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Documents in response
to question 1.

REFUGEE ADJUDICATION STANDARD OPERATING PROCEDURES
INVOLVING NATIONAL SECURITY CONCERNS

I. RELEVANT FORMS/DOCUMENTATION

- *Policy for Vetting and Adjudicating Cases With Material Support Exemptions*, Jonathan Scharfen, Deputy Director, USCIS, dated May 24, 2007
- Form I-590, Registration for Classification as Refugee
- Refugee Application Assessment
- Refugee Adjudication Standard Operating Procedure - Application Assessment
- Refugee Adjudication Standard Operating Procedure - Exemption Second-Line Review
- Form G-646, Sworn Statement of Refugee Applying for Admission into the United States
- *Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations*, Jonathan Scharfen Deputy Director USCIS, dated May 24, 2007
- USCIS Adjudicator's Field Guide to Adjudications Involving the Material Support Provision and Other Terrorist-Related Grounds of Inadmissibility
- *Processing of Refugee Applications Involving Material Support/Instructions for Processing Refugee Applications (I-590s) Involving Material Support: Completing the Material Support Exemption Worksheet and Refugee Application Assessment*, August 6, 2007
- Material Support Exemption Worksheet
- *Authority to Apply Material Support Exemption to Certain Spouses and Children*, November 8, 2007
- Office of Chief Counsel Memorandum, *Collecting Funds from Others to Pay Ransom to a Terrorist Organization*, dated February 6, 2008.
- *Withholding Adjudication and Review of Prior Denials of Certain Categories of Cases Involving Association with, or Provision of Material Support to, Certain Terrorist Organizations or Other Groups*, Jonathan Scharfen, Deputy Director USCIS, dated March 26, 2008.
- Department of Homeland Security Memorandum, *Guidelines for the Use of Classified Information Immigration Proceedings*, dated October 4, 2004, also referred to as the "Ridge Memo".
- Affidavit of Relationship (AOR)
- National Security Record (NSR)
- Background Check and Adjudicative Assessment (BCAA) and Instructions
- Refugee Officer Basic Training (ROTC) Lesson Plans
 - Inadmissibility
 - Material Support, Duress Exemption, Inapplicability Authority

1

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- Security Checks: CLASS and SAO
- Worldwide Refugee Admissions Processing System (WRAPS):
 - CLASS/SAO
 - Name Check Result Report

APPENDICES

- Appendix 1: *Policy for Vetting and Adjudicating Cases With National Security Concerns*, Jonathan Scharfen, Deputy Director, USCIS, dated April 11, 2008
- Appendix 2: Guidance for Identifying National Security Concerns (“Attachment A”)
- Appendix 3: Background Check and Adjudicative Assessment (BCAA) and Instructions

II PURPOSE

This section of the Refugee Adjudication SOP has been created for the purpose of standardizing operational policies and procedures for all adjudicators worldwide¹ in dealing with refugee cases where national security (NS) indicators become known to an officer at any point during the refugee adjudication process. This is the Refugee Affairs Division (RAD) component operational guidance which is referenced in the Policy for Vetting and Adjudicating Cases with National Security Concerns memo signed by USCIS Deputy Director, Jonathan Scharfen on April 11, 2008 and applies to the adjudication of Form I-590, Registration for Classification as Refugee.

The memo requires that applications containing national security concerns must be adjudicated by officers who have received appropriate national security training. For the purposes of refugee adjudications, all Refugee Officers (ROs) and other Immigration Officers (IO) who conduct refugee interviews and adjudications shall receive such training. This training will be based on USCIS national security vetting and adjudicating policy and following SOP.

The guidance contained in this SOP instructs adjudicators how to proceed through the following steps of refugee adjudication when national security indicators must be considered.

Identifying National Security Concerns
Eligibility Assessment / Internal Vetting
External Vetting
Adjudication
Supervisory Review
Documentation of Vetting and Eligibility Assessment

¹ These procedures may require adaptation to comport with logistical and security requirements of the USCIS field office in Havana, Cuba.

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III IDENTIFYING NATIONAL SECURITY CONCERNS

An NS indicator² may be identified at any stage of the refugee adjudication process and through a variety of methods including, but not limited to, security and systems checks, file review, in-person interviews, and law enforcement referrals. In the event that an adjudicator identifies one or more indicators, the officer must first confirm whether the indicator relates to the applicant, petitioner, beneficiary or derivative. These indicators must be analyzed in conjunction with the facts of the case, considering the totality of the circumstances in order to determine whether an articulable link³ exists between the individual and a prior, current, or planned involvement in or association with an activity, individual, or organization described in §212(a)(3)(A), (B) or (F) or §237(a)(4)(A) or (B) of the INA. When the totality of the evidence leads an adjudicator to determine that such a link exists, the previously identified NS indicators are raised to the level of NS concern⁴.

There are two types of national security concerns:

A. Known or Suspected Terrorist (KST)



² A NS Indicator is any activity, characteristic, or association that may lead to a finding that a national security concern or inadmissibility ground (based on §212(a)(3)(A), (B) or (F)) or a deportation ground (based on §237(a)(4)(A) and (B)) exists. For further description reference Attachment A-Guidance for Identifying National Security Concerns.

³ Attachment A is provided as a tool to help officers identify what indicators may constitute an NS concern. Attachment A is not an exhaustive list of indicators that may constitute an NS concern; however, it is intended to serve as a supplemental tool to help officers analyze the indicator(s) in conjunction with the facts of the case, consider the totality of the circumstances, and determine whether an articulable link exists between the individual and an NS activity defined in INA §212(a)(3)(A), (B) or (F) or §237(a)(4) (A) or (B). An articulable link exists if a designated officer can connect the NS information to one of the grounds listed in the INA sections cited above to the individual. A connection between the information and the activities contained in §212/§237 must exist for the standard of articulable link to be met.

⁴ A NS concern exists when an individual or organization has been determined to have an articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in §212(a)(3)(A), (B) or (F) or §237(a)(4) (A) or (B) of the INA.

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B. Non-KST



For a more detailed discussion of INA §212(a)(3)(A), (B), or (F) and §237(a)(4)(A) or (B) and evidence that might indicate a national security concern in a case, adjudicators should refer to the *USCIS Adjudicator's Field Guide to Adjudications Involving the Material Support Provision and Other Terrorist-Related Grounds of Inadmissibility* that is part of the Refugee Officer Training Course (ROTC) and to the attached Guidance for Identifying National Security Concerns.

Family Members/Close Associates

In some instances, an officer may be aware that the petitioner, beneficiary, applicant, dependent or derivative is a family member or close associate of a subject who has an identified NS concern. Such information may impact the individual's eligibility for the benefit sought and/or may indicate a NS concern for the individual. In these cases, the officer must determine if the NS concern relates to the individual, and if so, if it gives rise to a NS concern for the individual. A close associate includes, but is not limited to, a roommate, co-worker, employee, owner, partner, affiliate or friend.

If it is determined that an identified NS concern does 1) relate to a family member/close associate and 2) does rise to the level of NS concern for the family member/close associate, the officer must follow the agency Policy for Vetting and Adjudicating Cases with National Security Concerns and this operational guidance in the refugee adjudication.



