

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

<p><b>UNITED STATES OF AMERICA</b></p> <p><b>v.</b></p> <p><b>KHALID SHAIKH MOHAMMAD; WALID MUHAMMAD SALIH MUBARAK BIN ‘ATTASH; RAMZI BINALSHIBH; ALI ABDUL AZIZ ALI; MUSTAFA AHMED ADAM AL HAWSAWI</b></p>	<p><b>AE 530F (GOV)</b></p> <p><b>Government Status of Investigation and Motion</b></p> <p>for Reconsideration of the Provision of Laptops to the Accused and an Order for a Walled-Off Forensic Review of All of the Accused’s Laptops and <b>Response</b> to Mr. Hawsawi’s, Mr. Bin ‘Attash’s, and Mr. Ali’s Motions for Return of the Laptops and/or Other Specified Relief</p> <p>27 October 2017</p>
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**1. Timeliness**

This combined notice of status of investigation, motion for reconsideration of provision of the laptops, motion for authorization to conduct a forensic examination, and response to Defense motions in the AE 530 pleading series is timely filed.

**2. Status of Investigation**

On 19 October 2017, the Military Judge issued AE 530A, Order, wherein he required “the Government [to] file a status of the investigation weekly beginning Friday, 27 October 2017, as to the expected completion date of the investigation and when the decision will be made as to return of the seized materials.” AE 530A at 1. The Military Judge further ordered, *inter alia*, that all laptops “be sealed with evidence tape and placed in a secure container with all the other seized materials . . . .” *Id.* at 1.

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In accordance with AE 530A, Order, the Government hereby provides notice to the Commission and parties that the computers remain sealed in the manner in which they were originally sealed by JTF-GTMO prior to the Military Judges order in AE 530A.<sup>1</sup> \_\_\_\_\_  
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\_\_\_\_\_ During the weekend of 21-22 October 2017, JTF-GTMO conducted additional searches of all cells of all detainees in Camp 7, and seized additional materials from the Accused and other detainees.

\_\_\_\_\_ has been identified by the United States Government as the organization that will conduct the forensic review, consistent with the attached Proposed Order (Attachment H), should the Military Judge authorize the forensic examination.

The expected completion date of the investigation cannot be determined until after the Military Judge decides whether to authorize the forensic examination. Likewise, the timing of the decision on whether or not the seized laptops will ever be returned to any of the Accused will also be impacted by the results of the forensic analysis.

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<sup>1</sup> Prior to the Commission's oral and written orders, and realizing the importance that the material not be further examined without the Commission's permission, JTF-GTMO seized and secured the laptops. While the way in which they did so is consistent with the spirit of the Military Judge's order, it arguably does not satisfy the letter of the order. The laptops were seized, and placed into pelican cases the Accused use to transport the laptops. The pelican cases themselves were sealed with evidence tape, but the computer, itself, was not. The computer was not sealed with evidence tape as it was believed that the nature of the tape would make it impossible to adequately remove it from the laptop itself following the investigation. \_\_\_\_\_  
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\_\_\_\_\_ If the Military Judge does not approve of the way in which the laptops were initially secured, JTF-GTMO is willing to re-seal the computers consistent with the letter of the Order; however, JTF-GTMO was advised by the Prosecution not to do so until the Military Judge gives further guidance, as doing so would require the seized materials be unsealed in order to re-seal the computers.

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### 3. Relief Sought

The Prosecution respectfully files this notice of status of investigation, motion for reconsideration of provision of the laptops, and authorization to conduct a forensic examination, in light of several of the Accused conspiring to violate the Military Judge's Order in AE 182K by misusing their Government-provided laptops. The Prosecution also seeks reconsideration due to the realization that the Government is unable to adequately secure the laptops in a way which can ensure the force protection of the Camp 7 guard force and protect vital national security concerns in controlling the dissemination of communications from these five Accused.

The Prosecution also requests that the Military Judge deny the motions of Mr. Hawsawi, Mr. Bin 'Attash, and Mr. Ali<sup>2</sup> in the AE 530 pleading series to the extent they are inconsistent with the Prosecution's proposed order (Attachment H), or, at a minimum, hold them in abeyance until after a forensic examination is conducted and JTF-GTMO can evaluate the force protection and national security implications following the examination. *See* AE 530B (WBA); AE 530D (AAA); AE 530E (MAH).

### 4. Burden of Proof

As the moving party, the Prosecution must demonstrate by a preponderance of the evidence that the requested relief is warranted. R.M.C. 905(c)(1)-(2).

### 5. Facts

Before his capture in 2003, Mr. Ali Abdul Aziz Ali, an Accused in this case and a member of a joint defense agreement with the other four Accused, was a Microsoft-certified Engineer and worked in the field of information technology, specifically computer hardware. *See* Attachment B.

On 9 May 2008, the Convening Authority initially referred charges to a joint capital military commission against the five Accused in this case.

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<sup>2</sup> The Prosecution also requests the Military Judge deny Mr. Mohammad's forthcoming motion, which according to the conference request will seek compliance with the Military Judge's previous orders as well as abatement, for the same reasons set forth below. This filing pre-dates that motion, but the facts all remain the same.

On 5 June 2008, the Accused elected to proceed *pro se*, and the Military Judge appointed stand-by, advisory counsel for each Accused. As a result of their *pro se* status, the Government provided the Accused with individual laptop computers to assist them in preparing their defense.<sup>3</sup>

On 21 January 2010, the Convening Authority withdrew and dismissed the referred charges without prejudice. Shortly thereafter, on 25 January 2010, the Government took custody of the Accused's laptops and accompanying media.

In January 2010, subsequent to the laptops being seized, the Air Force Office of Special Investigations (AFOSI) initiated an investigation on behalf of the Secretary of Defense to determine if the laptops had ever accessed the internet or had active wireless communications capability enabled. The Defense Computer Forensics Laboratory (DCFL) conducted a limited-scope forensic examination of the laptop operating system (OS) registry, to include internet history, email metadata, system basic input/output system (BIOS), system event logs, and standard antivirus (AV) scans. No file content examinations were conducted based upon the limited scope of the search authorization.

On 31 May 2011 and 25 January 2012, pursuant to the Military Commissions Act of 2009 ("M.C.A."), charges in connection with the September 11, 2001 attacks were again sworn against Khalid Shaikh Mohammad, Walid Muhammad Salih Bin 'Attash, Ramzi Binalshibh, Ali Abdul Aziz Ali, and Mustafa Ahmed Adam al Hawsawi. These charges were again referred jointly to this capital Military Commission on 4 April 2012.

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<sup>3</sup> The Military Judge granted three of the five Accused the right to proceed *pro se*. The other two individuals asked to be allowed to represent themselves, and the Military Judge's decision was withheld pending a mental competency determination that the two Accused were competent to voluntarily waive their right to counsel. Although the Prosecution initially declined to produce laptops to those two individuals, the defense attorney for Mr. Hawsawi argued that declining to do so was creating an incentive for his client to proceed *pro se*, (i.e. so he could get a laptop), and as a result of this allegation, the Prosecution agreed to provide laptops to all five individuals.

On 5 May 2012, the Military Judge advised each Accused of his rights to representation by both Learned and Detailed Military Defense Counsel. Upon reviewing these rights with each Accused, the Military Judge inquired of the Accused by whom they wish to be represented. When the Accused elected not to answer the Military Judge's question, Learned and Detailed Military Defense Counsel were appointed for them.

On 20 March 2013, Defense counsel for the Accused filed AE 149 (Mohammad et al), Joint Defense Motion for Return of Computer Hard Drive and Back-up DVD's, and requested that:

the Military Commission order the Government to return to their counsel the hard drives of the computers previously provided to the Accused by the government during and after the previous proceedings before the Military Commission, along with any and all media such as CDs, DVDs, external hard drives, flash drives, and the like, onto which any data from the hard drives of the computers may have been placed in any format and for any purpose, including to create a "backup" of the data on the hard drives; and that the Government and/or its agents or others working in cooperation with or at the direction and control of the Government permanently and completely delete, purge, wipe or otherwise eliminate any and all copies from any electronic data storage and retrieval system(s) in their possession or under their control.

