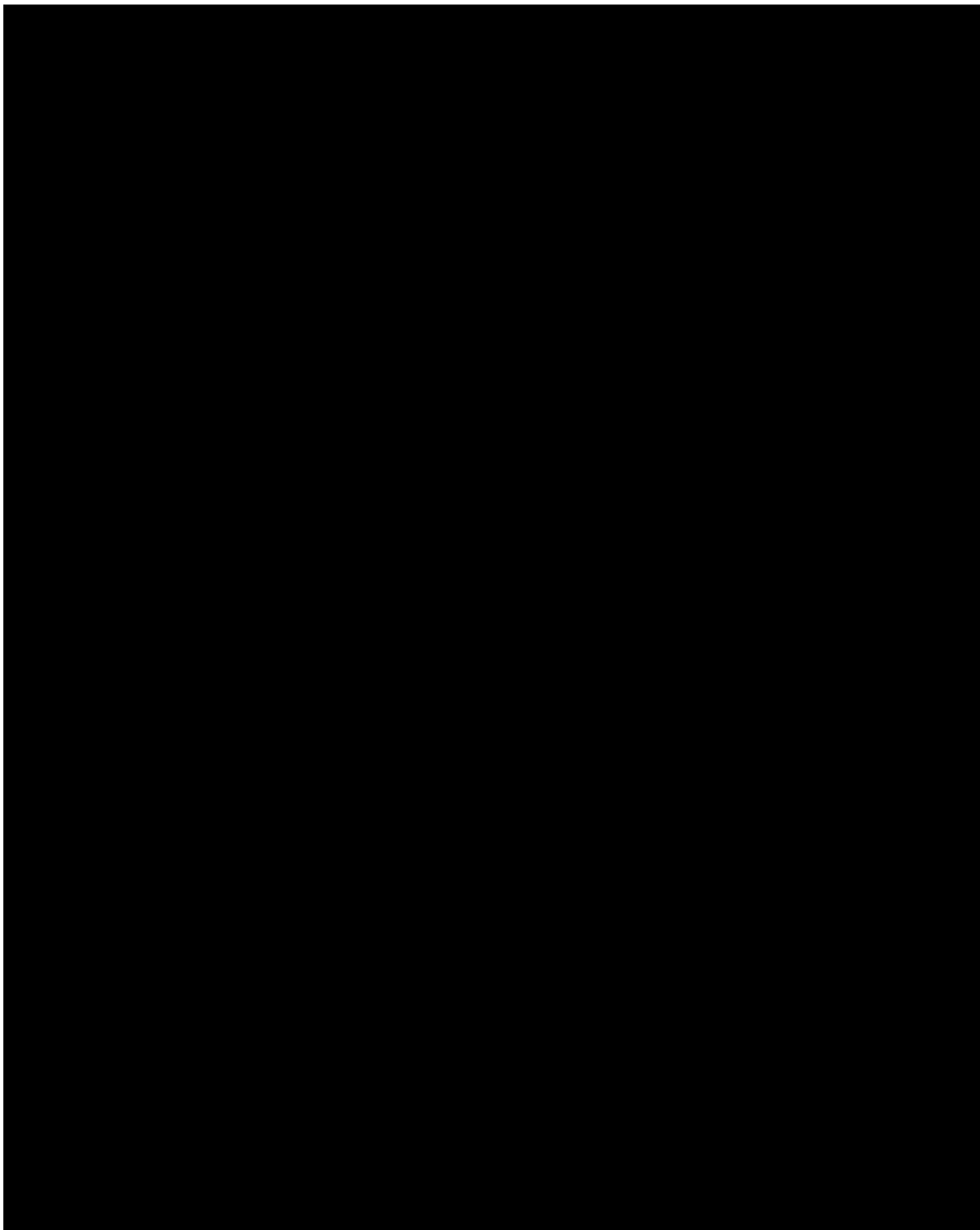
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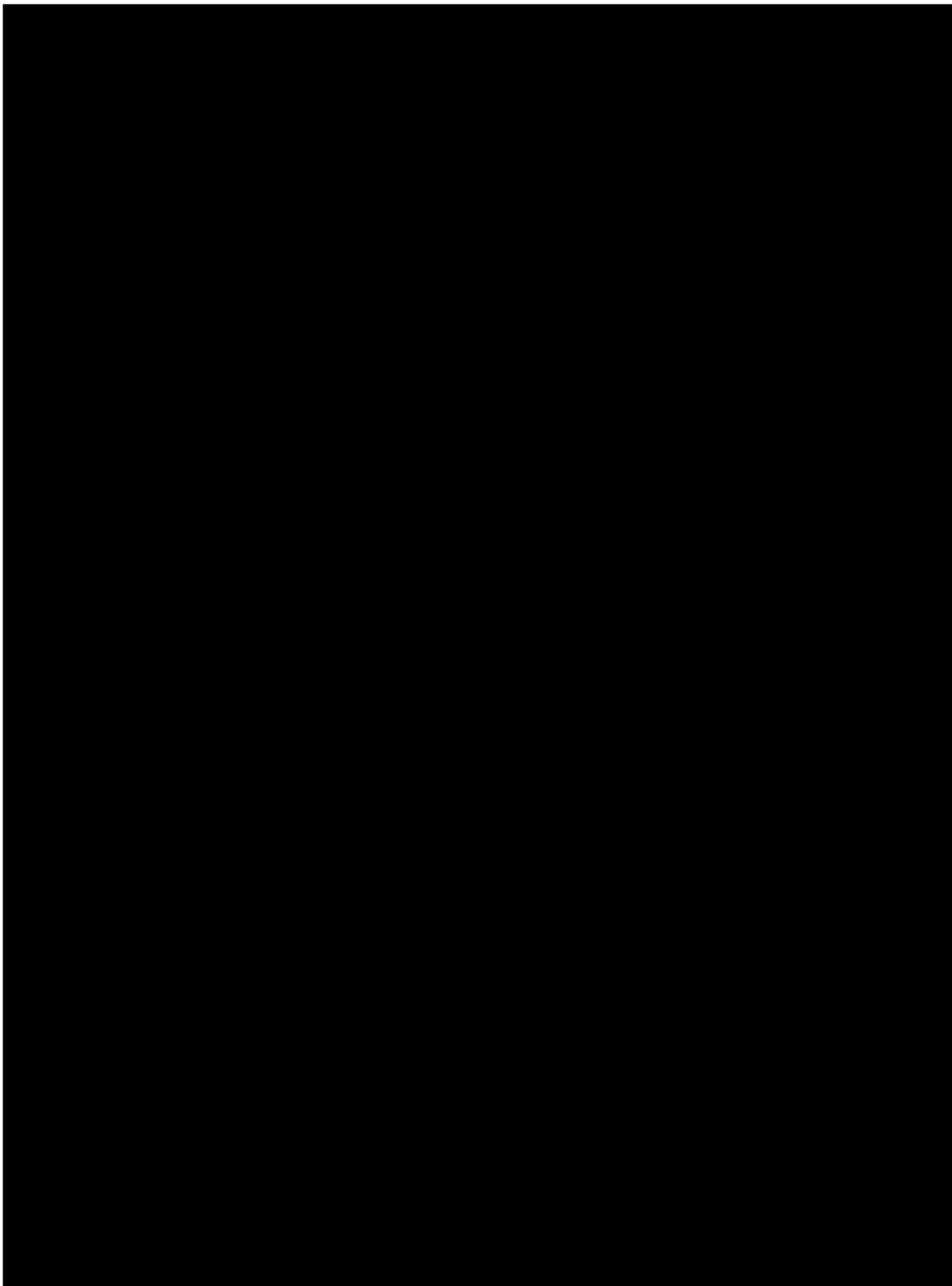
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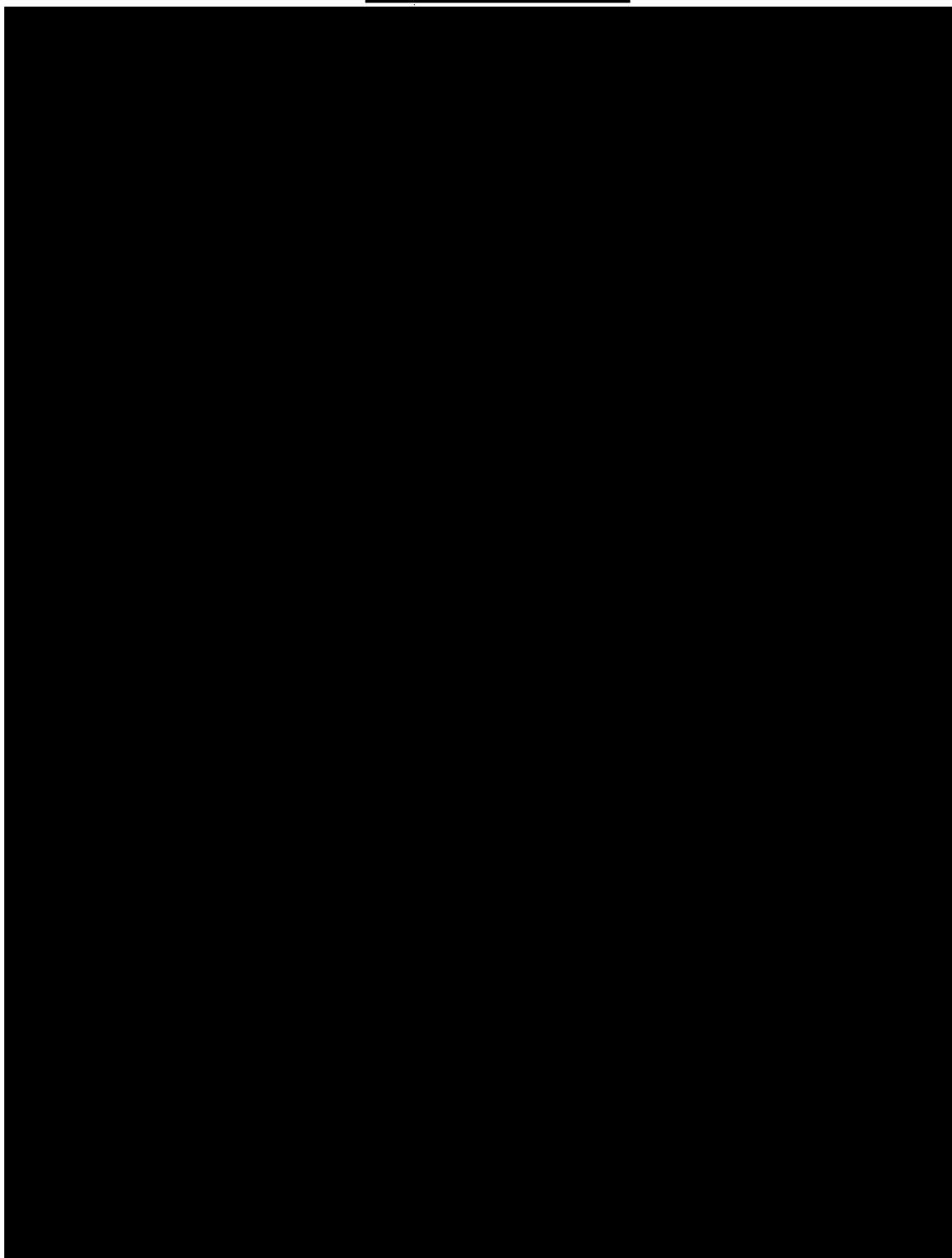
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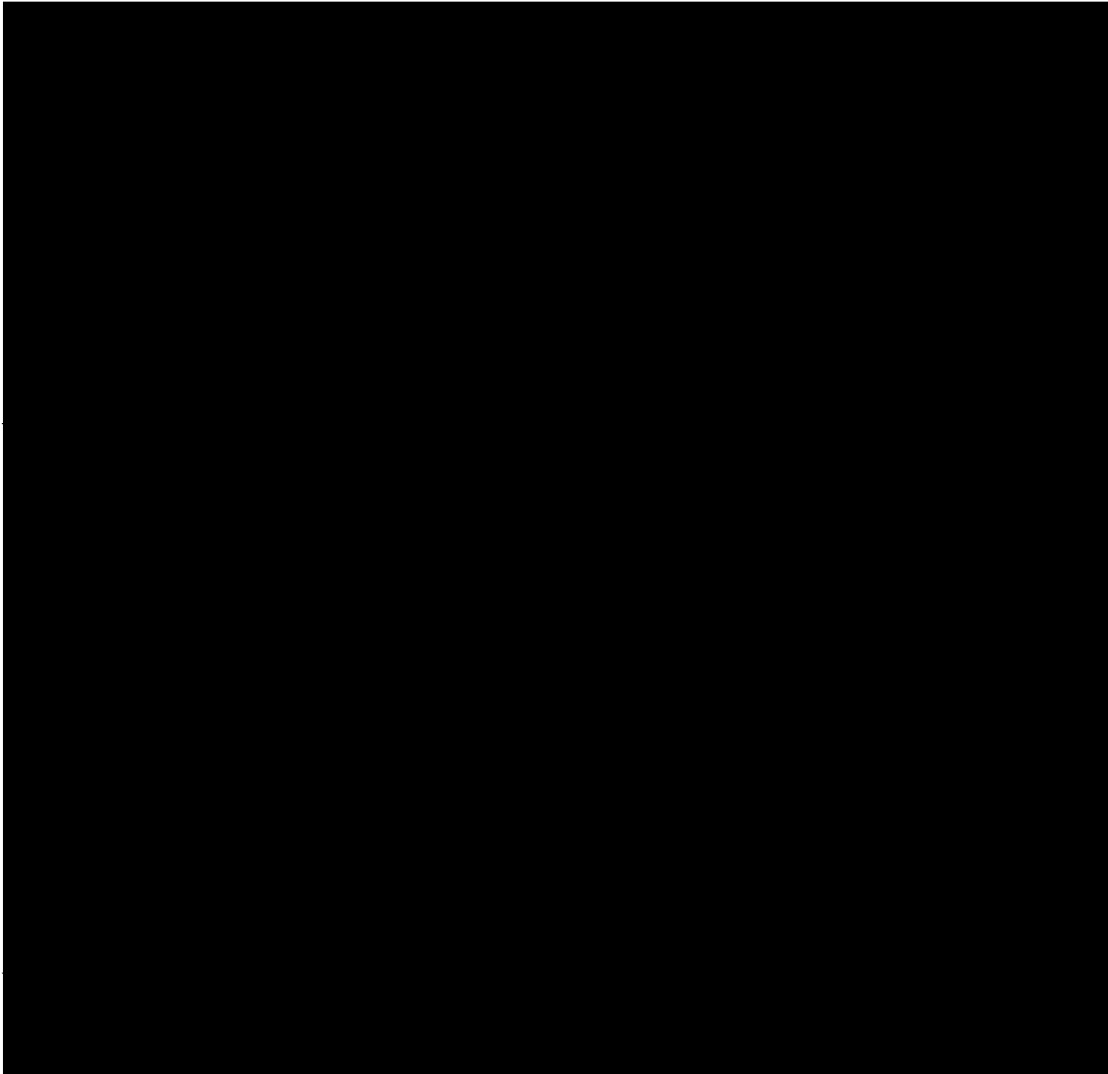
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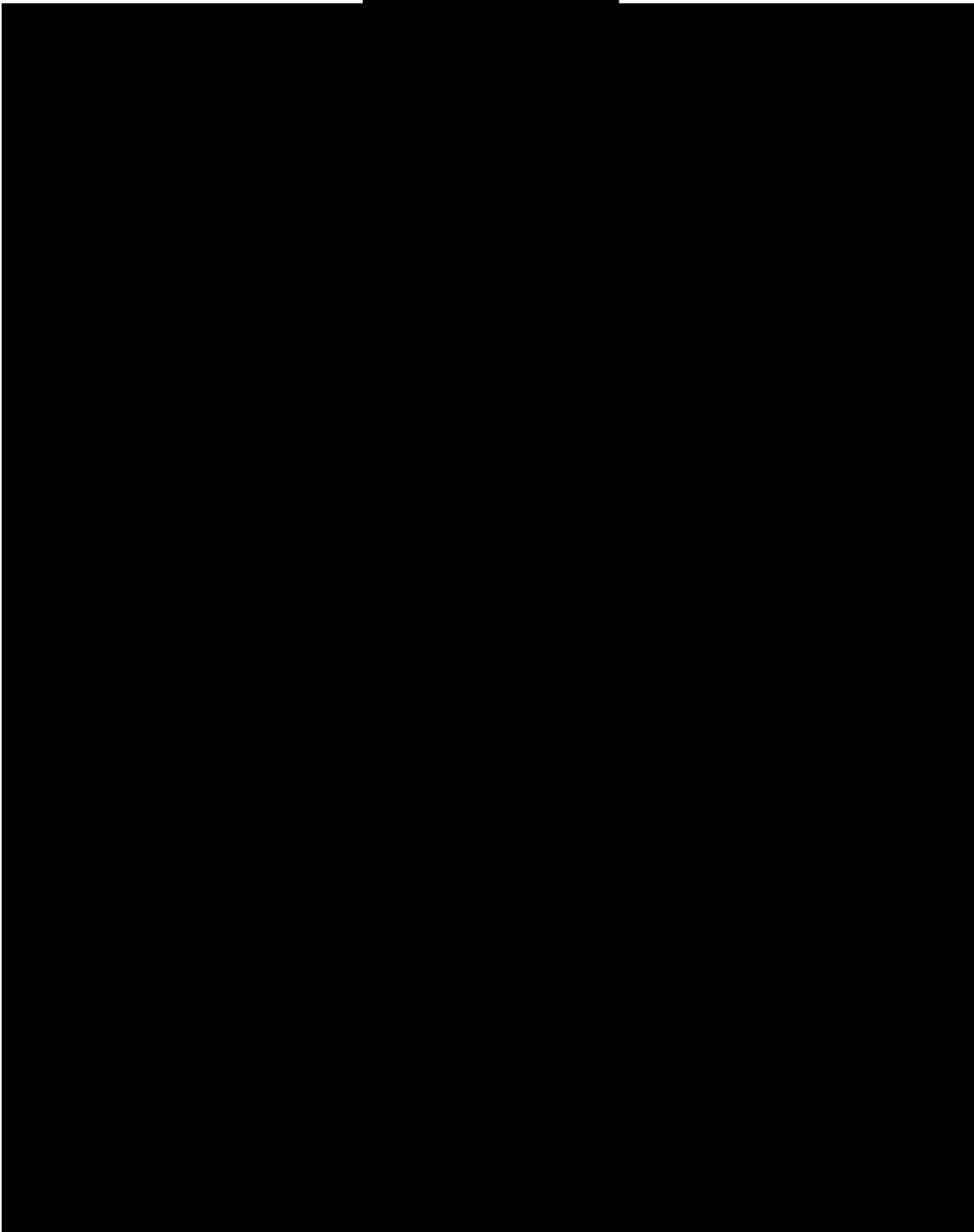
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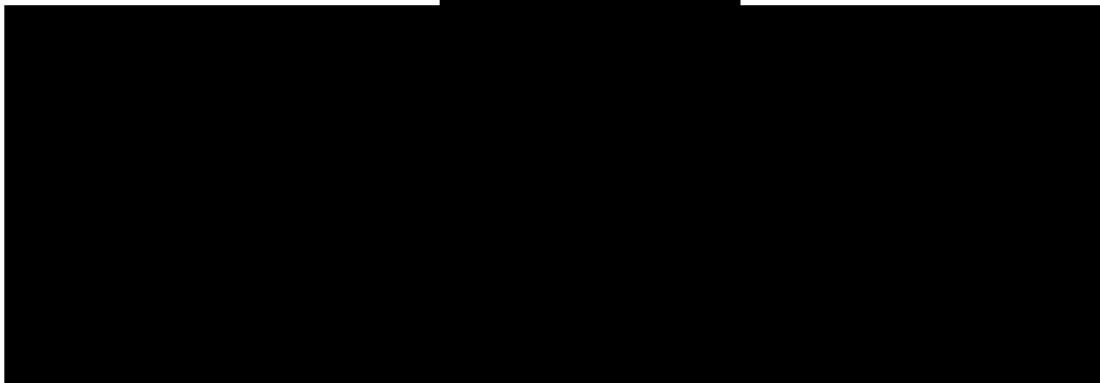
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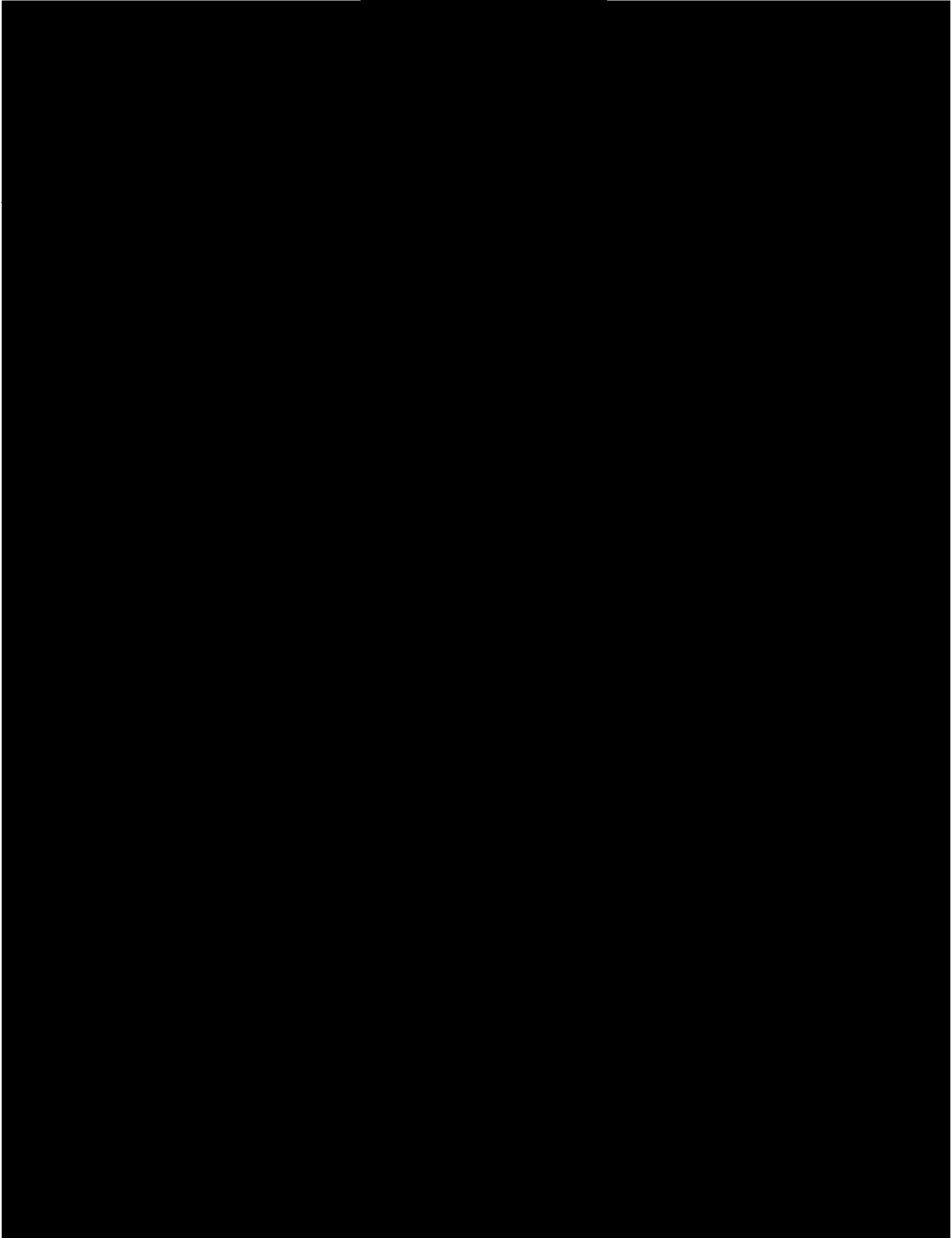
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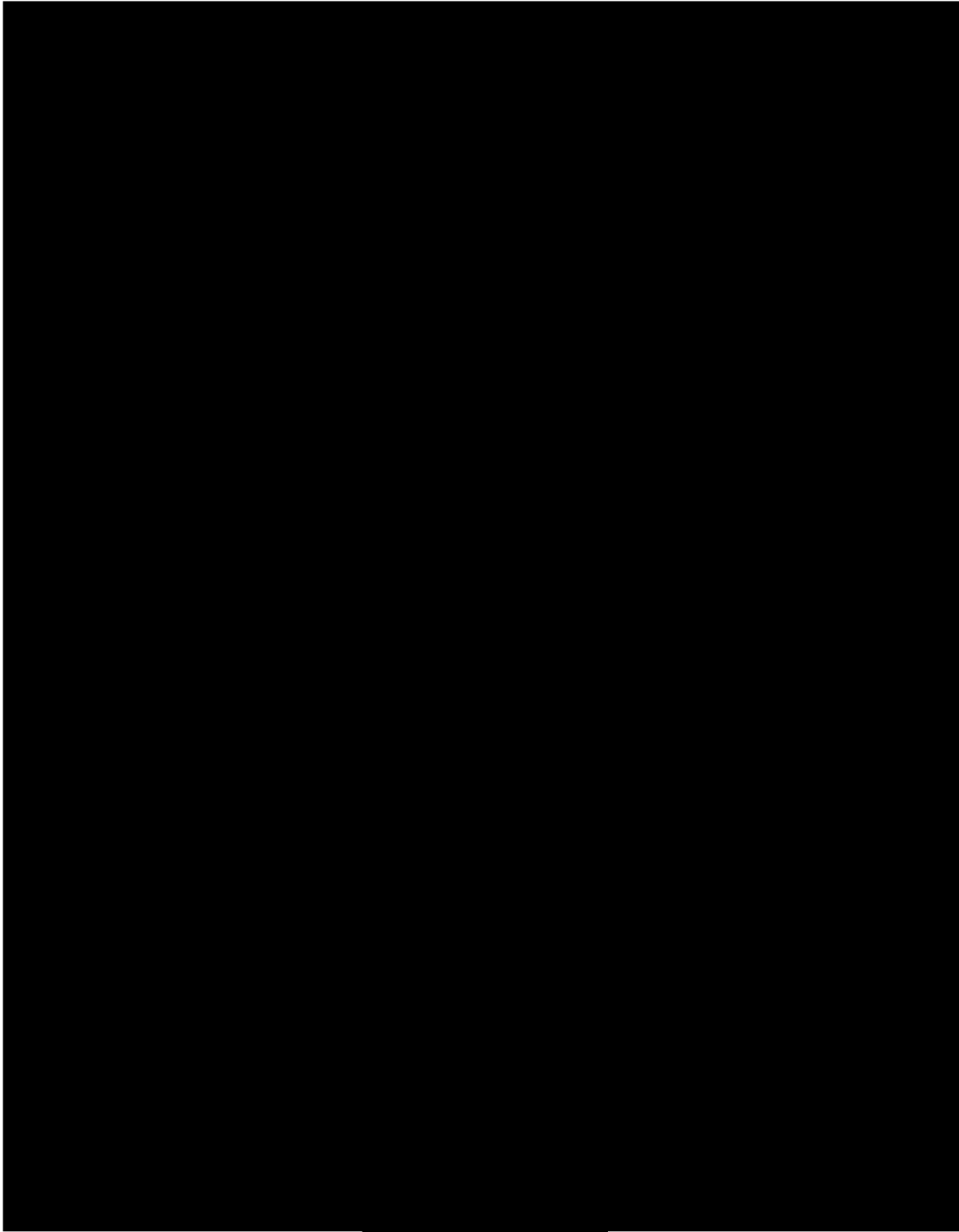
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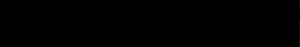
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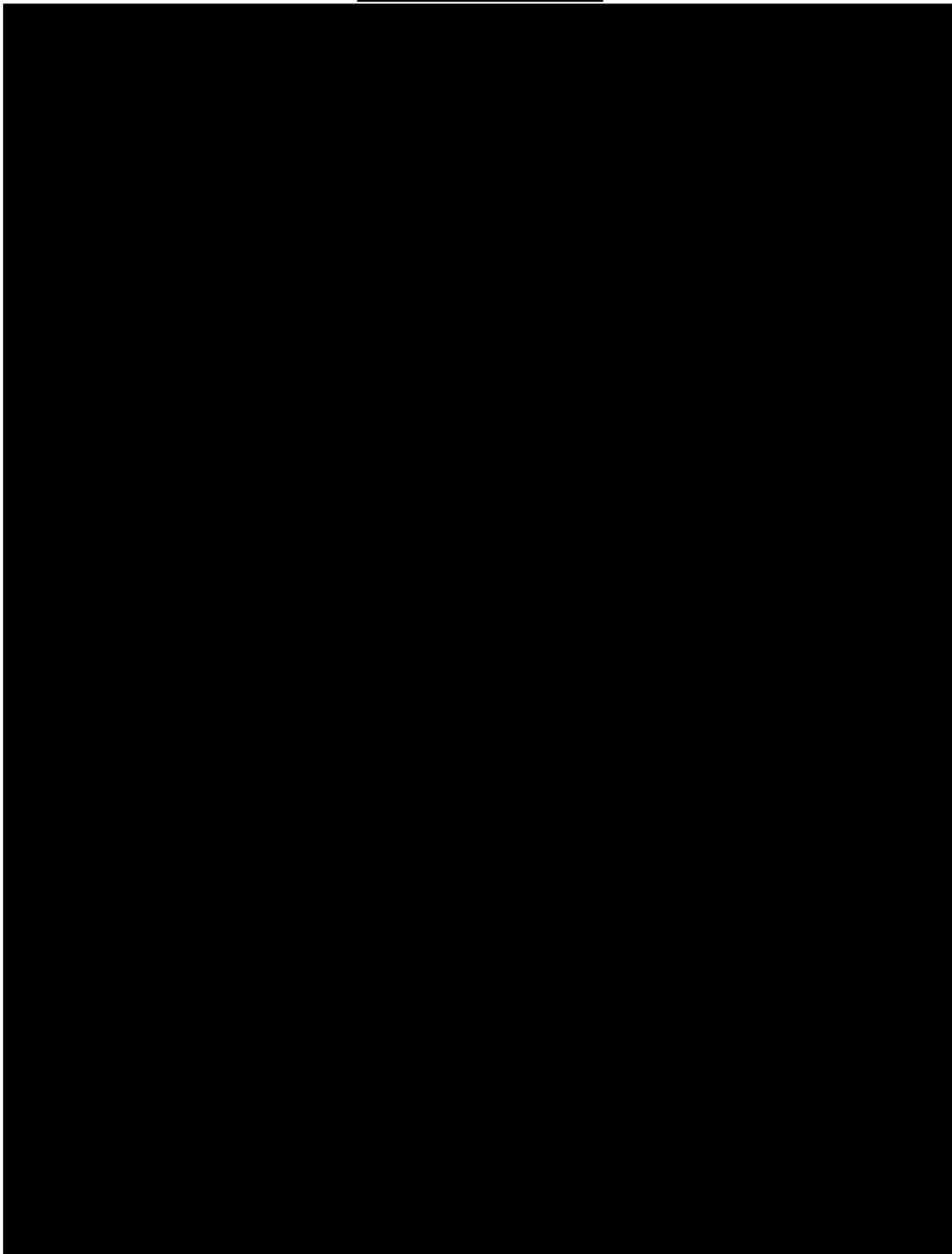