IV ELIGIBILITY ASSESSMENT AND INTERNAL VETTING

Internal vetting is a thorough review of the record associated with the application or petition to determine if the individual is eligible for the benefit sought, to obtain any relevant information to support the adjudication and in some cases, to further examine the nature of the NS concern. The purpose of internal vetting is to ensure that valuable time and resources are not unnecessarily expended on external vetting when a case is found ineligible for the benefit sought. When this is the case, the application or petition may be denied on any legally sufficient grounds. Internal vetting may consist of, but is not limited to, DHS, open source, or other systems checks; file review; and/or interviews.

When a NS concern exists, the NS information may be of a restricted or classified nature. These NS or law enforcement operations-based restrictions are often directly linked to protecting sensitive sources, methods, operations, or other elements critical to national security. Access⁶ to this information is therefore limited to those with a direct need to know and, when applicable, appropriate security clearance.

Deconfliction

At any stage of the adjudicative process, deconfliction may be necessary before taking action on a KST or non-KST NS concern. **Deconfliction** is a term used to describe coordination between USCIS and another government agency owner of NS information (the record owner) to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, and timing of the decision) do not compromise or impede an ongoing investigation or other record owner interest.

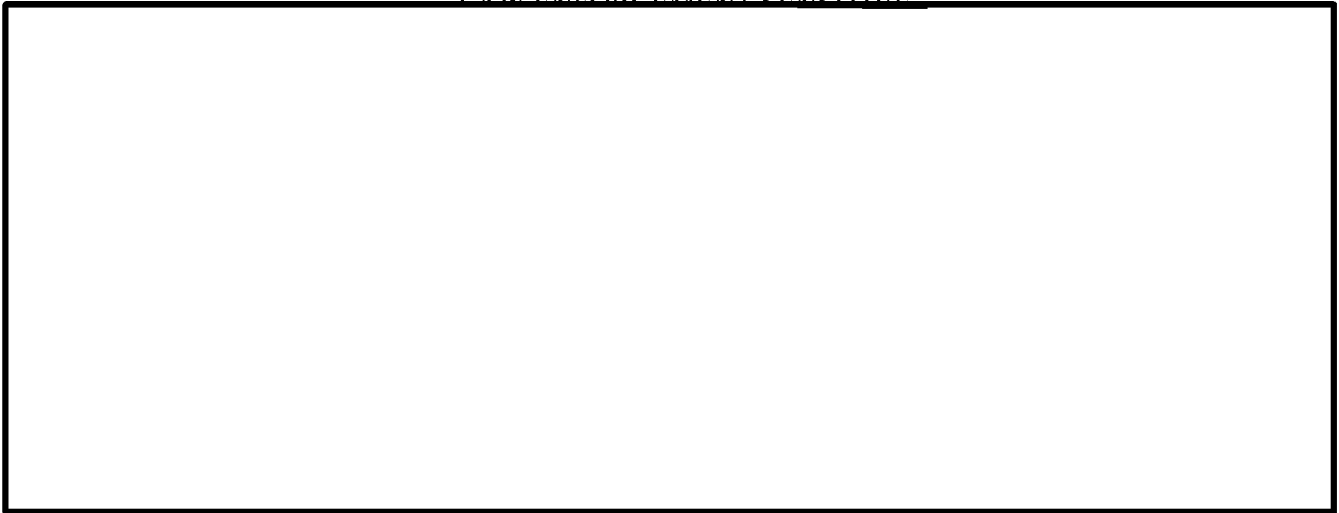


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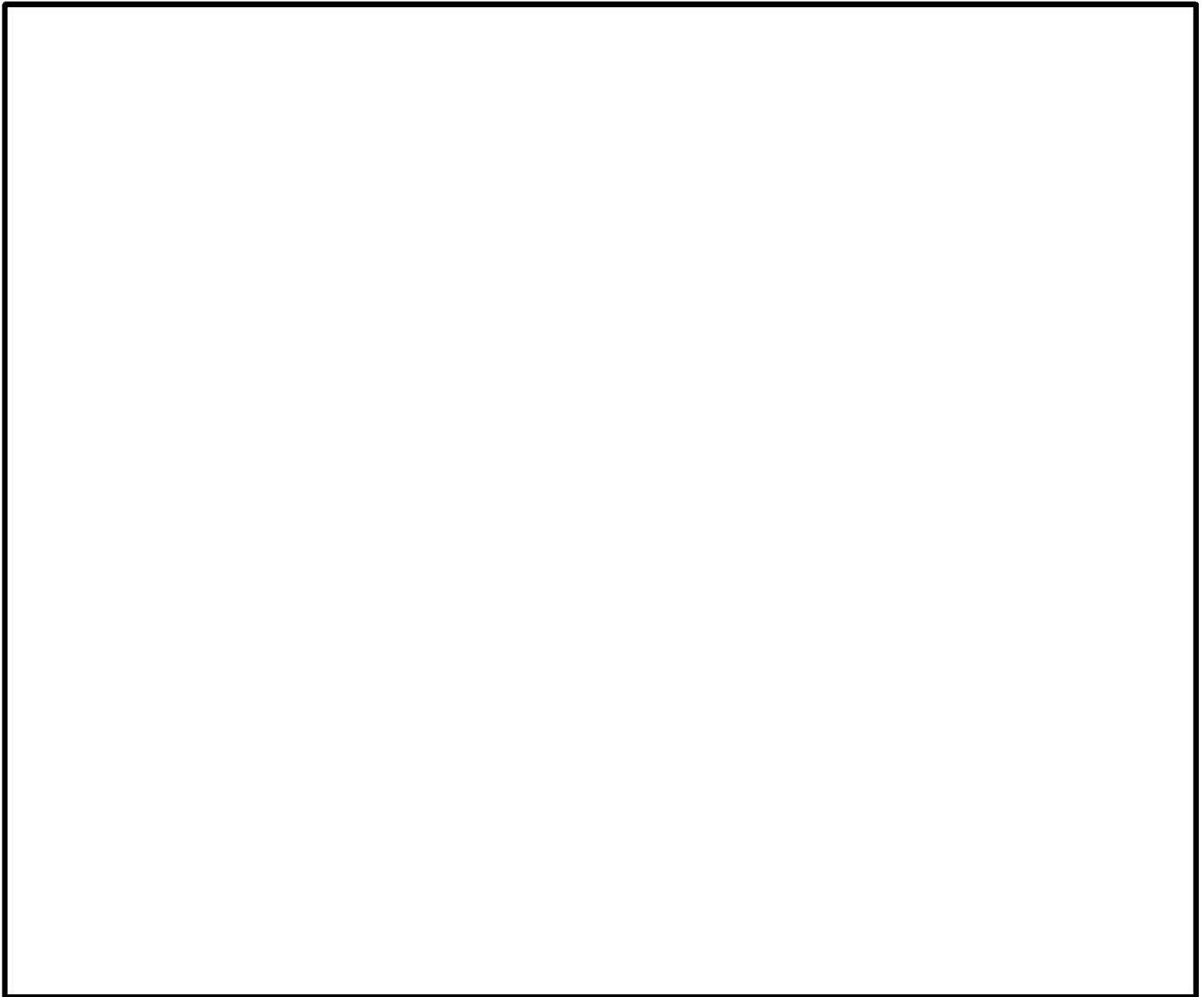