AE 149 (Mohammad et al) at 1.

On 3 April 2013, the Prosecution timely responded and filed AE 149A, the Government's Response to the Joint Defense Motion for Return of Computer Hard Drive and Back-up DVDs. *See* AE 149A. In its Response, the Prosecution stated that it "does not oppose the Defense access to the laptop computers previously provided to the Accused during the prior Military Commission proceedings to Defense counsel." *Id.* at 1. The Prosecution, however, insisted that "Counsel for each Accused [must] submit any material stored on the respective laptops to their Accused, *in hard copy*, in accordance with the written privileged communications order to be issued by the Military Judge." *Id.* at 1 (emphasis added). It also noted that the "Prosecution will be providing an electronic reader ["E-Reader"] to each Accused with previously-loaded electronic discovery." *Id.* at 2.



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On 25 June 2013, Defense counsel for the Accused filed AE 182 (Mohammad et al), Defense Motion to Possess and Resume Use of a Microsoft-Enabled Laptop Computer, and requested that this Commission:

. . . order the Commander, Joint Task Force Guantanamo, to permit . . . counsel to provide [the Accused] with a write-enabled laptop computer with document marking (e.g., Adobe Acrobat), word processing (e.g., Microsoft Word), database (e.g., LexisNexis, CaseMap), and video editing (e.g., Adobe Premier) software, without wireless data capability, and which has been approved by the Director, Special Security Office, Washington Headquarters Services . . . for their use in assisting counsel and participating in the preparation of their defense.

See AE 182 (Mohammad et al) at 1. In support of their request, the Defense reasoned that “[a]ccess to and use of a laptop computer by the Accused is essential to their effective representation in these capital proceedings, including the ability of the Accused and their counsel to engage in an interactive dialog, and establish the rapport and trust necessary to meaningful representation.” *Id.* at 2.

On 22 November 2013, the Commission granted AE 149 (Mohammad et al), in part, and ordered the Prosecution to “return the computers and associated media *to Counsel* for each accused.” AE 149L at 2 (emphasis added). It further directed that the “Defense will handle the computers and related media as if they contained classified information, until such time as the Defense can review the materials, determine the appropriate classification of the information, and follow the information handling procedures of Amended Protective Order #1 and AE 018’s Privileged Communications Order to the extent the materials or information contained therein is taken into the detention facility or discussed with the Accused.” *Id.* at 2.

On 26 November 2013, the Prosecution timely responded to AE 182 (Mohammad et al) and filed AE 182A, Government Response to Defense Motion to Possess and Resume Use of a Microsoft-Enabled Laptop Computer. In its Response, the Prosecution affirmatively stated that “[t]he Accused are not entitled to use or possess any particular technical means to assist in the preparation of their Defense, and the Defense fails to cite any authority compelling a contrary

conclusion.” AE 182A at 1. The Prosecution also noted, once again, that the Prosecution provided searchable E-Readers to the Accused and Defense counsel containing hundreds of thousands of pages of unclassified discovery. *Id.* at 2, 4. This, combined with a searchable electronic index of the discovery that has been provided, and complete with a description of the items, afforded the Accused meaningful participation in their own defense. *Id.* at 3-4.

On 31 January 2014, the Prosecution returned a Panasonic Toughbook, Model CF-19, and all back-up DVDs to each of the five Defense teams in this joint trial. *See* AE 182D (GOV), Attachment B. However, consistent with the provisions of the Commission’s order in AE 149L, each Defense team signed a Certificate of Service providing, among other things, that, “[t]he laptop may not be returned to my client absent a specific order by the Military Judge,” and “[a]ny document from the laptop that cleared defense counsel believe should be provided to an Accused must be printed, processed, an[d] appropriately marked in accordance with the Written Privileged Communications Order dated 6 November 2013.” *Id.*

On 19 March 2015, without oral argument on the AE 182 motion series, the Commission issued AE 182C, an Order to Show Cause on the Defense Motion to Possess and Resume Use of a Microsoft-Enabled Laptop Computer. In the Order, the Military Judge ordered the “Government [to] update the Commission as to compliance with [AE 149L] not later than 24 March 2015.” AE 182C.

On 23 March 2015, the Prosecution dutifully complied with the Commission’s order (AE 182C) and reported that “the Prosecution fully complied with the Order (AE 149L) when it returned a Panasonic Toughbook, Model CF-19, and all back-up DVDs to each of the five Defense Teams in this joint trial.” AE 182D (GOV) at 1. In support of its update, the Prosecution provided the Commission hand-receipts from each of the five Defense teams, acknowledging their receipt of the laptops, as well as the fact that they had been advised of the applicable procedures relating to their handling. *See id.*, Attachment B. Those handling procedures included provisions consistent with the Commission’s order in AE 149L that “[t]he

laptop may not be returned to my client absent a specific order by the Military Judge,” and “[a]ny document from the laptop that cleared defense counsel believe should be provided to an Accused must be printed, processed, an[d] appropriately marked in accordance with the Written Privileged Communications Order dated 6 November 2013.” *Id.*, Attachment B.

On 8 April 2015, citing to the Prosecution’s response in AE 182D (GOV) that “the computers have been returned,” the Commission declared the issues underlying the AE 182 motion series moot. *See* AE 182E.

On 29 April 2015, Defense counsel for Mr. Mohammad filed AE 182F (Mohammad) seeking “clarification of the Commission’s Order AE 182E, issued 8 April 2015 . . . in which it declared moot the ‘Defense motion requesting the return of computers,’ as part of the AE 182 Defense Motion to Possess and Resume Use of Microsoft-Enabled Laptop Computer motion series (AE 182).” AE 182F (Mohammad) at 1. Sensing confusion over the issues, Defense counsel for Mr. Mohammad stated that “[t]he remedy requested, facts, and substantive legal arguments set forth in AE 182 are separate and distinct from the remedy requested, facts, and substantive legal arguments set forth in AE 149.” *Id.* at 1. However, the Defense reasoned that “[g]iven the sequencing and series designation of the Order, it is evident that the Commission intended that the Panasonic Toughbook, Model CF-19, be returned directly to Mr. Mohammad for his personal use.” *Id.* at 6.

On 17 June 2015, in response to the Defense Motion for Clarification (AE 182F (Mohammad)), the Commission issued AE 182G, Order. Within his order, the Military Judge stated that “[t]he intent of the Commission was that the subject laptops were to be provided to Accused for their use after Counsel had performed the required review of material on the laptop to ensure compliance with the information handling procedures of the amended Protective Order #1 and AE 018’s Privileged Communications Order.” At no time did Counsel for the Accused advocate within the AE 182 series for return of the 2008 Panasonic Toughbook, Model CF-19 to the Accused. AE 182 merely requested that Defense counsel be allowed to provide the Accused



with a generic write-enabled laptop computer with document marking, word processing, database, and video editing software. *See* AE 182 (Mohammad et al).

On 2 July 2015, following the Military Judge's Order, the Prosecution sent all five Defense Teams a memorandum outlining the processes and procedures by which the laptops used by the Accused in 2008-2009 could be returned. *See* AE 182H (KSM, AAA, WBA, MAH), Attachment B. In the memorandum, the Prosecution outlined a number of "operational security protocol[s] that JTF-GTMO intended to implement to ensure the laptops were safe to enter the facility . . . ." *Id.*, Attachment B. Of note, it mandated the gluing of the external screws on the laptop. *See id.*, Attachment B. Additionally, in order to ensure that no privileged material was examined by JTF-GTMO, the Prosecution provided an avenue by which Defense IT personnel could perform the initial modifications, vice JTF-GTMO personnel. *See id.*, Attachment B (initially stating that JTF-GTMO would perform the required modifications, but allowing Defense Counsel and/or the Accused to observe the process); Attachment D (approving Mr. [REDACTED] Office of the Chief Defense Counsel South, Tech Support, to perform the required modifications to the laptops).