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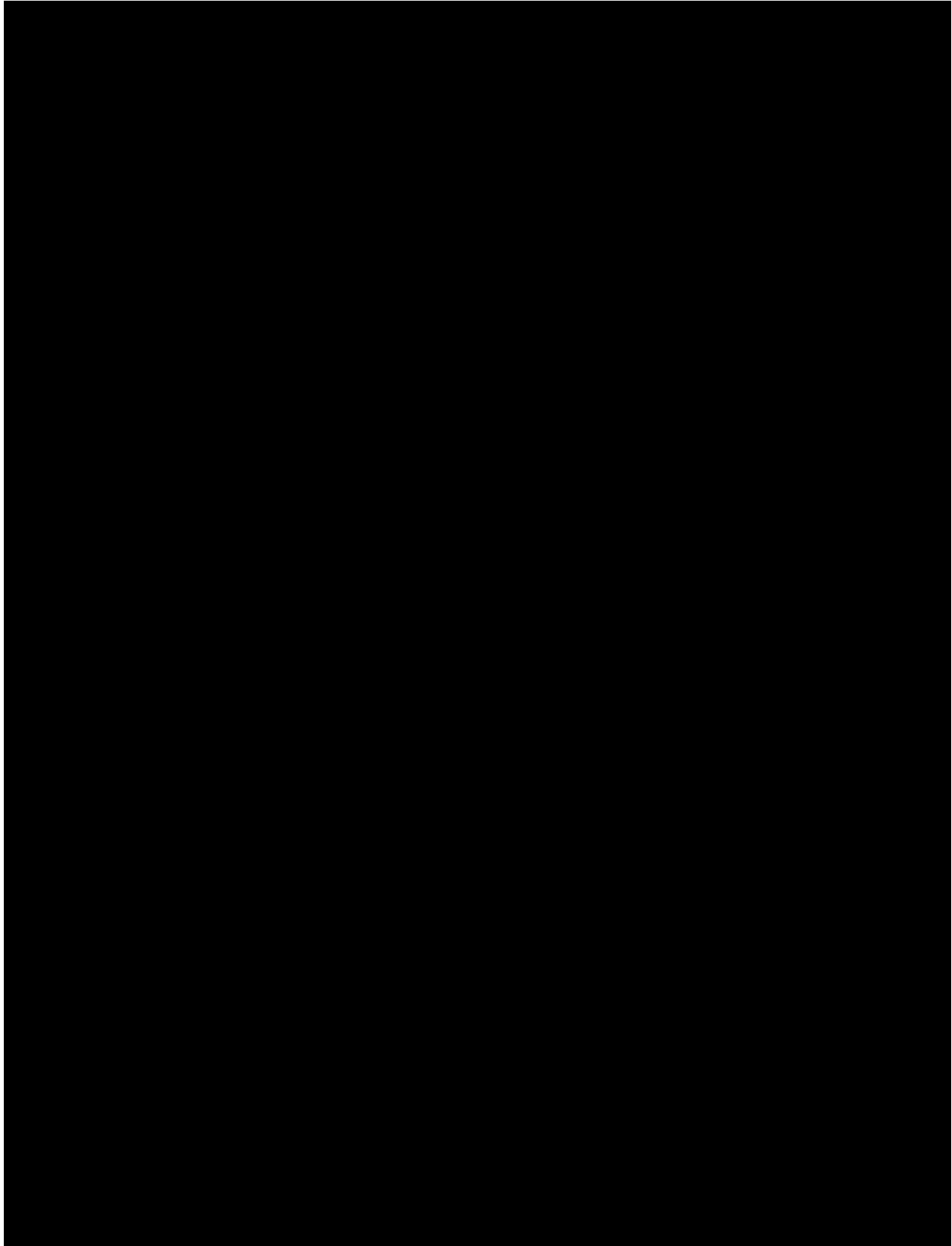
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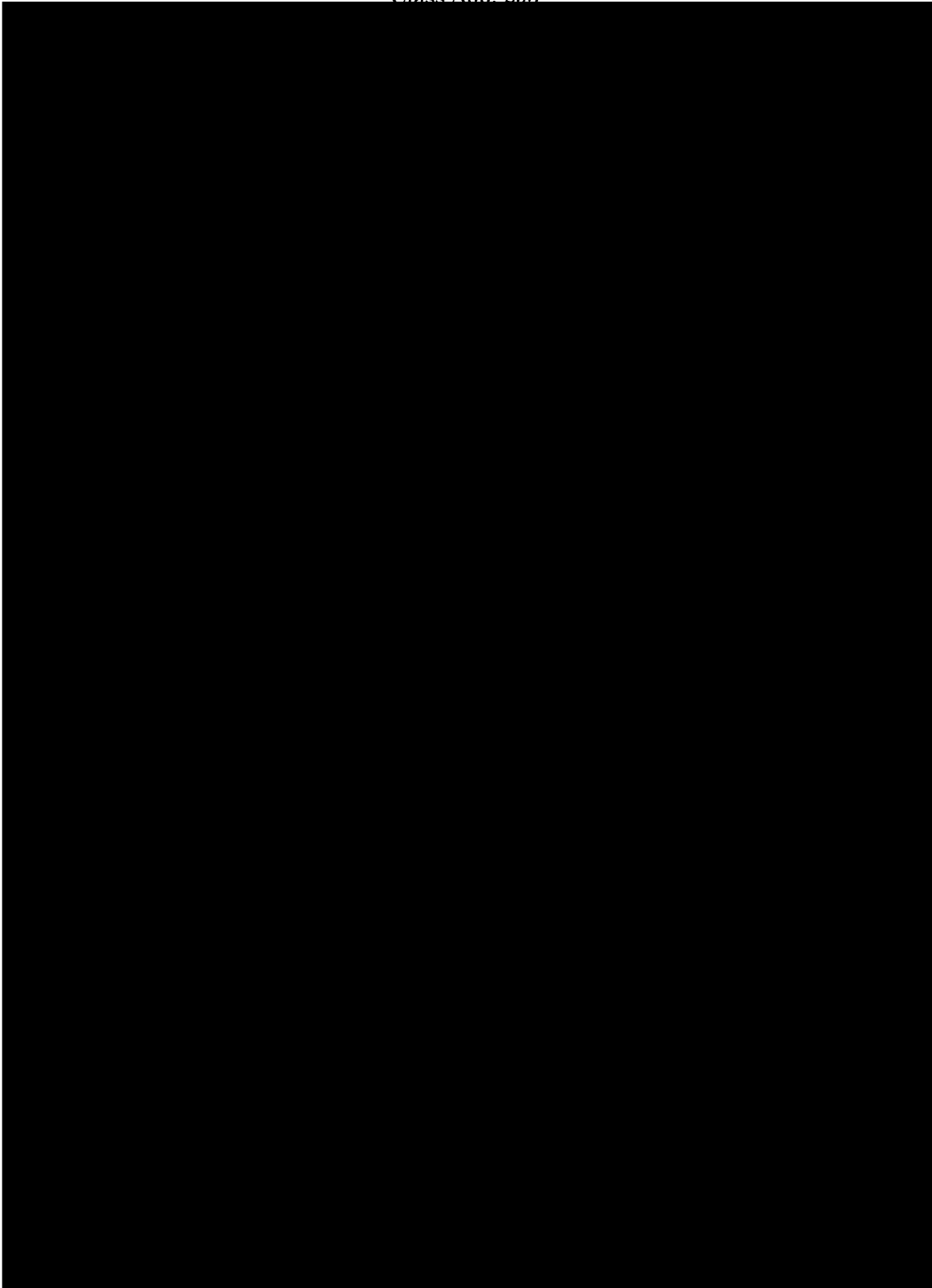
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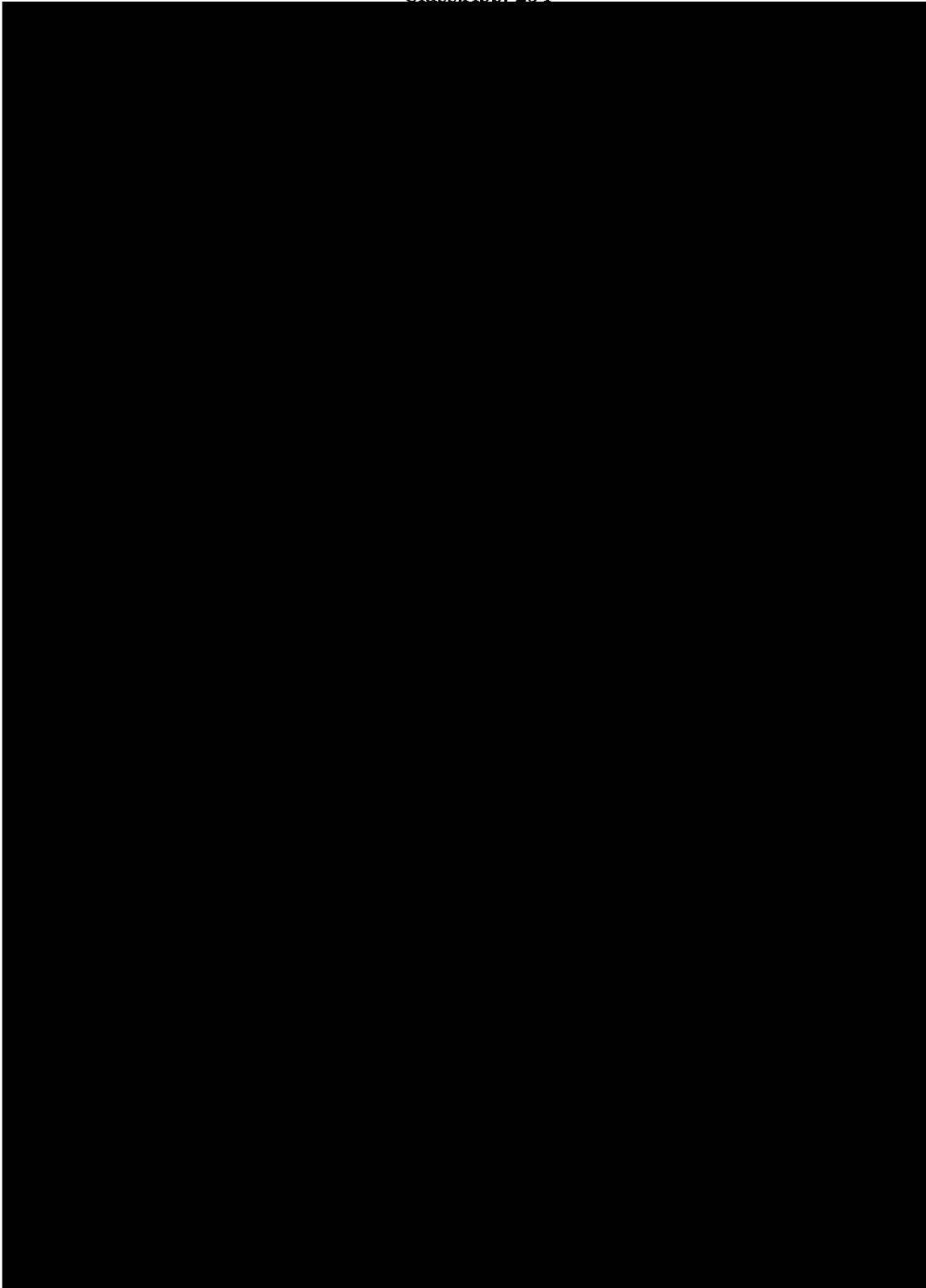