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B. Non-KST NS Concerns



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V EXTERNAL VETTING

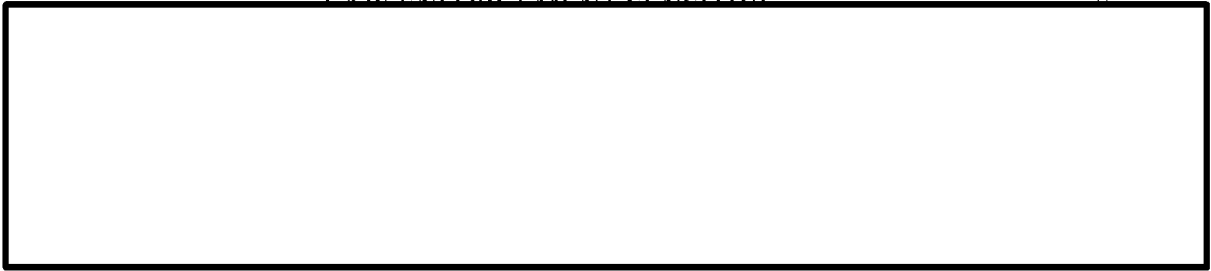
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External vetting consists of inquiries to record owners in possession of NS information to identify (a) facts or fact patterns necessary to determine the nature and relevance of the NS concern, including status and results of any ongoing investigation and the basis for closure of any previous investigation and (b) information that may be relevant in determining eligibility, and when appropriate, removability.