On 24 July 2015, in response to an inquiry from Learned Counsel for Mr. Ali pertaining to transfer of information from the laptop to counsel or co-defendants, *see id.*, Attachment C, the Prosecution sent all five Defense Teams a follow-up memorandum that detailed "the security certification for the laptop, your points of contact, and the approved process for how information may be transmitted to you from the laptop your client will be using." *Id.*, Attachment D. In the memorandum, the Prosecution stated, among other things, that "[d]uring legal meetings at Echo II, JTF-GTMO will make available to you a docking station and printer for use with the laptop." *Id.*, Attachment D. The memorandum also reiterated that any work product created through such means "must be handled in accordance with the Written Privileged Communications Order (AE 018U)." *Id.*, Attachment D.

On 27 August 2015, Defense counsel for Mr. Mohammad, Mr. Ali, Mr. Bin ‘Attash, and Mr. Hawsawi filed AE 182H (KSM, AAA, WBA, MAH), Joint Defense Motion for an Order Compelling Prosecution to Return Laptop Computers to the Defendants or in the Alternative to Show Cause Why it Should Not be Held in Contempt. In its motion, the Defense requested that the “Military Commission order the government to comply with its orders in AE 149L, AE 182E, and AE182G forthwith, or show cause why it should not be held in contempt and/or removed from the case for interfering with the defendants’ rights to the assistance of counsel and to present a defense.” AE 182H (KSM, AAA, WBA, MAH) at 1.

On 9 September 2015, the Prosecution filed its response in AE 182I, wherein it stated the Military Judge should defer to JTF-GTMO on security requirements before allowing self-admitted terrorists, who once again have shown they are determined to spread their propaganda, access to a laptop computer in their own cells that can write CDs and DVDs in its detention facility. *See* AE 182I (GOV) at 12-13.

On 23 February 2016, the Military Judge issued an Order for the return of the laptops to the Accused with the same functionality as 2010. *See* AE 182K. In his Order, the Military Judge stated the following:

In AE 182G, the Commission clarified it’s earlier order stating the intent of the Commission was that the laptops were to be returned to the Accused after review of the laptops to ensure compliance with information handling procedures of amended Protective Order #1 and AE 018’s Privileged Communications Order. The Government apparently misunderstood the intent of the Commission’s order in

AE 182G and, in coordination with the Joint Detention Group (JDG) developed additional protocols calling for disabling the functionality of the laptops prior to their return to the Accused.

The Military Judge then Ordered that “[n]ot later than 8 March 2016, the laptops will be returned to the Accused with the same functionality they had when seized in 2010; and if the Government cannot restore the same functionality as in 2010, the Government will notify the Defense immediately with a date certain when adequate laptops with at least the 2010 functionality will

be given to the Accused. In his Order, the Military Judge further ruled that “[i]f an Accused misuses a returned laptop, the JDG may take appropriate remedial action against that Accused.” See AE 182K at 2 (emphasis added).

On 24 February 2016, the Chief Defense Counsel wrote an email to Office of the Staff Judge Advocate for JTF-GTMO (OSJA), the Convening Authority Chief of Staff (CA), and the Prosecution, detailing Defense IT efforts being taken to make provision of the original laptops per AE 182K, as well as for Defense procurement of updated 2016 laptops.<sup>4</sup> See AE 182L (GOV), Attachment C. In his same email, the Chief Defense Counsel informed the OSJA, the CA, and the Prosecution that the Defense teams and Defense IT personnel had requested that the Chief Defense Counsel obtain new laptops that include the following specifications: 15" or greater screens; extended battery life; 500+ GB Hard Drive; sufficient amount of CPU and Memory to run Photoshop and video editing software (at least 8GB RAM or better); Blu-Ray Player/DVD writer/CD-RW; Intel i7 Processor; software (in addition to Microsoft Office, some version of Adobe Photoshop and some movie making capability); peripherals; 2 external 4GB hard drives (one for attorney-client privileged materials and one for Government provided discovery) with USB ports enabled to plug them into. *Id.*, Attachment C at 1-2

On 7 March 2016, the 2008 Panasonic Toughbook laptops were returned to all five Accused, with Defense IT personnel certifying that they had been restored to 2010 functionality, and Convening Authority IT personnel confirming that functions were disabled consistent with

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<sup>4</sup> Within the email, the Chief Defense Counsel indicated that Defense IT personnel reported to him that: Windows XP is no longer supported by Microsoft; patching is no longer available to secure the OS from known vulnerabilities; the laptops are old and cannot be updated to any modern operating systems (i.e. Windows 7, 8, or 10); no installation media is available for reinstallation of failed programs or complete restore after hard drive failure; the laptops (Panasonic CF-19) are from a 2006 time period and will require more technical assistance as parts fail; replacement parts will most likely be expensive and used; small storage capacity - most client machines have an 80GB Hard Drive; most client machines are near full capacity at this time; small video screens - due to poor eyesight and lighting the clients have issues reading the screen; laptops are not under warranty; laptops lack modern performance for effective video and photo editing; modern video editing software recommends 8GB of RAM, the clients laptop has 2GB of RAM; modern video editing software recommends a dual-core or quad-core processors, the clients laptop has a single core. See AE 182L (GOV), Attachment C at 1.

2010 functioning. *See* AE 182L (GOV) Attachment E. The Prosecution did not support providing new laptop computers at that time, as the Panasonic Toughbooks were sturdy platforms that could be maintained or upgraded in a functional condition suitable to their purposes. The Prosecution also noted that before any additional software and functionality was added to either the existing laptop, or any new laptops purchased by the Convening Authority for the Defense, the Defense should be required to refile AE 182, and the issue should be fully litigated, as the Prosecution had not been afforded a full opportunity to litigate what additional software functions a fully-represented Accused is entitled to have when such functionality exponentially increases the possibility that the Accused, all of whom are Alien Unprivileged Enemy Belligerents, can disseminate digital propaganda to the public. *See id.* at 5 and *id.*, Attachment F.

Between 16 September 2016 and 14 November 2016, following several rounds of negotiation between the Prosecution (in consultation with USSOUTHCOM and JTF-GTMO) and Defense, Learned Counsel for four of the five Accused in this case signed agreements with the Prosecution for the provision of new 2016 Panasonic laptop computers for the Accused.<sup>5</sup> *See* Attachment C (hereinafter “Agreement.”). The Prosecution opposed PowerPoint and any software enabling video editing or nonlinear media product creation and reserved all of its remedies in this regard, as well as the other safeguards described in paragraph 4 of the Agreement. *See* Attachment C. Further, the agreed-upon security checklist for the new 2016 laptops indicated that the Accused would not have administrator’s rights, and that the exterior screws would be glued to ensure that the laptops could not be opened. *See* Attachment C at 12.

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<sup>5</sup> As part of the Agreement, the Defense agreed not to file any motions that claim the Government is in violation of the Military Commission's Order in AE 182K (Return of Laptops to Accused with Same Functionality in 2010) by allowing electronic data transfer via portable hard drives, as opposed to data transfer via CD-writing capability. *See* Attachment C at 3, ¶ 2. The Defense further agreed that it would not file any motions challenging any of the terms of the Agreement once the Agreement had been signed unless a substantial change of circumstances occurs. *See* Attachment C at 3.

Of note, unlike the 2008 Panasonic laptops, the 2016 Panasonic laptops do not have CD/DVD write capability.

On 27 December 2016, the Convening Authority's Office provided the Chief Defense Counsel with five new Panasonic Laptop Computers, Model CF-54s, for the Accused to maintain and use pursuant to the signed Agreement. *See* AE 182N (GOV), Attachment D. In its transmittal letter, the Office of the Convening Authority authorized the Chief Defense Counsel to distribute the computers to the four teams that have signed the Agreement, with the fifth laptop computer to be retained by the Chief Defense Counsel until such time as Mr. Mohammad's Learned Counsel signs the Agreement. *See* AE 182N (GOV), Attachment D.

On 6 January 2017, the Prosecution informed the Commission that new laptops had been provided to Defense counsel. *See* AE 182N (GOV).

To date, and despite several inquiries by the Prosecution regarding whether Learned Counsel for Mr. Mohammad intended to sign (or not sign) the Agreement for the new laptop computer, Defense counsel for Mr. Mohammad have never responded to the Prosecution's inquiries. *See* AE 182N (GOV), Attachment C.