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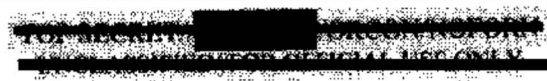
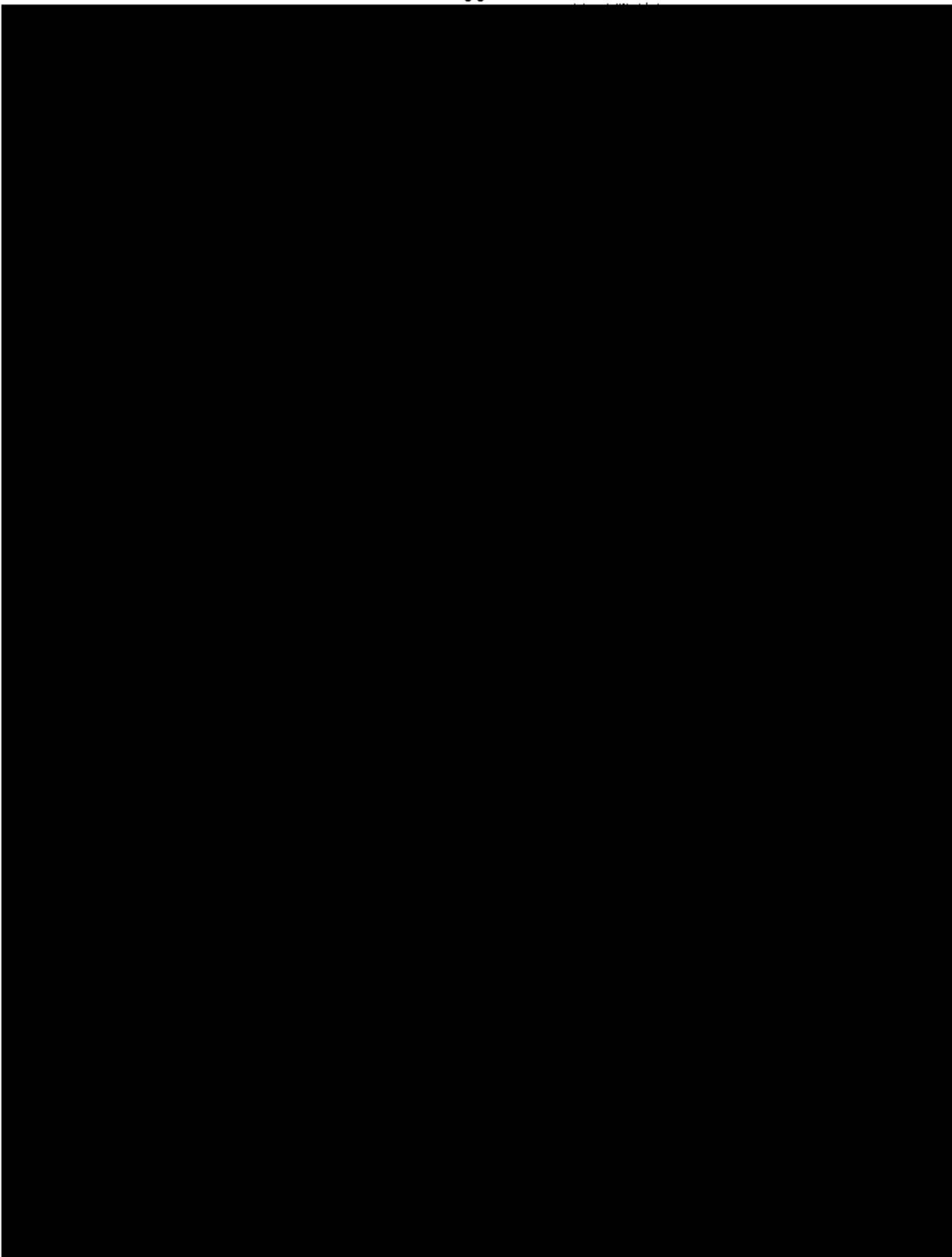
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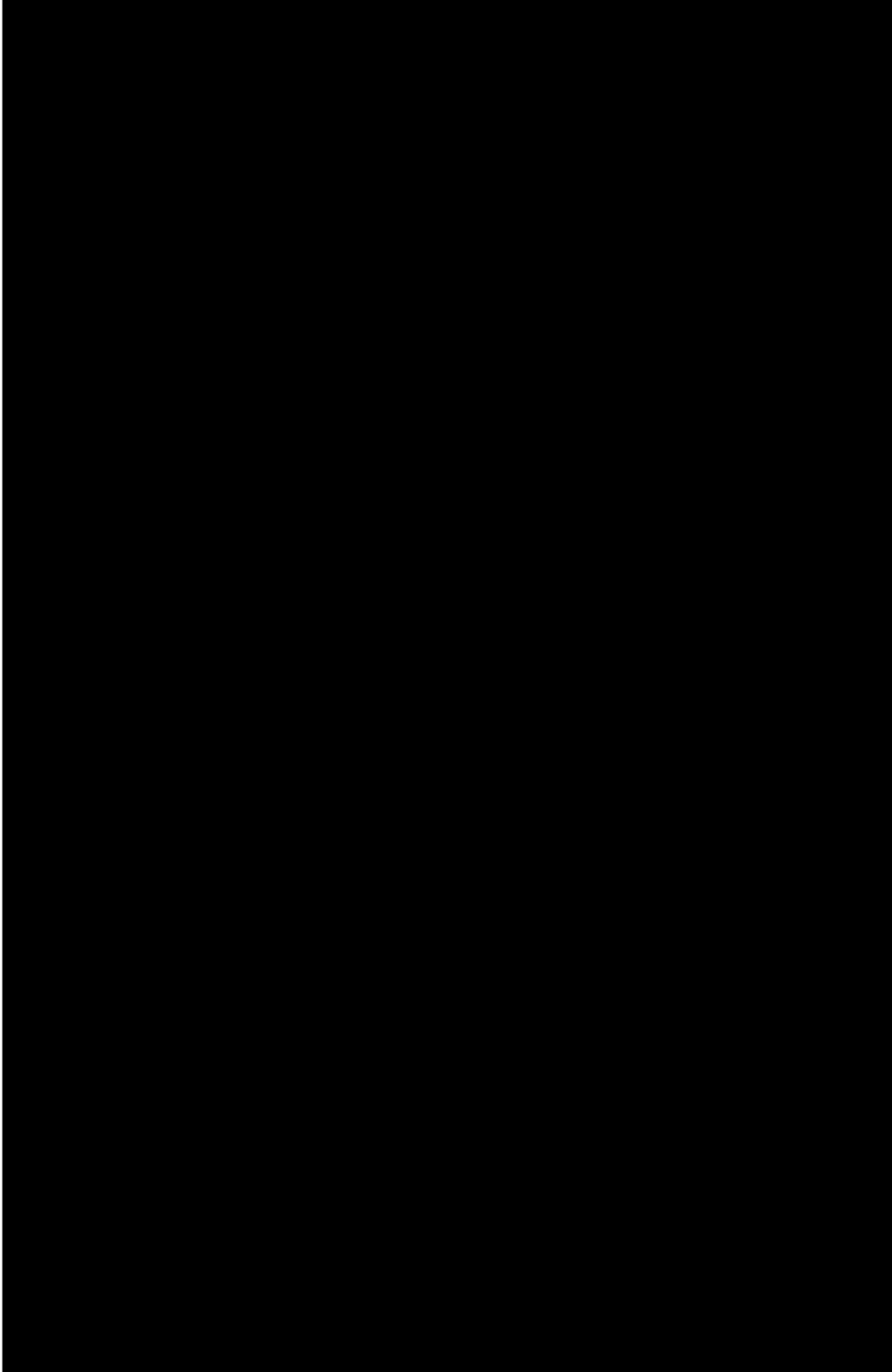
Class.App. 295



10015-00076665

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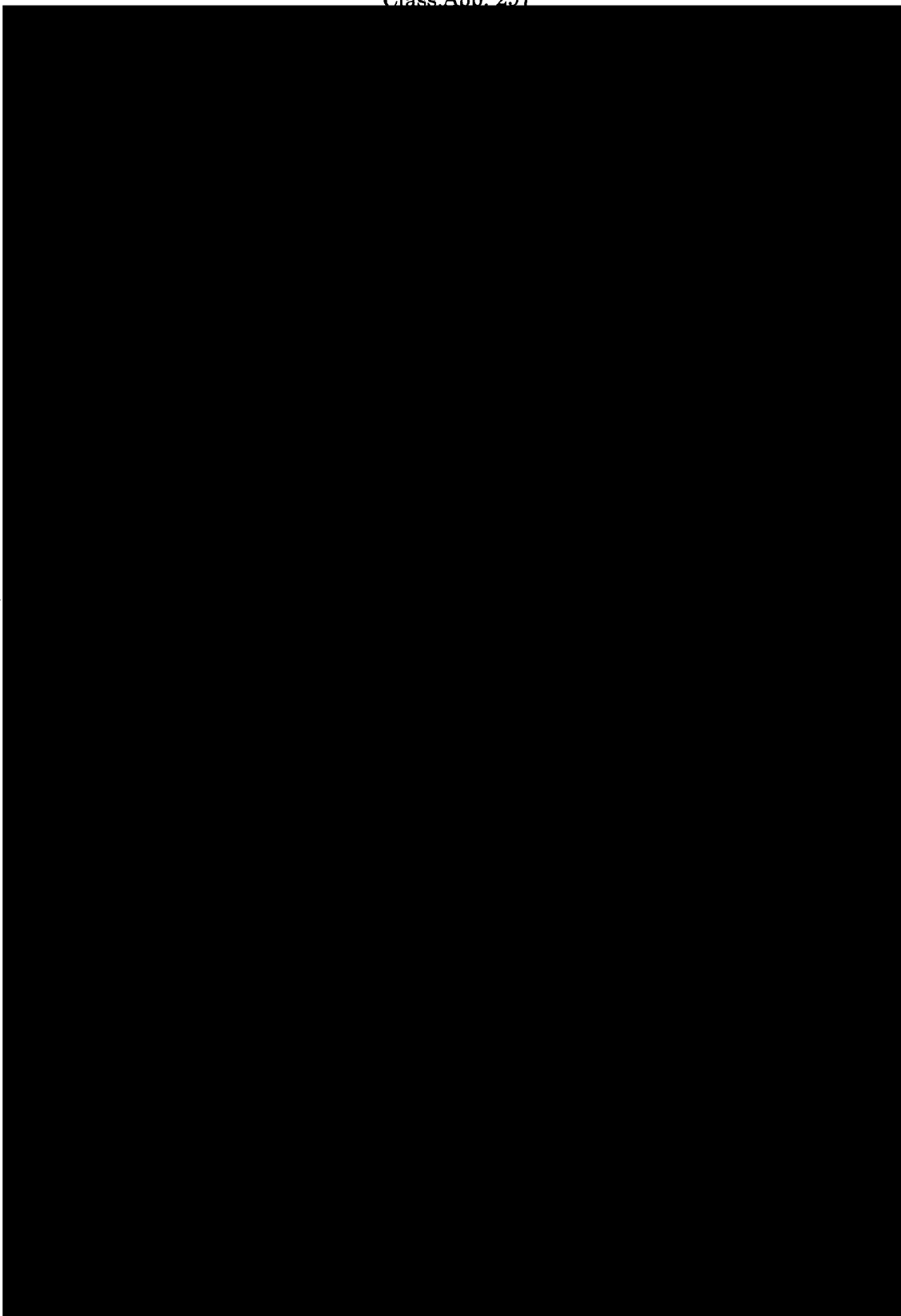
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10015-00076666

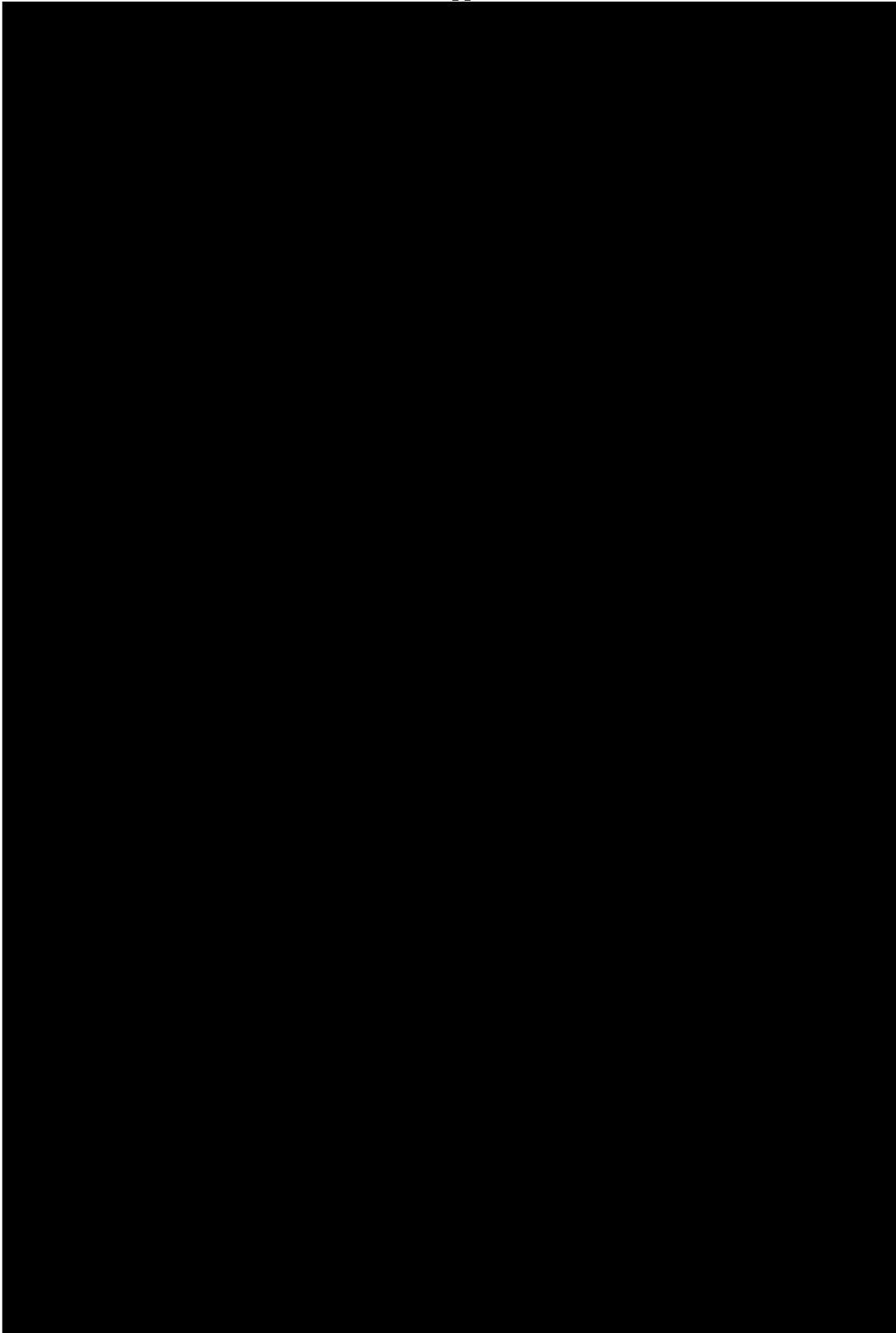
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Class. App. 297



10015-00076667

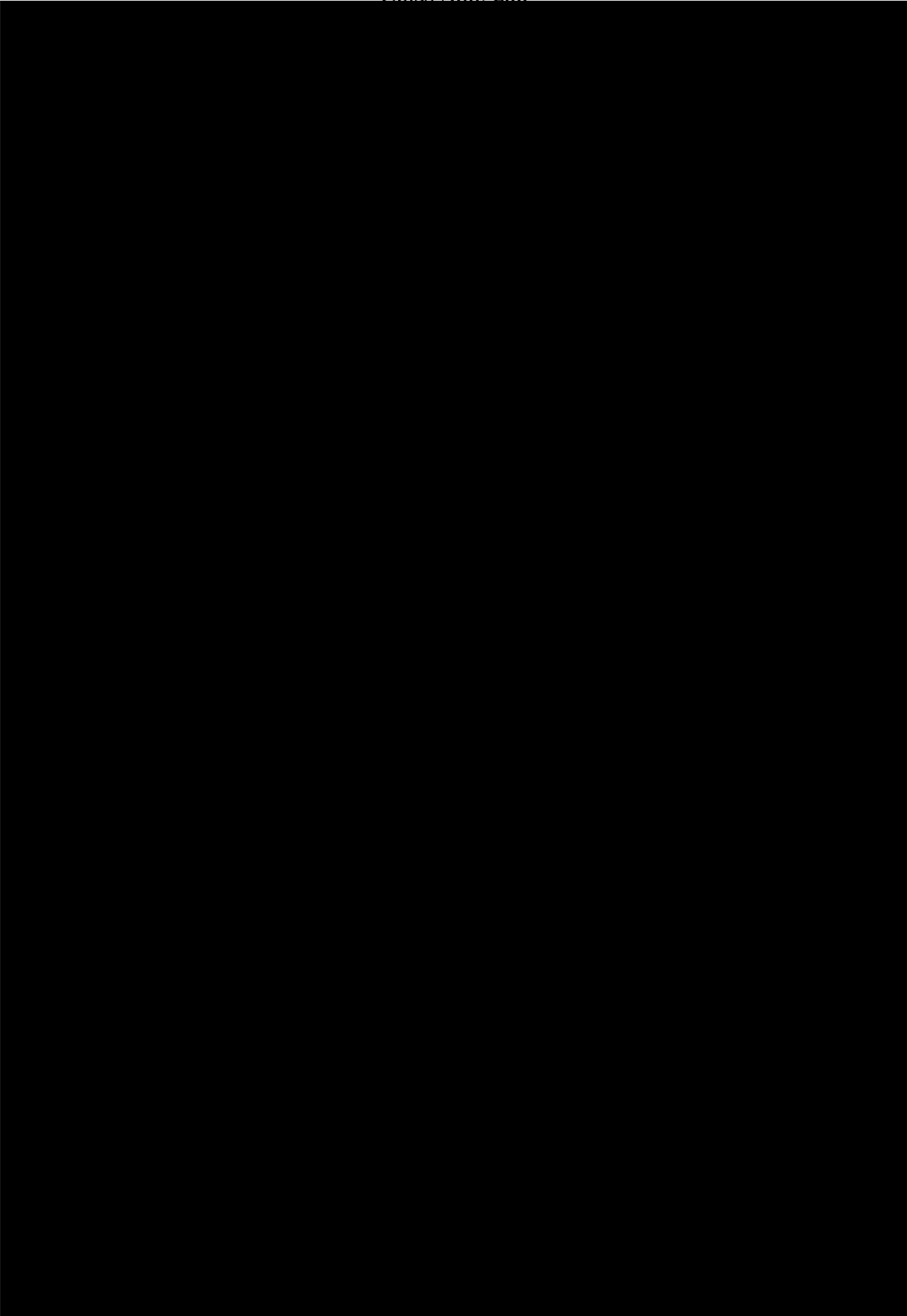
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10015-00076668

UNCLASSIFIED//FOR PUBLIC RELEASE

Class App. 299

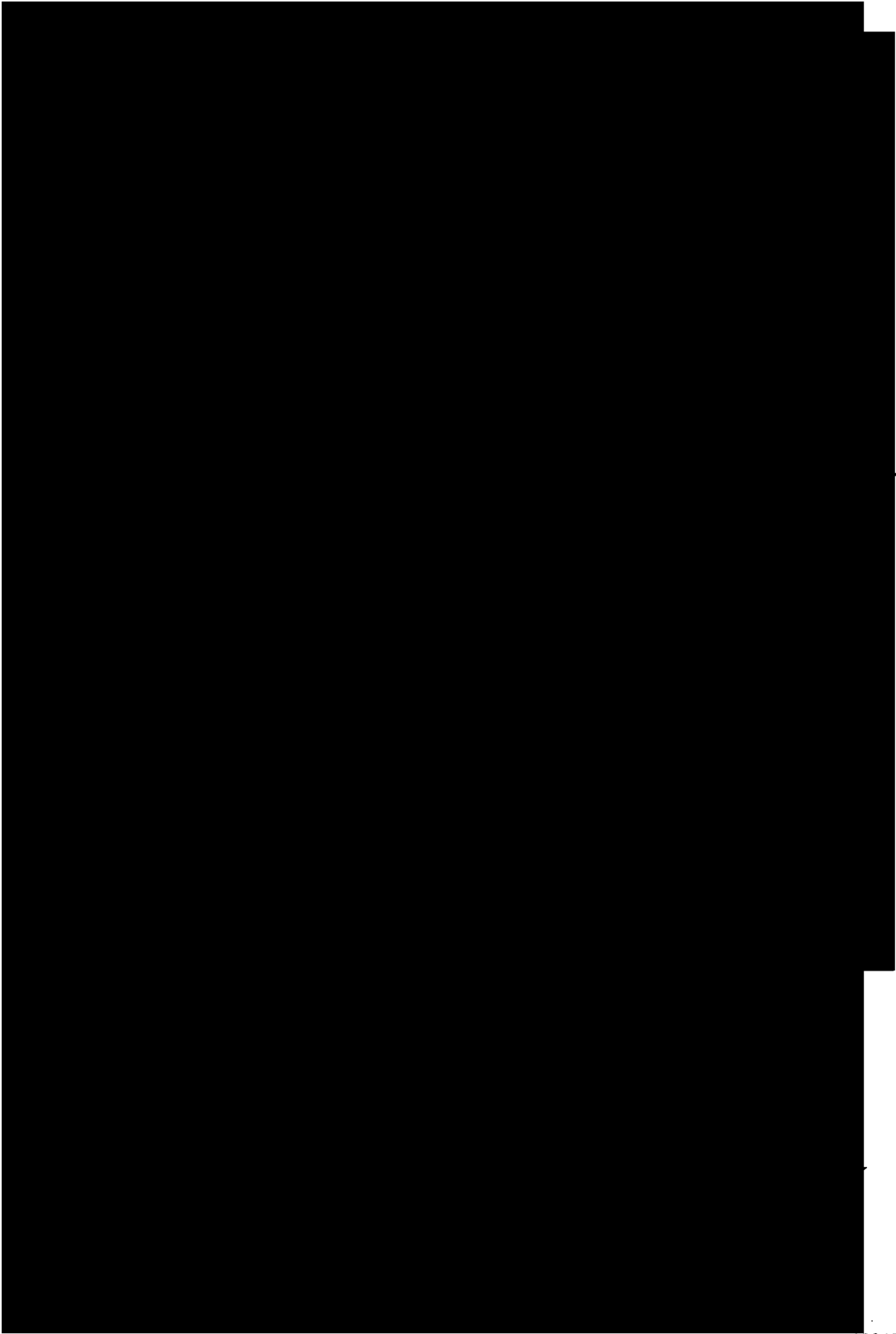


10015-00076669

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UNCLASSIFIED//FOR PUBLIC RELEASE

