



U.S. Department of Justice

Civil Division

Washington, DC 20530

January 3, 2013

VIA ELECTRONIC MAIL

David Sobel, Esq.
Electronic Frontier Foundation
1818 N Street, N.W., Suite 410
Washington, DC 20036

Re: *EFF v. Department of Justice*, Case No. 12-1441-ABJ

Dear David,


Enclosed please find the Department of Justice's response to Electronic Frontier Foundation's Freedom of Information Act request to the Department's National Security Division dated July 26, 2012 requesting:

1. Any written opinion or order . . . in which "the Foreign Intelligence Surveillance Court held that some collection carried out pursuant to the Section 702 minimization procedures used by the government was unreasonable under the Fourth Amendment";
2. Any written opinion or order . . . reflecting or concerning a FISC determination that "the government's implementation of Section 702 of FISA has sometimes circumvented the spirit of the law"; and
3. Any briefing provided to the Senate Select Committee on Intelligence or the House Permanent Select Committee on Intelligence concerning the FISC opinions or orders, described in items (1) and (2) above.

After you have discussed the enclosed response with your client, please contact me to schedule a time to discuss the Joint Status Report that the parties must submit to the Court on January 18, 2013.

Thank you for your attention to this matter. I look forward to speaking with you soon.

Sincerely,



JACQUELINE COLEMAN SNEAD

Senior Counsel
Federal Programs Branch
Civil Division

Enclosure



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

NSD #12-219
January 3, 2013

Mr. Mark Rumold
Electronic Frontier Foundation
454 Shotwell Street
San Francisco, CA 94110

Dear Mr. Rumold:

This is in response to your Freedom of Information Act Request (FOIA) dated July 26, 2012, concerning the July 20, 2012 letter to Senator Wyden and two statements contained therein: "It is also true that on at least one occasion the Foreign Intelligence Surveillance Court held that some collection carried out pursuant to Section 702 minimization procedures used by the government was unreasonable under the Fourth Amendment"; and "I believe that the government's implementation of Section 702 of FISA has sometimes circumvented the spirit of the law, and on at least one occasion the FISA Court has reached the same conclusion."

Your FOIA requests the following:

1. Any written opinion or order, as described in the statement quoted above, in which "the Foreign Intelligence Surveillance Court held that some collection carried out pursuant to the Section 702 minimization procedures used by the government was unreasonable under the Fourth Amendment";
2. Any written opinion or order, as described in the statement quoted above, reflecting or concerning a FISC determination that "the government's implementation of Section 702 of FISA has sometimes circumvented the spirit of the law"; and,
3. Any briefing provided to the Senate Select Committee on Intelligence or the House Permanent Select Committee on Intelligence concerning the FISC opinions or orders, described in items (1) and (2) above.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. §552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

We have conducted a search of the Office of the Assistant Attorney General and the Office of Intelligence of the National Security Division and located records responsive to your

request.

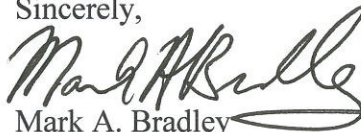
We have identified two records (one of which is a non-identical duplicate of the other) that are responsive to items (1) and (2) of your request and a third record that is responsive to item (3) of your request. We are withholding the records in full pursuant to the following FOIA exemptions set forth in 5 U.S.C. 552(b):

- (1) which permits the withholding of information properly classified pursuant to Executive Order No. 13526; and
- (3) which permits the withholding of information specifically exempted from disclosure by statute (the applicable statute is 50 U.S.C. § 403-1(i)1 of the National Security Act of 1947).

We have also identified two additional records that are responsive to item (3) of your request [two joint statements for the record prepared for classified, closed Congressional hearings]. We have processed the two joint statements for the record and have attached a redacted version of each.

As this matter is already in litigation, we are omitting our standard appeal paragraph.

Sincerely,



Mark A. Bradley
Director
FOIA and Declassification



JOINT STATEMENT OF

**LISA O. MONACO
ASSISTANT ATTORNEY GENERAL
FOR NATIONAL SECURITY
U.S. DEPARTMENT OF JUSTICE**

**JOHN C. (CHRIS) INGLIS
DEPUTY DIRECTOR
NATIONAL SECURITY AGENCY**

**ROBERT S. LITT
GENERAL COUNSEL
OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE**

**BEFORE THE
SENATE SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE**

**AT A HEARING CONCERNING
"FISA AMENDMENTS ACT REAUTHORIZATION"**

**PRESENTED ON
FEBRUARY 9, 2012**

(b) (1), (b) (3)

Joint Statement of

**Lisa O. Monaco
Assistant Attorney General
for National Security
U.S. Department of Justice**

**John C. (Chris) Inglis
Deputy Director
National Security Agency**

**Robert S. Litt
General Counsel
Office of Director of National Intelligence**

**Before the
Senate Select Committee on Intelligence
United States Senate**

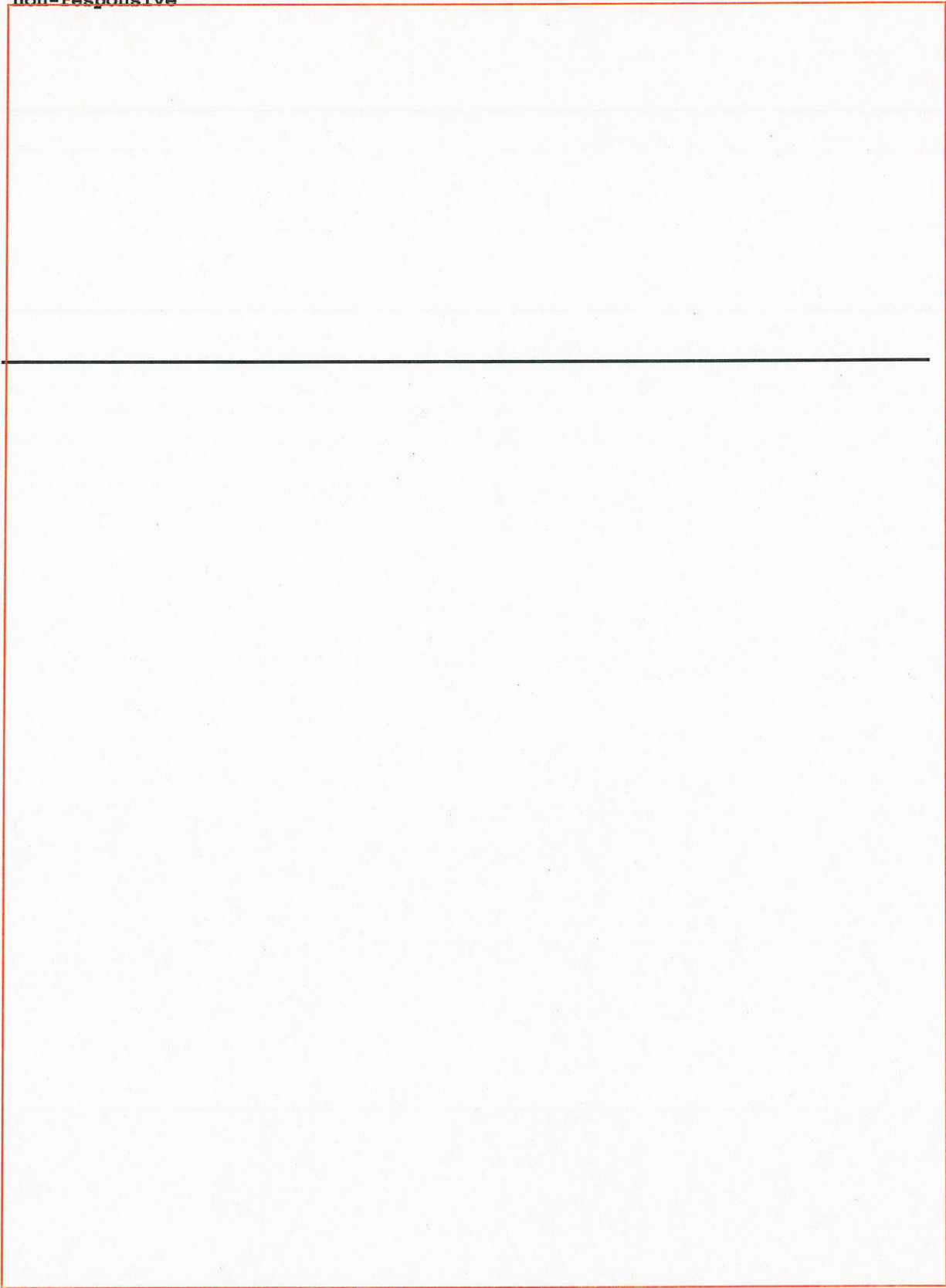
**At a Hearing Concerning
“FISA Amendments Act Reauthorization”**