On or about 11 September 2017, as-Sahab Productions, the media arm of al Qaeda, released a propaganda film, which included the actual letter from Mr. Mohammad to the President that had been the subject of litigation in AE 371 (KSM). The letter was released in Arabic and English, and along with the text document, as-Sahab released an approximately four minute video that featured images of Mr. Mohammad and the September 11, 2001 attacks, as well as English-language excerpts from the letter. *See* Attachment D and G.

On or about 16 October 2017, JTF-GTMO discovered a contraband communication between two of the Accused in this case indicating that the Accused could compromise the 2008 laptops provided to them in order to enable functions that had been previously disabled for force protection reasons. *See* Attachment F. [REDACTED]

On or about 18 October 2017, JTF-GTMO seized five of the Accused's laptops (one 2016 model, and five of 2008 models) and other hard-drives and E-Readers devices, as set forth in the chain of custody documents attached to AE 530 (GOV) (and additional chains of custody now attached hereto as Attachment E). *See* Attachment F at 2. The laptops were sealed in their cases, stored as evidence, and have not been opened.

The contraband communication that was found, which was non-legal mail and not marked as attorney-client material, was written on a prayer schedule marked for release to ISN 10011 (Mr. Ali) that JTF-GTMO provided to the Accused in August of 2017. Based upon the date in which the prayer schedule was provided by JTF-GTMO, the contraband communication could have been more than two months old. *See* Attachment F at 2.

Attachment F at 3.

Attachment F at 3.

As of 16 October 2017, despite four of the five Accused receiving a new laptop computer, only Ramzi Binalshibh utilizes his new 2016 laptop; and that was only after his 2008 laptop became no longer functional. Attachment F at 2. The other three 2016 laptops have not been utilized by the Accused. Attachment F at 2.

On 19 October 2017, the Prosecution filed a notice of evidence relevant to the laptop seizure. *See* AE 530 (GOV). Within its notice, the Prosecution provided the Commission and parties with an unmarked, handwritten letter between the Accused, as well as other related



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documentation, detailing how the Accused could compromise the laptops provided to them in order to enable functions that had been previously disabled for force protection reasons. The Prosecution also noted that it would be filing a motion requesting certain relief at a later date; that the current custody status of the laptops would remain until further order of this Military Commission; and that the Prosecution did not oppose a written order to this effect. *See* AE 530 (GOV).

On 19 October 2017, the Military Judge issued AE 530A, Order, which is a written order regarding the seizure of the laptops and other associated materials. The Military Judge ordered that:

to protect client confidentiality, all the laptops are to be sealed with evidence tape and placed in a secure container with all the other seized materials. The container will then be also sealed with evidence tape. A chronological roster of all personnel involved in the seizure will be drafted with a summary of each individual's role, *e.g.*, physically seized the materials, read the materials, etc. A separate container, which will also be sealed with evidence tape, will contain all copies of seized materials. The Government will file a status of the investigation weekly beginning Friday, 27 October 2017, as to the expected completion date of the investigation and when the decision will be made as to return of the seized materials.

During the weekend of 21-22 October 2017, additional cell searches conducted of non-legal materials in the Accuseds' cells revealed that Mr. Bin 'Attash also had a less-detailed hard copy version of the hand-written letter, similarly detailing how the Accused could compromise the laptops provided to them in order to enable functions that had been previously disabled for force protection reasons. *See* Attachment F at 3. Other hard copy materials of non-legal mail were also seized. The Prosecution has not had access to any of these materials. *See* Attachment F at 3.

## **6. Law and Argument**

### **I. Standard For Reconsideration**

Rule for Military Commissions 905(f) permits the Military Judge to reconsider any ruling, other than one amounting to a finding of not guilty, prior to the authentication of the

record of trial. Granting of a request for reconsideration is in the Military Judge's discretion. *See, e.g.*, AE 108AA at 2 ("Generally, reconsideration should be limited to a change in the facts or law or instances where the ruling is inconsistent with case law not previously briefed."). Courts grant motions for reconsideration if "there has been an intervening change in controlling law, there is new evidence, or there is a need to correct clear error or prevent manifest injustice." *United States v. Libby*, 429 F. Supp.2d 46, 46-47 (D.D.C. 2006) (internal quotation marks omitted); *see* AE 155F at 1 ("Generally, reconsideration should be limited to a change in the facts or law, or instances where the ruling is inconsistent with case law not previously briefed."). The Prosecution relies on the new facts and evidence stated below and attached to AE 530 (GOV) as well as to this filing, for this motion for reconsideration.

**II. Existence of New Evidence; Namely the Blatant and Wanton Violation of the Military Judge's Order in AE 182K, the Government's Inability to Properly Secure the Laptops Due to the Computer Expertise of the Accused, and Recent Propaganda Released by al Qaeda regarding Mr. Mohammad**

In light of the new fact that at least three of the Accused have now conspired to misuse their laptops and bypass vital implemented computer security protocols—a blatant violation of the Military Judge's Order in AE 182K [REDACTED]

[REDACTED] the Military

Commission should reconsider its ruling in AE 182K that ordered the provision of the 2008 laptops to the Accused.

Additionally, the Military Commission should also take note for reconsideration purposes that, on or about 11 September 2017, to commemorate the 16th anniversary of the September 11, 2001 attacks that killed 2,976 people, as-Sahab Productions, the media arm of al Qaeda, released a propaganda film, which included the actual letter from Mr. Mohammad to the President that had been the subject of litigation in AE 371 (KSM). The letter was released in Arabic and English, and along with the text document, as-Sahab released an approximately four minute



video that featured images of Mr. Mohammad and the 9/11 attacks, as well as English-language excerpts from the letter. The letter was so lengthy that substantial parts of it were presumably written and typed on his laptop, before being transferred to the Defense for delivery.

Furthermore, in light of the Chief Defense Counsel's reasoning and request for five new laptops to be provided to the Accused, and the Prosecution and Learned Defense Counsels' agreement regarding the use of the same, the fact that only one of the 2016 laptops is now being used by the Accused, and only by default because the 2008 one stopped functioning, raises reasonable suspicions as to what software and/or functionality is on the 2008 laptops that is not authorized in the 2016 laptop agreement and was not placed on those laptops initially by the Prosecution. Such facts call not only for reconsideration of the provision of any laptops to the Accused, [REDACTED]

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### **III. The Military Judge Has Never Ruled or Found That Represented Accused Have an Actual Right to a Laptop Computer, and There is No Legal Support for Such a Finding**

There is no factual support or legal authority that it is necessary for the Accused to possess a laptop computer in order for him to effectively participate in his defense. Presently, Defense counsel are able to access the electronic discovery in this case on behalf of the Accused. Further, Defense counsel may display unclassified hardcopy documents to the Accused. A DVD player is also available to the Accused and counsel for viewing videos.

Numerous federal courts have addressed this issue and, to the Prosecution's knowledge, no court has ever found that civilly committed persons, pretrial detainees, or post-trial convicted prisoners have a constitutional right to personal computers, or items that are similar to computers, to assist them in their defense. *See, e.g., Fogle v. Blake*, 227 F. App'x 542, 542

<sup>6</sup> Only one of the 2016 laptops is currently being used, by Mr. Binalshibh, and in that instance, only because the 2008 laptop was no longer functioning. *See* Attachment F at 2.