Class.App. 300



10015-00076670

UNCLASSIFIED//FOR PUBLIC RELEASE

Class App. 301



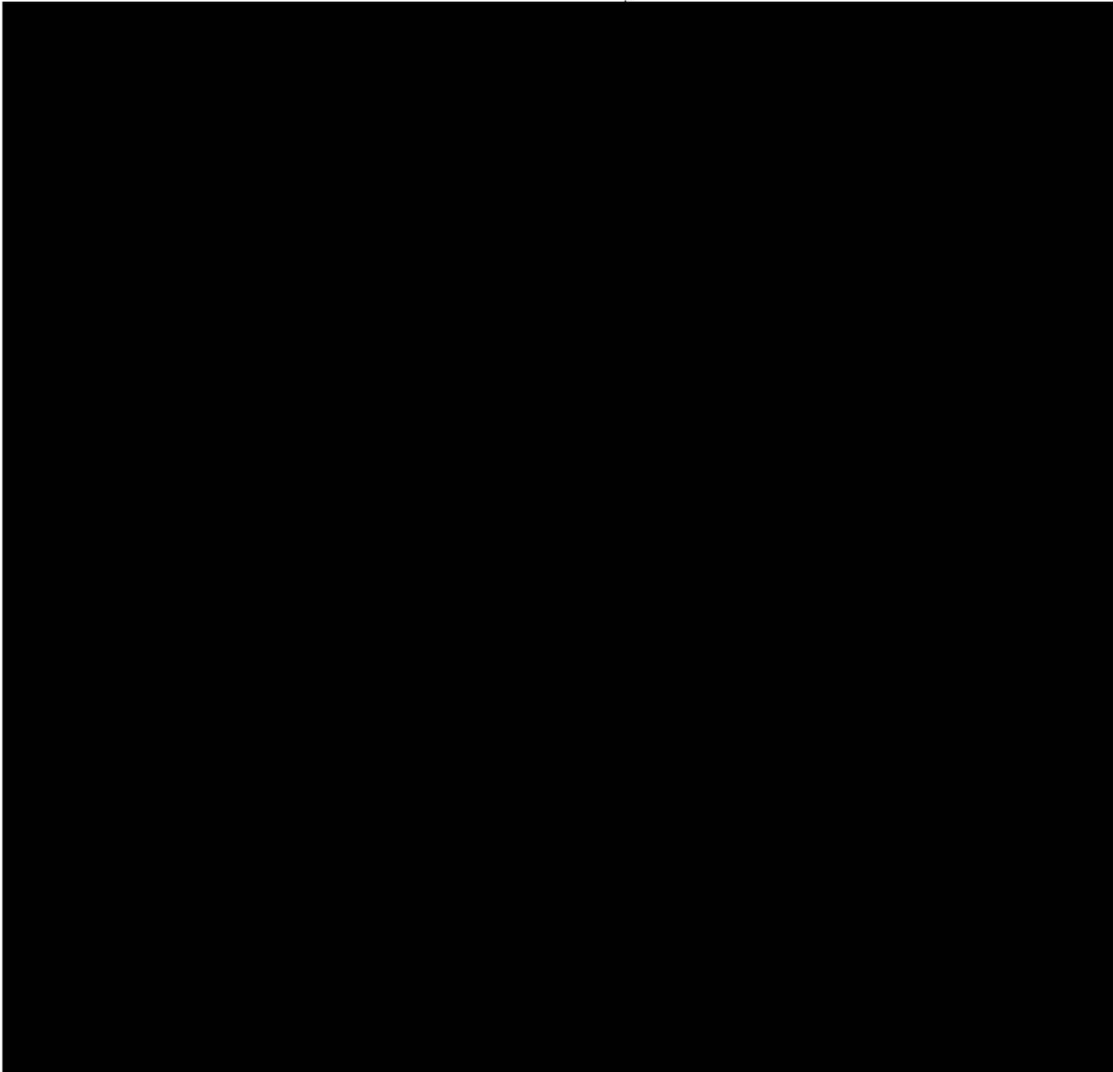
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10015-00076671



Class App. 302

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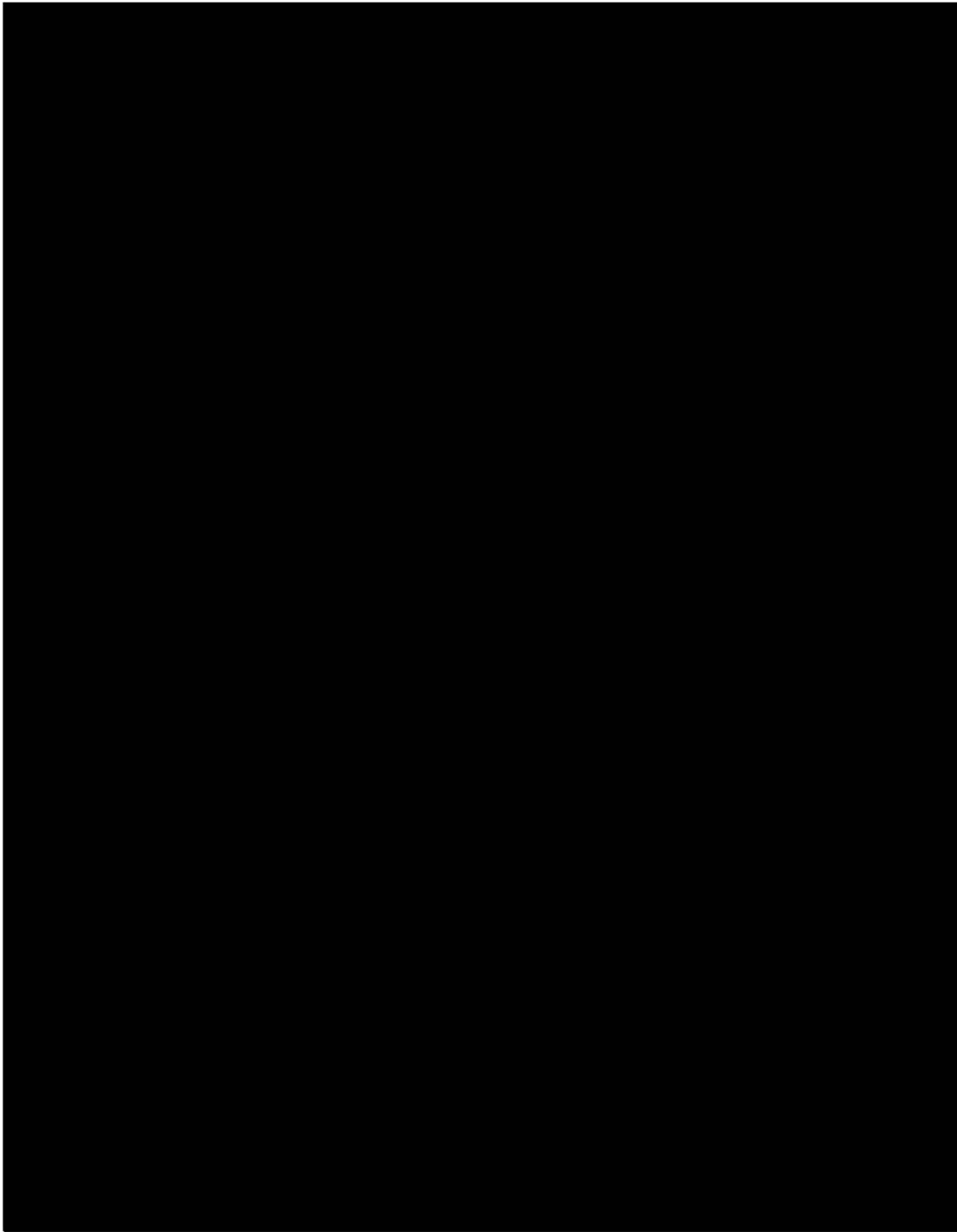
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10015-00077166

UNCLASSIFIED//FOR PUBLIC RELEASE

Class.App. 303

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~~SECRET//NOFORN~~



~~SECRET//NOFORN~~  
~~SECRET//NOFORN~~

10015-00077167

UNCLASSIFIED//FOR PUBLIC RELEASE

UNCLASSIFIED//FOR PUBLIC RELEASE

Class.App. 304

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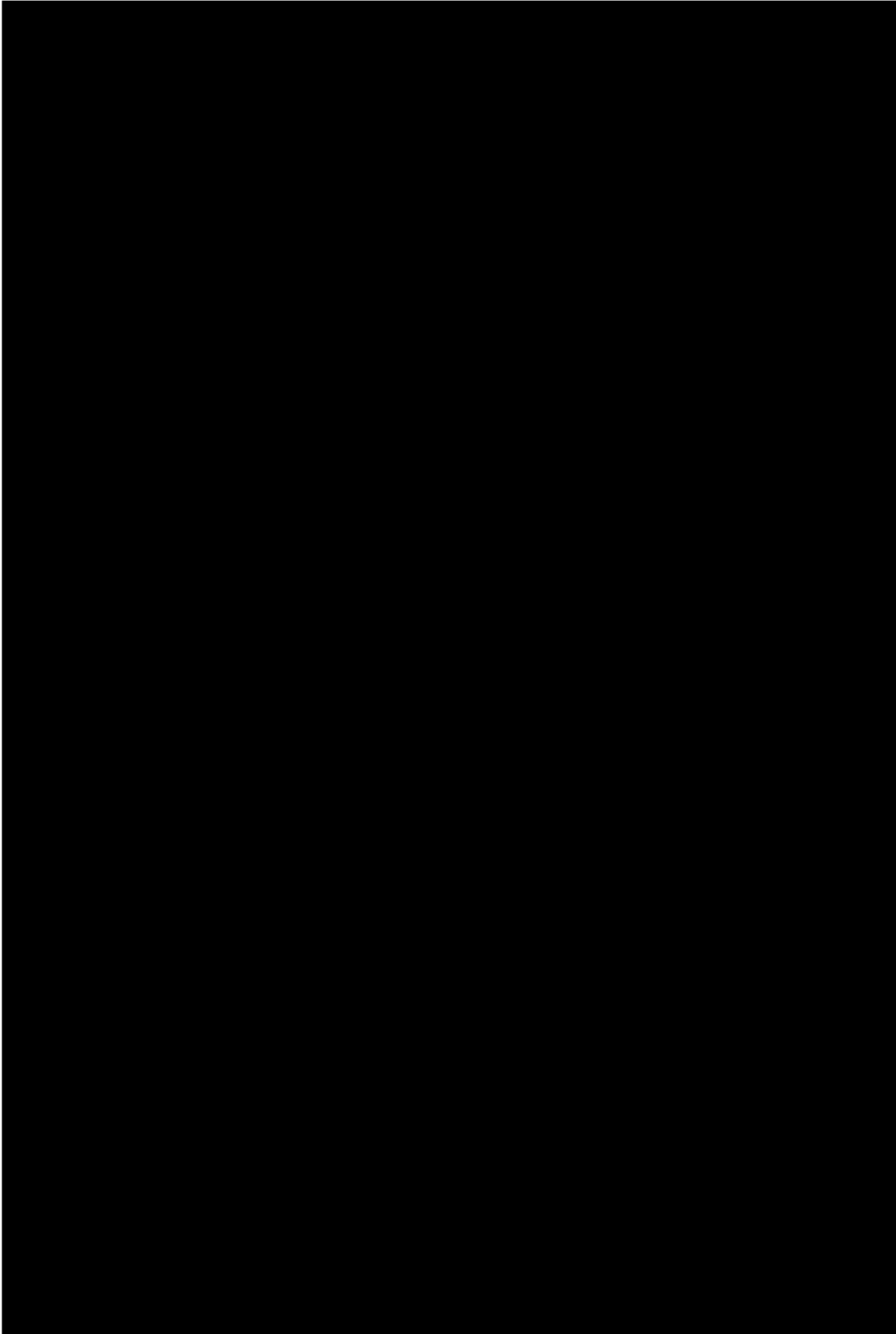


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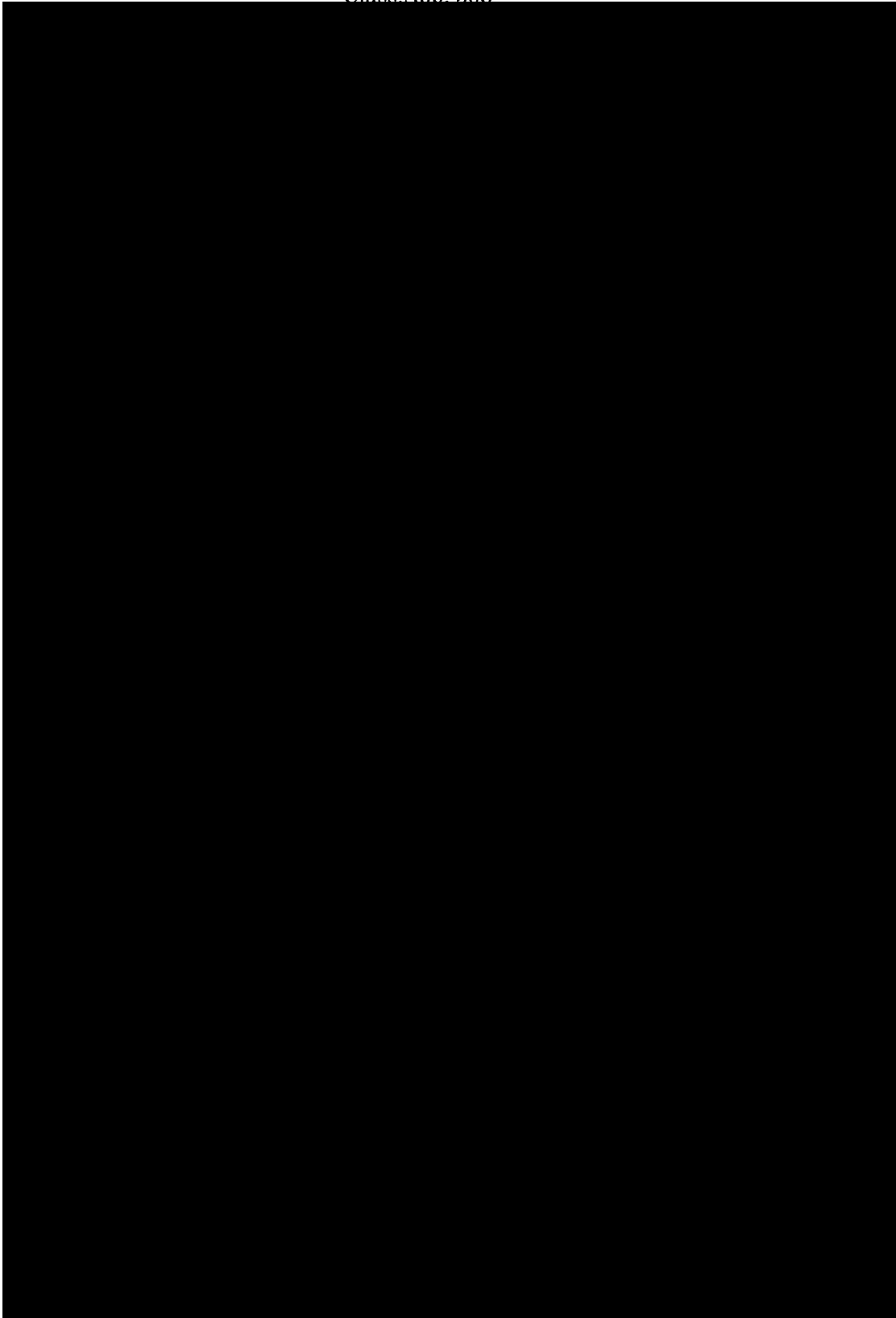
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10015-00076633

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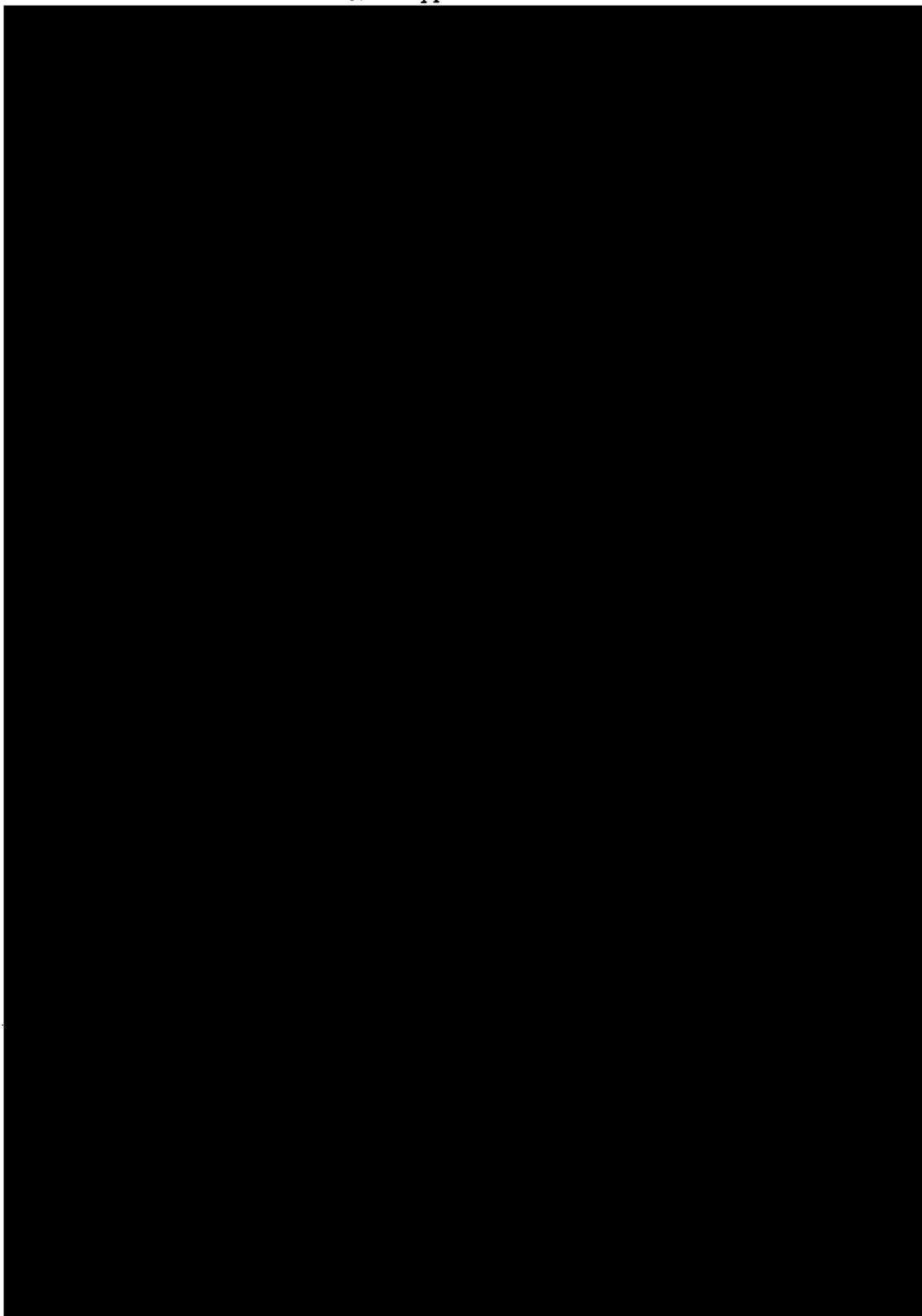
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10015-00076634

