

CI Investigative Tools Summary Chart

9 January 2004 Version

Prepared by DoD Counterintelligence Field Activity (CIFA); POC: [Redacted]
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Authority	Standard/Requirements	What materials does it cover?	How to obtain/Other notes
FISA Pen Register/Trap & Trace Order 50 USC §§ 1841-1846			
FISA "Business Records" Order 50 USC §§ 1861-1862 ECPA National Security Letter (NSL) <i>Electronic Communications Privacy Act</i> 18 USC § 2709			
RFPA NSL <i>Right to Financial Privacy Act</i> 12 USC § 3414(a)(5)			
FCRA NSL <i>Fair Credit Reporting Act</i> 15 USC § 1681u			
FCRA NSL (Terrorism) <i>Fair Credit Reporting Act</i> 15 USC § 1681v			
National Security Act NSL 50 USC § 436			

General Notes: All of the information above is intended as a summary of the relevant statutes; many details have been omitted to save space. Consult your legal advisor for applicability in individual cases. All of the NSL provisions above also contain language prohibiting the recipients from disclosing the existence of the NSL to the target. All provisions also carry restrictions on the use and dissemination of the information obtained (although typical use in a CI investigation is generally not a problem).



Counterintelligence Field Activity

2003 Legal Developments: An Overview for DoD Counterintelligence Operators

As a service to counterintelligence operators, CIFA offers the following summary of significant legal developments relating to counterintelligence. More detailed information on any of the topics addressed here can be obtained from CIFA.¹ Specific questions about the applicability of these authorities to your operations should be raised with your component's legal counsel.

Compared to previous two years, 2003 saw relatively few legal developments directly relevant to counterintelligence. The Intelligence Authorization Act for FY2004 made a significant change relating to national security letters for financial information, but otherwise left counterintelligence operational authorities unaltered. Several other provisions of the Act, as well as new guidelines issued by the Justice Department, may indirectly affect DoD CI components.

I. Intelligence Authorization Act for Fiscal Year 2004

The President signed the Intelligence Authorization Act for FY 2004 (Public Law 108-177) on December 13, 2003. Although numerous changes to operational counterintelligence authorities (including changes to the Foreign Intelligence Surveillance Act) had been discussed earlier in the year, the final legislation contains only one – a modification of the national security letter authority for financial records. The Act also included language establishing several “counterintelligence initiatives” and mandated a number of reports.

A. Sections 374: National Security Letters for Financial Information

Section 374 expanded the definition of “financial institution” that applies to “national security letters²” issued pursuant to Section 1114³ of the Right to Financial

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² The term “national security letter” does not appear in the statute, but is commonly used to refer to requests

Privacy Act (RFPA). This basically allows RFPA national security letters to be served on a wider variety of institutions, beyond the traditional banks and investment institutions.

By way of background, the RFPA governs the way that financial institutions must safeguard information about their customers, and generally requires that financial institutions inform their customers when a government entity seeks to obtain the financial records of a customer. Section 1114 of the RFPA carves out an exception to this rule, and permits the FBI (and other agencies) to seek “financial records⁴” from “financial institutions” in counterintelligence or counter-terrorism investigations, and prohibits the institution from disclosing this to the customer.

(1) FBI-issued RFPA National Security Letters

Section 1114(a) (5)(A) requires that financial institutions comply with a request for financial records from the FBI, so long as the FBI certifies the records are “sought for foreign counter intelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.” This is the most common form of RFPA national security letters. DoD CI components often make requests for the FBI to issue these letters in joint investigations.

(2) DoD-issued RFPA National Security Letters

Section 1114(a) permits any government agency “authorized to conduct foreign counter- or foreign positive-intelligence activities” or “authorized to conduct investigations of, or intelligence or counterintelligence analyses related to, international terrorism” to request financial records for the purposes of those investigations/activities. The request must comply with certain forms and be signed by a “supervisory official” designated by the head of the government agency. The financial institution then may release the records without notifying the customer. DoD CI components use this authority directly to issue “national security letters” or “request letters” to financial institutions. The key difference between the FBI’s national security letter authority (Section 1114(a)(5)(A)) and that available to DoD directly (Section 1114(a)) is that financial institutions must comply with an FBI letter, and may comply with a DoD (or other agency) request.

made by the FBI and other agencies in the context of national security investigations.

³ Section 1114 of the RFPA is codified at 12 U.S.C. § 3414.

⁴ “financial record” means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer’s relationship with the financial institution. 12 U.S.C. § 3401(2).

(3) New Definition of "Financial Institution"

Whether issued by the FBI or DoD, RFPAs national security letters only apply to "financial institutions," in other words, to institutions regulated by the RFPAs. Prior to this year, the relevant definition of "financial institution" was:

"any office of a bank, savings bank, card issuer as defined in section 1602(n) of title 15, industrial loan company, trust company, savings association, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;"

This definition, which dates from 1978, is restricted to "traditional" financial institutions like banks, savings and loans, etc. In recent years, a broader range of businesses have been offering services similar to traditional banking (e.g., commercial check cashing establishments, investment houses, on-line brokerage services, insurance companies, car dealerships, etc.). As the government used national security letters to pursue CI subjects making use of less traditional means to handle money, it occasionally encountered businesses that refused to comply with the letter on the grounds that they were not a "financial institution" as defined in the RFPAs.

Section 374 of the 2004 Intelligence Authorization Act provides a remedy by applying a different definition of "financial institution" to requests made pursuant to Section 1114. The new definition of "financial institution," which is drawn from Title 31, includes:

- (A) *an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));*
- (B) *a commercial bank or trust company;*
- (C) *a private banker;*
- (D) *an agency or branch of a foreign bank in the United States;*
- (E) *any credit union;*
- (F) *a thrift institution;*
- (G) *a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);*
- (H) *a broker or dealer in securities or commodities;*
- (I) *an investment banker or investment company;*
- (J) *a currency exchange;*
- (K) *an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;*

- (L) *an operator of a credit card system;*
- (M) *an insurance company;*
- (N) *a dealer in precious metals, stones, or jewels;*
- (O) *a pawnbroker;*
- (P) *a loan or finance company;*
- (Q) *a travel agency;*
- (R) *a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;*
- (S) *a telegraph company;*
- (T) *a business engaged in vehicle sales, including automobile, airplane, and boat sales;*
- (U) *persons involved in real estate closings and settlements;*
- (V) *the United States Postal Service;*
- (W) *an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;*
- (X) *a casino, gambling casino, or gaming establishment with annual gaming revenue of more than \$ 1,000,000 which--*
 - (i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or*
 - (ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act [25 USCS § 2703(6)]);*
- (Y) *any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or*
- (Z) *any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.*

Obviously, the new definition is very broad, and sweeps in every imaginable business that handles significant monetary transactions. According to the conference report accompanying the legislation, it was the intent of Congress to "allow the U.S.

Government to have, through the use of “National Security Letters,” greater access to a larger universe of information that goes beyond traditional financial records, but is nonetheless crucial in tracking terrorist finances or espionage activities.”

CIFA comment: The new definition applies to both FBI and DoD-issued RFPA national security letters, but does not otherwise change the existing Section 1114 authorities. DoD CI components should implement and make use of the expanded definition, as operationally required. As national security letters are served on businesses not already accustomed to receiving them, CI components may encounter the need to educate recipients on the nature and requirements of RFPA national security letters (including the non-disclosure requirement and the cost reimbursement provision).

B. Section 341: Counterintelligence Initiatives

As means of addressing various concerns about counterintelligence issues, Congress has mandated five counterintelligence “initiatives” in the Act. The Act describes these in very general terms; the actual form of each initiative will depend on how the Executive Branch chooses to implement each initiative. The five initiatives are:

(1) Classified Information Inspection Process

The DCI, acting through the office of the National Counterintelligence Executive (NCIX) will establish an inspection process for all government agencies that handle classified national security information. The goal of the inspection process will be to ensure that classified information is handled properly, and that appropriate operational security measures are in place. The conference report explains that the NCIX will report to Congress on the adequacy of existing investigatory/inspection mechanisms by April 1, 2004, and propose new procedures⁵. The NCIX will then be responsible for implementing the new procedures (or delegating implementation to the various agencies).

(2) Review of Dissemination Lists

The DCI will establish a process annually reviewing the routine dissemination lists of all elements of the Intelligence Community to ensure that all persons on the list continue to have a “particularized need to know” the distributed information.

⁵ Specifically, the conference language says that NCIX will “include proposed uniform policies and procedures for all Intelligence Community components to conduct annual inspections of each agency’s handling of classified information, to include, as appropriate, prohibitions on employee’s bringing items such as cameras, document scanners, and personal electronic devices into Intelligence Community facilities.” Conference Report (H.R. 108-381), p. 50.

(3) Financial Disclosure Statements

The DCI, acting through the NCIX, will establish a process by which the head of each intelligence community element directs that employees being given access to classified information submit the financial disclosure forms required by Executive Order 12968, § 1.3(b).

(4) Protection of HUMINT

The DCI shall establish “programs and procedures” by which classified information relating to human intelligence is protected from unauthorized disclosure by employees of intelligence community elements.

(5) Espionage Prosecutions

The Attorney General (through the Office of Intelligence Policy and Review), in consultation with the DCI (through the NCIX), will develop policies and procedures “to assist the Attorney General in the consideration of intelligence and national security-related equities in the development of charging documents and related pleadings in espionage prosecutions.” According to the conference report language, this initiative reflects concern that the too much sensitive information was disclosed in the criminal indictments filed in recent espionage cases (the Hanssen case is mentioned by name). The report states that, in balancing the needs of a criminal prosecution with the protection of intelligence sources and methods, the Attorney General “should have the benefit of the perspective of counterintelligence professionals before making his decision on how much previously classified or sensitive information should be included in a charging document or related pleading.”

CIFA Comment: These first four initiatives all focus on improving the security of classified information by fully implementing existing safeguards and by enforcing new requirements where necessary. They address specific Congressional concerns arising from recent espionage cases (Hanssen, Montes, Regan), as well as general concerns about lax security for classified information. DoD CI components will doubtless be involved in some or all of these initiatives. In addition, the implementation of these initiatives may bring to light persons or situations of counterintelligence interest.

The fifth initiative should be of interest to DoD CI components that have had, or are now investigating, espionage cases. The initiative addresses a common, and frequently contentious, issue in espionage prosecutions. As a principal holder of intelligence equities, DoD could benefit from procedures that more clearly define the mechanism for timely input into the Attorney General’s prosecutorial decisions. Hopefully, DoD CI professionals will be among those called upon to contribute to the development of these procedures.

C. Other Provisions of Interest

The Act also contains sections aimed at improving various aspects of the national security apparatus generally. It establishes a training program to improve information sharing between federal, state, and local officials (Section 316); a pilot program to distribute the analysis of certain SIGINT throughout elements of the intelligence community (Section 317); and a pilot program to recruit and train intelligence analysts (Section 318).

The Act, in Sections 351 through 360, requires various reports to Congress, including reports on the insider threat to computer networks, on security background investigations and clearance procedures, on detailing civilian personnel in the intelligence community and DoD, on information sharing policy changes, on strategic planning, on U.S. dependence on computer hardware or software manufactured overseas, on lessons learned from Iraqi Freedom, and reports on aspects of the Terrorist Threat Integration Center (TTIC) and the Terrorist Screening Center.

II. Defense Authorization Act for Fiscal Year 2004

Two sections of the 2004 Defense Authorization Act (Public Law 108-136) address topics of potential interest to DoD CI operators. Section 841 grants DoD the authority to enter into personal services contracts for (1) services deemed necessary and appropriate to DoD activities outside the U.S.; (2) services that directly support the mission of a defense intelligence component or counterintelligence organization of the Department of Defense; and (3) services that directly support the activities of the special operations command of the Department of Defense. This authority is important because it allows DoD to contract directly with an individual for services, as opposed to going through the established contract and procurement process. The authority is designed to allow people with specific critical skills to be made available quickly when the services to be procured are “urgent and unique” and it would not be practicable for DoD to obtain them by other means. An example of this might be the need to bring in a special translator to facilitate an intercept or interrogation. CI operations have encountered such situations in the past, and this authority may prove useful.

Section 1041 addresses the DoD polygraph program and, among other things, repeals the statutory ceiling on the number of DoD counterintelligence polygraphs.

III. New DOJ Guidelines for FBI Investigations

Although not directly applicable to DoD components, many joint FBI-DoD CI investigations will be affected by the issuance of the new “Attorney General’s Guidelines

for FBI National Security Investigations and Foreign Intelligence Collection⁶.” These guidelines, which the Attorney General issued on October 31, 2003, replace the old “FCI Guidelines” that governed the FBI’s counterintelligence and counter-terrorism investigations. Since the passage of the USA PATRIOT Act, DOJ now has revised all of the FBI’s operational guidelines to better meet the current national security threats.

The new “National Security Investigation Guidelines” or “NCIG” aim to fully implement the provisions of the PATRIOT Act and the subsequent decisions of the Foreign Intelligence Court of Review. In so doing, they essentially eliminate the distinction between “counterintelligence” and “criminal” investigations for the FBI, and acknowledge that the threat posed by foreign powers and international terrorists is best met by “national security investigations” that use the full range of available investigative tools. The NCIG summarizes this approach as follows:

The investigations authorized by these Guidelines serve to protect the national security by providing the basis for, and informing decisions concerning, a variety of measures to deal with threats to the national security. These measures may include, for example, recruitment of double agents and other assets; excluding or removing persons involved in terrorism or espionage from the United States; freezing assets of organizations that engage in or support terrorism; securing targets of terrorism or espionage; providing threat information and warning to other federal agencies and officials, state and local governments, and private entities; diplomatic or military actions; and actions by other intelligence agencies to counter international terrorism or other national security threats. In addition, the matters identified by these Guidelines as threats to the national security, including international terrorism and espionage, almost invariably involve possible violations of criminal statutes. Detecting, solving, and preventing these crimes – and, in many cases, arresting and prosecuting the perpetrators – are crucial objectives of national security investigations under these Guidelines. Thus, these investigations are usually both “counterintelligence” investigations and “criminal” investigations.

CIFA Comment: This approach represents a substantial departure from the traditional dichotomy between criminal and counterintelligence investigations – a division that is maintained in many DoD authorities. DoD CI elements working jointly with the FBI will likely begin to encounter the effects of the new Guidelines as they are implemented this year. In some cases the integrated approach now mandated for the FBI may not be fully consistent with the structure or authorities of the relevant DoD component. Individual CI components may need to examine or adjust their interaction with the FBI to take this into account.

⁶ The Guidelines are issued pursuant to Executive Order 12,333 and are the FBI’s equivalent of DoD 5240.1-R. A redacted, unclassified version of the new guidelines (along with the other revised FBI guidelines) can be found on the DOJ website at www.usdoj.gov/olp/. The full Guidelines are classified SECRET.

CIFA Suspense/Routing Sheet

*Required Actions 1. Signature 2. Prepare Reply 3. Coordinate 4. File 5. INFO 6. Other

To: Name/Office	*Required Action	Comments (or see below)	Initials/Date
DP Admin	Admin Review		[Redacted] 27.2.07
[Redacted]	3		[Redacted] 27-2-07
[Redacted]	3		[Redacted] 2/27/07
[Redacted]	3		[Redacted] 2/27/07
[Redacted]	3		[Redacted] 01 MAR 07
[Redacted]	1		[Redacted] 31/1/07
Chief of Staff			[Redacted] 28 Feb 07
Editor	Edit		[Redacted] 27 Feb 07

Subject: NSL Report

Suspense Date

Summary/Comments:

*Good package - AS/OC!
Thorough and well written!
We actually met a suspense!*

Security Classification

TOP SECRET

SECRET

CONFIDENTIAL

UNCLASSIFIED

Action Office Information

Action Officer: [Redacted]

Phone: [Redacted]

Office: DP

Phone: [Redacted]

Administrative Support: DP admin

Phone: [Redacted]

Date Prepared: 26 February 2007

Handling Instructions

Return to: [Redacted]

Special Instructions:

LOGGED

FEB 28 2007

revision March 2005



COUNTERINTELLIGENCE FIELD ACTIVITY

251 18th STREET
CRYSTAL SQUARE 5, SUITE 1200
Arlington, VA 22202-3537



ACTION MEMO

FOR: ACTING DEPUTY UNDER SECRETARY OF DEFENSE FOR
COUNTERINTELLIGENCE AND SECURITY

THROUGH: ACTING DIRECTOR, COUNTERINTELLIGENCE, ODUSD (CI&S)

FROM: James T. Faust, Director, CIFA *JTF 3/1/07*

SUBJECT: Program Review on DoD Use of National Security Letters (NSLs)

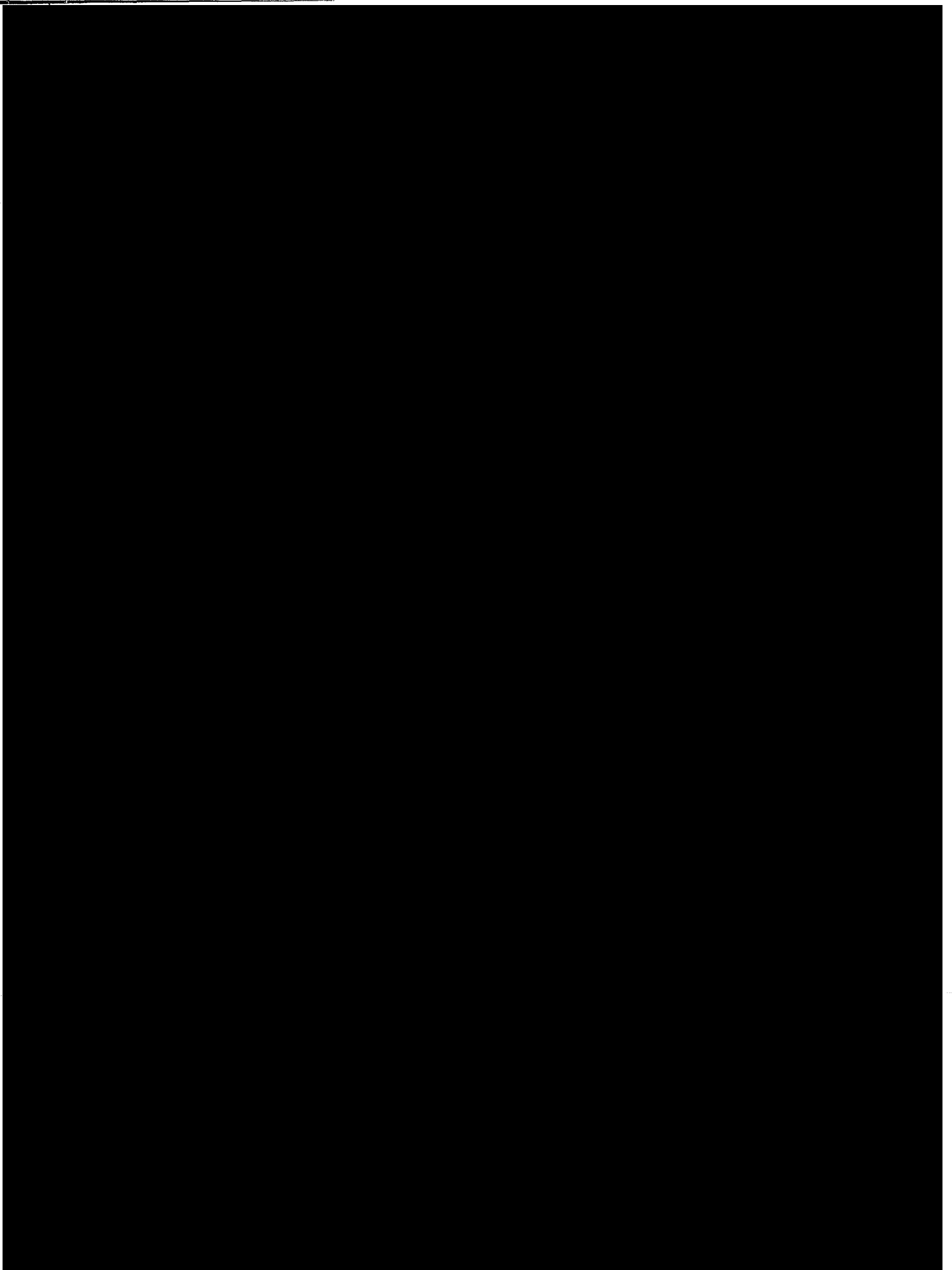
- This memorandum responds to your January 25 request (TAB A) regarding subject review.
- The review was conducted from January 30 to February 21. The CIFA Program Management Directorate interviewed individuals from appropriate offices in OSD, AFOSI, Army INSCOM, and NCIS. The report (TAB B) highlights:
 - DoD guidance on using NSLs.
 - Service philosophies concerning the use of NSLs.
 - Instructional guidance and processes for issuing NSLs.
 - Process times and approval authorities by Service.
 - DoD training.
- The report recommends the Department of Defense:
 - Provide more specific guidance concerning the definition and use of applicable NSL statutes.
 - Review approval authorities to ascertain it is within the intent of applicable NSL statutes.
 - Establish guidelines concerning the legal review of NSL requests.
 - Initiate legislation to expand 15 USC 1681v to include CI investigations.
 - Collect data concerning NSL use and report annual findings to CIFA.
 - Establish standardized training for all DoD basic CI agents and introduce formalized NSL training in JCITA advanced courses.

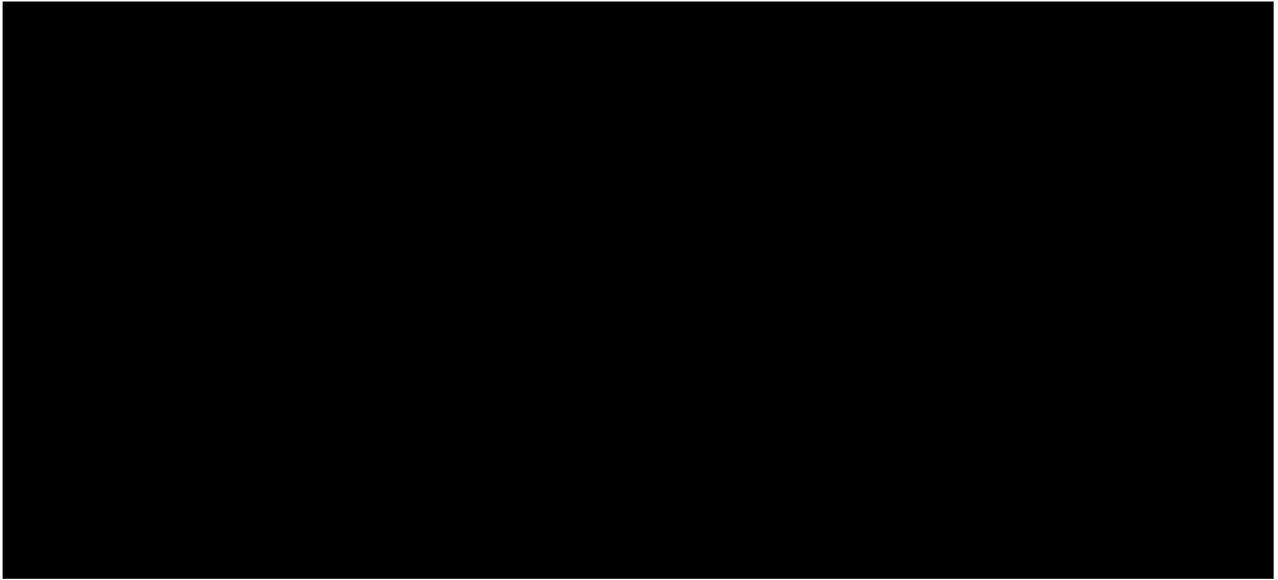
COORDINATION: TAB C

Attachments:
As stated

Prepared by: [REDACTED] Deputy, CI Investigations; [REDACTED]

A





B

DEPARTMENT OF DEFENSE
NATIONAL SECURITY LETTER
PROGRAM REVIEW

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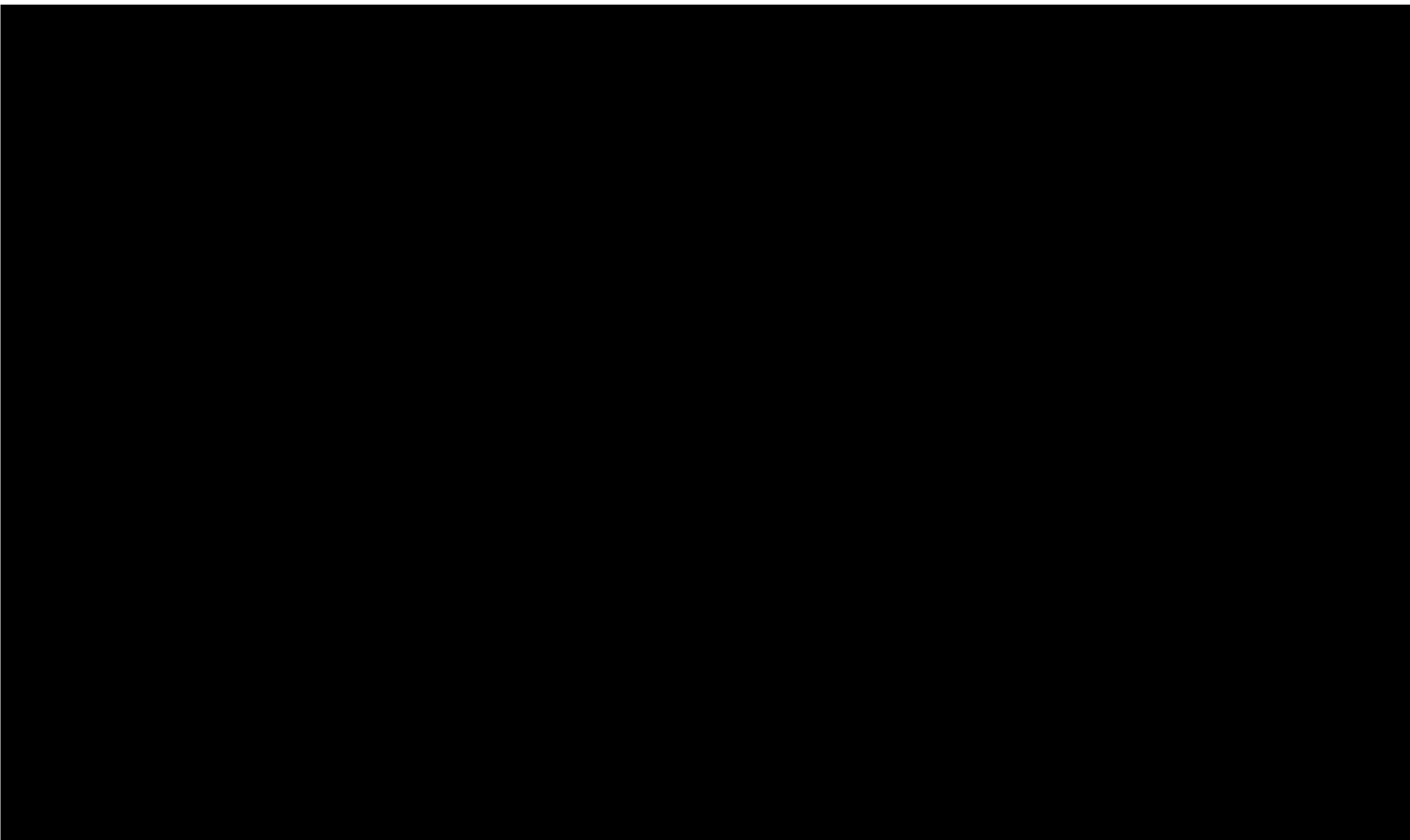
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EXECUTIVE SUMMARY

On 25 January 2007, the Deputy Undersecretary of Defense, Counterintelligence and Security (DUSD (CI&S)) directed the Counterintelligence Field Activity (CIFA) to conduct a program review (PR) concerning DoD policy and procedures on the use of National Security Letters (NSL) and NSL-Type Letters.¹ From 30 January through 21 February 2007, personnel from CIFA's Program Management Directorate conducted site visits and interviews with key personnel from the Office of the Secretary of Defense (OSD), Washington, DC; Headquarters (HQ), Air Force Office of Special Investigations (AFOSI), Andrews Air Force Base, MD; HQ Army Intelligence and Security Command (INSCOM), Fort Belvoir, VA; and HQ Naval Criminal Investigative Service (NCIS), Washington Navy Yard, DC. The results of the review are documented in this report.

This PR focuses on several factors which include: (1) Definitions and Statutes; (2) A review of DoD Guidance; (3) Service Implementation of the Statutes; (4) Training; and (5) Recommendations. This PR concludes that DoD effectively obtains and uses financial data to further the process of counterintelligence (CI) and counterterrorism (CT) investigations. Even though each service has a differing philosophy on the employment of NSLs, all have established regulatory or instructional guidance governing their respective process. Each process includes a legal review within the investigation approval process and two services conduct another legal review prior to the authorizing official signing the final letter. A detailed outline of each service's process is included in the body of this report.

¹ The definition of National Security Letters was recently modified by the PATRIOT Improvement and Reauthorization act of 2005 – 2006. The authority under which DoD components request financial information no longer falls within the definition of NSL. Nevertheless, the term "NSL" will be utilized throughout this report to avoid confusion. The change in definition does not alter the findings, conclusions, or recommendations contained in this report.



INTRODUCTION

Purpose

This PR was conducted in response to a tasking from DUSD (CI&S) (Enclosure 1). The request directed CIFA to examine how DoD components employ the use of NSLs as an investigative tool, to review their request and approval processes, to cite best practices, and make recommendations pertaining to policy and training.

Objectives

This review focused on the following factors:

1. Definitions and Statutes
2. A review of current DoD Guidance
3. Service Implementation of the Statutes
4. Current Training
5. Recommendations

DoD CI Components

The following are personnel, by office, that were interviewed:

Office of the Secretary of Defense

Naval Criminal Investigative Service

Army Military Intelligence

Air Force Office of Special Investigations



Joint Counterintelligence Training Academy



Site Visit Team Composition



REFERENCES

- DoD Directive 5400.12, Obtaining Information from Financial Institutions, Dated 2 Dec 2004
- DoD Instruction 5400.15, Guidance on Obtaining Information from Financial Institutions, Dated 2 Dec 04
- 12 United States Code § 3414 Right to Financial Privacy Act
- 15 United States Code § 1681v Fair Credit Reporting Act
- 50 United States Code § 436 National Security Act
- Army Regulation 381-20, The Army Counterintelligence Program, 15 Nov 93
- Army Regulation 190-6, Obtaining Information from Financial Institutions, 9 Feb 06
- AFOSI Manuel 71-119, Counterintelligence Investigations, Approved Draft 11 Feb 02
- NCIS General Administration Document OoJ-0002, USA Patriot Act, 26 Feb 03

DEFINITIONS AND STATUTES

Definition: A National Security Letter is a written request by an authorized government agency in authorized national security investigations for limited types of information, such as customer and consumer transaction information, from specified entities, such as U.S. financial institutions, U.S. telecommunications companies, and credit agencies.²

Statutes: There are five statutory provisions which authorize specified government officials, primarily from the FBI, to request certain categories of information held by third parties as part of authorized national security investigations. These provisions are:

- Section 1114(a) of the Right to Financial Privacy Act, 12 U.S.C. § 3414
- Section 626 of the Fair Credit Reporting Act, 15 U.S.C. § 1681u
- Section 627 of the Fair Credit Reporting Act, 15 U.S.C. § 1681v
- Section 2709 of Title 18, U.S. Code, 18 U.S.C. § 2709
- Section 802 of the National Security Act, 50 U.S.C. § 436

These statutes have been referred to collectively as the “NSL statutes.” Three of the statutes listed above permit specified government officials other than the FBI to request customer and consumer transaction information in authorized investigations. These statutes are: the Right to Financial Privacy Act; the Fair Credit Reporting Act (15 U.S.C. § 1681v); and the National Security Act. The remaining two statutes provide exclusive authority to the FBI.

DoD components are authorized to submit their requests for financial information through their respective FBI field office. When the FBI accepts the request, they process the NSL under one of their respective statutes. Compliance with an NSL issued by the FBI is mandatory. In most cases when the FBI issues an NSL at the behest of a DoD component, the request is part of a joint FBI/DoD investigation. However, a DoD component can submit a Request for Assistance (RFA) where the FBI issues an NSL on a DoD investigation (not joint with the FBI).

DoD may also request information under authorities of the “NSL statutes”: Right to Financial Privacy Act; the Fair Credit Reporting Act, and the National Security Act. DoD does not use the specific term National Security Letter in written requests. DoD components send written requests for information to institutions and entities under the NSL statutes as permitted law. Because these are requests for information rather than court orders, a DoD request under the NSL statutes cannot be compelled absent court involvement.

The following DoD components are authorized to make requests for information under the NSL statutes in support of CI and CT investigations:

² As noted on Footnote 1 on Page 3, the definition of an NSL no longer includes financial record checks routinely requested by DoD components. This change was documented in the PATRIOT Improvement and Reauthorization act of 2005 – 2006.

The following DoD components are authorized to make requests for information under the NSL statutes in support of CI and CT investigations:

- U.S. Army Criminal Investigation Command
- U.S. Army Counterintelligence
- Naval Criminal Investigative Service
- U.S. Air Force Office of Special Investigations

DoD GUIDANCE

DoD Directive 5400.12, Obtaining Information from Financial Institutions, provides all DoD components with initial guidance. This directive highlights several important factors:

1. Reference to DoD Instruction 5400.15, Guidance on Obtaining Information from Financial Institutions.
2. Applicability and Scope which defines DoD Components.
3. Section 4, Policy, states: "Authorization of the customer to whom the financial records pertain shall be sought unless doing so compromises or harmfully delays either a legitimate law enforcement inquiry or a lawful intelligence activity."
4. Section 5, Responsibilities, states: "5.2. The Secretaries of the Military Departments and the Heads of the affected DoD Components shall: (5.2.1) Implement policies and procedures to ensure implementation of this Directive and reference (b) when seeking access to financial records."

DoD Instruction 5400.15:

Within this instruction, Enclosure 7, Requests for Financial Records in Connection with Foreign Intelligence and Foreign Counterintelligence Activities, states the following:

Paragraph E7.1.1 "Financial records may be obtained from a financial institution (as identified at paragraph E2.1.3.) by an intelligence organization, as identified in DoD 5240.1 (reference (i)), authorized to conduct intelligence activities, to include investigation or analyses related to international terrorism, pursuant to references (i) and Executive Order 12333 (reference (j))."

1. Paragraph E2.1.3 defines Financial Institutions (for intelligence purposes only).
2. DoD Directive 5240.1, defines the respective intelligence components within DoD that are authorized to conduct intelligence activities.

Paragraph E7.1.3 “When a request for financial records is made under paragraph E7.1.1., above, a Component official designated by the Secretary of Defense, the Secretary of a Military Department, or the Head of the DoD Component authorized to conduct foreign intelligence or foreign counterintelligence activities shall certify to the financial institution that the requesting component has complied with the provisions of reference (b). Such certification in a format similar to enclosure 15 shall be made before obtaining any records.”

1. Enclosure 15 of DoDI 5400.15 provides a sample which is attached as Enclosure 2.
2. Reference (b) in this paragraph refers to Chapter 35 of 12 U.S.C. Right to Financial Privacy Act of 1978.

E7.1.4. “An intelligence organization requesting financial records under paragraph E7.1.1., above, may notify the financial institution from which records are sought that section 3414(3) of reference (b) prohibits disclosure to any person by the institution, its agents, or employees that financial records have been sought or obtained.”

E7.1.5. “An intelligence organization requesting financial records under paragraph E7.1.1., above, shall maintain an annual tabulation of the occasions in which this access procedure was used.”

SERVICE IMPLEMENTATION

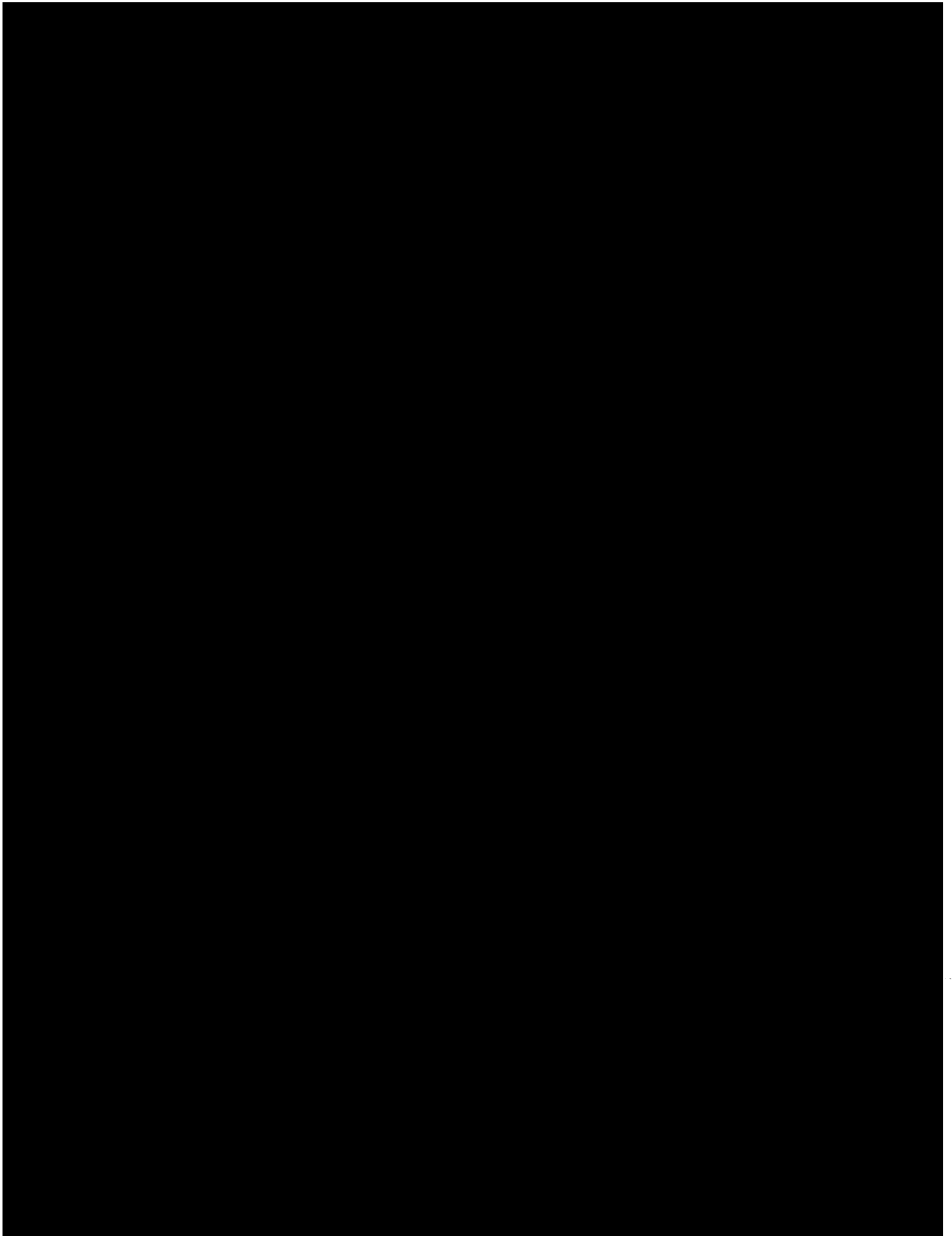
AFOSI

Philosophy: AFOSI has traditionally exercised its authority to issue NSLs primarily under the Right to Financial Privacy Act, 12 U.S.C. § 3414. Most stateside AFOSI CI and CT investigations are conducted jointly with the FBI. Since an AFOSI NSL is viewed as a request for information which the financial institution could refuse to comply with, and a request from the FBI pursuant to any of the three statutes is compulsory, [REDACTED]

[REDACTED] To, date, AFOSI cannot cite any CI or CT investigation where the FBI has refused to issue an NSL. Another benefit to processing the letter through the FBI is the available analytic support provided by the FBI that assists in filtering through the vast amount of data that result from NSL requests. AFOSI views this as a force multiplier, which allows their agents to pursue other aspects of the investigation.

Note: While this approach to the use of NSLs differs from the other two services, it fully supports those investigations that require access to financial data and conforms to all legal guidelines governing the use of NSLs.

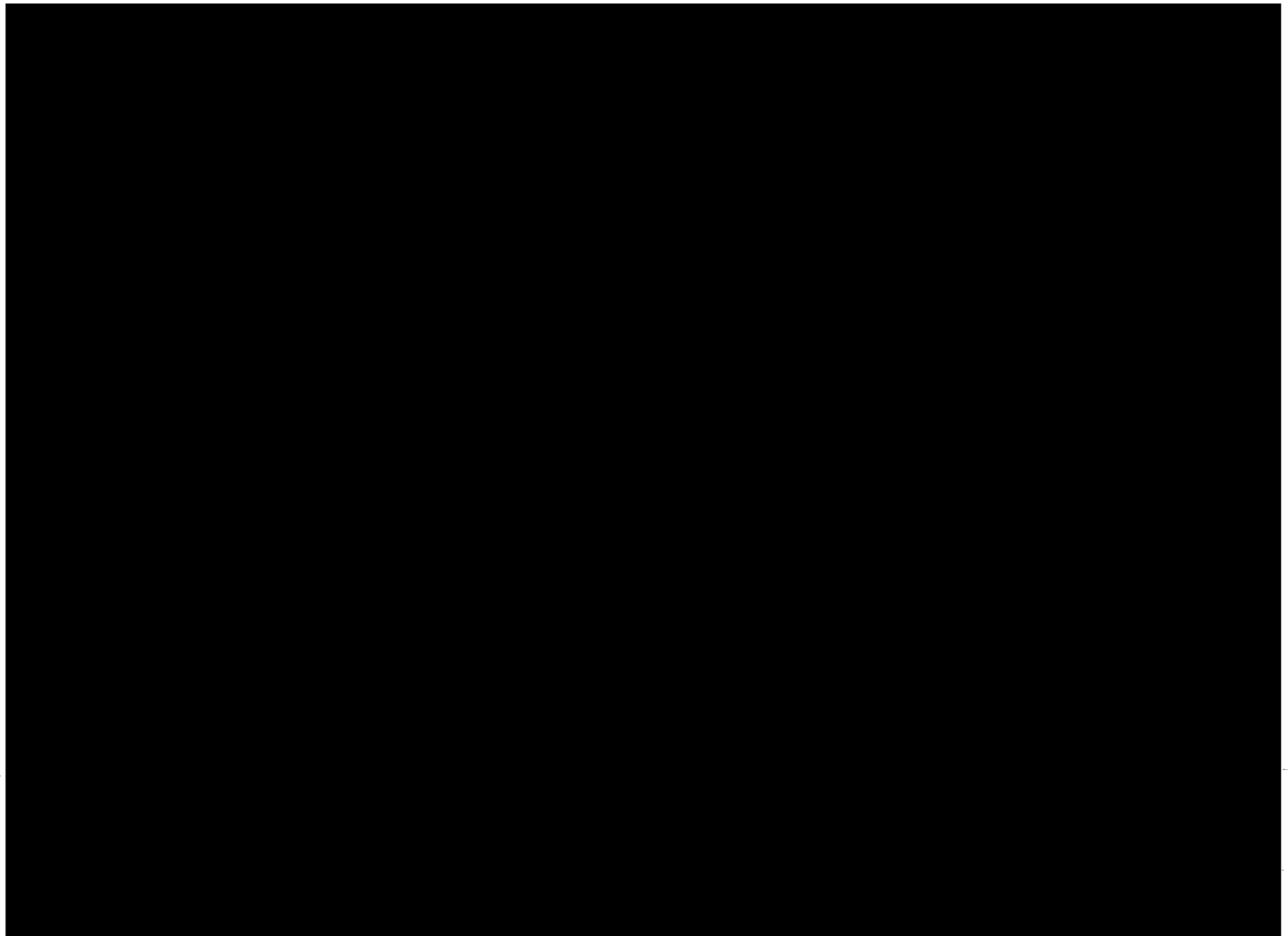
Instruction/Regulations:

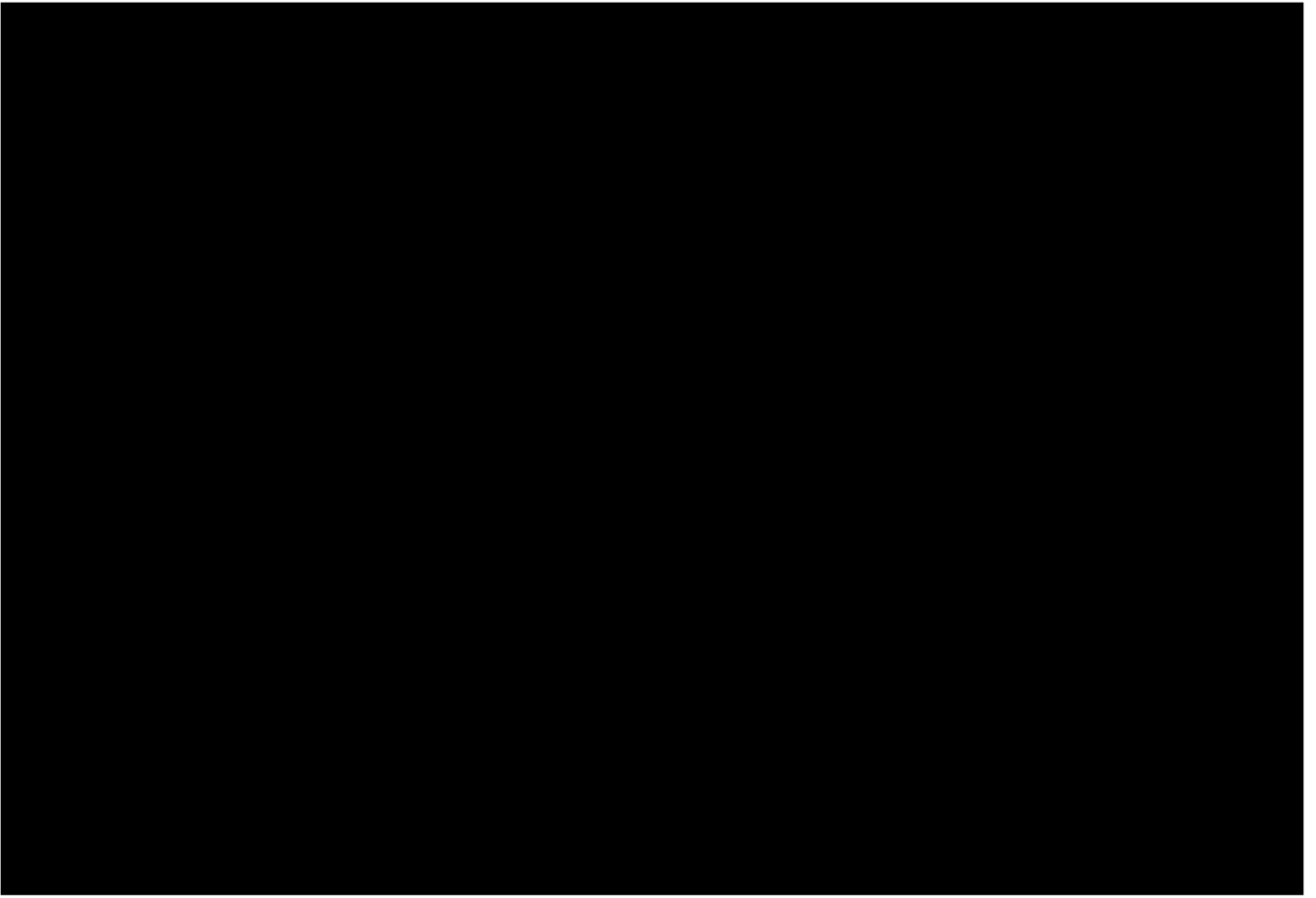


ARMY Military Intelligence (MI)

Philosophy: Army MI exercises its authority to issue NSLs primarily under the Right to Financial Privacy Act, 12 U.S.C. § 3414. Army MI views NSLs as a valuable investigative tool and uses them when they meet the criteria of a logical investigative step. MI understands the authorities they have under all three statutes, but they also recognize the manpower trail associated with this tool. Any records received as a result of the request must be sorted through and analyzed to extract information they seek, or before additional leads are developed. If Army MI is conducting a joint case with the FBI, the responsibility for issuing NSLs is determined through mutual agreement (division of labor) at the field unit level. Army MI plans to continue using NSLs when pertinent.

Instruction/Regulations: Army Regulation 381-20 and Army Regulation 190-6 provide guidance on the use of NSLs.





Naval Criminal Investigative Service (NCIS)

Philosophy: NCIS exercises its authority to issue NSLs under all three statutes that pertain to DoD. They view NSLs as an invaluable investigative tool which they use not only to verify existing information, but to serve as a lead generation tool. According to DoD statistics, NCIS issues more letters than the other DoD agencies. They effectively and efficiently employ NSLs through detailed program management, investigative oversight, and training. The attorneys in the National Security Law Unit (NSLU) are responsible for providing the legal review on NSLs. One of the attorneys is embedded within the Counterintelligence Directorate, enabling her to be involved in all steps of the investigative process and remain intimately familiar of the status of an investigation as it progresses. NCIS plans to increase the utilization of this investigative and lead generation process through program direction, timely investigative review, and increased awareness training.

Instruction/Regulations: General Administrative Order OoJ-0002.

Process: The NCIS process for issuing an NSL follows:

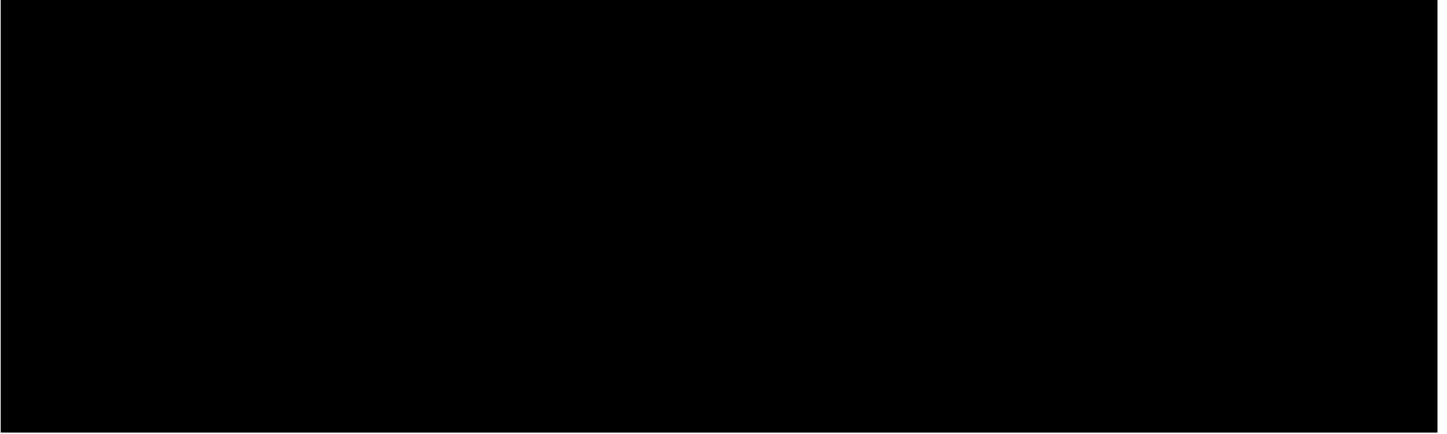
1. The case agent submits a draft NSL along with the supporting documentation to the appropriate NCIS desk officer (CI or CT). In many cases, these investigations have already been identified as Special Interest or Director Special Interest cases. Because of this status, HQ NCIS desk officers and the legal unit are intimately familiar with the case.
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the NCIS NSLU for a legal review.
3. The NSLU attorney reviews the documentation to ensure all criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to senior officials at NCIS headquarters for final review and signature. The total number of headquarters officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted (usually electronically), to assure the recipient is appropriately sensitized to both investigative and privacy considerations.

Process Time: The turn-around time from the initial request to the time HQ NCIS transmits the letter is usually within twenty-four hours.

Approval Authorities: The NCIS Director, NCIS Deputy Directors, and Executive Assistant Directors for CI and CT have approval authority for all three statutes that pertain to DoD. The

Approval Authorities: The NCIS Director, NCIS Deputy Directors, and Executive Assistant Directors for CI and CT have approval authority for all three statutes that pertain to DoD. The Deputy Assistant Directors for CI and CT may sign letters pursuant to 12 USC § 3414 and 15 USC § 1681v.