**Presented on
February 9, 2012**

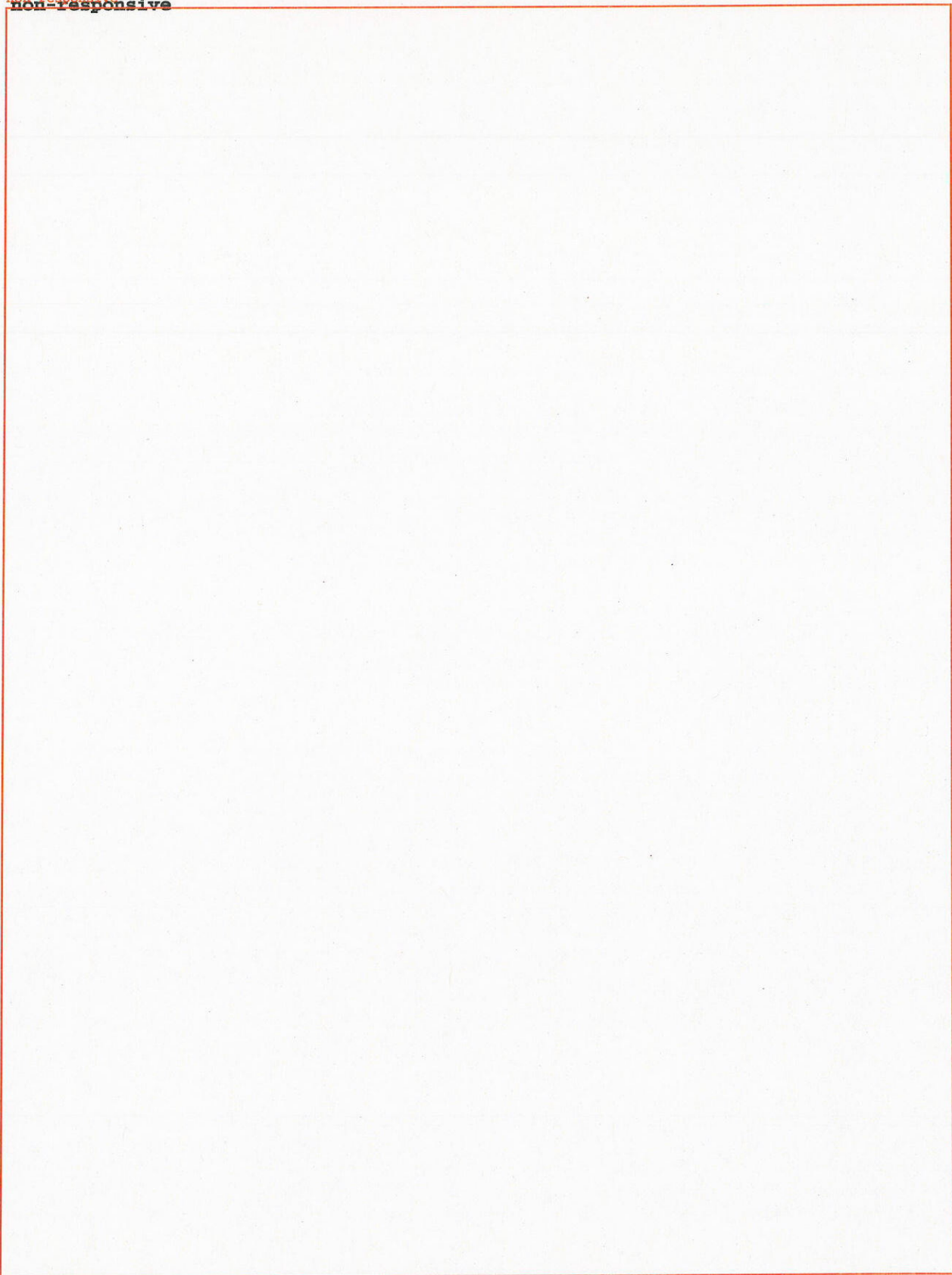
~~non-responsive~~
~~non-responsive~~



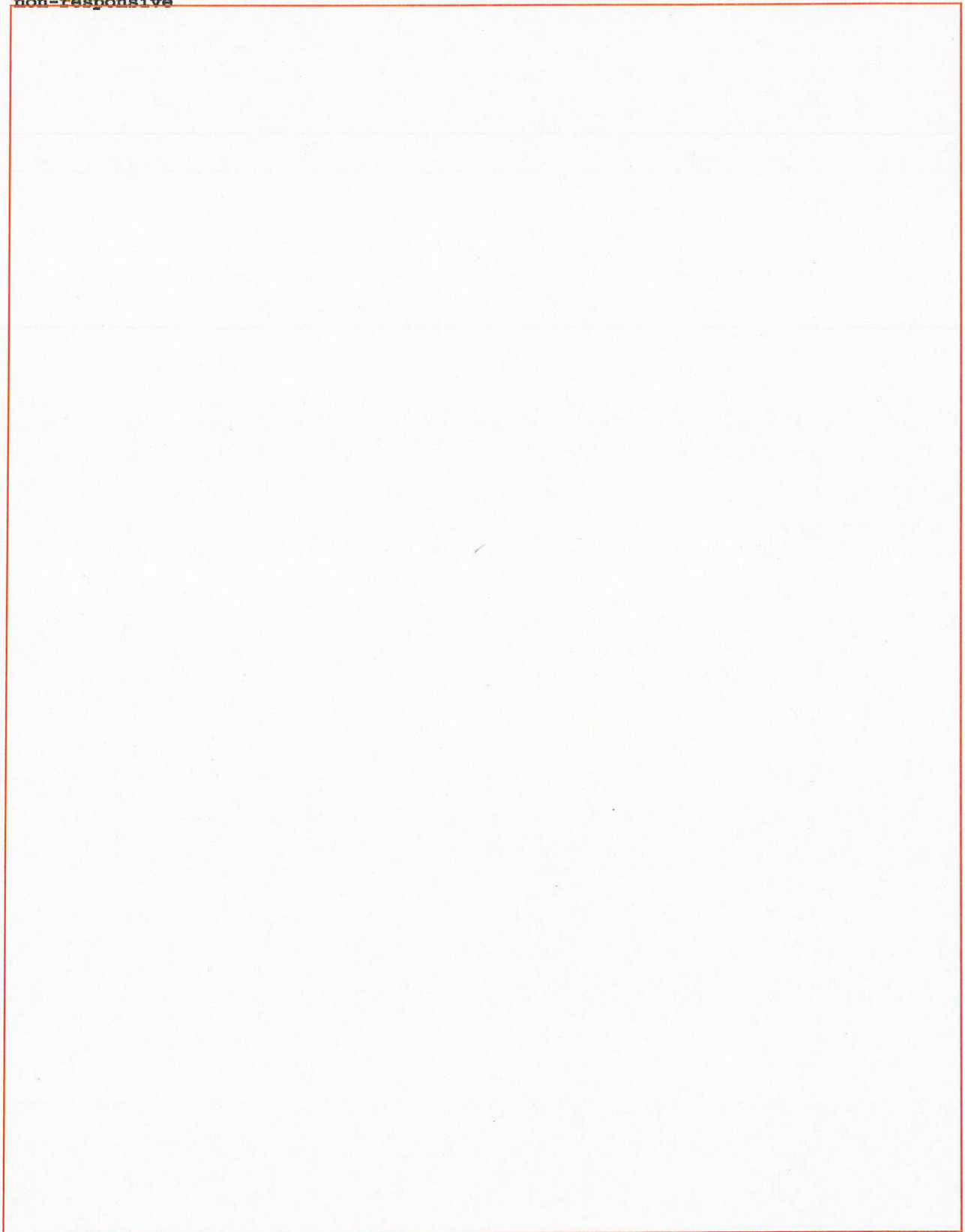
~~non-responsive~~
~~non-responsive~~



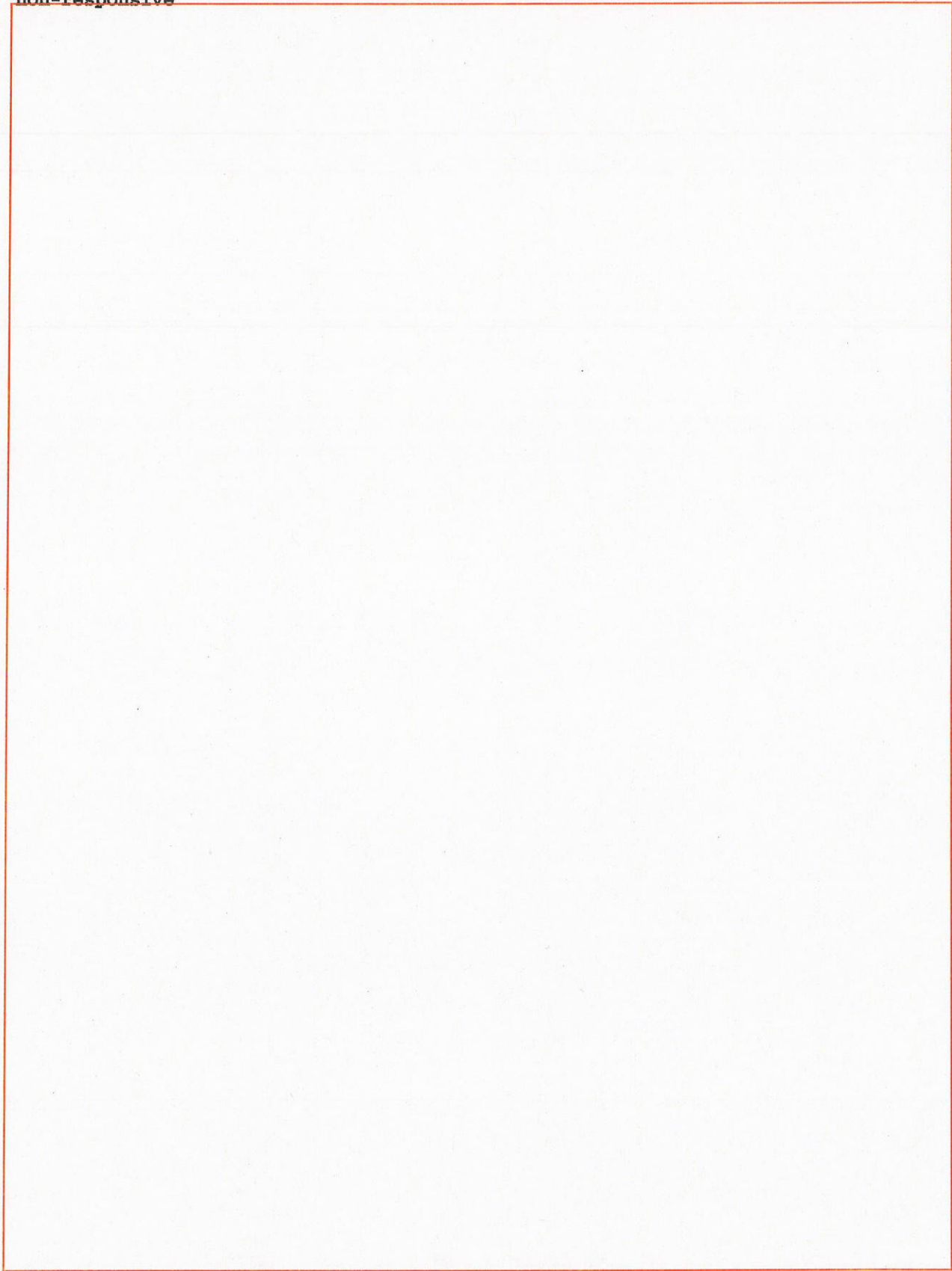
~~non-responsive~~
~~non-responsive~~



~~non-responsive~~
~~non-responsive~~



~~non-responsive~~
non-responsive



~~non-responsive~~
~~non-responsive~~



(U) Recent FISC Opinion