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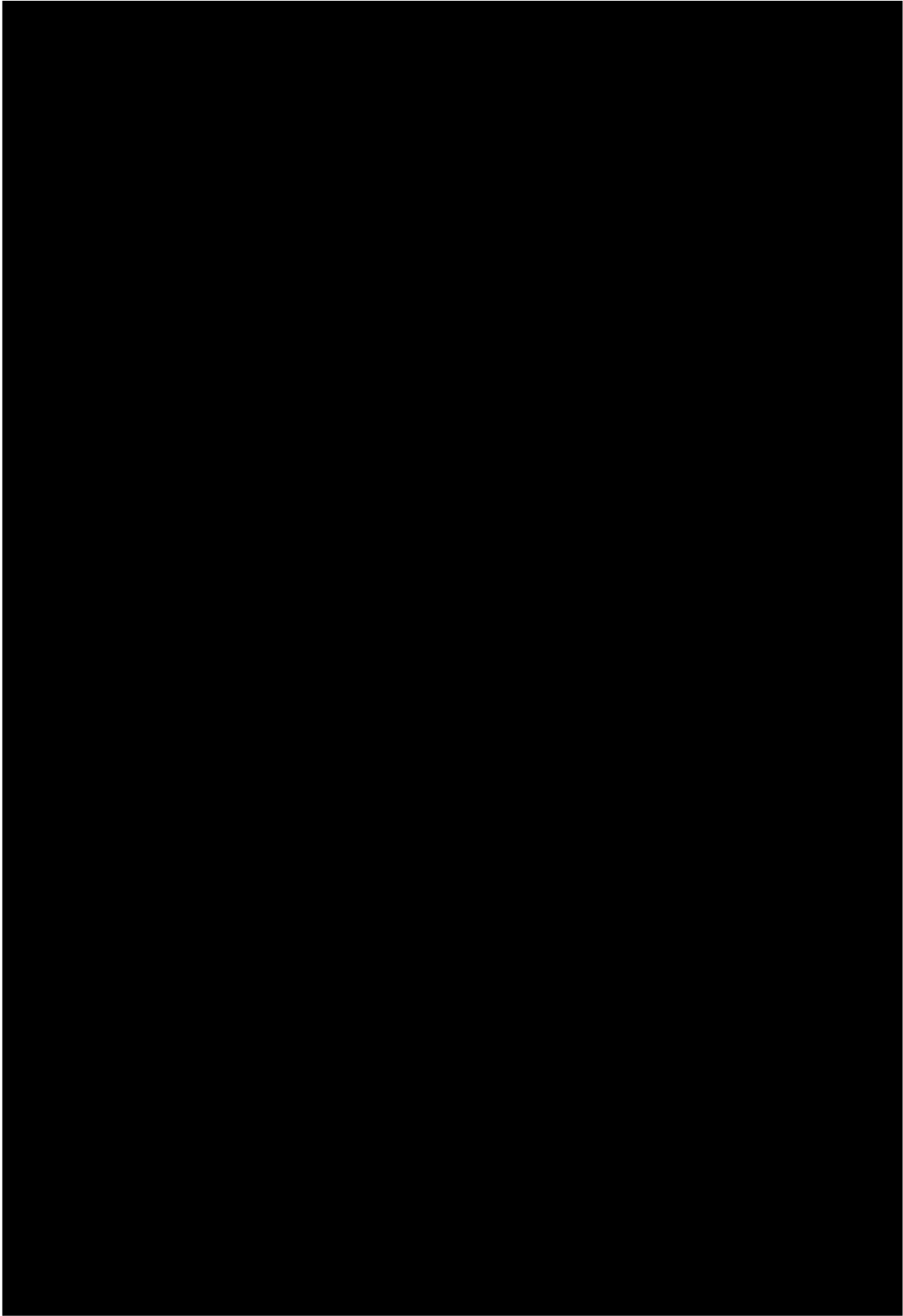
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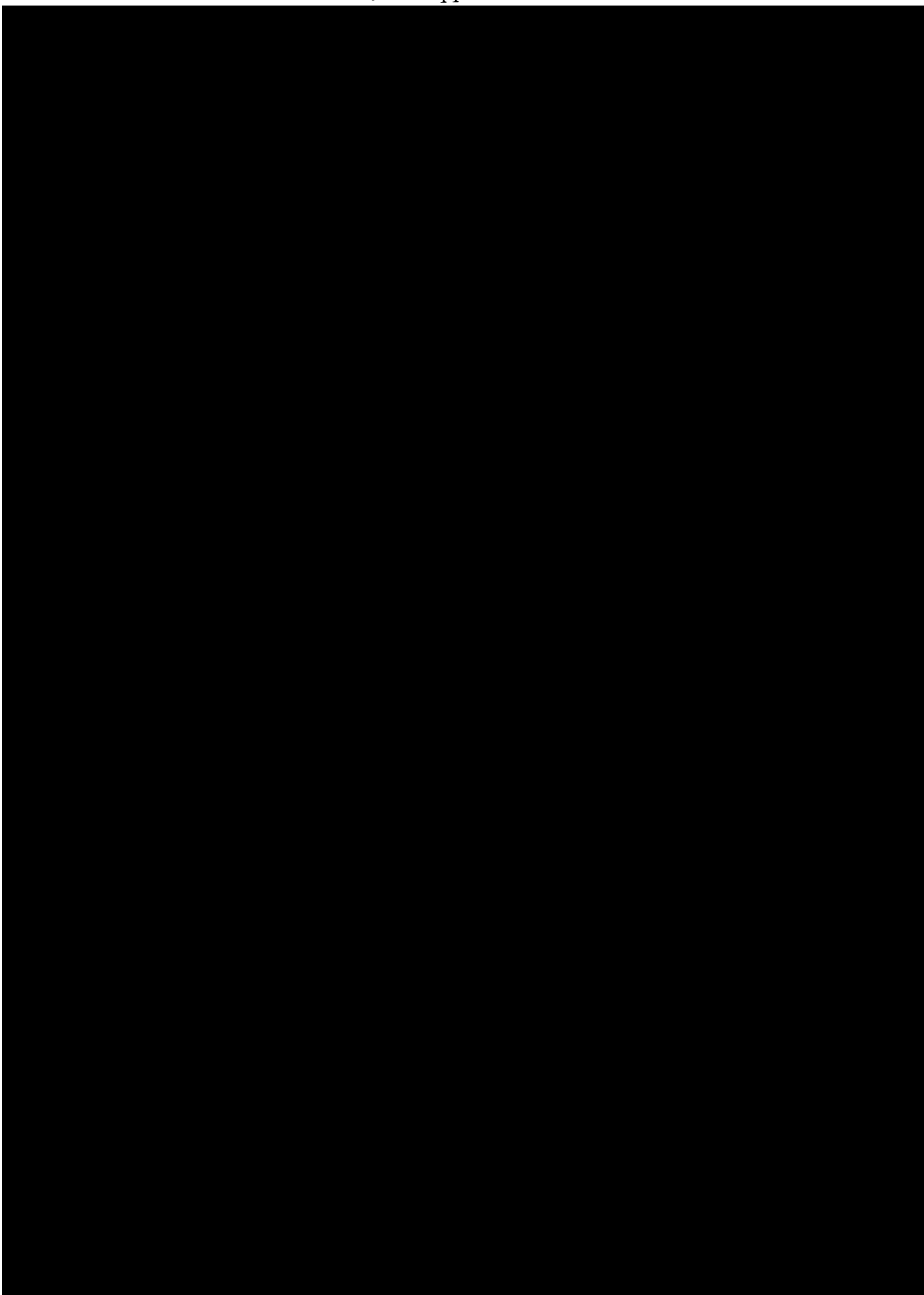
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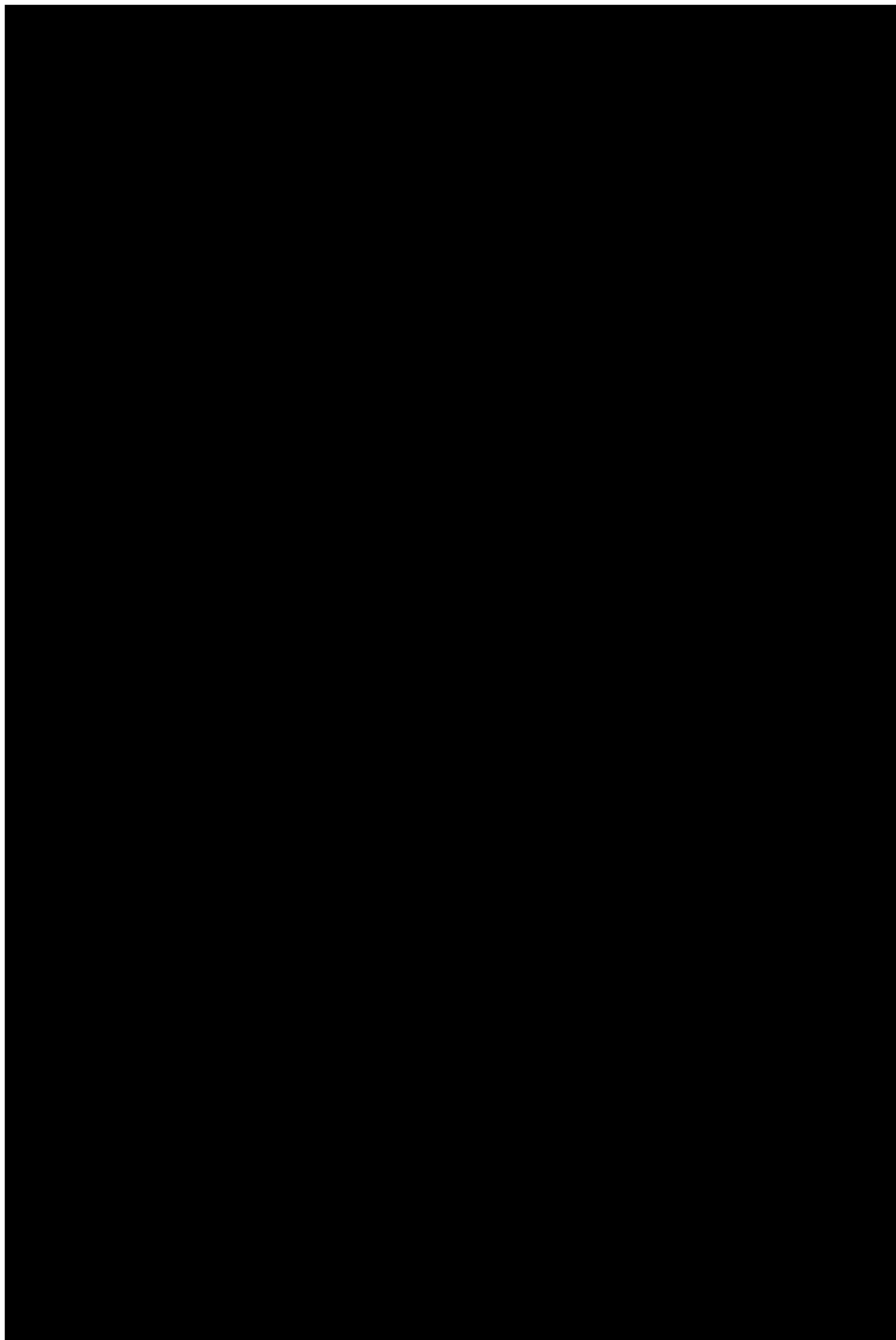
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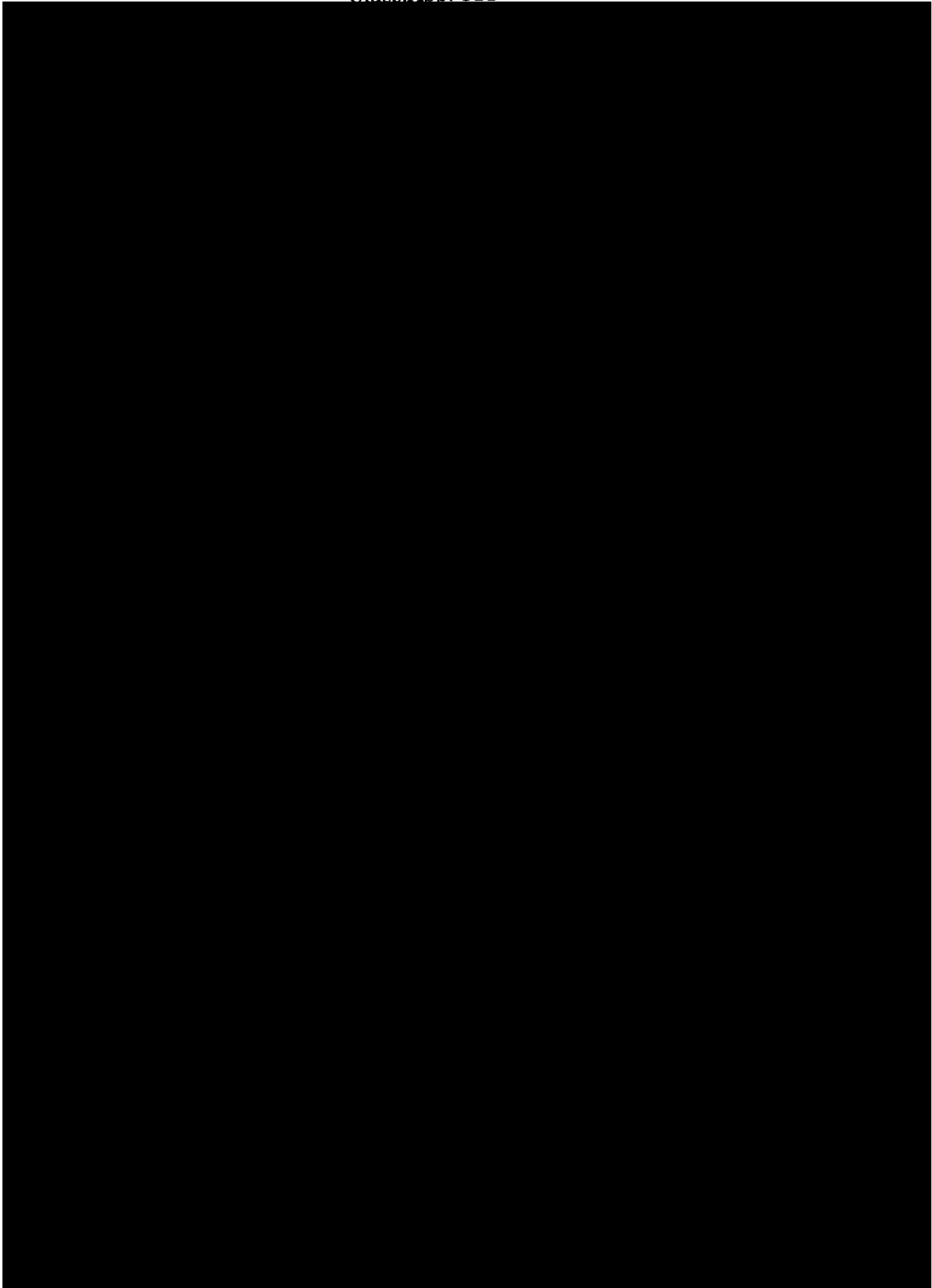


Class.App. 310



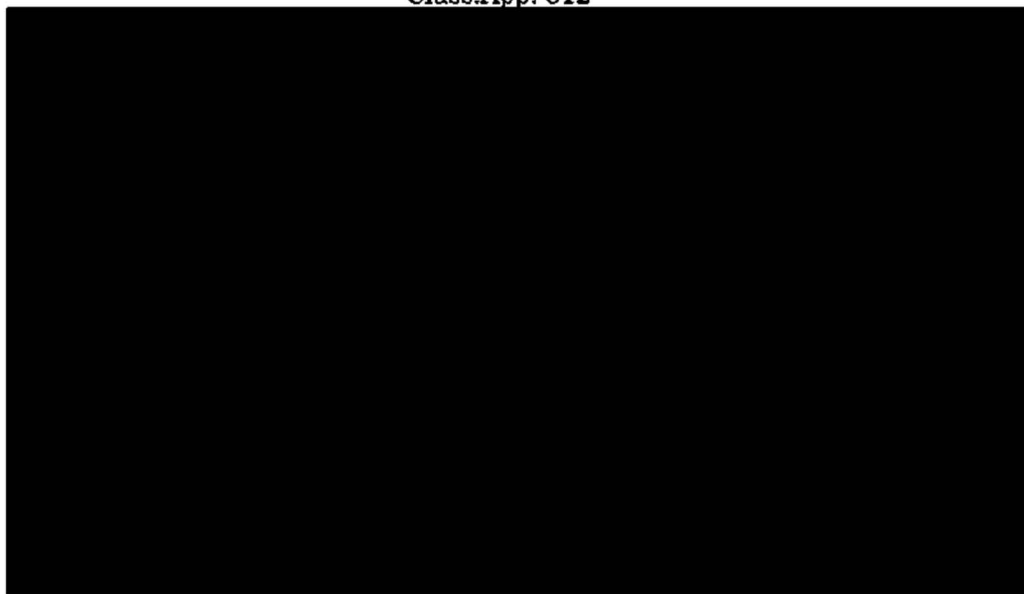
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Class.App. 311



10015-00076639

Class.App. 312

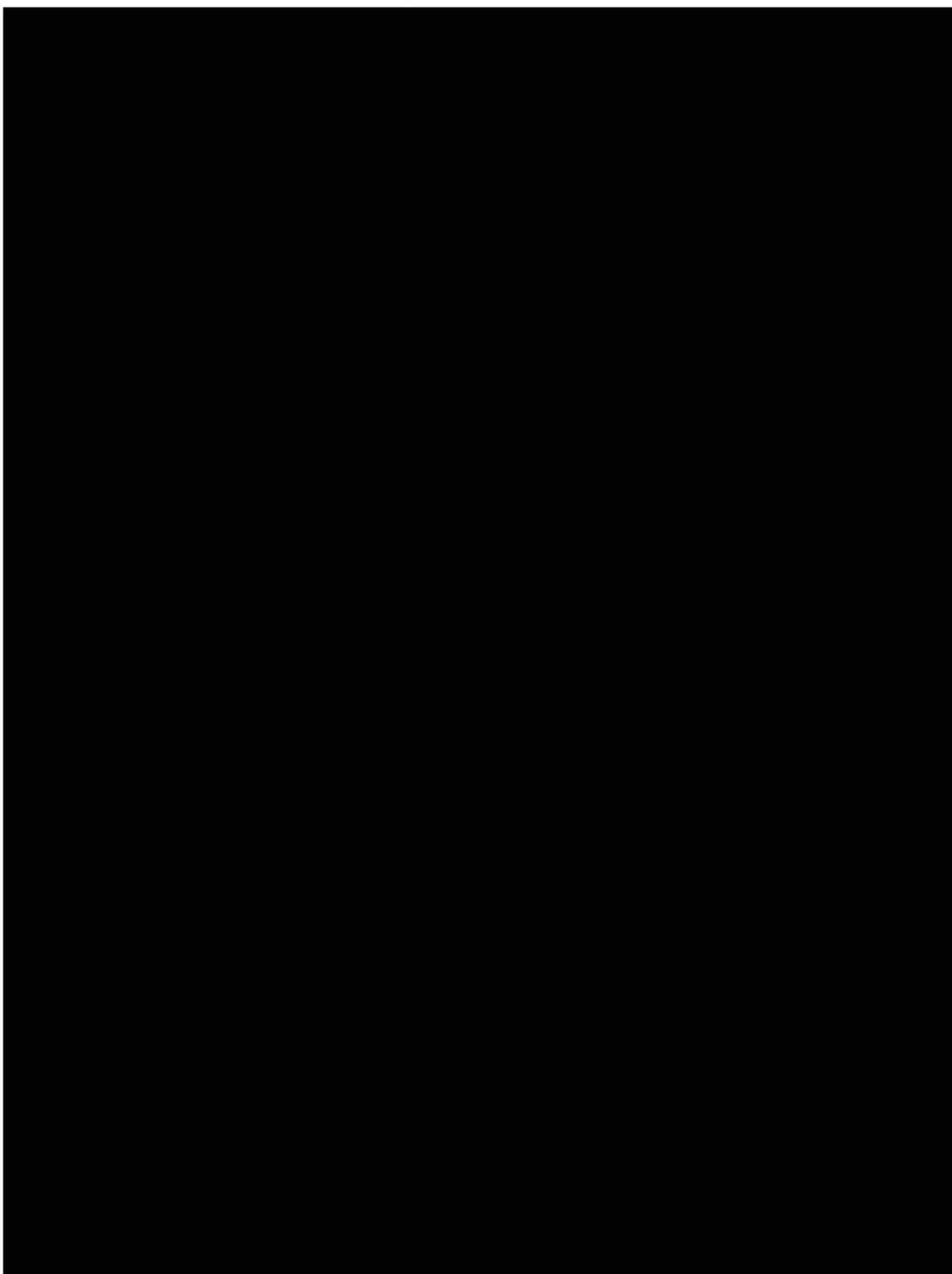


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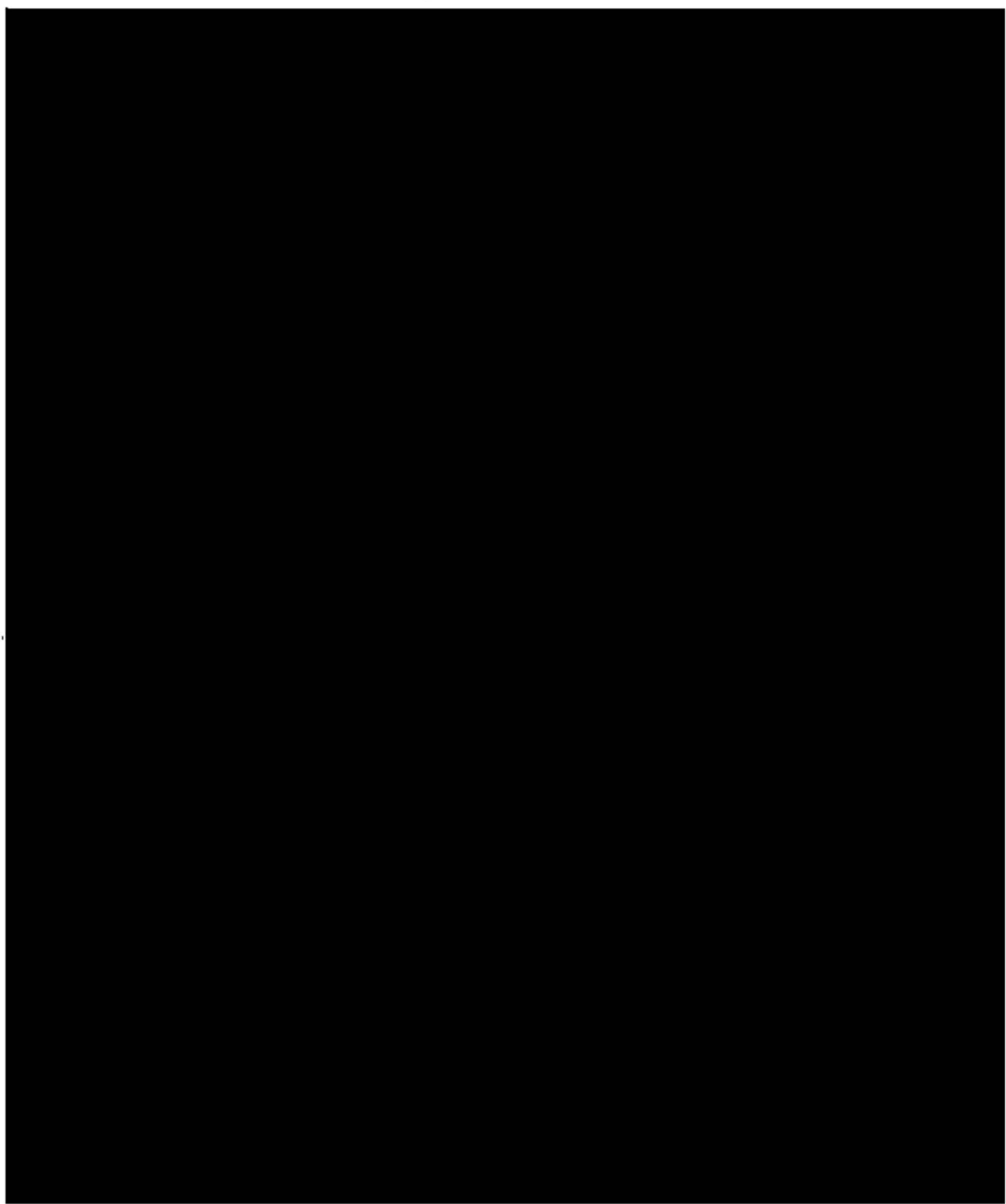