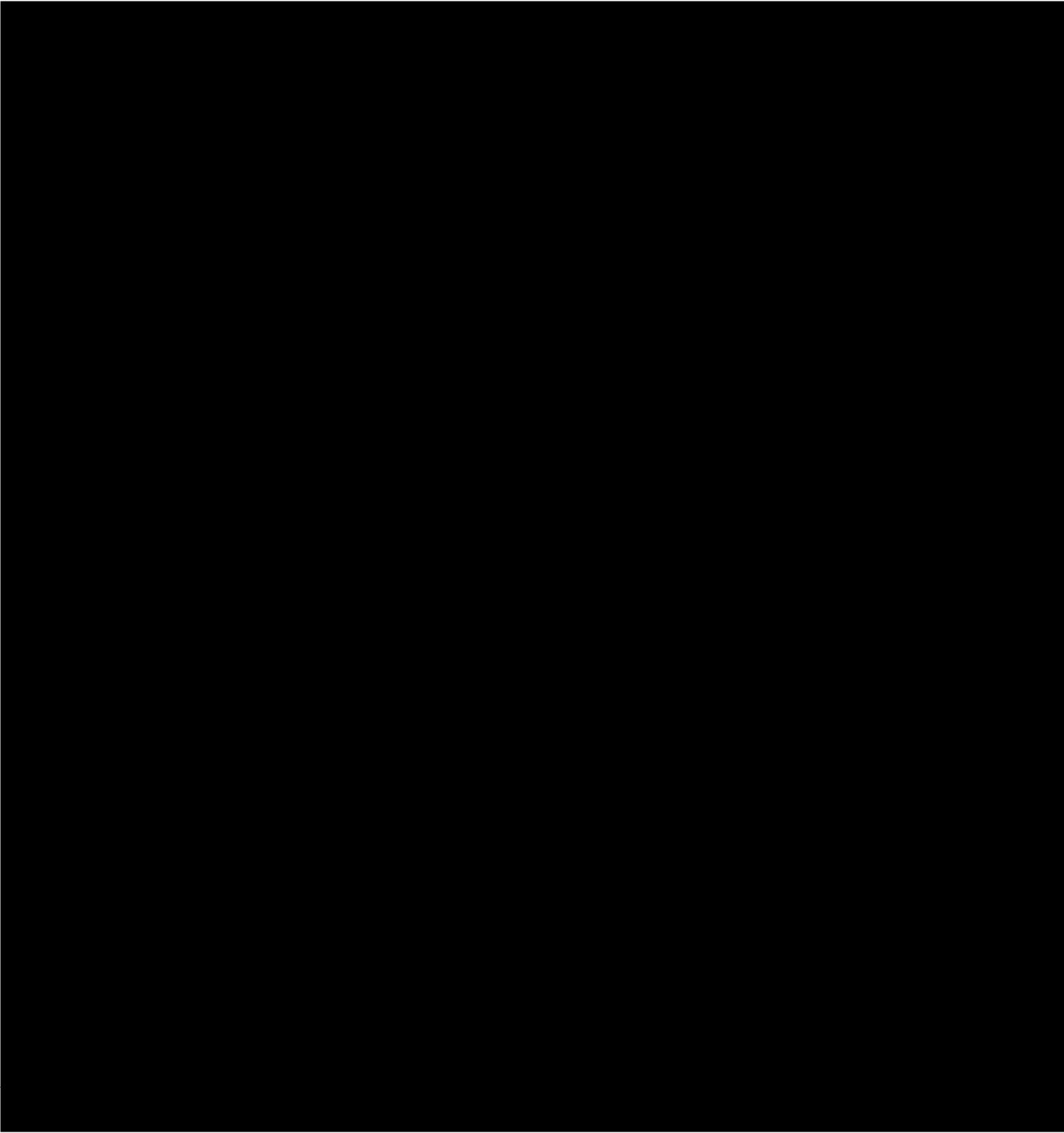
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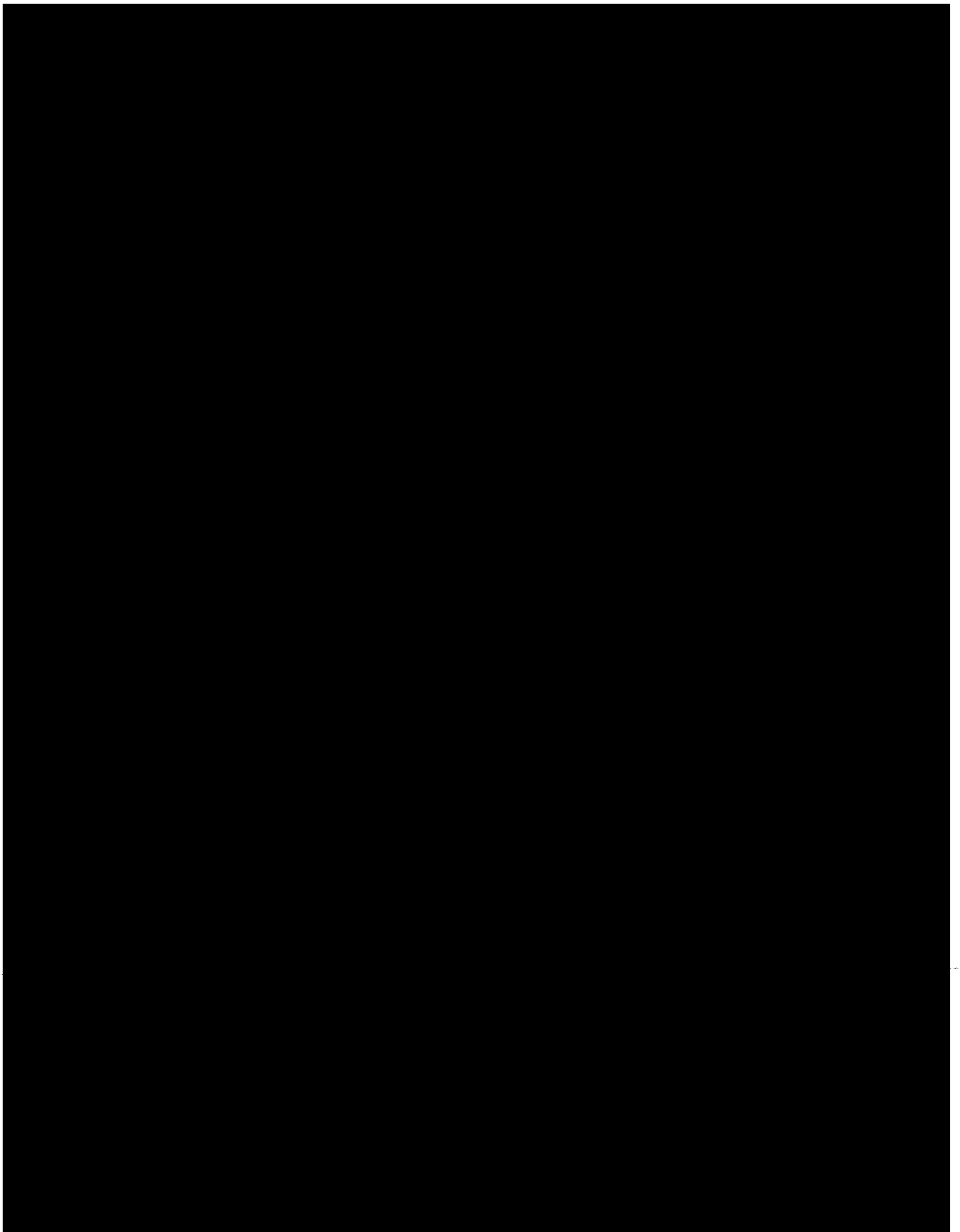


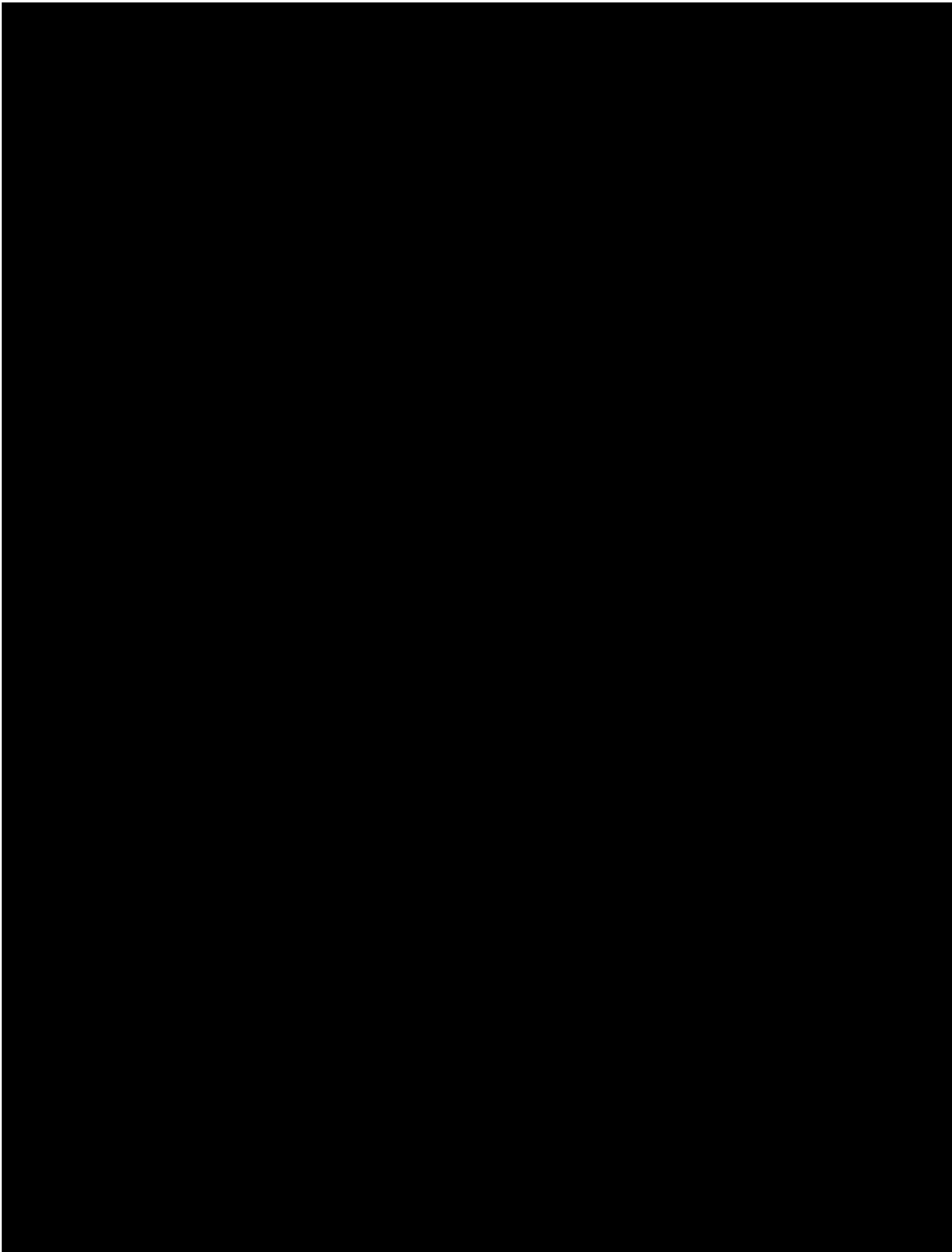
TRAINING

Within DoD, each of the services have several opportunities where training on the use of NSLs could be addressed. New agents to AFOSI and NCIS receive basic law enforcement training at the Federal Law Enforcement Training Center in Georgia. After the basic course each service has a supplemental counterintelligence course that all agents are required to attend. Army MI agents attend their basic CI training at the United States Army Intelligence Center and School, Fort Huachuca, AZ. Each service reviewed their respective programs of instruction for basic courses and verified new agents do not receive NSL specific training.

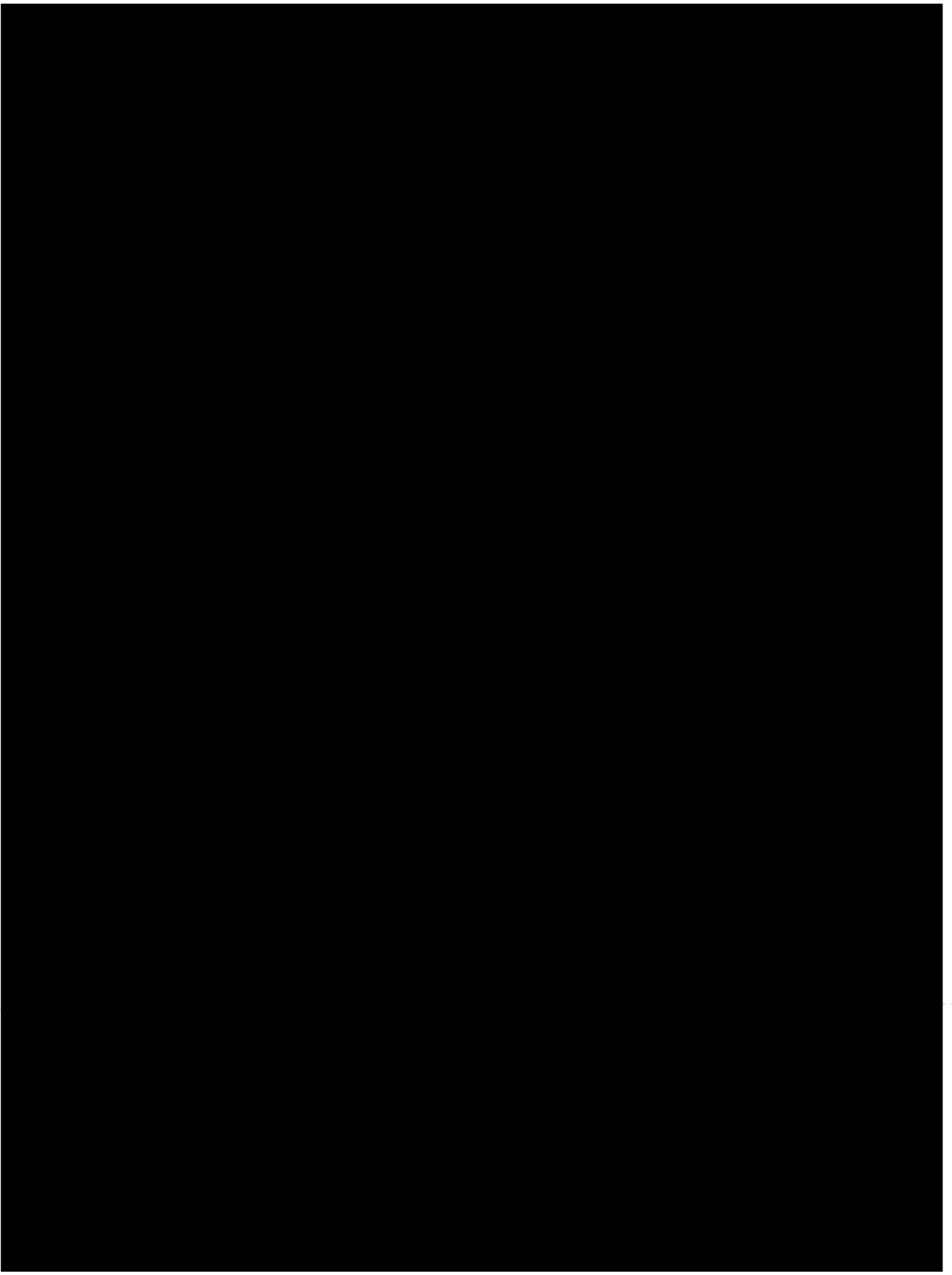
CI and CT agents are also able to attend advanced courses and seminars at the Joint Counterintelligence Training Academy in Elkridge, MD. There are two main courses where NSL specific training would prove advantageous for service investigators. They are the Joint Terrorism Task Force Seminar and the National Securities Investigation Course. Another course that would benefit Defense Agency personnel is the DoD CI Agent Certification Course. Officials at JCITA reviewed the programs of instruction for each of the listed courses and verified NSL specific training is not provided as part of the current curriculum. However, JCITA did advise NSLs are addressed in the law blocks of instruction which are presented at the National Securities Investigation Course and DoD CI Agent Certification Course. The statutes are usually addressed by the lawyers teaching the respective blocks of instruction which in turn generates additional dialog.













ENCLOSURE 2

DoDI 5400.15, December 2, 2004

E15. ENCLOSURE 15

FORMAT FOR CERTIFICATE OF COMPLIANCE WITH
THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

[Official Letterhead]

[Date]

Mr./Mrs. XXXXXXXXXXXX
Manager
Army Federal Credit Union
Fort Anywhere, VA 00000-0000

Dear Mr./Mrs. XXXXXXXXXXXX

I certify, pursuant to section 3403(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et. seq., that the applicable provisions of that statute have been complied with as to the [Customer's authorization, administrative subpoena or summons, search warrant, judicial subpoena, formal written request, emergency access, as applicable] presented on [date], for the following financial records of [customer's name]:

[Describe the specific records]

Pursuant to section 3417(c) of the Right to Financial Privacy Act of 1978, good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records.

[Official Signature Block]

ENCLOSURE 3

12 U.S.C. 3414

(a)(1) Nothing in this chapter (except sections 3415, 3417, 3418, and 3421 of this title) shall apply to the production and disclosure of financial records pursuant to requests from:

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities;

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90-331, as amended); or

(C) a Government authority authorized to conduct investigations of, or intelligence or counterintelligence analyses related to, international terrorism for the purpose of conducting such investigations or analyses.

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 3403(b) of this title signed by a supervisory official of a rank designated by the head of the Government authority.

15 U.S.C. 1681v.

(a) Disclosure

Notwithstanding section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct or such investigation, activity or analysis.

(b) Form of certification

The certification described in subsection (a) shall be signed by a supervisory official designated by the head of a Federal agency or an officer of a Federal agency whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate.

(c) Confidentiality

50 U.S.C. 436.

(a) Generally

(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where —

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request —

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that —

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

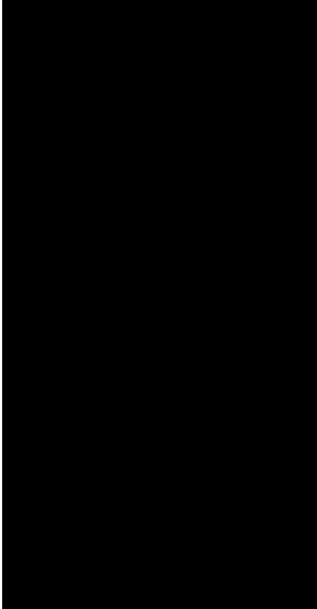
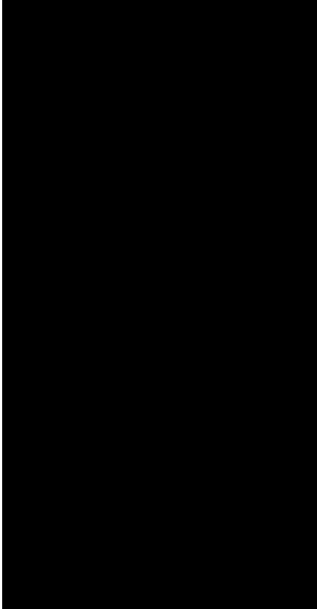
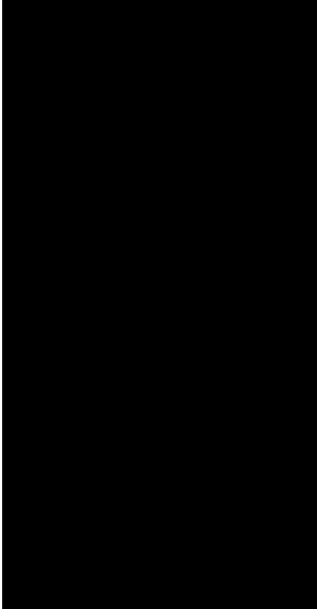
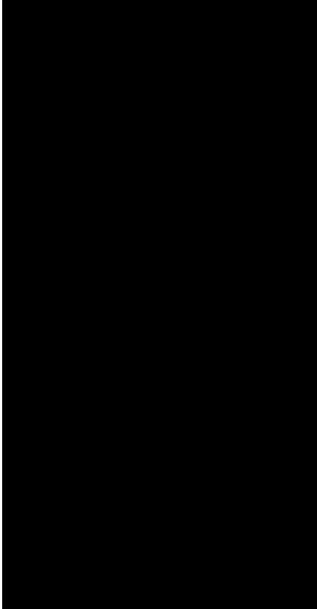
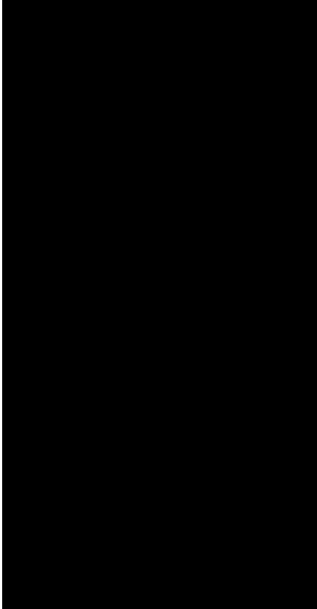
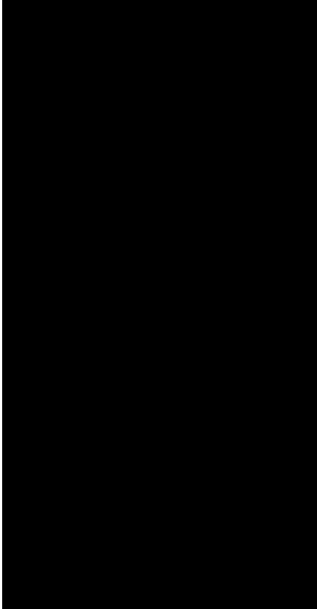
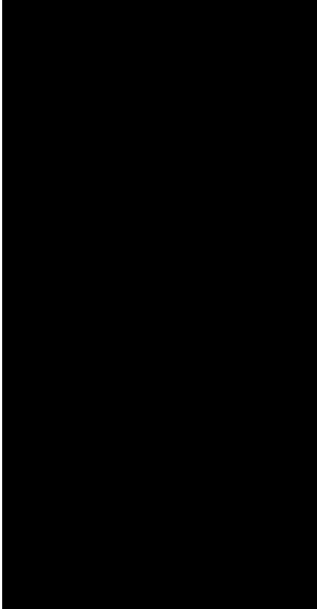
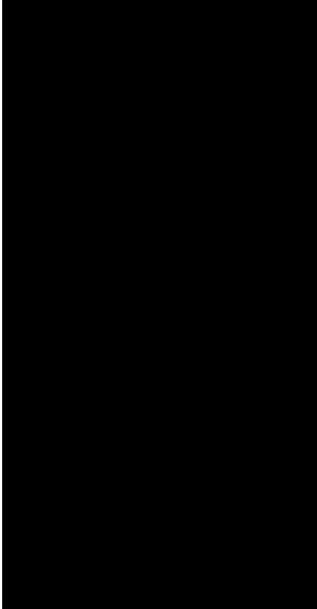
(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

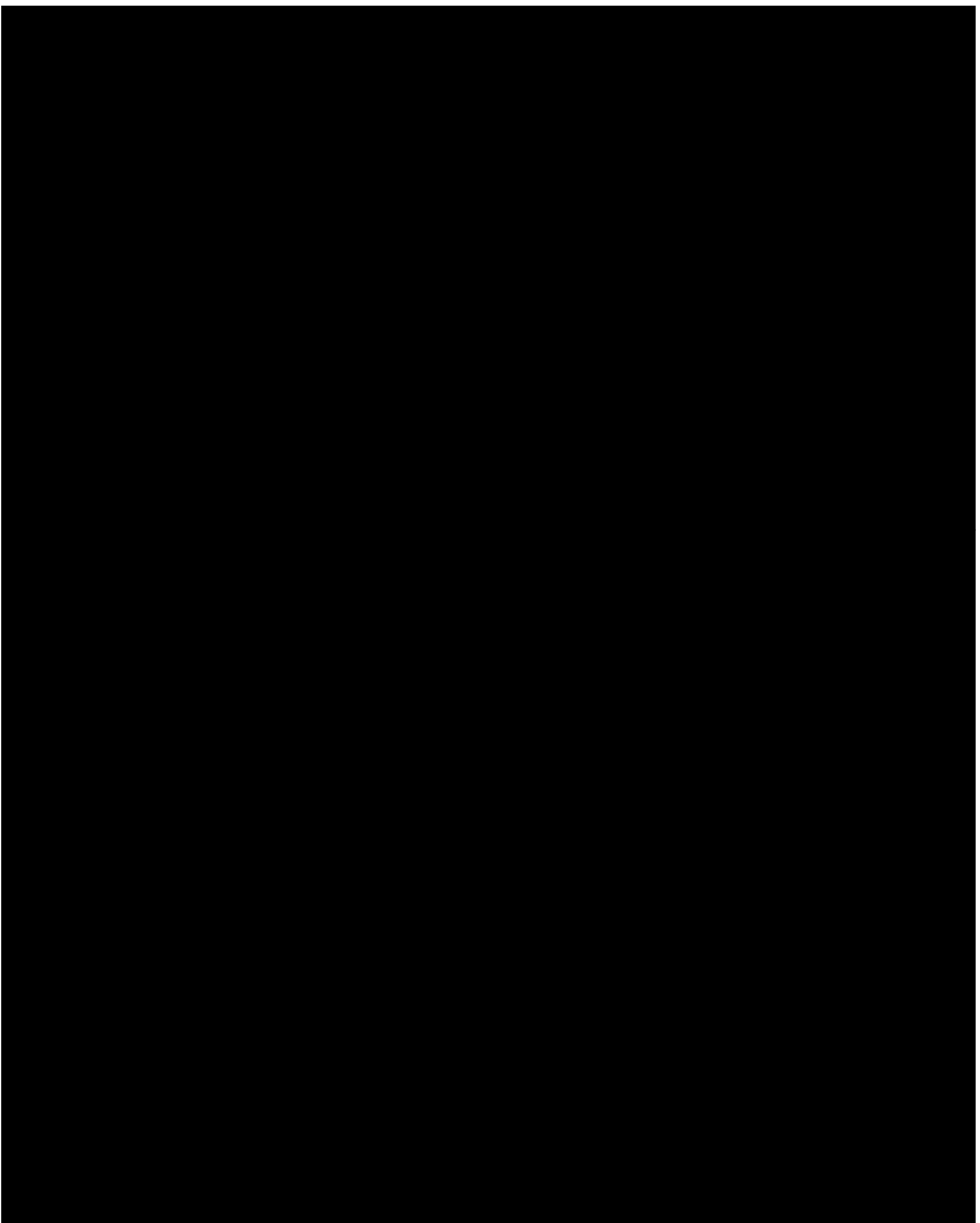
(B) shall contain a copy of the agreement referred to in subparagraph
(A)(iii);

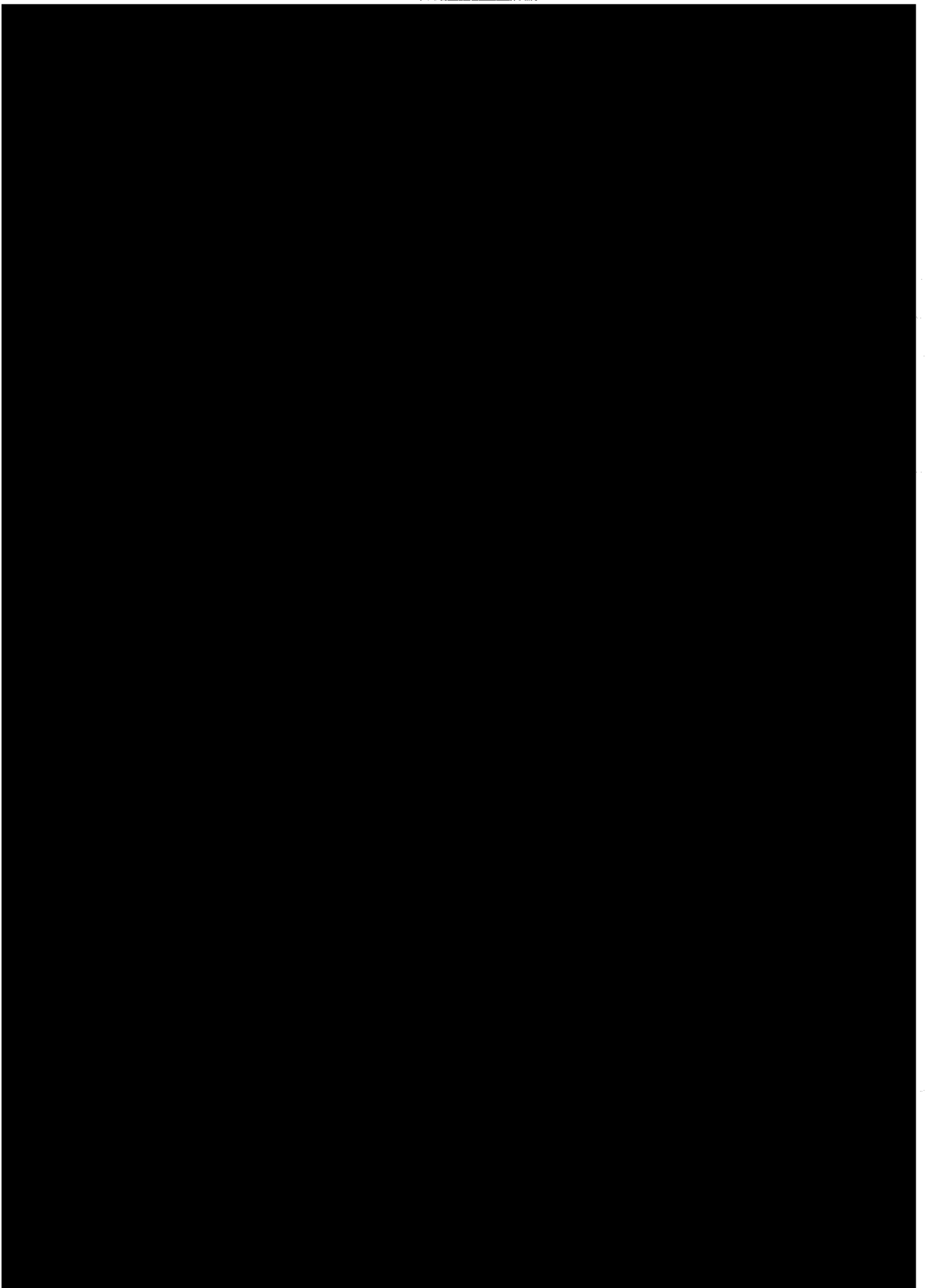
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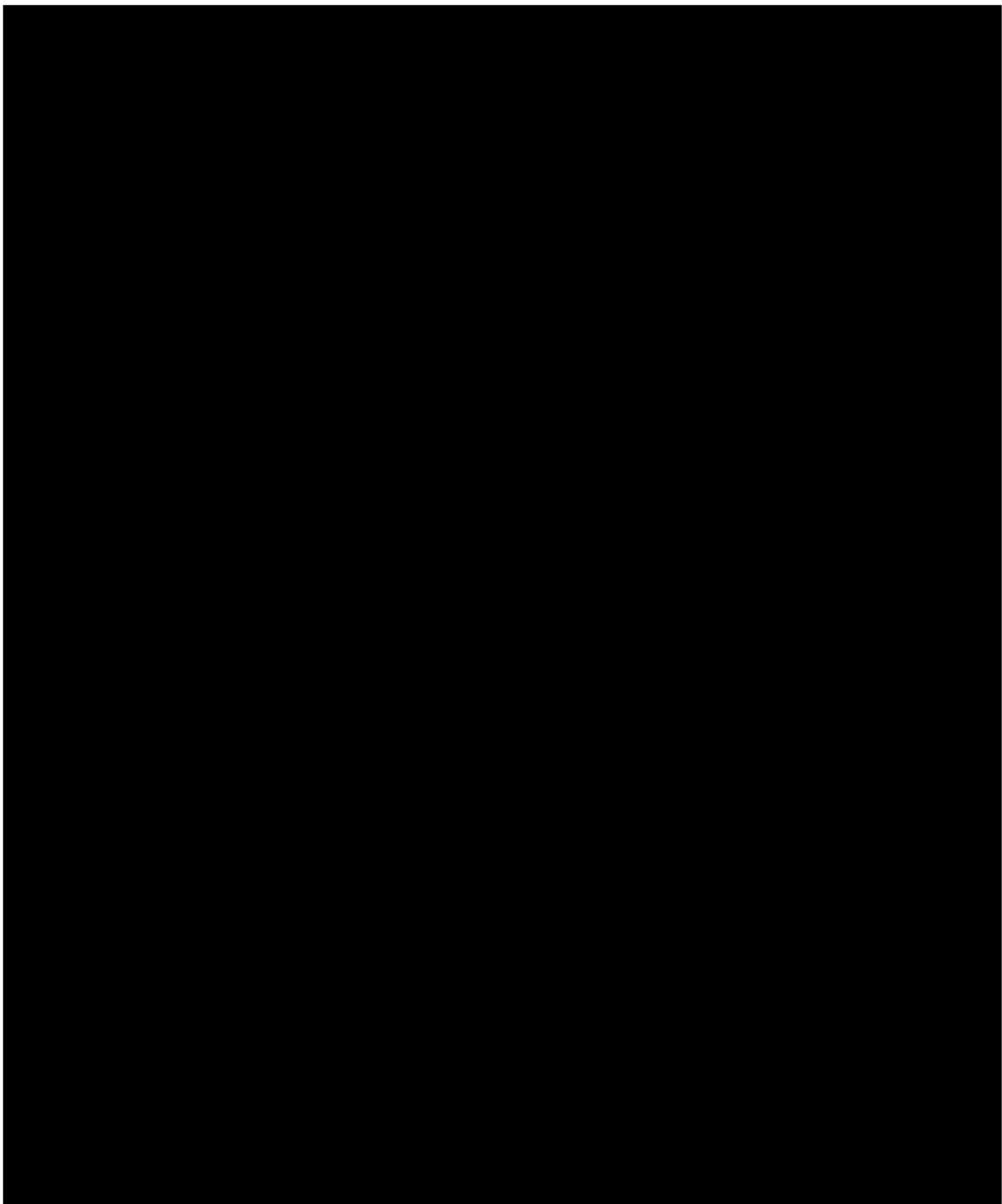
COORDINATION

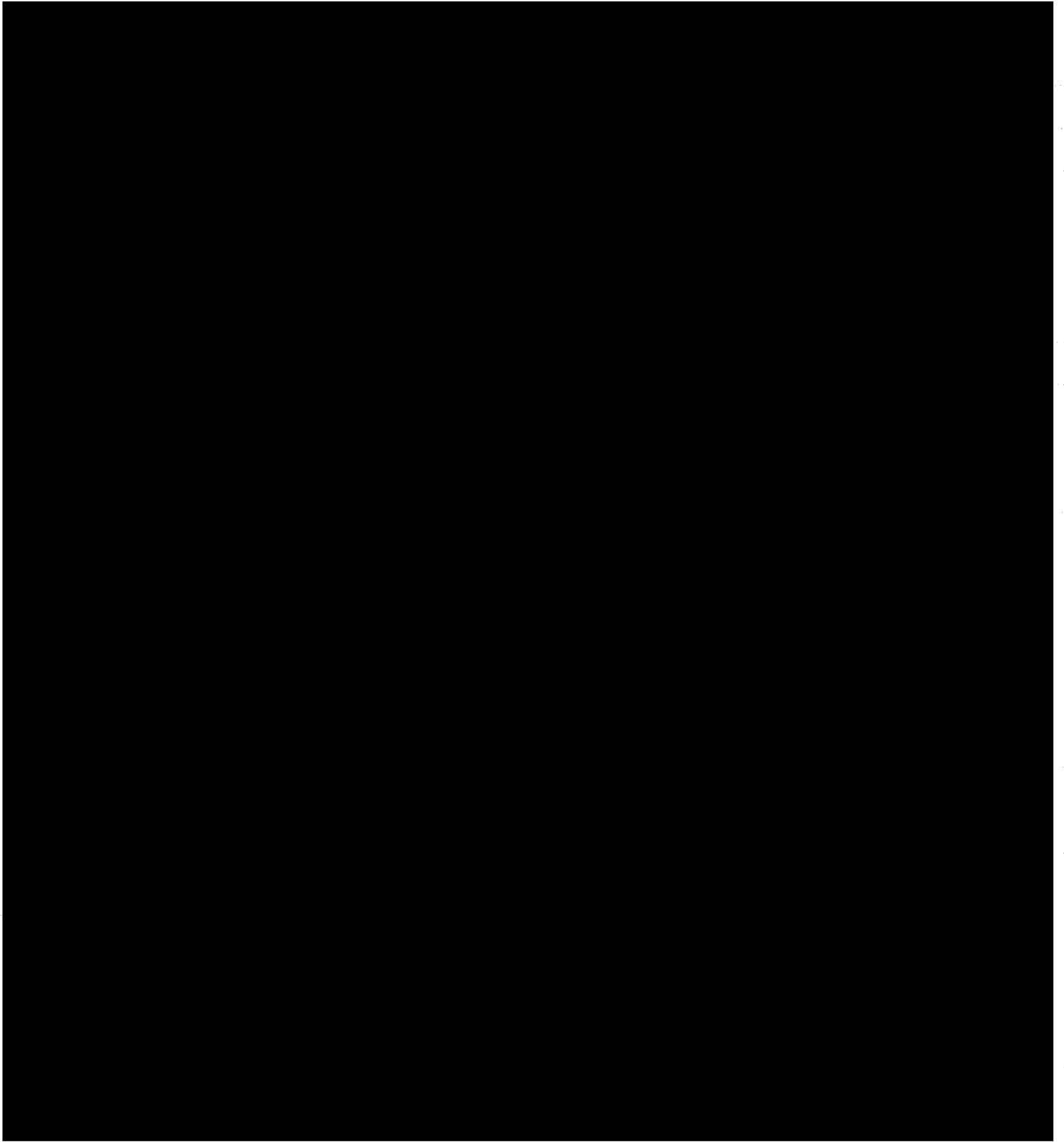
DUSD (CI&S)		January 30, 2007
OSD (OGC)		February 1, 2007
OUA(I) Congressional Affairs		February 1, 2007
NCIS-NSLU		February 5, 2007
Army G2-A2X		February 6, 2007
HQ AFOSI/XOQ		February 6, 2007
HQ AFOSI-Legal		February 6, 2007
JCITA		February 7, 2007

11-11-11









US Bank
~~Custodian of Records~~
800 Main Street
Minneapolis, MN 55402
Fax (xxx) xxx-xxxx

Dear Custodian of Records:

Pursuant to Executive Order 12333 and the Right to Financial Privacy Act (Act), 12 United States Code §§3401, et seq., you are requested to provide the Naval Criminal Investigative Service with the name, address and financial records pertaining to the customer or accounts listed below:

Customer Name: if available

Address: if available

Date of birth: if available

Social Security: if available

Account numbers: if available

Requested period: if applicable (you may be required to pay for the records/search)

Pursuant to Section 3403(b) of the Act, I certify that NCIS has complied with the Special Procedures Provision contained in Section 3414. In accordance with Section 3417(c), your good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these records.

Please note that disclosing this request to the customer or others without a need to know in order to process this request may result in danger to the national security of the United States and interference with a counterterrorism or counterintelligence investigation. Accordingly, your company or its officers, employees, or agents are prohibited from disclosing to the customer that these records have been sought or obtained.

As a result of the sensitive nature of this request, please contact NCIS Special Agent _____ at (xxx) xxx-xxxx to make arrangements to provide the records. Thank you for your cooperation in this matter.

Sincerely,

Director, DD, AD for CI, AD for
CT, or DAD for CI, or DAD for CT

NCIS PROCESS FOR USE OF NSLS

NCIS exercises its authority to issue National Security Letters (NSLs) under three statutes: The Right to Financial Privacy Act, or RFPA (12 USC 3414, authority dating to 1978), which may be exercised in counterintelligence (including counterterrorism) investigations; the Fair Credit Reporting Act, or FCRA (15 USC 1681v, authority dating to 2001), which may be exercised in support of counterterrorism investigations, activities, or analysis; and the National Security Act (50 USC 436, authority dating to 1994) that authorizes government investigative agencies to request - as part of an authorized law enforcement investigation, counterintelligence inquiry, or security determination - certain financial, consumer reporting, and commercial information pertaining to government personnel for which they have investigative responsibility and who meet certain criteria, including recent access to classified information. NCIS exercises these authorities only in certain circumstances: (1) In those cases in which the agency has primary jurisdiction; (2) In those cases in which the FBI has deferred primary jurisdiction to NCIS; or (3) In those cases in which the FBI asks NCIS to issue such an NSL in furtherance of a joint NCIS-FBI investigation.

The NCIS process for issuing an NSL under each of the applicable statutes is as follows:

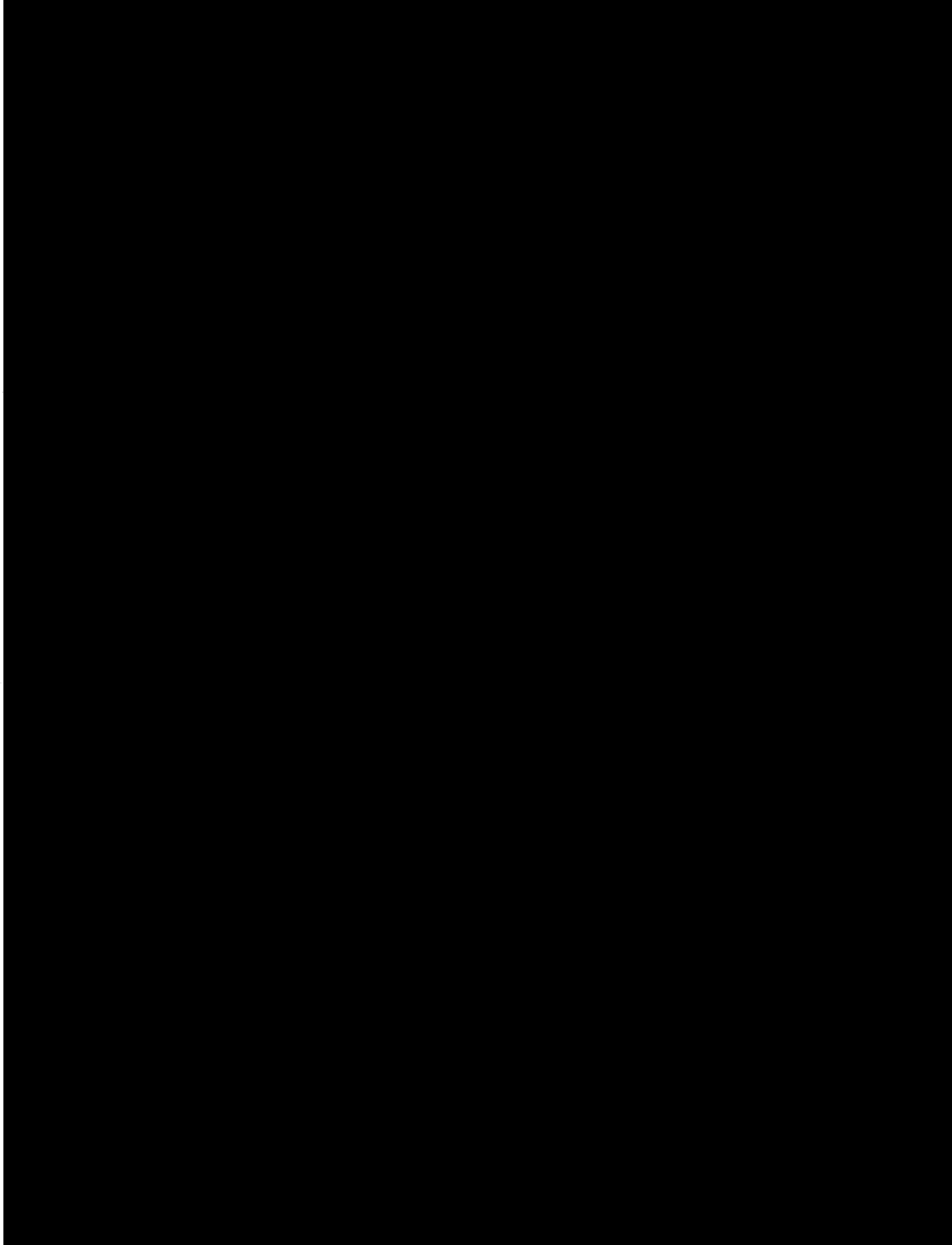
1. The case agent submits a draft NSL, along with the supporting documentation, to the appropriate NCIS desk officer (CI or CT).
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the NCIS National Security Law Unit (NSLU) for a legal review.
3. The NSLU attorney reviews the documentation to ensure that all the criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to one of a small number of senior officials at NCIS headquarters for final review and signature. The total number of headquarters officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked, but in no case exceeds seven.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted, in order to assure that the recipient is appropriately sensitized to both investigative and privacy considerations.

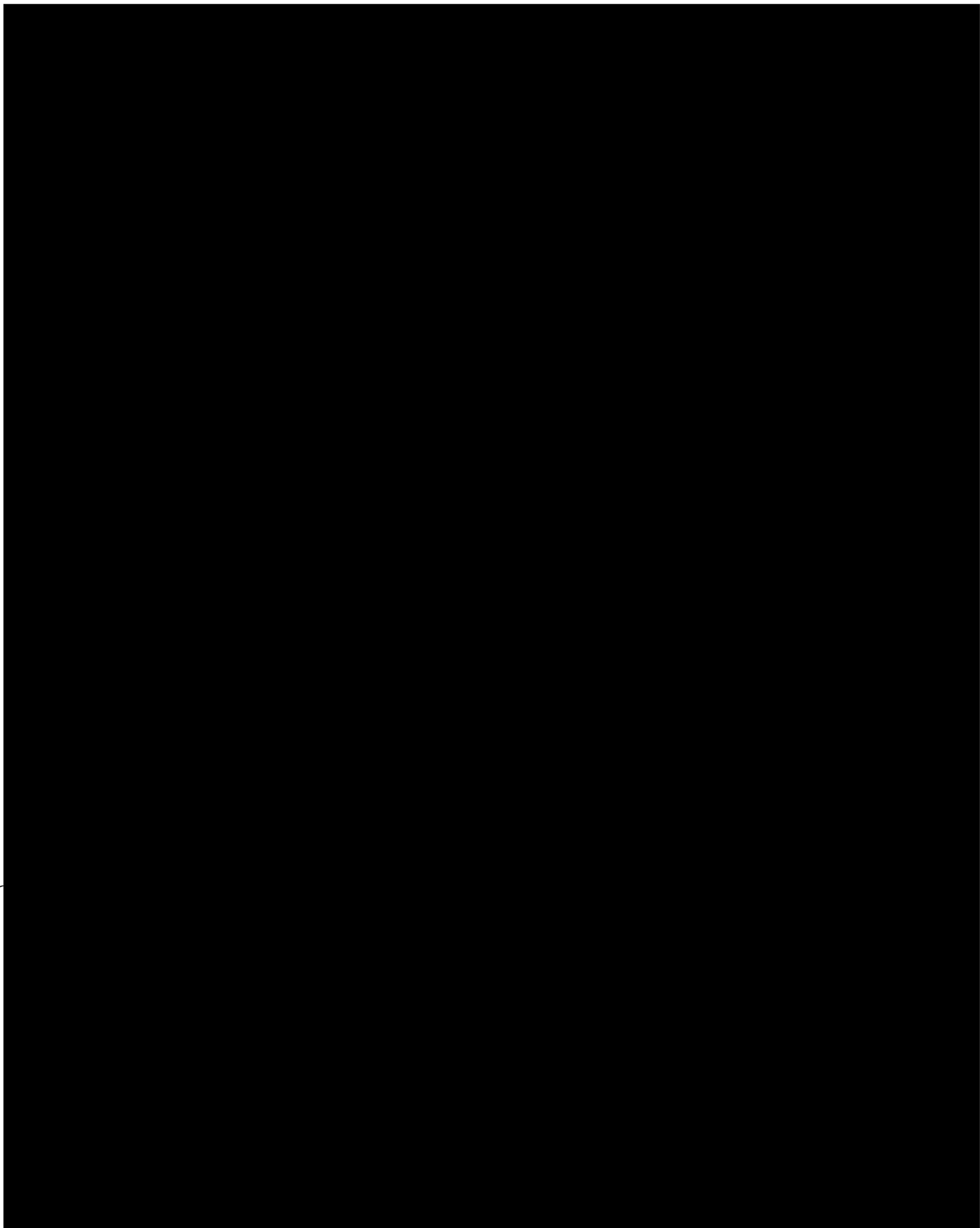
NCIS Process for Use of National Security Letters

The NCIS process for issuing an NSL under each of the applicable statutes is as follows:

1. The case agent submits a draft NSL along with the supporting documentation to the appropriate NCIS desk officer (CI or CT). In most cases, these investigations have already been identified as Special Interest or Director Special Interest cases. Because of this status the HQ NCIS desk officers and the legal unit are intimately familiar with the case.
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the NCIS National Security Law Unit (NSLU) for a legal review.
3. The NSLU attorney reviews the documentation to ensure all criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to senior officials at NCIS headquarters for final review and signature. The total number of headquarters officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted (usually electronically), to assure the recipient is appropriately sensitized to both investigative and privacy considerations.

The turn-around time from the initial request to the time HQ NCIS transmits the letter is usually within twenty-four hours.





Army CI Investigative Handbook (final draft) Financial Checks Exerpt

15-10 Financial Checks

a. Legal and Regulatory Framework. The right to privacy extends to the financial aspects of a person's life. Because the U.S. financial system is complex and consists of several different types of institutions each covered by different laws and regulations; it will come as no surprise that there are also several portions of the USC that government's ability to access those records. In the following paragraphs the major relevant portions of the USC are identified and discussed with an emphasis on the authorities, exceptions and procedures that allow CI agents to access them.

(1) Fair Credit Reporting Act (15 USC 1681). The Fair Credit Reporting Act was passed to ensure the privacy, as well as the fair and accurate reporting of consumer credit information for a multitude of purposes including employment and credit worthiness. The act significantly restricts the ability of the government to perform un-consented checks of consumer reporting agency records (AKA credit reporting services). Generally, these records can be obtained only with consent or by a warrant, judicial or administrative subpoena or other court order.

(a) Exception for Identifying Data. A general exemption (15 USC 1681f) allows all governmental agencies (including Army CI) access to limited identification information. Upon the presentation of a formal written request, consumer reporting agencies will provide, name and address, former addresses, places of employment and former places of employment for named consumers. This limited authority can be used for all authorized investigative and operational purposes. (LINK to template of Request)

(b) FBI CI Exception. The original act provided the FBI a specific exception for disclosures for CI purposes (15 USC 1681u). A similar general exception for military CI services does not exist. However, the FBI exception specifically authorized the FBI to disseminate results of their checks to appropriate investigative authorities within the military as may be necessary for the conduct of a joint foreign CI investigation. Additionally, it authorizes the FBI to provide information to the military for SUBJECTs who fall under the UCMJ.

(c) Exception for International Terrorism. The PATRIOT Act added a broader exception for international terrorism (15 USC 1681v), which allows **any government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism** to conduct un-consented checks of these records. Army CI may utilize this exception. A formal written request certifying compliance with the code is required. (LINK to Consumer Reporting Services Template)

(2) Right to Financial Privacy Act of 1978 (12 USC 3401-3422). The Right to Financial Privacy Act is the primary source of financial privacy rights and governs a broad spectrum of records across a wide variety of financial institutions. Government access to records

Army CI Investigative Handbook (final draft) Financial Checks Exerpt

of financial institutions may be obtained through consent, search warrant, administrative or judicial subpoena, court order or formal written request.

(a) FCI and Terrorism Exceptions. Specific exceptions exist for FCI and international terrorism (15 USC 3414(a)(1)(a) and (c) respectively). These exceptions apply to any government authority authorized to conduct foreign counterintelligence, positive intelligence or international terrorism activities. They allow un-consented checks of financial institution records upon presentation of an appropriately signed formal written request certifying compliance with the act. (LINK to template)

(b) Definition of Financial Institution. The definition of financial institution for the purposes of the exceptions outline above is broader than for the rest of the act (see 15 USC 3414(d)). The following are defined as financial institutions IAW 31 USC 5312(a)(2) and (c)(1).