(8th Cir. 2007) (finding civilly committed plaintiff failed to state a constitutional claim regarding denial of a computer or typewriter); *Allen v. King*, 2016 U.S. Dist. LEXIS 108748, at \*20–21 (E.D. Cal. August 16, 2016) (“To this Court’s knowledge, no court has ever held that a civil detainee such as a SVP [sexually violent predator] has a constitutionally protected right to possess and use personal laptops and other similar electronic devices.”); *Telucci v. Withrow*, 2016 U.S. Dist. LEXIS 66334, at \*14–15 (E.D. Cal. May 19, 2016) (“No court has found that prisoners have a constitutional right to possess personal computers, or items that are similar to personal computers, in their cells.”); *United States v. Neff*, 2013 U.S. Dist. LEXIS 629 (N.D. Tex. Jan. 3, 2013) (holding the “fundamental constitutional right of [a pre-trial detainee to] access . . . the courts, however, does not include a constitutional right to a personal computer” even in case where discovery “voluminous”); *White v. Monahan*, 2009 U.S. Dist. LEXIS 14167, at \*2 (C.D. Ill. Feb 24, 2009) (“[T]he inability to possess a computer does not implicate a property interest that might be protected by procedural due process protections or an interest that might be classified as a substantive due process interest.”); *Spicer v. Richards*, 2008 U.S. Dist. LEXIS 111803, at \*7 (W.D. Wash. Aug. 11, 2008) (unpub.) (finding no Fourteenth Amendment right to possess a “cell phone, pager, computer, [or] color ink cartridge printer”); *Endsley v. Luna*, 2008 U.S. Dist. LEXIS 78327, at \*9 (C.D. Cal. May 23, 2008) (“No court has found that civilly committed persons, pretrial detainees, or prisoners have a constitutional right to have personal computers, or items that are similar to personal computers, in their cells.”); *State ex rel. Anstey v. Davis*, 203 W.Va. 538, 545, 509 S.E.2d 579 (1998) (“We are persuaded by the uniformity of opinion on this issue and therefore hold that prison inmates have no constitutional right to possess personal computers in their cells.”). The U.S. Constitution and this barren legal landscape simply do not compel providing a law of war detainee with access to and control over a laptop computer, and the decision to provide laptops to the Accused, no matter how well-intentioned it was by the Commission and the Prosecution, must now be reconsidered in light of these recent events.

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In fact, two other military commission cases where the accused are also detained in Camp 7, including the capital military commission in *United States v. al Nashiri*, recently denied requests for laptop computers from similarly-situated accused. *See United States v. al Nashiri*, AE 380E, Ruling at 1. (“The Defense has not identified any precedent in case law that supports an Accused’s right to a laptop computer where he is represented by detailed and learned counsel. Furthermore, in its filings, the Defense fails to clarify how an Accused represented by four attorneys and provided multiple experts has been denied due process or right to counsel solely because he has not also been afforded a laptop computer.”); *United States v. Abd’ al Hadi al Iraqi*, AE 091D, Ruling at 2 (“The Defense provided no case law finding an accused in pretrial detention has a right to a personal laptop computer. Case law cited by both the Government and Defense largely concludes a detained accused does not have a right to a personal laptop.”).

The Defense in *United States v. Mohammad, et al*, have also not identified any precedent in case law that supports an Accused’s right to a laptop computer where he is represented by detailed and learned counsel, or how the provision of such “is essential to their effective representation in these capital proceedings, including the ability of the Accused and their counsel to engage in an interactive dialog, and establish the rapport and trust necessary to meaningful representation.” AE 182 (Mohammad et al) at 2. Based on the case law above, the Defense can never establish that an Accused who is represented by multiple attorneys and provided multiple experts has been denied due process or right to counsel solely because he has not also been afforded a laptop computer, because no American court has so held.

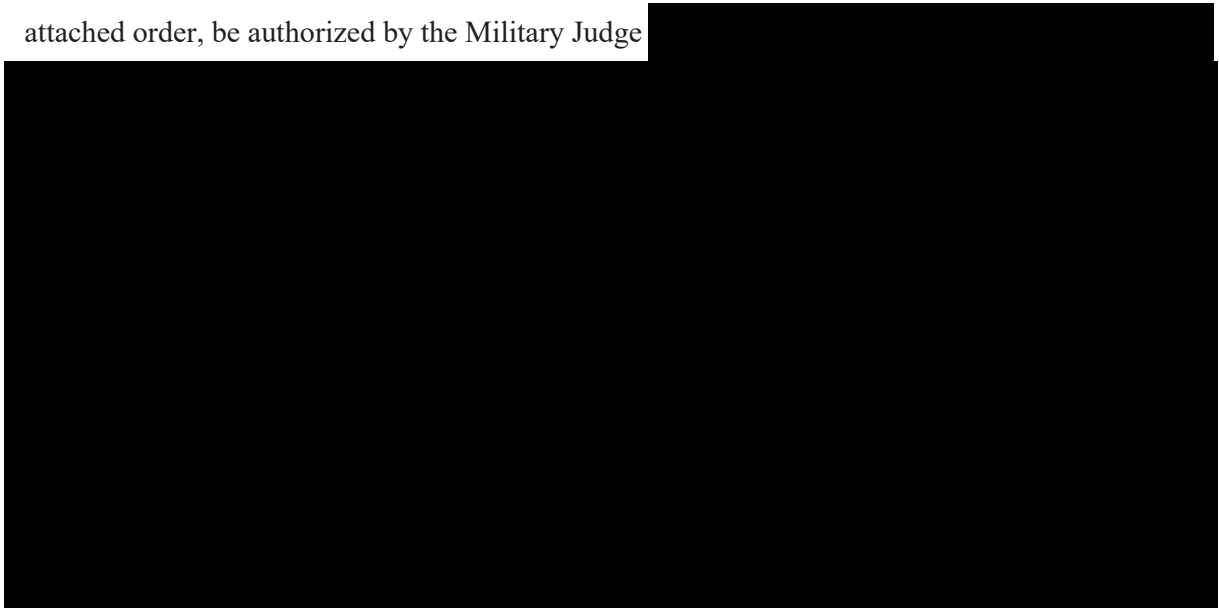
The Accused are self-avowed terrorists and enemies of the United States. The United States provided them laptops despite the fact that they had no right to such a resource. The Accused have now proven that they cannot be trusted to use the laptops as intended, and that at least one of them have computer skills and training that render it difficult, if not impossible, for the United States to ever adequately secure the laptops. As such, and also in the light of the recent propaganda release by as-Sahab in using Mr. Mohammad’s letter to the President in a

video it produced, the Order providing the laptops to the Accused should be reconsidered by the Military Judge.

**IV. Request for Forensic Review of all Five Laptops (2008 and 2016) Utilized by the Accused, the Associated Hard Drives, and the E-Readers.**

In 2009, following the seizure of the Accused's laptops, the Air Force Office of Special Investigations (AFOSI) initiated an investigation on behalf of the Secretary of Defense, to determine if the Accused's laptops had ever accessed the internet or had active wireless communications capability enabled. The Defense Computer Forensics Laboratory (DCFL) conducted a limited-scope forensic examination of the laptop operating system (OS) registry, to include internet history, email metadata, system basic input/output system (BIOS), system event logs, and standard antivirus (AV) scans. No file content examinations were conducted based upon the limited scope of the search authorization. This exact examination is insufficient to satisfy current concerns, but must necessarily be included in the forensic exam.

The United States now again requests a forensic review of the laptops, consistent with the attached order, be authorized by the Military Judge



As set forth in the proposed Order, the results of this initial forensic examination will not be examining the content of any of the user generated data files (e.g. files with the following



types of extensions: .pdf, .doc, .docx); [REDACTED]

[REDACTED] As such, there is no concern that any attorney-client privileged information or work product privileged information will be revealed to the examiners, or by the results of the report. However, based upon the results of the reports, the Government may request additional forensic authorizations be conducted under different protocols, and reserves its right to request such authorization in the future. No such additional forensic examinations will occur without the explicit authorization by the Military Judge.

**V. The Defense Motions in the AE 530 Series, to the Extent They Seek Relief Inconsistent With This Motion to Reconsider and Motion for Authorization of a Forensic Examination, Should be Denied, or, at a Minimum, Held in Abeyance Until Such Time as the Forensic Analysis is Completed and Analyzed by JTF-GTMO and USSOUTHCOM.**

There have been three separate motions by three Defense teams on the issues underlying the AE 530 pleading series. All should either be denied, or in the alternative, held in abeyance pending the forensic examination to be conducted. In AE 530B (WBA), Defense counsel for Mr. Bin 'Attash request "that the Commission compel the Government (Trial Counsel and JTF-GTMO) to return immediately and without further delay or inspection all materials seized from Mr. Bin 'Attash by JTF-GTMO on or about 18 October 2017." AE 530B (WBA) at 1. In a similar motion, AE 530E (MAH), Defense counsel for Mr. Hawsawi also request "that the Commission abate the proceedings until Mr. al Hawsawi's privileged legal materials are returned . . . or in the alternative, compel the Government to return immediately, and without further delay or inspection, all materials seized from Mr. al Hawsawi the week of October 16, 2017." AE 530E (MAH) at 1.