~~(TS//SI//NF)~~ ^{(b) (1), (b) (3)} ~~(b) (1), (b) (3)~~ -----

~~(b) (1), (b) (3)~~ ~~(b) (1), (b) (3)~~ -----

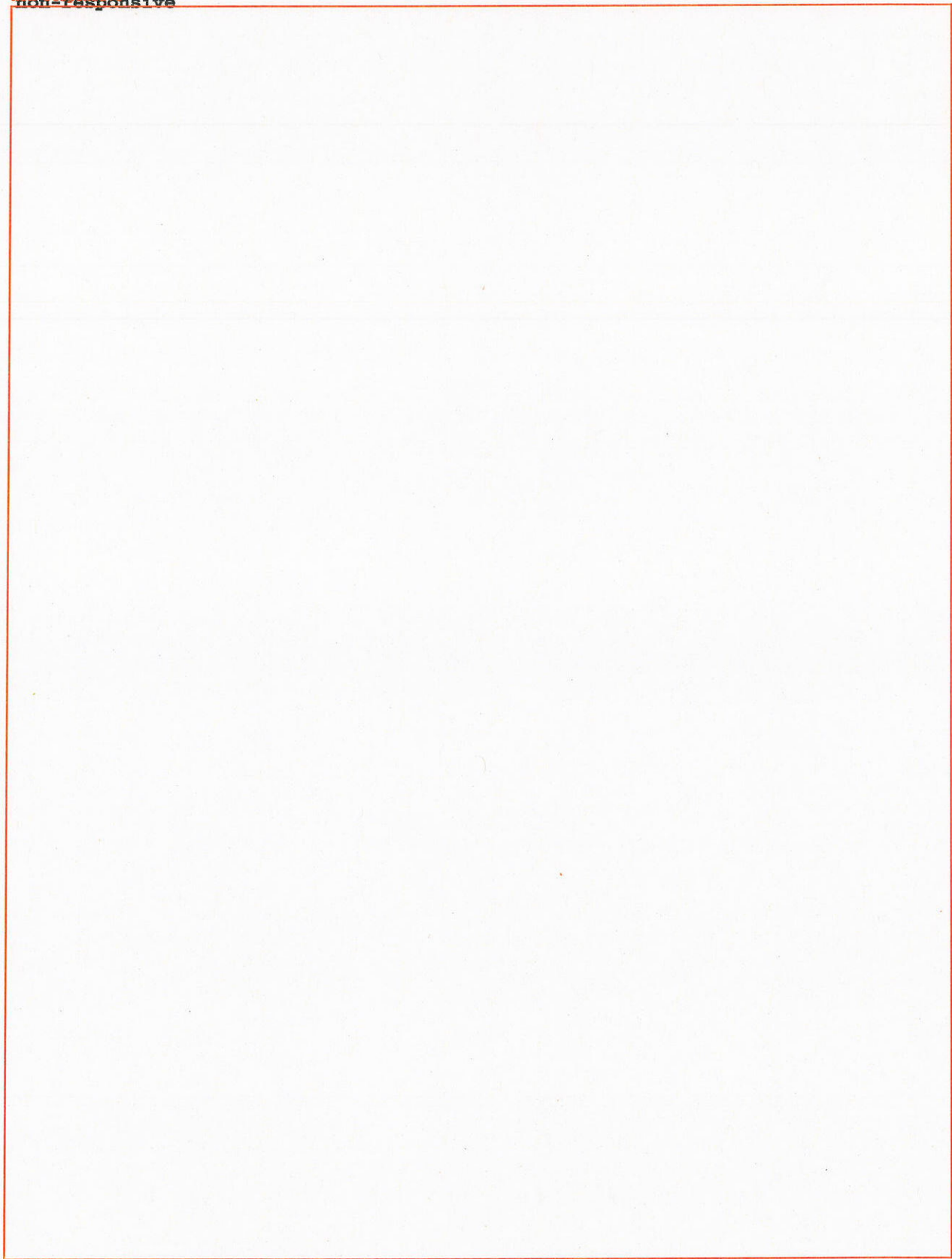
(b) (1), (b) (3)
~~(b) (1), (b) (3)~~

(b) (1), (b) (3)
~~(b) (1), (b) (3)~~

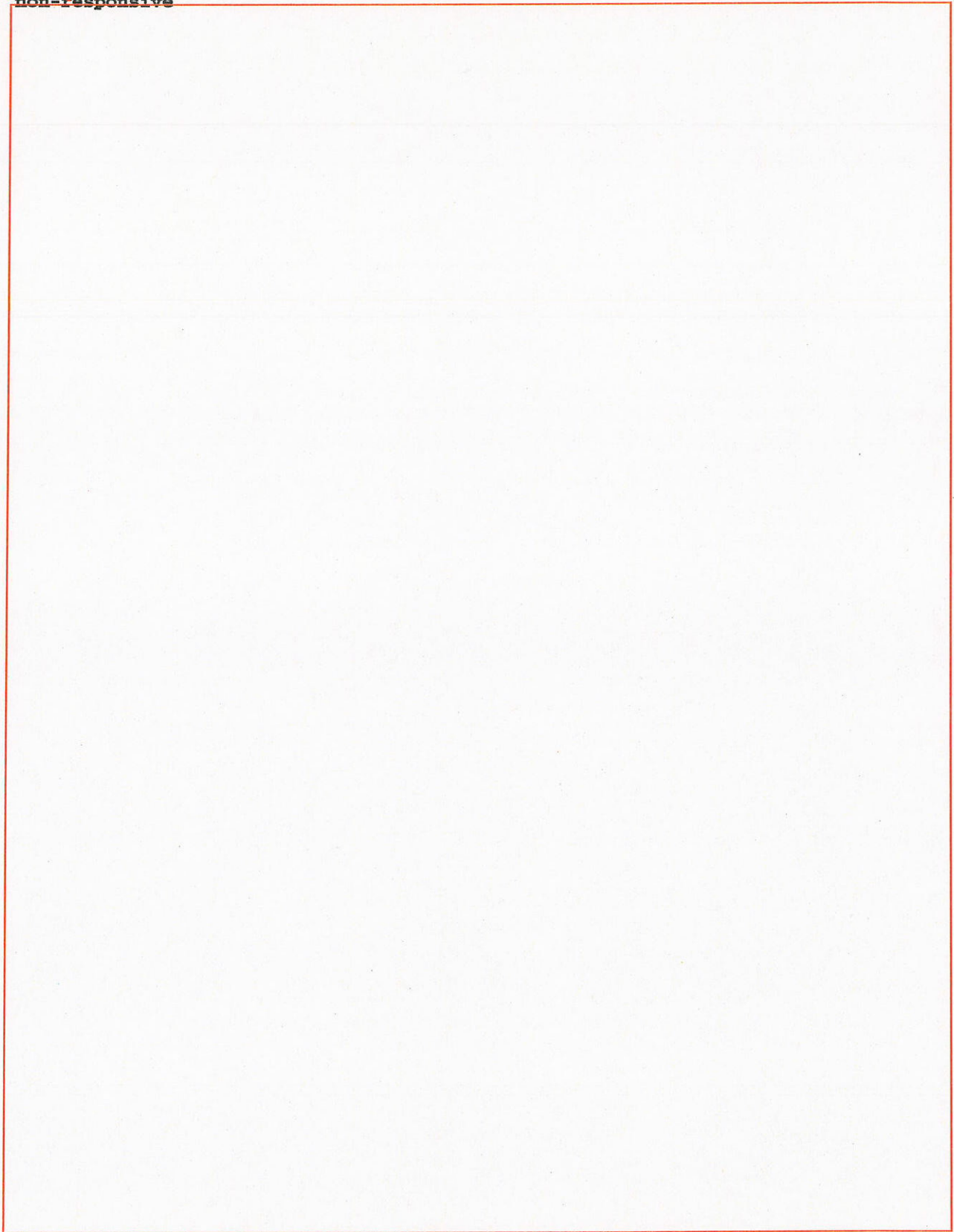
(U) The Committee has been provided with copies of the opinions and the filings by the Government in this matter, and we will continue to inform the Committee about any additional developments on this issue.