- (A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (h)));
- (B) a commercial bank or trust company;
- (C) a private banker;
- (D) an agency or branch of a foreign bank in the United States;
- (E) any credit union;
- (F) a thrift institution;
- (G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);
- (H) a broker or dealer in securities or commodities;
- (I) an investment banker or investment company;
- (J) a currency exchange;
- (K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;
- (L) an operator of a credit card system;
- (M) an insurance company;
- (N) a dealer in precious metals, stones, or jewels;
- (O) a pawnbroker;
- (P) a loan or finance company;
- (Q) a travel agency;
- (R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;
- (S) a telegraph company;
- (T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;
- (U) persons involved in real estate closings and settlements;
- (V) the United States Postal Service;
- (W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;
- (X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—
 - (i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

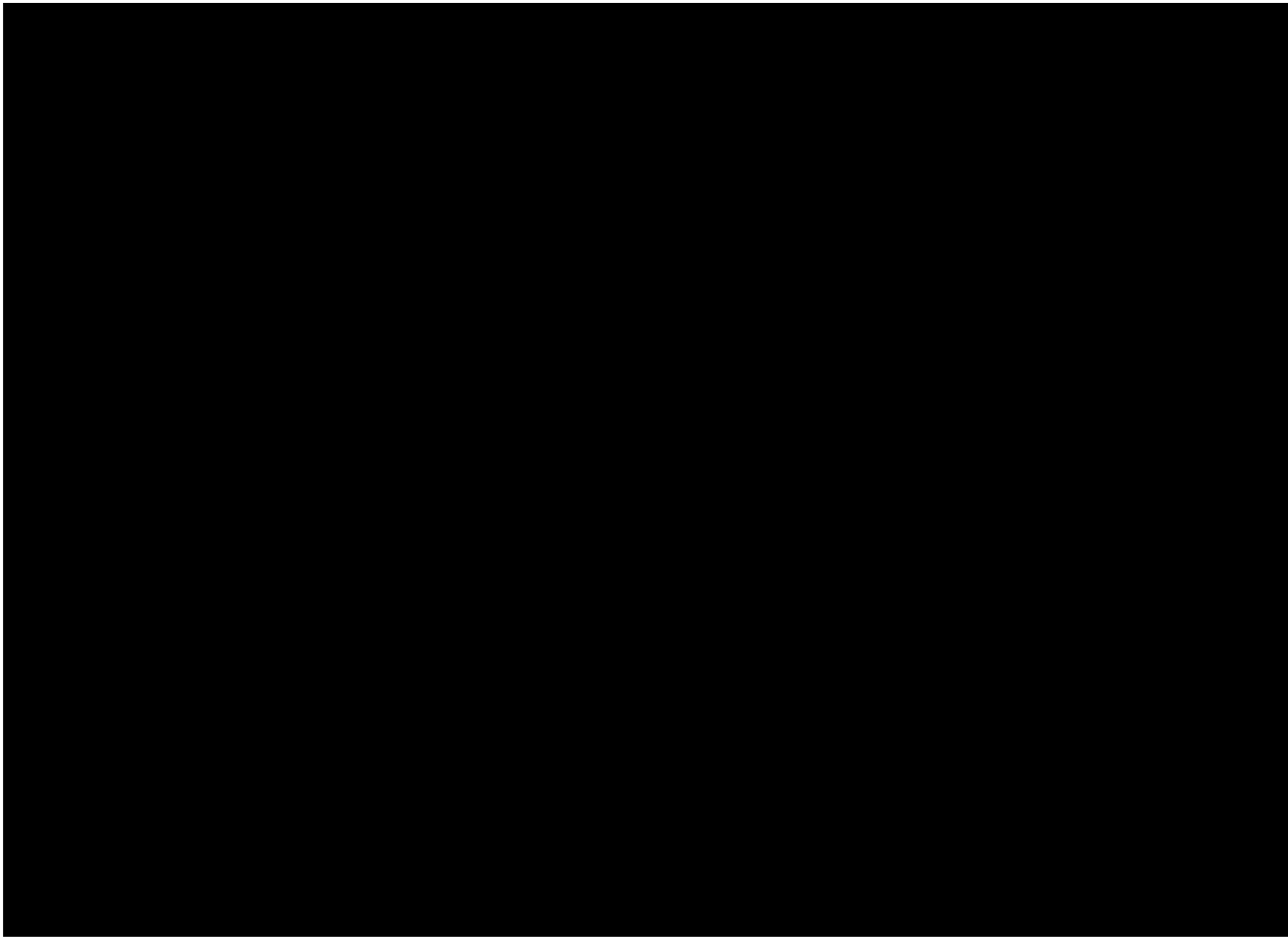
Army CI Investigative Handbook (final draft)
Financial Checks Exerpt

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

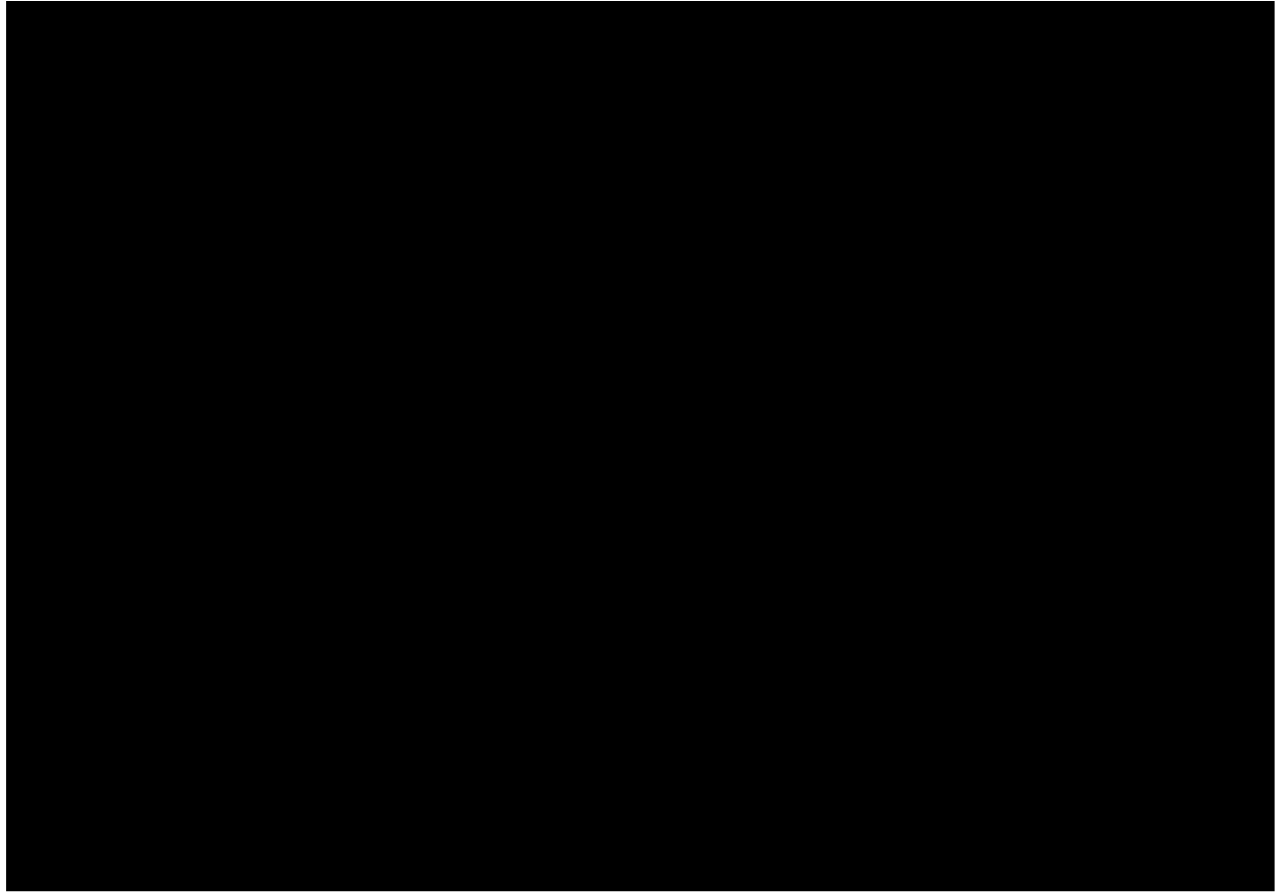
(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(c) Army Implementation Guidance. AR 190-6, Obtaining Information from Financial Institutions, dated 15 January 1982, implements DODD 2400.12 and the Right to Financial Privacy Act of 1978 (12 USC 3401 *et seq*). It provides additional guidance on obtaining information from financial institutions by consent, search warrant, judicial subpoena, and formal written request. Generic sample templates for each type of request are provided. A specific exception for Foreign Intelligence and Foreign Counterintelligence may be found at para 2-10. This paragraph also delegates signature authority for certificates of compliance with 12 USC 3414(a)(3) to Military Intelligence Group Commanders, investigative control office, CG (or DCG) INSCOM.



Army CI Investigative Handbook (final draft)
Financial Checks Exerpt



c. Financial Crimes Information Network (FINCEN) Checks. FINCEN checks are considered a NAC, therefore ACCO will coordinate all FINCEN checks. This is the only authorized channel for FINCEN queries. The following information must be provided to ACCO for each request: ACCO CCN; Full name, any/all AKA, relationship in case (subject/witness); Address and phone number; DPOB; SSAN; Race/ethnicity; Sex; Height/weight; Color of eyes and hair; Other identifying data if available, such as passport number; Financial institution(s) known to be utilized; If joint/bilateral case, list other agencies involved. Specify what type of product you desire from FINCEN e.g. analytical reports and/or data base extracts.

[REDACTED]

Subject:

FW: NSLs and the SASC (U)

-----Original Message-----

From: [REDACTED]

Sent: Friday, February 02, 2007 3:38 PM

[REDACTED]

Subject: RE: NSLs and the SASC (U)

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Friday, February 02, 2007 10:00 AM

Subject: FW: NSLs and the SASC (U)

UNCLASSIFIED

V/R,
[REDACTED]

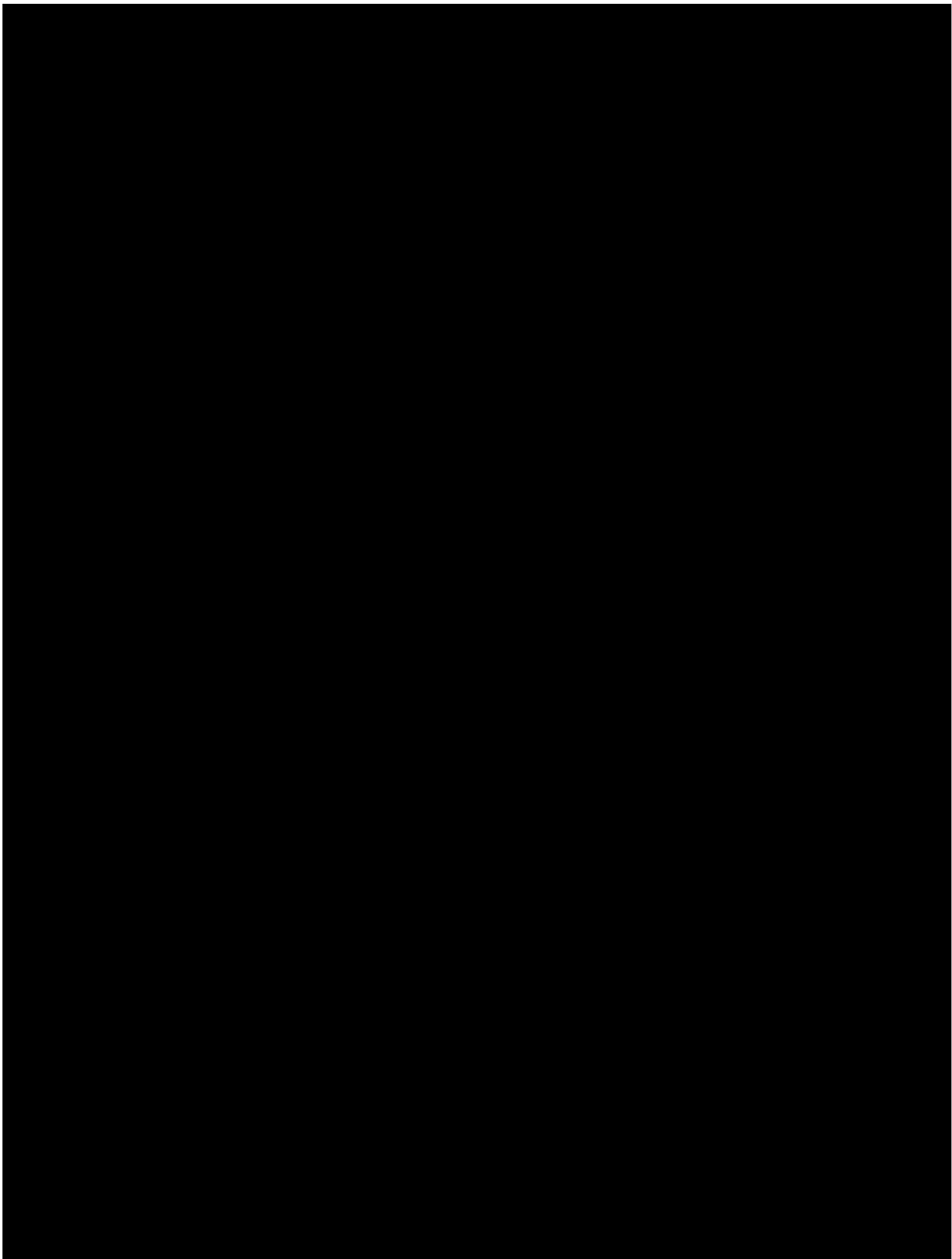
-----Original Message-----

From: [REDACTED]

Sent: Tuesday, January 30, 2007 5:12 PM

To: [REDACTED]

Subject: FW: NSLs and the SASC (U)



[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Friday, January 26, 2007 8:59 AM

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: NSLs and the SASC (U)

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Friday, January 26, 2007 8:46 AM

[REDACTED]

Subject: NSLs and the SASC (U)

Classification: UNCLASSIFIED

[REDACTED]

[REDACTED]

Please contact [REDACTED] if you have any questions.

Regards,

[REDACTED]

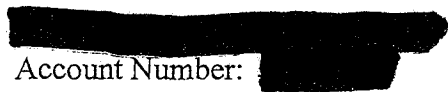


DEPARTMENT OF THE ARMY
UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND
HEADQUARTERS, 902D MILITARY INTELLIGENCE GROUP
FORT GEORGE G. MEADE, MARYLAND 20755-5910



To Whom It May Concern,

Under the provisions of the Right to Financial Privacy Act of 1978 (hereinafter the ACT), Title 12, U.S.C. 3401 *et seq.*, the Department of the Army requests that your institution provide financial and credit information, to include any record information, concerning the individual identified below.



Account Number:

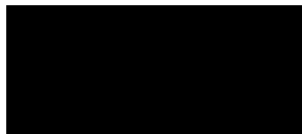
This letter certifies that the Department of the Army has complied with the applicable provisions of the Act. Title 12, U.S.C. 3417 (c) specifies that good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records. The authorization to endorse this certificate has been delegated to me by the Secretary of the Army, contained in paragraph 2-10b(1), U.S. Army Regulation 190-6, Obtaining Information From Financial Institutions.

Title 12, U.S.C. 3414 (a) (3) prohibits your institution, employees, or agents of your institution from disclosing to any person that we have sought or obtained access to a customer's financial records.

In accordance with Title 12, U.S.C. 3415, we will reimburse your institution for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be reproduced.

Thank you for your cooperation and assistance given to the Department of the Army, this command, and the Special Agent who presented this certificate.

Sincerely,



On 25 January 2007, the Deputy Under Secretary of Defense, Counterintelligence and Security, tasked the Counterintelligence Field Activity to conduct a Program Review concerning service policy and procedures on the use of National Security Letters and NSL-Type Letters. This Executive Summary outlines the results of that review.

The process to obtain an NSL or Bank Record checks varies by service.

All three services advised they have regulations or instructions that cite their authority to issue NSL's or NSL-Type Letters (Bank Letters).

NCIS	General Administrative Order 00-JTAC-0002
AFOSI	[REDACTED]
Army MI	Army Regulation 381-20
	Army Regulation 190-6

[REDACTED]

NCIS views NSL's as an investigative tool which should produce addition leads or help verify information during the course of an investigation. NCIS has steadily increased their use of NSL' over the last four years and they intend to expand their use through increased awareness training and HQ NCIS oversight of Special Interest or Director Special Interest Investigations. NCIS exercises its authority to issue National Security Letters (NSLs) under three statutes:

1. The Right to Financial Privacy Act, or RFPA (12 USC 3414, authority dating to 1978), which may be exercised in counterintelligence (including counterterrorism) investigations.
2. The Fair Credit Reporting Act, or FCRA (15 USC 1681v, authority dating to 2001), which may be exercised in support of counterterrorism investigations, activities, or analysis.
3. The National Security Act (50 USC 436, authority dating to 1994) that authorizes government investigative agencies to request as part of an authorized law enforcement investigation, counterintelligence inquiry, or security determination; certain financial, consumer reporting, and commercial information. The request must pertain to government personnel for which NCIS has investigative responsibility and who meet certain criteria, including recent access to classified information.

NCIS exercises these authorities only in certain circumstances:

1. Cases in which the NCIS has primary jurisdiction.
2. Cases in which the FBI has deferred primary jurisdiction to NCIS.
3. Cases in which the FBI asks NCIS to issue such an NSL in furtherance of a joint NCIS/FBI investigation.

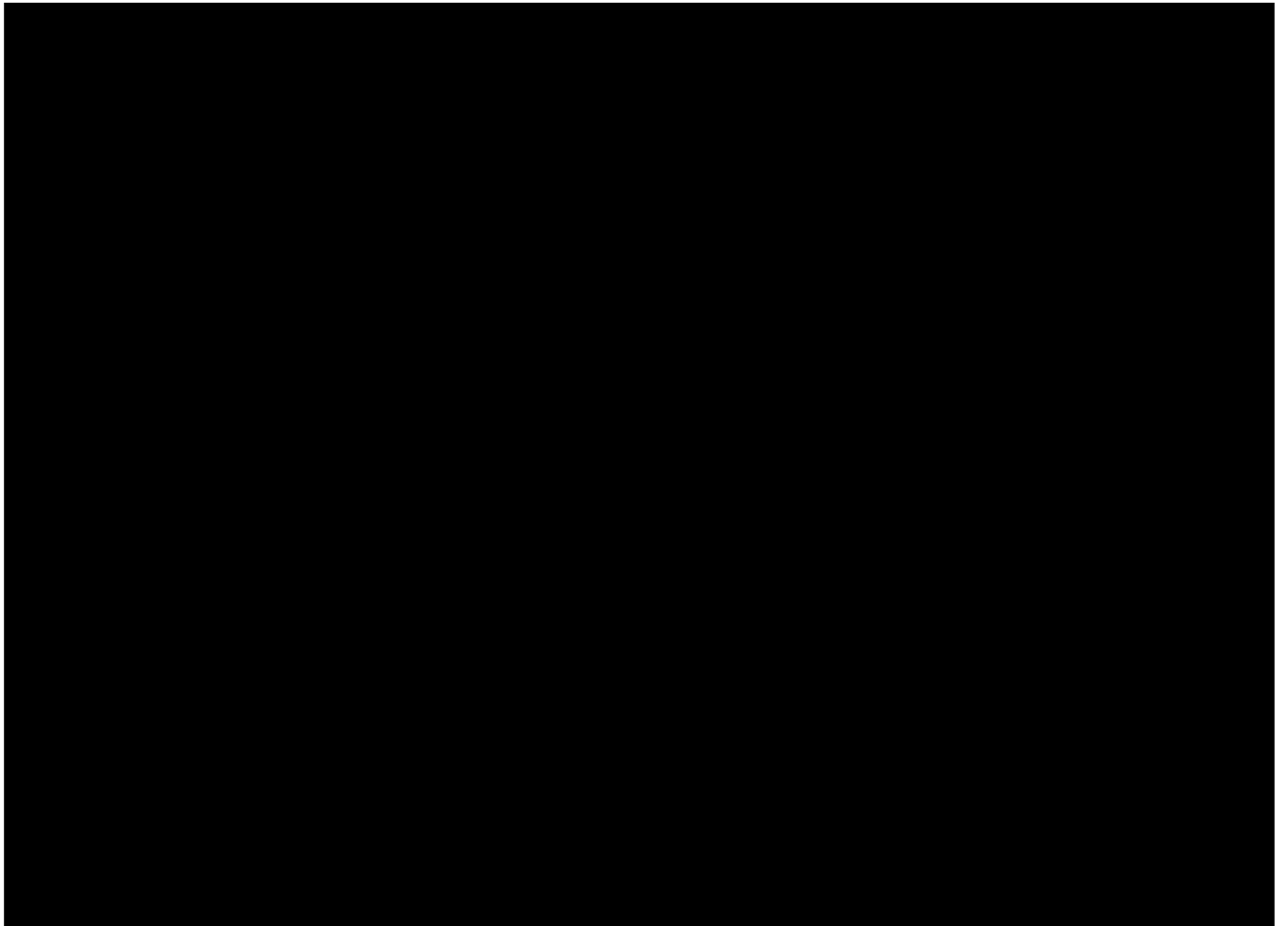
Army CI Investigative Handbook (final draft)
Financial Checks Exerpt

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

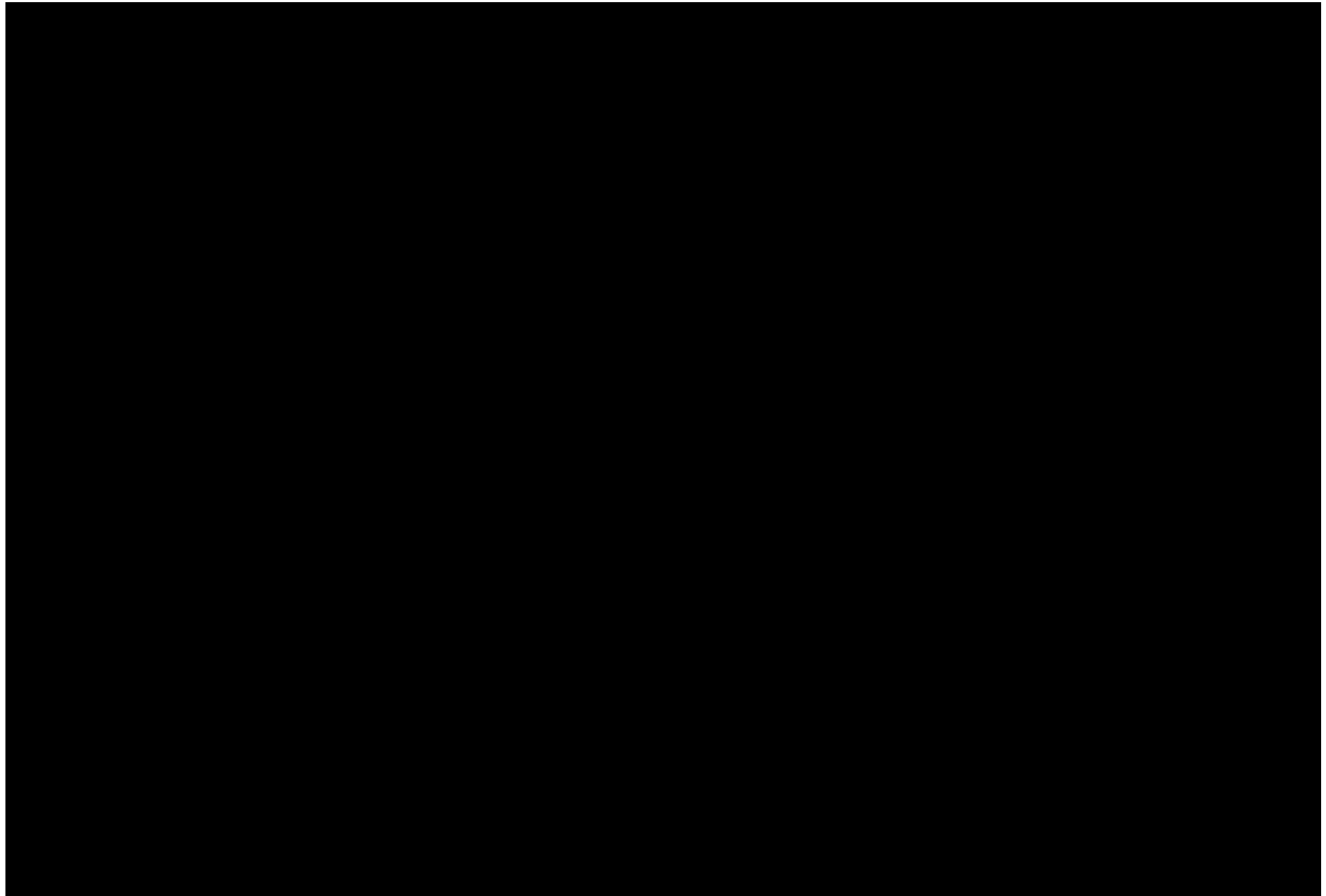
(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(c) Army Implementation Guidance. AR 190-6, Obtaining Information from Financial Institutions, dated 15 January 1982, implements DODD 2400.12 and the Right to Financial Privacy Act of 1978 (12 USC 3401 *et seq*). It provides additional guidance on obtaining information from financial institutions by consent, search warrant, judicial subpoena, and formal written request. Generic sample templates for each type of request are provided. A specific exception for Foreign Intelligence and Foreign Counterintelligence may be found at para 2-10. This paragraph also delegates signature authority for certificates of compliance with 12 USC 3414(a)(3) to Military Intelligence Group Commanders, investigative control office, CG (or DCG) INSCOM.



Army CI Investigative Handbook (final draft)
Financial Checks Exerpt



c. Financial Crimes Information Network (FINCEN) Checks. FINCEN checks are considered a NAC, therefore ACCO will coordinate all FINCEN checks. This is the only authorized channel for FINCEN queries. The following information must be provided to ACCO for each request: ACCO CCN; Full name, any/all AKA, relationship in case (subject/witness); Address and phone number; DPOB; SSAN; Race/ethnicity; Sex; Height/weight; Color of eyes and hair; Other identifying data if available, such as passport number; Financial institution(s) known to be utilized; If joint/bilateral case, list other agencies involved. Specify what type of product you desire from FINCEN e.g. analytical reports and/or data base extracts.

billets or be required to use a Government mess when such use would be detrimental to the mission. TDY orders will reflect that the use of Government billeting and mess facilities would be detrimental to the mission.

e. *Applicability.* These provisions apply both overseas and within the United States.

8-9. Weapons

a. CI personnel may carry weapons openly or concealed as required in the performance of peacetime official duties, in accordance with AR 190-14, when authorized by a field grade officer. Commanders will ensure the individual has met the requirements of AR 190-14 and weapons qualification requirements. Weapons storage will comply with current regulatory requirements.

b. During deployments, crisis, transition to war, and hostilities, CI personnel will carry weapons as authorized and required by unit mission.

Section II Authority of CI Special Agents

8-10. Freedom of movement

If emergency circumstances preclude advance notification, CI special agents assigned to another theater are not required to obtain specific theater clearance from overseas commanders prior to undertaking overseas travel in connection with their official duties. (See AR 1-40, para 1-2b(5)). In such cases, the senior intelligence officer of the Army theater component command will be notified as soon as possible of the travel.

8-11. Oath administration

A CI special agent is authorized to administer oaths when taking statements. The agent's title for oath administration is "Counterintelligence Special Agent, U.S. Army." Authorities are the Uniform Code of Military Justice (UCMJ); Article 136(b) for military and 5 USC 303(b) for civilian special agents.

8-12. Apprehension authority

a. Pursuant to 10 USC 807-809, 28 USC 535, Rules for Court-martial (RCM) 302, AR 600-40, and this regulation, CI special agents are authorized to apprehend any person subject to the UCMJ, regardless of location, if there is a reasonable belief that the person has committed a criminal offense under USAI investigative jurisdiction. CI special agents are also authorized to conduct investigative stops of any person subject to the UCMJ, regardless of location, if there is a reasonable suspicion that the person has committed a criminal offense under USAI investigative jurisdiction.

b. CI special agents are authorized to detain civilian personnel on military installations or facilities when there is a reasonable belief that the person has committed a criminal offense against the U.S. Army, and that offense is within USAI investigative jurisdiction. CI special agents are also authorized to conduct investigative stops of civilians on military installations or facilities, if there is a reasonable suspicion that the person has committed a criminal offense under USAI investigative jurisdiction. Civilians will be detained only until they can be released to the FBI.

c. Army CI special agents may not apprehend or detain civilians outside the limits of a military installation or facility within the United States. When an apprehension is necessary in the conduct of a CI investigation, an arrest warrant must be obtained and executed by a civil law enforcement officer. CI special agents may accompany the arresting official for the purpose of identifying the person to be arrested and to provide assistance as authorized in AR 500-51.

d. Apprehension of civilians off a military installation or facility outside the United States may be authorized if host nation authorities consent and the proper arrest warrant is obtained.

e. Personnel apprehended by CI special agents will be released to civil or military police, as appropriate, for processing, detention, or confinement.

8-13. Search and seizure authority

a. Searches and seizures within the confines of a U.S. military installation or facility will be conducted in accordance with the Military Rules of Evidence, Manual for Courts-martial (MCM); AR 190-22; or other applicable policy.

b. Searches and seizures outside a military installation or facility in the United States will be conducted in accordance with Rule 41, Federal Rules of Criminal Procedure, 28 CFR 60, and AR 190-22. Coordination with the supporting staff judge advocate and concurrence of the appropriate U.S. Attorney are mandatory prior to seeking a civil search warrant. CI special agents may accompany the civil law enforcement official, who will actually execute the search warrant.

c. Searches and seizures outside a military installation or facility outside the U.S. are subject to SOFA.

8-14. Involvement in civil legal proceedings

Requests for the appearance of CI special agents at depositions or in civil proceedings and for the subpoena of information exempt from release to the public will be processed in accordance with AR 27-40.

8-15. Access to records, information, and facilities

a. Upon presentation of the MI badge and credentials or MI representative credentials, CI special agents and CI assistants will be permitted access to Army records under the provisions of AR 340-21, as required for the conduct of CI investigations or operations. They are also authorized to make extracts or transcripts of specific information obtained from the records custodian. The actual records will remain under the control of the records custodian, who will make either the records or legible certified copies available for judicial, non-judicial, or administrative proceedings.

b. Access to private sector financial records is authorized under 12 USC 3401-3419, 15 USC 1681f, and AR 190-6, provided that the required notifications or exceptions have been executed.

c. Access to records of other Federal agencies is provided for under 5 USC 552.

d. CI special agents and CI assistants will be granted access to all Army facilities when necessary for CI investigations or operations, consistent with the applicable security directive and the individual's access. Persons presenting Special Agent badge and credentials possess a final TOP SECRET security clearance based on a Single Scope Background Investigation.

8-16. CI special agents assigned to Special Mission Units

CI special agents who are authorized the MI badge and credentials, and who are assigned to SMU, may also be issued the SMU badge and credentials at the SMU commander's discretion, UP AR 525-17(S).

Chapter 9 The U.S. Army Intelligence Badge and Credential Program

9-1. General

a. This chapter establishes policy for the procurement, issue, use, control, and disposition of U.S. Army intelligence badges and credentials (B&C) and representative credentials. It applies to all active and RC MI units and to personnel authorized to use B&C or representative credentials.

b. B&C and representative credentials identify the bearer as a duly accredited special agent or representative of U.S. Army intelligence who is performing official intelligence duties.

9-2. Program functions

- a. The CG, PERSCOM and CG, ARPERCEN—
- (1) Notifies the CG, INSCOM of the issuance or withdrawal of the SSI/MOS/civilian CI specialties;
 - (2) Furnishes copies of SSI/MOS orders on above personnel.
- b. The CG, INSCOM—

"Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of the court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason). The purpose of the investigation or official proceeding was (state purpose with reasonable detail)."

(3) Paragraph 2-7c, the law enforcement office obtaining financial records will serve personally or mail to the customer a copy of the request and the notice required by paragraph 2-7c.

(4) Paragraph 2-8b, the law enforcement office transferring financial records will serve personally or mail to the customer the notice required by paragraph 2-8b(2). If the law enforcement office was responsible for obtaining the court order authorizing the delay, such office shall also serve personally or by mail to the customer the notice required in paragraph 2-6c.

e. Annual reports. The annual reporting requirements of paragraph 2-13 apply to delays of notice sought or granted under this paragraph.

2-10. Foreign intelligence and foreign counterintelligence activities.

a. Except as indicated below, nothing in this regulation applies to requests for financial information in connection with authorized foreign intelligence and foreign counterintelligence activities as defined in Executive Order 12036. Appropriate foreign intelligence and counterintelligence directives should be consulted in these instances.

b. However, to comply with the Financial Privacy Act of 1978, the following guidance will be followed for such requests. When a request for financial records is made—

(1) A military intelligence group commander, the chief of an investigative control office, or the Commanding General (CG) (or Deputy CG), US Army Intelligence and Security Command will certify to the financial institution that the requesting activity has complied with the provisions of 12 U.S.C. 3403(b).

(2) The requesting official will notify the financial institution from which records are sought that 12 U.S.C. 3414(a)(3) prohibits disclosure to any person by the institution, its agents, or employees that financial records have been sought or obtained.

c. The annual reporting requirements shown in paragraph 2-13 apply to any request for access under this paragraph.

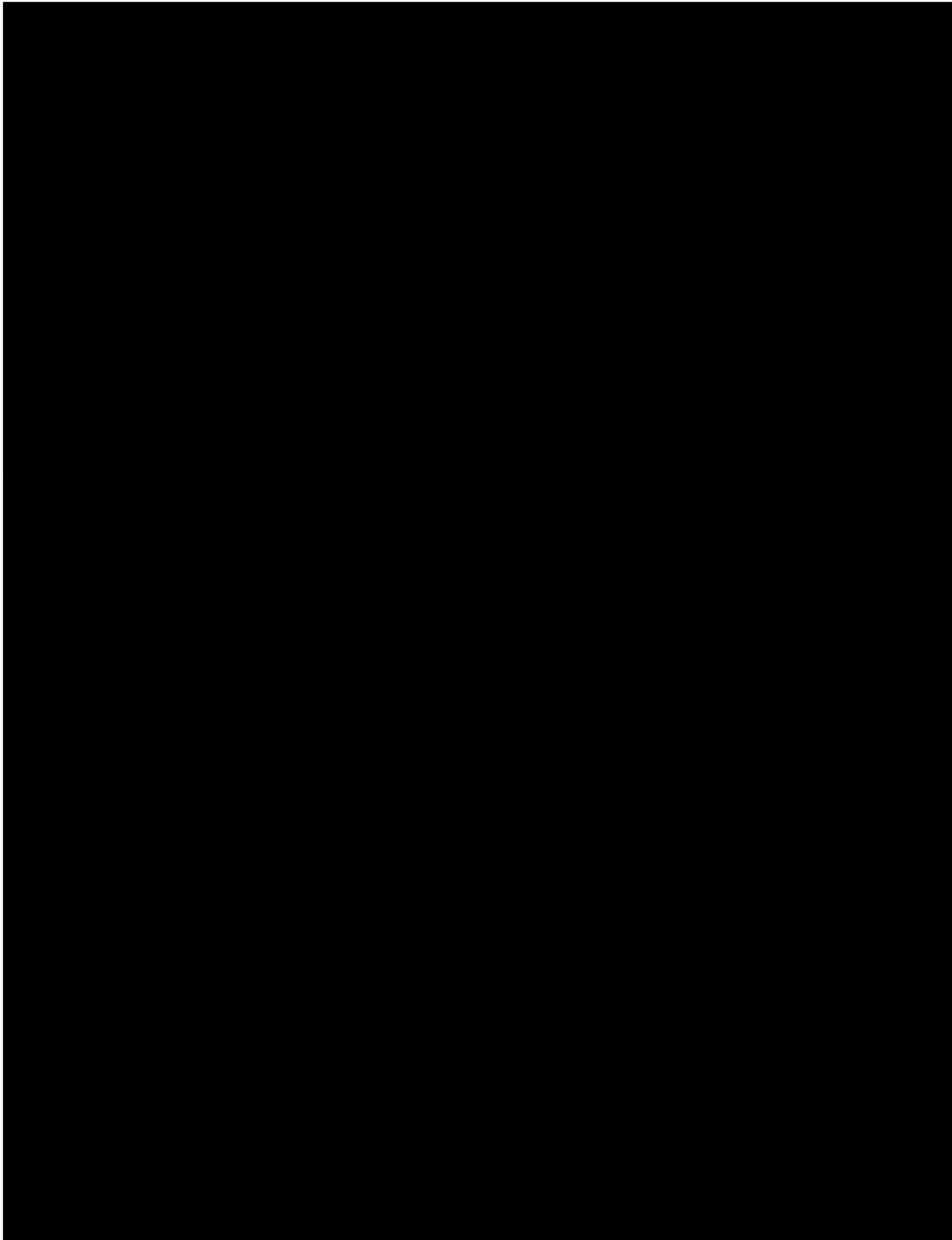
2-11. **Certification.** A certificate of compliance with the Right to Financial Privacy Act of 1978 (app C) will be provided to the financial institution as a prerequisite to obtaining access to financial records under the following access procedures:

- a.* Customer consent (para 2-2).
- b.* Search warrant (para 2-4).
- c.* Judicial subpoena (para 2-5).
- d.* Formal written request (para 2-6).
- e.* Emergency access (para 2-7).
- f.* Foreign intelligence and foreign counterintelligence activities (para 2-10).

2-12. **Penalties.** Obtaining or disclosing financial records or financial information on a customer from a financial institution in violation of the act or this regulation may subject the Army to payment of civil penalties, actual damages, punitive damages as the court may allow, and cost with reasonable attorney fees. Military and civilian personnel who willfully or intentionally violate the act or this regulation may be subject to disciplinary action.

2-13. Right to Financial Privacy Act of 1978 Annual Report (RCS DD-COMP(A) 1538).

a. Major Army commanders will submit this report to HQDA(DAPE-HRE) concerning requests for financial information from financial institutions. Reports are to include all queries requested or information obtained under the provisions of this regulation by subordinate Army law enforcement offices (as defined in para 1-3f). Negative reports will be submitted.



AFOSI Manual 71-119 (Approved draft, dtd 11 Feb 02)
National Security Letters Exerpt

3.4. (U) National Security Letters (NSL)

3.4.1. (U) NSLs are issued to obtain telephone and electronic communications records from telephone companies and Internet Service Providers (pursuant to the Electronic Communications Privacy Act), records from financial institutions (pursuant to the Right to Financial Privacy Act), and information from credit bureaus (pursuant to the Fair Credit Reporting Act), each as amended by the USA Patriot Act. The previous law permitted government access to such records upon a showing of relevance and that the consumer is an agent of a foreign power. The USA Patriot Act removes the "agent of a foreign power" requirement, providing government access to a multitude of private records upon the FBI's certification that "the information sought is relevant to an authorized foreign counterintelligence investigation."

3.4.1.1. (U) All three NSLs are available when the information sought "is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a US person is not conducted solely on the basis of activities protected by the First Amendment.

3.4.1.2. (U) An NSL is not limited to seeking information on the subject of an investigation. Because an NSL is available when the information sought is "relevant" to an investigation, information concerning apparent associates of, or individuals in contact with, the subject of an investigation may also be obtained if relevant to the investigation.

3.4.2. (U) NSLs are generally obtained through the FBI. NSL authority is delegated within the FBI to Assistant Directors, Deputy Assistant Directors at FBI HQ and to the LA, NY, and Washington Field Offices.

3.4.2.1. (U) NSLs issued pursuant to the Electronic Communications Privacy Act and the Fair Credit Reporting Act must be issued through the FBI.

3.4.2.2. (U) An NSL requesting information pursuant to the Right to Financial Privacy Act (attachment 3 and 4) may be issued by AFOSI/CC pursuant to his authority to conduct counterintelligence activities. However, an AFOSI NSL is merely a request. The financial institution can refuse to comply. A request from the FBI pursuant to any of these three Acts is compulsory.

3.4.3. (U) Additional Authorities:

3.4.3.1. (U) Section 156 of the USA Patriot Act grants the government the authority to "by administrative subpoena, require the production of any tangible things (including books, records, papers, documents, and other items) that are relevant" to an intelligence or terrorism investigation.

AFOSI Manual 71-119 (Approved draft, dtd 11 Feb 02)
National Security Letters Exerpt

3.4.3.2. (U) Likewise, Section 158 amends the Federal Education Rights and Privacy Act (FERPA) to permit access to educational records in the investigation of domestic or international terrorism, or national security. The prior law prohibited the release of personally identifying information about students from education records without the consent of the student or parents, subject to limited exceptions.

3.5. (U) Sharing Information

3.5.1. (U) Cooperating with Law Enforcement. Consistent with the limitations contained in DoD Directive 5525.5, DoD intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:

3.5.1.1. (U) Investigating or preventing clandestine intelligence activities by foreign powers, international narcotics activities, or international terrorist activities,

3.5.1.2. (U) Protecting DoD employees, information, property, and facilities, or

3.5.1.3. (U) Preventing, detecting, or investigating other violations of law.

3.5.2. (U) DoD intelligence components may provide law enforcement authorities incidentally acquired information reasonably believed to indicate a violation of law in accordance with DoD 5240.1-R, Procedure 12.

3.5.3. (U) Law Enforcement Cooperation with Intelligence. The USA PATRIOT Act expands the scope of criminal investigative information that may be shared with the intelligence community. This authority is subject to a sunset provision described in Section 224 of the Act. This authority will expire on December 31, 2005 if Congress does not re-authorize the provision.

3.5.3.1. (U) Section 203 of the Act says that “notwithstanding any other law” it is lawful for criminal investigators to share foreign intelligence information obtained in the course of a criminal investigation with any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.

3.5.3.2. (U) Federal Rule of Criminal Procedure 6(e) has been amended to permit the same sort of disclosure for grand jury information involving intelligence information.

3.5.3.3. (U) The Federal wiretap law (Title III) has been amended to allow the same sort of disclosure when the matters involve foreign intelligence.

3.5.3.4 (U) Sharing of Rule 6(e) information and wiretap information must be accomplished in accordance with Guidelines to be drafted by the Attorney General.

AFOSI Manual 71-119 (Approved draft, dtd 11 Feb 02)
National Security Letters Exerpt

3.5.3.5 (U) See para 3.3.1.5 regarding the continuing application of intelligence oversight requirements.

3.6. (U) Coordination. Any AFOSI investigative activity conducted in conjunction with NSL's or a FISA must be coordinated through HQ AFOSI/XOQI and HQ AFOSI/SJA prior to the activity.



DEPARTMENT OF THE ARMY
UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND
HEADQUARTERS, 902D MILITARY INTELLIGENCE GROUP
FORT GEORGE G. MEADE, MARYLAND 20755-5910

[REDACTED]

To Whom It May Concern,

Under the provisions of the Right to Financial Privacy Act of 1978 (hereinafter the ACT), Title 12, U.S.C. 3401 *et seq.*, the Department of the Army requests that your institution provide financial and credit information, to include any record information, concerning the individual identified below.

[REDACTED]

Account Number: [REDACTED]

This letter certifies that the Department of the Army has complied with the applicable provisions of the Act. Title 12, U.S.C. 3417 (c) specifies that good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records. The authorization to endorse this certificate has been delegated to me by the Secretary of the Army, contained in paragraph 2-10b(1), U.S. Army Regulation 190-6, Obtaining Information From Financial Institutions.

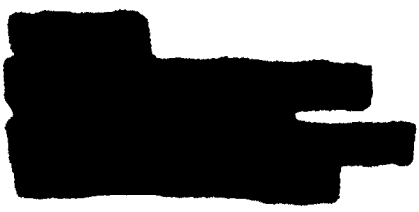
Title 12, U.S.C. 3414 (a) (3) prohibits your institution, employees, or agents of your institution from disclosing to any person that we have sought or obtained access to a customer's financial records.

In accordance with Title 12, U.S.C. 3415, we will reimburse your institution for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be reproduced.

Thank you for your cooperation and assistance given to the Department of the Army, this command, and the Special Agent who presented this certificate.

Sincerely,

[REDACTED]
Colonel, U.S. Army
Commanding



Dear Custodian of Records:

Pursuant to Executive Order 12333 and the Right to Financial Privacy Act (Act), 12 United States Code §§3401, et seq., you are requested to provide the Naval Criminal Investigative Service with the name, address and financial records pertaining to the customer or accounts listed below:

Customer Name: if available

Address: if available

Date of birth: if available

Social Security: if available

Account numbers: if available

Requested period: if applicable (you may be required to pay for the records/search)

Pursuant to Section 3403(b) of the Act, I certify that NCIS has complied with the Special Procedures Provision contained in Section 3414. In accordance with Section 3417(c), your good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these records.

Please note that disclosing this request to the customer or others without a need to know in order to process this request may result in danger to the national security of the United States and interference with a counterterrorism or counterintelligence investigation. Accordingly, your company or its officers, employees, or agents are prohibited from disclosing to the customer that these records have been sought or obtained.

As a result of the sensitive nature of this request, please contact NCIS Special Agent _____ at (xxx) xxx-xxxx to make arrangements to provide the records. Thank you for your cooperation in this matter.

Sincerely,

Director, DD, AD for CI, AD for
CT, or DAD for CI, or DAD for CT

Ser XX/U00XX
19Dec06

[REDACTED]
Dear [REDACTED]

I am a supervisory official designated by the General Counsel of the Department of the Navy to make the certification necessary under 15 U.S.C. § 1681v to compel disclosure of requested information and provide your agency with safe harbor.

In accordance with 15 U.S.C. § 1681v, I hereby certify that the information herein requested is necessary for an investigation of and/or analysis related to international terrorism.

Therefore, pursuant to Executive Order 12333 and Title 15 U.S.C. § 1681v of the Fair Credit Reporting Act you are directed to provide the Naval Criminal Investigative Service (NCIS) with a consumer report and all other information you possess in your files for the below listed consumers:

Consumer Name:

Date of Birth:

Social Security Number:

Address:

Please note that disclosing this request to the customer or others without a need to know in order to process this request may result in danger to the national security of the United States and interference with a counterterrorism or counterintelligence investigation. Accordingly, your company or its officers, employees, or agents are prohibited from disclosing to the customer that these records have been sought or obtained.



DEPARTMENT OF THE AIR FORCE
AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

[REDACTED]
Air Force Office of Special Investigations
1535 Command Drive, Suite C301
Andrews AFB, MD 20762-7002

11 27 2004

Dear [REDACTED]

The Air Force Office of Special Investigations (AFOSI) is a Federal agency authorized to conduct foreign counterintelligence activities by Executive Order 12333 and Department of Defense Directive 5240.2. Pursuant to Title 12, United States Code, Section 3414(a) you are requested to provide the following account information pertaining to the below-named person:

All personal account information including, but not limited to, account transactions, individuals authorized to use the accounts and their personal information, account deposits, withdrawals, credits and account reports. Transaction information should include the date, business, locations, and the amount of charges

[REDACTED]

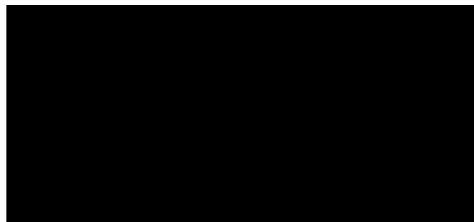
Please forward the requested documents via US Postal Service to:

[REDACTED]
Air Force Office of Special Investigations
Unit 5695
APO, AE 09470-5695

Regardless of whether you provide this information, please be advised that Section 3414(a)(3) of Title 12 prohibits your institution or its officers, agents, or employees from disclosing to any person that these financial records have been sought or obtained.

A certification pursuant to Section 3403(b) indicating that AFOSI has complied with all requirements of the Right to Financial Privacy Act in making this request is attached. Under Section 3417(c) of Title 12, good faith reliance upon this certification relieves your institution and its employees or agents of any liability to your customer in connection with the disclosure of the requested financial records.

Attachment
Certification of Compliance





DEPARTMENT OF THE AIR FORCE
AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

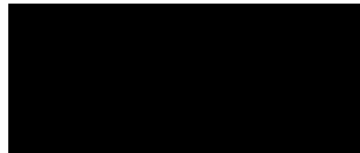
Special Agent
Air Force Office of Special Investigations
Headquarters

Dear [REDACTED]

I certify, pursuant to Title 12, United States Code, Section 3403(b), that the Special Procedures Provisions of the Right to Financial Privacy Act (codified in Section 3414 of Title 12) have been followed with regard to this request for the financial records of [REDACTED]

Regardless of whether you provide this information, please be advised that Section 3414(a)(3) of Title 12 prohibits your institution or its officers, agents, or employees from disclosing to any person that these financial records have been sought or that may have obtained.

Under Section 3417(c) of Title 12, good faith reliance upon this certification relieves your institution and its employees or agents of any liability to your customer in connection with the disclosure of the requested financial records.

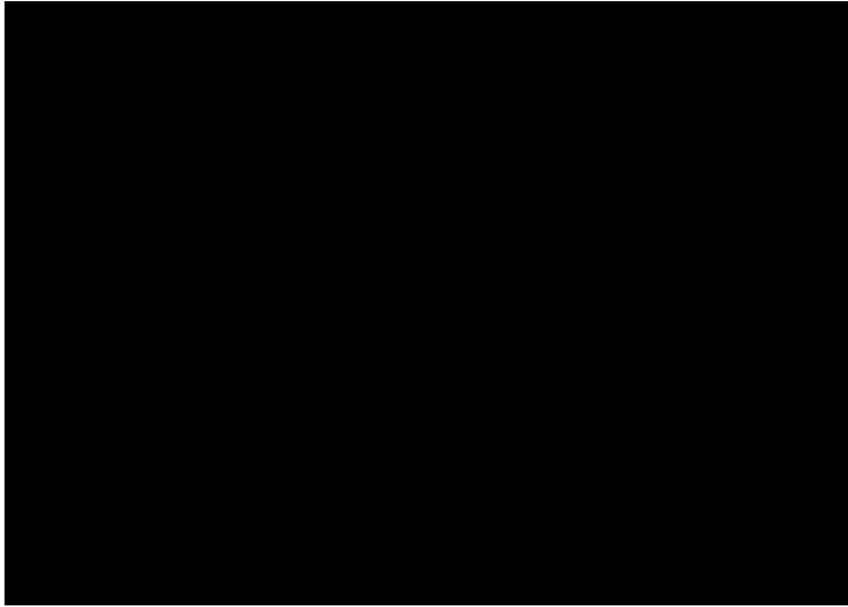


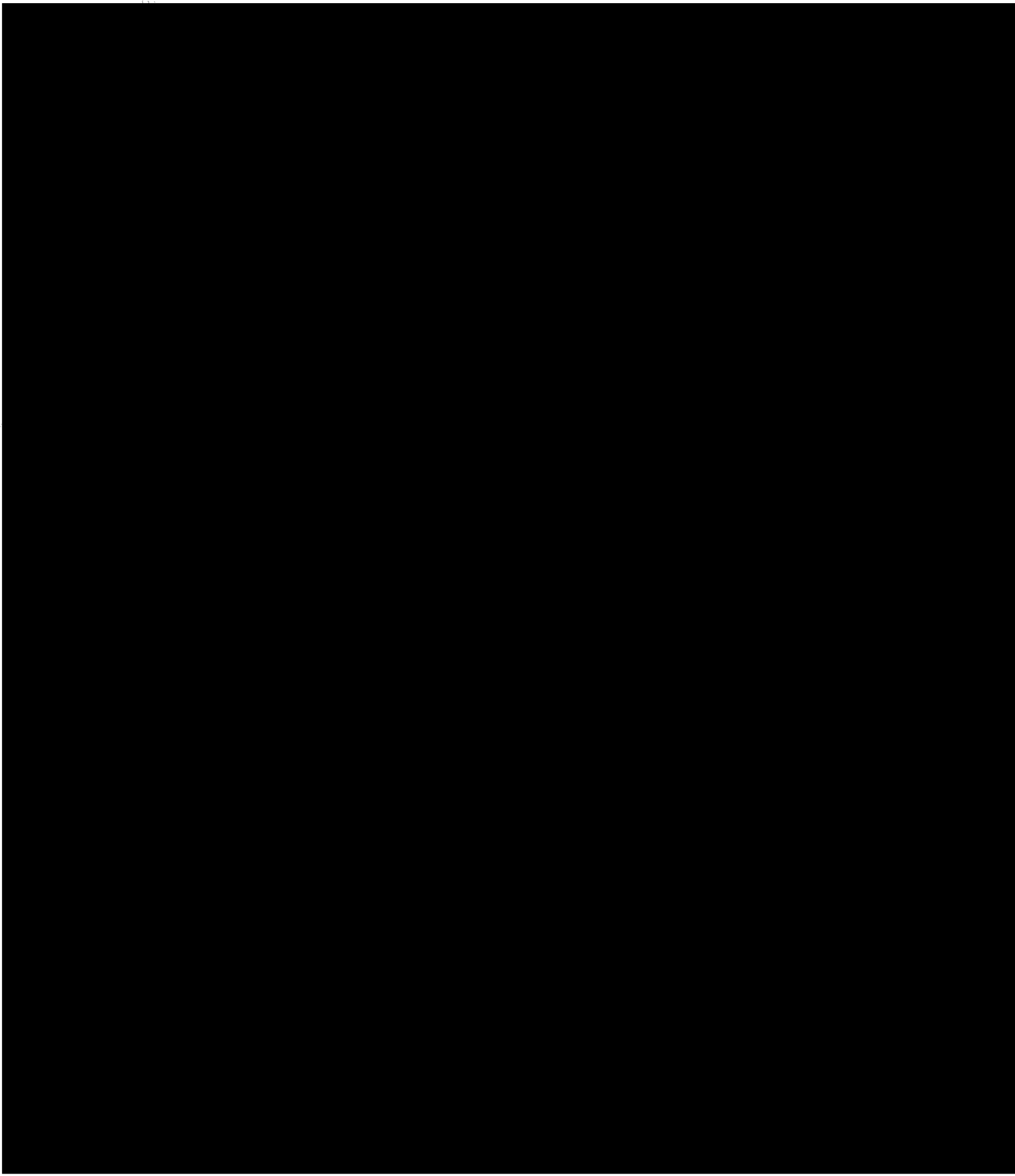
AFOSI Process for Use of National Security Letters

The AFOSI process for issuing an NSL is as follows:

1. The case agent submits a draft NSL to their respective detachment leadership for review. Reviewing officials have full access to the investigative case file and information in their investigative database (CI2MS).
2. The draft NSL is then processed through the respective Region for review. Reviewing officials at every level have full access to the investigative database (CI2MS).
3. The Region forwards the draft to the respective Integration Desk at HQ AFOSI. The Integration Desk reviews the request for investigative sufficiency.
4. The Integration Desk forwards the request to the HQ AFOSI Legal Unit for legal review [REDACTED]
5. The request is then forwarded through remaining command official as follows:
 - a. Director of Counterintelligence
 - b. Director of Operations
 - c. AFOSI Commander for signature.
6. HQ AFOSI mails the NSL-Type Letter to the financial institution's headquarters. (Note: the case agent will contact the institution and notify the appropriate office that the letter is enroute)

The turn-around time from the initial request to the time HQ AFOSI mails the letter is usually within seventy-two hours.