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10015-00076729

Class.App. 314

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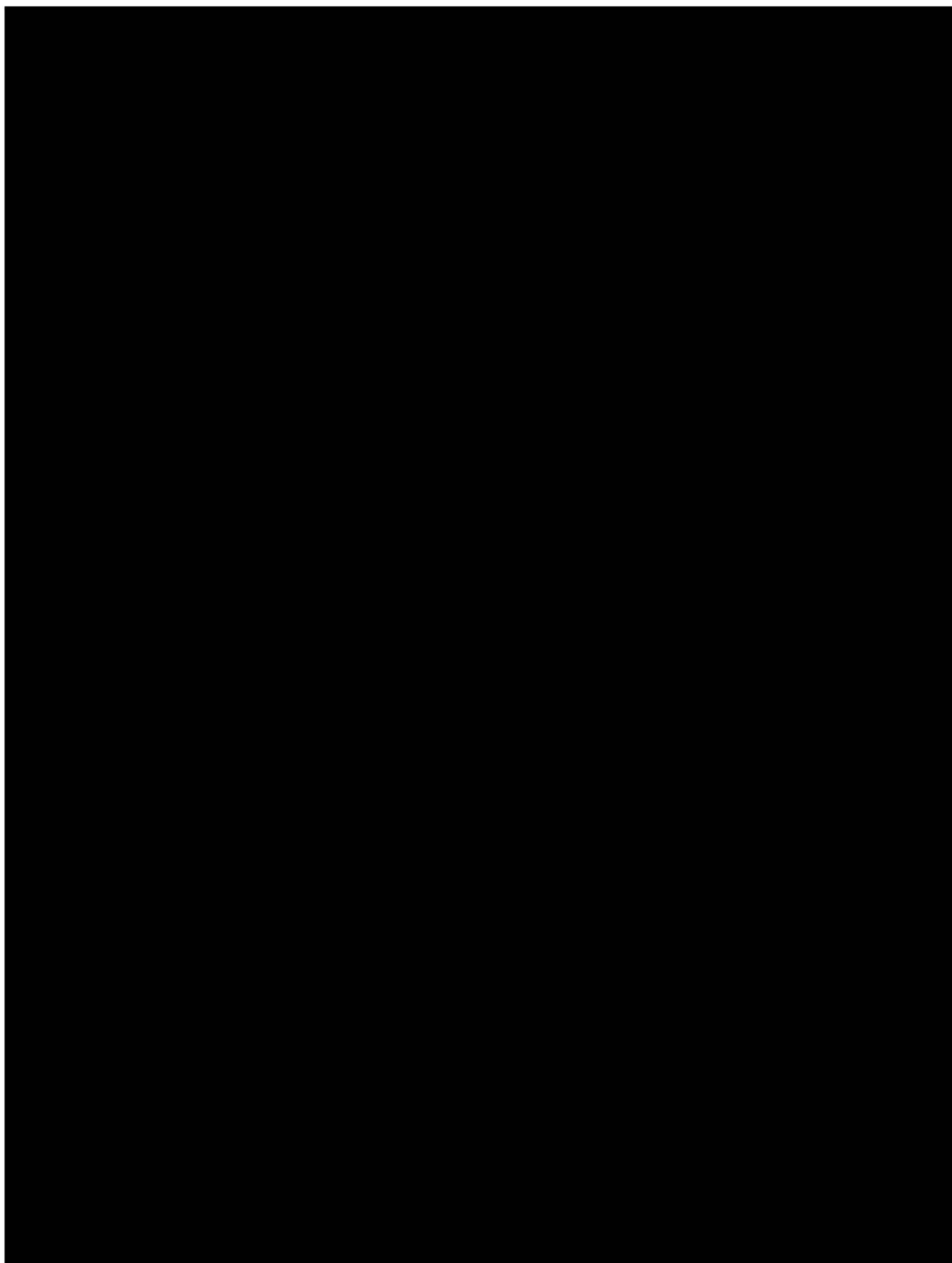
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Class.App. 815

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~~SECRET//ORCON/NOFORN~~



~~SECRET//ORCON/NOFORN~~  
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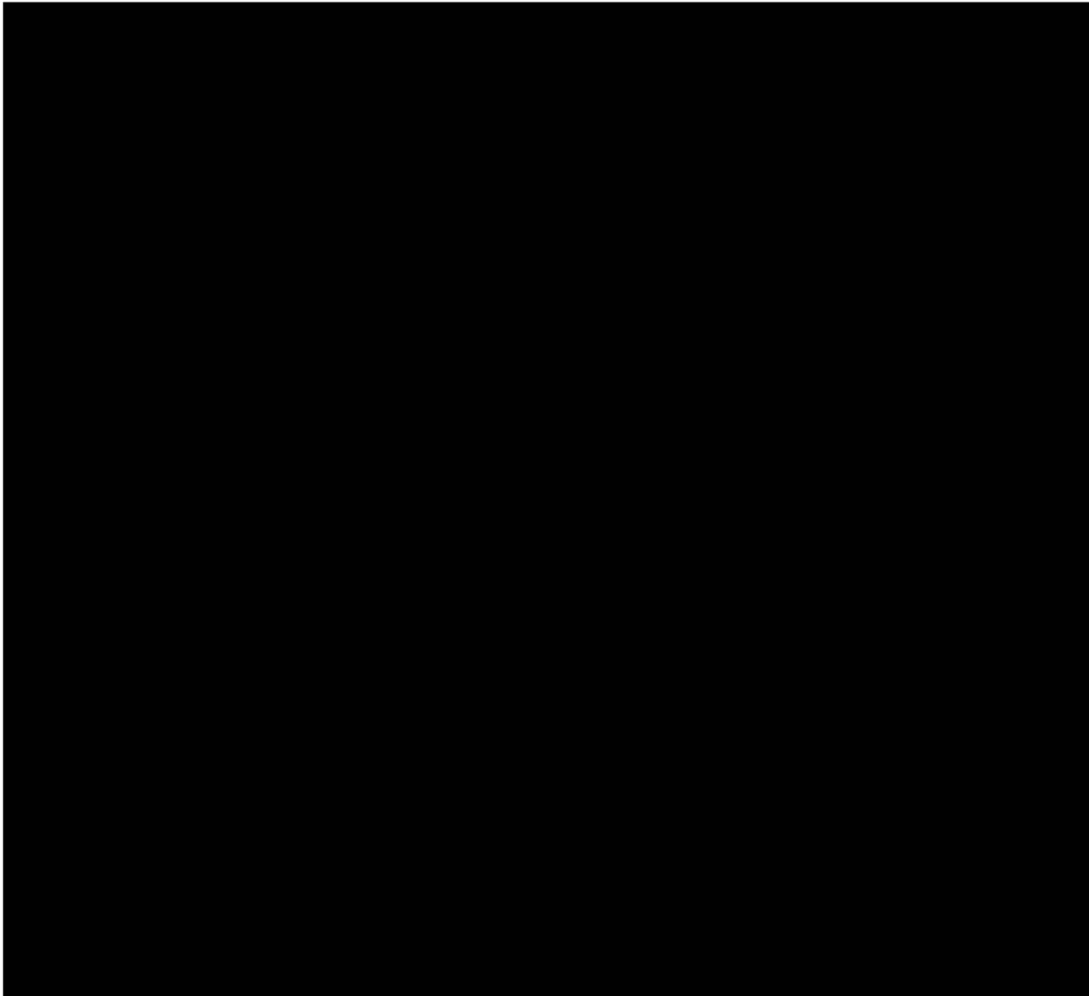
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~~SECRET//ORCON//NOFORN~~

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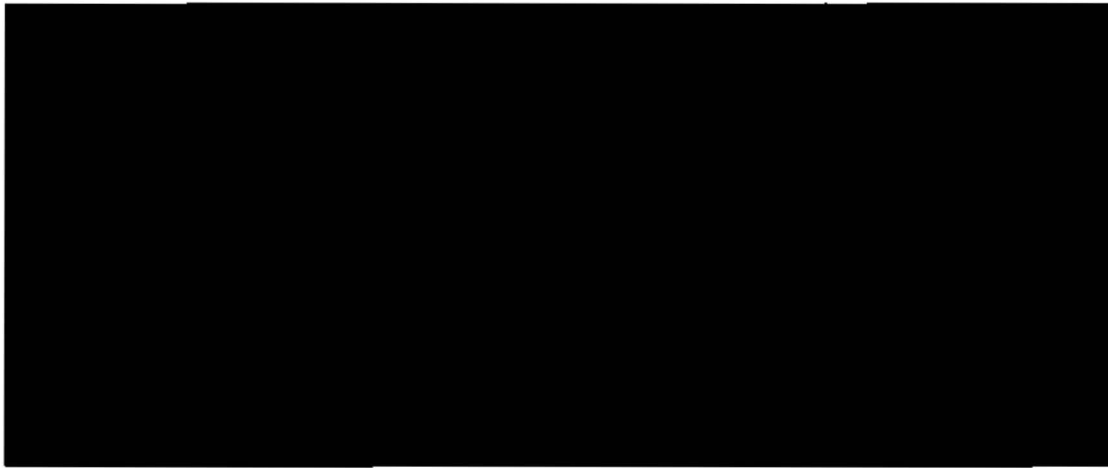
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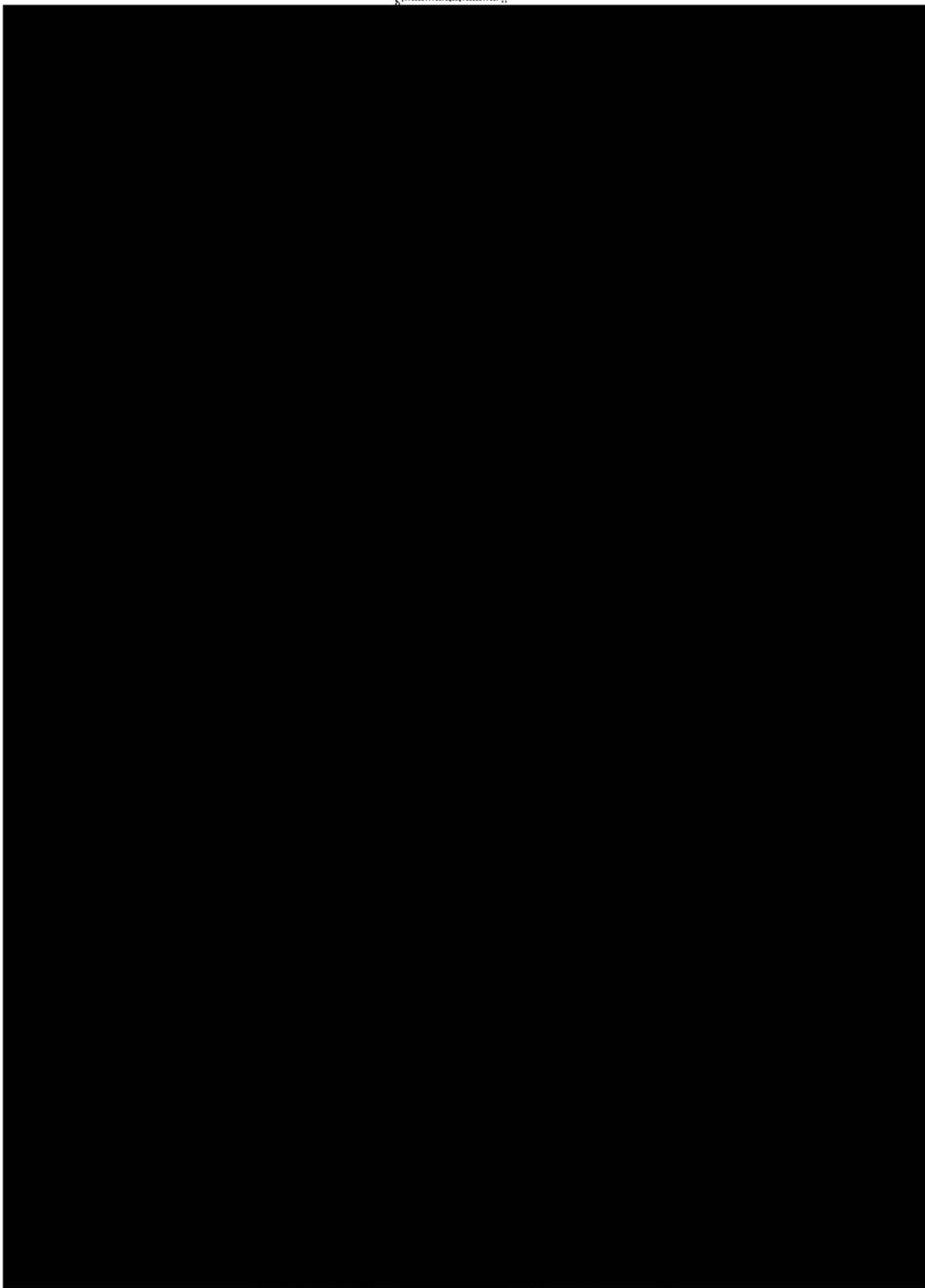
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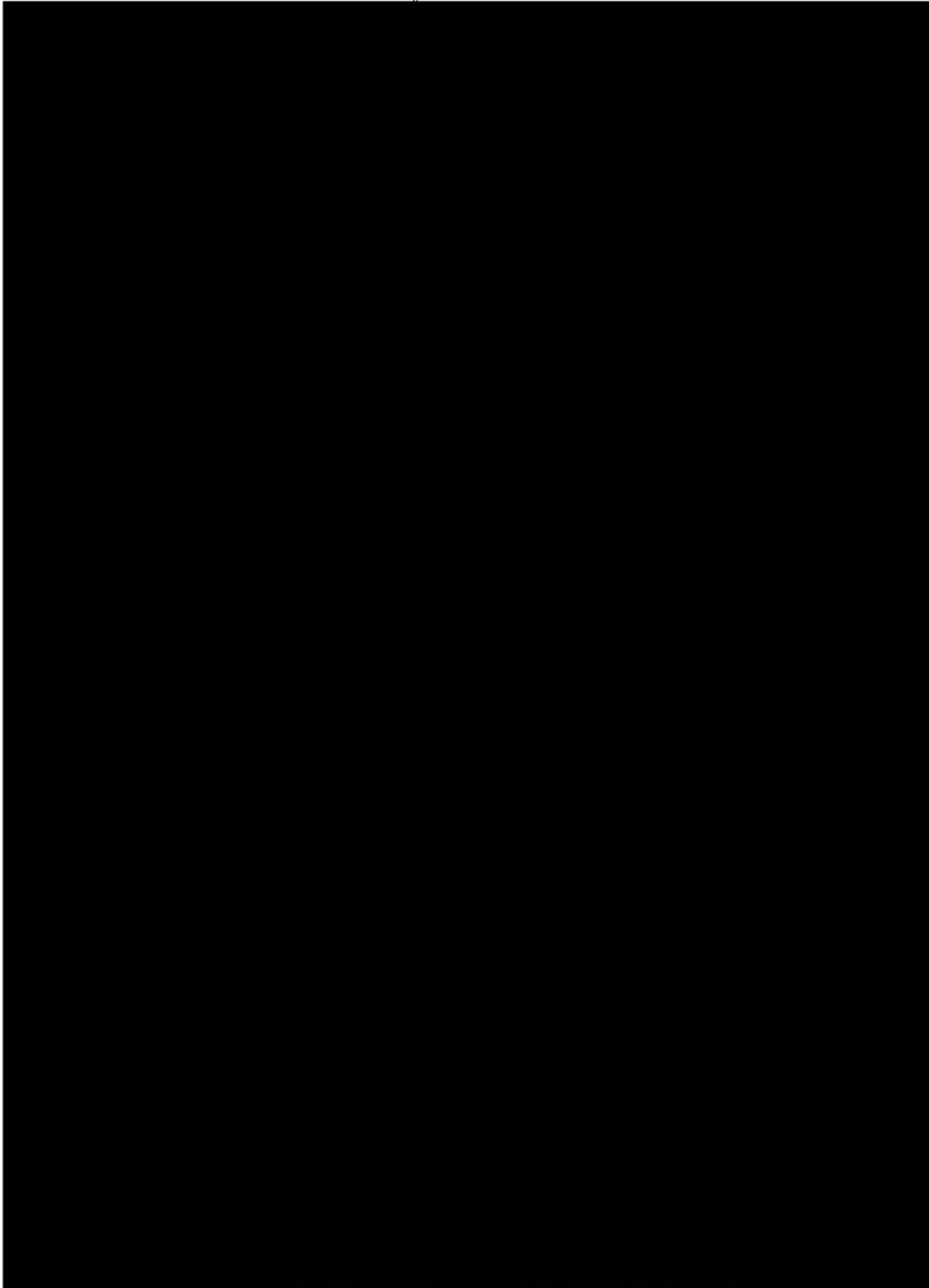


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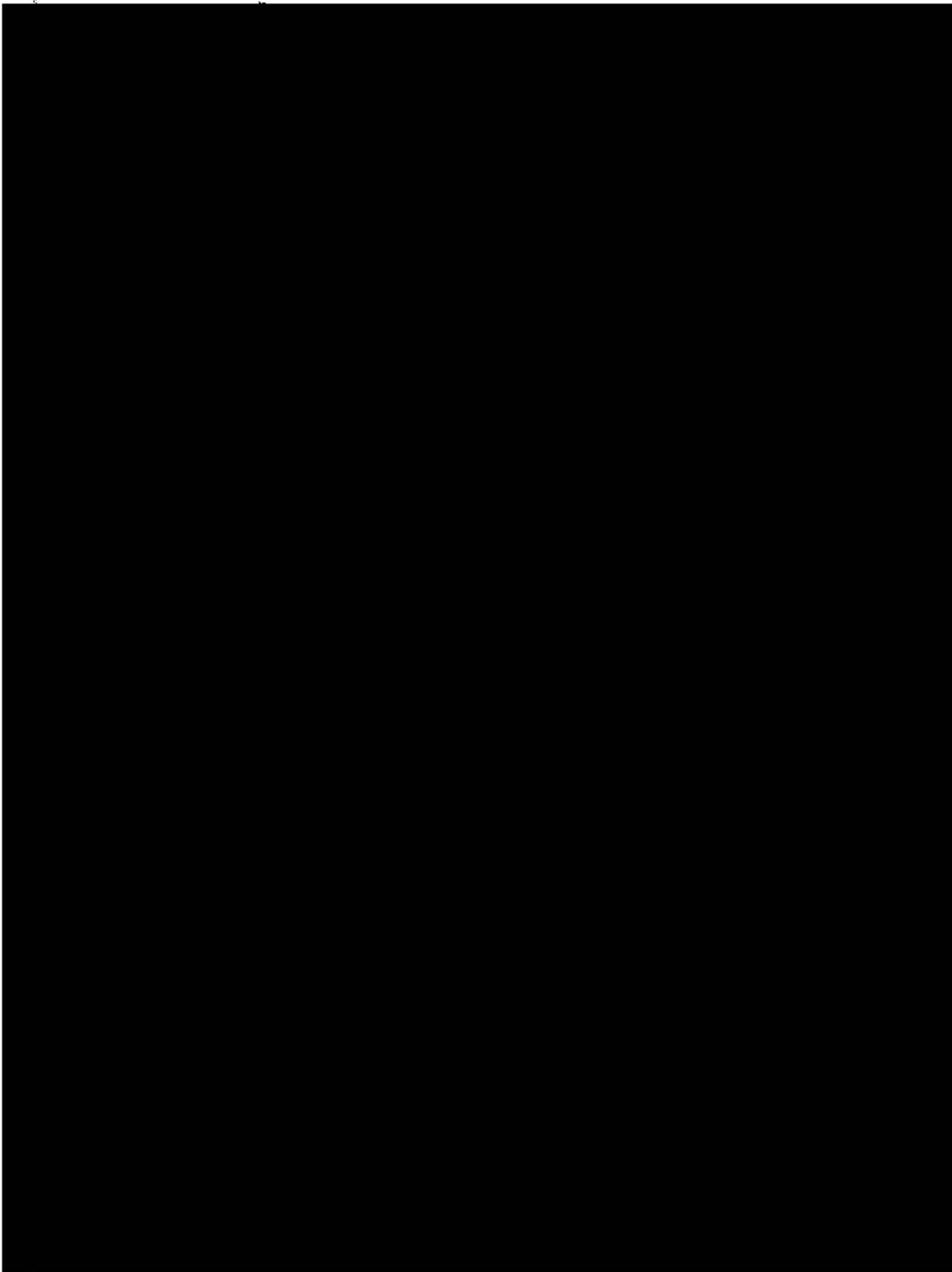
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10015-00076686

Class.App. 320

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~~FOR DECISION~~



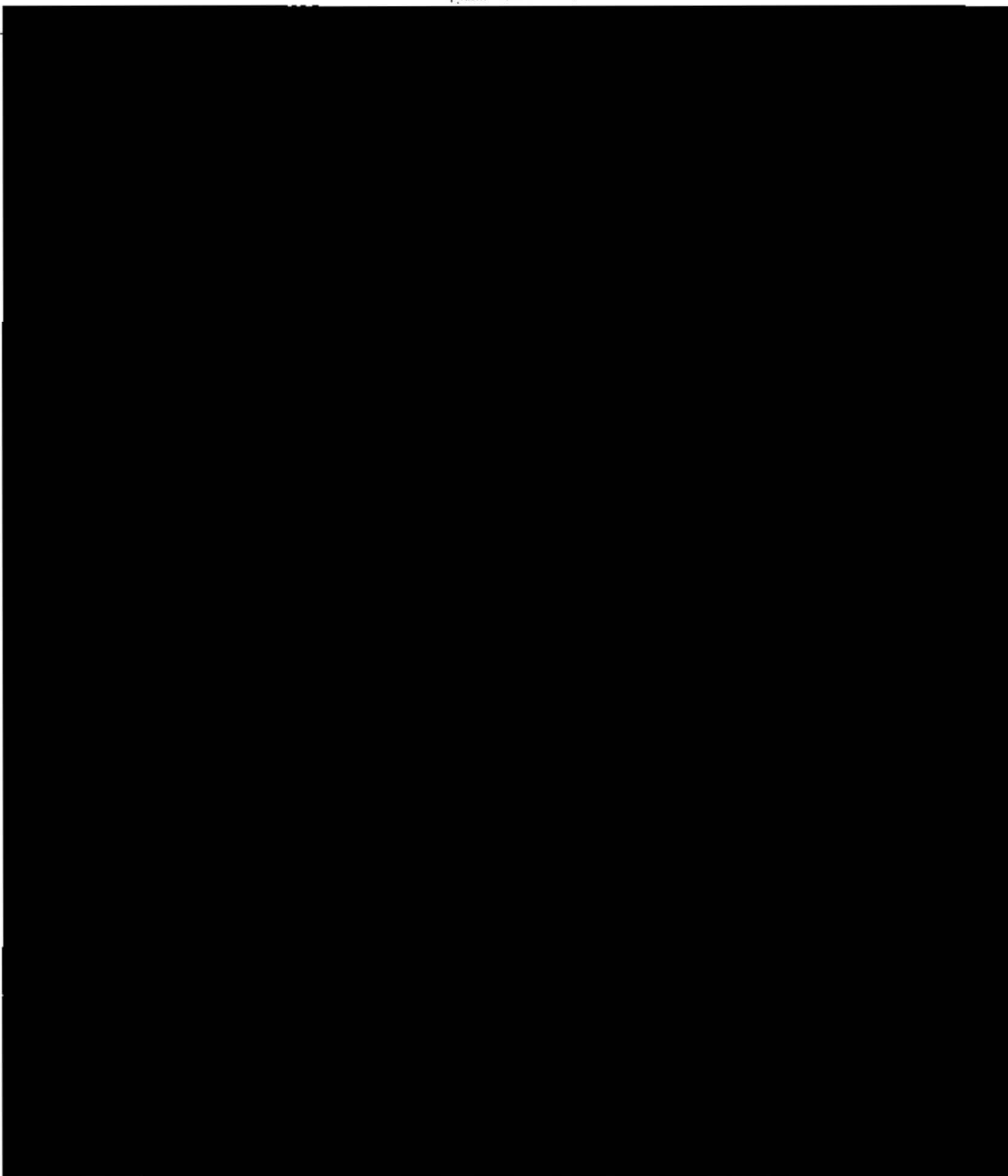
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10015-00076687