non-responsive
~~non-responsive~~

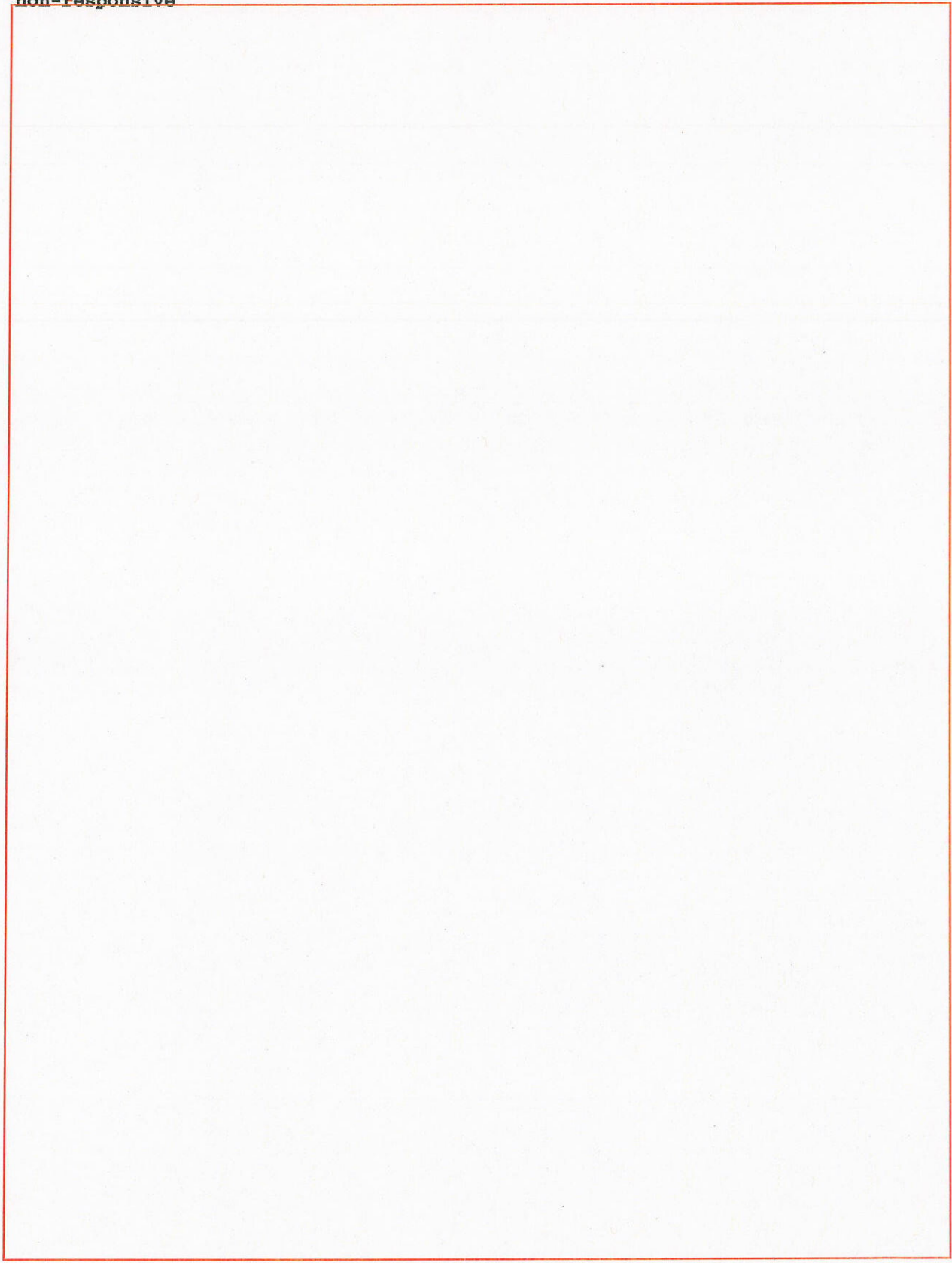
~~non-responsive~~



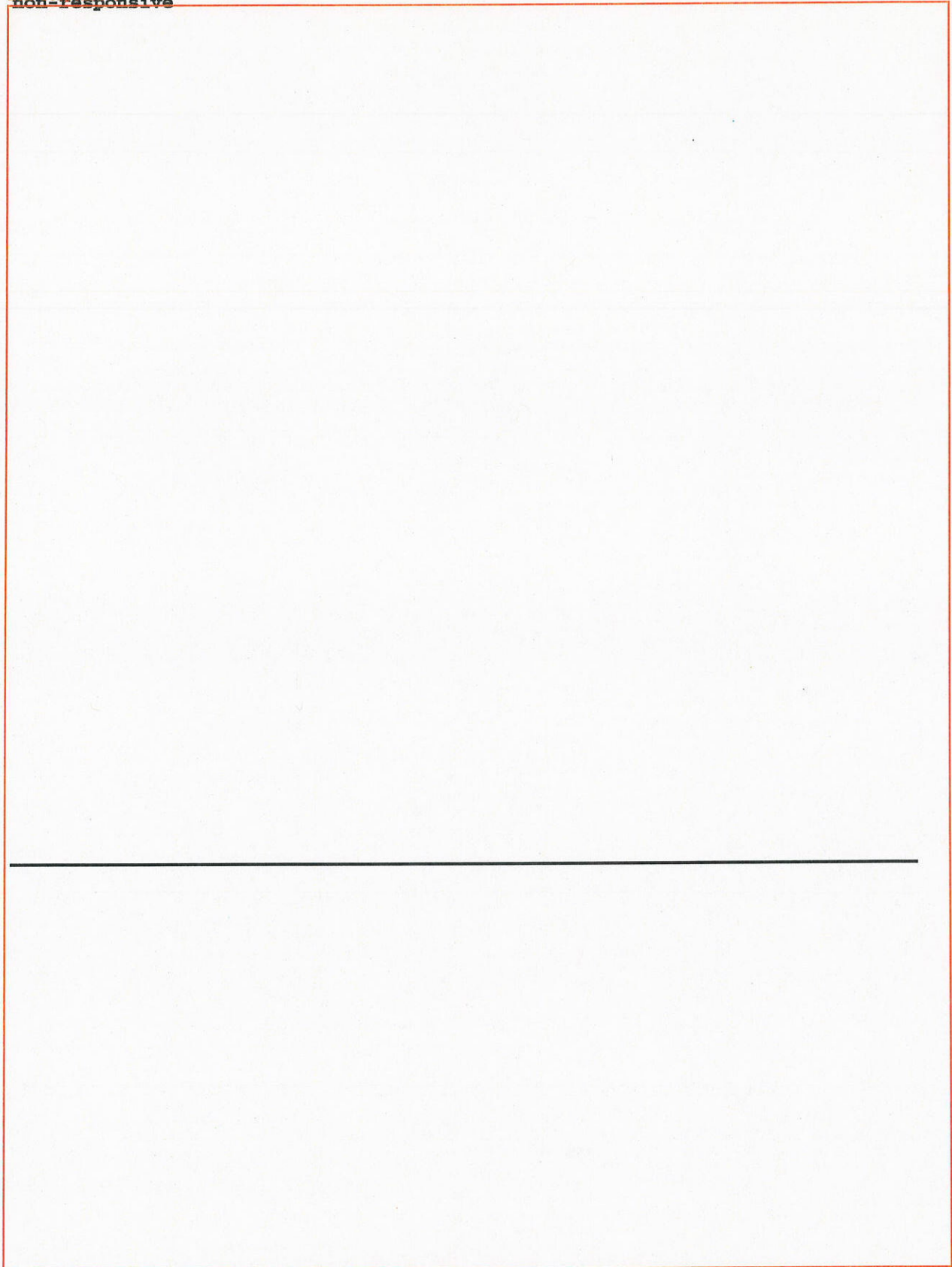
~~non-responsive~~



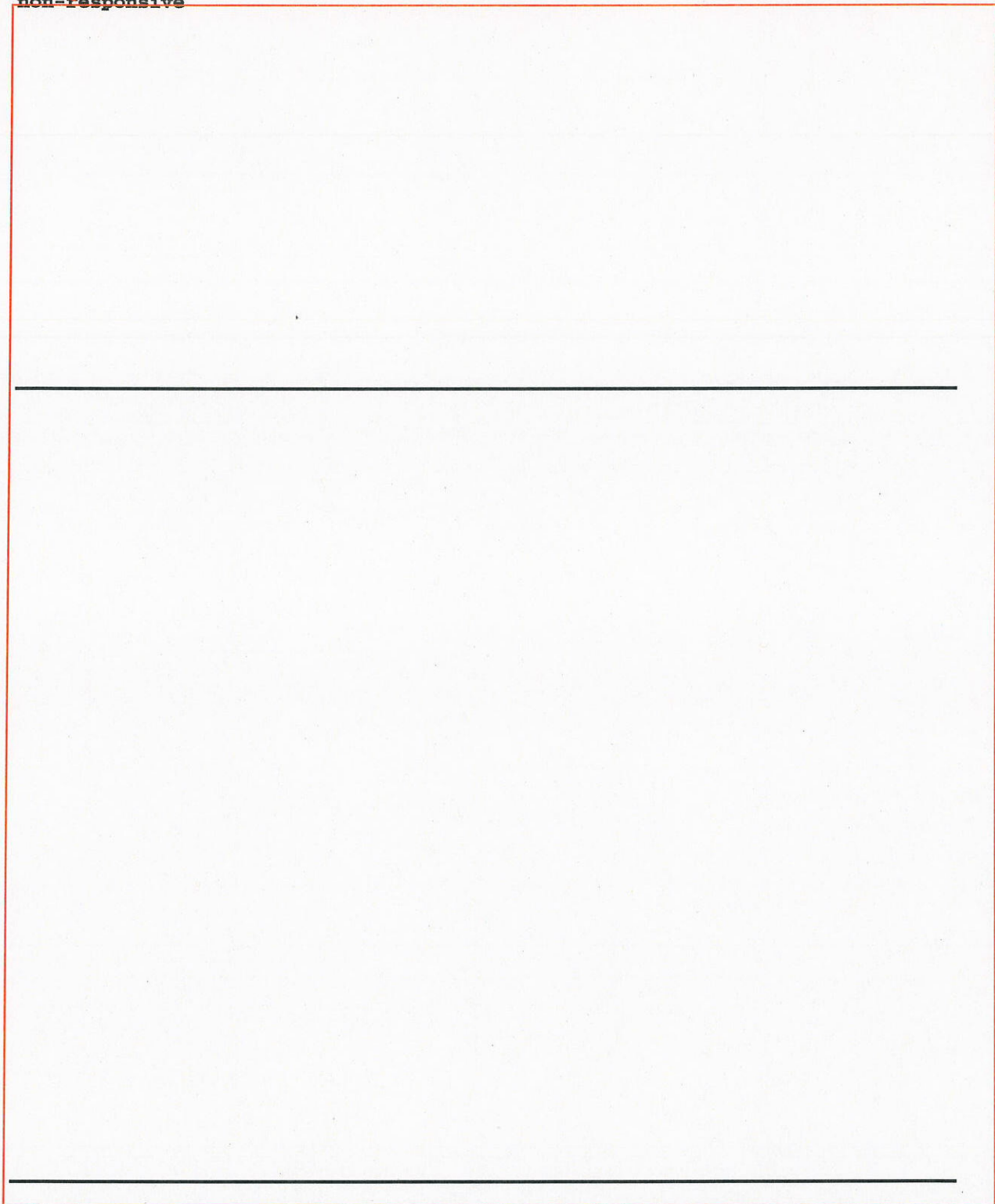
~~non-responsive~~
~~non-responsive~~



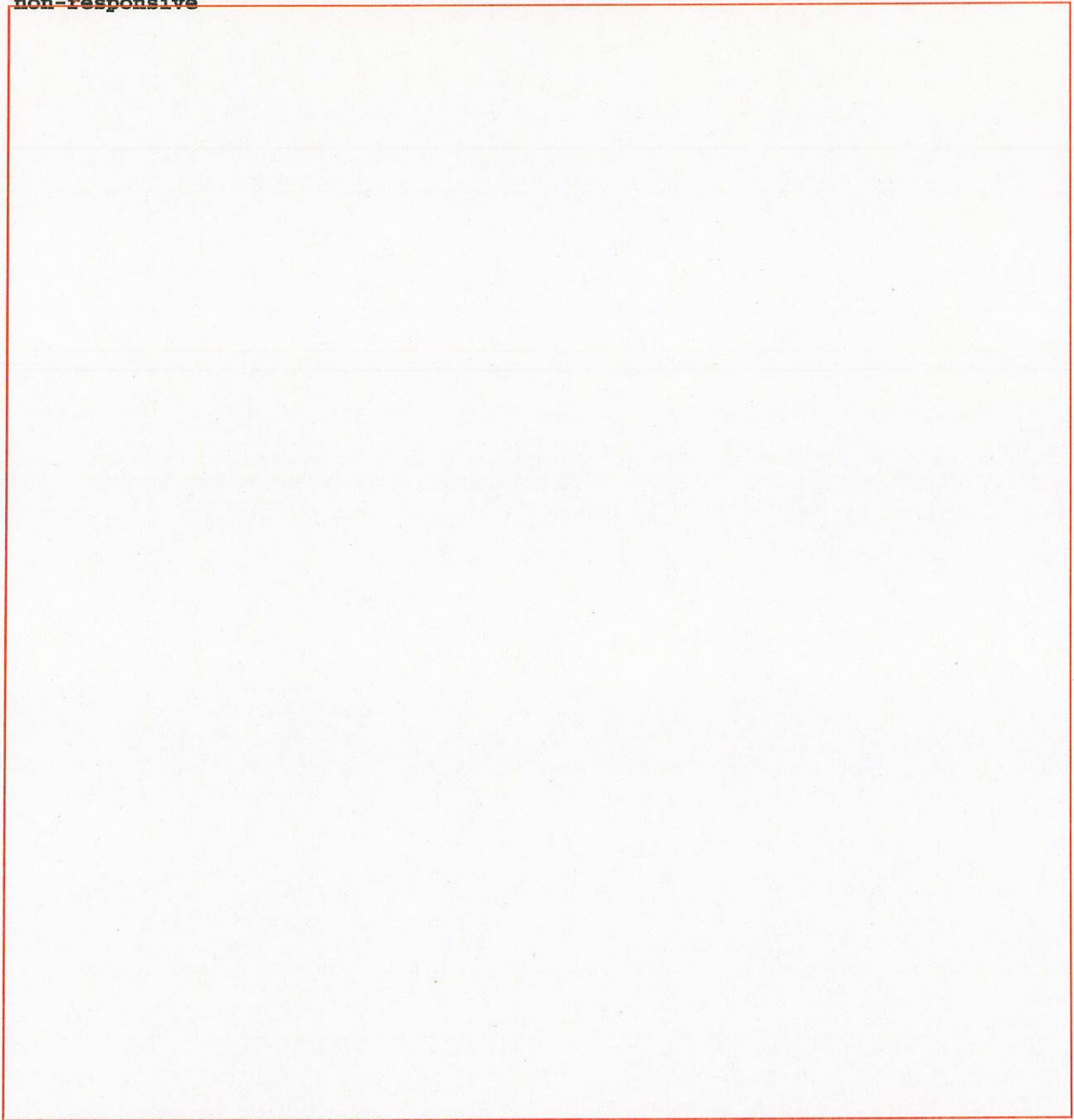
~~non-responsive~~
non-responsive



non-responsive
non-responsive



~~non-responsive~~
non-responsive





JOINT STATEMENT OF

**LISA O. MONACO
ASSISTANT ATTORNEY GENERAL
FOR NATIONAL SECURITY
U.S. DEPARTMENT OF JUSTICE**

**JOHN C. (CHRIS) INGLIS
DEPUTY DIRECTOR
NATIONAL SECURITY AGENCY**

**ROBERT S. LITT
GENERAL COUNSEL
OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE**