Subject: Updated: CHANGE2: SASC NSL Briefing
Location: TBD
Start: Thu 1/25/2007 3:00 PM
End: Thu 1/25/2007 4:00 PM
Recurrence: (none)
Meeting Status: Accepted

24 Jan // [REDACTED]

Rally Point for those Attending:

Russell 228 at 1445

23 Jan // [REDACTED]
TIME: 1500-1600
PLACE: SR-228, Russell Senate Office Building
POC: Creighton Greene, 202-224-6115.

We're expecting 5-7 other staffers

ODUSD(CI&S) Attendees

[REDACTED]

NCIS Rep:
[REDACTED]

CIFA Rep:
[REDACTED]

Army Reps:
[REDACTED] [REDACTED]

Air Force Reps:
[REDACTED]

*FCRA
- EXPAND - TO INCLUDE
- CI*

[REDACTED]

1868 / 1456

XOOR →
CI INVESTIGATIONS

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 18, 2007 7:19 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: DRAFT Brief (U)

Importance: High

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 18, 2007 6:50 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: DRAFT Brief (U)

[REDACTED]

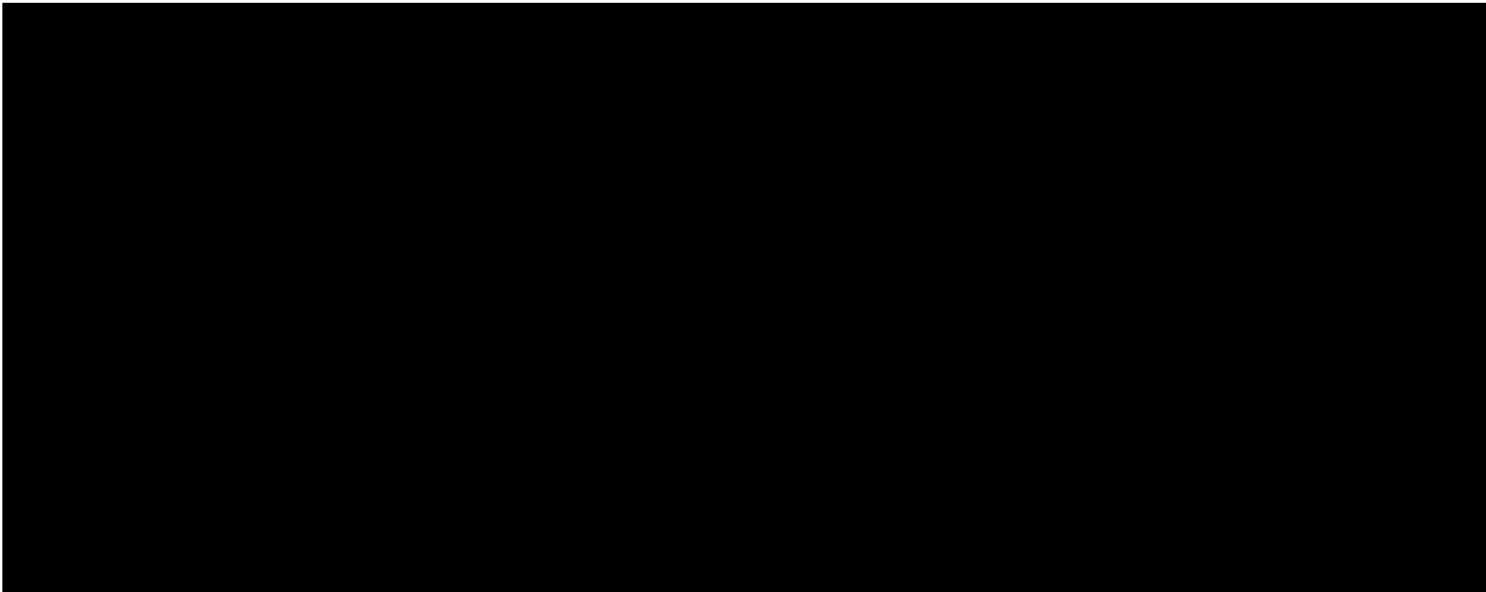
Cheers,

[REDACTED]


-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 18, 2007 6:19 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: DRAFT Brief (U)




Classification: UNCLASSIFIED

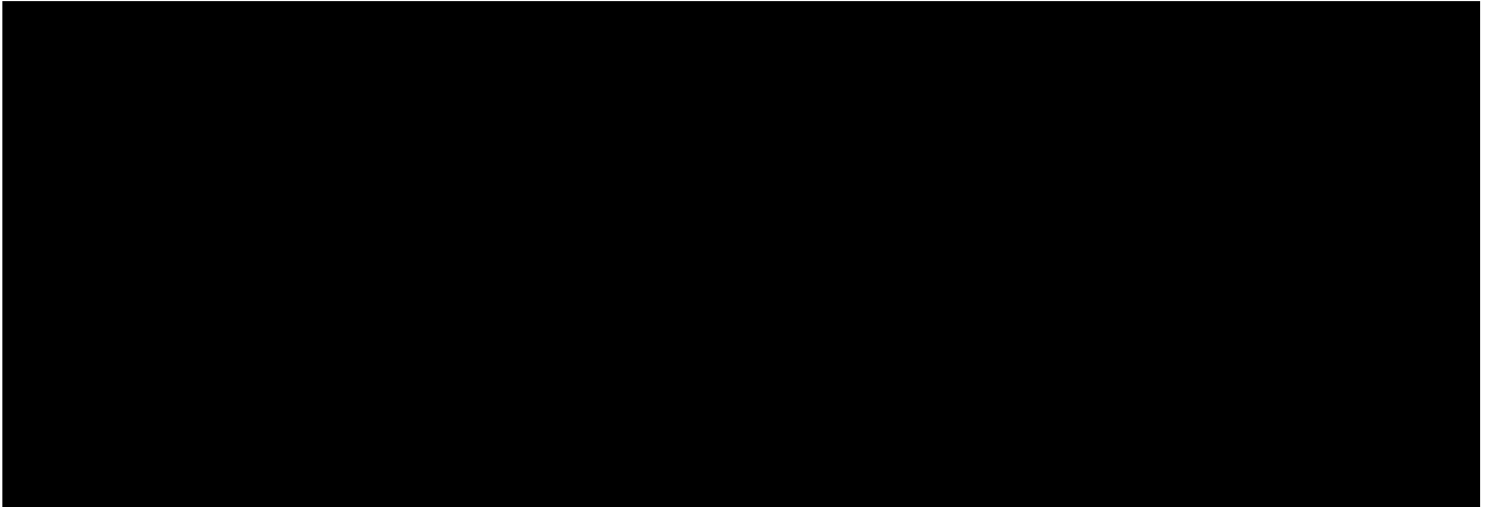

[REDACTED]



Cheer and thanks.



-----Original Message-----

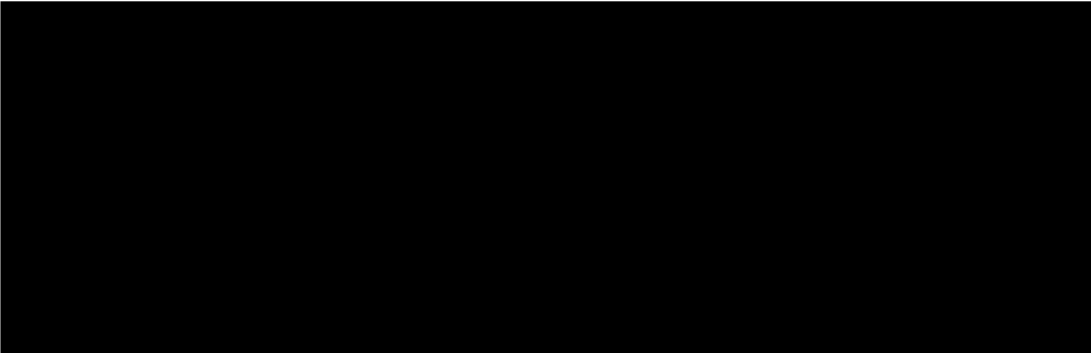
From: 
Sent: Wednesday, January 17, 2007 7:43 PM
To: 
Cc: 
Subject: RE: DRAFT Brief (U)



Just my thoughts. Have a good night.

Cheers,





From: [REDACTED]
Sent: Wednesday, January 17, 2007 5:39 PM
To: [REDACTED]
Cc: [REDACTED] CIV OSD OUSDI
Subject: DRAFT Brief (U)

Classification: UNCLASSIFIED

[REDACTED] per our discussion

[REDACTED] where I am just throwing stuff on a page.

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 8:59 AM
To: [REDACTED]

Cc: [REDACTED]

Subject: RE: NSLs and the SASC (U)

Importance: High

Attachments: 07-01-25 Program Management Review.pdf



07-01-25 Program Management Re...

Recipients on the "To" Line: in reference to the NSL issue, Acting DUSD(CI&S) has directed CIFA to undertake a program review of the utilization of NSLs by the Service CI components (see attached memo from Acting DUSD(CI&S) dated Jan 25, 2007. [REDACTED] of the CIFA Program Management Directorate will be leading this effort on behalf of CIFA. It is requested that you designate a POC for this review and that you ensure that any information provided in response to the taskers identified in the below e-mail from [REDACTED] are made available as well to [REDACTED] for the purpose of this review.

Your cooperation and timely response to this matter is greatly appreciated.

[REDACTED]

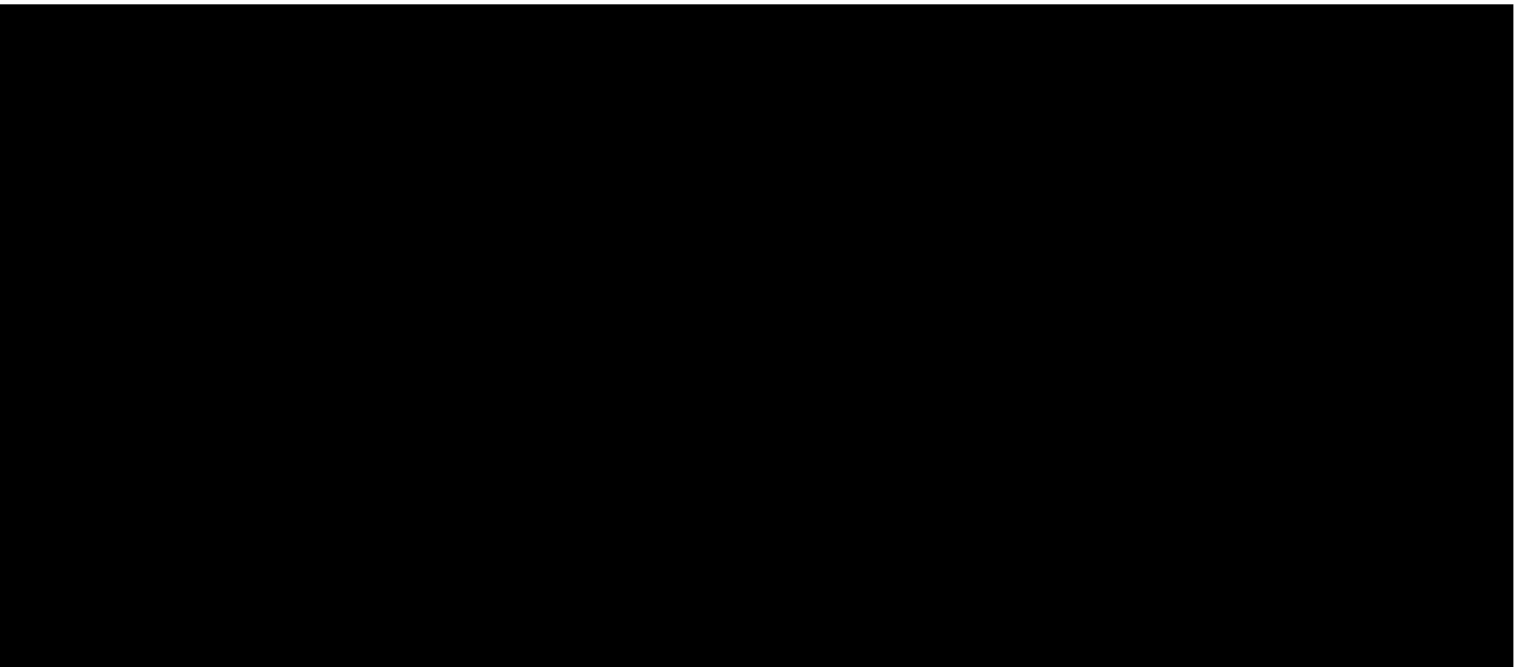
-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 8:46 AM
To: [REDACTED]

Subject: NSLs and the SASC (U)

Classification: UNCLASSIFIED

[REDACTED]



Please contact [REDACTED] if you have any questions.

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:06 AM
To: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

Summary of the HAC-D briefing on NSLs -- FYI. Note Service attendees for reference regarding the NSL review CIFA will be tasked with conducting. Recommend your contacts for the review as follows:

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 10:06 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

FYI.

Hopefully, there won't be too many more.

I really appreciate your help on this.

[REDACTED]

[REDACTED]

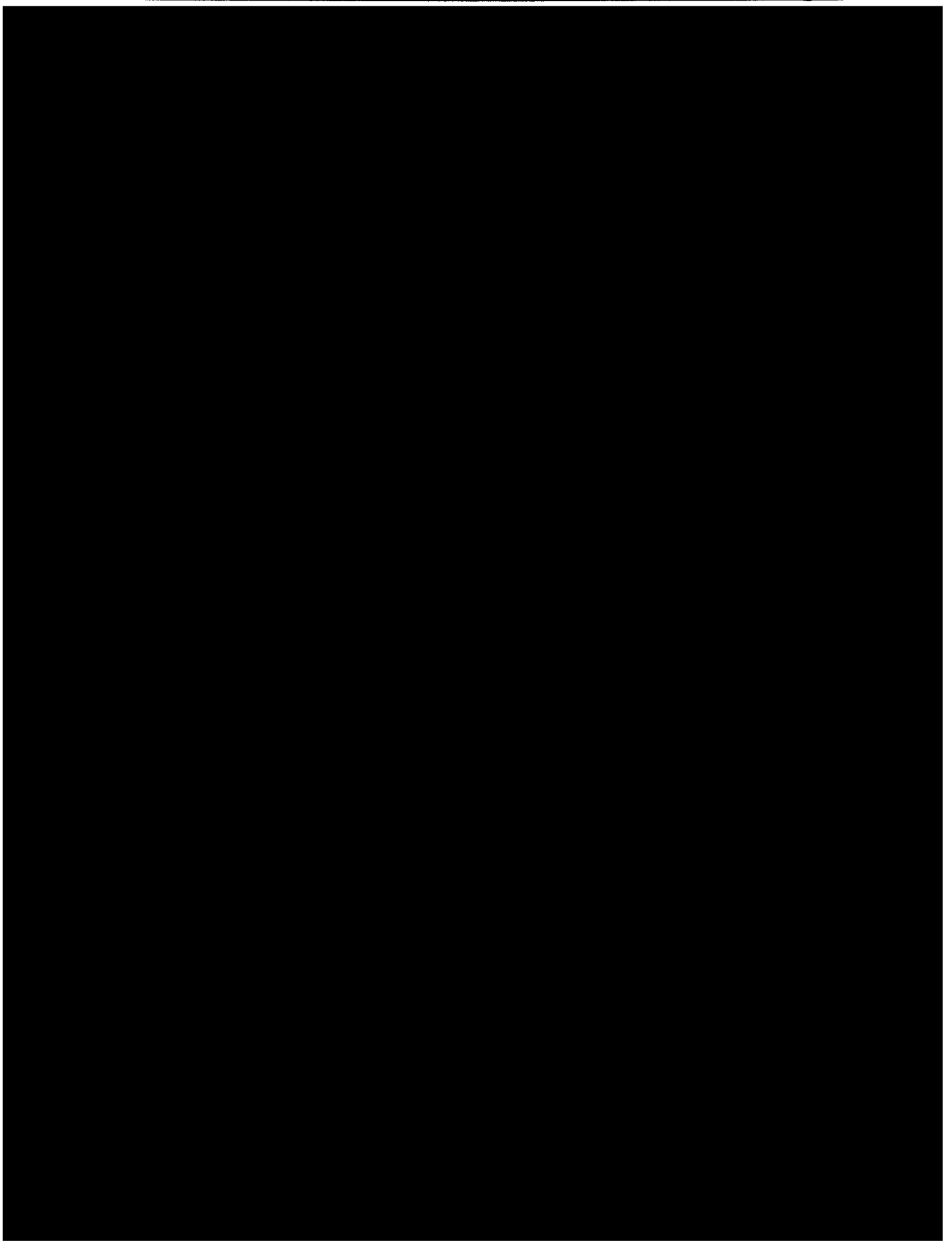
-----Original Message-----

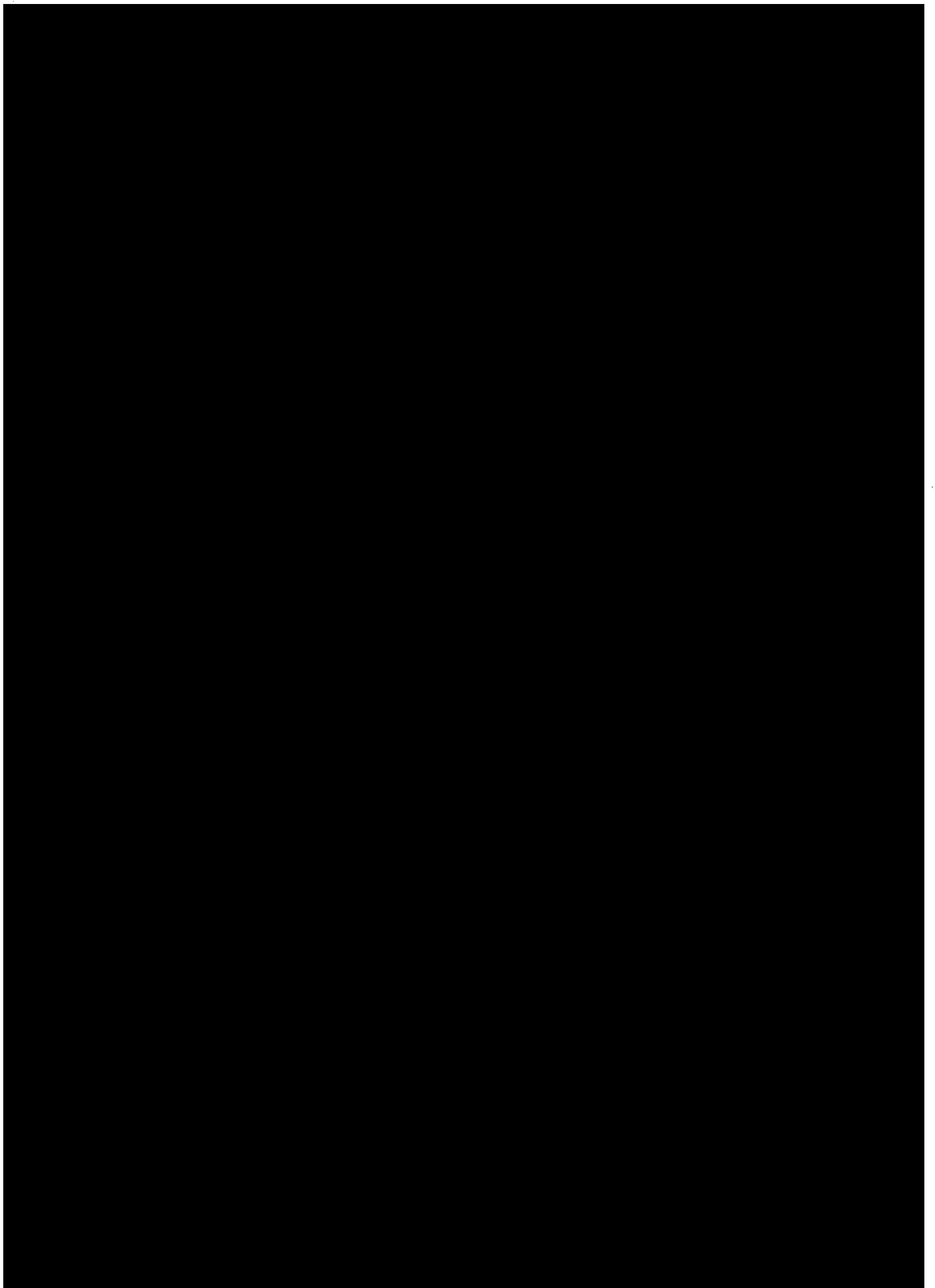
From: [REDACTED]
Sent: Tuesday, January 23, 2007 9:45 AM

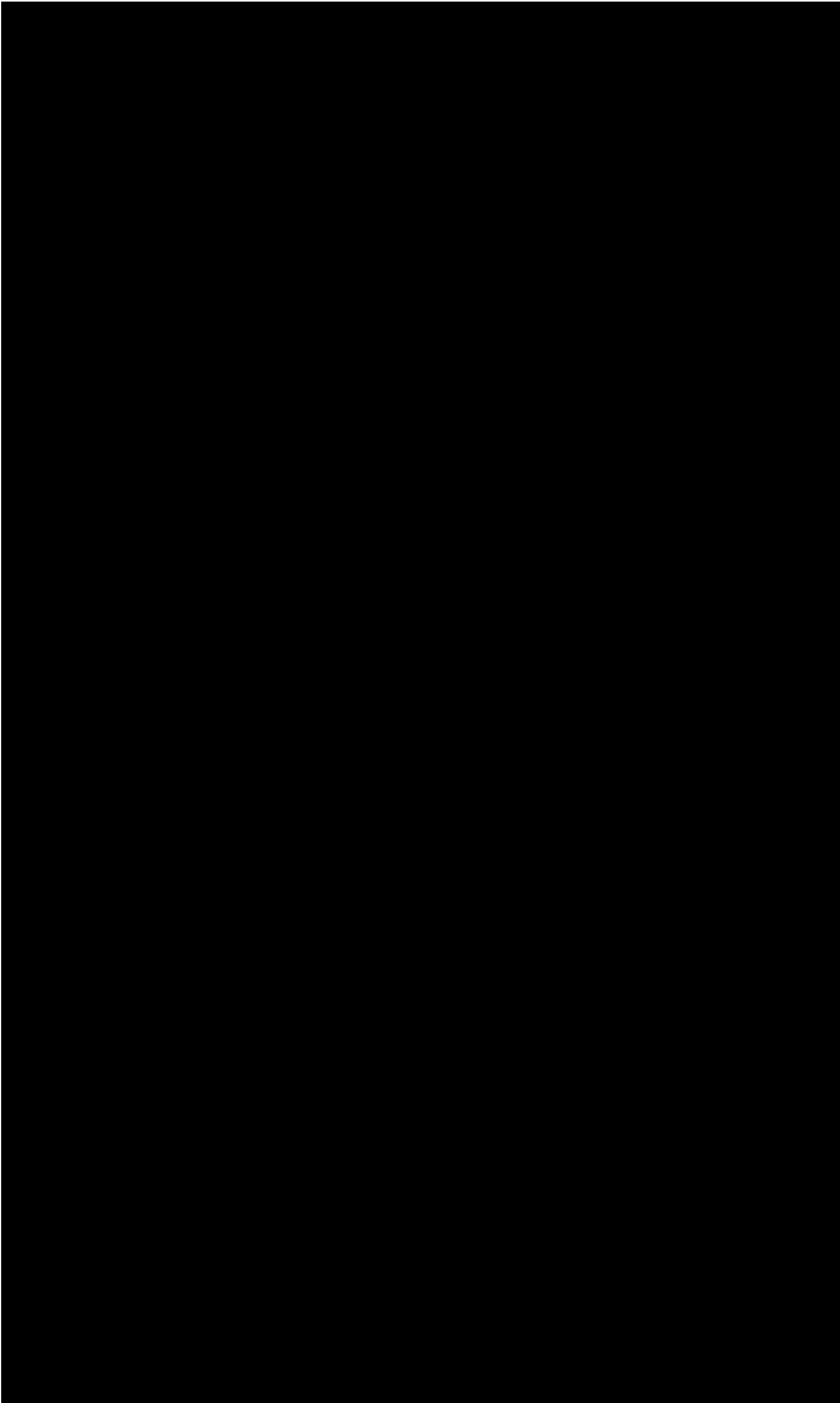
[REDACTED]

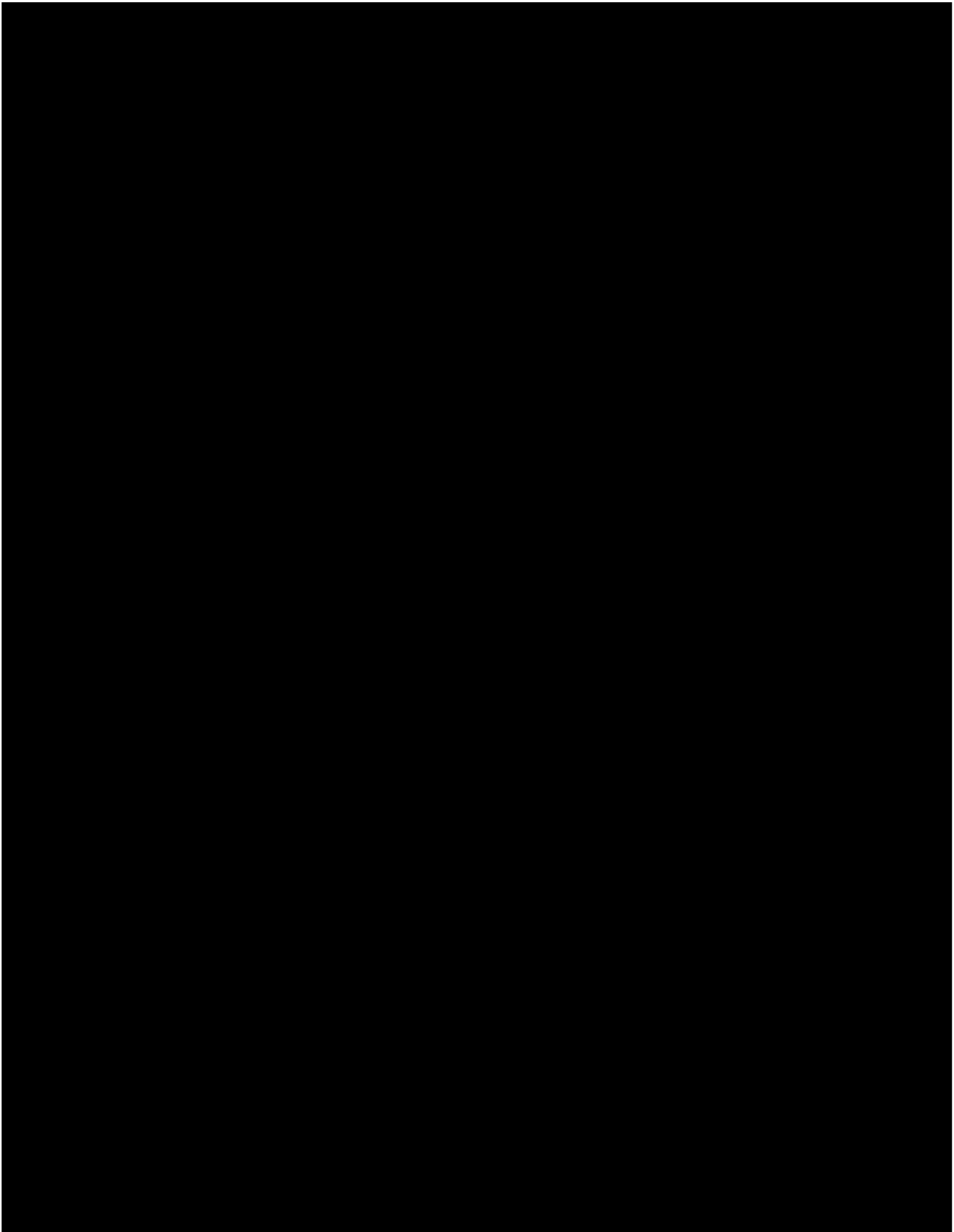
Subject: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

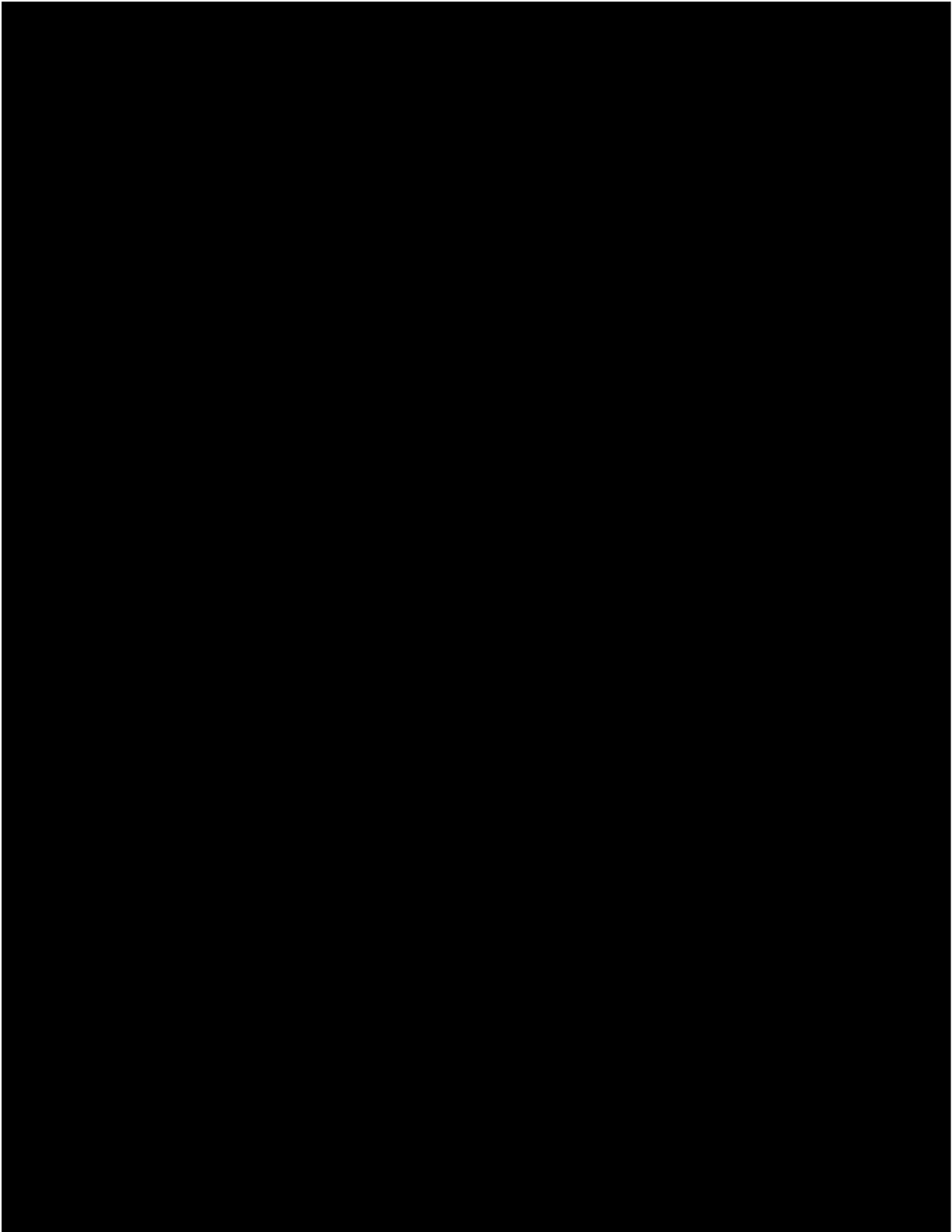
FOR OFFICIAL USE ONLY

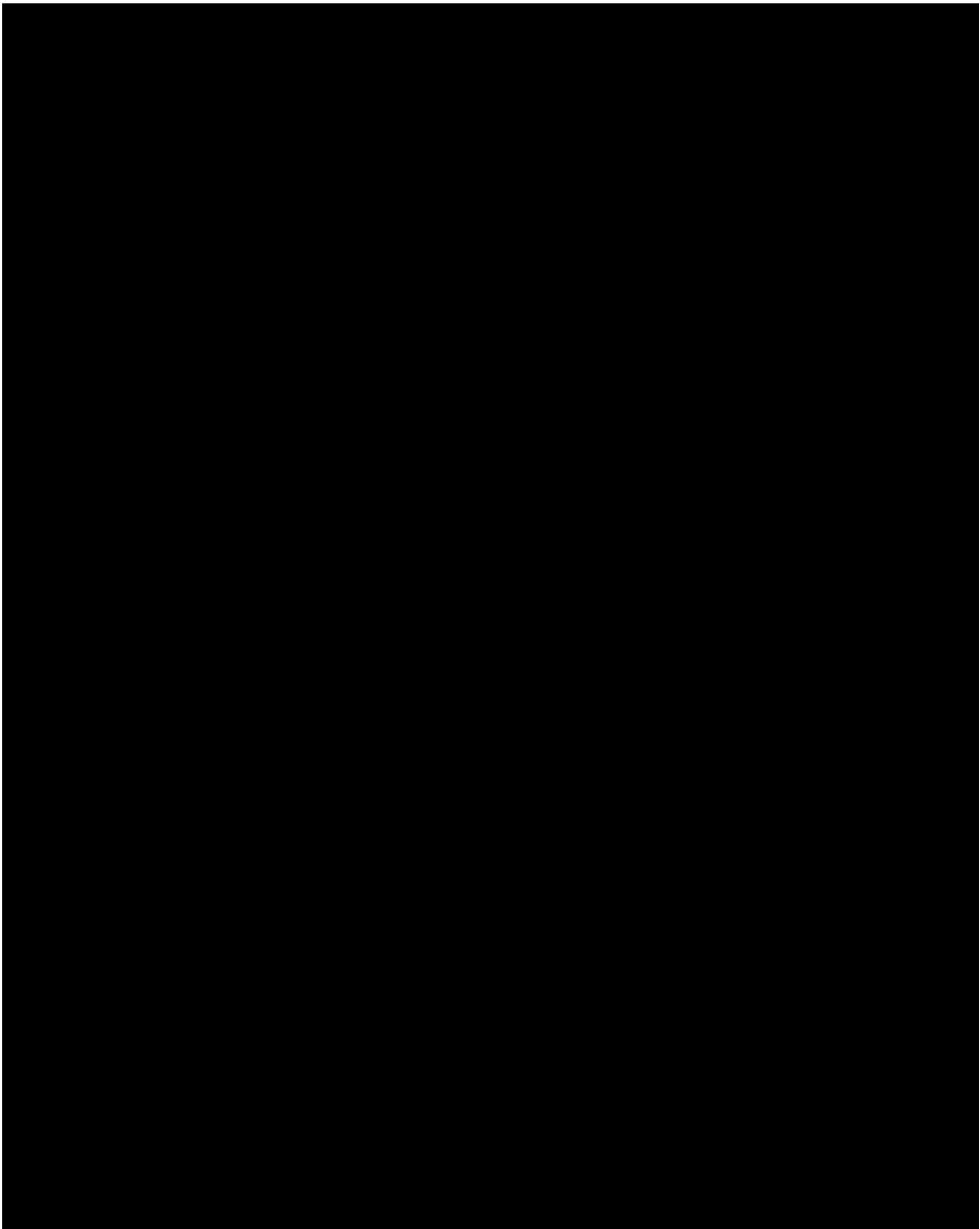


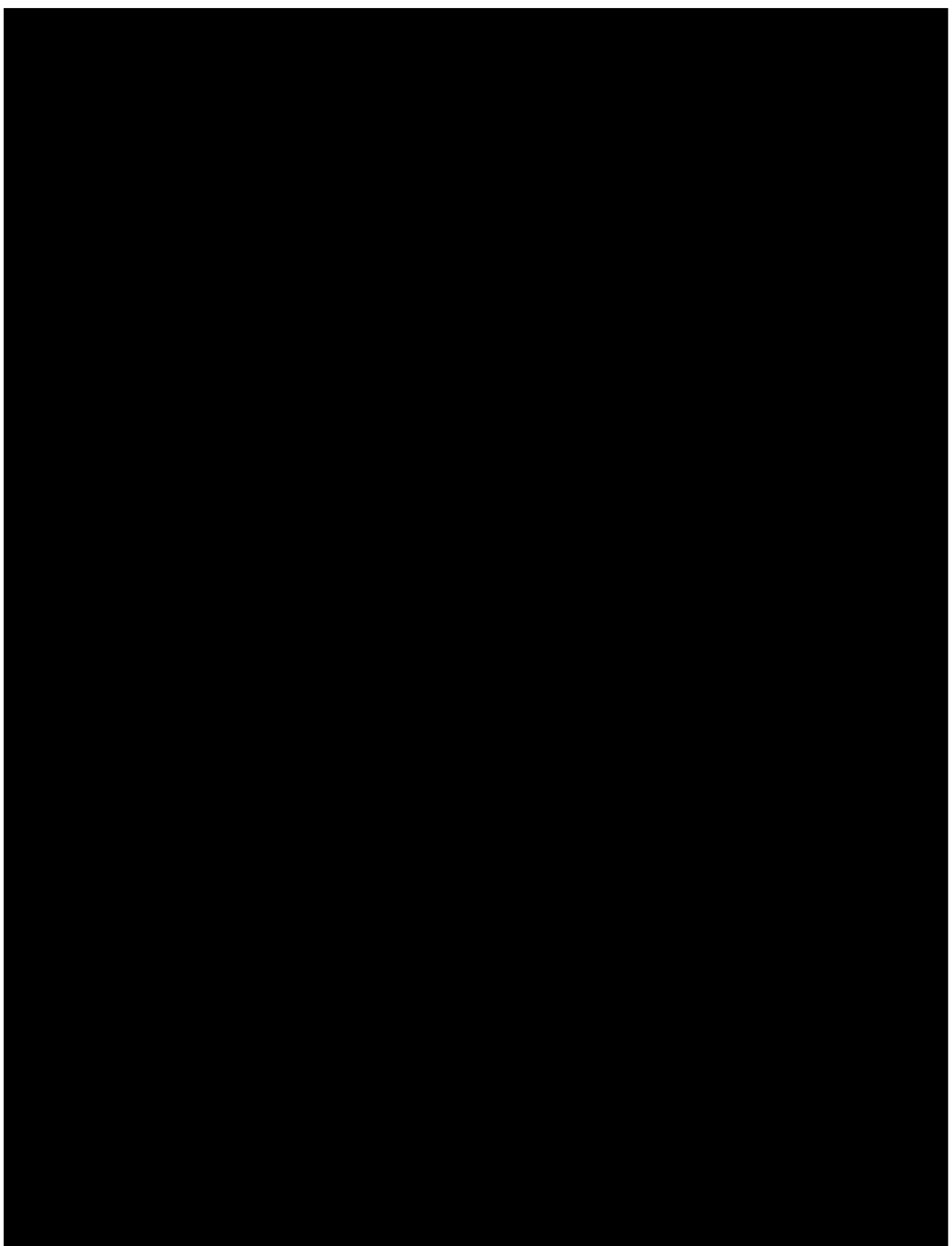


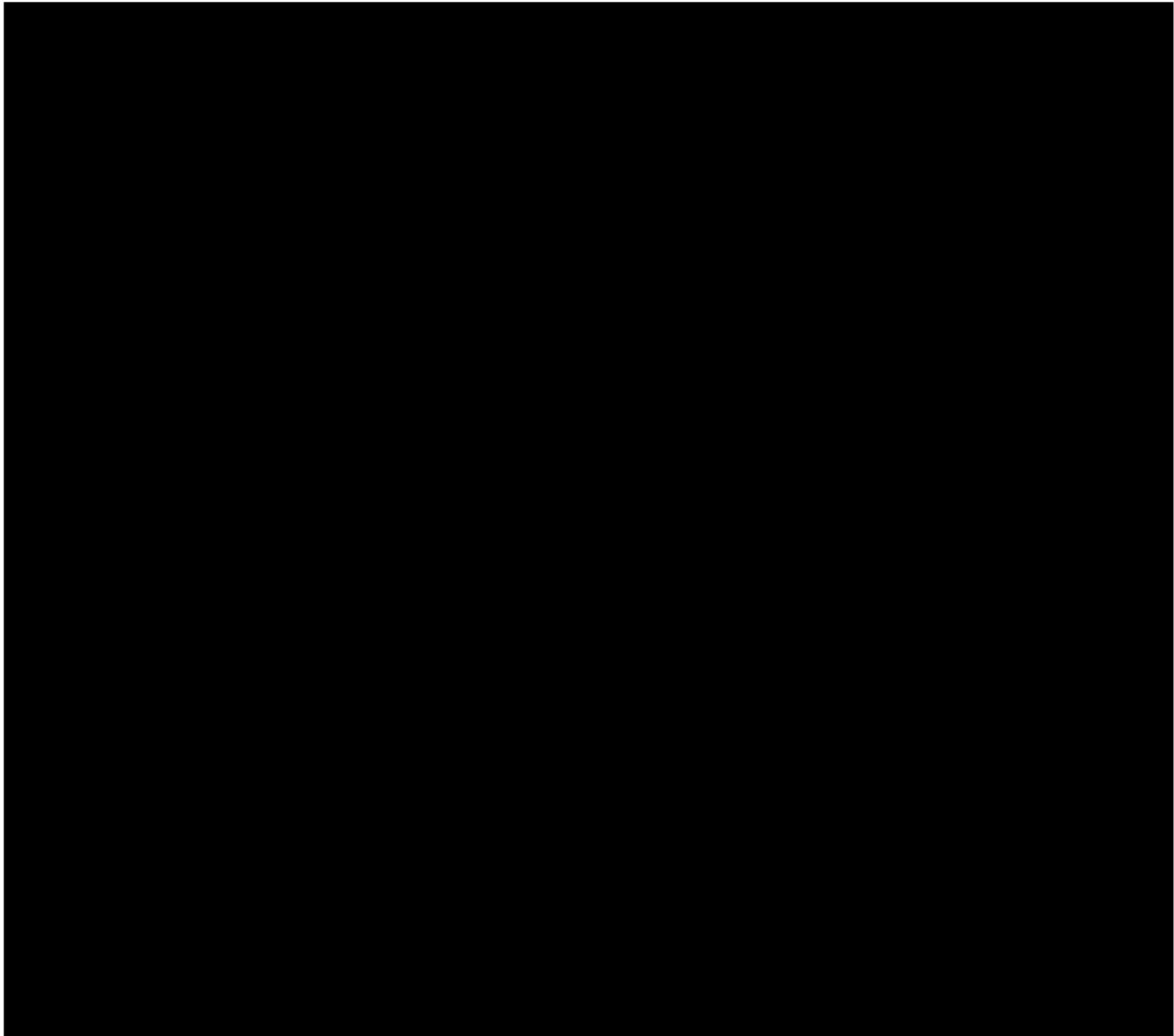


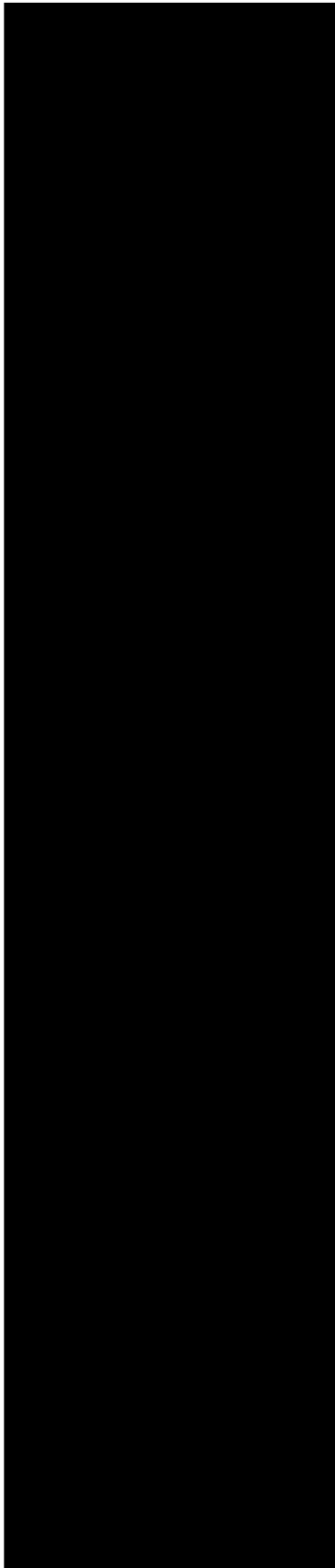


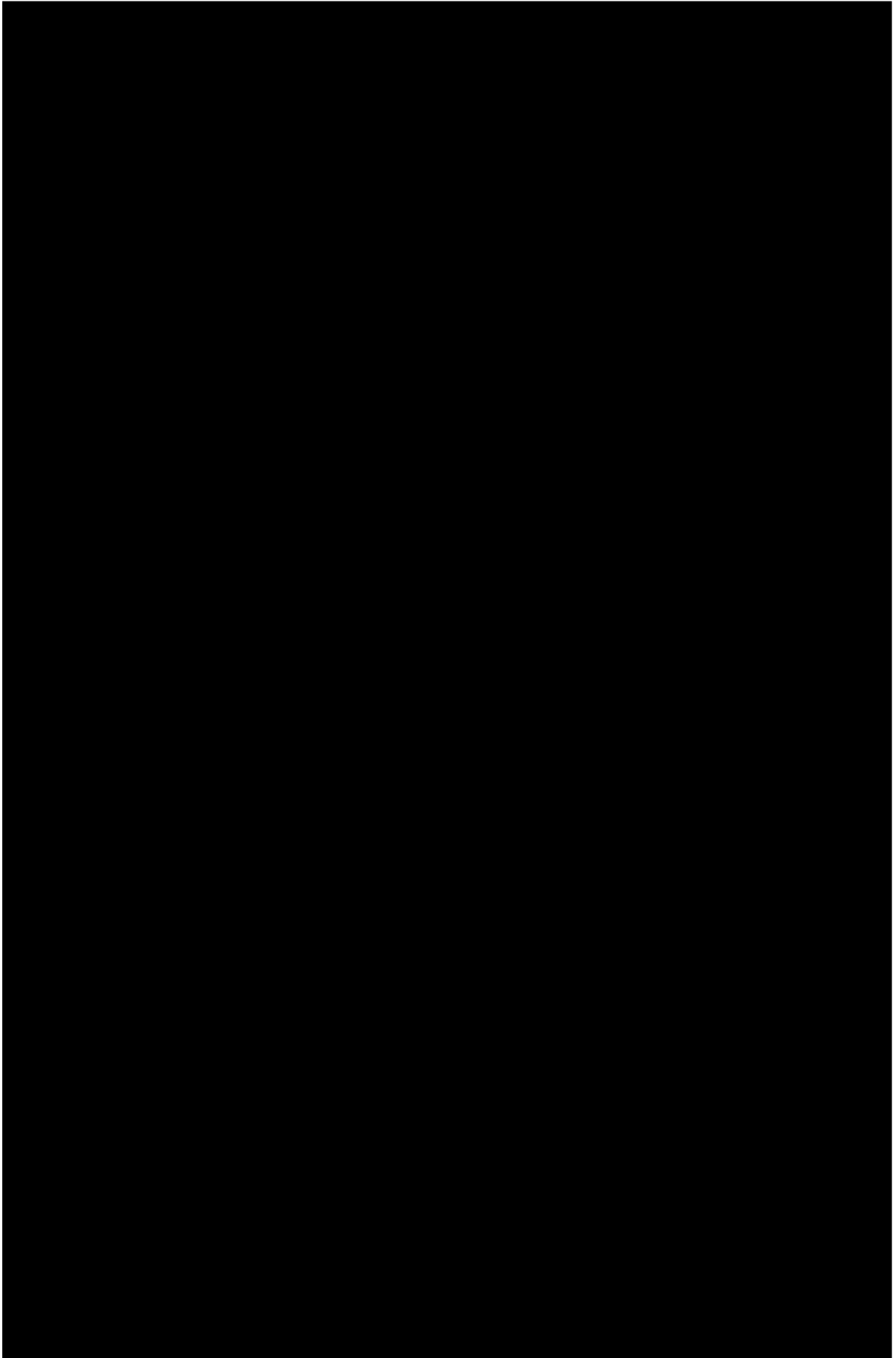




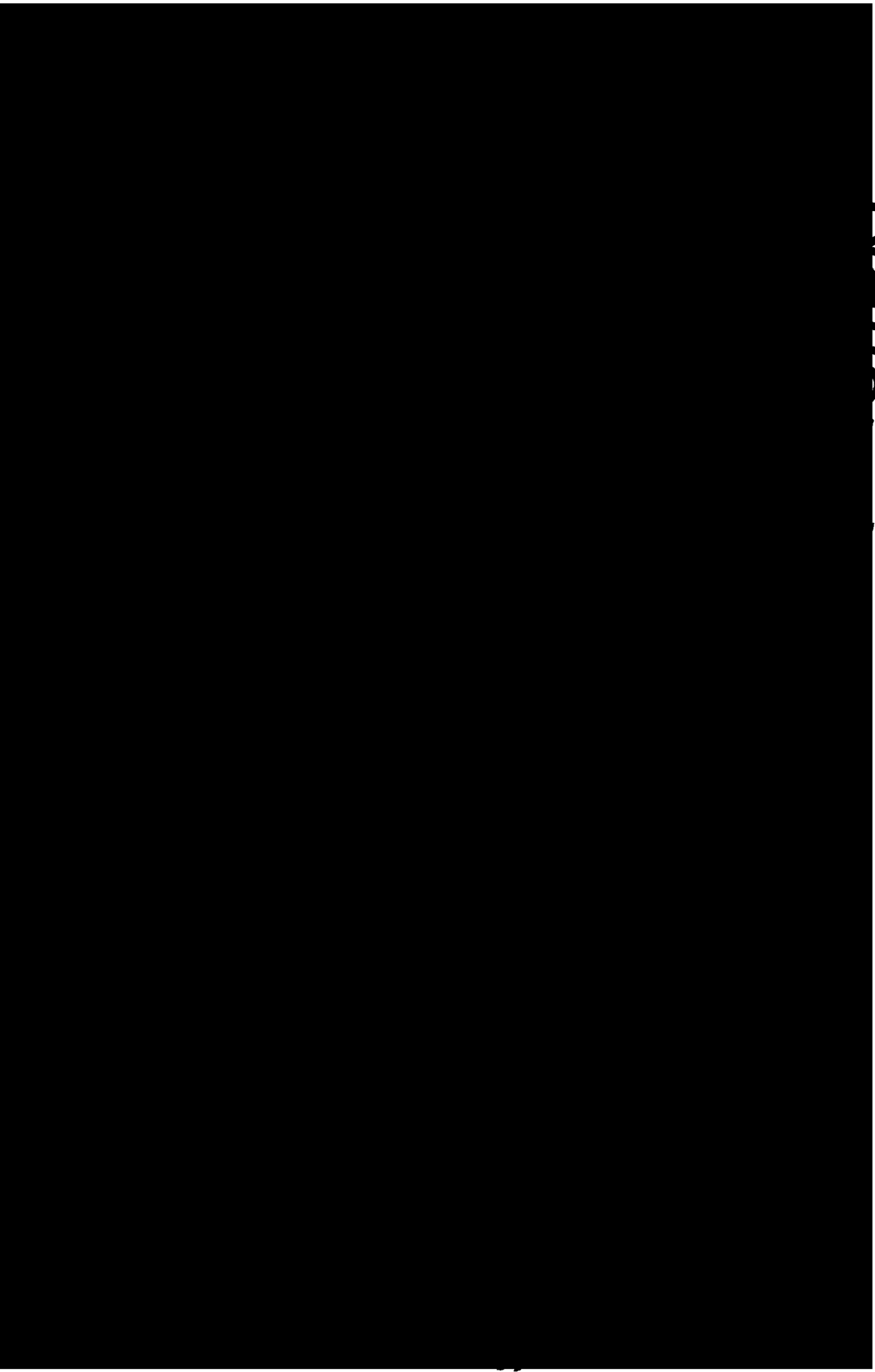




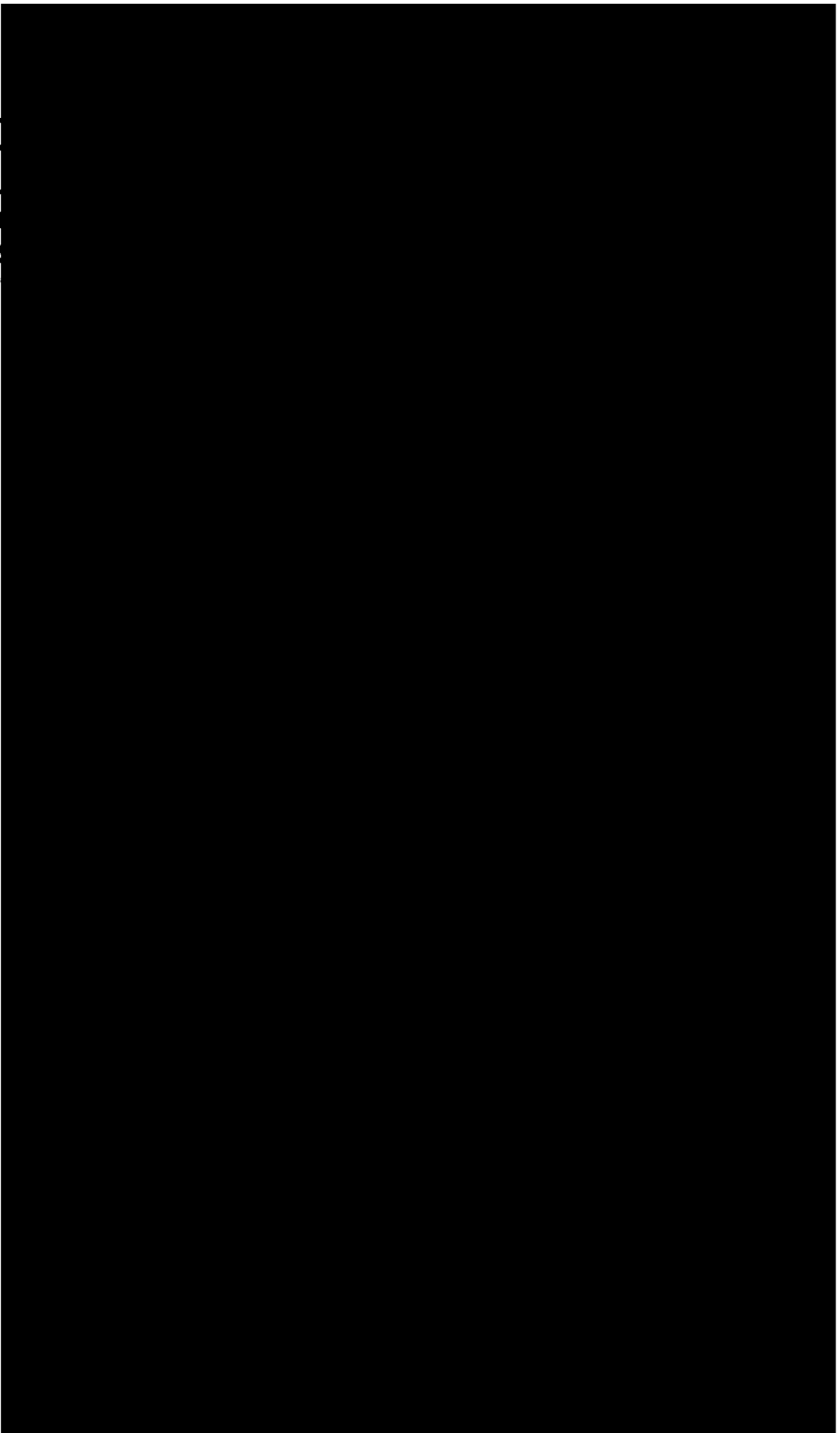




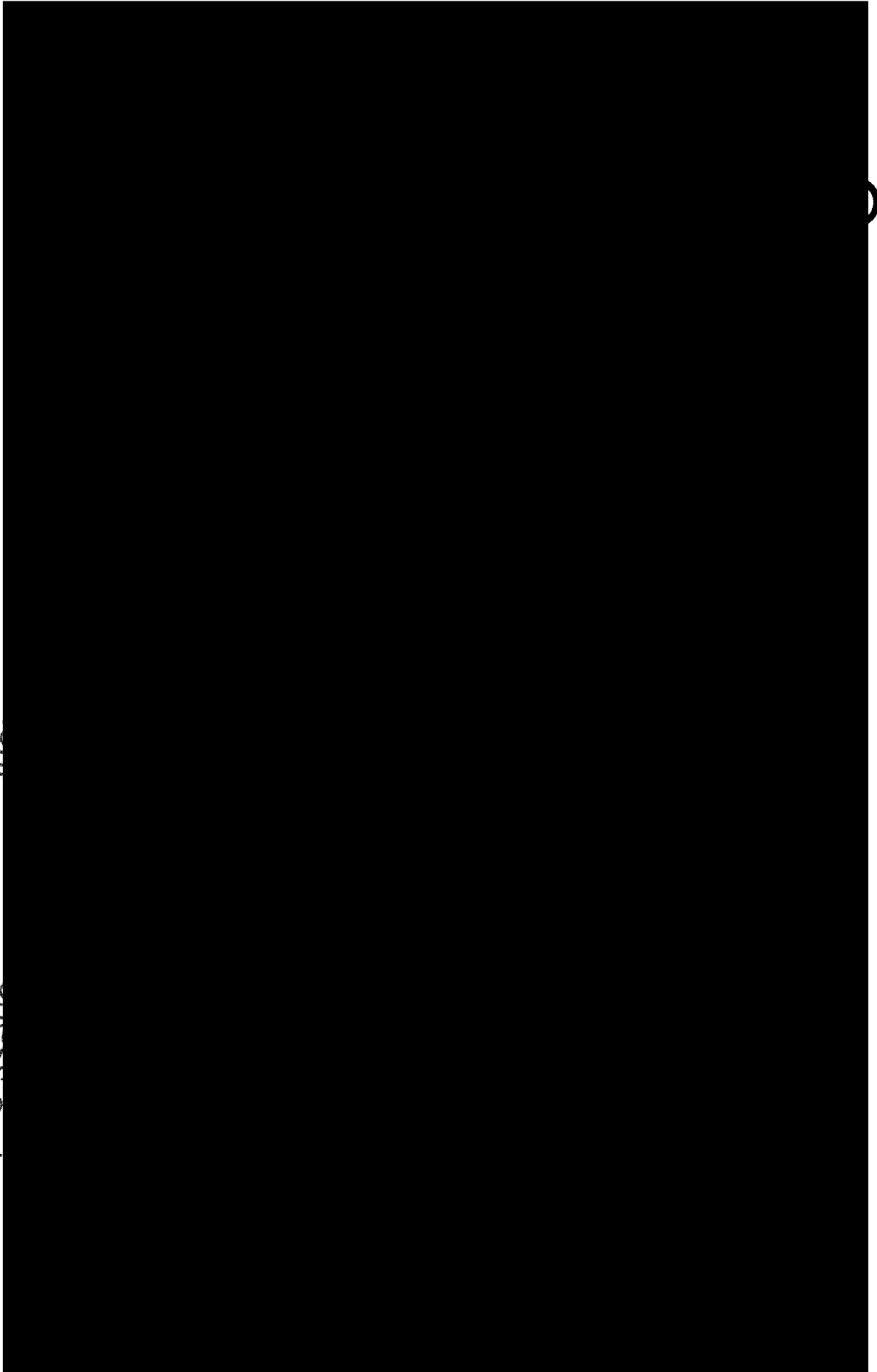
Nati



SI



and process



[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 2:08 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters (U)

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 1:07 PM
To: [REDACTED]
Subject: RE: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters (U)

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 12:55 PM
To: [REDACTED]
Subject: FW: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters (U)

FYI...