First, for the reasons set forth above regarding the need to forensically examine all of the laptops, none of the laptops can be returned at this time. In its filing, Defense counsel for Mr. Hawsawi are simply speculating that Mr. Hawsawi's computer has not been manipulated to circumvent the security protocols that had been put in place. They may be correct in their speculation, or they may be wrong, but the only way to know is through forensic analysis of the

computer, prior to giving it back to Defense counsel, which this motion seeks authorization to do. Furthermore, following the Prosecution's first notice (AE 530 (GOV)), a version of a similar letter describing how to circumvent the security protocols was found in Mr. Bin 'Attash's cell, which completely undercuts counsel for Mr. Bin 'Attash's argument that he was also not involved. *See* Attachment F at 3. The security vulnerabilities are universal to all of the 2008 laptops, not just Mr. Ali's laptop [REDACTED]

[REDACTED] As long as there is one Accused with knowledge of how to circumvent the procedures (and it appears now there is at least a minimum three), and as those Accused are able to all speak with one another (including Mr. Hawsawi) at various places on Naval Station Guantanamo Bay, JTF-GTMO cannot be expected to simply return the laptops at this time. Until a forensic examination is completed on all of the computers, return of any of the laptops should not be ordered.

Second, the way in which the computers were seized is not inconsistent with the Military Judge's order governing laptop use, or AE 018U, Amended Order, Privileged Written Communications. When the laptops were returned to the Accused, the Military Judge made clear that "if an Accused misuses a returned laptop, the JDG may take appropriate remedial action against that Accused." *See* AE 182K (emphasis added). Taking a laptop apart, in an attempt to defeat the protections set forth in the protocol, and then communicating how to do so to your fellow Accused, is as clear a "misuse" as can be. The remedial action that JTF-GTMO took was to seize all of the laptops, E-Readers, and portable hard drives from all of the Accused, as it was (and remains) unclear how many other computers may have been manipulated, given that the document the instructions were written on could have been at least two months old. JTF-GTMO, carrying out reasonable command actions in light of discovering contraband and identifying force protection concerns, seized the materials in such a way to protect all potentially privileged information contained on the electronics, and informed the Prosecution, who in turn notified the



Commission and Defense counsel. No privileged material has been viewed at this time by anyone in the United States Government, and as the attached order makes clear, if approved, the Government will not be viewing any privileged information off of the laptops in the first phase of the forensic analysis. As such, none of the Accused's rights or privileges before this Military Commissions have been, or will be, impacted in any way.

Abatement is also not appropriate relief in this instance. As a fully represented Accused, Mr. Hawsawi, similar to the other Accused, is defended by no less than one government-funded defense counsel learned in the applicable law regarding the death penalty, two military defense counsel, two GS-15 civilian defense counsel, and further supported by a small army of paralegals and other experts. Presently, the Defense Counsel are able to access the electronic discovery in this case on behalf of the Accused. Further, Defense counsel may display unclassified hardcopy documents to the Accused, as well as classified "display only" documents that have been provided by the Prosecution. A DVD player is also available to the Accused and counsel for viewing videos. The suggestion that this case cannot legally proceed without Mr. Hawsawi possessing a laptop is preposterous. Federal and state cases involving pre-trial confinement advance through trial all of the time without the detainee having his own personal laptop computer.

As the above-cited case law makes clear, the Accused have no right to possess a laptop for their defense under any recognized law. Indeed, the Prosecution has now asked for reconsideration of the ruling that permits the laptops to be used by the Accused on that very basis, and two other military commissions have so ruled in accord. *See United States v. al Nashiri*, AE 380E, Ruling at 1. ("The Defense has not identified any precedent in case law that supports an Accused's right to a laptop computer where he is represented by detailed and learned counsel. Furthermore, in its filings, the Defense fails to clarify how an Accused represented by four attorneys and provided multiple experts has been denied due process or right to counsel solely because he has not also been afforded a laptop computer."); *United States v. Abd' al Hadi*

al Iraqi, AE 091D, Ruling at 2 (“The Defense provided no case law finding an accused in pretrial detention has a right to a personal laptop computer. Case law cited by both the Government and Defense largely concludes a detained accused does not have a right to a personal laptop.”). The Defense motion to abate should be denied and this Commission should continue with its previous trial scheduling orders.

Lastly, Defense counsel for Mr. Ali, in AE 530D (AAA), request that the Military Judge’s order in AE 530A, Order, be amended. The Prosecution opposes any proposed amendment to the current order, and believes that the Defense’s stated concerns for the amendment do not exist. Mr. Ali requests an amendment that would delay, by at least two weeks, the beginning of the forensic examination, so the Defense can have notice to raise objections. The Prosecution opposes such a change because the timeliness of this forensic exam is important for JTF-GTMO to be able to assess if there are any force protection concerns or national security concerns implicated by the manipulation of the laptops.

The Defense also expresses concerns about the time between the seizure of the laptops and the Commission’s verbal order, in which JTF-GTMO could have created duplicates, copies, or conducted a search of the computer. *See* AE 530D (AAA) at 1-2. No such duplicates or searches occurred. *See* Attachment F at 2 [REDACTED]

[REDACTED] The laptops were immediately seized in accordance with the process described in footnote 1 of the instant pleading and have never been searched, or copied. The Defense final request for an amendment regarding the assertion of all relevant privileges is noted, but need not be further memorialized in an amended order. The Prosecution’s proposed order and process for the initial phase of the forensic examination takes into account and protects any privileges that may apply to the laptops. Of course, any seizure of non-legal written materials in the Accused’s cells is not be governed by AE 018U or AE 530A.

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Orders followed by counter-orders or amended orders create disorder. All of the electronic materials in this instance are frozen in place, and have been since their seizure. As the predicate facts relied upon by Mr. Ali do not exist, the Military Judge's Order in AE 530A should not be amended.

## **7. Conclusion**

In light of the security risks and propaganda concerns that appear to be immutable with the provision of laptops to these specific Accused, and the fact that the Defense cannot show, and the Military Judge has never found, that the Accused have an actual legal right to laptop computers, the Military Judge should reconsider his prior order and order only that the laptops be returned to the Defense counsel, vice the Accused, following all forensic analysis. Defense should then review, and provide, in hard copy, any document found to be material for the Accused to review, following a privilege review, like with all other hard copy documents in this case under AE 018U (Amended), as was originally contemplated by the Prosecution in AE 149A. The laptops should not be returned to the Accused.

## **8. Oral Argument**

The Prosecution does not request oral argument. Further, the Prosecution strongly posits that the Commission immediately authorize the forensic analysis in the event that there are legitimate force protection or national security concerns present on the computer without any oral argument, and prior to the Defense briefing cycle having been completed, as the predicate facts and need for the review have already been presented to the Commission.

## **9. Witnesses and Evidence**

The Prosecution will not rely on any witnesses or additional evidence in support of this Response.

## **10. Conference with Opposing Party**

On 26 October 2017, the Prosecution consulted with the Defense regarding the requested relief contained within the instant pleading. Counsel for Messrs. Mohammad, Binalshibh, Ali,

and Hawsawi stated that they oppose the relief requested. Counsel for Mr. Bin ‘Attash did not respond prior to the filing of the instant pleading.

**11. Additional Information**

The Prosecution has no additional information.

**12. Attachments**

- A. Certificate of Service, dated 27 October 2017
- B. Microsoft Certification for Mr. Ali
- C. Signed Laptop Agreements for 2016 Laptops
- D. “Alleged mastermind tells Obama 9/11 was America’s Fault,” by Carol Rosenberg, Miami Herald, dated 8 February 2017.
- E. Additional Chains of Custody and Photos of Seized Items
- F. Declaration of Colonel Stephen E. Gabavics, JDG Commander, dated 27 October 2017
- G. Mr. Mohammad’s Letter to the President as released by as-Sahab Productions
- H. Proposed Order

Respectfully submitted,

*//s//*

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Clay Trivett  
Managing Trial Counsel

Mark Martins  
Chief Prosecutor  
Military Commissions



# ATTACHMENT A

**CERTIFICATE OF SERVICE**

I certify that on the 27th day of October 2017, I filed AE 530F (GOV), Government Status of Investigation and Motion for Reconsideration of the Provision of Laptops to the Accused and an Order for a Walled-Off Forensic Review of All of the Accused's Laptops and Response to Mr. Hawsawi's, Mr. Bin 'Attash's, and Mr. Ali's Motions for Return of the Laptops and/or Other Specified Relief, with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.