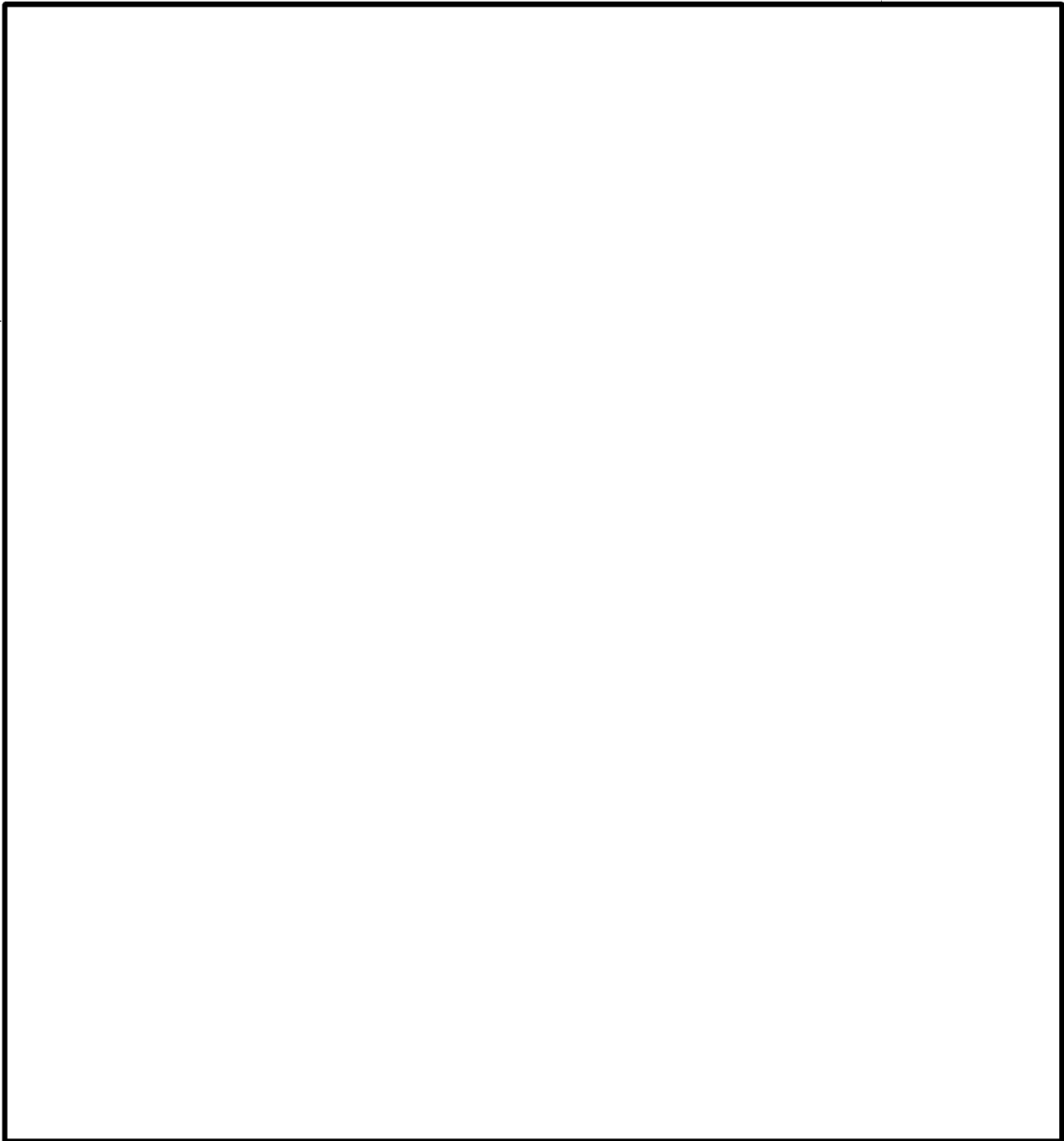
A. KST NS Concerns

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B. Non-KST NS Concerns



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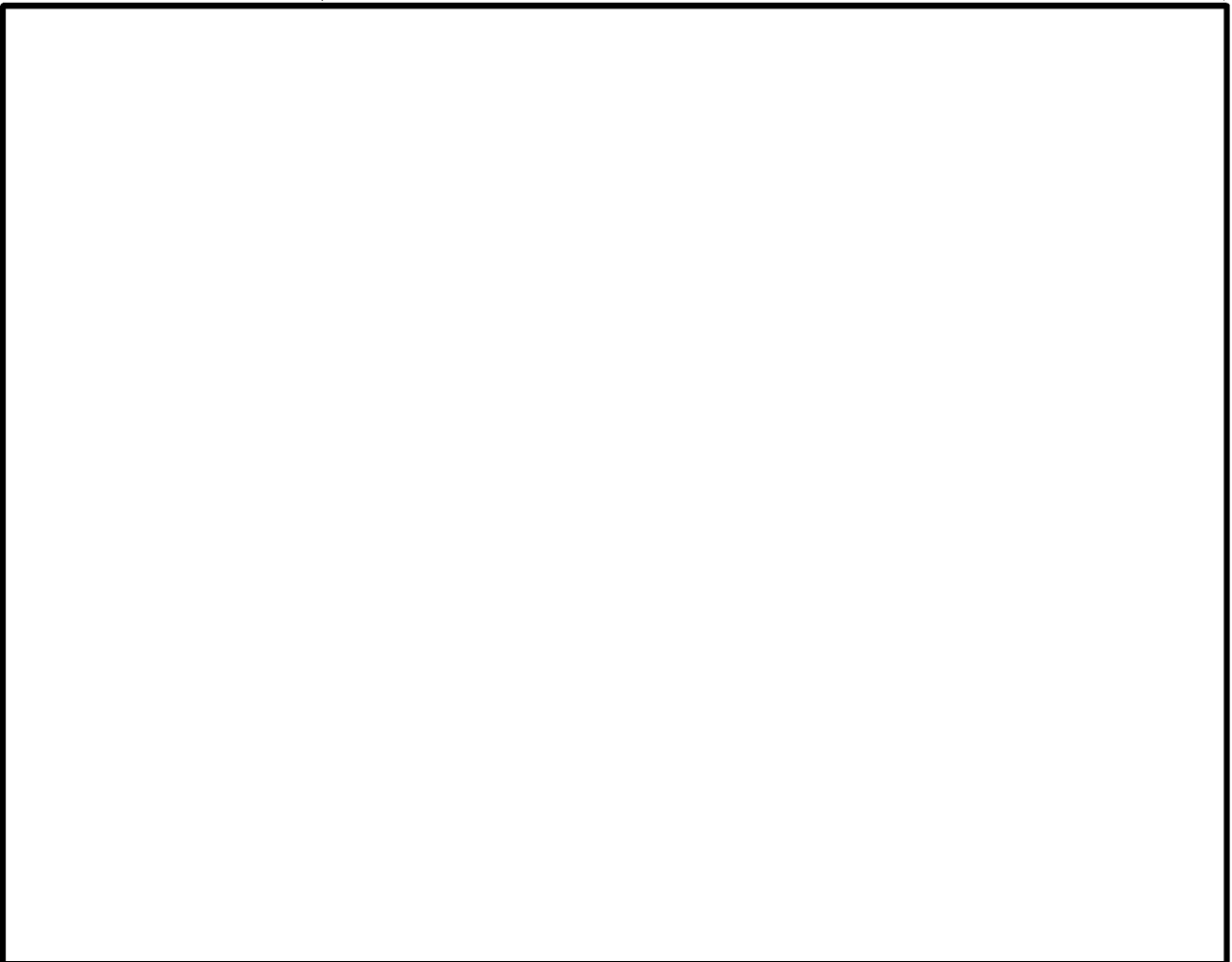
VI ADJUDICATION

Upon completion of required vetting, if the NS concern remains, an officer must evaluate the results of the vetting as it pertains to the adjudication, obtain any additional relevant information (e.g., via request for evidence, an interview, a reinterview) and determine eligibility for the benefit sought.

If the individual is ineligible for the benefit sought, the application or petition must be denied. If the vetting process results in finding that the NS concern no longer exists, and if the individual is otherwise eligible for the benefit sought, the application or petition may be approved.



A. Use of Classified Information



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from the DHS Secretary and the record owner to rely upon classified information in a written decision.

B. Information Sharing Considerations – Third Agency Rule

All DHS components are considered part of one “agency” for information sharing purposes. As such, there is no restriction on internal (within DHS) information exchange and sharing provided the person has an authorized purpose for accessing the information in the performance of his or her duties (i.e., a valid need-to-know), possesses the requisite security clearance (there is no requirement for a security clearance to access sensitive but unclassified (FOUO) information), and assures adequate safeguarding and protection of the information.

Sensitive but unclassified (FOUO) information may be shared with other agencies or organizations outside of DHS, provided: a need-to-know has been established; the information is shared in the furtherance of a coordinated and official governmental activity, to include homeland defense; and if the information requested or to be discussed does not belong to USCIS, comply with the originating agency’s policy concerning third party discussion and dissemination.

Classified information originated by another DHS component, or classified information originated by another government agency shall not be further disseminated outside of DHS without prior approval of the originator.