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Class App. 321

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~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

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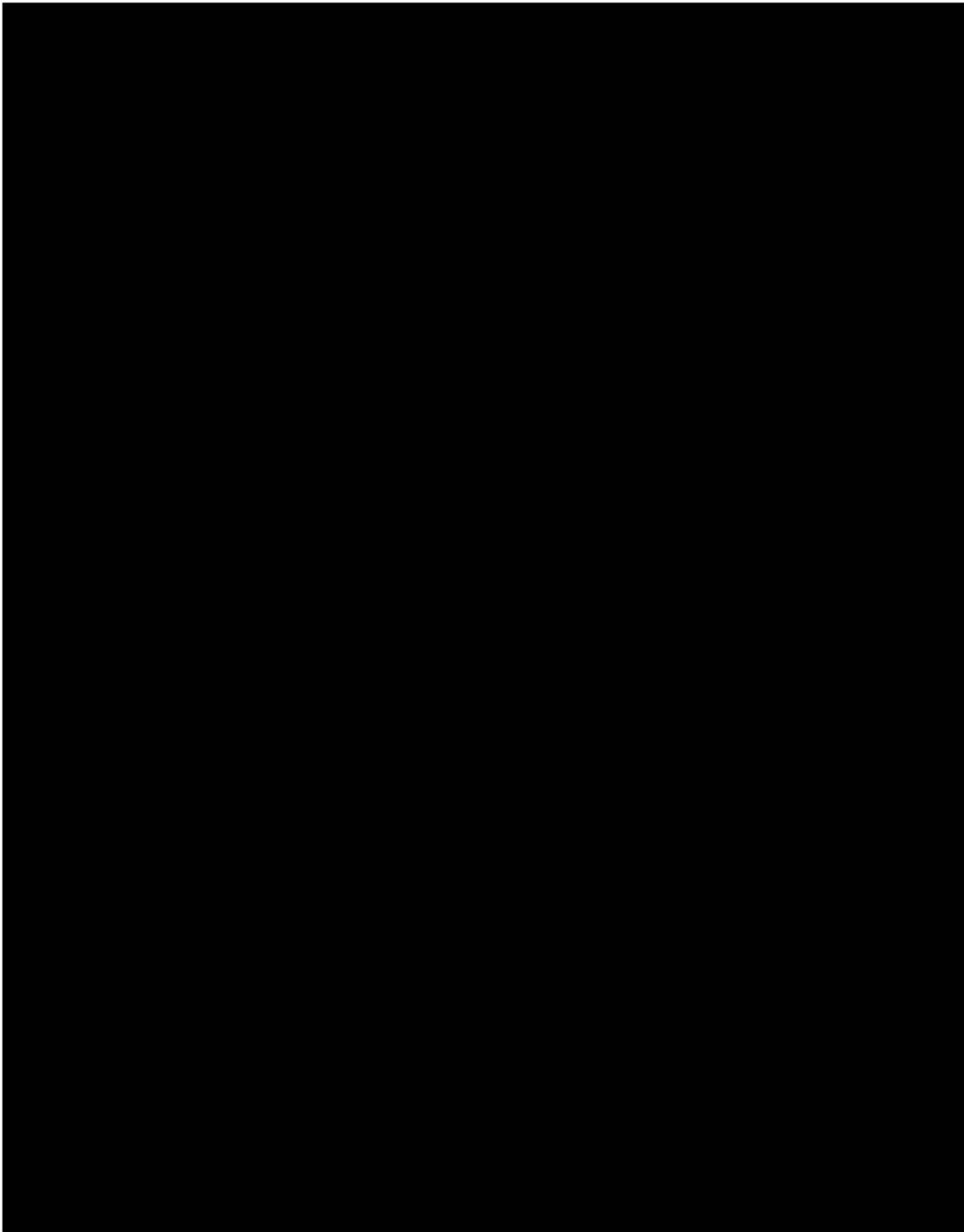
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Class.App. 322

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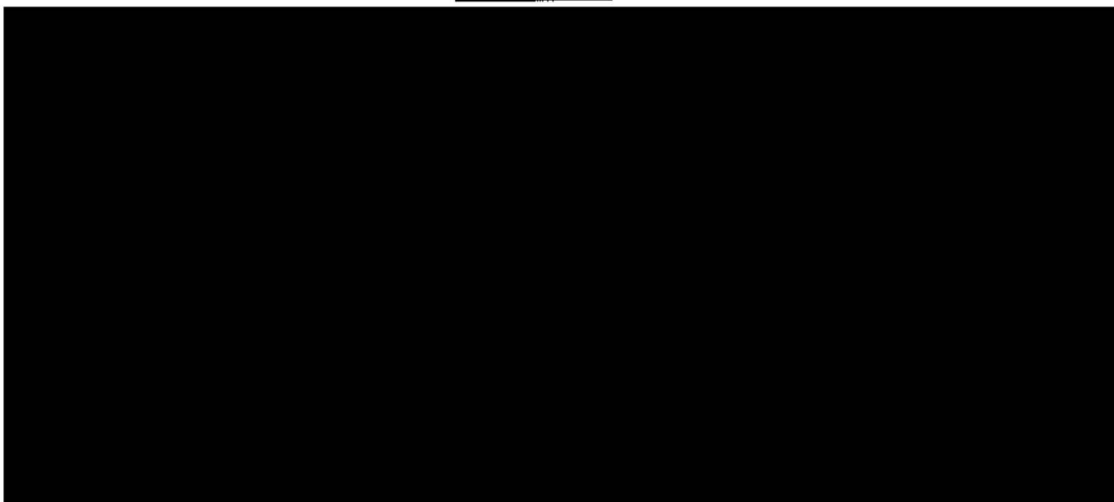
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10015-PSYCH-0000028

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UNCLASSIFIED//FOR PUBLIC RELEASE

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~~FOR OFFICIAL USE ONLY~~



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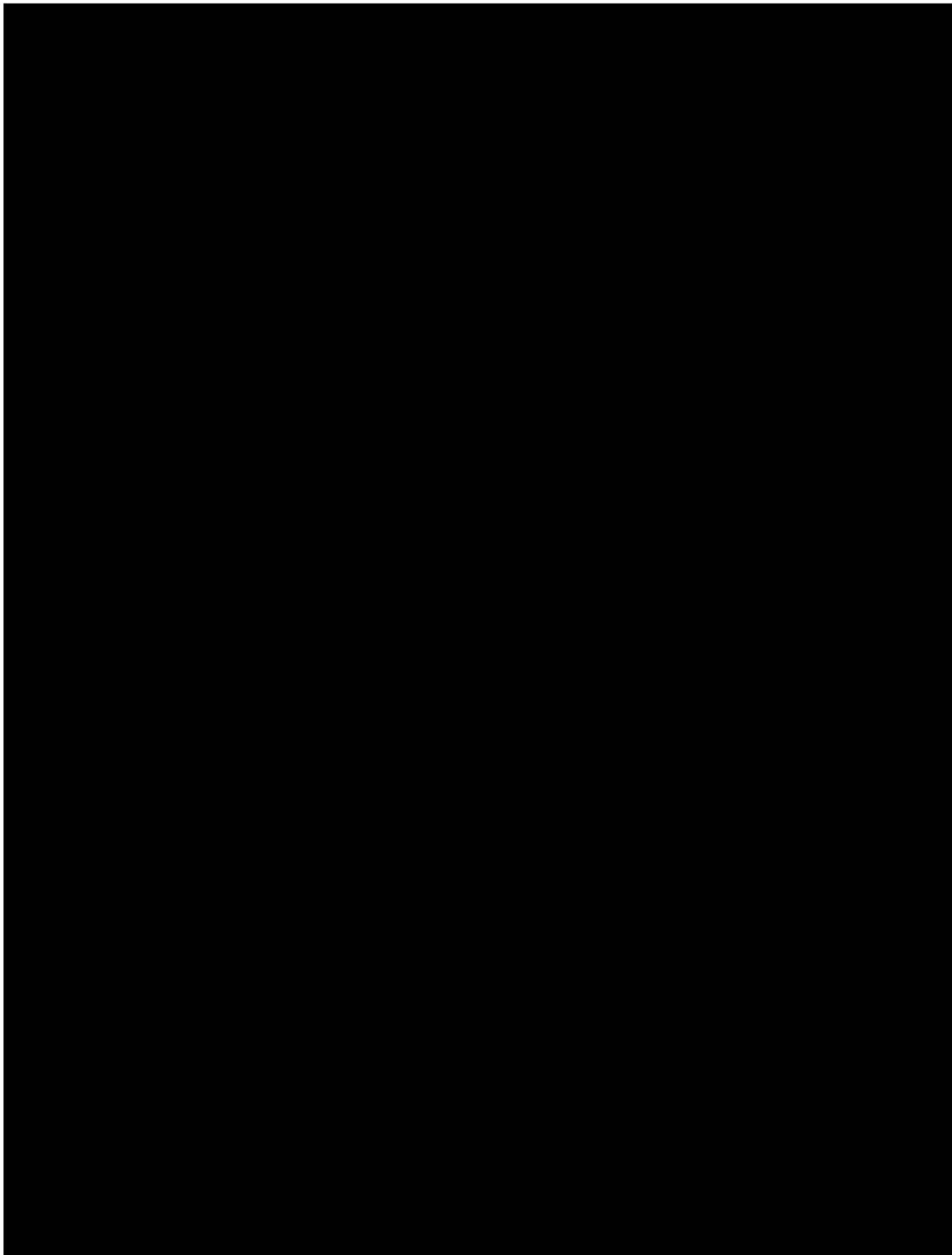
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Class.App. 325

~~CONFIDENTIAL~~



~~CONFIDENTIAL~~

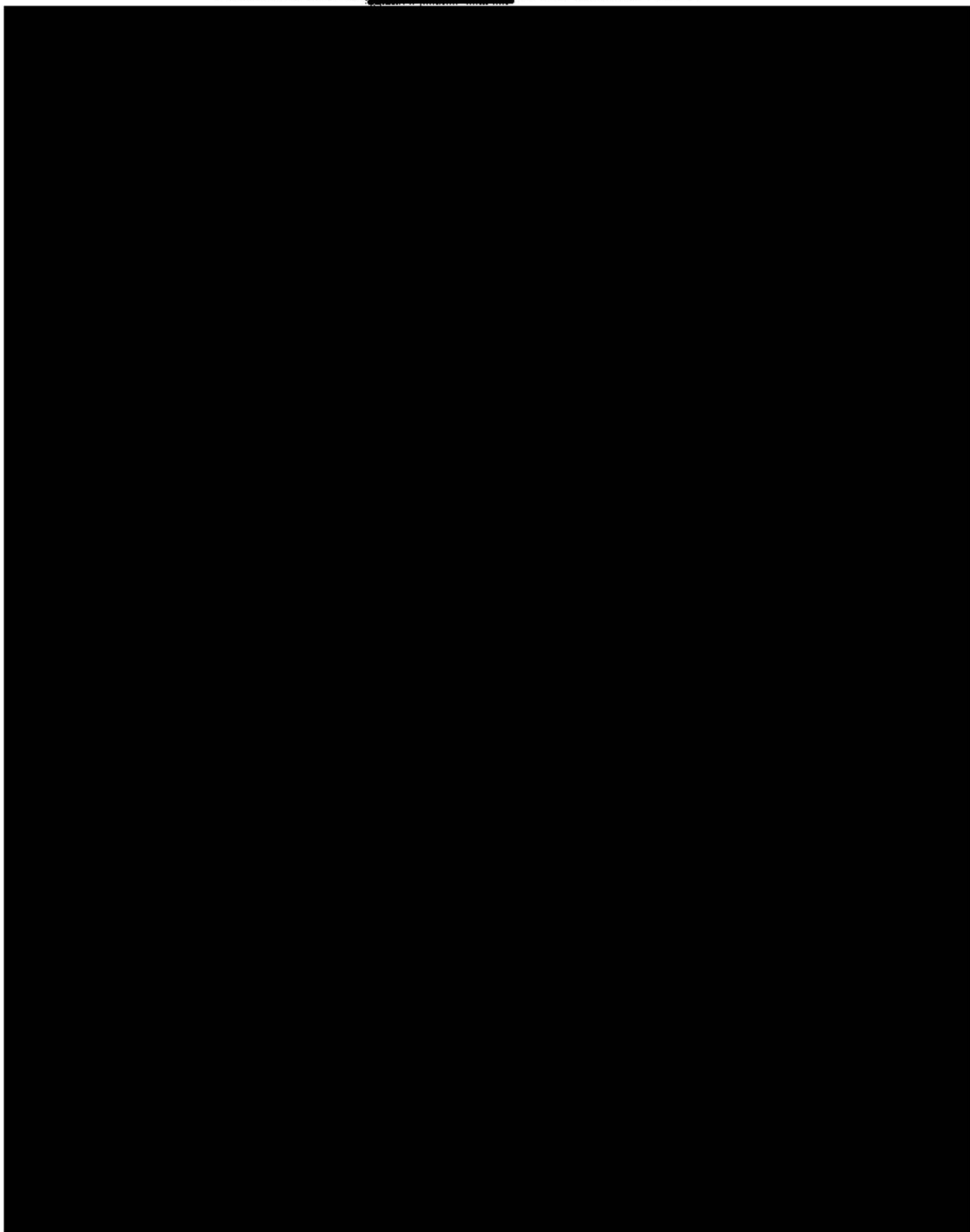
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Class.App. 326

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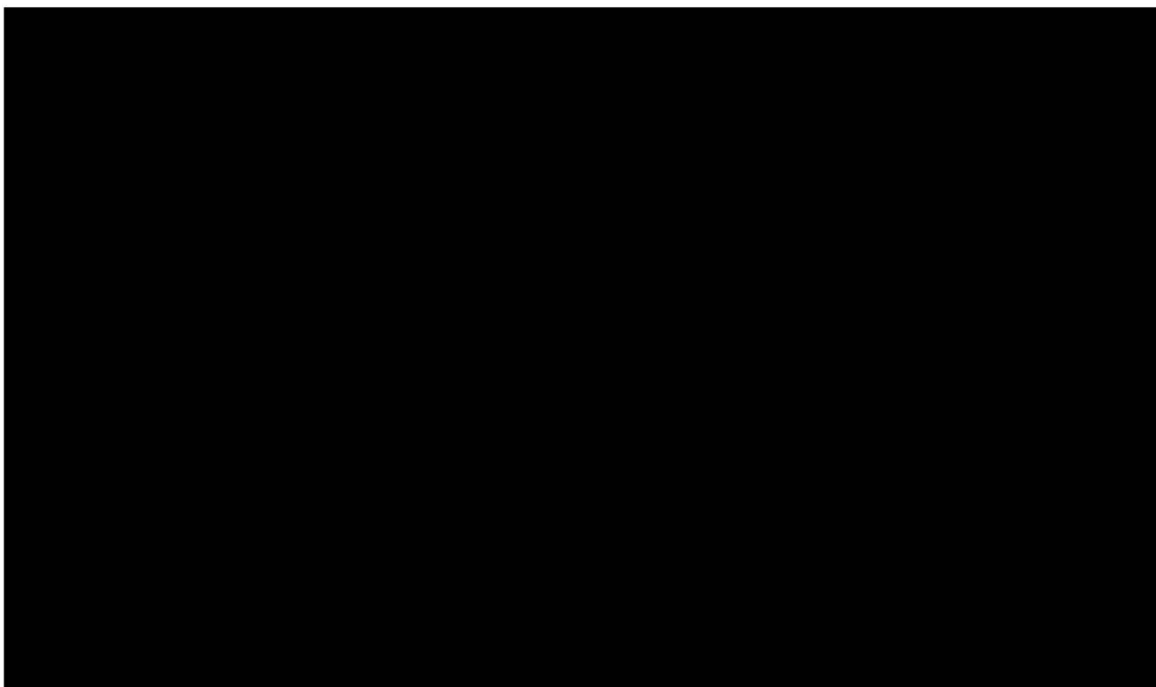
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Class.App. 327

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10015-00076716

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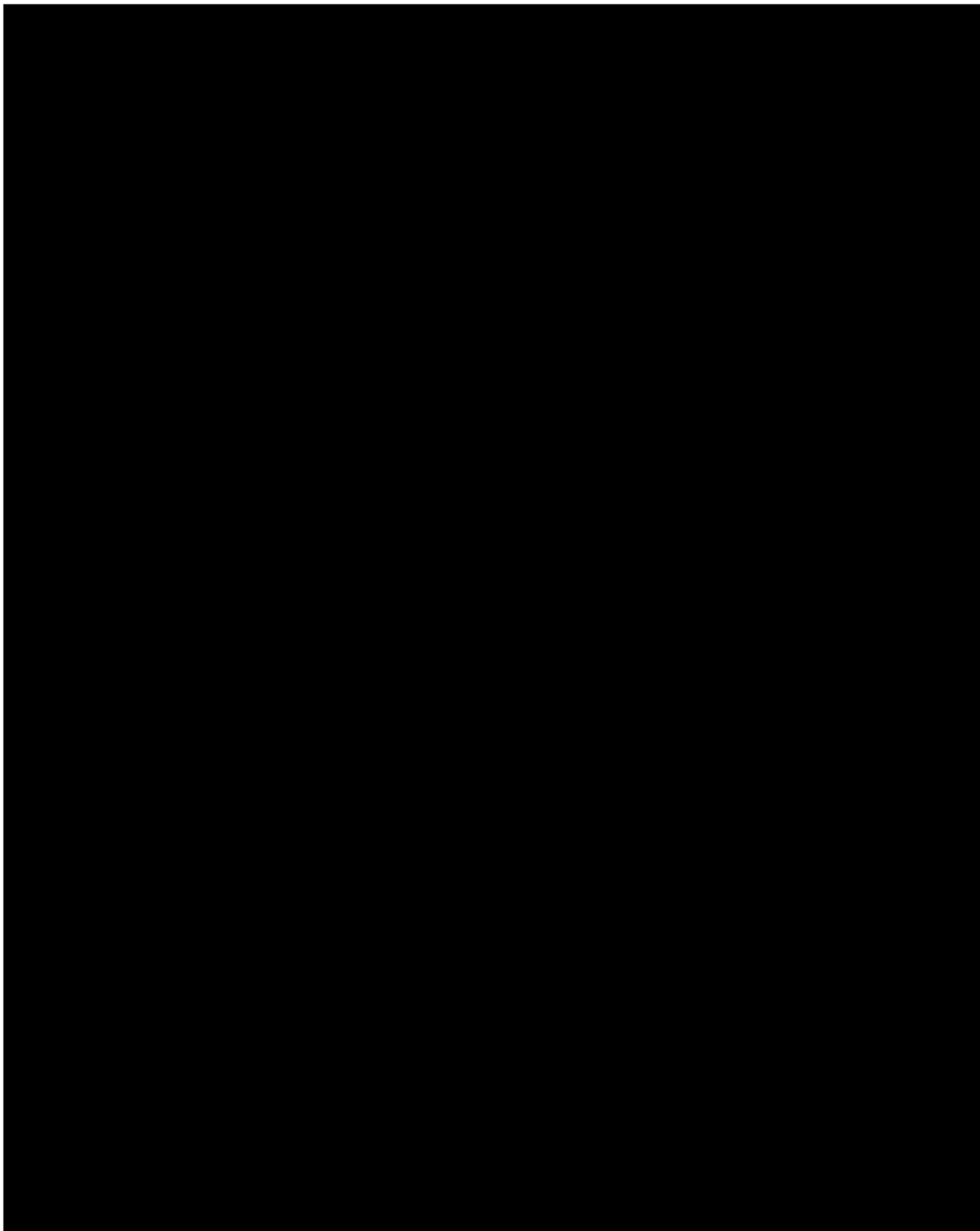
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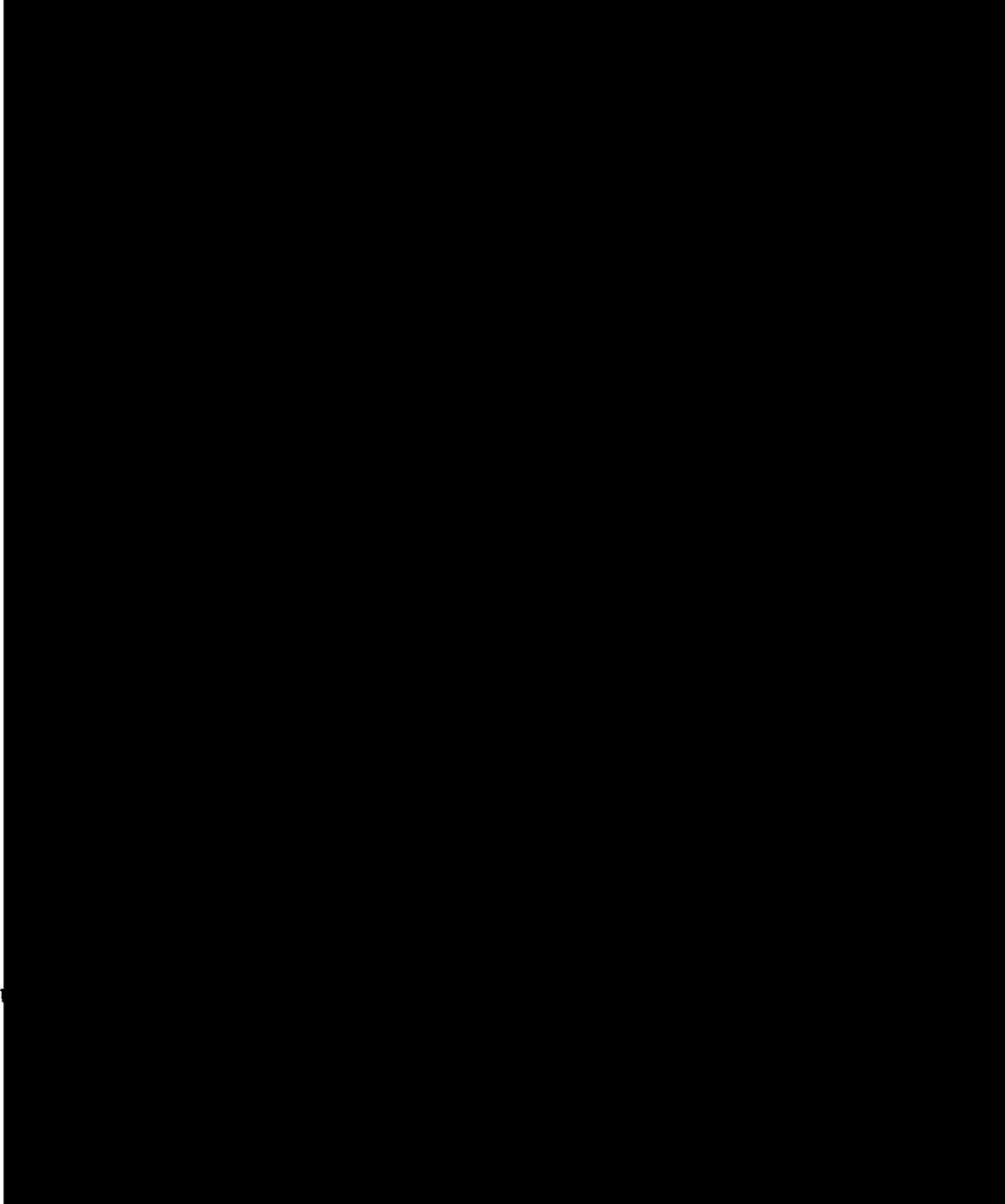
**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY**