//s//  
Christopher M. Dykstra  
Major, USAF  
Assistant Trial Counsel

# ATTACHMENT B

**C.V.**

NAME : ALI ABDUL AZIZ ALI  
DATE OF BIRTH : 29.8.1977  
PLACE OF BIRTH : KUWAIT  
NATIONALITY : PAKISTANI  
CONTACT NO. : 06-452506  
MARITAL STATUS : SINGLE

**QUALIFICATIONS**

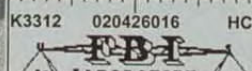
- 1- INTERMEDIATE OF SCIENCE .
- 2-COMPUTER HARDWARE AND MAINTENENCE
- 3-NET WORK ADMINISTRATOR.

**EXPERIENCE**

- 1-CASULE MODE COMPANY AS COMPUTER OPRATOR  
(1995 -1996).
- 2- INFOLINK COMPUTERS AS A SALE EXECUTIVE (1997).

**LANGUAGES**

	<b>SPEAKING</b>	<b>WRITING</b>	<b>READING</b>
1-ARBIC	YES	YES	YES
2-ENGLISH	YES	YES	YES
3-URDU	YES	NO	YES
4- PERSION	YES	YES	YES
5-BALUCHI	YES	NO	YES



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K3312 020426016 HC  
FBI  
LABORATORY

**C.V.**

NAME : ALI ABDUL AZIZ ALI  
DATE OF BIRTH : 29.8.1977  
PLACE OF BIRTH : KUWAIT  
NATIONALITY : PAKISTANI  
CONTACT NO. : 06-452506  
MARITAL STATUS : SINGEL

**QUALIFICATIONS**

1- INTERMEDIATE OF SCIENCE .  
2-COMPUTER HARDWARE AND MAINTENENCE  
3-NET WORK ADMINISTRATOR.

**EXPERIENCE**

1-CASULE MODE COMPANY AS COMPUTER OPRATOR  
(1995 -1996).  
2- INFOLINK COMPUTERS AS A SALE EXCUTIVE (1997).

**LANGUAGES**

	SPEAKING	WRITING	READING
1-ARBIC	YES	YES	YES
2-ENGLISH	YES	YES	YES
3-URDU	YES	NO	YES
4- PERSION	YES	YES	YES
5-BALUCHI	YES	NO	YES

MEA HAW 00000006



~~NOT RELEASABLE TO DETAINÉES OR PUBLIC~~

MEA-HAW-00000083



~~NOT RELEASABLE TO DETAINÉES OR PUBLIC~~





MEA HAW 00000092

# ATTACHMENT C

OFFICE OF THE  
CHIEF PROSECUTOR

**DEPARTMENT OF DEFENSE**  
OFFICE OF THE CHIEF PROSECUTOR OF MILITARY COMMISSIONS  
1610 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1610

16 September 2016

From: Managing Trial Counsel, United States v. Mohammad, et al.  
To: Defense Counsel ICO of *United States v. Mohammad, et al.*

Subj: Parties' Agreement for the MCDO's Purchase and Use of New Detainee Laptops

This letter seeks to capture and finalize the agreement of the parties on the Military Commissions Defense Organizations' (MCDO) purchase and use of new detainee laptops, as set forth in my 16 May 2016<sup>1</sup> and 9 June 2016<sup>2</sup> correspondence with the Defense; Mr. Connell's 29 June 2016 correspondence to the Prosecution;<sup>3</sup> and the attached IT security checklist.<sup>4</sup> This Agreement supersedes and integrates the prior communications. Should you agree to the terms, please sign the bottom of the agreement and provide the signed and dated version to the undersigned. JTF-GTMO will not allow the newly-purchased laptops to be provided to your client until your defense team's lead counsel has agreed, in writing, to these terms:

1. The Military Commissions Defense Organization (MCDO) will purchase laptop computers (Model: Toughbook 54 CF-54CX005CM) for each Accused, with no optional DVD burner. MCDO Information Technology (IT) staff will certify, and the Convening Authority's IT staff will verify, that it has disabled wireless and Bluetooth capability, but not USB connectivity, for the laptops, as set forth in the attached Security Checklist. The Accused will not be granted "Administrative Rights" for the computers. IT re-certification in the above-stated manner is required every time Defense counsel take possession of the laptops from the Accused and remove the laptop from Echo II or the ELC courtroom.
2. In order to facilitate electronic transfer of data, Defense counsel will have portable hard drives, subject to both *Third Amended* Protective Order #1 and AE 018U (or its successor), for the electronic transfer of digital media between counsel and the client. Defense counsel must procure and then maintain the hard drives, and the Accused will not be allowed to keep possession of these portable hard drives in their cells. The Defense must obtain authorization from JTF-GTMO to bring the portable hard drives into Echo II for meetings with their clients and must first provide the portable hard drives to the Privilege Review Team (PRT) for review.

<sup>1</sup> Attachment A

<sup>2</sup> Attachment B

<sup>3</sup> Attachment C

<sup>4</sup> Attachment D

[REDACTED]

[REDACTED] All of the uploading and downloading of information onto or from the computers must occur in either Echo II (following PRT review of the portable hard drive), in the ELC Courtroom, or after the Defense takes possession of the laptops.

3. The Office of the Chief Prosecutor (OCP) will provide all of the discovery that is releasable to the Accused on two (2) Terabyte hard drives as described in the 9 June 2016 memorandum from OCP to Defense Counsel. After the Prosecution's discovery is loaded onto the Accused's laptops via the portable hard drives, the Defense can keep the hard drives for use as contemplated in the 16 May 2016 memo from OCP to the Defense.
4. Information on Defense hard drives brought into Echo II will be governed by AE 018JJJJ Interim Order, or its permanent replacement. Each Defense team will provide OCP and the Chief Defense Counsel a list of software it wishes to install on the laptops, to either be agreed upon by the Prosecution, or litigated in a motion before the Military Judge. The Prosecution agrees to approve Microsoft Service Packs, Word, Excel, Windows Media Player, Real Player, WinZip, WinRAR, Casemap, and Adobe Acrobat Pro; with the understanding that inspections of the laptops will include inventorying the software installed to ensure it is limited to the approved list per the below. The Prosecution opposes PowerPoint and any software enabling video editing or nonlinear media product creation and reserves all of its remedies if the matter becomes subject to litigation. The Defense agrees not to load/install any software on the laptops or the portable hard drives that is not on the "Approved List of Software for Accused Laptops" (hereinafter "Approved List"), which will be created following the Prosecution's review and approval of the software on the Defense's requested list, and amended by any subsequent Orders of the Military Judge (as necessary). Each time the Defense IT staff re-certify the configuration, Defense IT staff will inspect the computer for unapproved software without opening any non-executable files. If the Defense IT staff finds unapproved software, they will coordinate with defense counsel to remove the software and any files created using the software. The Convening Authority IT staff will verify the certification without opening any non-executable files.
5. Joint Task Force-Guantanamo Bay will permit the Accused to possess and use individually-issued laptops under these terms. No component of the Government will impose additional procedures, restrictions, or requirements beyond those articulated in this Agreement and the attached Security IT checklist.



6. By signing the agreement, the Defense agrees not to file any motions that claim the Government is in violation of the Military Commission's Order in AE182K (Return of Laptops to Accused with Same Functionality in 2010) by allowing electronic data transfer via portable hard drives, as opposed to data transfer via CD-burning capability. The Defense further agrees that it will not file any motions challenging any of the terms of this Agreement once this Agreement has been signed unless a substantial change of circumstances occurs.<sup>5</sup>

TRIVETT CLAYTON GE  
ORGE JR

Clay Trivett  
Managing Trial Counsel  
U.S. v. Mohammad, et al.  
Office of the Chief Prosecutor

16 Sept 16  
Date

I James Counsell Learned Counsel for (circle one) Mr. Hawsawi, Mr. Ali, Mr. Binalshibh, Mr. Bin 'Attash, Mr. Mohammad, hereby agree to the terms set forth above for the use of newly purchased laptop computers by and for my client.