C. Confidentiality

Federal law and agency policy protect against unauthorized disclosure of information collected and maintained in USCIS systems of records both in the electronic and paper form. The Privacy Act, 5 U.S.C. 552(a), restricts disclosure of information relating to U.S. citizens and LPRs in the absence of a written waiver from the individual to whom the information pertains or a routine use contained in a DHS System of Records Notification (SORN). By policy, DHS has extended the protections afforded by the Privacy Act, 5 U.S.C. 552(a), to personally identifiable information contained in mixed records systems (i.e., systems containing information on visitors and aliens as well as on LPRs and U.S. citizens). Specific categories of data collected and maintained by USCIS may also have their own confidentiality provisions. For example, sections 210 and 245A of the Immigration and Nationality Act limit the use and disclosure of information provided by “amnesty” applicants under the 1986 Immigration Reform and Control Act. Section 384 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, as amended, 8 U.S.C. 1367, limits the use and disclosure of information relating to aliens seeking protection under the Violence Against Women Act (VAWA), as amended, or as T or U non-immigrants. Under 8 C.F.R. § 208.6, information regarding an individual’s status as an asylum seeker or asylee, information contained in or pertaining to his or her application and records pertaining to any credible fear or reasonable fear

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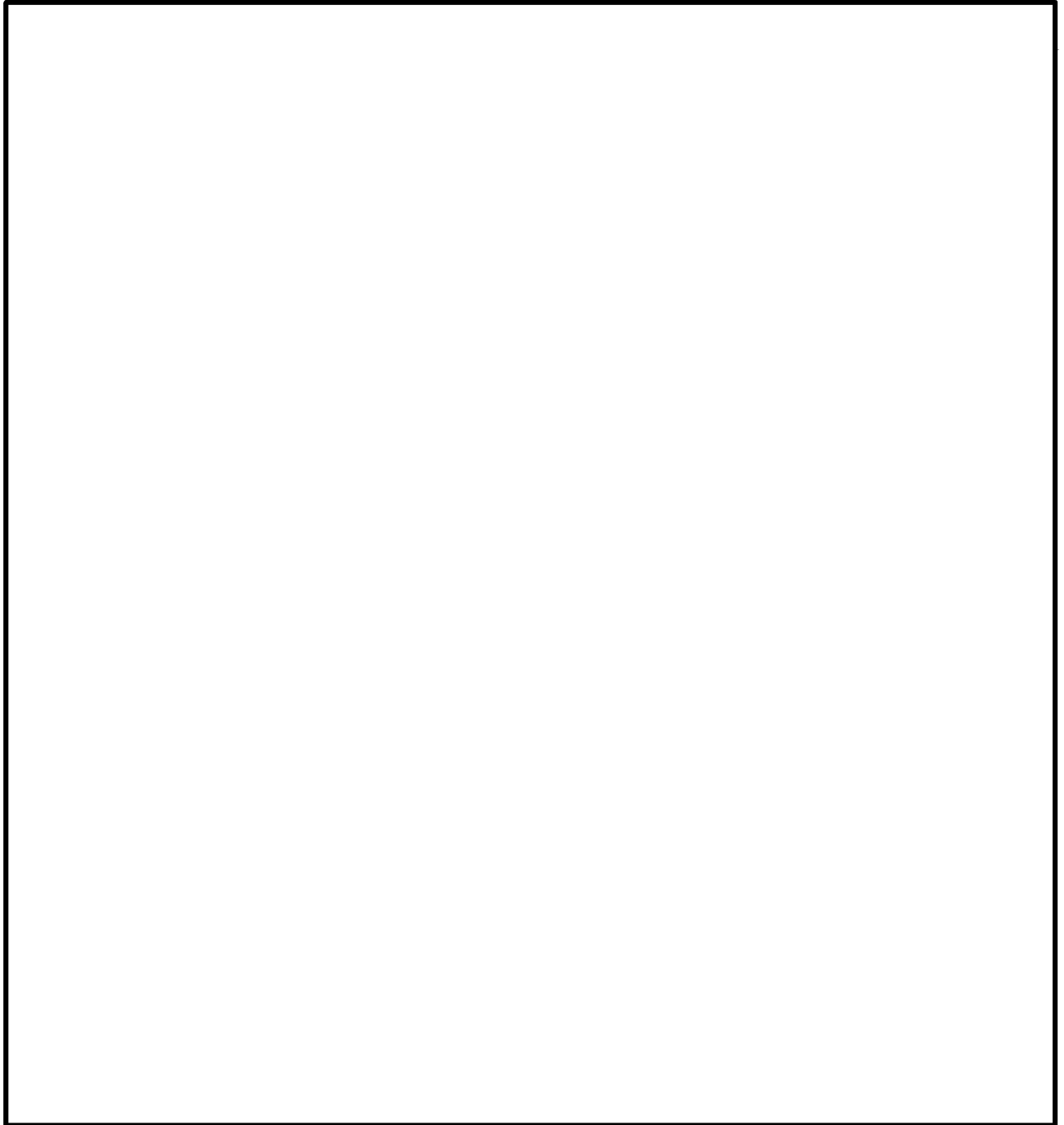
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determination generally must not be disclosed without the written consent of the applicant, or a waiver from the Secretary of DHS. By policy, the confidentiality provisions of 8 C.F.R. § 208.6 have been extended to information contained in or pertaining to refugee applications. Finally, even if no specific confidentiality provision applies, much of the information contained in USCIS systems and files is confidential and the disclosure and use of the information is governed by laws and regulations relating to sensitive but unclassified (i.e., For Official Use Only and/or Law Enforcement Sensitive (FOUO/LES)) information.