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Class.App. 329

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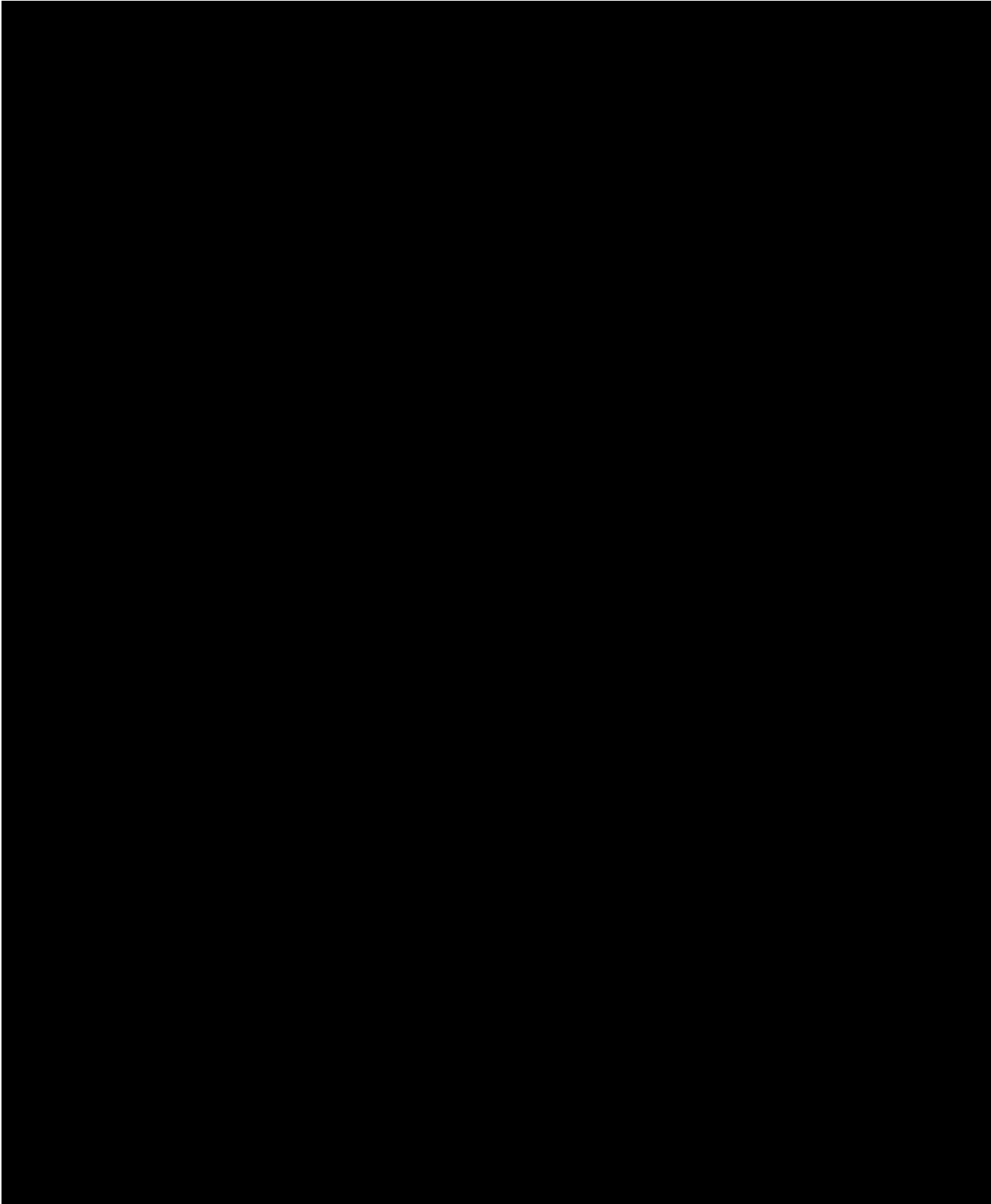


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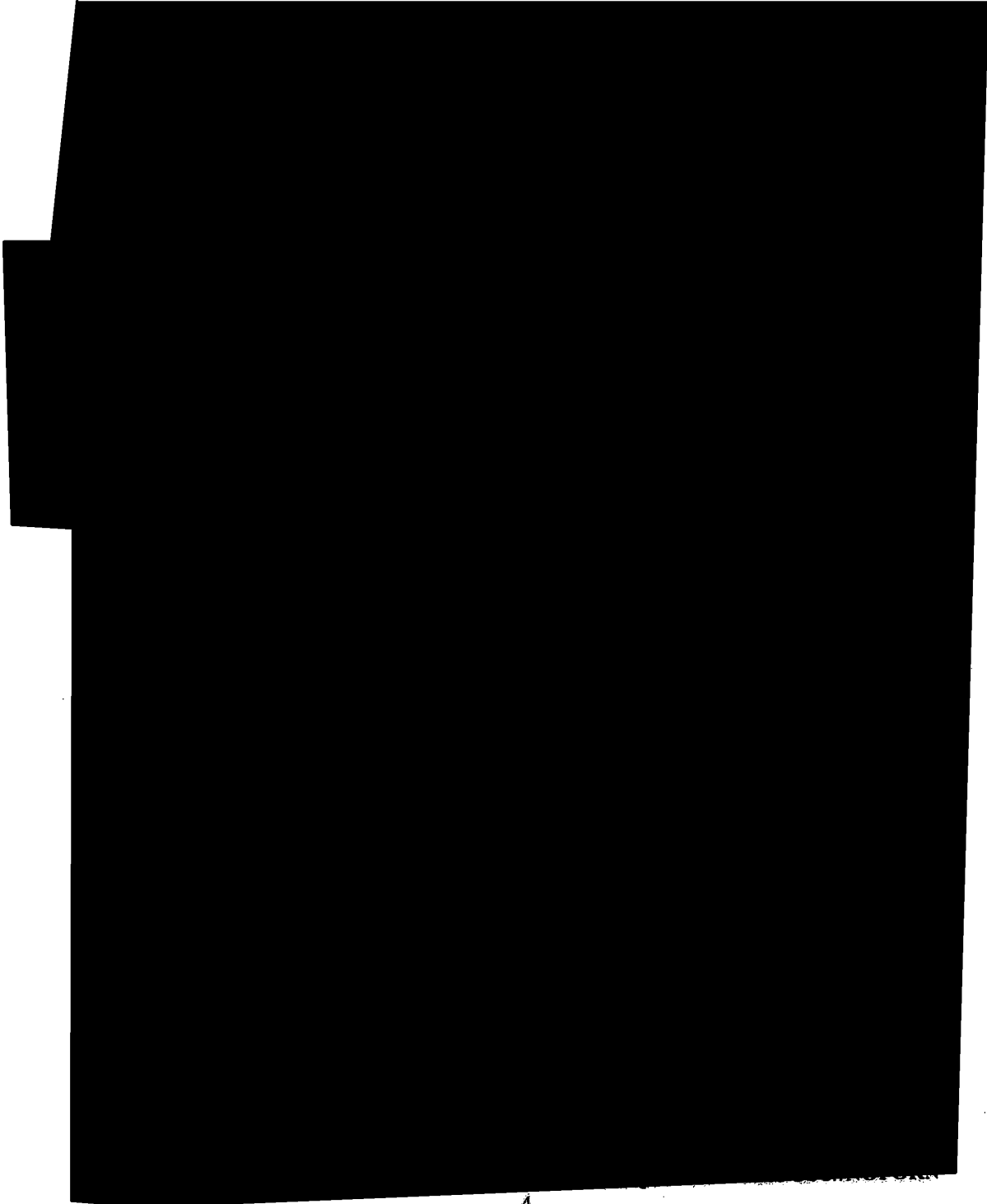


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Class. Ann. 332

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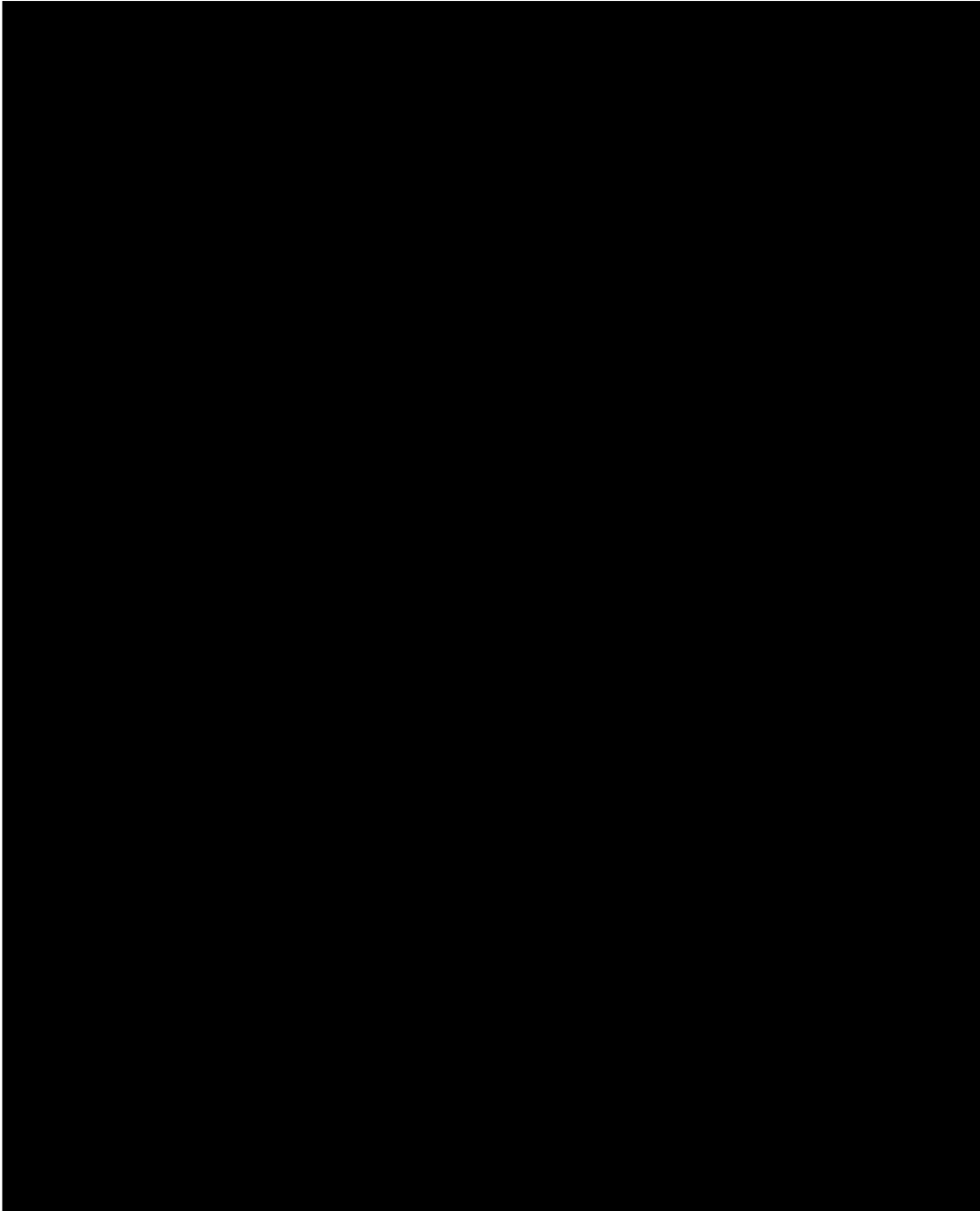


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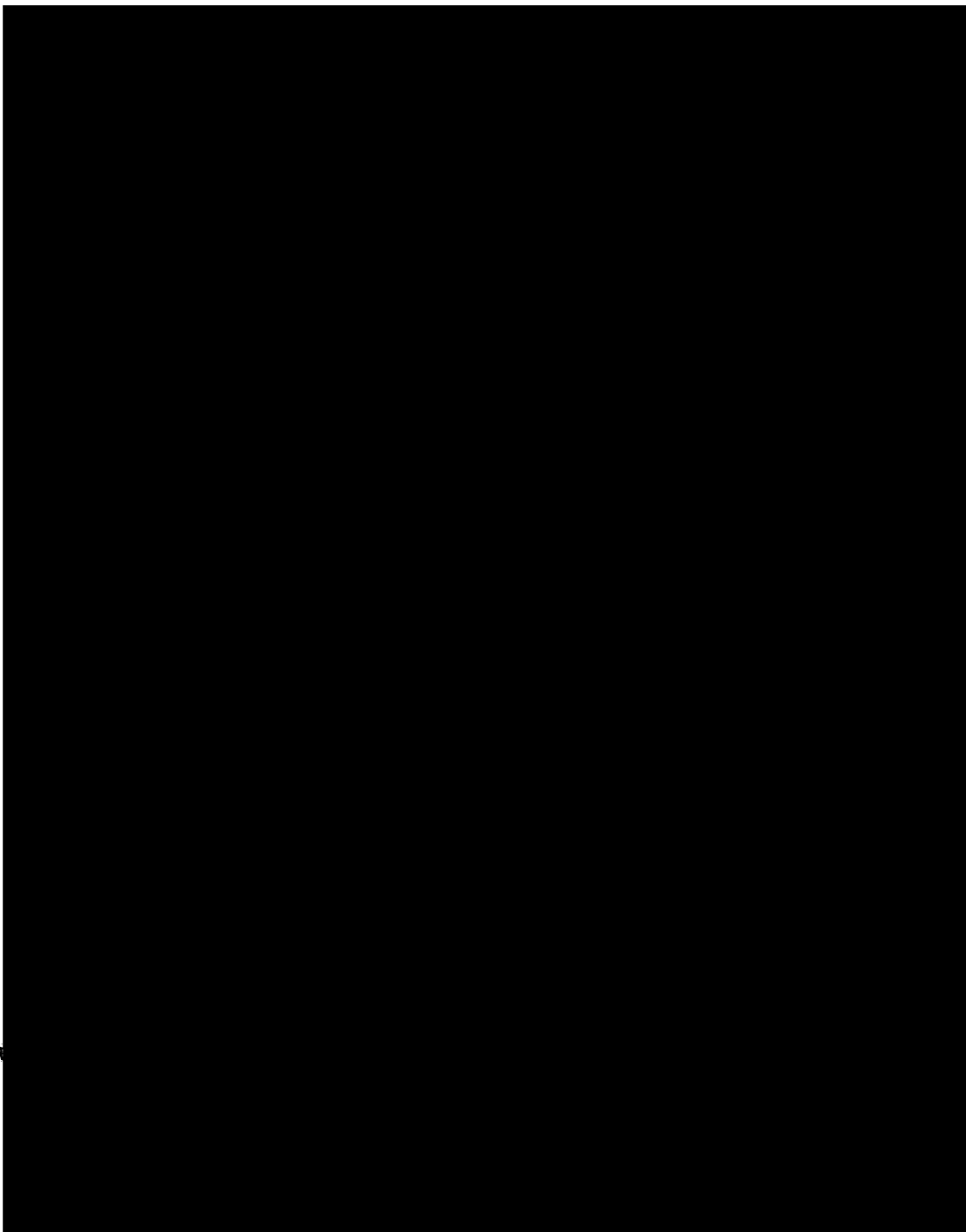
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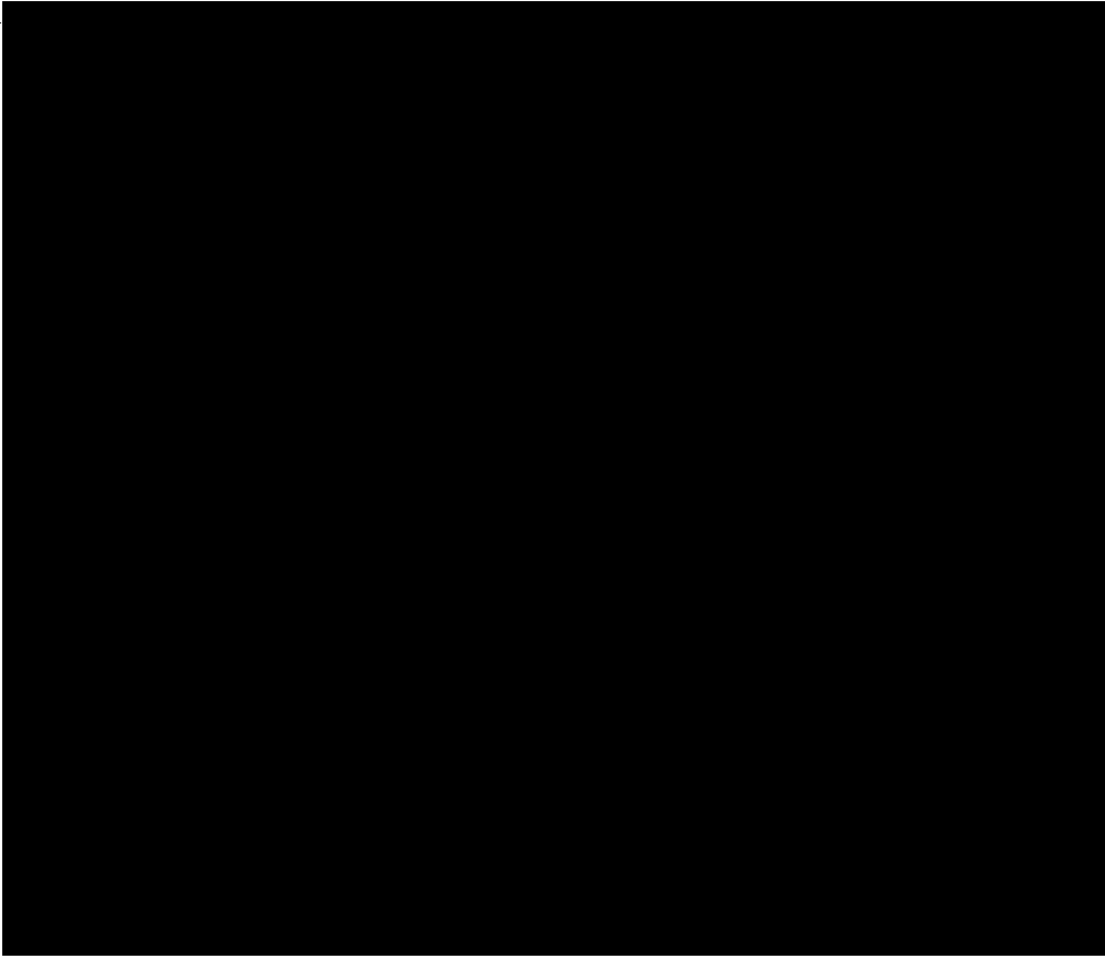


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Class.App. 335

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Class.App. 336

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~~NOFORN~~

Respectfully submitted,

■  
/s/ Brian L. Mizer  
BRIAN L. MIZER  
CDR, JAGC, USN  
*Assistant Detailed Defense Counsel*

/s/ Allison C. Daniels  
ALLISON C. DANELS, Maj, USAF  
*Assistant Detailed Defense Counsel*

/s/ Richard Kammen  
RICHARD KAMMEN  
*DOD Appointed Learned Counsel*

~~TOP SECRET~~

~~NOFORN~~

Class.App. 337

~~TOP SECRET~~ [REDACTED] ~~NOFORN~~

**CERTIFICATE OF SERVICE**

I certify that on 11 February 2014, I hand-delivered the forgoing document to the Clerk of the Court and served a copy on All counsel of record via the same.

/s/ Brian L. Mizer  
BRIAN L. MIZER  
CDR, JAGC, USN  
*Assistant Detailed Defense Counsel*

~~TOP SECRET~~ [REDACTED] ~~NOFORN~~