**BEFORE THE
PERMANENT SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES HOUSE OF REPRESENTATIVES**

**AT A HEARING CONCERNING
"FISA AMENDMENTS ACT REAUTHORIZATION"**

**PRESENTED ON
DECEMBER 8, 2011**

(b) (1), (b) (3)
(b) (1), (b) (3)

Joint Statement of

**Lisa O. Monaco
Assistant Attorney General
for National Security
U.S. Department of Justice**

**John C. (Chris) Inglis
Deputy Director
National Security Agency**

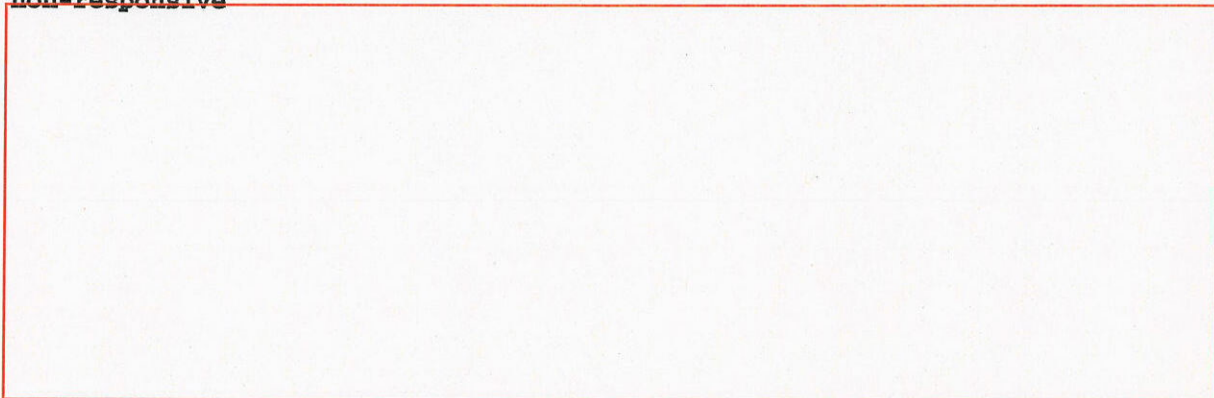
**Robert S. Litt
General Counsel
Office of Director of National Intelligence**

**Before the
Permanent Select Committee on Intelligence
United States House of Representatives**

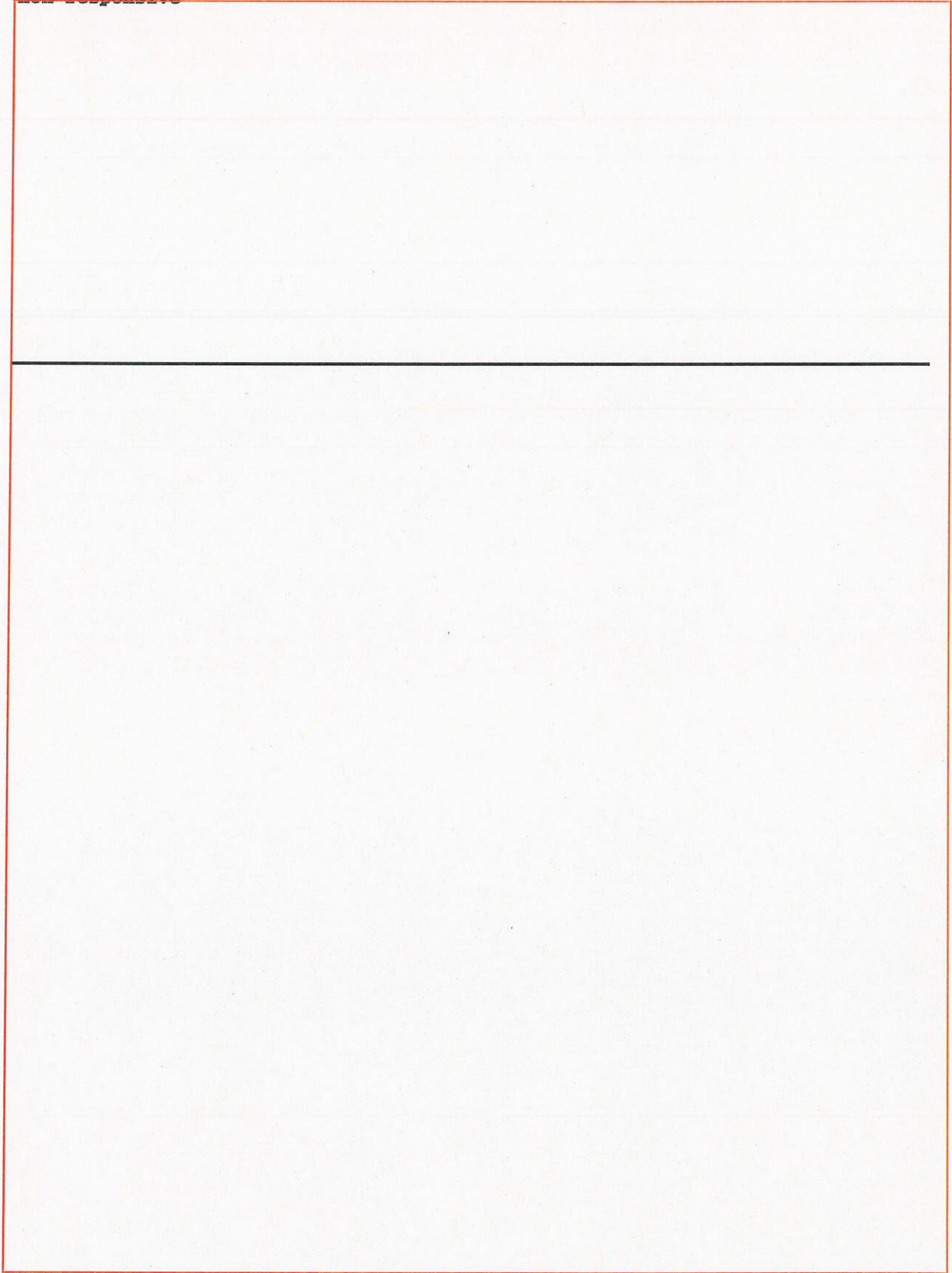
**At a Hearing Concerning
“FISA Amendments Act Reauthorization”**