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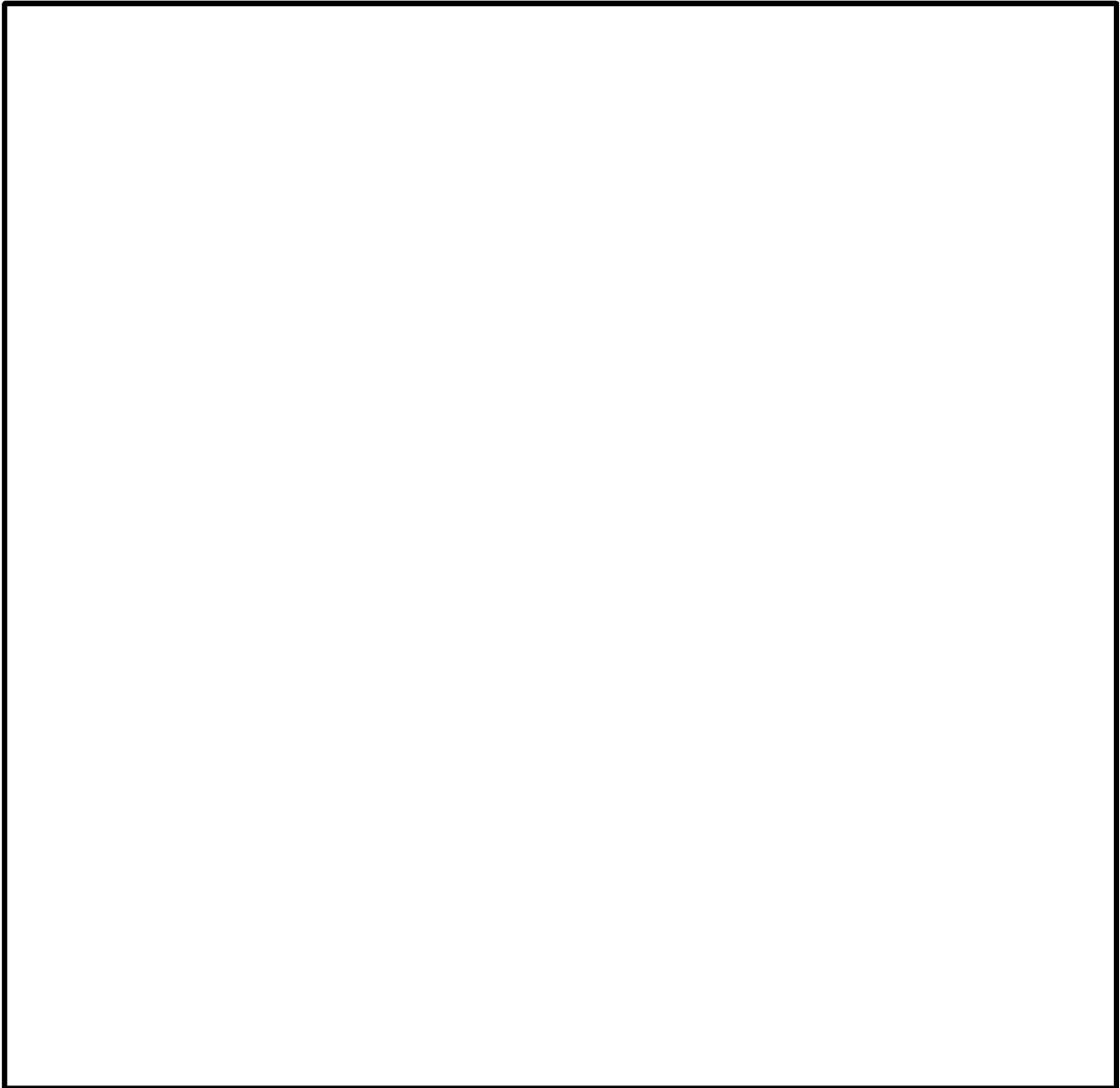
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VII SUPERVISORY REVIEW

Adjudication of all refugee cases, including cases involving NS concerns, is subject to 100% supervisory review.