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 11:24 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters (U)

UNCLASSIFIED

Did not see you folks on the original send out.

PRESS RELEASE

FOR IMMEDIATE RELEASE: March 9, 2007

<http://intelligence.house.gov/Media/PDFS/ReyesRelease030907.pdf>

House Intelligence Committee to Hold Hearings on National Security Letters

Washington, D.C. - The U.S. Department of Justice Inspector General released a report today on the Federal Bureau of Investigation's (FBI) use of National Security Letters. Congressman Silvestre Reyes, D-TX, Chairman of the House Permanent Select Committee on Intelligence, released the following statement in response to today's report:

"This morning, Department of Justice Inspector General Glenn Fine briefed me on the Congressionally-mandated reviews of the use of National Security Letters (NSLs) to obtain telephone, Internet, credit and financial records, and Section 215 Orders for Business Records.

"In my opinion, these reports present a highly troubling picture of mismanagement, lack of effective controls, and shoddy recordkeeping of NSLs within the FBI. As a result, a large number of NSL requests were issued for sensitive records in violation of the law, policies and guidelines. In addition, the overall number of NSLs has been grossly underreported to Congress. Most troubling, the IG found that in more than 700 cases, the FBI issued 'exigent letters' promising that a grand jury subpoena or an NSL would follow - but they never did. And the IG found, in many cases, that there was no emergency or that the situation was not exigent. I expect more of the FBI and its leaders, especially since during the last Congress when we had the FBI in for hearings on this subject, we expressed our concern regarding the potential abuse of NSLs and emphasized that strict procedures be followed. Apparently, our concerns were well-founded.

"I, and many other Members of Congress, have previously expressed concern with orders issued under Section 215 of the USA Patriot Act. These orders permit investigators to demand information and records - like who borrowed a library book or who used a library Internet terminal. If not carefully handled, such information in the hands of the government has the potential to infringe upon American citizens' privacy rights. The Inspector General's (IG) findings concern me gravely.

"These mistakes, while perhaps not intentional, must be rectified. I intend to hold briefings and hearings to understand the scope of these problems and to ensure corrective action has been taken.

"I also spoke to Attorney General Alberto Gonzales and FBI Director Robert Mueller about these reports. Both pledged to me that they would accept the IG's recommendations and fix the problems that plague the system.

"The American people expect their government, and particularly their law enforcement agencies, to follow the law and protect their privacy and liberties. Congress must now do its job and conduct vigorous oversight of this situation."

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 3:18 PM
To: [REDACTED]
Subject: RE: SASC NSL Report (FOUO)

[REDACTED]

Nice catch! I made the changes...

Thanks,

[REDACTED]

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Wednesday, March 14, 2007 3:15 PM
To: [REDACTED]
Subject: FW: SASC NSL Report (FOUO)

Sirs,
FYI

[REDACTED]

-----Original Message-----
From: [REDACTED] CIV OSD OUSDI [mailto:[REDACTED]]
Sent: Monday, March 12, 2007 3:23 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: SASC NSL Report (FOUO)

FOR OFFICIAL USE ONLY

FYI, this is what we submitted to the SASC.

<<SASC Financial Requests 1990-2007 070305.doc>>

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 1:39 PM
To: DP Office Chiefs; DP Division Chiefs
Subject: FW: HPSCI Hearing Invitation

Attachments: invite.pdf



invite.pdf (184 KB)

FYI

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 12:07 PM

[REDACTED]

Subject: HPSCI Hearing Invitation

Good afternoon --- attached is the official invitation from the HPSCI for the March 22 CI hearing. It provides information on possible topics and witnesses/attendees.

V/R

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 1:38 PM
To: [REDACTED]
Subject: FW: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters

fyi.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 11:51 AM
To: EXCOM; [REDACTED]
Cc: [REDACTED]
Subject: HPSCI News Release: House Intelligence Committee to Hold Hearings on National Security Letters

Good Morning,

FYI.

[REDACTED]

PRESS RELEASE

FOR IMMEDIATE RELEASE: March 9, 2007
<http://intelligence.house.gov/Media/PDFS/ReyesRelease030907.pdf>

House Intelligence Committee to Hold Hearings on National Security Letters

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"I also spoke to Attorney General Alberto Gonzales and FBI Director Robert Mueller about these reports. Both pledged to me that they would accept the IG's recommendations and fix the problems that plague the system.

"The American people expect their government, and particularly their law enforcement agencies, to follow the law and protect their privacy and liberties. Congress must now do its job and conduct vigorous oversight of this situation."

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 1:37 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: NSL Point Paper for Brenner

Importance: High

Attachments: DoD NSL Point Paper for Dr. Brenner.doc



DoD NSL Point
Paper for Dr. Br...

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 9:50 AM
To: [REDACTED]
Subject: NSL Point Paper for Brenner
Importance: High

[REDACTED]

Please let me know if you concur with GC recommended changes. Thanks!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 8:47 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: NSL Point Paper for Brenner
Importance: High

Ref your SiproNet e-mail this morning, this is a re-send of yesterday's e-mail forwarding the NSL point paper for Brenner.

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Tuesday, March 13, 2007 9:21 AM

To: [REDACTED]

Cc: [REDACTED]

Subject: NSL Point Paper for Brenner

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, March 14, 2007 7:29 AM
To: [REDACTED]
Subject: FW: HOT! Newsweek Query on National Security Letters (U)

fyi.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 7:24 AM
To: [REDACTED]

Subject: RE: HOT! Newsweek Query on National Security Letters (U)

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, March 14, 2007 7:06 AM
To: [REDACTED]

Subject: FW: HOT! Newsweek Query on National Security Letters (U)

[REDACTED]

Please work quickly and get the answer to me... [REDACTED] can give you the answer...Thanks!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, March 13, 2007 5:57 PM

[REDACTED]

[REDACTED]

Subject: RE: HOT! Newsweek Query on National Security Letters (U)

UNCLASSIFIED

[REDACTED]

Regards,

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, March 13, 2007 5:01 PM
To: [REDACTED]
Cc: [REDACTED]

[REDACTED]

Subject: HOT! Newsweek Query on National Security Letters
Importance: High

[REDACTED]

V/R

[REDACTED]

[REDACTED]

-----Original Message-----

From: Hosenball, Mark [mailto:mhosen@newsweek.com]
Sent: Tuesday, March 13, 2007 4:25 PM
To: [REDACTED]
Subject: newsweek inquiry

Following our telephone conversation of a couple of minutes ago, I would like answers to the following questions:

Q1. What Defense Department agencies use National Security Letters to gather information ? Please identify by name all specific DoD law enforcement or intelligence agencies that do so.

A1: The following DoD components are authorized to makes requests for information under the NSL statutes in support of counterintelligence and counterterrorism investigations:

- o U.S. Army Criminal Investigation Command
- o U.S. Army Counterintelligence
- o Naval Criminal Investigative Service
- o U.S. Air Force Office of Special Investigations

Q2. Under what legal or administrative authority do DoD agencies use National Security Letters to gather information ? Please specify the specific authority used by each agency to issue such requests for information.

A2: DoD makes requests for information under authorities of the "National Security Letter statutes" - Right to Financial Privacy Act; the Fair Credit Reporting Act, and the National Security Act - but does not use the specific term National Security Letter in its investigatory practice.

Q3. Do National Security Letters issued by DoD agencies carry administrative or statutory compulsions which effectively require the recipient of the letter to turn over the requested information ? Or are recipients of such letters only requested voluntarily to turn over the information ? If this practice varies from agency to agency please specify who does what.

A3: DoD sends written requests for information to institutions and entities under the NSL statutes as permitted by the laws mentioned above. Because these are requests for information rather than court orders, a DoD request under the NSL statutes cannot be compelled absent court involvement.

Q4. What kind of information is gathered by DoD agencies using National Security Letters (compulsory or voluntarily) ? Please specify which agencies gather what kinds of information for what purposes (for example, counter-intelligence, force protection, counter-terrorism, personnel security, etc).

A4: The ability to request certain business transaction information is invaluable to DoD in conducting counterintelligence and counterterrorism investigations. These statutory tools may provide key leads for counterintelligence and counterterrorism investigations. The requests are used in authorized national security investigations for limited types of information, such as customer and consumer transaction information, from specified entities, such as U.S. financial institutions, U.S. telecommunications companies, and credit agencies.

Q5. How many National Security Letters have been issued over the last year/five years by each specific agency which uses this procedure to gather information ?

A5:

Q6. Have any of the individual agencies which use National Security Letters to gather information conducted, or been subjected to, any audits or inspections either by internal DoD watchdog agencies (such as DoD IG) or any other governmental watchdog (such as Congress, Justice Department, ODNI or GAO) regarding their use of National Security Letters to gather information ? If so, please furnish details of the audit or inspection and please characterize the results or conclusions of such inquiries or audits.

A6:

Q7. It has been reported to me that the agency CIFA is now facing possible renewal of the DoD Directive that constitutes its official charter. Please furnish me with details of the charter renewal process, whether CIFA is seeking to expand its authorities and/or activities, and whether other agencies are seeking to take away or claim back elements of CIFA's current operational authorizations or authority.

A7:

I may have further questions as my research on this issue progresses.
Please reply to me by return e-mail or you can phone me at 202-626-2036.

Many thanks for your attention to this inquiry.

Yours faithfully,

Mark Hosenball
Correspondent
Newsweek Washington Bureau

From:
Sent:
To:
Cc:
Subject:

[REDACTED]
Monday, March 12, 2007 3:23 PM

[REDACTED]
SASC NSL Report (FOUO)

Attachments: SASC Financial Requests 1990-2007 070305.doc



SASC Financial
Requests 1990-2...

FOR OFFICIAL USE ONLY

FYI, this is what we submitted to the SASC.

<<SASC Financial Requests 1990-2007 070305.doc>>

[REDACTED]

From: [REDACTED]
Sent: Friday, March 09, 2007 12:23 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: FBI-centric NSL Article (U)

Importance: High

FYI at this time -- but stand by!!!

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Friday, March 09, 2007 11:41 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: FBI-centric NSL Article (U)

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Friday, March 09, 2007 11:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: FBI-centric NSL Article (U)

Sir,

[REDACTED]

Cheers,
[REDACTED]

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Friday, March 09, 2007 11:13 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: FBI-centric NSL Article (U)

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 09, 2007 11:11 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: FBI-centric NSL Article (U)

Sirs,

[REDACTED]

V/R

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 09, 2007 10:55 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: FBI-centric NSL Article (U)

Sir,

[REDACTED]

Cheers,

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 09, 2007 10:28 AM
To: [REDACTED]
Subject: FW: FBI-centric NSL Article (U)

UNCLASSIFIED

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 09, 2007 10:10 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: FBI-centric NSL Article (U)

UNCLASSIFIED

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, March 09, 2007 8:37 AM

[REDACTED]

Subject: FBI-centric NSL Article

This article is on the front page (above the fold) of today's Washington Post. DNI is mentioned in third paragraph from the bottom. Other than that, this article is completely FBI-related, but I thought you might be interested because it might stir the pot.

V/R,

[REDACTED]

Frequent Errors In FBI's Secret Records Requests Audit Finds Possible Rule Violations By John Solomon and Barton Gellman Washington Post Staff Writers Friday, March 9, 2007; A01 A Justice Department investigation has found pervasive errors in the FBI's use of its power to secretly demand telephone, e-mail and financial records in national security cases, officials with access to the report said yesterday.

The inspector general's audit found 22 possible breaches of internal FBI and Justice Department regulations -- some of which were potential violations of law -- in a sampling of 293 "national security letters."

The letters were used by the FBI to obtain the personal records of U.S. residents or visitors between 2003 and 2005. The FBI identified 26 potential violations in other cases.

Officials said they could not be sure of the scope of the violations but suggested they could be more widespread, though not deliberate. In nearly a quarter of the case files Inspector General Glenn A. Fine reviewed, he found previously unreported potential violations.

The use of national security letters has grown exponentially since the Sept. 11, 2001, attacks. In 2005 alone, the audit found, the FBI issued more than 19,000 such letters, amounting to 47,000 separate requests for information.

The letters enable an FBI field office to compel the release of private information without the authority of a grand jury or judge. The USA Patriot Act, enacted after the 2001 attacks, eliminated the requirement that the FBI show "specific and articulable"

reasons to believe that the records it demands belong to a foreign intelligence agent or terrorist.

That law, and Bush administration guidelines for its use, transformed national security letters by permitting clandestine scrutiny of U.S.

residents and visitors who are not alleged to be terrorists or spies.

Now the bureau needs only to certify that the records are "sought for"

or "relevant to" an investigation "to protect against international terrorism or clandestine intelligence activities."

According to three officials with access to the report, Fine said the possible violations he discovered did not "manifest deliberate attempts to circumvent statutory limitations or departmental policies."

But Fine found that FBI agents used national security letters without citing an authorized investigation, claimed "exigent" circumstances that did not exist in demanding information and did not have adequate documentation to justify the issuance of letters.

In at least two cases, the officials said, Fine found that the FBI obtained full credit reports using a national security letter that could lawfully be employed to obtain only summary information. In an unknown number of other cases, third parties such as telephone companies, banks and Internet providers responded to national security letters with detailed personal information about customers that the letters do not permit to be released. The FBI "sequestered" that information, a law enforcement official said last night, but did not destroy it.

Alan Raul, vice chairman of the White House Privacy and Civil Liberties Oversight Board and a former Reagan White House lawyer, said in an interview that the Bush administration has asked the board to review and recommend changes in the FBI's use of national security letters.

"The processes seem to be seriously in need of tune-up," Raul said. "We hope to play a role in helping the FBI get to where it knows it needs to be."

Lanny Davis, another board member and a former attorney in the Clinton White House, said his recent briefing by the FBI left him "very concerned about what I regard to be serious potential infringements of privacy and civil liberties by the FBI and their use of national security letters. It is my impression that they too regard this as very serious." Fine's audit, which was limited to 77 case files in four FBI field offices, found that those offices did not even generate accurate counts of the national security letters they issued, omitting about one in five letters from the reports they sent to headquarters in Washington. Those inaccurate numbers, in turn, were used as the basis for required reports to Congress.

Officials said they believe that the 48 known problems may be the tip of the iceberg in an internal oversight system that one of them described as "shoddy."

The report identified several instances in which the FBI used a tool known as "exigent letters" to obtain information urgently, promising that the requests would be covered later by grand jury subpoenas or national security letters. In several of those cases, the subpoenas were never sent, the review found.

The review also found several instances in which agents claimed there were exigent circumstances when none existed. The FBI recently ended the practice of using exigent letters in national security cases, officials said last night.

The report, mandated by Congress over the Bush administration's objections, is to be presented to several House and Senate committees today. But senior officials, speaking with permission on the condition that they not be identified, said the Bush administration has already responded vigorously to the audit's findings.

Attorney General Alberto R. Gonzales learned of the findings three weeks ago and "was incensed when he was told the contents of the report," according to a Justice Department official.

"The attorney general commends the work of the inspector general in uncovering serious problems in the FBI's use of NSLs," said Tasia Scolinos, a spokeswoman for Gonzales. "He has told [FBI Director Robert S. Mueller III] that these past mistakes will not be tolerated, and has ordered the FBI and the department to restore accountability and to put in place safeguards to ensure greater oversight and controls over the use of national security letters."

FBI and Justice Department officials have long described national security letters as an indispensable tool in combating terrorism, and Fine's report, according to one official who cited excerpts, said investigators told the inspector general that the letters "contributed significantly to many counterterrorism and counterintelligence investigations." Fine did not make an independent assessment of the efficacy of the letters as investigative tools.

FBI procedures require that any possible violation of law or regulation on national security letters be reported to the President's Intelligence Oversight Board within 14 days of discovery. Of the 26 breaches it discovered before Fine's review, the FBI referred

19 to the oversight board.

Among the responses officials highlighted last night is a tracking database under development by the FBI to ensure that its accounting of national security letters is accurate. One official said the FBI would begin deployment of the system in four of its 56 field offices by the end of the year. Meanwhile, the official said, each office will be required to "hand count" the numbers every month.

Gonzales, officials said, has ordered the department's national security division and inspections division to begin audits next month of a sampling of national security letters in every field office. About 15 offices should be audited by the end of the year, the official said.

Gonzales has also ordered that he chief counsel of every field office personally sign off on every national security letter, a practice that has been encouraged but not required until now.

The office of Director of National Intelligence Mike McConnell has established a working group to consider how much of the information gathered by national security letters should be retained and whether any of it should be purged. After the Patriot Act was passed, the Bush administration eliminated the FBI's requirement that irrelevant personal information from case files be discarded after cases are closed.

Mueller has ordered improved training of agents involved in national security cases and better record-keeping. Last May, changes began with the fixing of databases.

A senior group of FBI inspectors has been asked to review the conduct of agents and their supervisors to determine if any should be disciplined for mistakes.

[REDACTED]

From: [REDACTED]
Sent: Friday, March 02, 2007 4:30 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL Program Review Package (U)

I guess sometimes its worth a good rant!!
Have a great weekend.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Friday, March 02, 2007 3:55 PM
To: [REDACTED]
[REDACTED]
Subject: RE: NSL Program Review Package (U)

No further action required...thanks [REDACTED]

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Friday, March 02, 2007 2:08 PM
To: [REDACTED]
[REDACTED]
Subject: RE: NSL Program Review Package (U)

[REDACTED]


Grab a beer and relax...I'll take it from here...I'll let you know what happens...thanks for the info!

[REDACTED]

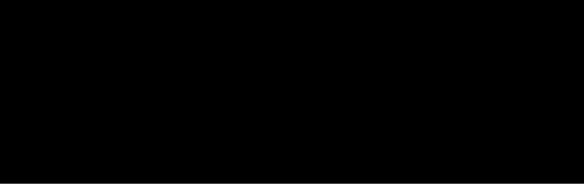
-----Original Message-----
From: [REDACTED]
Sent: Friday, March 02, 2007 2:04 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL Program Review Package (U)

I really have to contain myself on this one!!

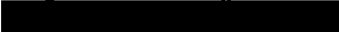
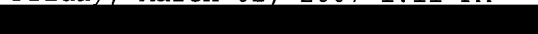
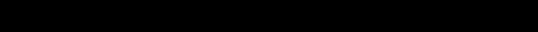
[REDACTED]


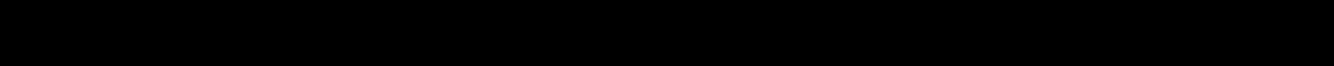



Now that I got that out.....!!!




-----Original Message-----

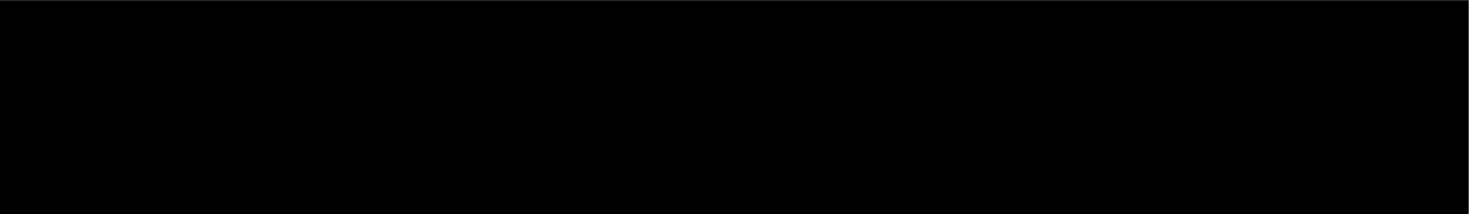
From: 
Sent: Friday, March 02, 2007 1:11 PM
To: 
Cc: 
Subject: NSL Program Review Package (U)
Importance: High

UNCLASSIFIED



Just got your subject package, looks great and early!



This leads to my second question

It's an ACTION MEMO. What ACTION are you requesting?

V/r


[REDACTED]

From: [REDACTED]
Sent: Friday, February 23, 2007 4:14 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

Attachments: Footnote 1.doc



Footnote 1.doc (26 KB)
[REDACTED]

My proposed footnote 1 is attached. Please feel free to edit as you see appropriate.

Thanks,
[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 10:32 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

We have a meeting with [REDACTED] tomorrow (Friday) at 1600 to discuss the status. You are welcome to join us if you are available. Technically, the report is due to [REDACTED] March 1.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 9:41 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

How close are we to going smooth? What is our due date?

Thanks,
[REDACTED]



-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 8:17 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: Draft CIFA NSL Report

[REDACTED] attached is the current draft of out NSL Report. Would appreciate your thoughts, particularly in view of our conversation this morning.



[REDACTED]

From: [REDACTED]
Sent: Thursday, February 22, 2007 11:12 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

Thanks... [REDACTED] wants to discuss with me this afternoon....more to follow.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 10:32 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

We have a meeting with [REDACTED] tomorrow (Friday) at 1600 to discuss the status. You are welcome to join us if you are available. Technically, the report is due to [REDACTED] March 1.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 9:41 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Draft CIFA NSL Report

How close are we to going smooth? What is our due date?

Thanks,

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 22, 2007 8:17 AM

To: [REDACTED]
Cc: [REDACTED]
Subject: Draft CIFA NSL Report

[REDACTED] attached is the current draft of out NSL Report. Would appreciate your thoughts, particularly in view of our conversation this morning.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, February 21, 2007 2:09 PM
To: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Attachments: 07-01-25 Program Management Review.pdf



07-01-25 Program Management Re...

Here's the NSL tasker from OSD

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 10:47 AM

[REDACTED]

Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Revised:

Lead: DP
Assist: DC, DS, DT
Due to DQ: 1 Mar 07

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 25, 2007 4:05 PM

[REDACTED]

Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Lead: DP
Assist: DS, DT
Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Wednesday, February 21, 2007 2:02 PM
To: [REDACTED]
Subject: NSL Report to SSCI and HAC-D (U)

Attachments: SSCI-HACD Follow-on Q&A 070215.doc



SSCI-HACD
low-on Q&A 070215
UNCLASSIFIED

[REDACTED]

V/R,

[REDACTED]

<<SSCI-HACD Follow-on Q&A 070215.doc>>

Department of Defense Response
to the Senate Select Committee on Intelligence and
the House Appropriations Committee – Defense
Following January 2007 Briefings on
National Security Letters (NSLs)

Q1: What is the percentage, by Service, of the total investigations that use NSLs?¹

❖ **Army CI (FY 2000-Present):**

- Total No. of Investigations: [REDACTED]
- Total No. Using NSLs: [REDACTED]
- Percentage: [REDACTED]

❖ **AF Office of Special Investigations (OSI) (FY 2000-Present):**

- Total No. of Investigations: [REDACTED]
- Total No. Using NSLs: [REDACTED]
- Percentage: [REDACTED]

❖ **NCIS: Pending**

Q2: What is the breakout of statutes used for each NSL or request made pursuant to the RFPA (see note 1)?

❖ **Army CI: [See Footnotes 1 & 2]**

- Total: [REDACTED]

¹ Congress has defined the term “National Security Letter” in section 119(g) of the PATRIOT Improvement and Reauthorization Act of 2006, and specifically did not include in the NSL definition requests made by authorized government agencies, such as the Department of Defense (DoD), under the Right to Financial Privacy Act (RFPA), 12 USC § 3414 (a)(1)-(4). As such, DoD requests made pursuant to the RFPA are not included in the above Service totals.

² For completeness, of the total number of investigations, Army CI records indicate that [REDACTED] investigations used a request made pursuant to the RFPA.

³ For completeness, of the total number of investigations, Army CI investigations that used a request made pursuant to the RFPA was [REDACTED] of total number of investigations.

⁴ For completeness, of the total number of investigations, AFOSI records indicate that [REDACTED] investigations used a request made pursuant to the RFPA.

⁵ For completeness, of the total number of investigations, AFOSI investigations that used a request made pursuant to the RFPA was [REDACTED] of total number of investigations.

THIS PAGE IS UNCLASSIFIED WHEN SEPARATED FROM TAB D

Prepared by: [REDACTED] CI Directorate, OUSD(I)/CI&S, [REDACTED]

➤ 12 USC § 3414: [REDACTED]

❖ AF OSI [See Footnotes 4 & 5]:

➤ Total: [REDACTED]

➤ 12 USC § 3414: [REDACTED]

➤ 50 USC § 436: [REDACTED]

❖ NCIS: Pending

Q3: What is the number of NSLs that DoD has asked FBI to issue in conjunction with a DoD investigation?

- ❖ DoD does not ask FBI to issue NSLs in conjunction with a DoD investigation. For DoD investigations, the military service organizations authorized to conduct counterintelligence investigations determine whether, in a particular investigation, use of NSLs is appropriate. If so, the request for information is made by the DOD organization.
- ❖ As the representatives from the Army CI and AFOSI stated during the January 2007 briefings, some investigations are conducted jointly with the FBI. During these joint investigations, it is not uncommon for the investigators to divide investigative tasks between agencies. However, this division of workload is not considered by the Department or the Military Services to be a DoD “request” for FBI to issue NSLs. Moreover, the Military Services do not maintain records of the number of FBI-issued NSLs in joint investigations.

Q4: What are the relevant DoD Directives governing use of NSLs?

- ❖ DoD Directive 5200.12, “Obtaining Information from Financial Institutions,” December 2, 2004 (TAB A-1)
- ❖ DoD Instruction 5200.15, “Guidance on Obtaining Information from Financial Institutions”, December 2, 2004 (TAB A-2)

Q5: Please provide a copy of each Service’s procedures for issuing NSL-type requests.

- ❖ Army CI Investigation Handbook – Financial Checks Excerpt (TAB B-1)
- ❖ AF OSI Manual 71-119 (Approved draft, dtd 11Feb 02) (TAB B-2)
- ❖ NCIS – PENDING (TAB B-3)

THIS PAGE IS UNCLASSIFIED WHEN SEPARATED FROM TAB D

Prepared by: [REDACTED] CI Directorate, OUSD(I)/CI&S, [REDACTED]

Q6: Please provide examples of an NSL from each Service.

- ❖ Department of the Army Example (TAB C-1)
- ❖ Department of the Navy Examples (TAB C-2)
- ❖ Department of the Air Force Examples (TAB C-3)

Q7: Please provide a copy of the 1979 MOA with the FBI and the 1996 amendment.

- ❖ April 5, 1979 Memorandum of Understanding: Coordination of Counterintelligence Matters Between FBI & DoD (TAB D-1) – **Marked CONFIDENTIAL**
- ❖ 1996 Supplement to 1979 FBI/DoD Memorandum of Understanding: Coordination of Counterintelligence Matters Between FBI & DoD (TAB D-2) – **Marked SECRET**

THIS PAGE IS UNCLASSIFIED WHEN SEPARATED FROM TAB D

Prepared by: [REDACTED] CI Directorate, OUSD(I)/CI&S, [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, February 20, 2007 3:47 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL - Army Write-up

Attachments: 4.jpg; imstp_usa1.gif



4.jpg (15 KB)



imstp_usa1.gif (18 KB)

Got it. I have updated the entries.

Thanks a bunch

[REDACTED]

-----Original Message-----

From: [REDACTED]
Date: 2/20/2007 3:04:15 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL - Army Write-up

[REDACTED]

Needs some adjustment with office terminology.

[REDACTED]

Hope this helps.

v/r

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 15, 2007 12:17 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: NSL - Army Write-up

[REDACTED]
Please review the attached for accuracy and let me know what needs to be changed.
Thanks for your help

[REDACTED]
<<Army MI Write-up.doc>>

FREE Emoticons for your email - by IncrediMail! Click Here!
<<http://www.incredimail.com/index.asp?id=99000>>

[REDACTED]

From:
Sent:
To:
Subject:

[REDACTED]
Tuesday, February 20, 2007 9:38 AM
[REDACTED]
RE: NSL Help

[REDACTED]

-----Original Message-----
From: [REDACTED]

Sent: Monday, February 19, 2007 10:35 PM
To: [REDACTED]
Subject: FW: NSL Help

From: [REDACTED]
Sent: Monday, February 19, 2007 10:35:02 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Fw: NSL Help
Auto forwarded by a Rule

Sent from my BlackBerry Wireless Handheld

[REDACTED]

-----Original Message-----

From: [REDACTED]
To: [REDACTED]
CC: [REDACTED]
Sent: Mon Feb 19 22:27:33 2007
Subject: NSL Help

[REDACTED]
I have attac <<DoD Guidance.doc>> hed two documents that are extracts from th
<<DEFINITIONS AND STATUTES.doc>> e report I am preparing. If you would, please give them a
look and provide feedback on the questions I have listed.

Thanks in advance

[REDACTED]

PS: I am playing [REDACTED] this week, that is why the email is coming form my comcast
address. I will also send it via blackberry from my work address.

<<http://www.incredimail.com/index.asp?id=99000>>

<<imstp_usa1.gif>>

[REDACTED]

From: [REDACTED]
Sent: Tuesday, February 20, 2007 7:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: HASC NSL Briefing

Importance: High

Note [REDACTED] request to set up a meeting Friday to discuss the status of the NSL review. Hopefully you can have a solid draft to present to him at that time?

I'll have [REDACTED] schedule a time on Friday.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Monday, February 19, 2007 10:07 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HASC NSL Briefing

[REDACTED]

Sounds like it went a lot better. Could you please sked a quick update next Fri (23 Feb) re progress on our DUDSI tasker re the NSLs.

Cheers,

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 15, 2007 3:45 PM

[REDACTED]

Subject: HASC NSL Briefing

Just returned from the HASC NSL briefing. No real issues -- very different than the SASC reception we received a couple of weeks ago! The staffers were very cordial; they allowed [REDACTED] to give his overview; and they then asked some very basic questions for clarification. No due outs for CIFA other than they would like to see the results of the NSL review we are conducting. The staffers did emphasize that they would like to see some overarching DoD policy on the use of NSLs.



[REDACTED]

From: [REDACTED]
Sent: Monday, February 19, 2007 10:52 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: NSL Help

Attachments: 4.jpg; DEFINITIONS AND STATUTES.doc; DoD Guidance.doc; imstp_usa1.gif



4.jpg (15 KB)



DEFINITIONS AND STATUTES.doc (...)



DoD Guidance.doc (33 KB)



imstp_usa1.gif (18 KB)

I was wondering if you could give me a hand on the legal side since you seem to have this issue down pat?

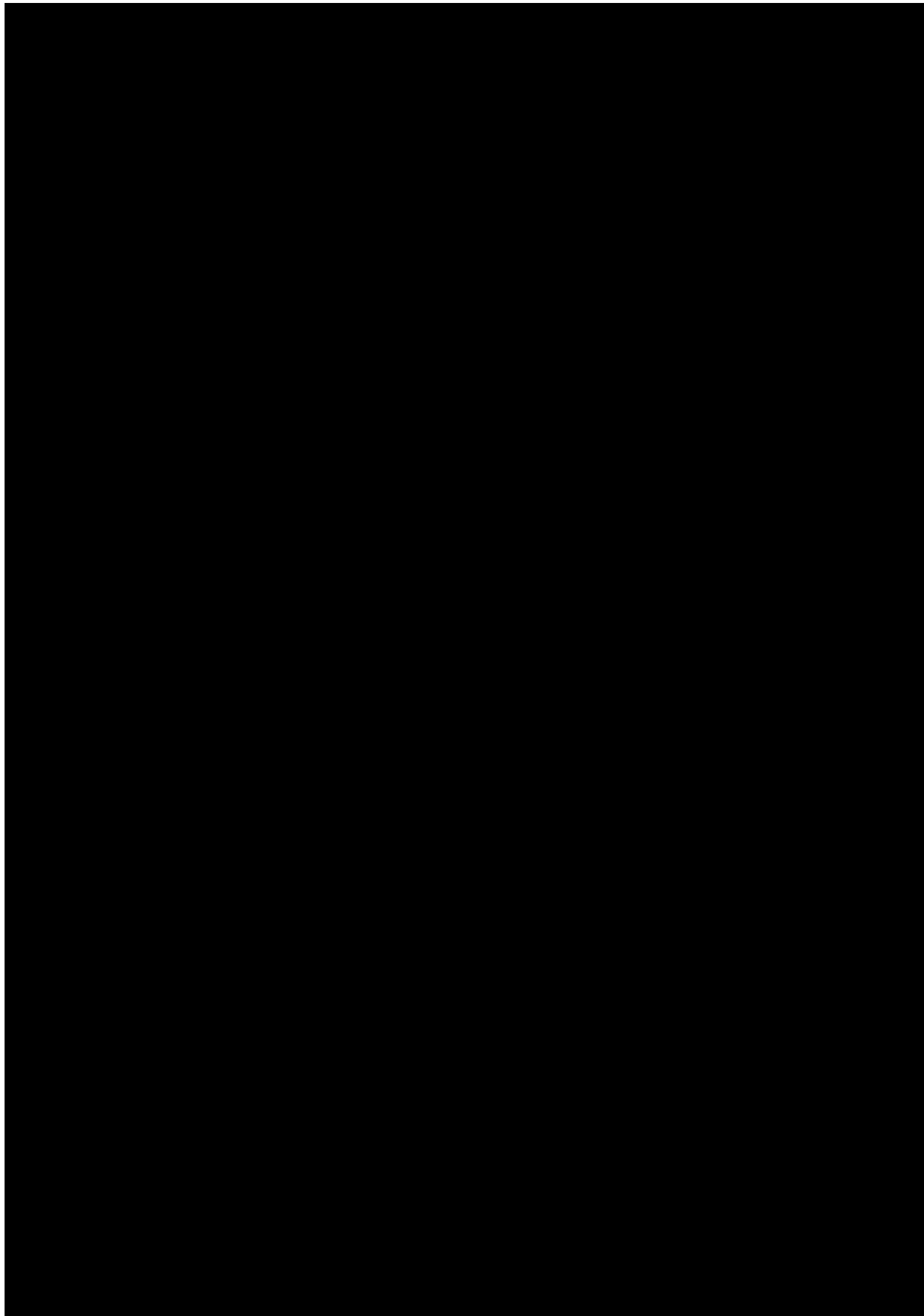
I have attached two documents that are extracts from the report I am preparing. If you would, please give them a look and provide feedback on the questions I have listed.

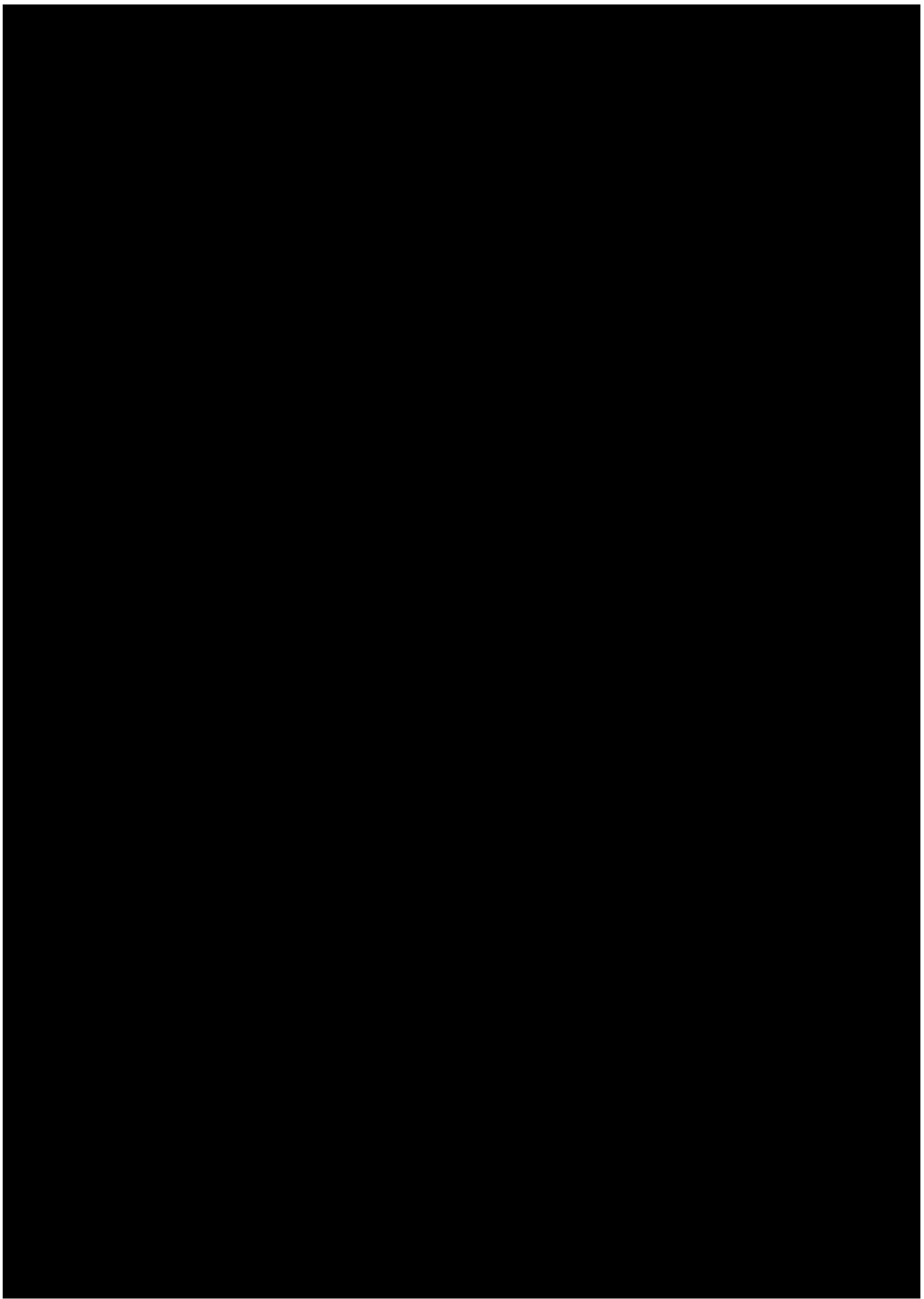
Thanks in advance

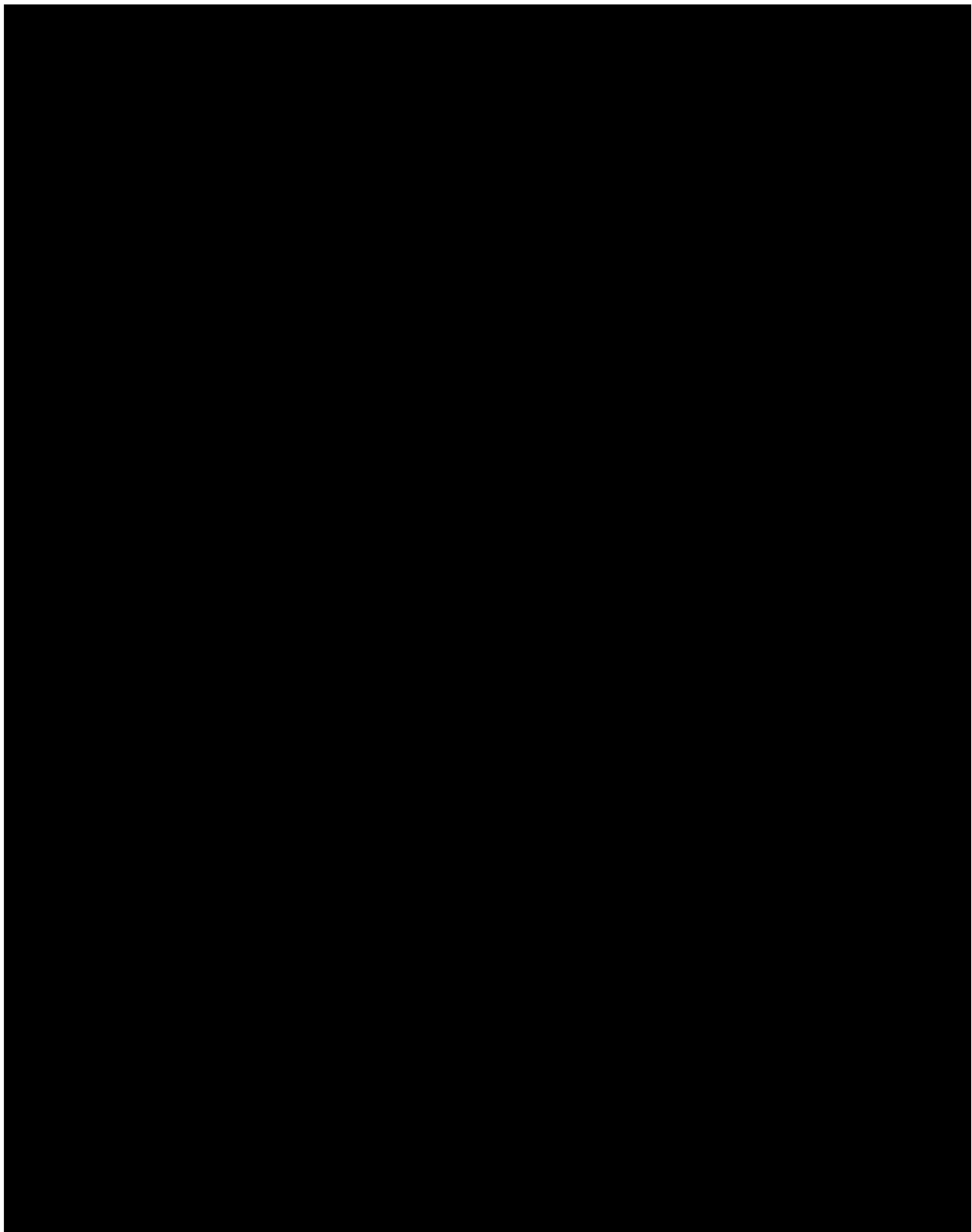
[REDACTED]

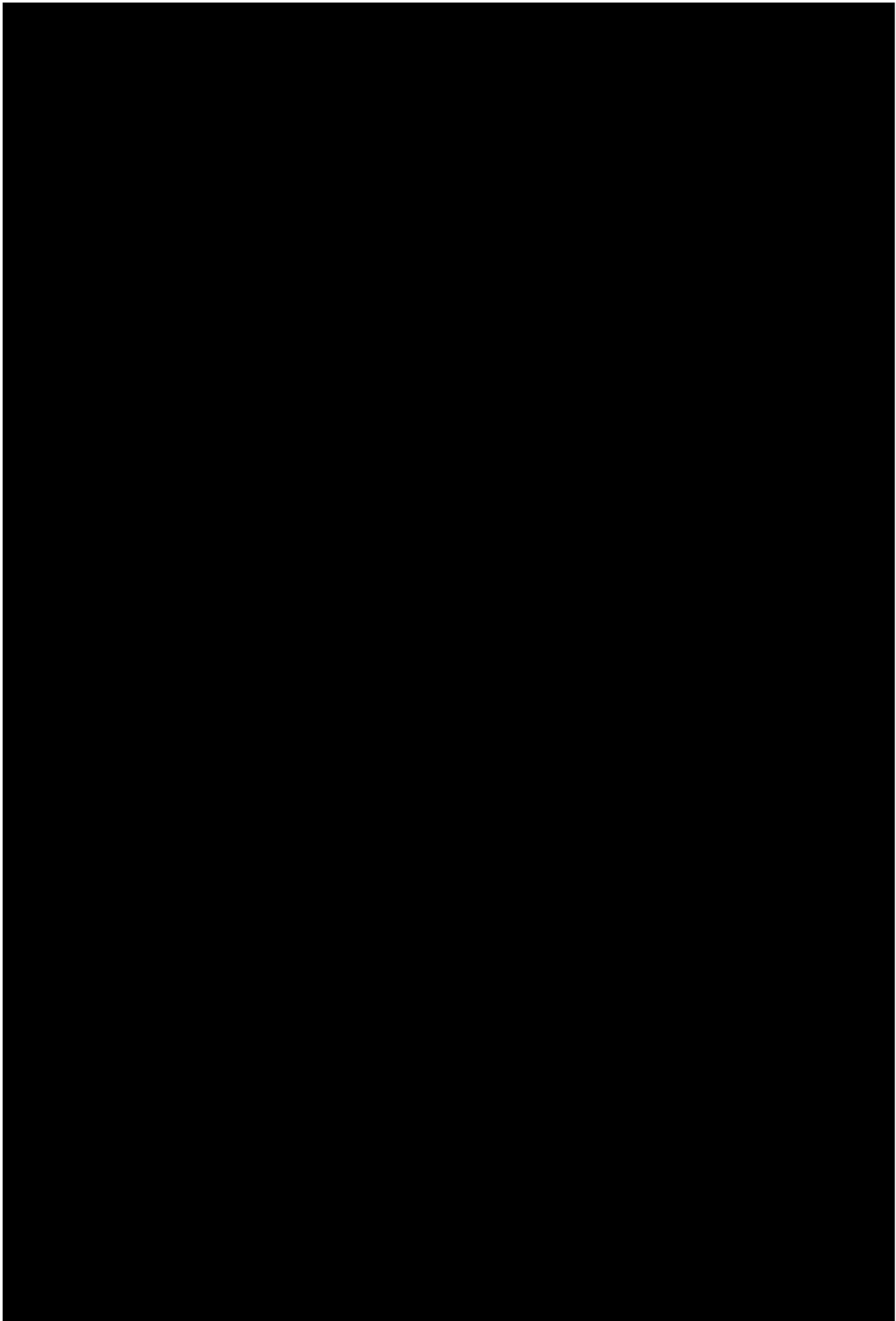
PS: I am playing [REDACTED] this week, that is why the email is coming from my comcast address. I will also send it via blackberry from my work address.

FREE Emoticons for your email - by IncrediMail! Click Here!
<<http://www.incredimail.com/index.asp?id=99000>>











[REDACTED]

From: [REDACTED]
Sent: Thursday, February 15, 2007 5:01 PM
To: [REDACTED]

Cc:
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HASC Minority Staff, 15 FEB 07

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 15, 2007 4:52 PM

[REDACTED]

[REDACTED]

Subject: QUICKLOOK: Meeting on National Security Letters (NSLs) with HASC Minority Staff, 15 FEB 07

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 15, 2007 3:46 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HASC NSL Briefing

Thanks. Appreciate you carrying this rock in your rucksack for us.

-----Original Message-----

From: [REDACTED]
Sent: Thursday, February 15, 2007 3:45 PM

[REDACTED]

Subject: HASC NSL Briefing

Just returned from the HASC NSL briefing. No real issues -- very different than the SASC reception we received a couple of weeks ago! The staffers were very cordial; they allowed [REDACTED] to give his overview; and they then asked some very basic questions for clarification. No due outs for CIFA other than they would like to see the results of the NSL review we are conducting. The staffers did emphasize that they would like to see some overarching DoD policy on the use of NSLs.

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 15, 2007 3:42 PM
To: [REDACTED]
Subject: RE: AFOSI NSL Write-up

Attachments: AFOSI Write-up - XOQ Final Draft 15 Feb 07.doc



AFOSI Write-up -
XOQ Final Dra... [REDACTED]

Attached are our changes to your insert. Additionally, I did not breakdown the number of CI/CT cases from 2000 - present; however, gave an overall number to OSD.

v/r [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, February 13, 2007 11:14 AM
To: [REDACTED]
Subject: AFOSI NSL Write-up

[REDACTED]

Please take a look at the following insert and let me know if I need to correct anything.

Thanks <<AFOSI Write-up.doc>>

[REDACTED]

SERVICE POLICY AND PROCEDURES

AFOSI

Philosophy: Most stateside AFOSI CI and CT investigations are conducted jointly with the FBI. An AFOSI NSL is merely a request for information where the financial institution can refuse to comply. A request from the FBI pursuant to any of the three statutes is compulsory. Therefore, if a request can be processed through the FBI, AFOSI will do so. To, date, AFOSI cannot cite any CI or CT investigations where the FBI has refused to issue an NSL on a joint investigation. Another benefit to processing the letter through the FBI is the available analytic support provided by the FBI that leads to a finished product being delivered back to the investigative agent.

Process: The AFOSI process for issuing an NSL is as follows:

1. The case agent submits a draft NSL to their respective detachment leadership for review. Reviewing supervisory officials have full access to the investigative case file and information in their investigative database (CI2MS).
2. The draft NSL is processed through the respective Regional Headquarters for review. Reviewing officials at every level have full access to the investigative database (CI2MS).
3. The Regional Headquarters forwards the draft to the respective Counterintelligence (CI) Investigations Desk Officer on the Integration Desk at HQ AFOSI. The CI Investigations Desk Officer ~~Integration Desk~~ reviews the request for investigative sufficiency.
4. The CI Investigations Desk Officer ~~Integration Desk~~ forwards the request to the HQ AFOSI Legal Unit for legal review [REDACTED]. If the request is not legally sufficient it is not recommended for approval and sent back to the case agent with an explanation.
5. After the request is found legally sufficient, the request is forwarded through remaining command officials as follows:
 - a. Director of Counterintelligence
 - b. Director of Operations
 - c. AFOSI Commander or Vice Commander for signature.
6. HQ AFOSI mails the NSL to the financial institution's headquarters. (Note: the case agent will contact the institution and notify the appropriate office that the letter is enroute)

Process Time: The turn-around time from the initial request to the time HQ AFOSI mails the letter is usually within seventy-two hours.

Approval Authorities: The Commanding General or Vice Commander.

[Redacted]

From: [Redacted]
Sent: Thursday, February 15, 2007 2:06 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Navy NSL Write-up

Attachments: Navy Write-up mds comments.doc



Navy Write-up mds
comments.doc... [Redacted]

Please see my changes. Advise if you have questions.

R/
[Redacted]

-----Original Message-----

From: [Redacted]
Sent: Thursday, February 15, 2007 11:50
To: [Redacted]
Cc: [Redacted]
Subject: Navy NSL Write-up

[Redacted]
Please review the attached document and make corrections where you feel they are needed.
Please shoot these back to me when you get a chance.

Thanks <<Navy Write-up.doc>>

[Redacted]

SERVICE POLICY AND PROCEDURES CONTINUED

Naval Criminal Investigative Service (NCIS)

Philosophy: NCIS exercises its authority to issue NSLs under all three statutes that pertain to DoD. They view NSLs as an invaluable investigative tool which they use not only to verify existing information, but to serve as a lead generation tool. According to DoD statistics, NCIS issues more letters than the other DoD agencies. They effectively and efficiently employ NSL's through detailed program management, investigative oversight, and training. The attorneys in the National Security Law Unit are responsible for providing the legal review of the letters. One of the attorneys is embedded within the Counterintelligence Directorate, enabling her to be involved in all steps of the investigative process and remain intimately familiar of the status of an investigation as it progresses. NCIS plans to increase the utilization of this investigative and lead generation process through program direction, timely investigative review, and increased awareness training.

Deleted: the use

Deleted: legal review unit

Deleted: ir

Deleted: investigative oversight and management directorate

Deleted: which enables them

Deleted: as

Instruction/Regulations: General Administrative Order OOJ-0002, [REDACTED]

Comment [m1]: We have a draft GEN that should be out within the next week or two updating the policy outlined in OOJ-0002. The basic policy is the same, but the earlier document was issued in Feb 03, and as you know, several changes have occurred since then.