**Presented on
December 8, 2011**

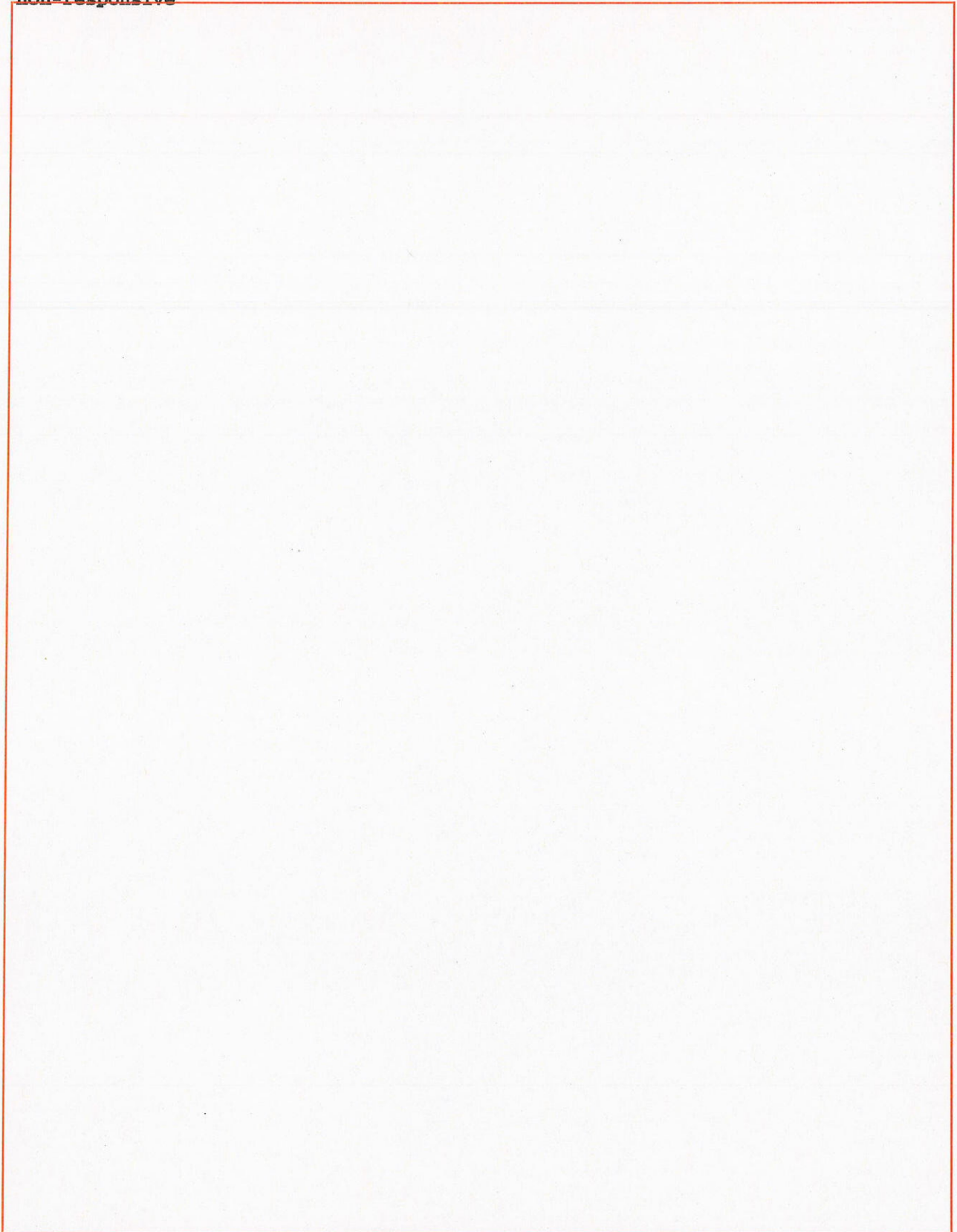
~~non-responsive~~



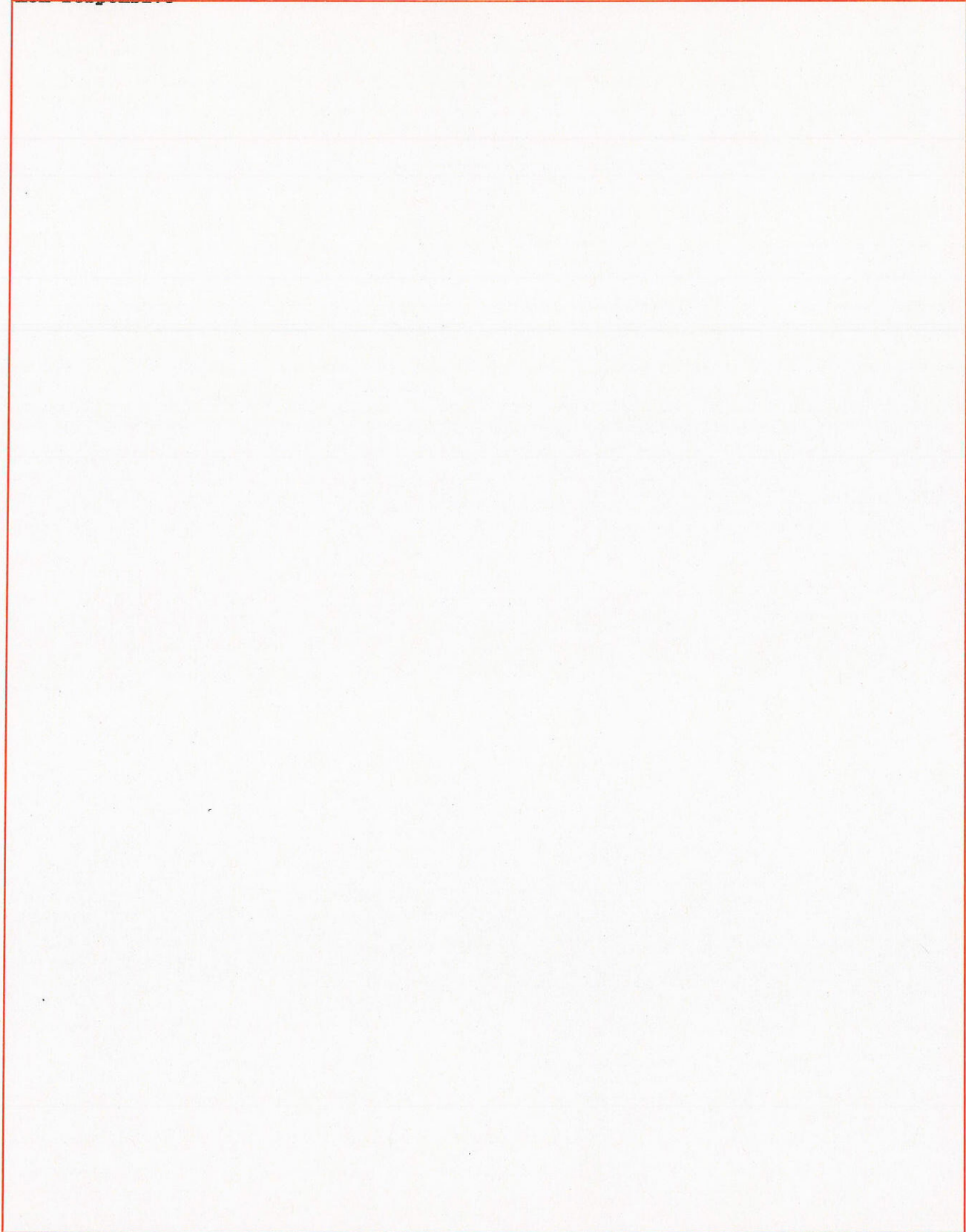
non-responsive
non-responsive



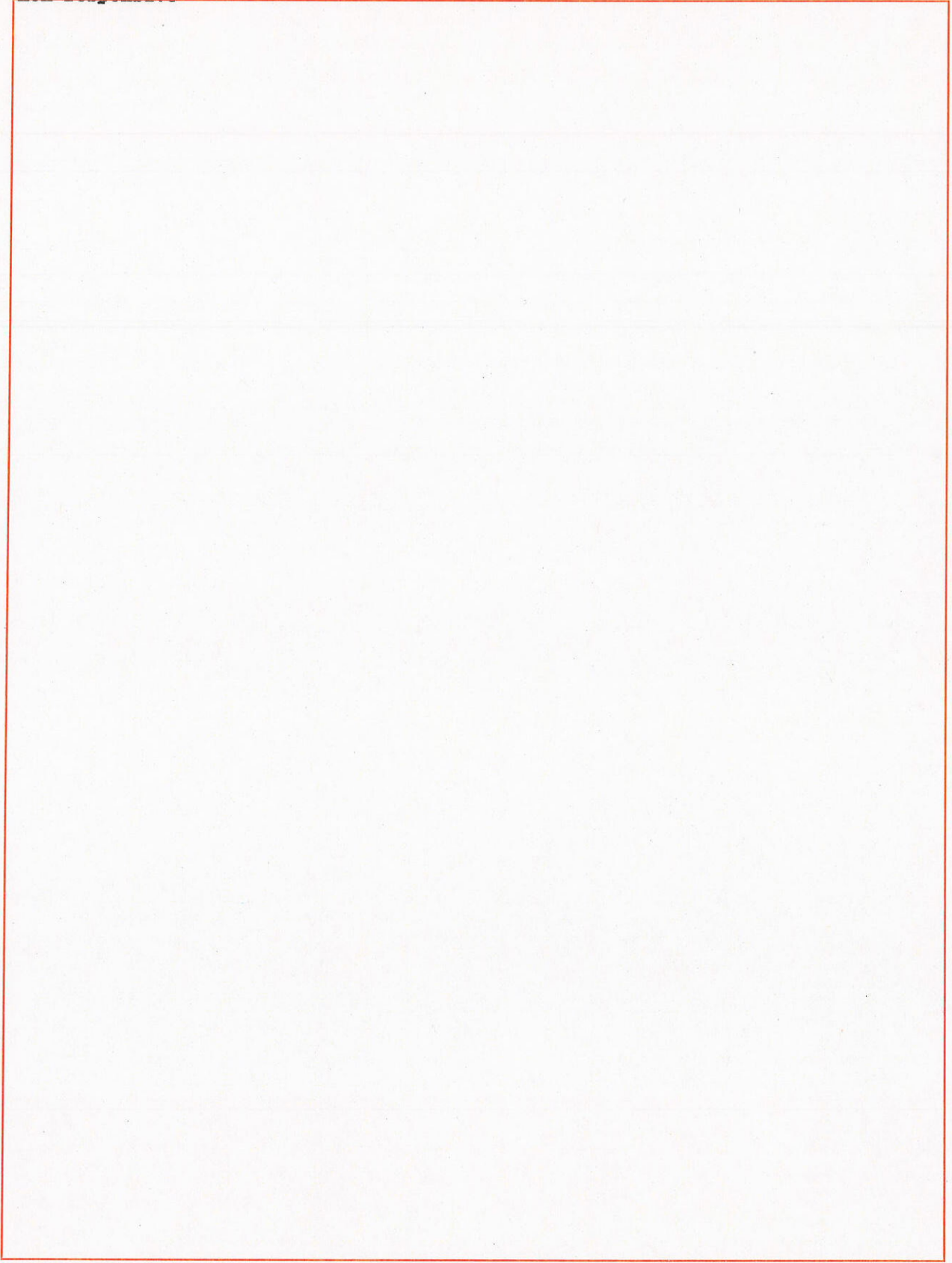
~~non-responsive~~
~~non-responsive~~



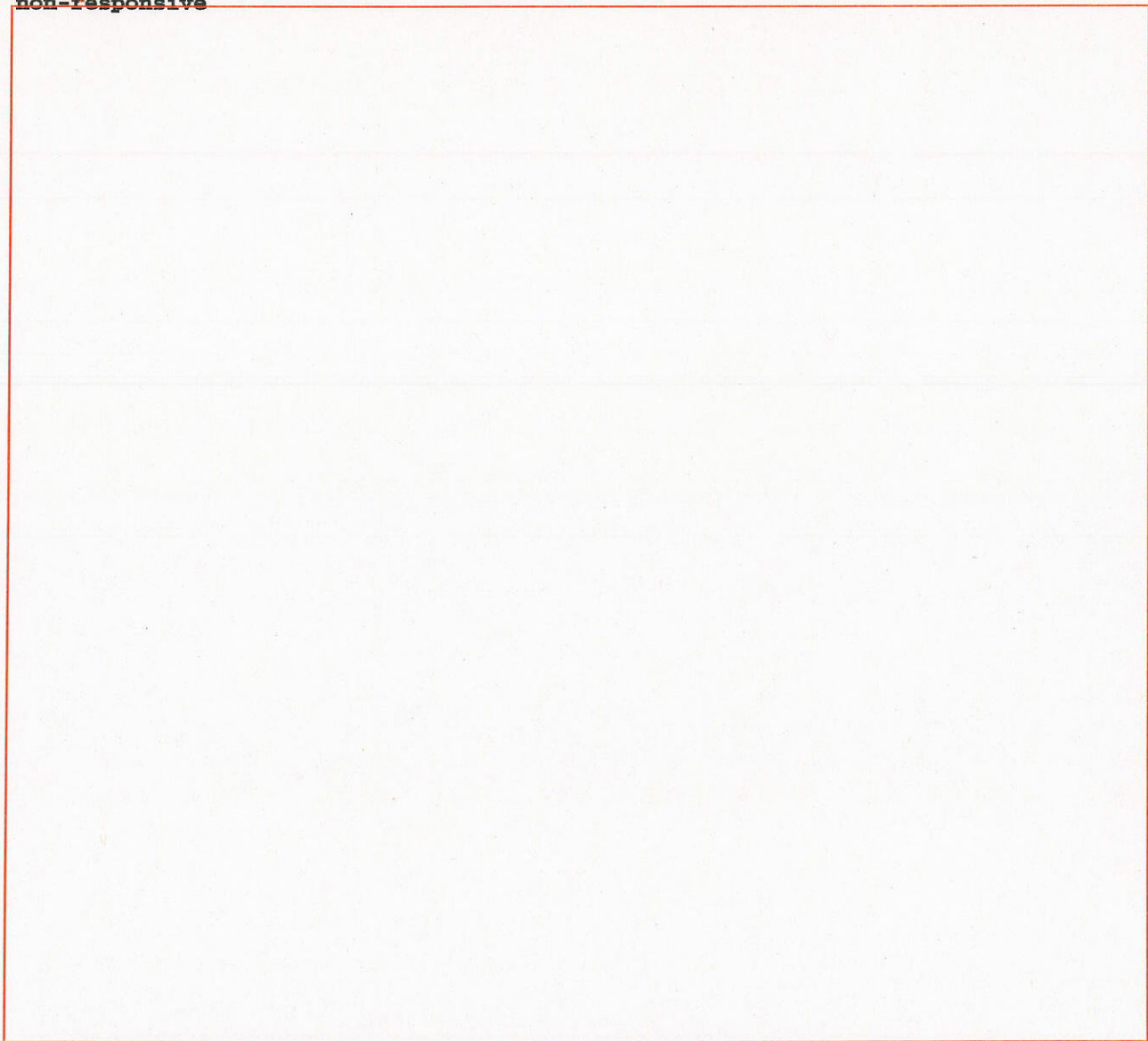