VIII DOCUMENTATION OF VETTING AND ELIGIBILITY ASSESSMENT



12
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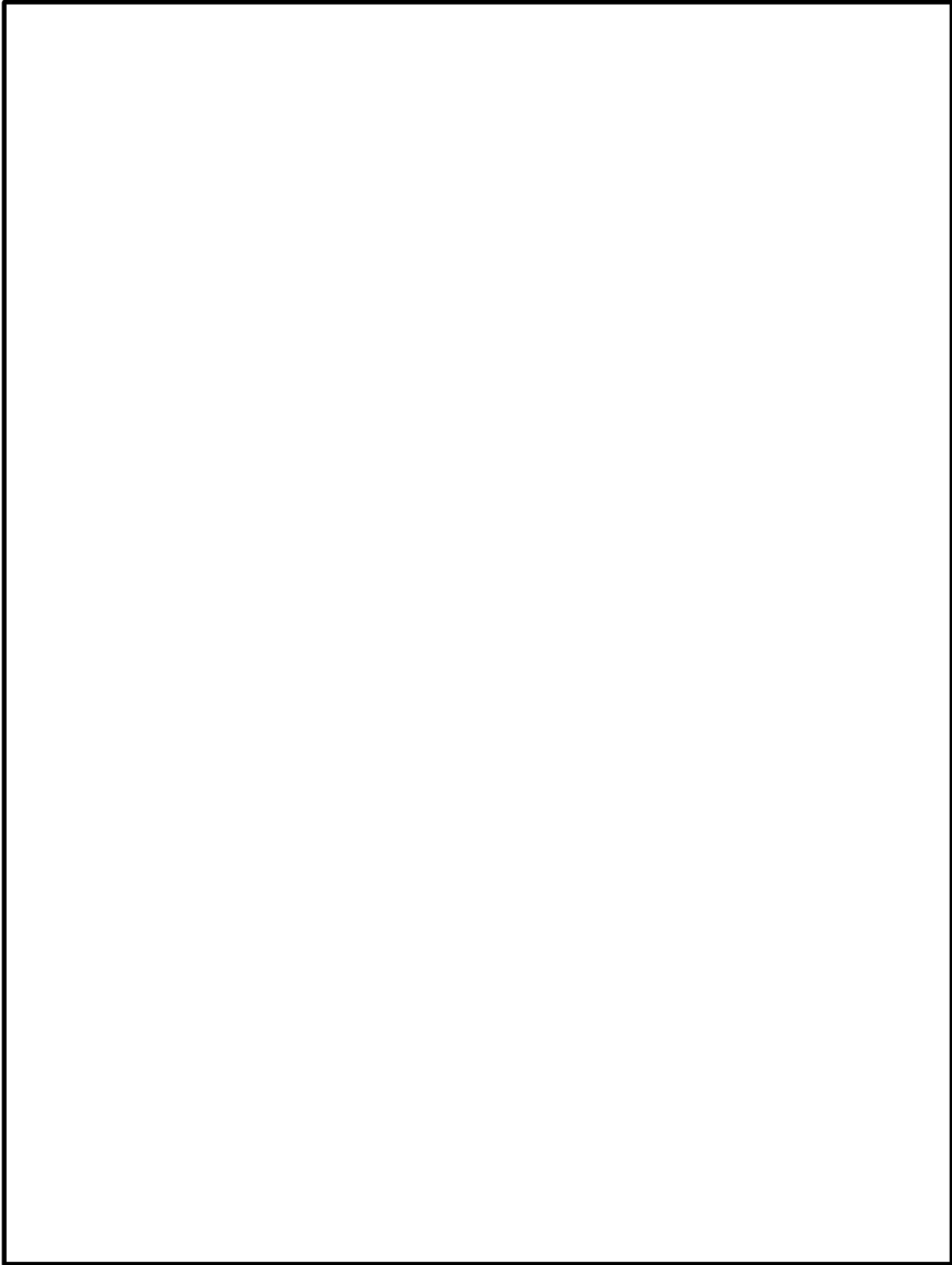
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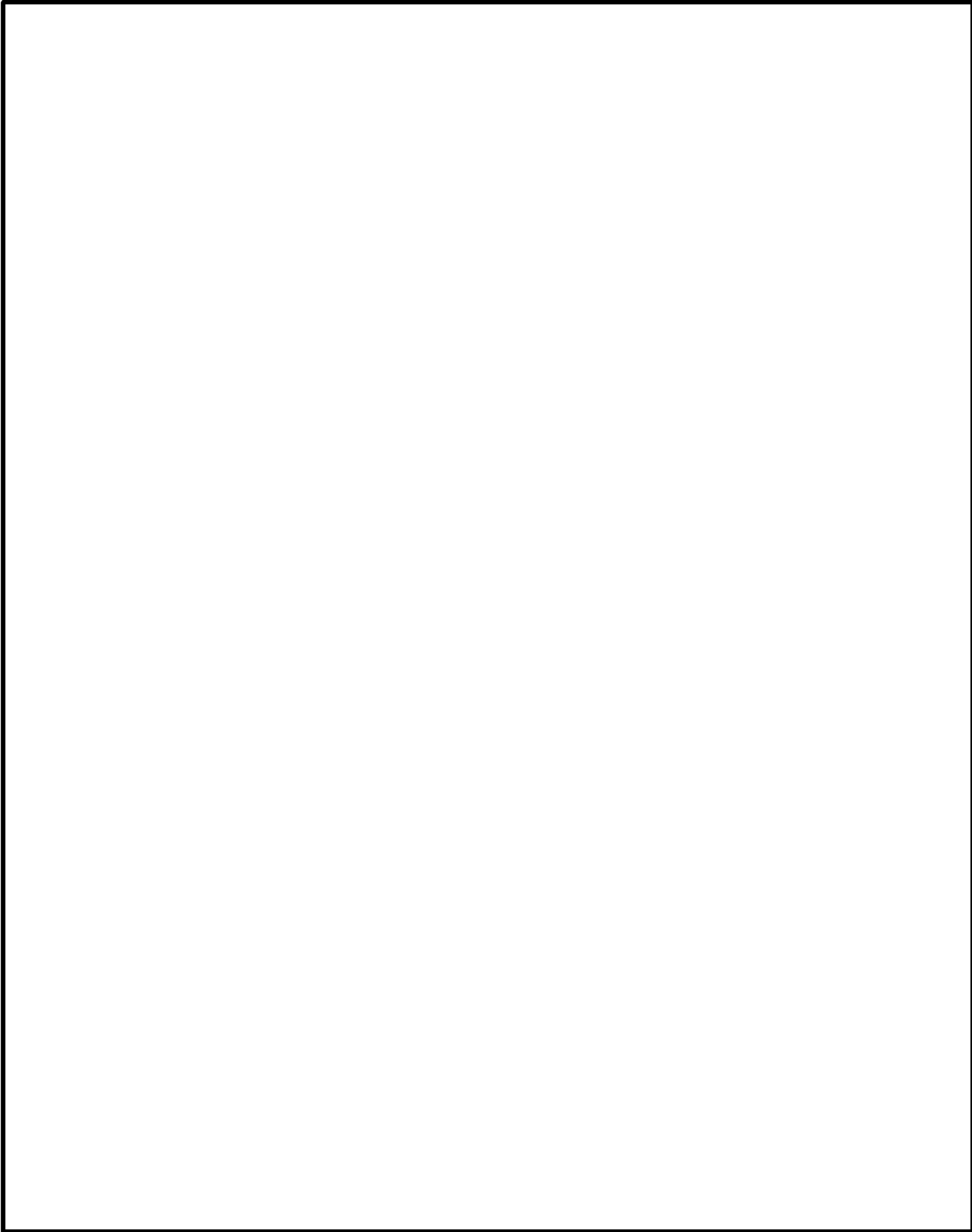
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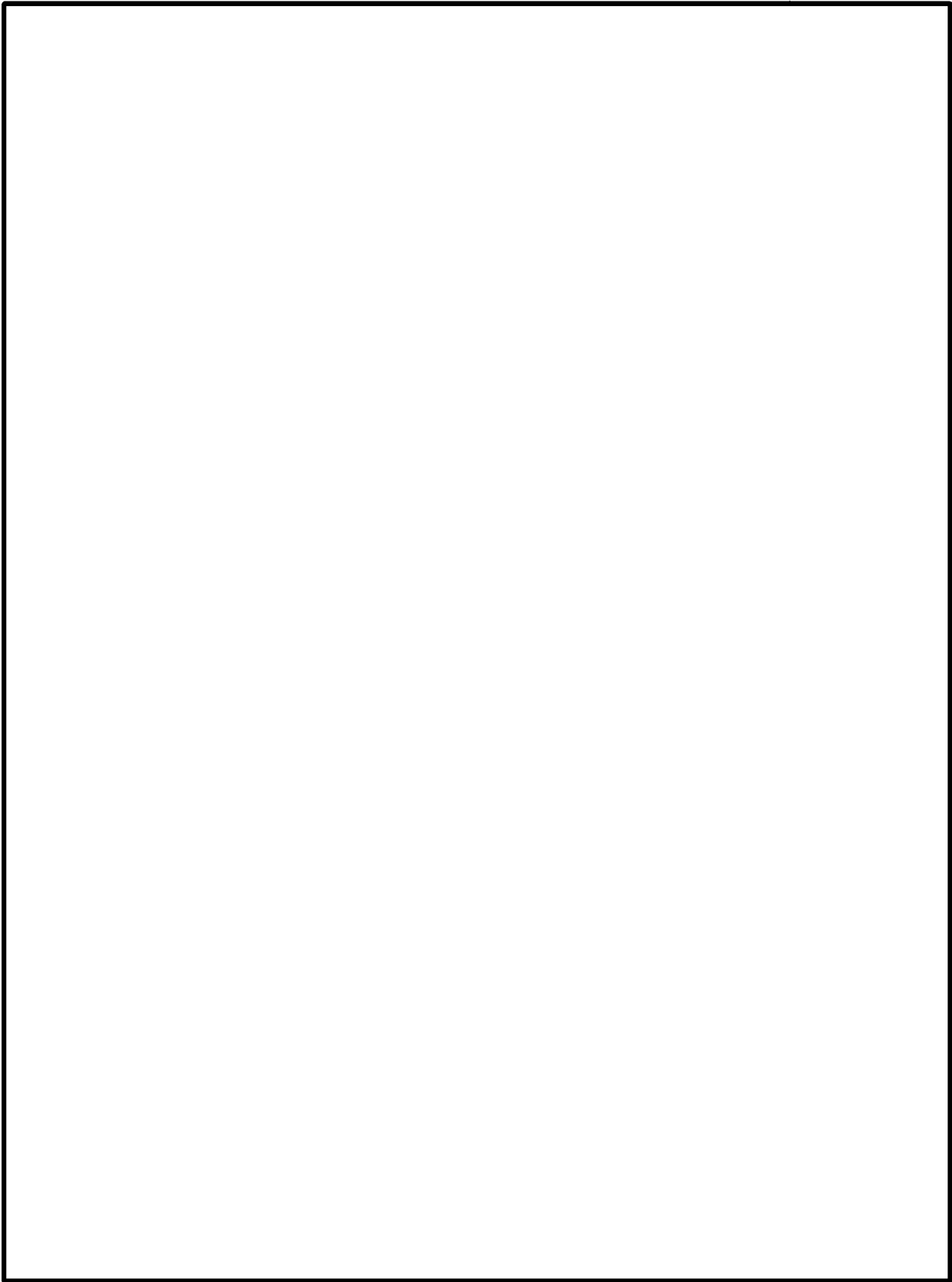