Deleted: 00-JTAC-002

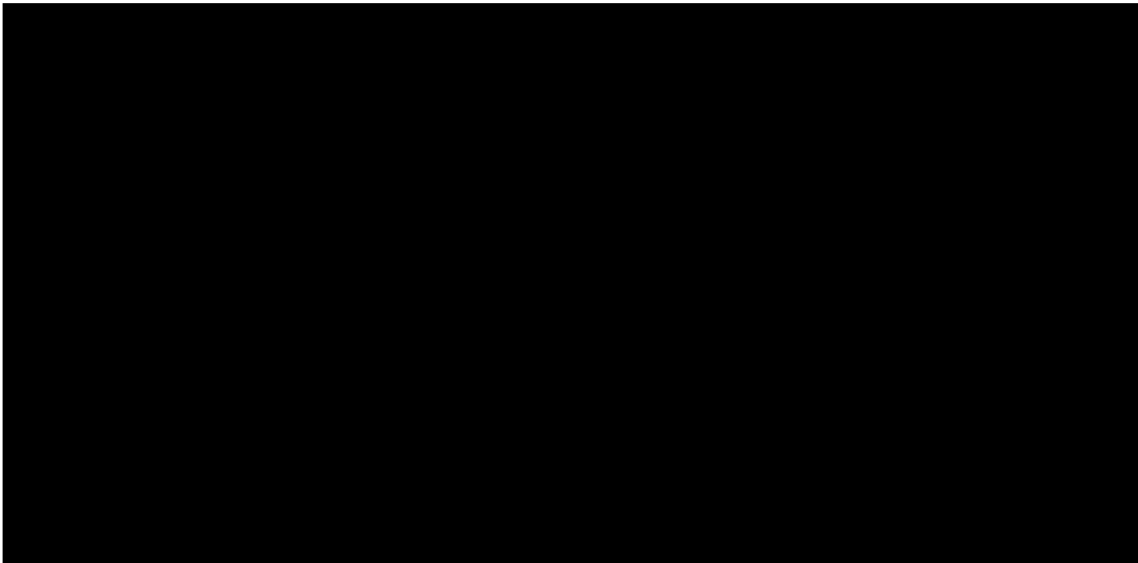
Process: The NCIS process for issuing an NSL under each of the applicable statutes is as follows:

1. The case agent submits a draft NSL along with the supporting documentation to the appropriate NCIS desk officer (CI or CT). In many cases, these investigations have already been identified as Special Interest or Director Special Interest cases. Because of this status the HQ NCIS desk officers and the legal unit are intimately familiar with the case.
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the NCIS National Security Law Unit (NSLU) for a legal review.
3. The NSLU attorney reviews the documentation to ensure all criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to senior officials at NCIS headquarters for final review and signature. The total number of headquarters officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted (usually electronically), to assure the recipient is appropriately sensitized to both investigative and privacy considerations.

Deleted: most

Process Time: The turn-around time from the initial request to the time HQ NCIS transmits the letter is usually within twenty-four hours.

Approval Authorities: The NCIS Director, NCIS Deputy Directors, and Executive Assistant Directors for CI and CT have approval authority for all three statutes that pertain to DoD. The Deputy Assistant Directors for CI and CT may sign letters pursuant to 12 U.S.C. § 3414 and 15 USC § 1681v.



[Redacted]

From: [Redacted]
Sent: Friday, February 09, 2007 1:01 PM
To: [Redacted]
Subject: NSL Chart

Attachments: CI%20Investigative%20Tools%20Chart[1].pdf



CI%20Investigativ
e%20Tools%20C...

You probably already have this, but here you go anyway...

V/R,
[Redacted]

[Redacted]

[Redacted]

From: [Redacted]
Sent: Friday, February 09, 2007 11:03 AM
To: [Redacted]
Subject: NSL Stuff Part III of III (U)

Attachments: 07-01-19 NSL Talking Points.doc; 07-01-19 OUSD(I) NSL Briefing.ppt; NSL Congressional Q&A to Congress 070125.doc

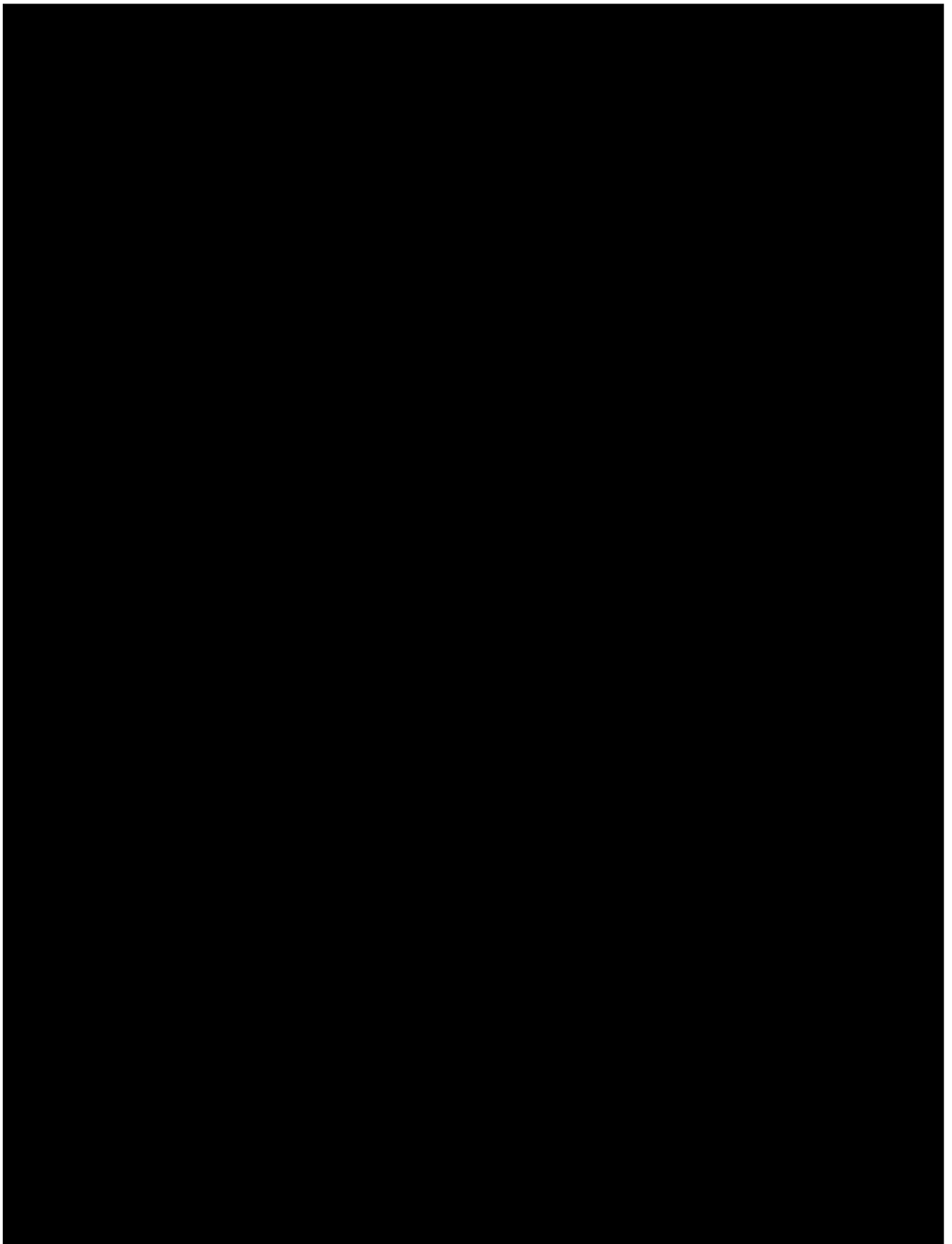


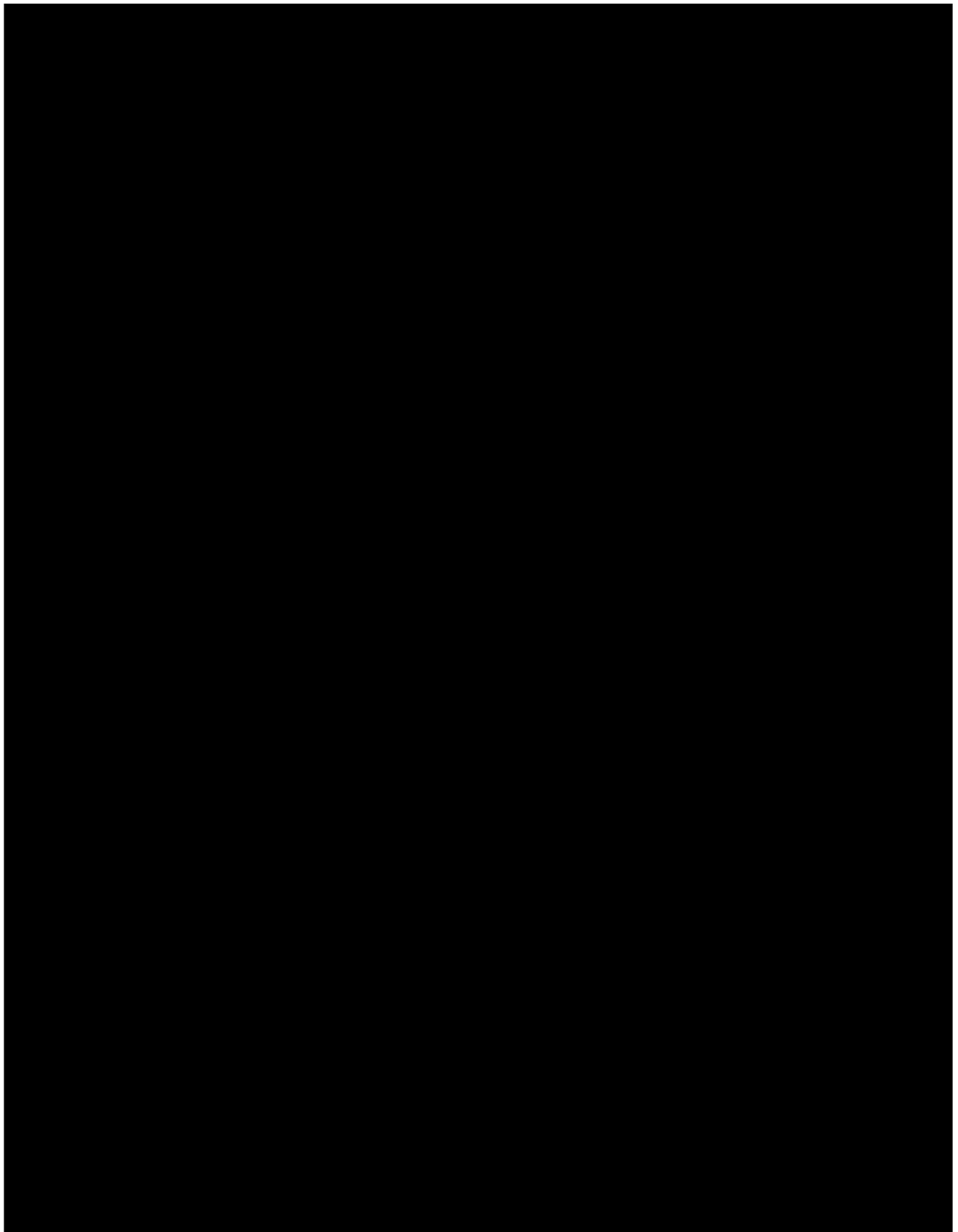
07-01-19 NSL Talking Points.do... 07-01-19 OUSD(I) NSL Briefing... NSL Congressional Q&A to Congr...

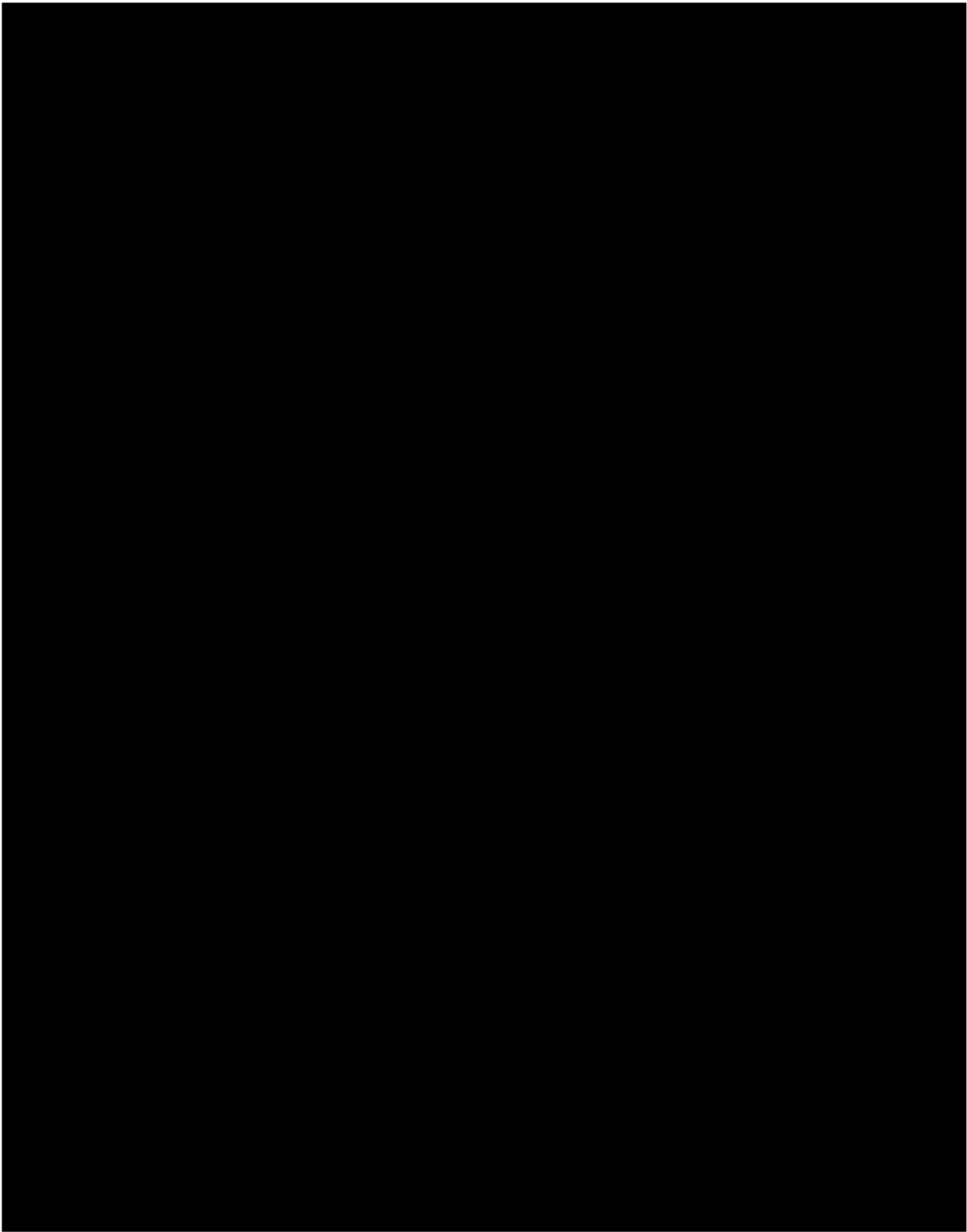
UNCLASSIFIED

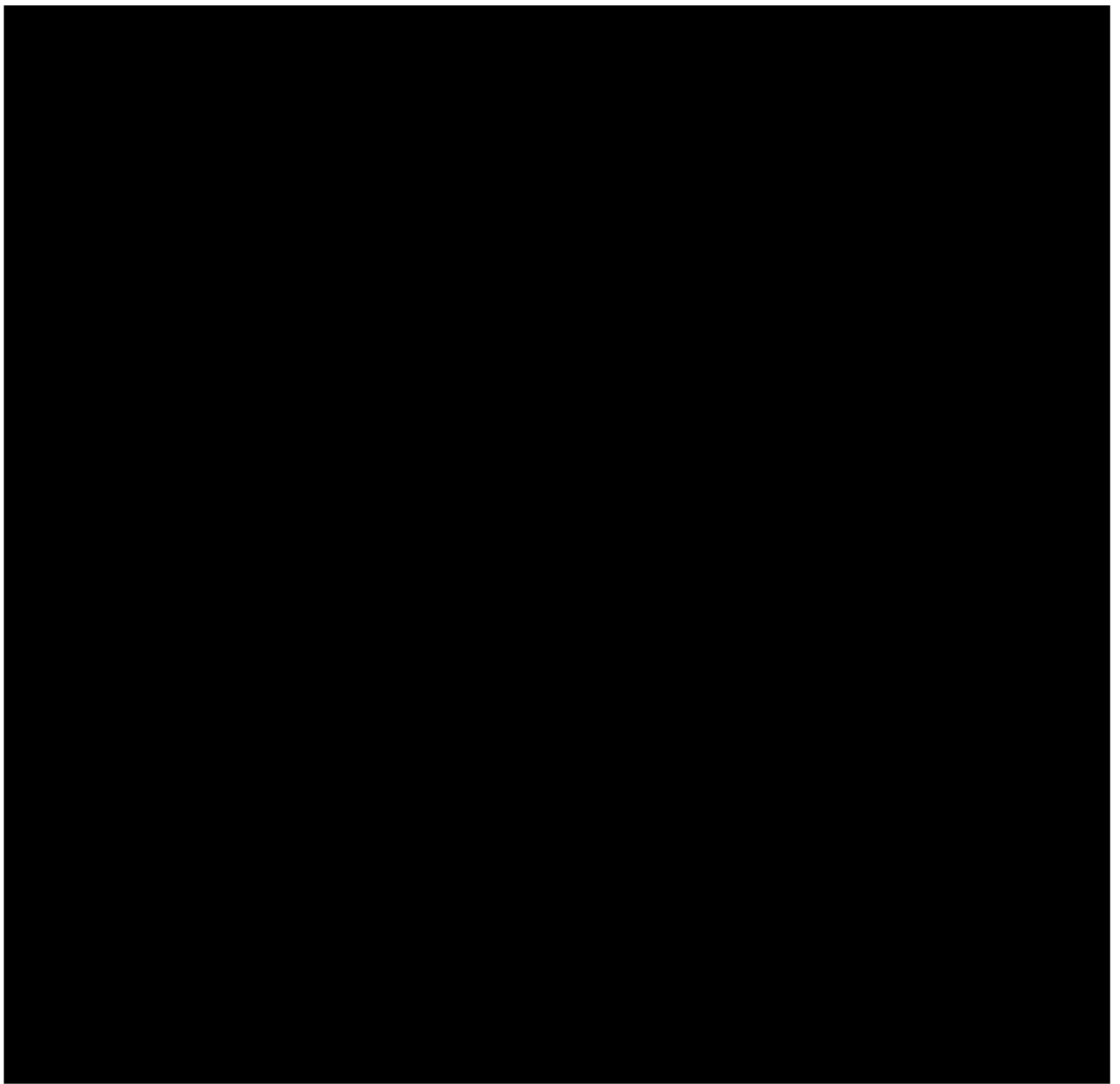
<<07-01-19 NSL Talking Points.doc>> <<07-01-19 OUSD(I) NSL Briefing.ppt>> <<NSL Congressional Q&A to Congress 070125.doc>>

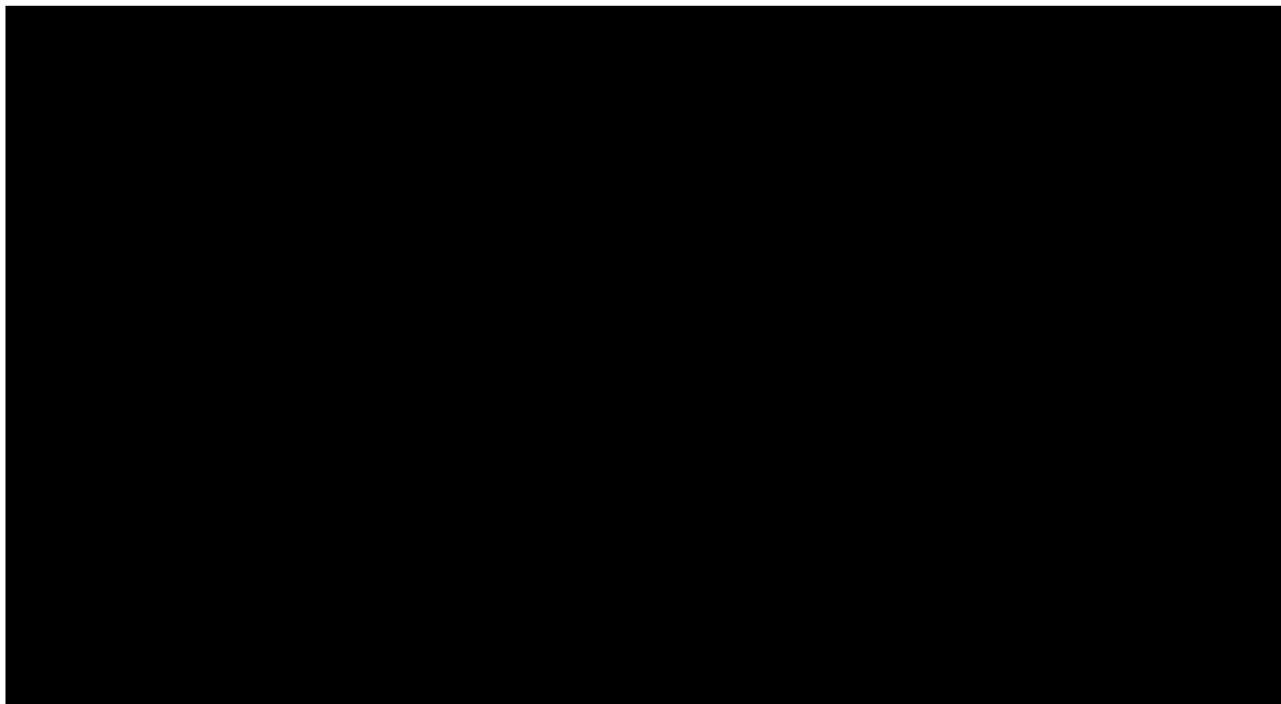
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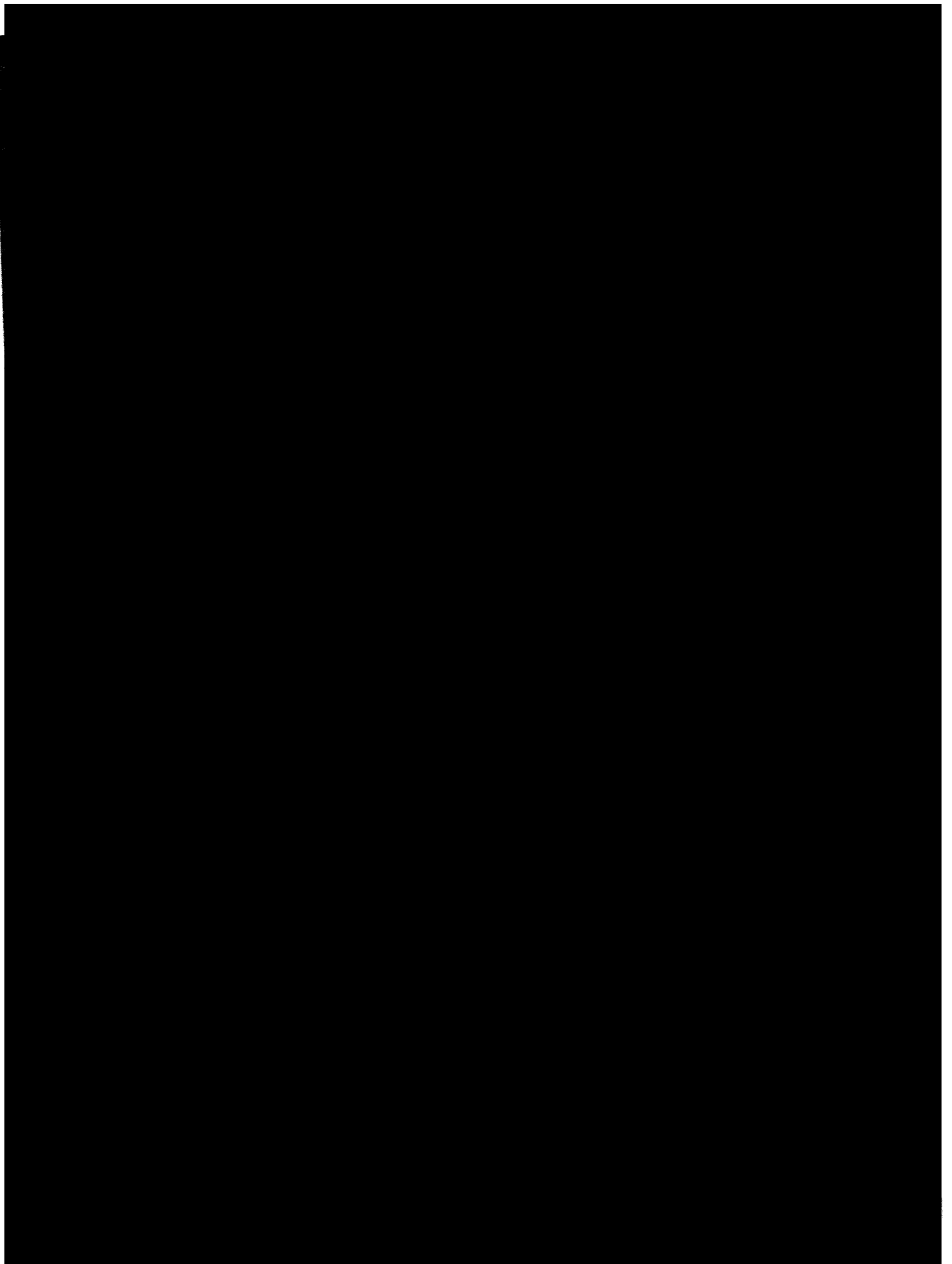






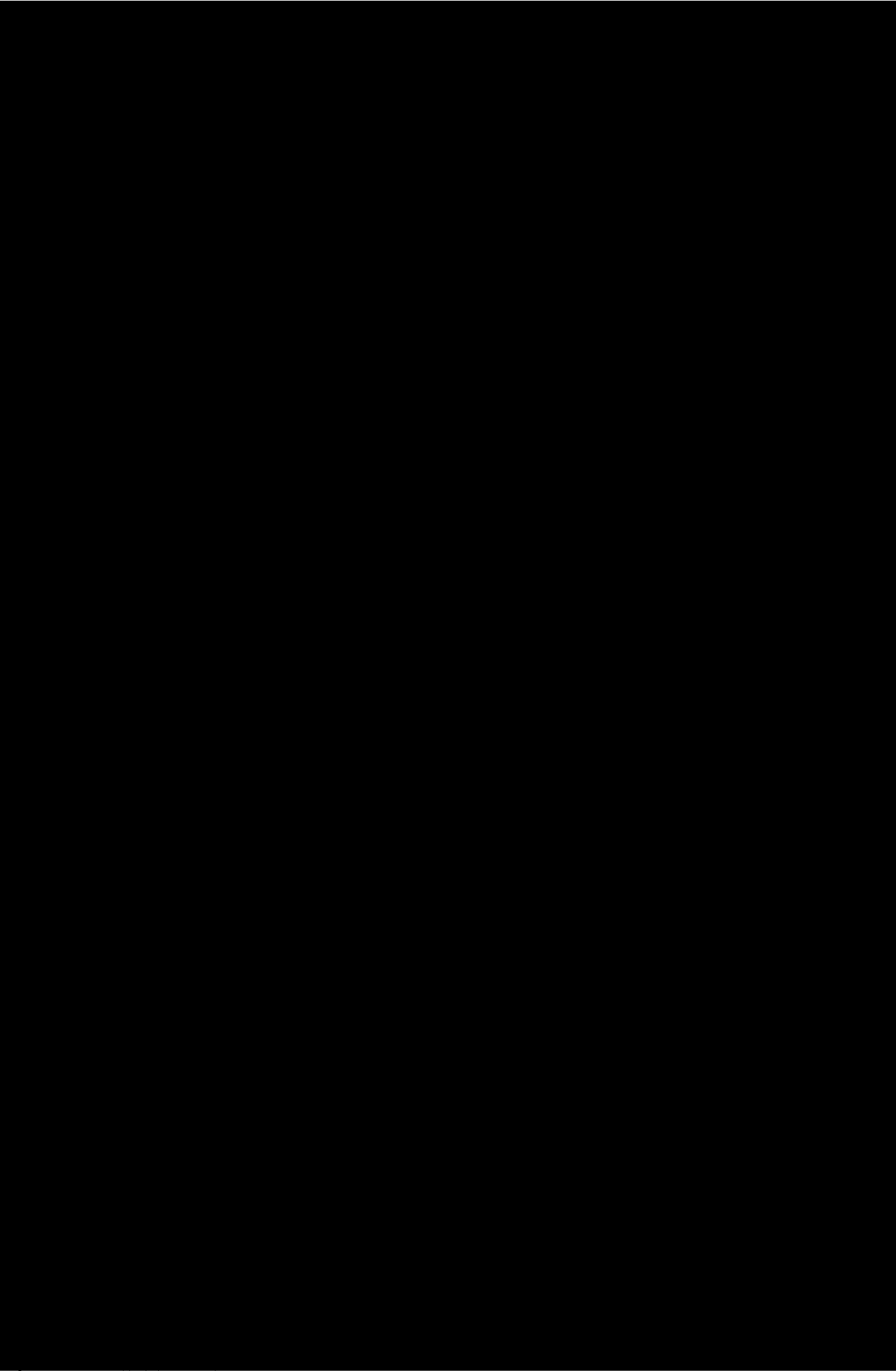


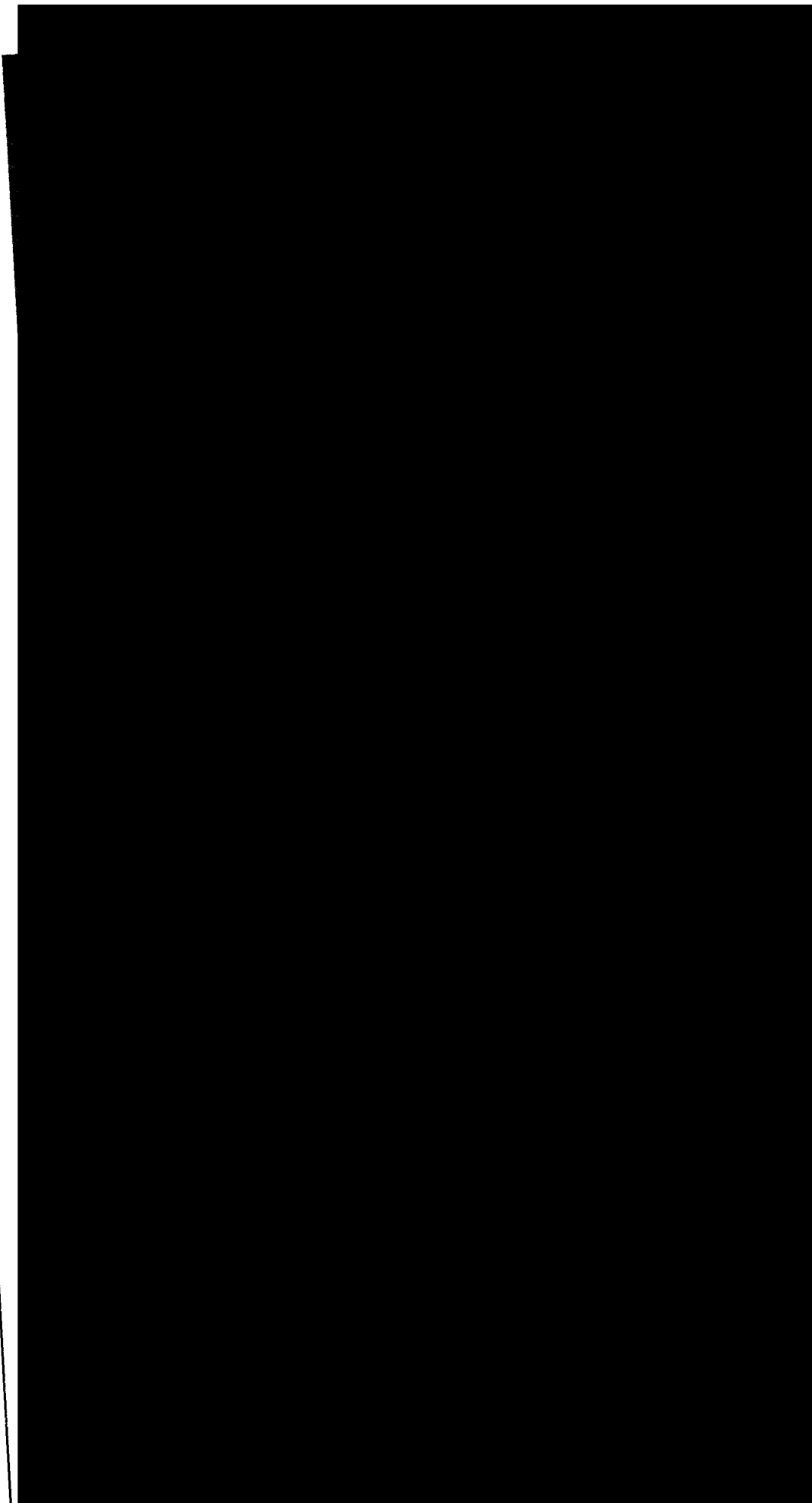




11/25/10

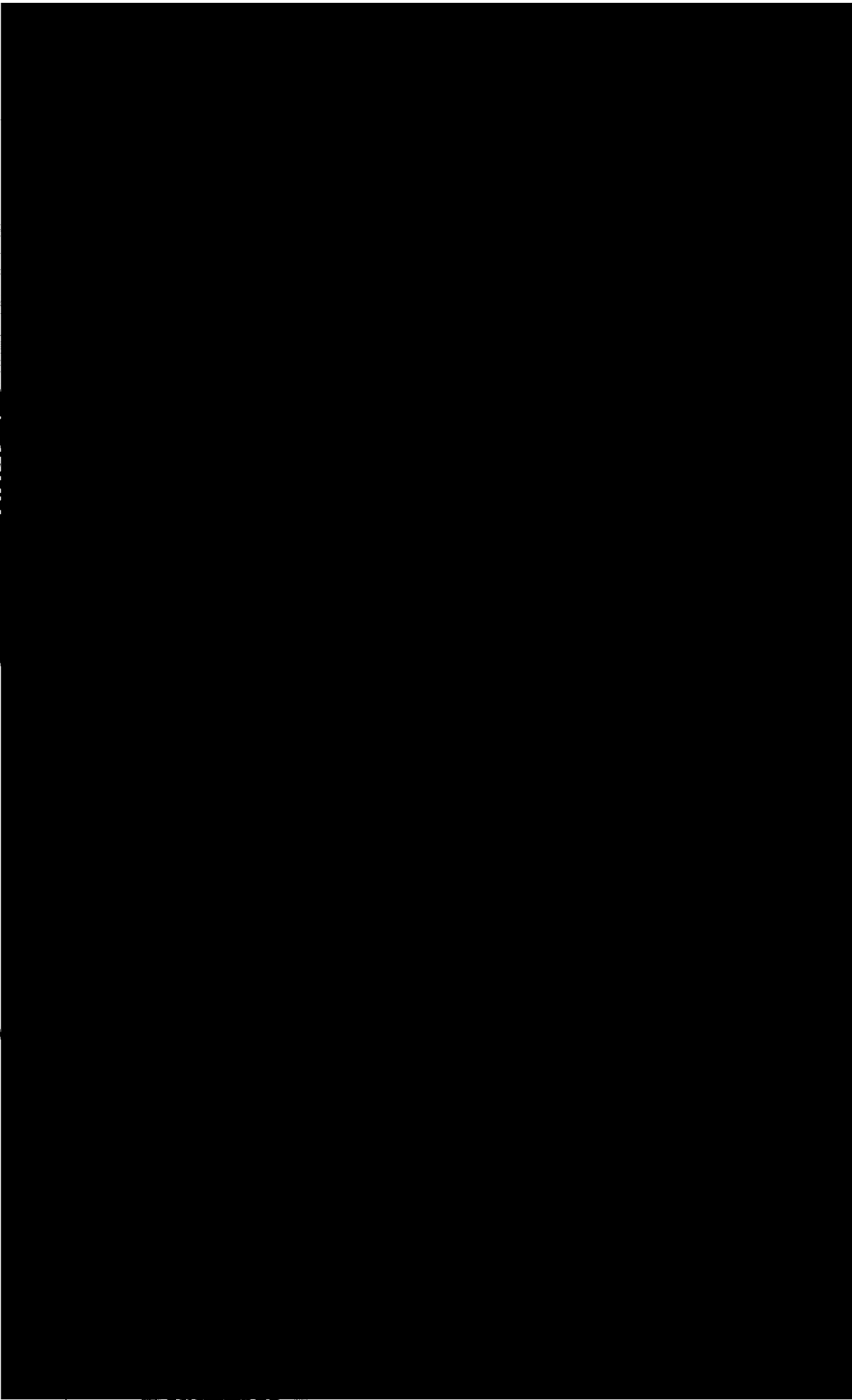
PSIU (S) OIJSO (I)



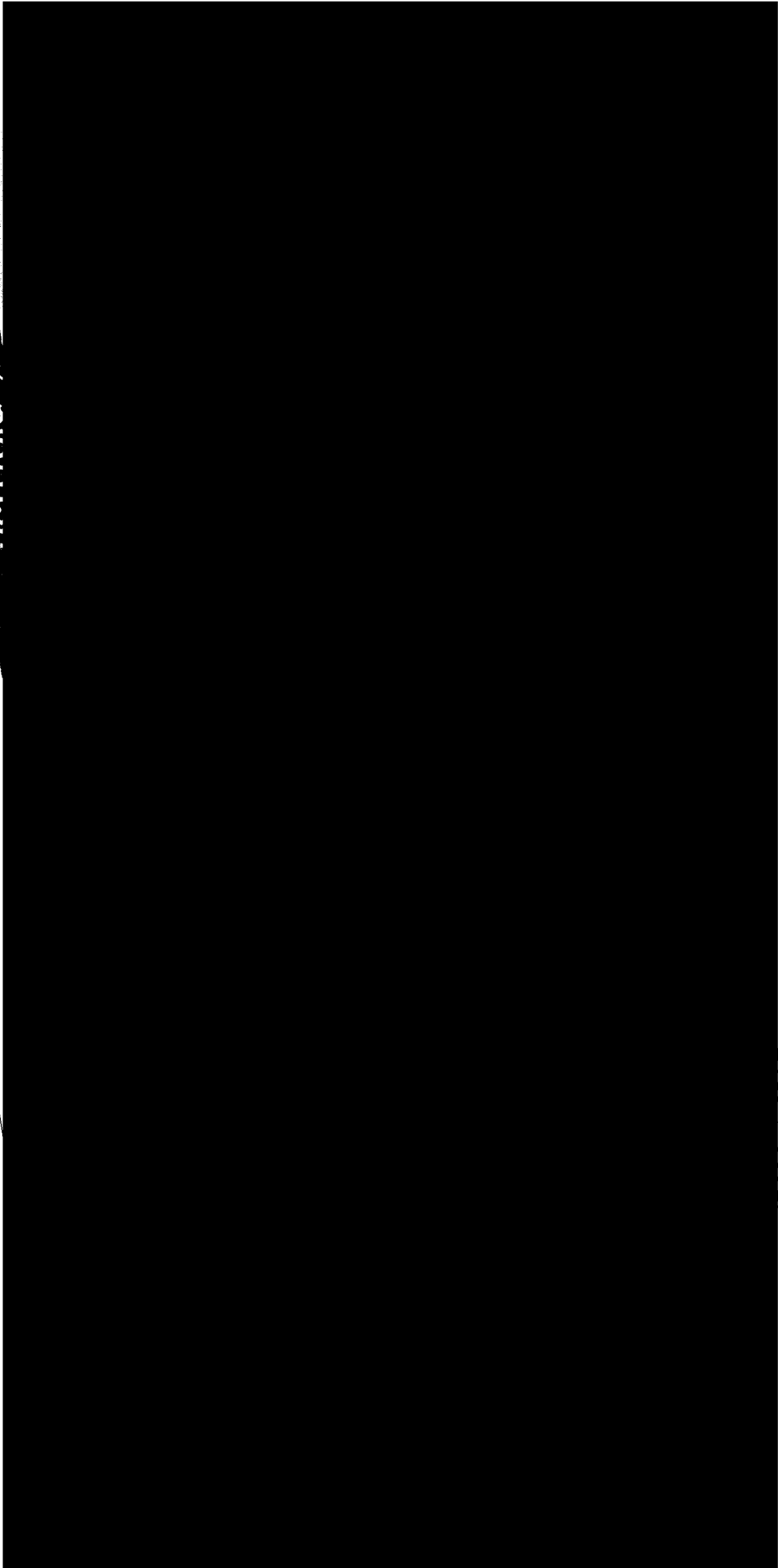


(b) (7) - (C)

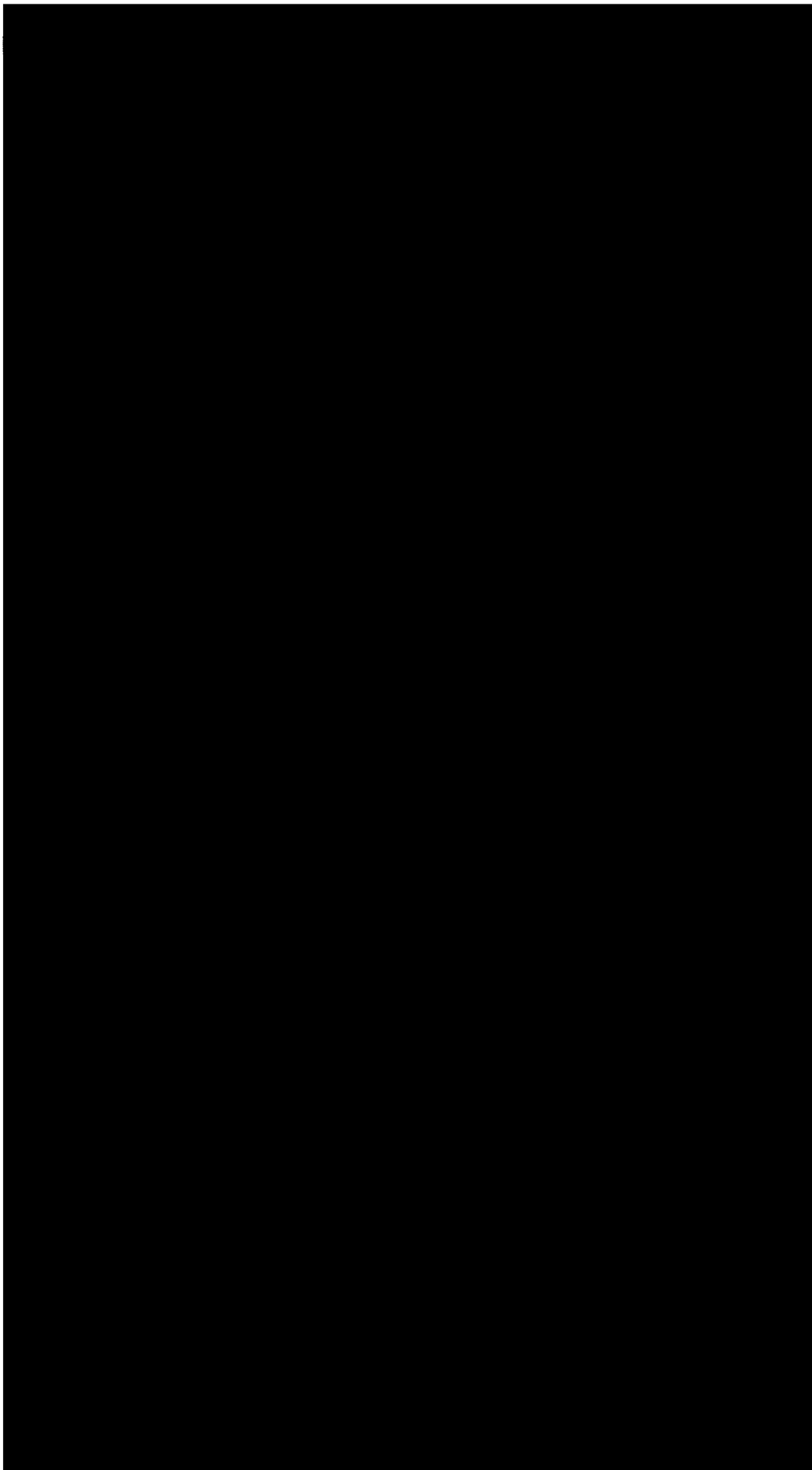
NIISD (CI&S), OUSD (W)