~~non-responsive~~
~~non-responsive~~



~~non-responsive~~
non-responsive



non-responsive
~~non-responsive~~

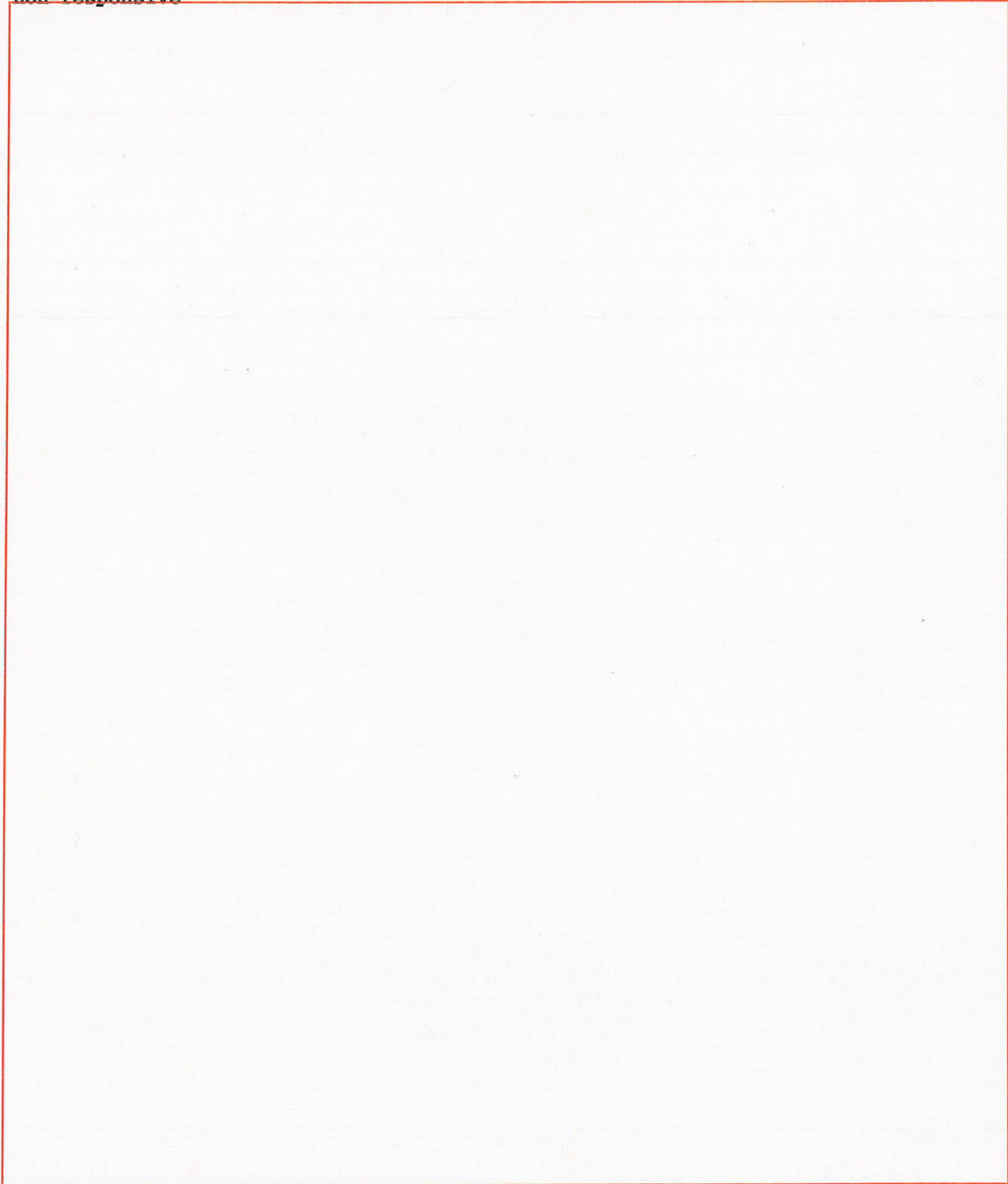


(U) Recent FISC Opinion

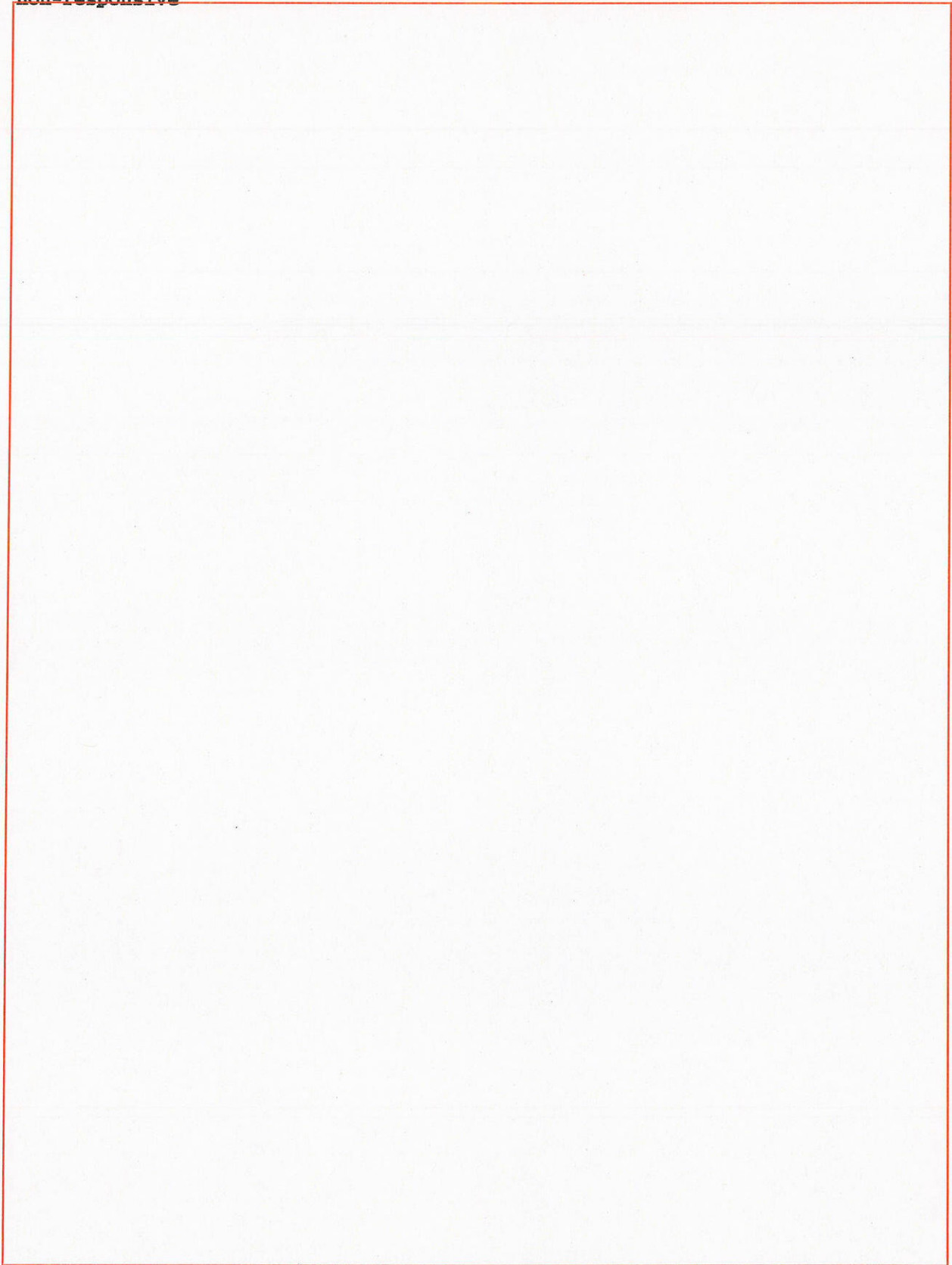
(TS//SI//NF) ~~(b) (1), (b) (3)~~ ~~(b) (1), (b) (3)~~ -----