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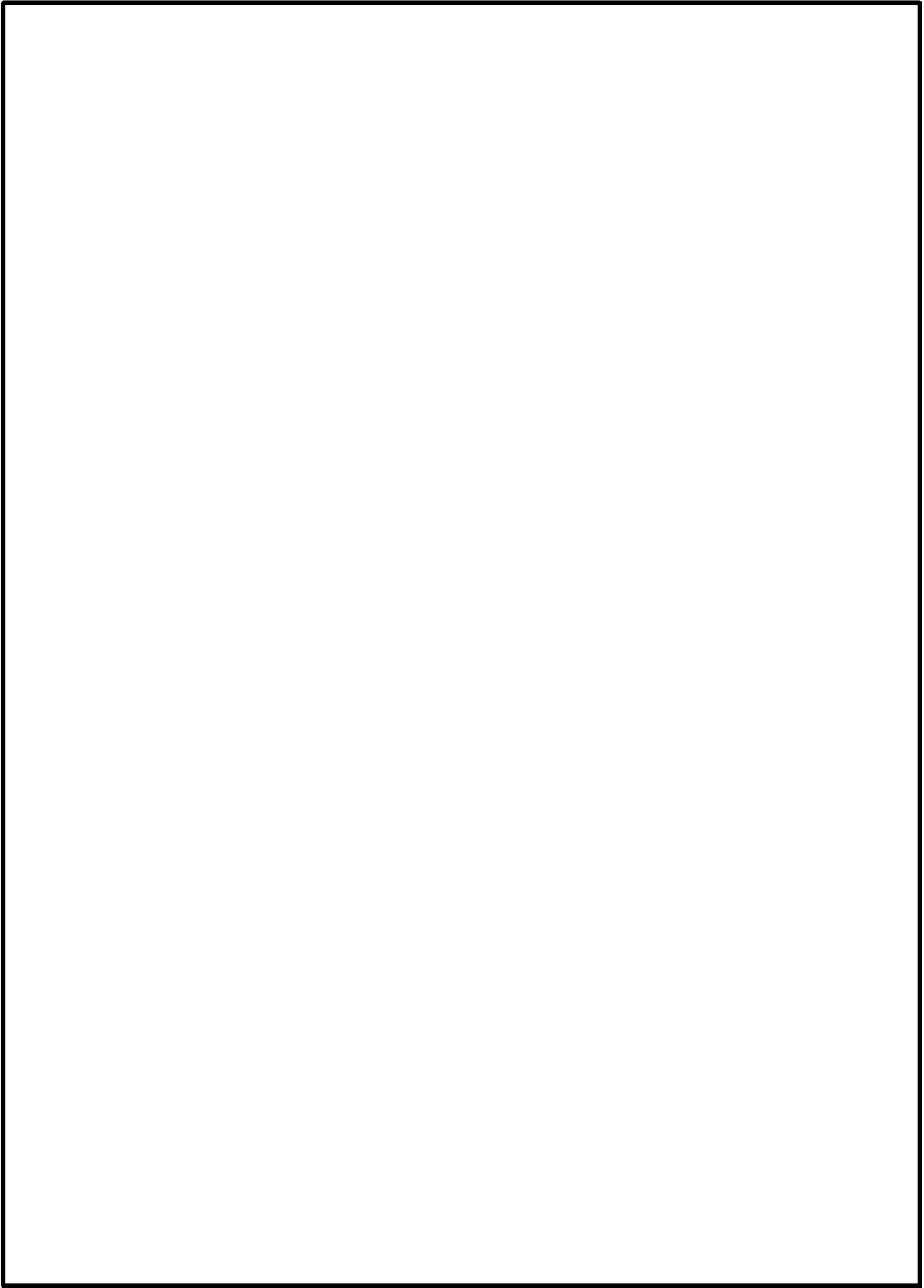
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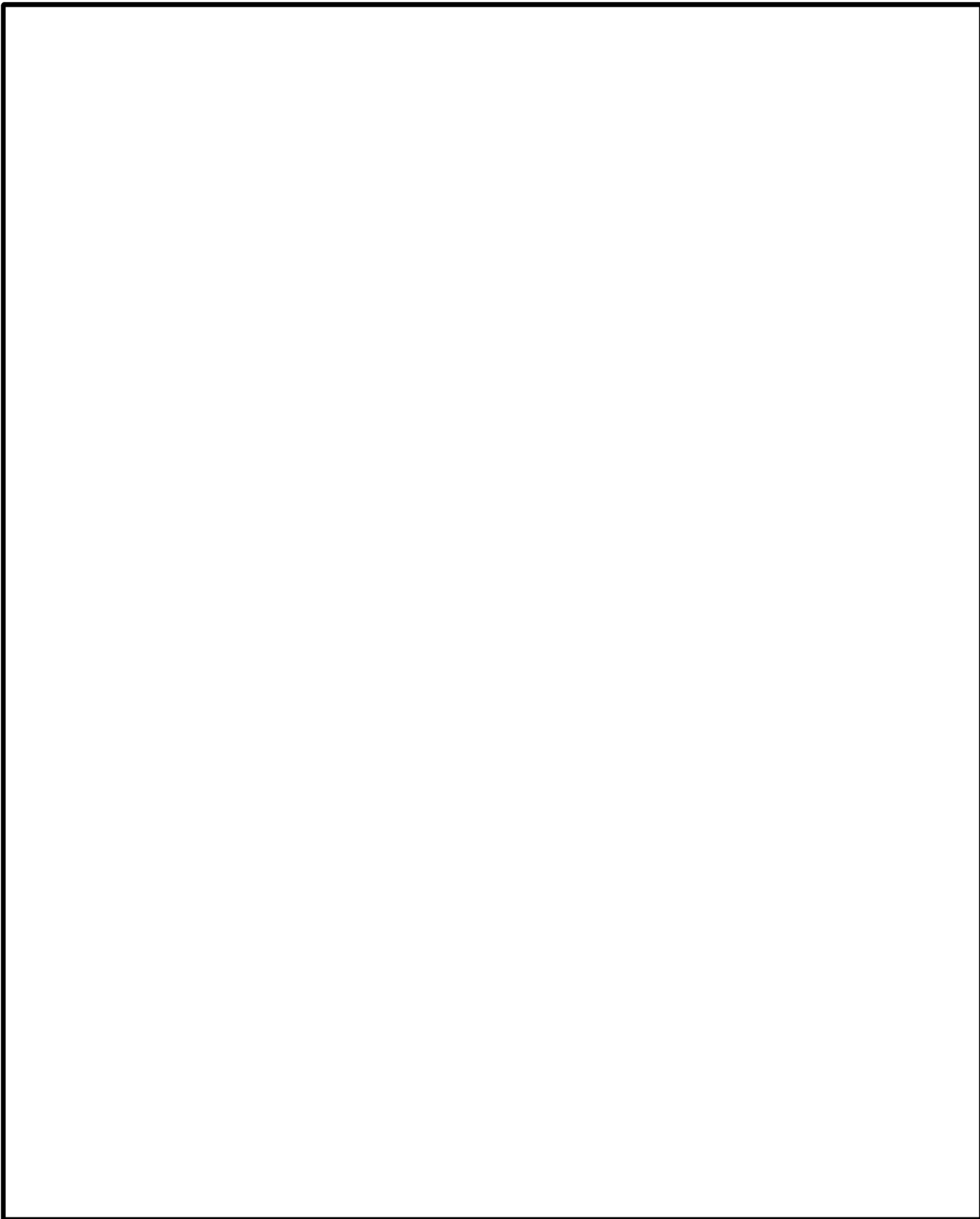
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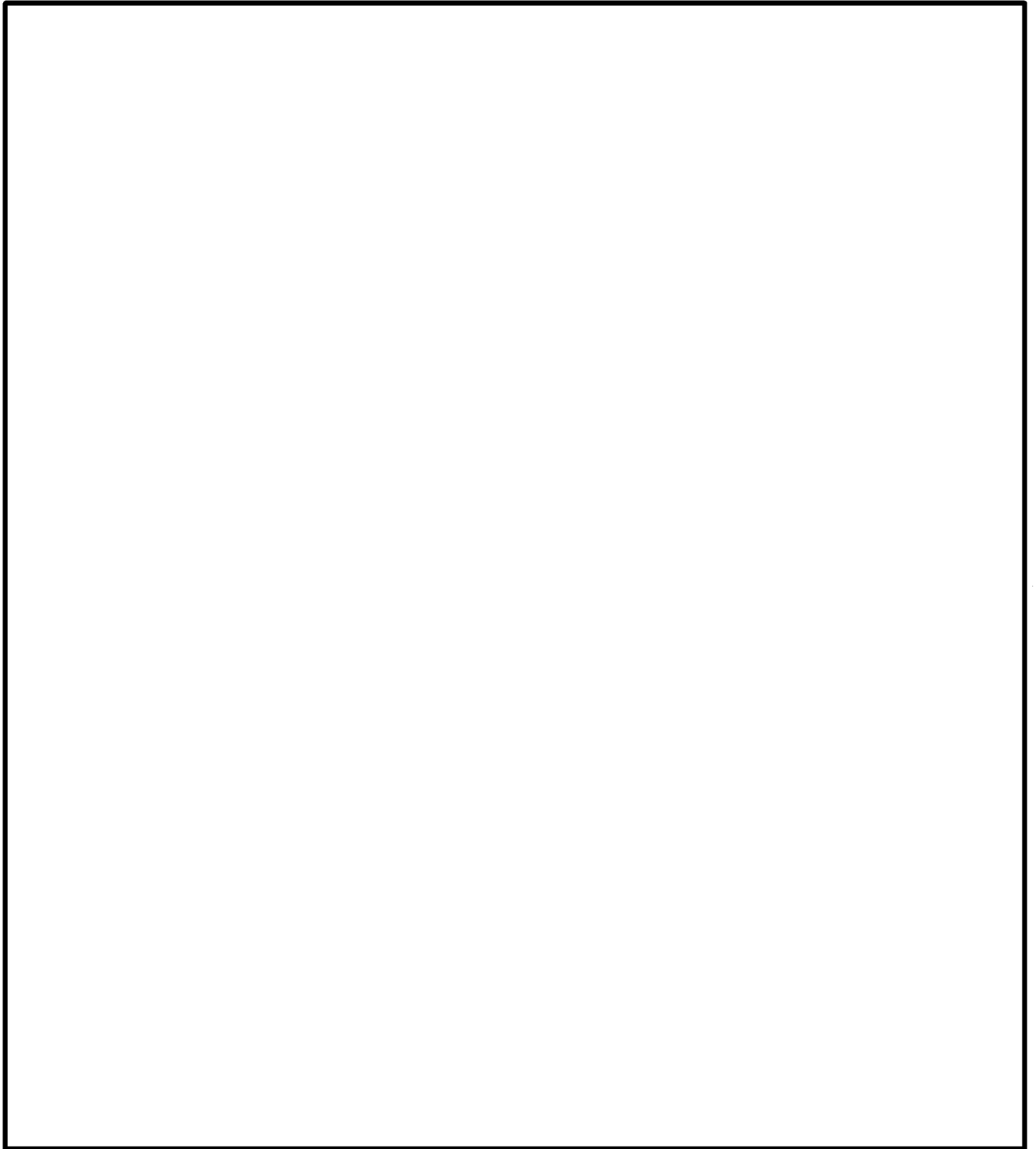
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²³ If such a determination is made in the field, it must have concurrence from HQRAD Integrity Unit.

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