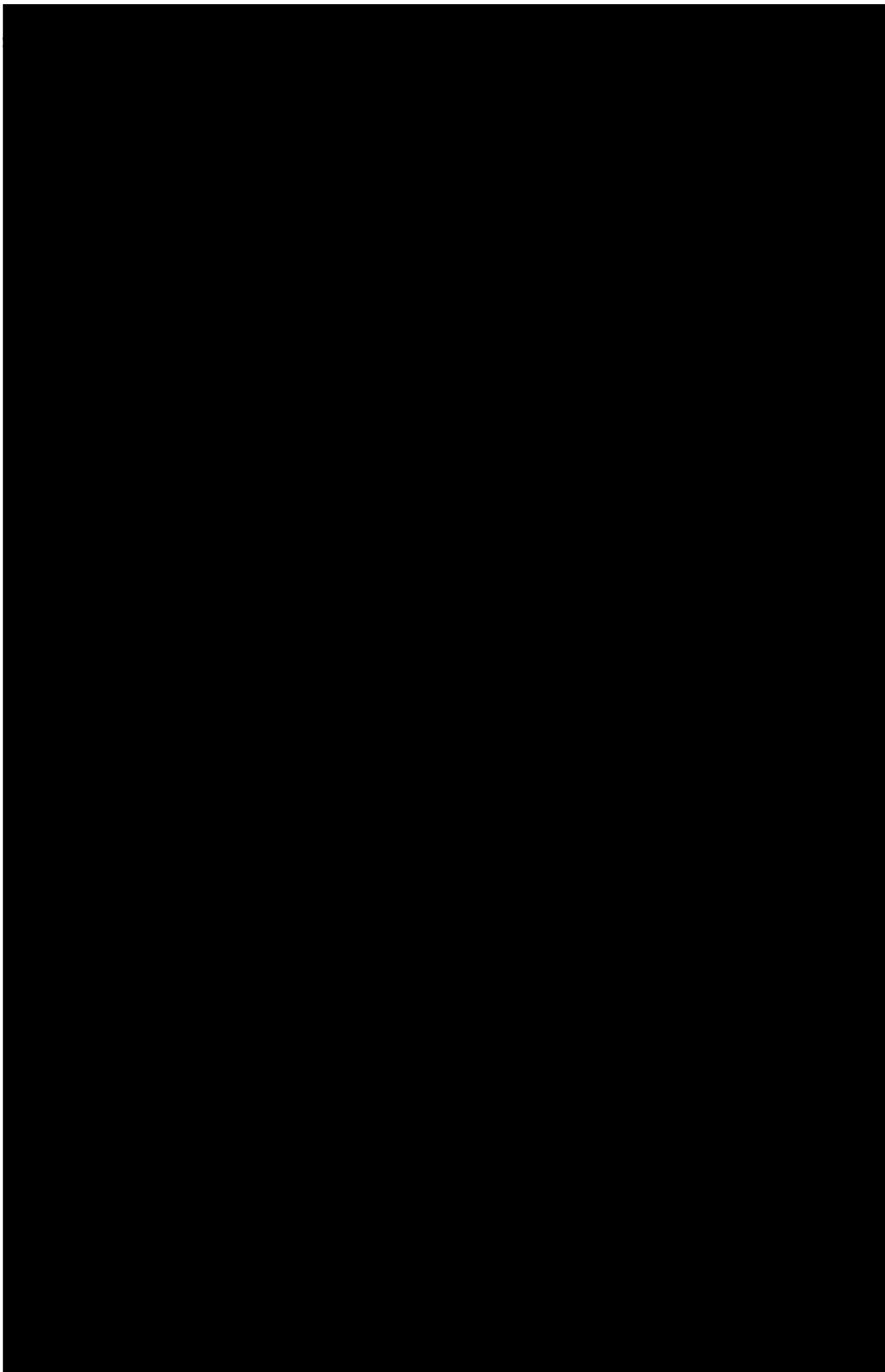


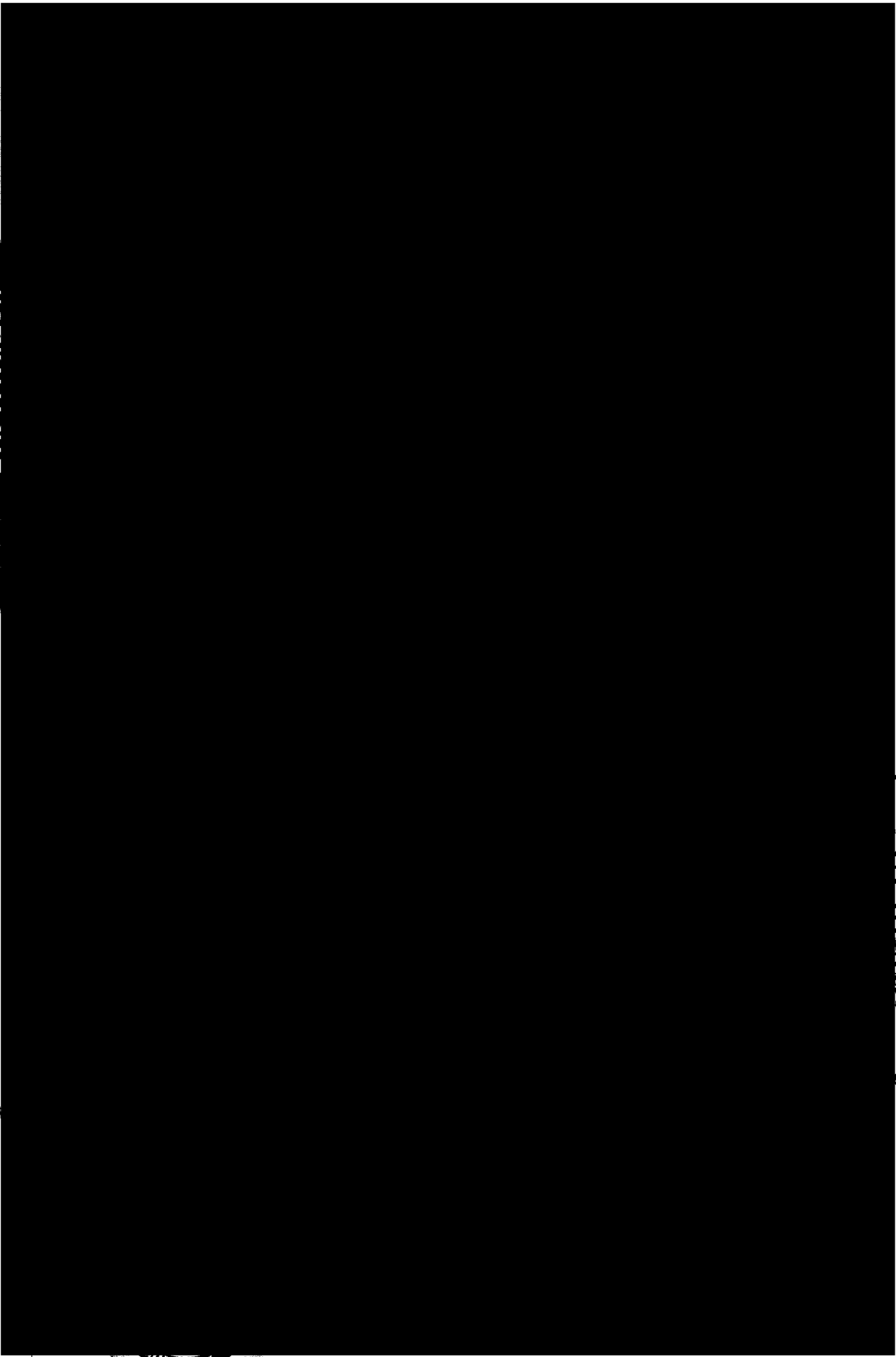
partes



- National Security

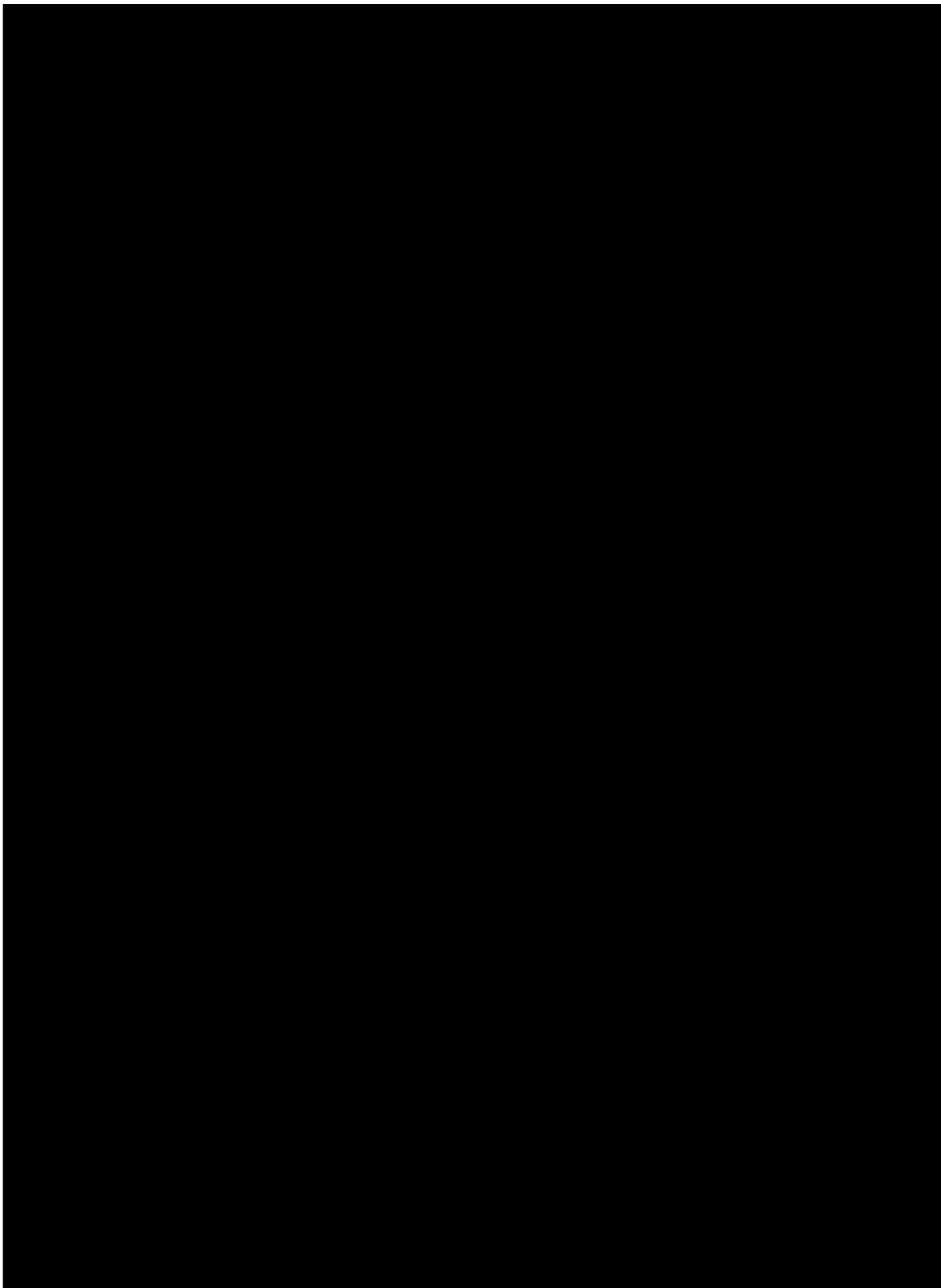


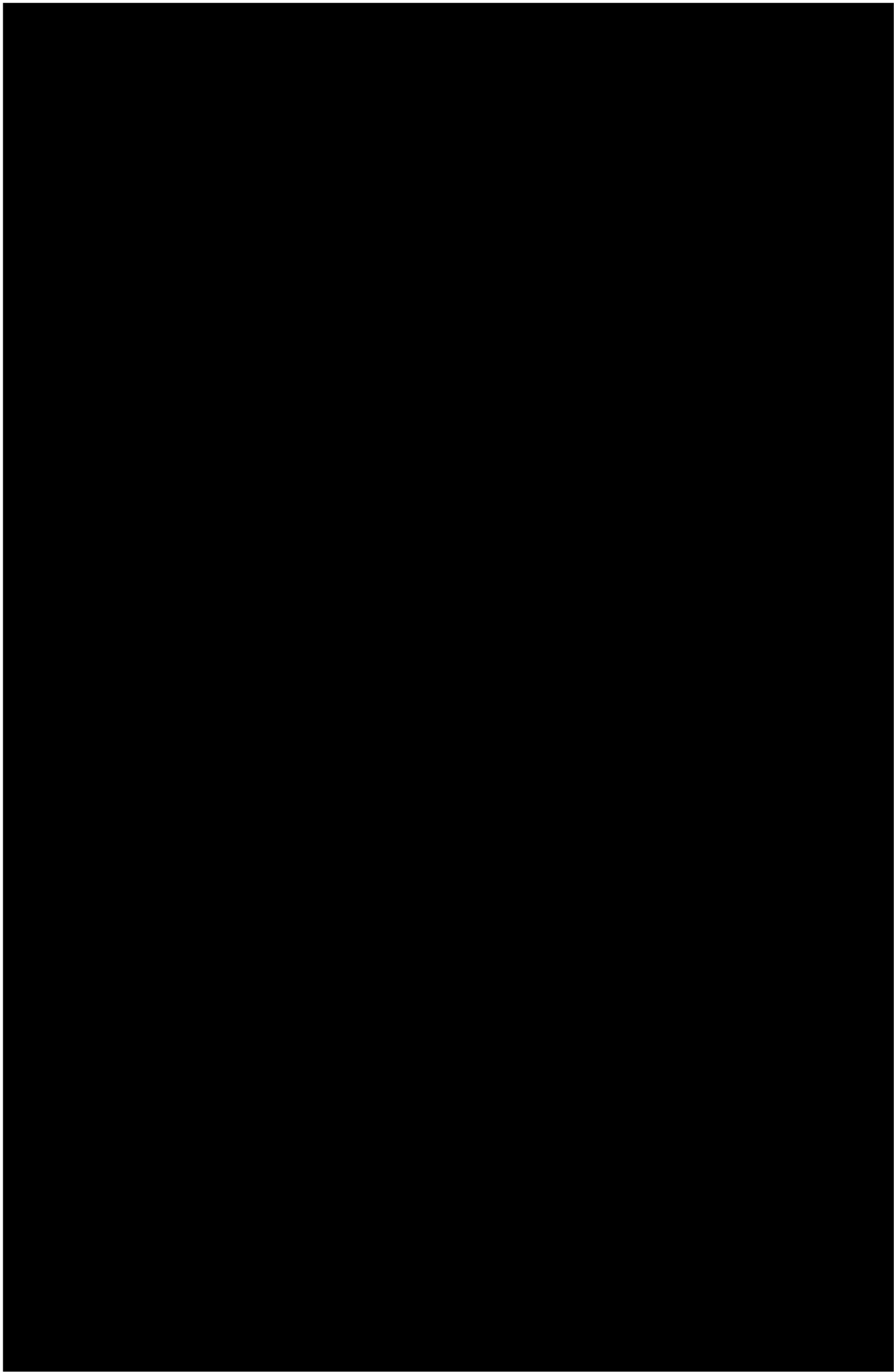


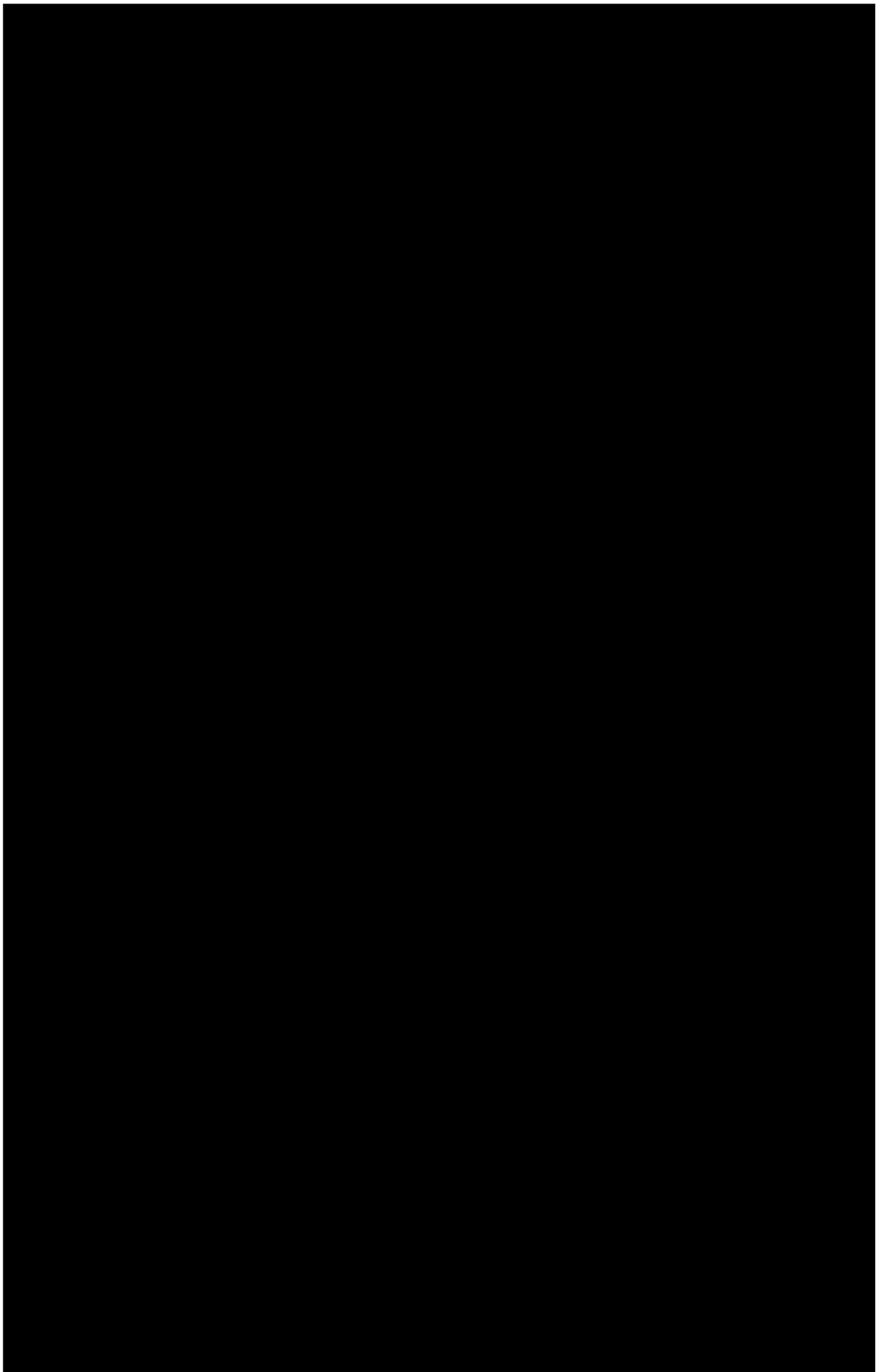


• Enforcement of

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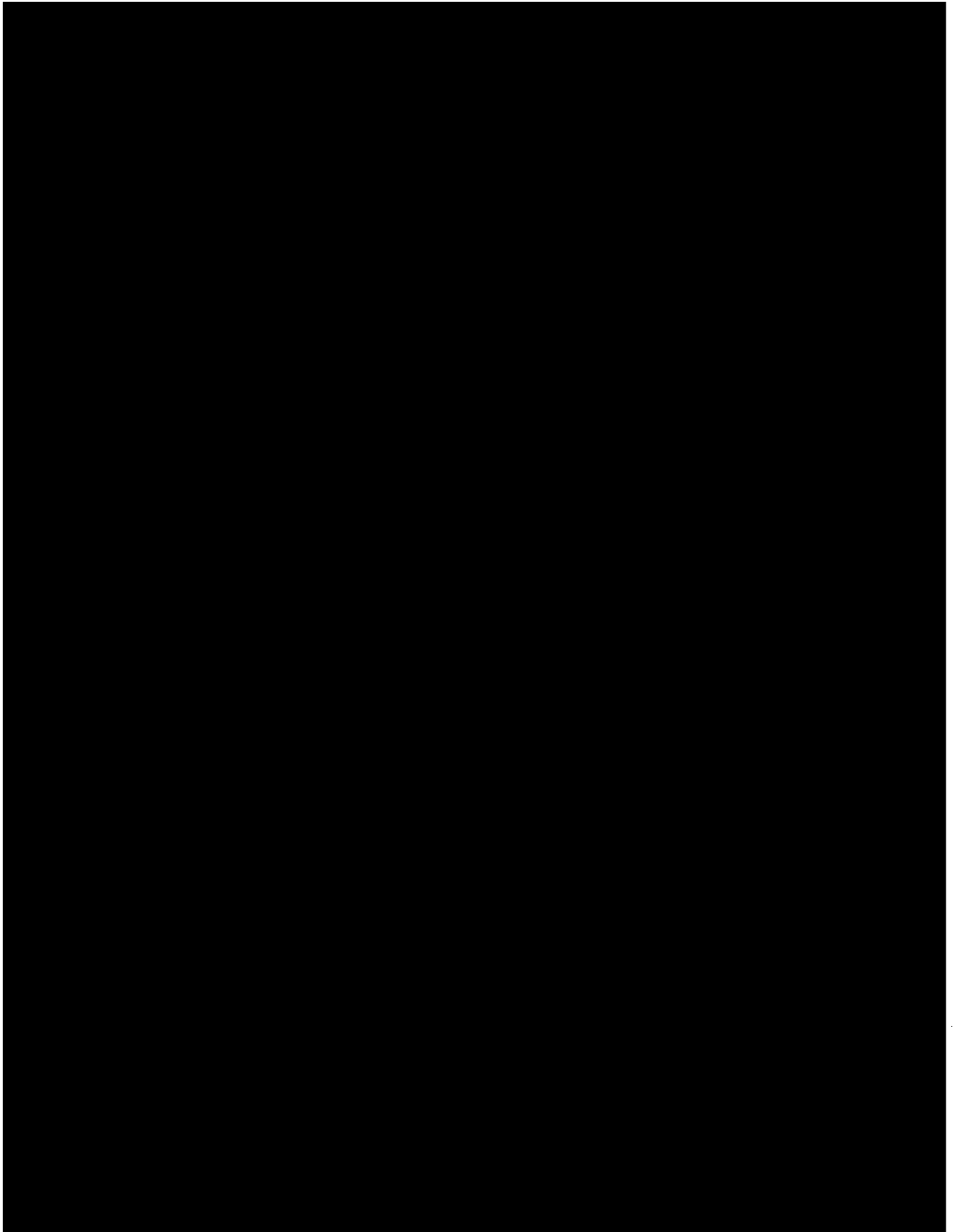


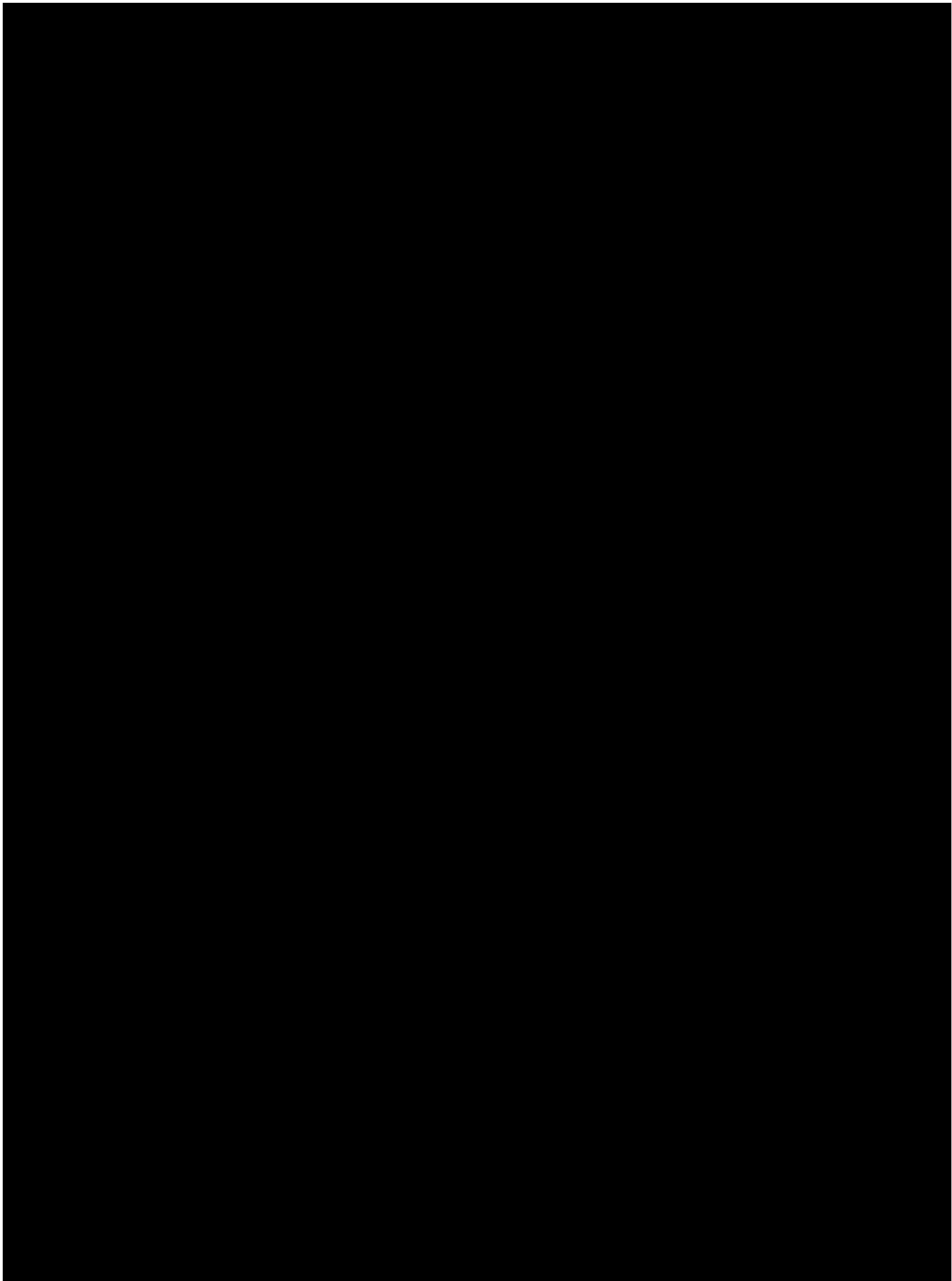


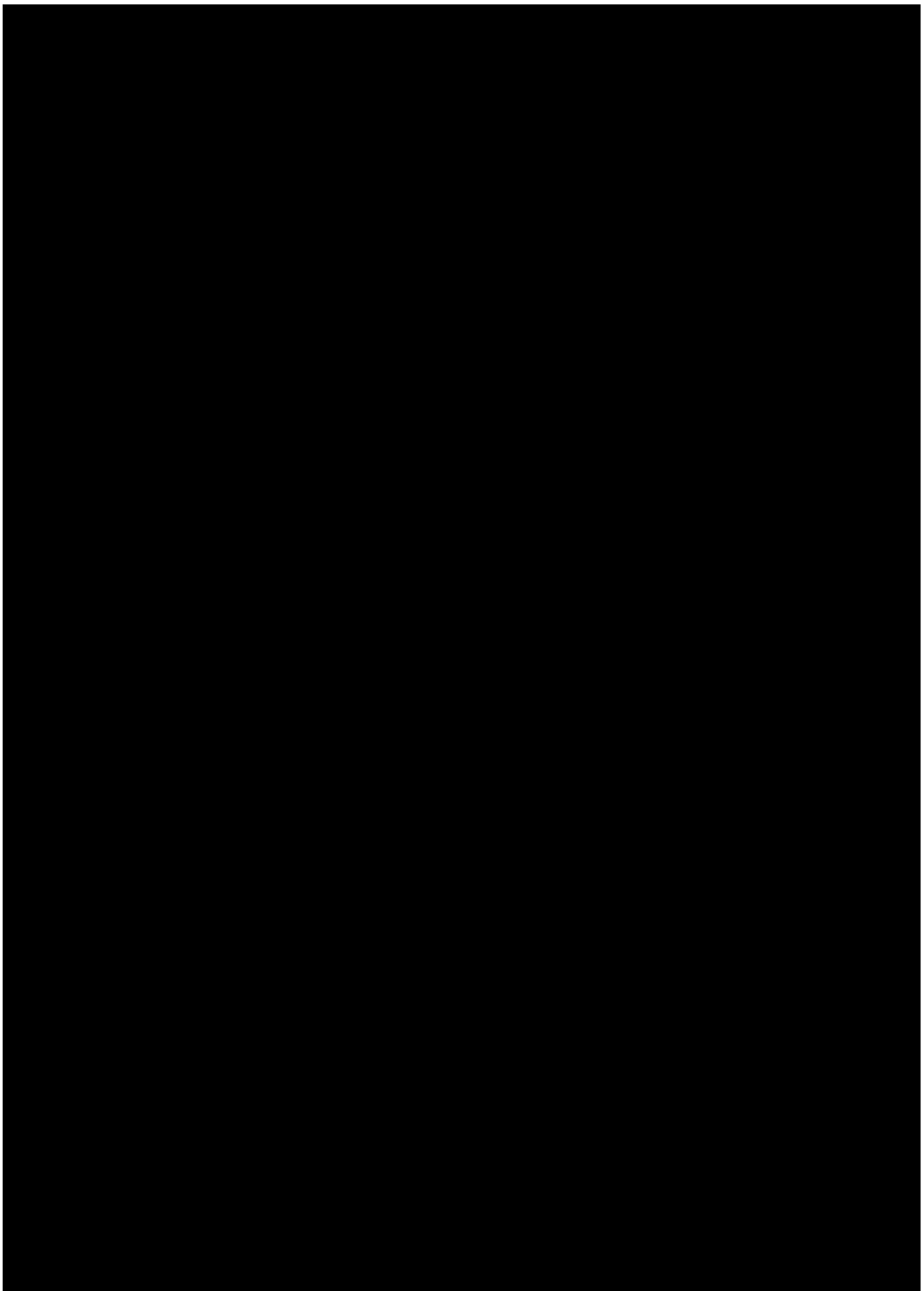


... policy in this area.











[REDACTED]

From: [REDACTED]
Sent: Friday, February 09, 2007 11:02 AM
To: [REDACTED]
Subject: NSL Docs Part II (U)

Attachments: 07-01-13 DoD NSL Fact Sheet Released.doc; 07-01-16 DoD NSL Fact Sheet Released.doc;
07-01-19 NSL Reporting Stats to SAC-D Staffers on 24 Jan.doc



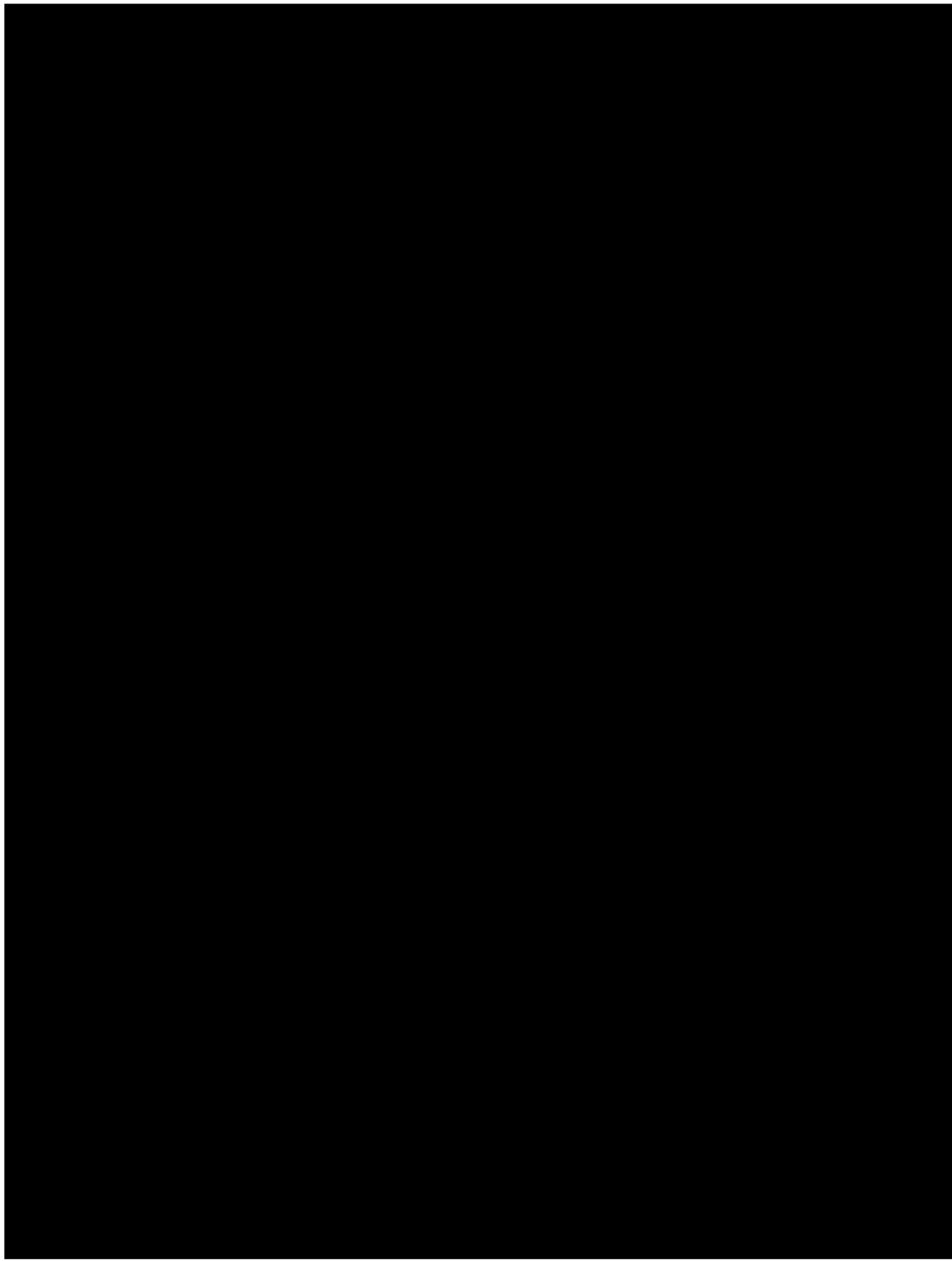
07-01-13 DoD NSL Fact Sheet Re... 07-01-16 DoD NSL Fact Sheet Re... 07-01-19 NSL Reporting Stats t...

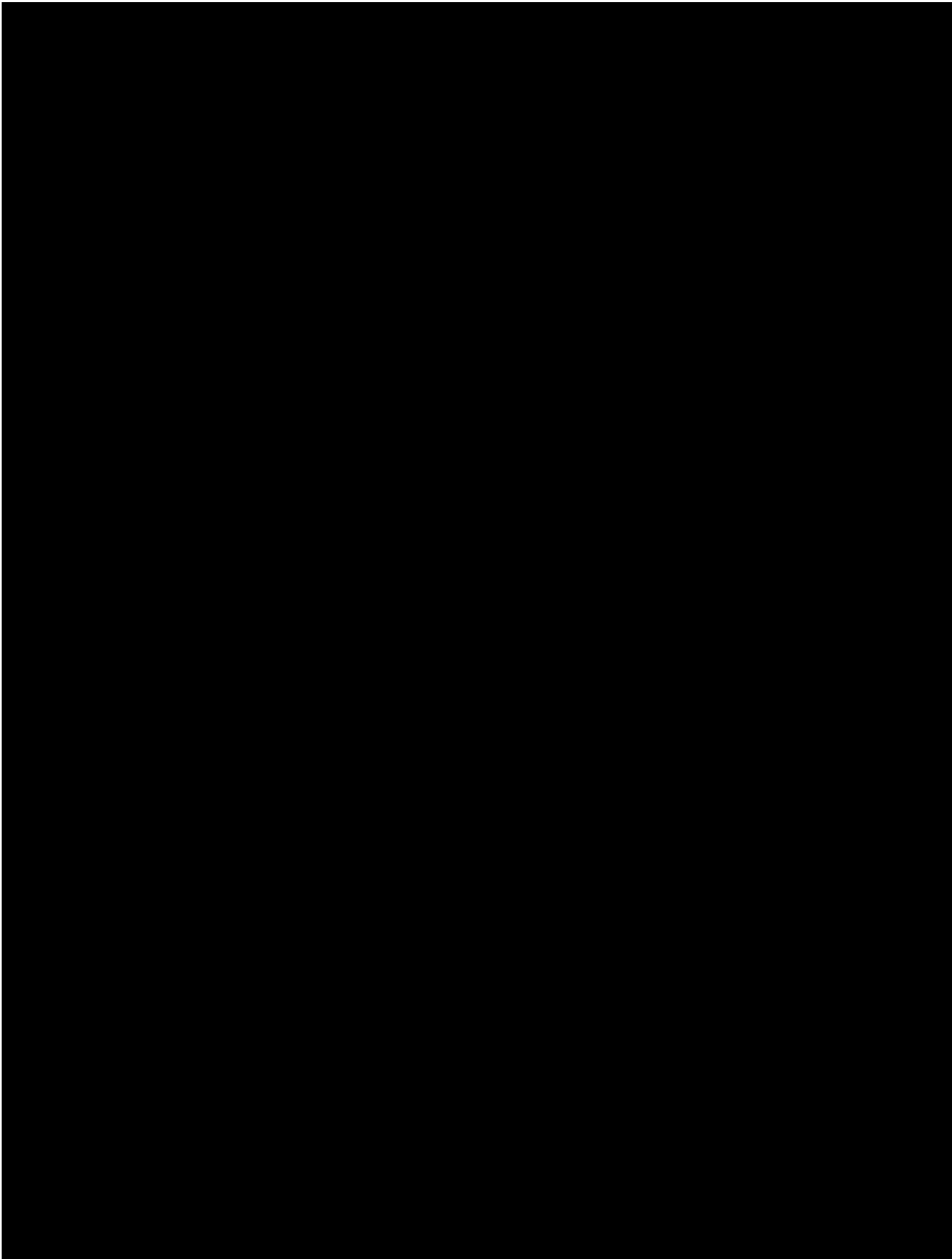
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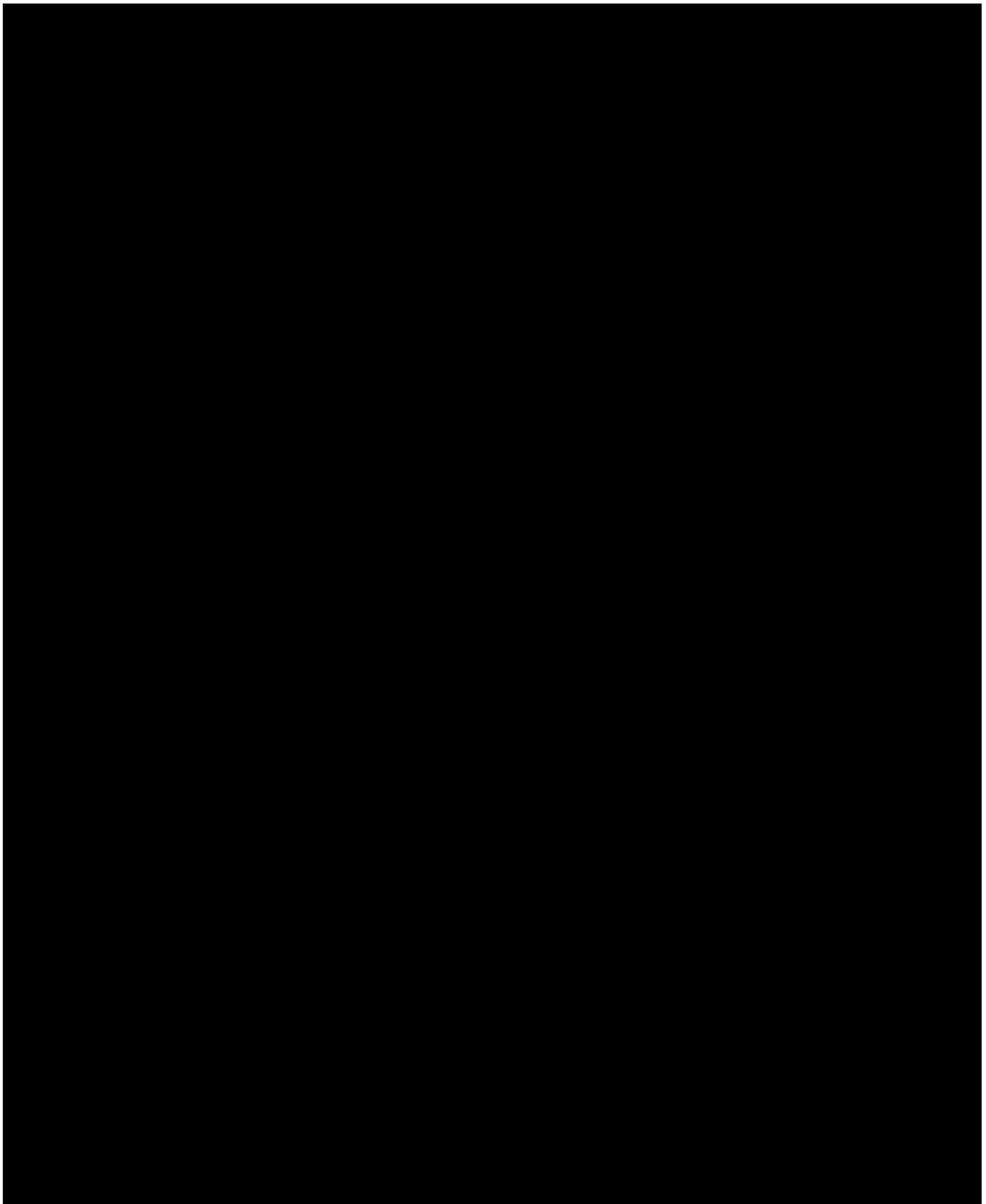
Will start sending what we've published so far.

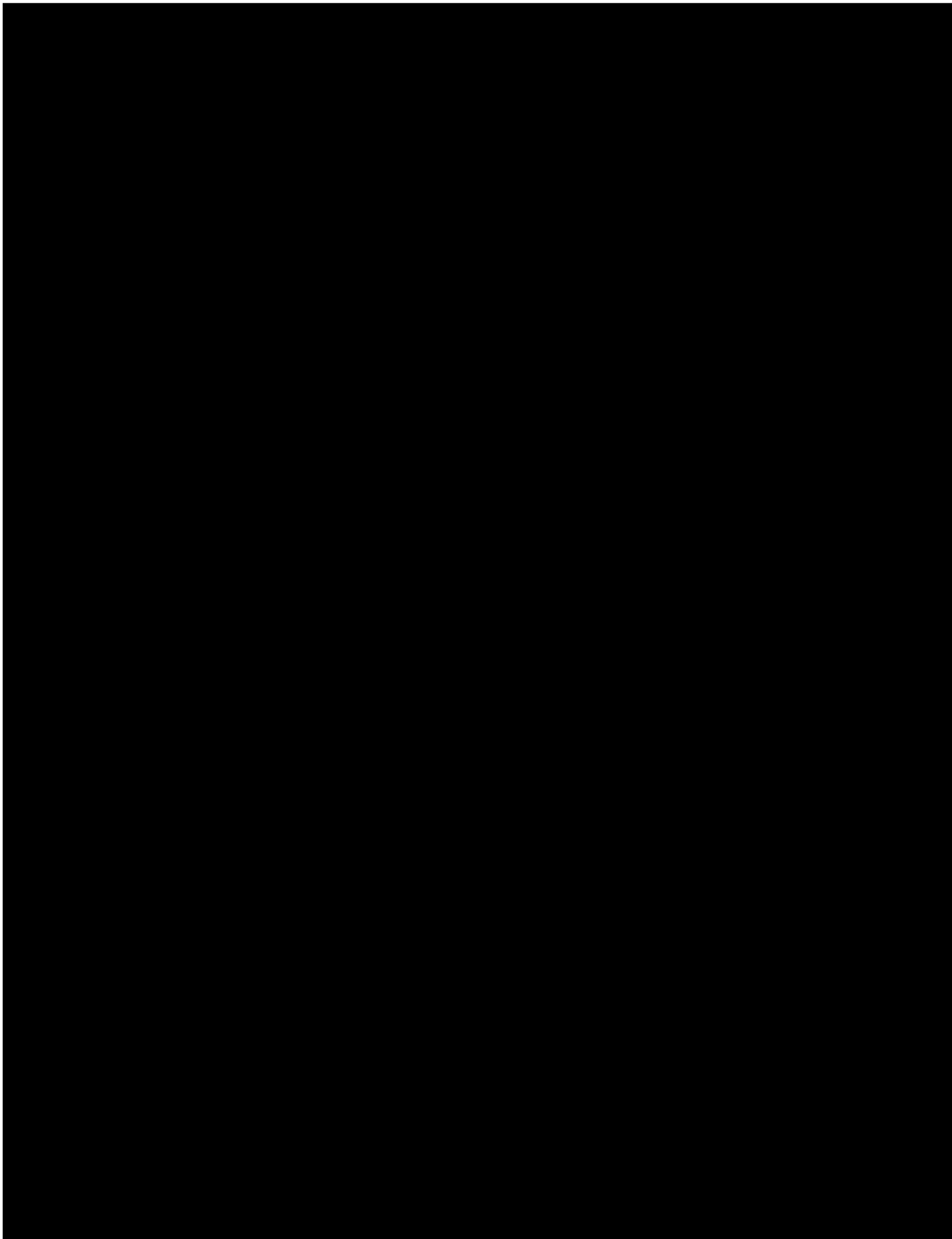
[REDACTED]

<<07-01-13 DoD NSL Fact Sheet Released.doc>> <<07-01-16 DoD NSL Fact Sheet Released.doc>>
<<07-01-19 NSL Reporting Stats to SAC-D Staffers on 24 Jan.doc>>









[REDACTED]

From: [REDACTED]
Sent: Friday, February 09, 2007 11:01 AM
To: [REDACTED]
Subject: NSL Documents (U)

Attachments: Army CI draft Financial Checks Handbook.doc; NCIS NSL process.doc



Army CI draft NCIS NSL
Financial Checks... process.doc (28 KB)
UNCLASSIFIED

As requested. I also have a few on SIPR, will send them, too.



<<Army CI draft Financial Checks Handbook.doc>> <<NCIS NSL process.doc>>

Army CI Investigative Handbook (final draft)
Financial Checks Exerpt

15-10 Financial Checks

a. Legal and Regulatory Framework. The right to privacy extends to the financial aspects of a person's life. Because the U.S. financial system is complex and consists of several different types of institutions each covered by different laws and regulations; it will come as no surprise that there are also several portions of the USC that government's ability to access those records. In the following paragraphs the major relevant portions of the USC are identified and discussed with an emphasis on the authorities, exceptions and procedures that allow CI agents to access them.

(1) Fair Credit Reporting Act (15 USC 1681). The Fair Credit Reporting Act was passed to ensure the privacy, as well as the fair and accurate reporting of consumer credit information for a multitude of purposes including employment and credit worthiness. The act significantly restricts the ability of the government to perform un-consented checks of consumer reporting agency records (AKA credit reporting services). Generally, these records can be obtained only with consent or by a warrant, judicial or administrative subpoena or other court order.

(a) Exception for Identifying Data. A general exemption (15 USC 1681f) allows all governmental agencies (including Army CI) access to limited identification information. Upon the presentation of a formal written request, consumer reporting agencies will provide, name and address, former addresses, places of employment and former places of employment for named consumers. This limited authority can be used for all authorized investigative and operational purposes. (LINK to template of Request)

(b) FBI CI Exception. The original act provided the FBI a specific exception for disclosures for CI purposes (15 USC 1681u). A similar general exception for military CI services does not exist. However, the FBI exception specifically authorized the FBI to disseminate results of their checks to appropriate investigative authorities within the military as may be necessary for the conduct of a joint foreign CI investigation. Additionally, it authorizes the FBI to provide information to the military for SUBJECTs who fall under the UCMJ.

(c) Exception for International Terrorism. The PATRIOT Act added a broader exception for international terrorism (15 USC 1681v), which allows **any government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism** to conduct un-consented checks of these records. Army CI may utilize this exception. A formal written request certifying compliance with the code is required. (LINK to Consumer Reporting Services Template)

(2) Right to Financial Privacy Act of 1978 (12 USC 3401-3422). The Right to Financial Privacy Act is the primary source of financial privacy rights and governs a broad spectrum of records across a wide variety of financial institutions. Government access to records

Army CI Investigative Handbook (final draft)
Financial Checks Exerpt

of financial institutions may be obtained through consent, search warrant, administrative or judicial subpoena, court order or formal written request.

(a) FCI and Terrorism Exceptions. Specific exceptions exist for FCI and international terrorism (15 USC 3414(a)(1)(a) and (c) respectively). These exceptions apply to any government authority authorized to conduct foreign counterintelligence, positive intelligence or international terrorism activities. They allow un-consented checks of financial institution records upon presentation of an appropriately signed formal written request certifying compliance with the act. (LINK to template)

(b) Definition of Financial Institution. The definition of financial institution for the purposes of the exceptions outline above is broader than for the rest of the act (see 15 USC 3414(d)). The following are defined as financial institutions IAW 31 USC 5312(a)(2) and (c)(1).

- (A)** an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (h)));
- (B)** a commercial bank or trust company;
- (C)** a private banker;
- (D)** an agency or branch of a foreign bank in the United States;
- (E)** any credit union;
- (F)** a thrift institution;
- (G)** a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);
- (H)** a broker or dealer in securities or commodities;
- (I)** an investment banker or investment company;
- (J)** a currency exchange;
- (K)** an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;
- (L)** an operator of a credit card system;
- (M)** an insurance company;
- (N)** a dealer in precious metals, stones, or jewels;
- (O)** a pawnbroker;
- (P)** a loan or finance company;
- (Q)** a travel agency;
- (R)** a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;
- (S)** a telegraph company;
- (T)** a business engaged in vehicle sales, including automobile, airplane, and boat sales;
- (U)** persons involved in real estate closings and settlements;
- (V)** the United States Postal Service;
- (W)** an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;
- (X)** a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—
- (i)** is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

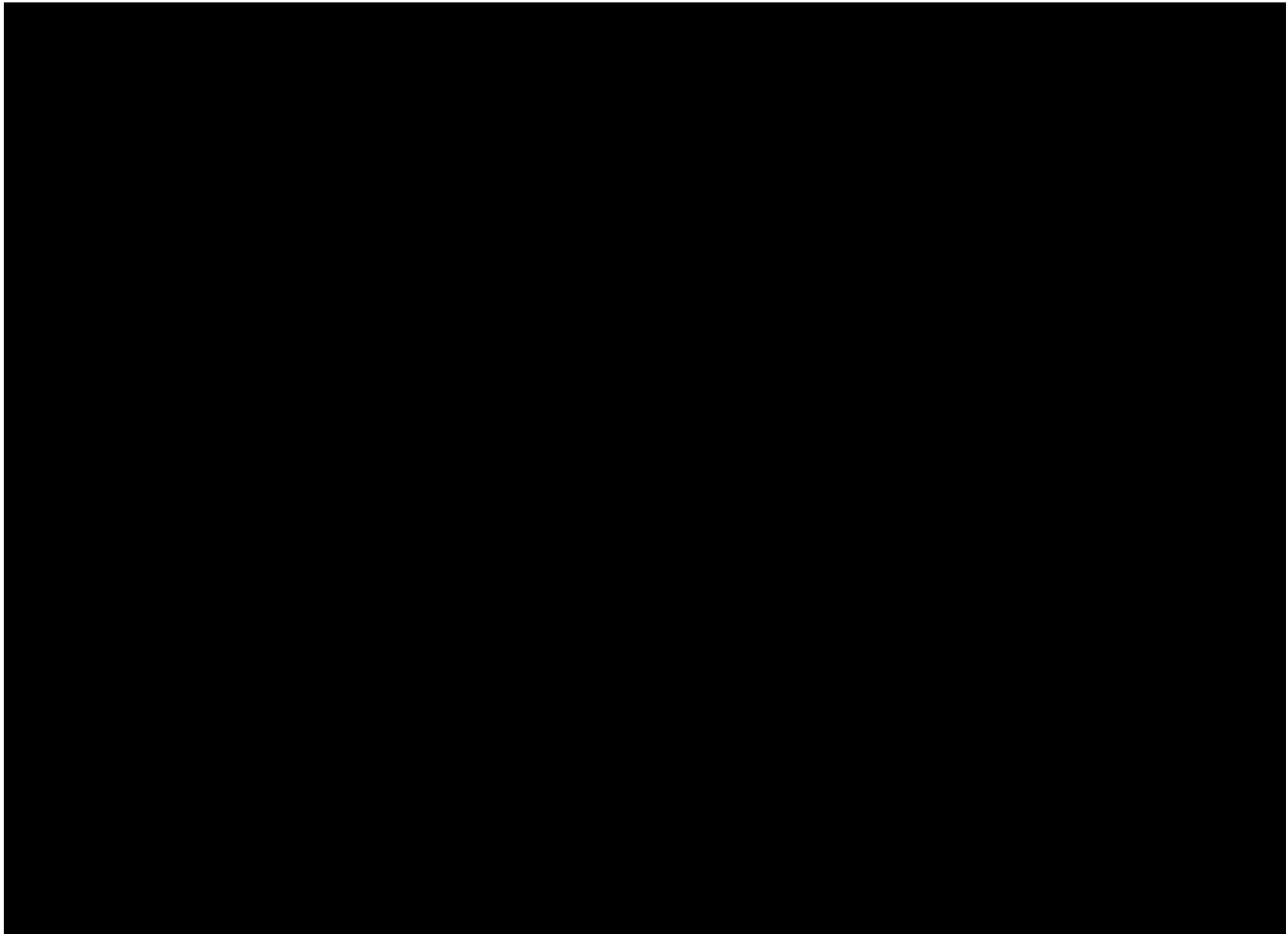
Army CI Investigative Handbook (final draft)
Financial Checks Exerpt

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

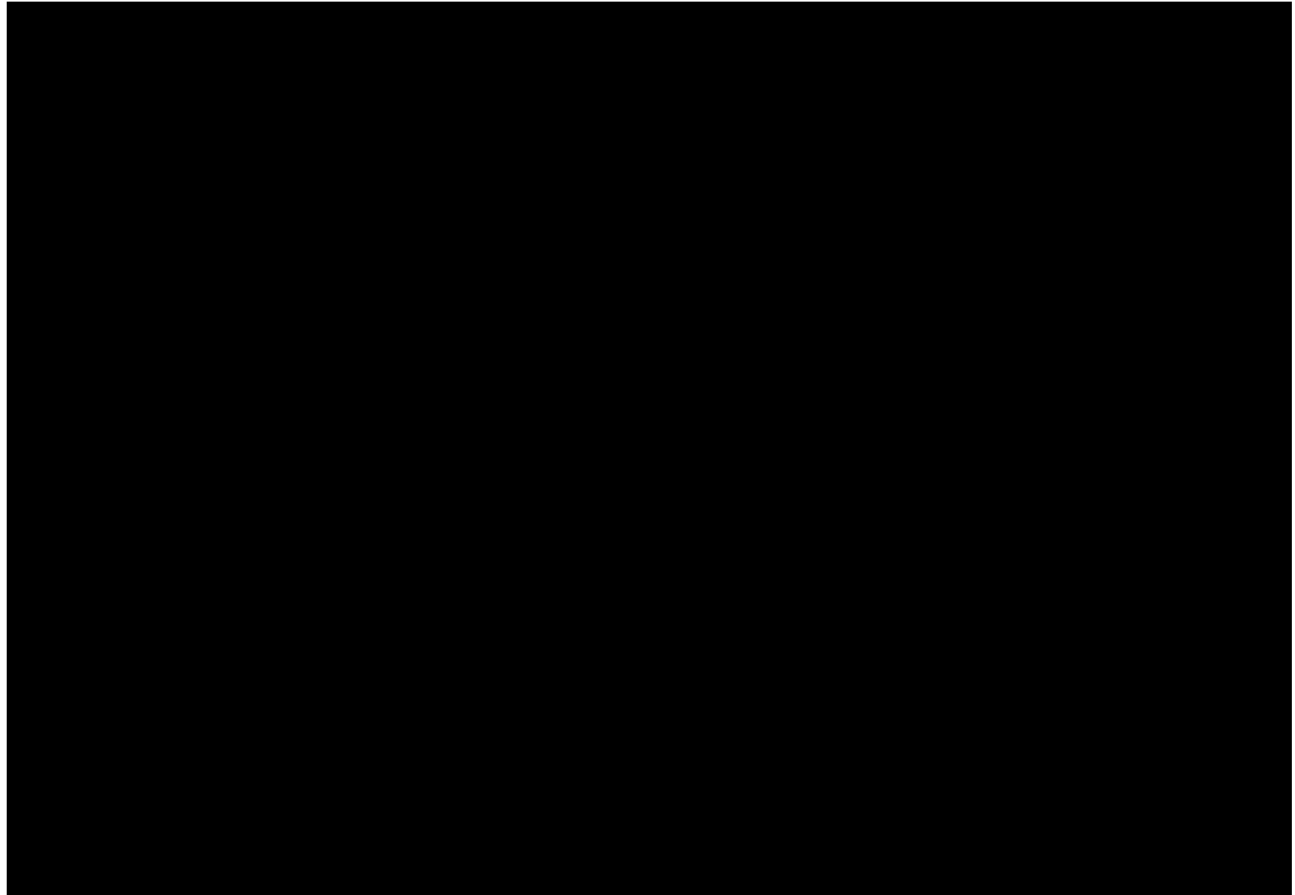
(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(c) Army Implementation Guidance. AR 190-6, Obtaining Information from Financial Institutions, dated 15 January 1982, implements DODD 2400.12 and the Right to Financial Privacy Act of 1978 (12 USC 3401 *et seq*). It provides additional guidance on obtaining information from financial institutions by consent, search warrant, judicial subpoena, and formal written request. Generic sample templates for each type of request are provided. A specific exception for Foreign Intelligence and Foreign Counterintelligence may be found at para 2-10. This paragraph also delegates signature authority for certificates of compliance with 12 USC 3414(a)(3) to Military Intelligence Group Commanders, investigative control office, CG (or DCG) INSCOM.



Army CI Investigative Handbook (final draft)
Financial Checks Exerpt



c. Financial Crimes Information Network (FINCEN) Checks. FINCEN checks are considered a NAC, therefore ACCO will coordinate all FINCEN checks. This is the only authorized channel for FINCEN queries. The following information must be provided to ACCO for each request: ACCO CCN; Full name, any/all AKA, relationship in case (subject/witness); Address and phone number; DPOB; SSAN; Race/ethnicity; Sex; Height/weight; Color of eyes and hair; Other identifying data if available, such as passport number; Financial institution(s) known to be utilized; If joint/bilateral case, list other agencies involved. Specify what type of product you desire from FINCEN e.g. analytical reports and/or data base extracts.

NCIS PROCESS FOR USE OF NSLs

NCIS exercises its authority to issue National Security Letters (NSLs) under three statutes: The Right to Financial Privacy Act, or RFPA (12 USC 3414, authority dating to 1978), which may be exercised in counterintelligence (including counterterrorism) investigations; the Fair Credit Reporting Act, or FCRA (15 USC 1681v, authority dating to 2001), which may be exercised only in support of counterterrorism (CT) investigations, activities, or analysis; and the National Security Act (50 USC 436, authority dating to 1994), which authorizes investigative agencies to request - as part of an authorized law enforcement investigation, counterintelligence (CI) inquiry, or security determination - certain financial, consumer reporting, and commercial information pertaining to government personnel for which they have investigative responsibility and who meet certain criteria, including recent access to classified information. NCIS exercises these authorities only in cases for which it has investigative jurisdiction.

The NCIS process for issuing an NSL under these statutes is as follows:

1. The case agent submits a draft NSL, along with supporting documents, to the appropriate NCIS headquarters desk officer (CI or CT).
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the National Security Law Unit (NSLU) at NCIS headquarters for a legal review.
3. The NSLU attorney reviews the documentation to ensure that all the criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to one of a small number of senior officials, all at NCIS headquarters, for final review and signature. The total number of senior officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked, but in no case exceeds seven.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted, in order to assure that the recipient is appropriately sensitized to both investigative and privacy considerations.

NCIS is a federal law enforcement agency within the Department of the Navy (DON). It has exclusive investigative jurisdiction for CI, including acts of espionage and terrorism, within the DON. It is comprised overwhelmingly of civilians and has an exclusively civilian leadership structure. The Director, NCIS is a career law enforcement professional who reports directly to the Secretary of the Navy.

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 08, 2007 9:54 AM
To: [REDACTED]
Subject: NSL info

Attachments: NSL stats.doc; NCIS NSL process1.doc



NSL stats.doc (56 KB)



NCIS NSL process1.doc (32 KB)

I hope your meetings with Army and AF went well. Attached are the figures we have to date. Please do not disseminate them. They are for use in your report only as our official response for the Hill go through Office of Leg Affiars and DoN OGC.

Please advise if you have questions.

R/
[REDACTED]

<<NSL stats.doc>> <<NCIS NSL process1.doc>>

NCIS PROCESS FOR USE OF NSLs

NCIS exercises its authority to issue National Security Letters (NSLs) under three statutes: The Right to Financial Privacy Act, or RFPA (12 USC 3414, authority dating to 1978), which may be exercised in counterintelligence (including counterterrorism) investigations; the Fair Credit Reporting Act, or FCRA (15 USC 1681v, authority dating to 2001), which may be exercised in support of counterterrorism investigations, activities, or analysis; and the National Security Act (50 USC 436, authority dating to 1994) that authorizes government investigative agencies to request - as part of an authorized law enforcement investigation, counterintelligence inquiry, or security determination - certain financial, consumer reporting, and commercial information pertaining to government personnel for which they have investigative responsibility and who meet certain criteria, including recent access to classified information. NCIS exercises these authorities only in certain circumstances: (1) In those cases in which the agency has primary jurisdiction; (2) In those cases in which the FBI has deferred primary jurisdiction to NCIS; or (3) In those cases in which the FBI asks NCIS to issue such an NSL in furtherance of a joint NCIS-FBI investigation.

The NCIS process for issuing an NSL under each of the applicable statutes is as follows:

1. The case agent submits a draft NSL, along with the supporting documentation, to the appropriate NCIS desk officer (CI or CT).
2. If the desk officer finds the documentation meets all requirements, it is forwarded to an attorney in the NCIS National Security Law Unit (NSLU) for a legal review.
3. The NSLU attorney reviews the documentation to ensure that all the criteria of the relevant statute are met and that the draft NSL contains all required information.
4. If the NSLU legal review supports the request for an NSL, the documentation is forwarded to one of a small number of senior officials at NCIS headquarters for final review and signature. The total number of headquarters officials authorized to sign an NSL within NCIS varies depending upon which statute is invoked, but in no case exceeds seven.
5. Assuming an authorized senior NCIS official signs the NSL, the case agent or desk officer must contact the intended recipient of the NSL before it can be transmitted, in order to assure that the recipient is appropriately sensitized to both investigative and privacy considerations.

[REDACTED]

From: [REDACTED]
Sent: Wednesday, January 31, 2007 7:57 AM
To: [REDACTED]
Subject: FW: Financial Checks (aka: NSLs)

Attachments: Financial Checks-540012p[1].pdf; Financial Checks-i540015p[1].pdf



Financial



Financial

Financial Checks-540012p[1].pdf; Financial Checks-i540015p[1].pdf

[REDACTED] Did not mean to leave you out. Don't know if you have these already, if not enjoy!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, January 31, 2007 7:53 AM
To: [REDACTED]
Subject: FW: Financial Checks (aka: NSLs)

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 30, 2007 6:17 PM
To: [REDACTED]
Subject: Financial Checks (aka: NSLs)

Attached are the DoD Directive and DoD manual that cover financial checks.

[REDACTED] let me know that you received. I often get a kickback response when I actually think you got the email.

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 30, 2007 3:30 PM
To: [REDACTED]
Subject: FW: NSLs and the SASC (U)

FYI.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 30, 2007 3:23 PM

[REDACTED]

Subject: RE: NSLs and the SASC (U)

[REDACTED] - Our poc will continue to be [REDACTED] our National Security Lawyer..... Thanks r [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 8:59

[REDACTED]

Subject: RE: NSLs and the SASC (U)
Importance: High

Recipients on the "To" Line: in reference to the NSL issue, Acting DUSD(CI&S) has directed CIFA to undertake a program review of the utilization of NSLs by the Service CI components (see attached memo from Acting DUSD(CI&S) dated Jan 25, 2007. [REDACTED] of the CIFA Program Management Directorate will be leading this effort on behalf of CIFA.