~~(b) (1), (b) (3)~~ ~~(b) (1), (b) (3)~~ -----

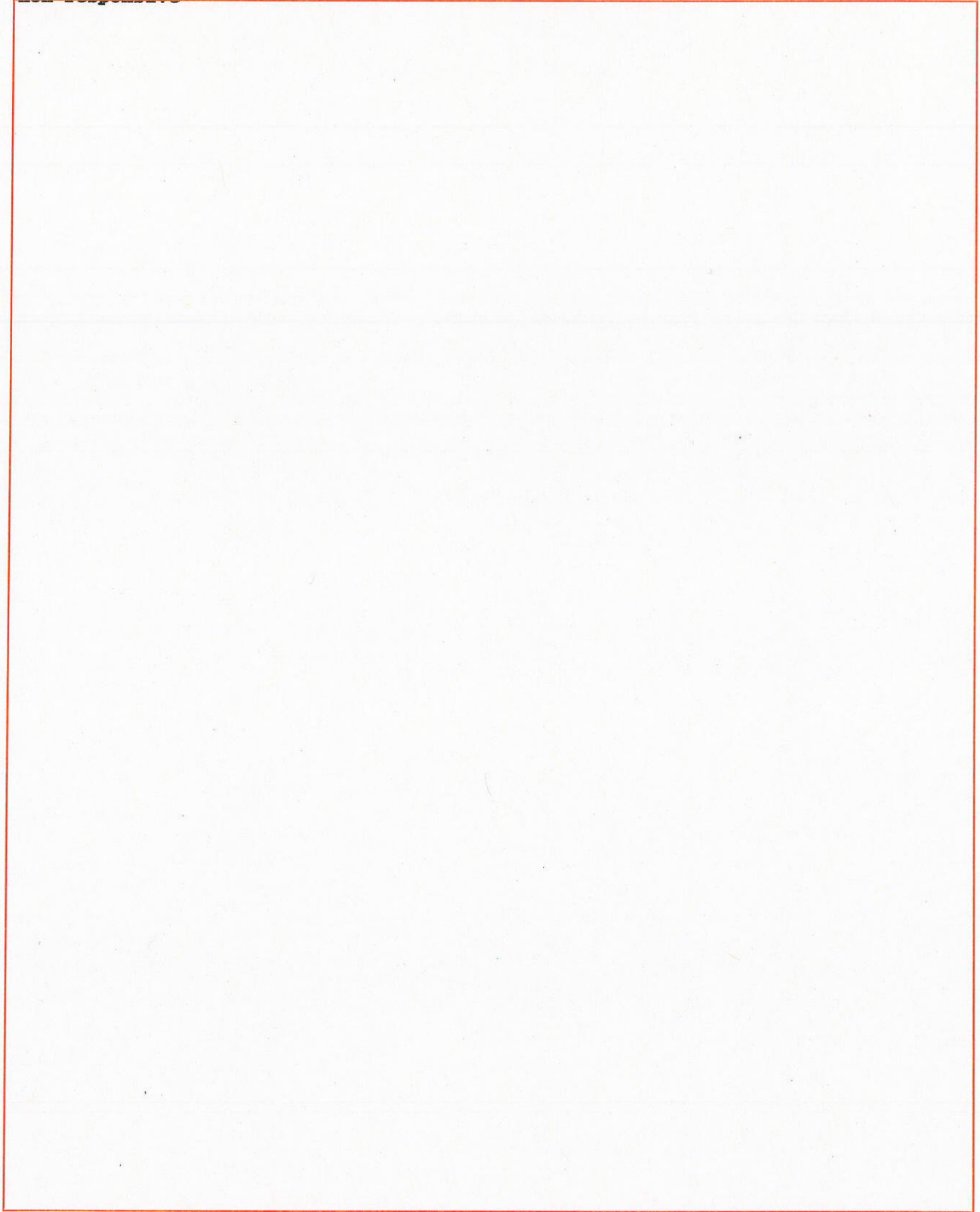
~~non-responsive~~
non-responsive



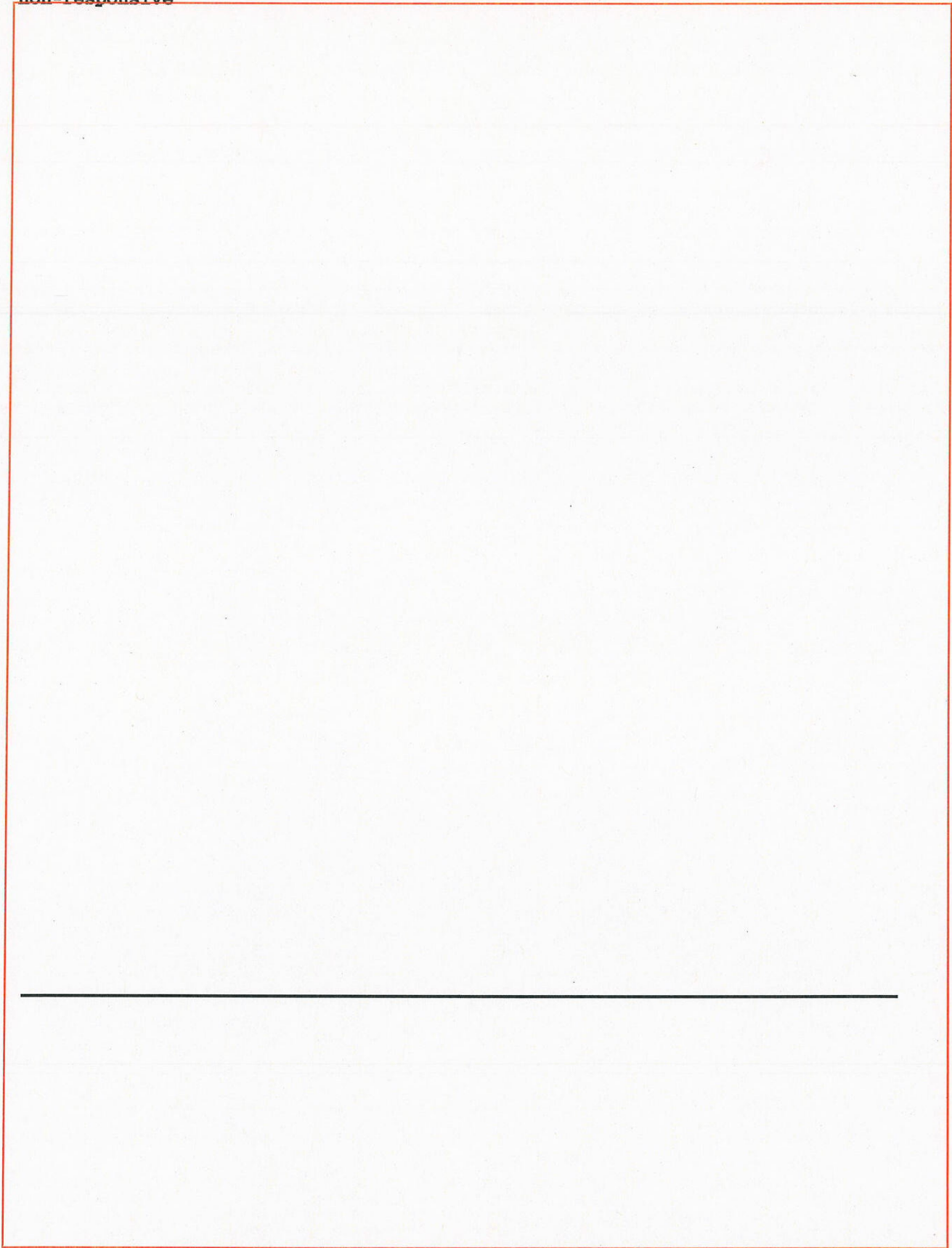
~~non-responsive~~
non-responsive



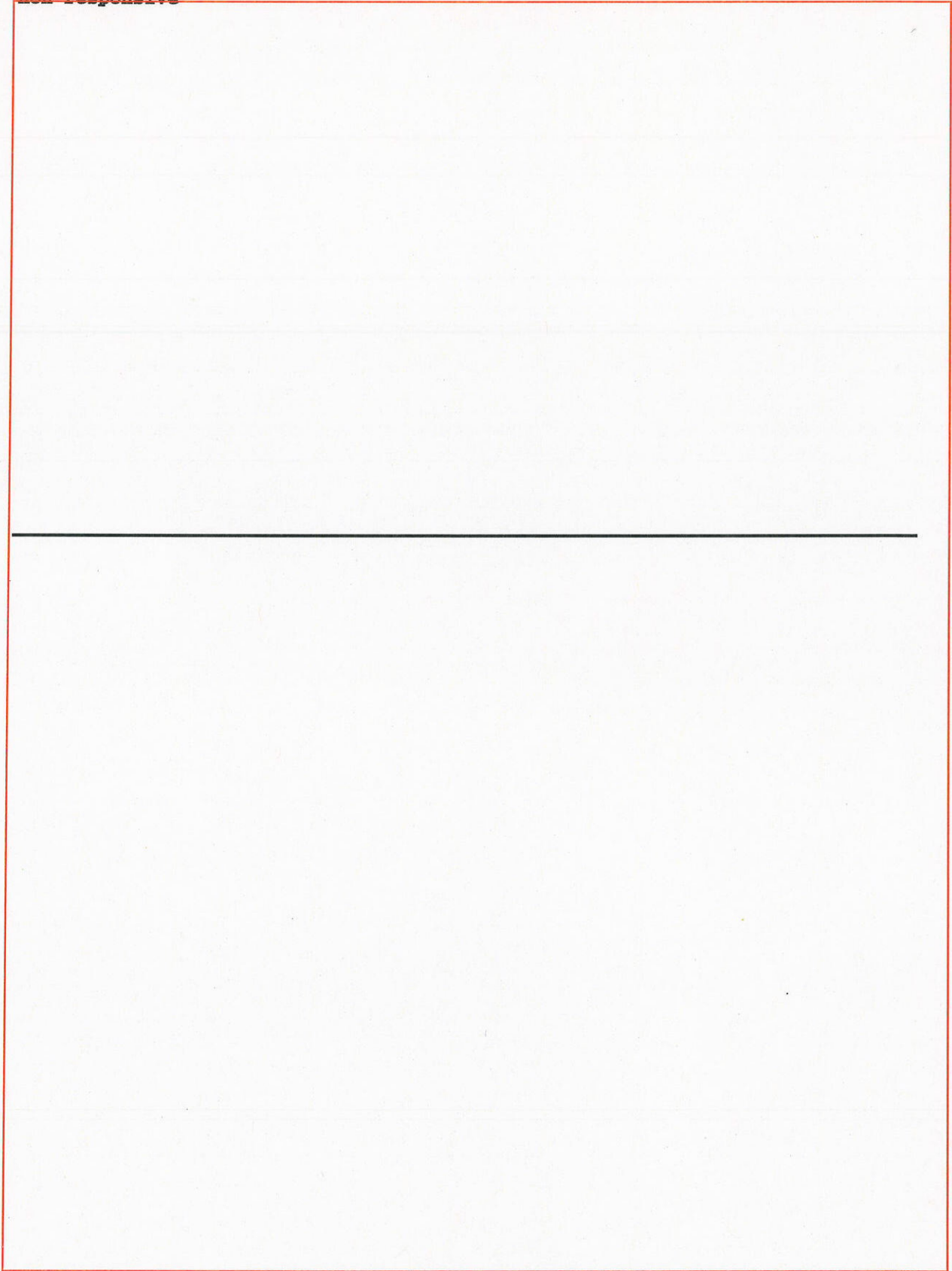
non-responsive



non-responsive



~~non-responsive~~
non-responsive



~~non-responsive~~
non-responsive