It is requested that you designate a POC for this review and that you ensure that any information provided in response to the taskers identified in the below e-mail from [REDACTED] [REDACTED] are made available as well to [REDACTED] for the purpose of this review.

Your cooperation and timely response to this matter is greatly appreciated.

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Friday, January 26, 2007 8:46 AM

[REDACTED]

Subject: NSLs and the SASC (U)

Classification: UNCLASSIFIED

[REDACTED]

Please contact [REDACTED] if you have any questions.

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Monday, January 29, 2007 8:20 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSLs and the SASC (U)

Yes, concur.

-----Original Message-----

From: [REDACTED]
Sent: Monday, January 29, 2007 7:27 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSLs and the SASC (U)

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 3:50 PM
To: [REDACTED]
Subject: FW: NSLs and the SASC (U)
Importance: High

FYI,...

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 9:33 AM
To: [REDACTED]
Subject: FW: NSLs and the SASC (U)
Importance: High

[REDACTED] fyi this is another review we've been directed to undertake. [REDACTED] has the lead in [REDACTED] Office.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 8:59 AM
To: [REDACTED]

[REDACTED]

Subject: RE: NSLs and the SASC (U)
Importance: High

Recipients on the "To" Line: in reference to the NSL issue, Acting DUSD(CI&S) has directed CIFA to undertake a program review of the utilization of NSLs by the Service CI components (see attached memo from Acting DUSD(CI&S) dated Jan 25, 2007. [REDACTED] of the CIFA Program Management Directorate will be leading this effort on behalf of CIFA. It is requested that you designate a POC for this review and that you ensure that any information provided in response to the taskers identified in the below e-mail from [REDACTED] are made available as well to [REDACTED] for the purpose of this review.

Your cooperation and timely response to this matter is greatly appreciated.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 8:46 AM
To: [REDACTED]

Subject: NSLs and the SASC (U)

Classification: UNCLASSIFIED

[REDACTED]

[REDACTED]

Please contact [REDACTED] if you have any questions.

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 10:46 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

No problem. We will get you a name soonest.

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 9:26 AM
To: [REDACTED]

Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

I have tasked my policy coord shop to assist your lead POC [REDACTED] and [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:45 AM

Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

[REDACTED] reference my previous e-mail regarding this tasker we were expecting from [REDACTED] relating to the NSL issue we've been briefing to the various Congressional committees. DP will take the lead on this ([REDACTED] leading), but we would appreciate DC designating someone to assist (ideally from [REDACTED] shop). I note that [REDACTED] did not designate DC in the assist line, but I have asked her to retransmit the tasker officially to include DC.

[REDACTED] would appreciate your assistance as well from a JCITA and a policy perspective. Request you designate a POC to assist [REDACTED] on this. Thanks!

This has high level Congressional interest and DNI interest and we need to get this done quickly and thoroughly.

Thanks!

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Thursday, January 25, 2007 4:05 PM

[REDACTED]

Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07)
(U)

Lead: DP

Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 10:09 AM
To: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

[REDACTED]

Let me know if you need a Policy assist with this tasker. We're happy to help.

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 9:26 AM
To: [REDACTED]

Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

I have tasked my policy coord shop to assist your lead POC [REDACTED] and [REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:45 AM

Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

[REDACTED] reference my previous e-mail regarding this tasker we were expecting from [REDACTED] relating to the NSL issue we've been briefing to the various Congressional committees. DP will take the lead on this [REDACTED] (leading), but we would appreciate DC designating someone to assist (ideally from [REDACTED] shop). I note that [REDACTED] did not designate DC in the assist line, but I have asked her to retransmit the tasker officially to include DC.

[REDACTED] would appreciate your assistance as well from a JCITA and a policy perspective. Request you designate a POC to assist [REDACTED] on this. Thanks!

This has high level Congressional interest and DNI interest and we need to get this done quickly and thoroughly.


Thanks!



-----Original Message-----

From: 

Sent: Thursday, January 25, 2007 4:05 PM



Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07)
(U)

Lead: DP

Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 8:08 AM
To: [REDACTED]
Cc: [REDACTED]

Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

The DCAC action officer for this task is [REDACTED]

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:54 AM
To: CILEC Management Team; CILEIO Admin; CMIT DAG
Cc: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

FOR DCAC; Support DCC

1. (U) Your office has been assigned the following task: Support DP in preparing response on NSLs. (see below and attached)
2. (U) Please enter this task into your weekly spreadsheet. Advise [REDACTED] and the CILEC Management Team of your action officer within 24 hours.
3. (U) This task requires that DC provide input to DP as requested by DP. Contact [REDACTED] for details. Advise [REDACTED] of proposed responses.
4. (U) Suspense for contacting [REDACTED] is 1200 26 Jan.

Per:
[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:45 AM

[REDACTED]

Cc: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs
(USI000069-07) (U)
Importance: High

[REDACTED] reference my previous e-mail regarding this tasker we were expecting from [REDACTED] relating to the NSL issue we've been briefing to the various Congressional committees. DP will take the lead on this [REDACTED] (leading), but we would appreciate DC designating someone to assist (ideally from [REDACTED] shop). I note that [REDACTED] did not designate DC in the assist line, but I have asked her to retransmit the tasker officially to include DC.

[REDACTED] would appreciate your assistance as well from a JCITA and a policy perspective. Request you designate a POC to assist [REDACTED] on this. Thanks!

This has high level Congressional interest and DNI interest and we need to get this done quickly and thoroughly.

Thanks!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 25, 2007 4:05 PM

[REDACTED]
Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07)
(U)

Lead: DP
Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 7:57 AM
To: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Importance: High

Attachments: 07-01-25 Program Management Review.pdf



07-01-25 Program Management Re...

FYI -

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:54 AM
To: CILEC Management Team; CILEIO Admin; CMIT DAG
Cc: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

FOR DCAC; Support DCC

1. (U) Your office has been assigned the following task: Support DP in preparing response on NSLs. (see below and attached)
2. (U) Please enter this task into your weekly spreadsheet. Advise [REDACTED] and the CILEC Management Team of your action officer within 24 hours.
3. (U) This task requires that DC provide input to DP as requested by DP. Contact [REDACTED] for details. Advise [REDACTED] of proposed responses.
4. (U) Suspense for contacting [REDACTED] is 1200 26 Jan.

Per:

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 7:45 AM

[REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

[REDACTED] reference my previous e-mail regarding this tasker we were expecting from [REDACTED] relating to the NSL issue we've been briefing to the various Congressional committees. DP will take the lead on this [REDACTED] (leading), but we would appreciate DC designating someone to assist (ideally from [REDACTED] shop). I note that [REDACTED] did not designate DC in the assist line, but I have asked her to retransmit the tasker officially to include DC.

[REDACTED] would appreciate your assistance as well from a JCITA and a policy perspective. Request you designate a POC to assist [REDACTED] on this. Thanks!

This has high level Congressional interest and DNI interest and we need to get this done quickly and thoroughly.

Thanks!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 25, 2007 4:05 PM

[REDACTED]
Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Lead: DP
Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 7:25 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

You're right about DC - I missed it -- I told her to include DC; not sure why she put DT and DS. I'll have her resend.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 5:36 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Sir,
It's a good letter, but I wish they would have CC'd the Services.
Not sure why [REDACTED] did not put DC down for an "assist". We're planning on asking for their help...
V/R
[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 5:11 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

Clock starts ticking today. Note 1 March suspense to Front Office.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 4:05 PM
[REDACTED]
Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Lead: DP
Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Friday, January 26, 2007 7:21 AM
To: [REDACTED]
Subject: FW: (U)

Importance: High

See [REDACTED] e-mail/comments below re the NSL review.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 26, 2007 6:23 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: (U)

Classification: UNCLASSIFIED

[REDACTED]

Cheers,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 25, 2007 5:36 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Sir,
It's a good letter, but I wish they would have CC'd the Services.
Not sure why [REDACTED] did not put DC down for an "assist". We're planning on asking for their help...
V/R
[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 5:11 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)
Importance: High

Clock starts ticking today. Note 1 March suspense to Front Office.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 4:05 PM
[REDACTED]
Subject: CIFA Task 010-07: Program Management Review of DoD's Use of NSLs (USI000069-07) (U)

Lead: DP
Assist: DS, DT

Due to DQ: 1 Mar 07

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 25, 2007 5:08 PM
To: [REDACTED]
Subject: FW: NSL-SASC Staffers (U)

fyi.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 25, 2007 5:04 PM
To: [REDACTED]
Cc: [REDACTED]

Subject: NSL-SASC Staffers (U)

Classification: UNCLASSIFIED

Sir,

[REDACTED]

V/R,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 25, 2007 2:22 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL Review (U)

Wilco.
V/R
[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 1:34 PM
To: [REDACTED]
Subject: RE: NSL Review (U)

Looks like it! We have to give this priority given the high level attention this whole "non-issue" issue is getting. Needs to be a thorough scrub.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 1:30 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: NSL Review (U)

Looks like the clock is about to start!

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 1:28 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: NSL Review (U)

Fyi.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 25, 2007 1:10 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: NSL Review (U)

Classification: UNCLASSIFIED

Per our earlier discussions, the memo requesting the review is signed and should be in your box in a matter of minutes or so. Thanks for the help; should be interesting.

Regards.



[REDACTED]

From: [REDACTED]
Sent: Thursday, January 25, 2007 1:28 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: NSL Review (U)

Fyi.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 25, 2007 1:10 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: NSL Review (U)

Classification: UNCLASSIFIED

Per our earlier discussions, the memo requesting the review is signed and should be in your box in a matter of minutes or so. Thanks for the help; should be interesting.

Regards.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, January 24, 2007 2:02 PM
To: DP CAFS Office
Cc: [REDACTED]
Subject: Fyi -- lawful use

Fyi...

USA Today
January 24, 2007
Pg. 12

Pentagon 'Committed To Lawful Use'

USA TODAY's editorial "No court order needed" was misleading in its portrayal of the Defense Department's ability to request financial and credit-related information as part of counterintelligence and counterterrorism investigations (Our view, Security and civil liberties debate, Thursday).

The Defense Department is proud of the servicemen and women and civilian personnel who protect our nation from threats of harm, both foreign and domestic, at great cost and sacrifice to themselves. But as history has shown, the threat of infiltration by espionage and the danger to department personnel from terrorism are real. The Defense Department has a responsibility to ensure the security of its information, installations, resources and employees at home and abroad. This is both an operational requirement and a matter of national security for the American people.

As part of this effort, specific organizations in each of the military services are charged with investigating counterintelligence and counterterrorism threats to the Pentagon. As history has also shown, unusual financial activity of people affiliated with the Defense Department can be an indication of espionage or terrorist-related activity. One valuable tool used in counterintelligence and counterterrorism investigations within the department is the ability to request financial and credit-related information. This tool was extended to investigatory entities other than the FBI by Congress in 2001. Our use of this tool has been focused, limited and judicious.

But the key here is that, contrary to recent press reports, the Pentagon's authority to request such information is limited. It applies only to Defense Department-affiliated investigations concerning the department's affiliated persons. In making such requests, the department ensures that its use is part of a lawful investigation and the department is complying with the standards and requirements of the law. Additionally, the department's application of this authority is done in close coordination with the FBI. The department is keenly aware of its role in protecting the nation, its citizens and their liberties. The Defense Department is committed to the lawful use of all available resources in that effort.

Bryan G. Whitman, Deputy Assistant Secretary of Defense for Public Affairs, Washington

V/R,
[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 23, 2007 4:42 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

You are absolutely correct -- [REDACTED] inflicted this on us by putting it on the table in that forum as well as in the SSCI forum and will probably do so again tomorrow with the SAC-D.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 3:13 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

As discussed earlier you are correct; we have not rec the official DUSDI written request to conduct the NSL review and therefore the clock has not started ticking.

Looking at the below email from [REDACTED] it appears the HAC/D did not put us on the hook to conduct the NSL review, it looks like that is a self inflicted DoD requirement.

Cheers,

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:09 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

[REDACTED] just want to clarify that CIFA will not officially begin the NSL review until we get written direction from [REDACTED] to undertake the review -- is that correct? I want to ensure that the 45-day clock has not yet begun ticking.

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 10:06 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

FYI.

Hopefully, there won't be too many more.

I really appreciate your help on this.

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 9:45 AM
[REDACTED]

Cc: [REDACTED]
Subject: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

~~FOR OFFICIAL USE ONLY~~

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:06 AM
To: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 10:06 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

FYI.

Hopefully, there won't be too many more.

I really appreciate your help on this.

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 9:45 AM
[REDACTED]
[REDACTED]
Cc: [REDACTED]
Subject: QUICKLOOK: Meeting on National Security Letters (NSLs) with HAC/D, 19 January 2007 (U)

FOR OFFICIAL USE ONLY

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:24 AM
To: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with SSCI Staff, 19 January 2007 (U)

Summary of SSCI briefing -- FYI.

Note due outs and SSCI interest areas in context of the NSL review we will be tasked to undertake.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:20 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QUICKLOOK: Meeting on National Security Letters (NSLs) with SSCI Staff, 19 January 2007 (U)

FYI.

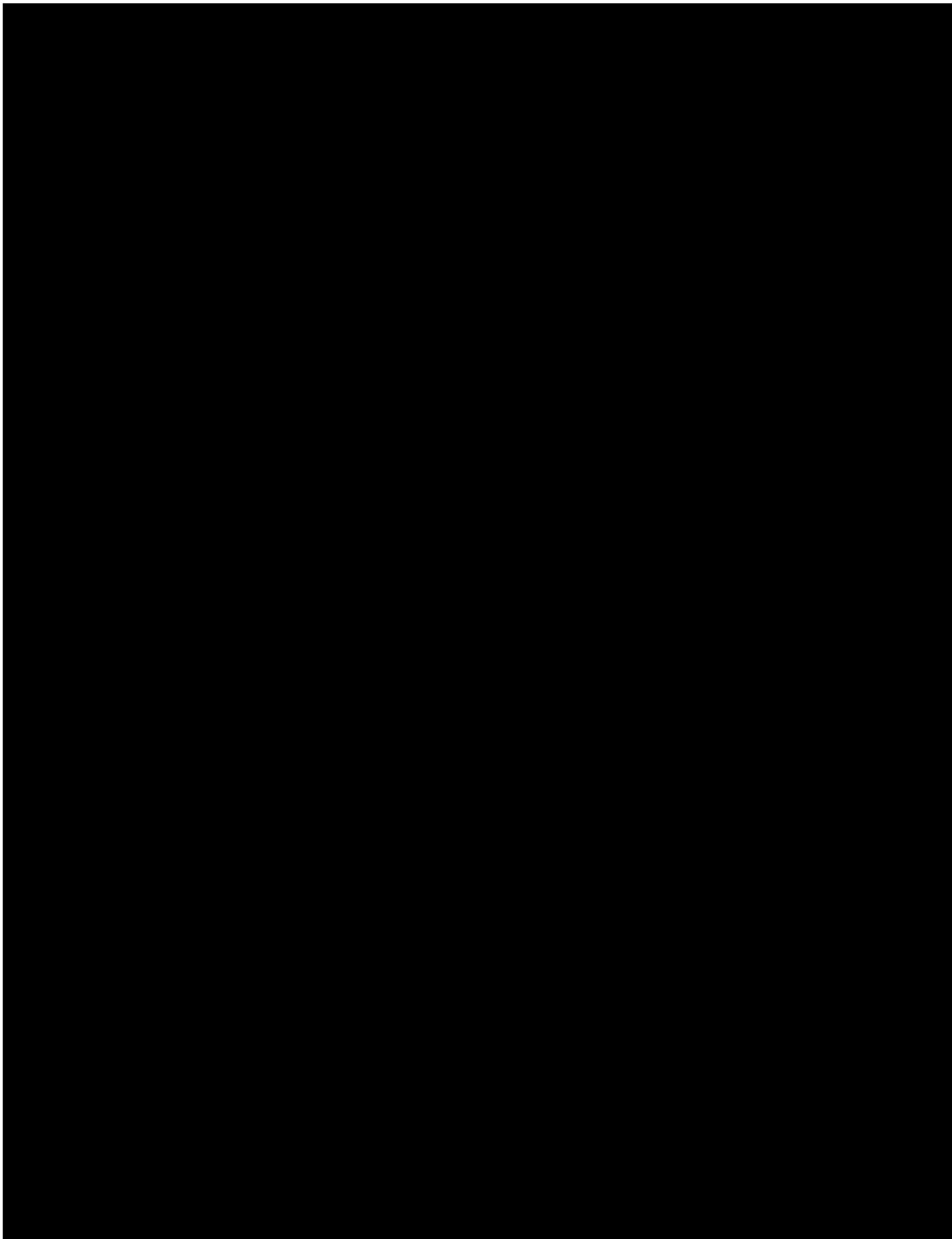
[REDACTED]

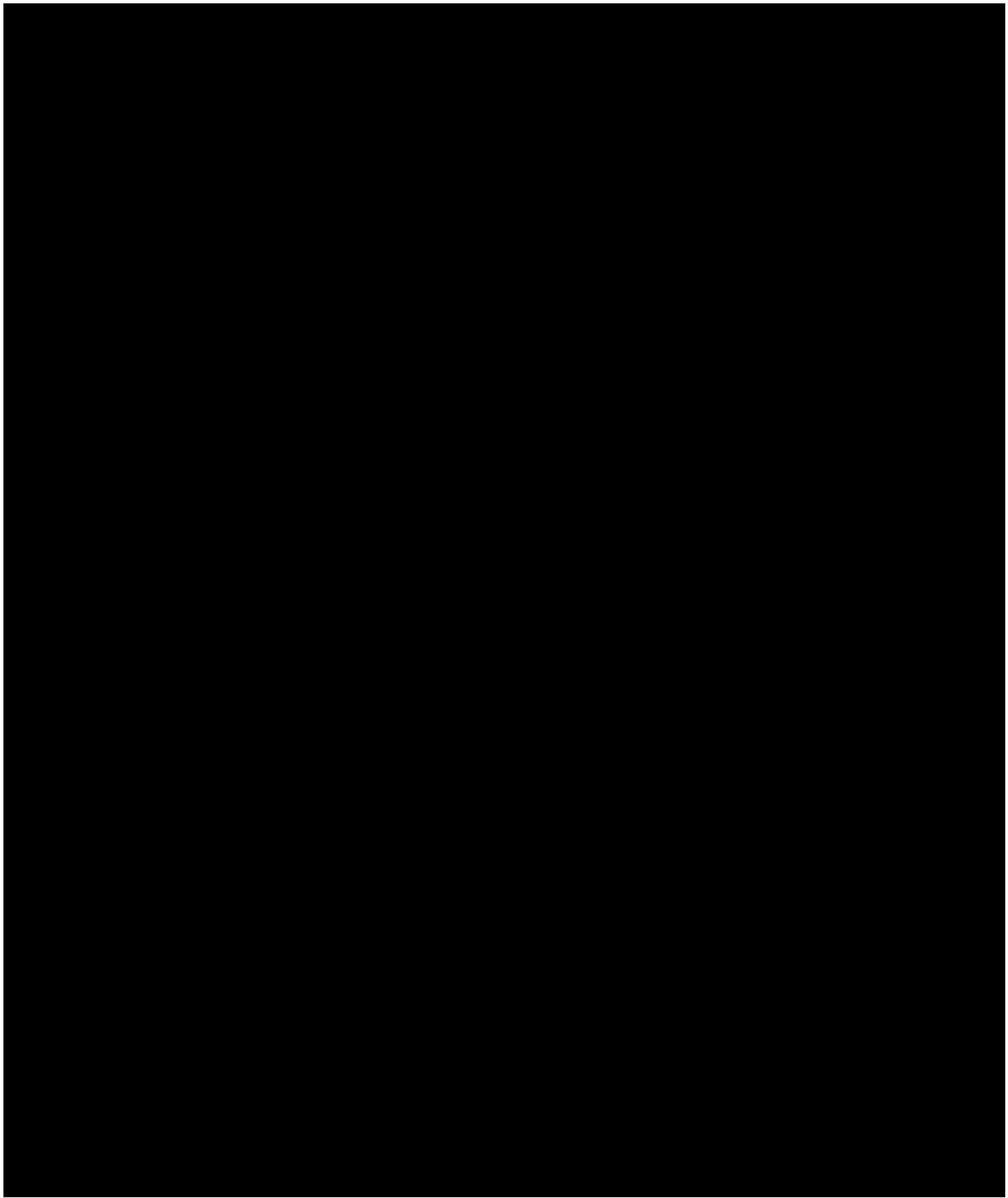
-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 23, 2007 11:18 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: QUICKLOOK: Meeting on National Security Letters (NSLs) with SSCI Staff, 19 January 2007 (U)

UNCLASSIFIED

[REDACTED]





[REDACTED]

From: [REDACTED]
Sent: Monday, January 22, 2007 9:26 AM
To: [REDACTED]

Subject: FW: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

FYI

-----Original Message-----

From: [REDACTED]
Sent: Monday, January 22, 2007 9:19 AM
To: [REDACTED]
Subject: FW: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

fyi.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 19, 2007 8:24 PM
To: [REDACTED]
Subject: Re: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

We will be happy to do our part in both efforts. Congrats on results.


Sent from my BlackBerry Wireless Handheld

-----Original Message-----

[REDACTED]

Sent: Fri Jan 19 17:07:43 2007
Subject: FW: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

[REDACTED]



-----Original Message-----

From: [REDACTED]
Sent: Friday, January 19, 2007 4:49 PM
To: [REDACTED]
Subject: FW: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

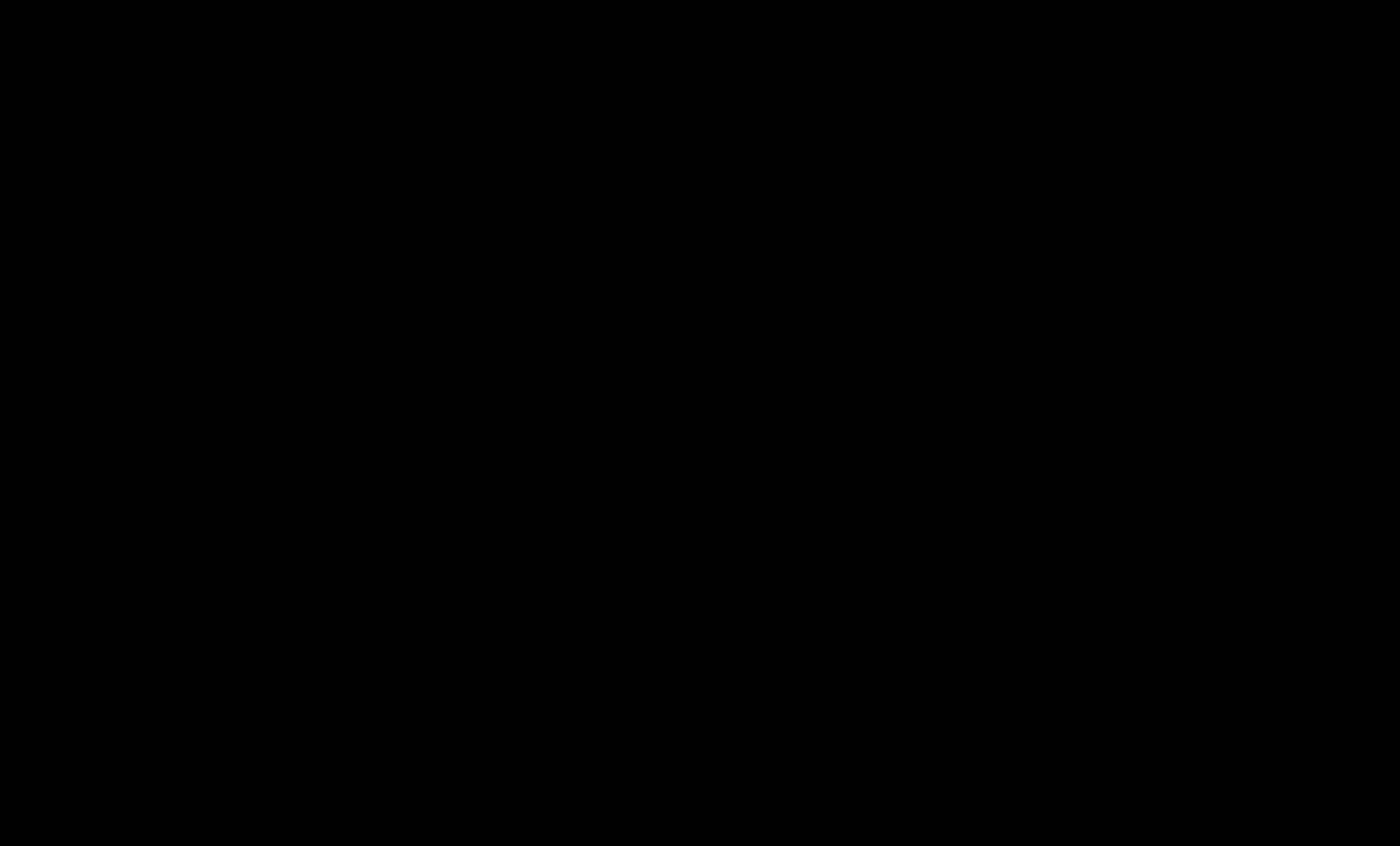
Classification: UNCLASSIFIED

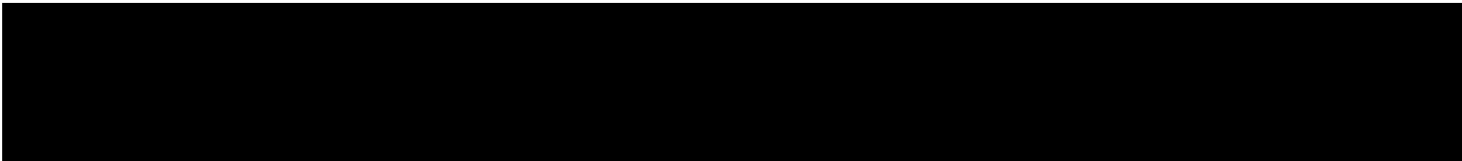
Sorry.

-----Original Message-----

From: [REDACTED]
Sent: Friday, January 19, 2007 4:27 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: HAC-D and SSCI briefings by ADUSD (CI&S) and Team (U)

Classification: UNCLASSIFIED





V/R,



[REDACTED]

From: [REDACTED]
Sent: Friday, January 19, 2007 4:57 PM
To: [REDACTED]
Subject: NSL review

[REDACTED]
Heads up.

[REDACTED] just returned from Capitol Hill and reports that while the briefing went well, [REDACTED] did commit us to doing a review of DoD use of the NSLs. We've got 45 days to complete the review.

You'll have the lead...and we'll ask [REDACTED] for a person to assist.

We will get the names of the Service POCs next week (we already know that the Army POC is [REDACTED])

This may actually turn out to be a good opportunity. We'll discuss Monday.
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 18, 2007 12:29 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Briefing to Congress (U)

Will do!

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 12:27 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Briefing to Congress (U)

[REDACTED]

V/R [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 12:17 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Briefing to Congress (U)

[REDACTED]

Cheers,

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 11:49 AM
To: [REDACTED]

Subject: FW: Briefing to Congress (U)
Importance: High

The latest version of [REDACTED] briefing.

Note Slide 14: He did not make the language change as [REDACTED] recommended.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 11:32 AM
To: [REDACTED]

Subject: Briefing to Congress (U)

Classification: UNCLASSIFIED

[REDACTED]

Regards and thanks.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 18, 2007 12:15 PM
To: [REDACTED]
Subject: FW: Briefing to Congress (U)

fyi

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 18, 2007 12:12 PM
To: [REDACTED]
Subject: RE: Briefing to Congress (U)

Classification: UNCLASSIFIED

Missed it. It is now in as:

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 18, 2007 12:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Briefing to Congress (U)

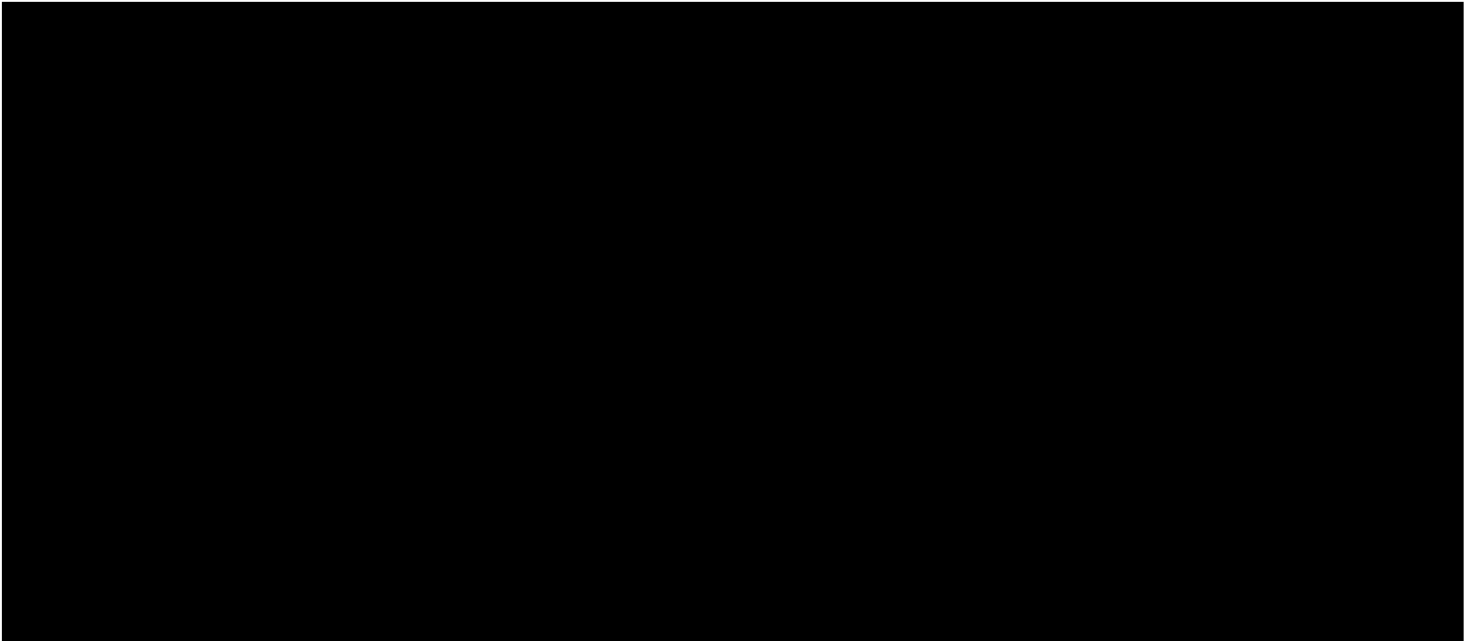
[REDACTED] I note that slide 14, last bullet does not contain the language [REDACTED] proposed to you earlier.

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: Thursday, January 18, 2007 11:32 AM
To: [REDACTED]

[REDACTED]

Subject: Briefing to Congress (U)



Regards and thanks.



[Redacted]

From: [Redacted]
Sent: Thursday, January 18, 2007 11:49 AM
To: [Redacted]

Cc: [Redacted]
Subject: FW: Briefing to Congress (U)

Importance: High

Attachments: 07-01-19 OUSD(I) NSL Briefing.ppt



07-01-19 OUSD(I)
NSL Briefing....

The latest version of [Redacted] briefing.

Note Slide 14: He did not make the language change as [Redacted] recommended.

[Redacted]

-----Original Message-----

From: [Redacted]
Sent: Thursday, January 18, 2007 11:32 AM
To: [Redacted]

[Redacted]

Subject: Briefing to Congress (U)

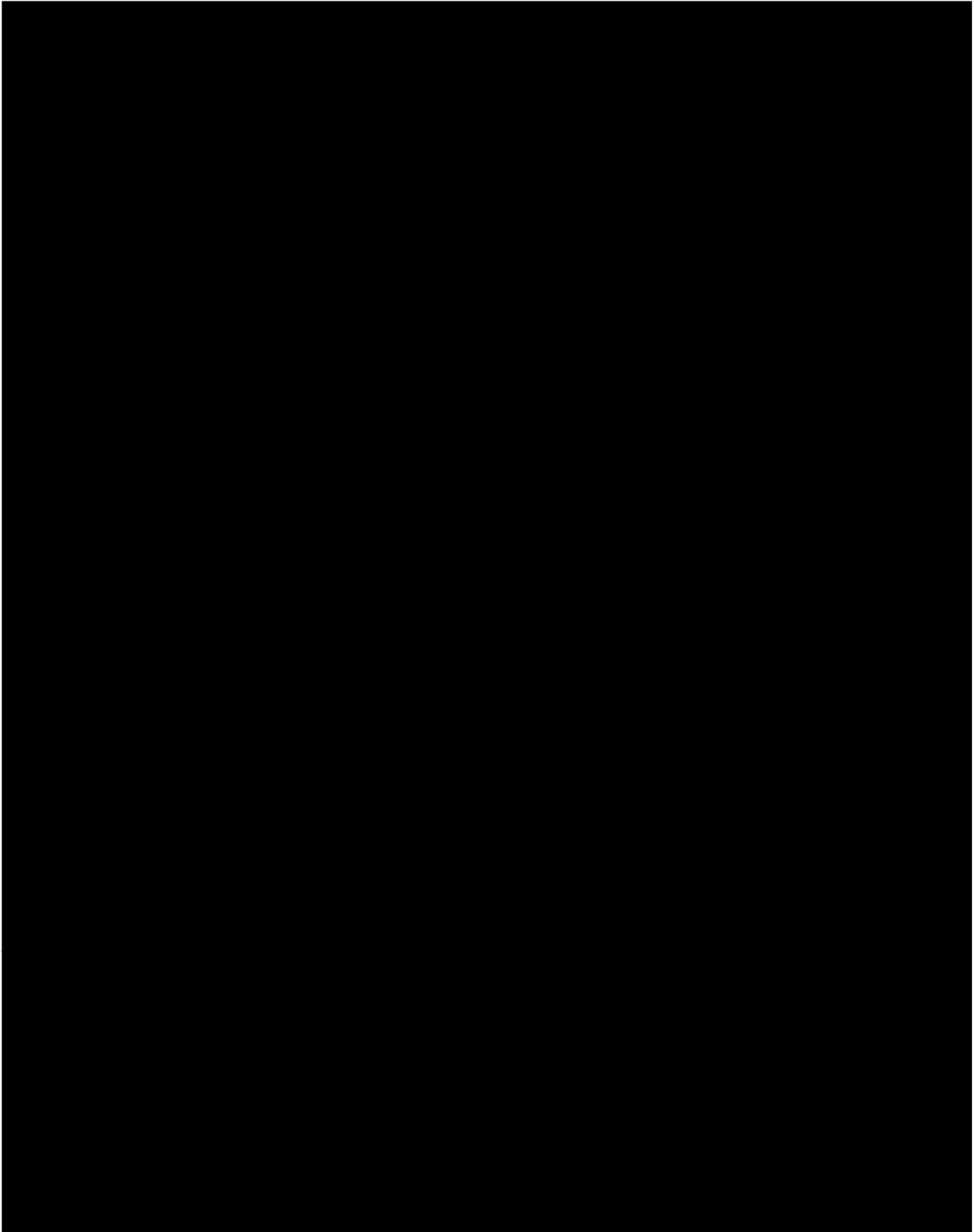
Classification: UNCLASSIFIED

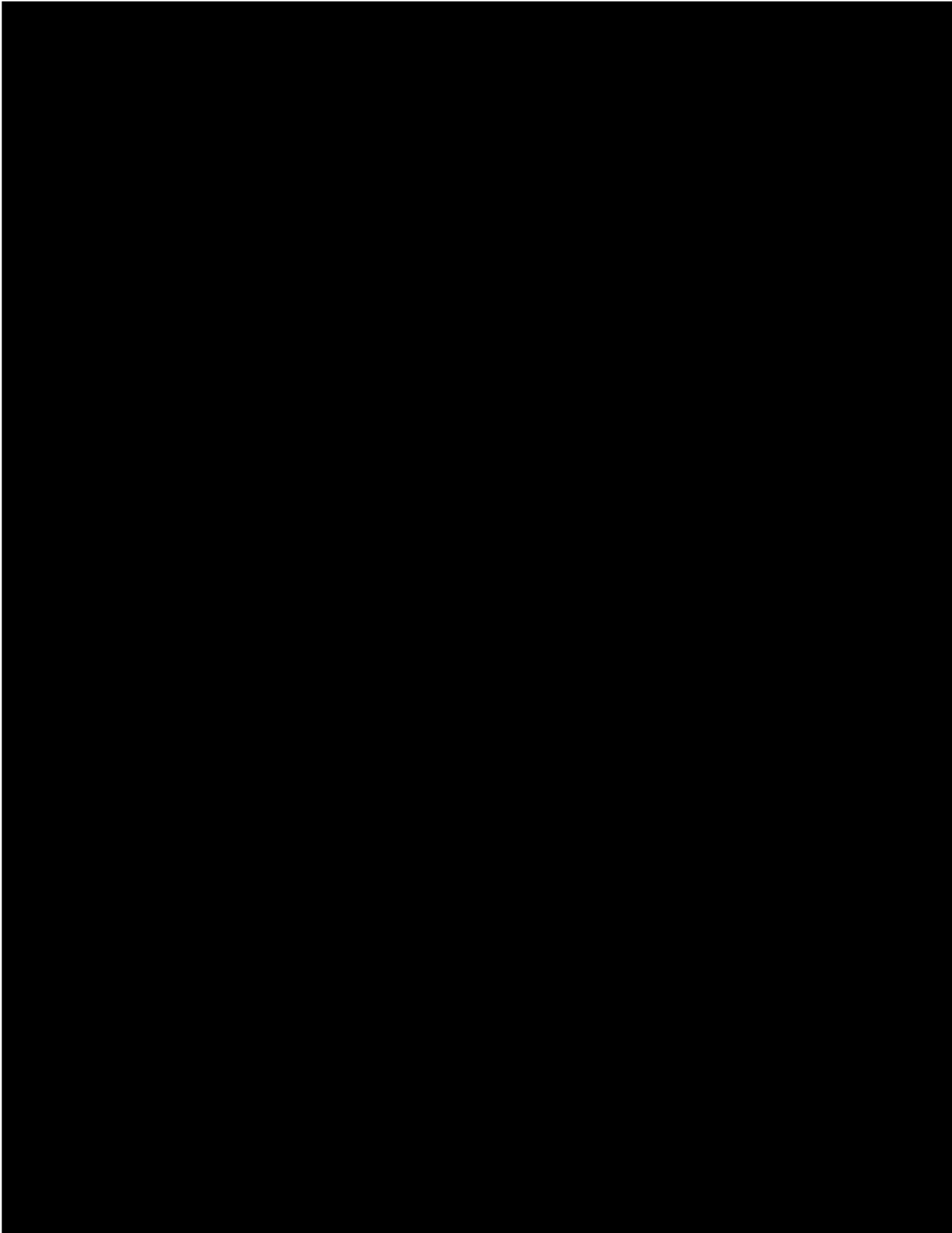
[Redacted]



Regards and thanks.









[Redacted]

From: [Redacted]
Sent: Thursday, January 18, 2007 7:20 AM
To: [Redacted]
Cc: [Redacted]
Subject: FW: DRAFT Brief (U)

Attachments: NSLs.2.ppt



NSLs.2.ppt (21 KB)

Ref my previous e-mail -- here are the slides.

[Redacted]

-----Original Message-----

From: [Redacted]
Sent: Wednesday, January 17, 2007 7:43 PM

[Redacted]

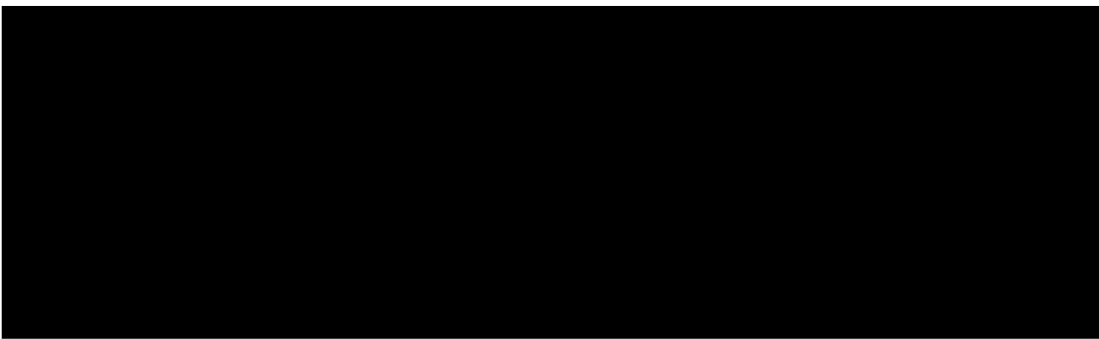
Subject: RE: DRAFT Brief (U)

[Redacted]

[Redacted]

Just my thoughts. Have a good night.

Cheers,
[Redacted]



From: [REDACTED]
Sent: Wednesday, January 17, 2007 5:39 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: DRAFT Brief (U)

Classification: UNCLASSIFIED

[REDACTED] per our discussion

[REDACTED] where I am just throwing stuff on a page.

[REDACTED]

From: [REDACTED]
Sent: Thursday, January 18, 2007 7:19 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: DRAFT Brief (U)

Importance: High

[REDACTED] just to let you know this is coming our way. [REDACTED] is fighting this with [REDACTED] but it appears that [REDACTED] will make the statement to the Hill that CIFA PM will take a look at NSL usage across the services - he is intent on making this happen!! I will send you a copy of the briefing slides separately.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 6:50 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: DRAFT Brief (U)

Here is [REDACTED] reply to our input. I don't know why he included [REDACTED] on his reply; didn't he depart sometime in Dec to work in the private sector?

Cheers,

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, January 18, 2007 6:19 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: DRAFT Brief (U)

Classification: UNCLASSIFIED

[REDACTED]



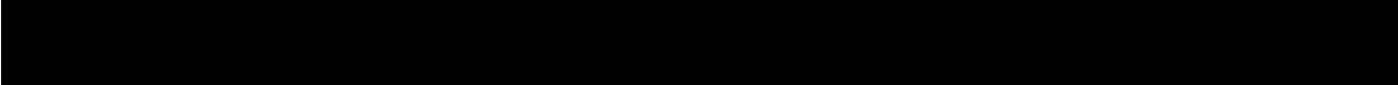
Cheer and thanks.



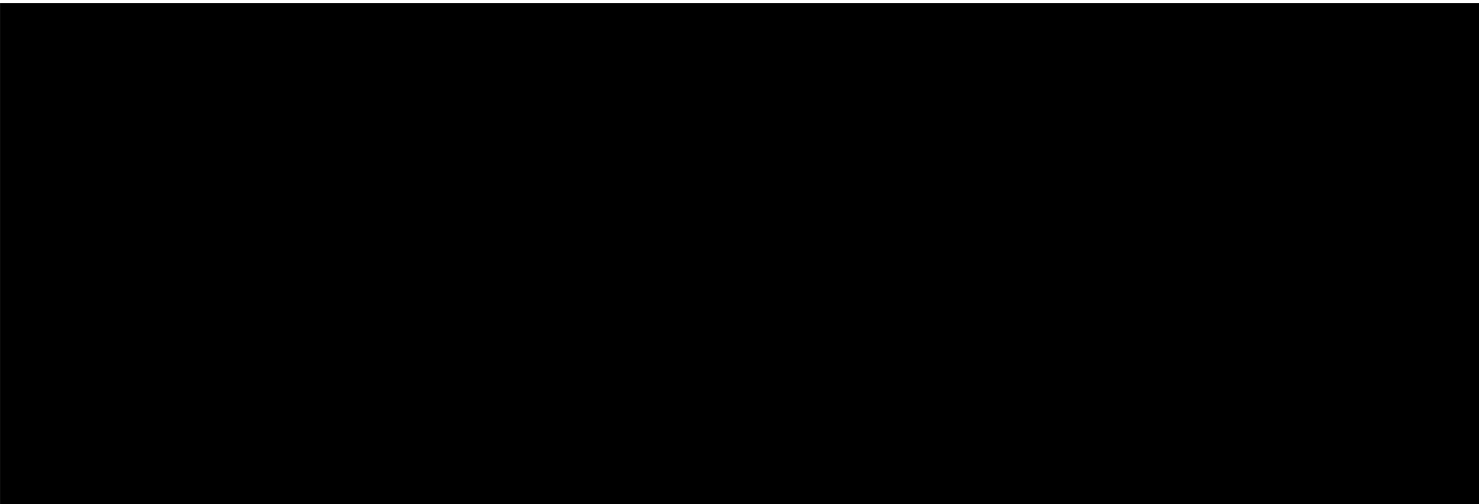
-----Original Message-----

From: [Redacted]

Sent: Wednesday, January 17, 2007 7:43 PM




Subject: RE: DRAFT Brief (U)



Just my thoughts. Have a good night.

Cheers,





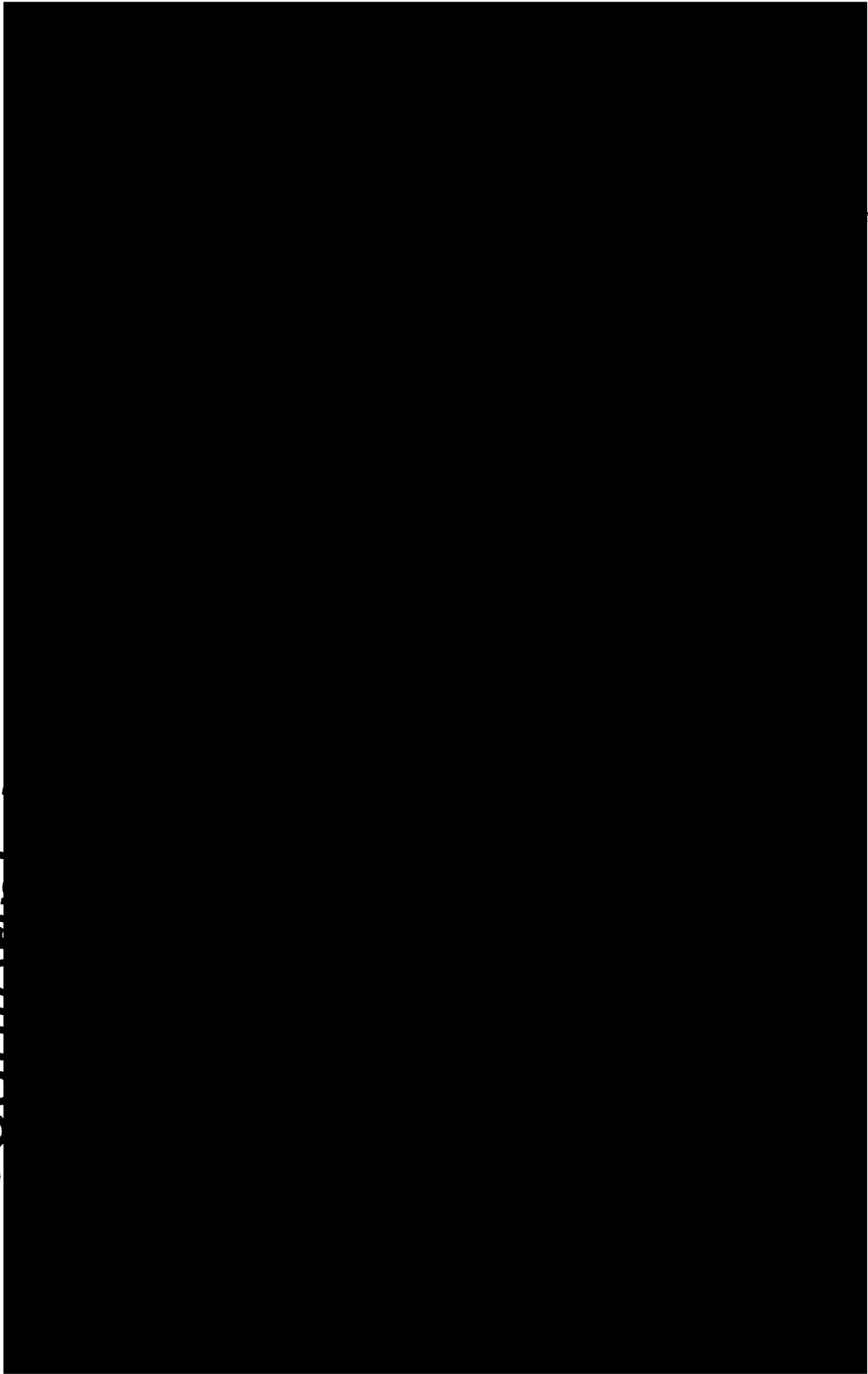
From: [REDACTED]
Sent: Wednesday, January 17, 2007 5:39 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: DRAFT Brief (U)

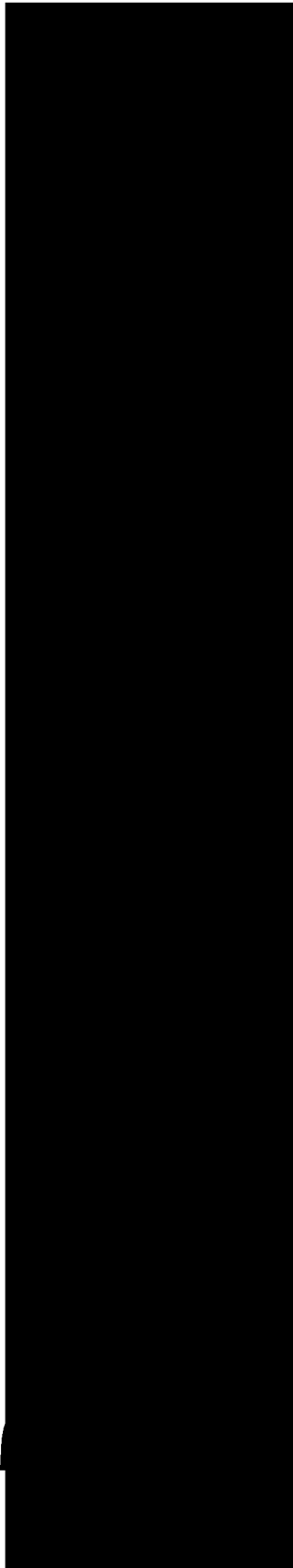
Classification: UNCLASSIFIED

[REDACTED] per our discussion

[REDACTED] where I am just throwing stuff on a page.

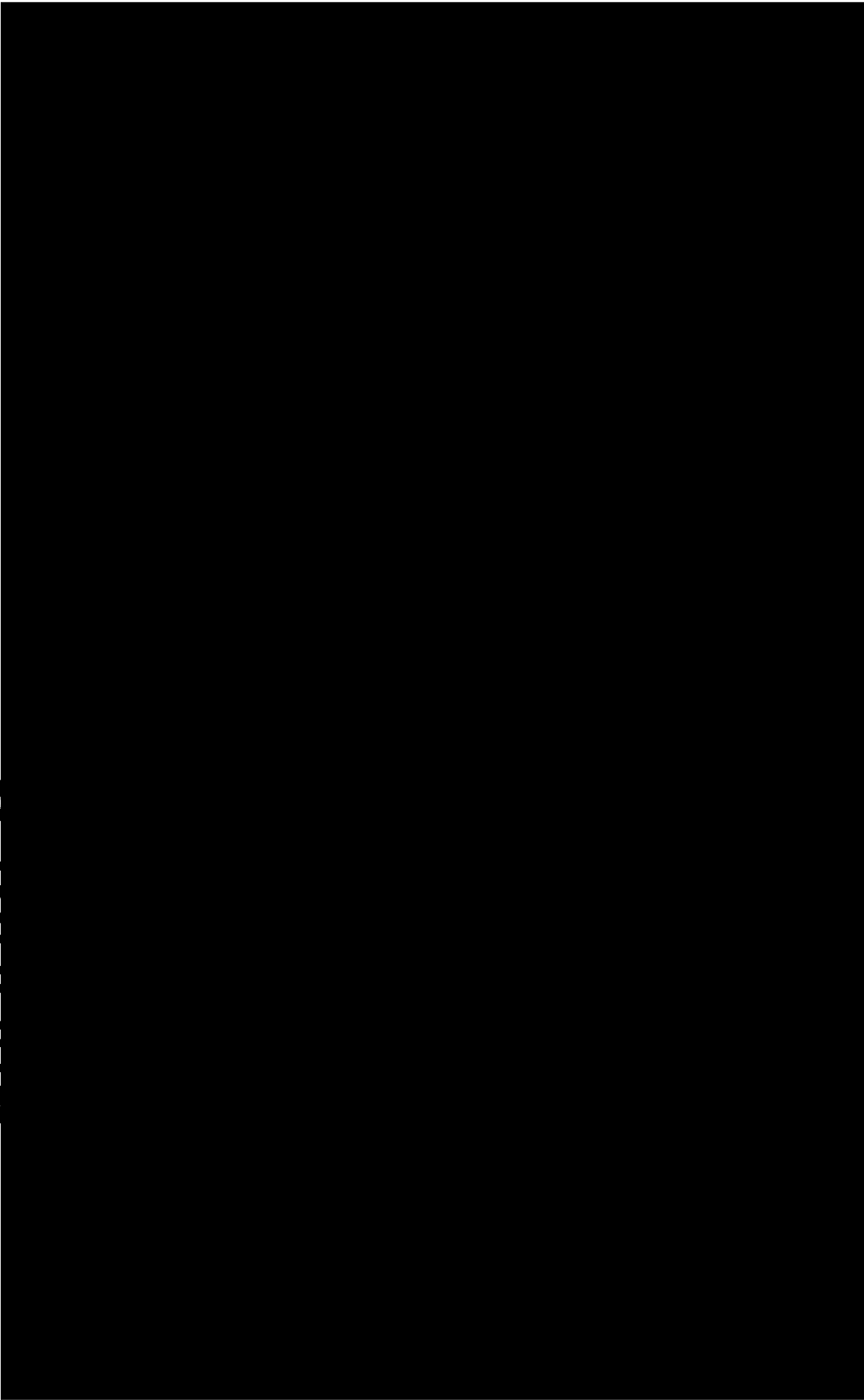
Counterintelligence







National e



Slower