Signature

16 SEP 2016  
Date

<sup>5</sup> This provision does not apply to any Defense motions that may be filed for specific software the Prosecution has notified the Defense that it opposes, as contemplated in Agreement Term #4, above.



6. By signing the agreement, the Defense agrees not to file any motions that claim the Government is in violation of the Military Commission's Order in AE182K (Return of Laptops to Accused with Same Functionality in 2010) by allowing electronic data transfer via portable hard drives, as opposed to data transfer via CD-burning capability. The Defense further agrees that it will not file any motions challenging any of the terms of this Agreement once this Agreement has been signed unless a substantial change of circumstances occurs.<sup>5</sup>

TRIVETT, CLAYTON, GEORGE, JR.

Clay Trivett  
Managing Trial Counsel  
U.S. v. Mohammad, et al.  
Office of the Chief Prosecutor

16 Sept 16  
Date

I \_\_\_\_\_, Learned Counsel for (circle one) Mr. Hawsawi, Mr. Ali, Mr. Binalshibh, Mr. Bin 'Attash, Mr. Mohammad, hereby agree to the terms set forth above for the use of newly purchased laptop computers by and for my client.

BORMANN, CHERYL T.

Signature

Date

<sup>5</sup> This provision does not apply to any Defense motions that may be filed for specific software the Prosecution has notified the Defense that it opposes, as contemplated in Agreement Term #4, above.

6. By signing the agreement, the Defense agrees not to file any motions that claim the Government is in violation of the Military Commission's Order in AE182K (Return of Laptops to Accused with Same Functionality in 2010) by allowing electronic data transfer via portable hard drives, as opposed to data transfer via CD-burning capability. The Defense further agrees that it will not file any motions challenging any of the terms of this Agreement once this Agreement has been signed unless a substantial change of circumstances occurs.<sup>5</sup>

TRIVETT CLAYTON GE  
ORGE JR.

Clay Trivett  
Managing Trial Counsel  
U.S. v. Mohammad, et al.  
Office of the Chief Prosecutor

16 Sept 16  
Date

I WALTER Ruiz, Learned Counsel for (circle one) Mr. Hawsawi, ~~Mr. Ali~~, ~~Mr. Binalshibh~~, ~~Mr. Bin Attash~~, Mr. Mohammad, hereby agree to the terms set forth above for the use of newly purchased laptop computers by and for my client.

Signature

11/8/2016  
Date

<sup>5</sup> This provision does not apply to any Defense motions that may be filed for specific software the Prosecution has notified the Defense that it opposes, as contemplated in Agreement Term #4, above.

6. By signing the agreement, the Defense agrees not to file any motions that claim the Government is in violation of the Military Commission's Order in AE182K (Return of Laptops to Accused with Same Functionality in 2010) by allowing electronic data transfer via portable hard drives, as opposed to data transfer via CD-burning capability. The Defense further agrees that it will not file any motions challenging any of the terms of this Agreement once this Agreement has been signed unless a substantial change of circumstances occurs.<sup>5</sup>

TRIVETT, CLAYTON GE  
ORGEJR

Clay Trivett  
Managing Trial Counsel  
U.S. v. Mohammad, et al.  
Office of the Chief Prosecutor

15 Sept 16  
Date

I JAMES P. HARRINGTON, Learned Counsel for (circle one) Mr. Hawsawi, Mr. Ali, Mr. Binalshibh, Mr. Bin 'Attash, Mr. Mohammad, hereby agree to the terms set forth above for the use of newly purchased laptop computers by and for my client.

Signature

14 Nov 16  
Date

<sup>5</sup> This provision does not apply to any Defense motions that may be filed for specific software the Prosecution has notified the Defense that it opposes, as contemplated in Agreement Term #4, above.



OFFICE OF THE  
CHIEF PROSECUTOR

**DEPARTMENT OF DEFENSE**  
OFFICE OF THE CHIEF PROSECUTOR OF MILITARY COMMISSIONS  
1610 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1610

16 May 2016

MEMORANDUM FOR Defense Counsel in the case of *United States v. Mohammad, et al.*

SUBJECT: Portable Hard Drives for the Accused's Laptop Computers

1. Following the Military Judge's order to return the laptops to 2010 functionality in AE 182K, the USB ports in the Accused's laptops were re-enabled. It is my understanding, however, that JTF-GTMO refused to accept a CD/DVD burner from the Defense, and is not willing to upload or download information onto or from the laptops onto CDs/DVDs based on security and accountability concerns. There also appears to be conflicting facts as to whether the Accused had "Administrative Rights" for the computers in 2010, but JTF-GTMO is currently not willing to provide administrative rights based on security reasons.

2. In order to facilitate electronic transfer of data, JTF-GTMO is amenable to allowing the Defense counsel to have portable hard drives, subject to both *Third Amended* Protective Order #1 and AE 018U (or its successor), for the electronic transfer of digital media between you and your client's laptop. Defense counsel must procure and then maintain these hard drives, and the Accused will not be allowed to keep possession of these portable hard drives in their cells. All of the uploading and downloading of information must occur in either Echo II (following PRT review of the items) or after the Defense takes possession of the laptops. The Prosecution defers to the PRT on how it goes about clearing the materials, but the Prosecution would encourage the Defense counsel to engage with the PRT on coming up with a



\_\_\_\_\_

\_\_\_\_\_

solution that would not require the PRT to have to re-verify every file on the hard drive that they may have already approved for a prior attorney visit.

3. If the Defense takes possession of the Accused's laptops, Defense IT would then have to certify that no new software was uploaded onto the hard drives, and that other functionality of the computer is disabled. Convening Authority IT would have to verify those averments consistent with the current IT protocol prior to return to the Accused for use in Camp 7. While the Prosecution anticipates that some new executable files may have to go on the laptop, any new software not currently present on the laptop would need to be pre-approved by the Government before it is uploaded onto the laptops. While the Government would be willing to consider allowing certain new software upon Defense request, to the extent the Government opposes such software, the request for new software (not present on the laptop from 2010) would have to be litigated via motion to the Military Judge.

4. Please let me know if you have any questions or concerns. I can be reached at \_\_\_\_\_ or via email at Claytogt\_\_\_\_\_.

Clay Trivett  
Managing Trial Counsel  
*U.S. v. Mohammad, et al.*



OFFICE OF THE  
CHIEF PROSECUTOR

**DEPARTMENT OF DEFENSE**  
OFFICE OF THE CHIEF PROSECUTOR OF MILITARY COMMISSIONS  
1610 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1610

9 June 2016

MEMORANDUM FOR Defense Counsel in the case of *United States v. Mohammad, et al.*

SUBJECT: Conditions for Government Approval for New Laptop Computers

1. This memorandum is a follow up to, and should be read in conjunction with, my 16 May 2016 correspondence regarding the use of portable hard drives, in lieu of CD-burning capability, for electronic data transfer between counsel and the Accused.
2. Based on Defense representations made to the Commission over the past several sessions regarding the space left on certain hard drives, and the current functionality of the 2008 Panasonic Toughbooks (and also due to the fact that the Prosecution is seeking an alternative to providing discovery releasable to the Accused in a digital form other than on the E-Readers), the Prosecution is amenable to seeking government approval to provide new laptops to the Accused, providing Counsel agree to the conditions below.
3. Provided the condition pertaining to software (as set forth below in paragraph 4) is met--and assuming the Commission's ruling(s) on any amendments to AE 18U do not fundamentally alter the risks involved--the Prosecution is amenable to gaining government approval for new laptop computers for the detainees, to be used in conjunction with the defense-maintained portable hard-drive process set forth in my 16 May 2016 memo to you. The Prosecution is also amenable to gaining approval for all previously provided discovery (releasable to the Accused) to be placed on a 2 Terabyte portable hard drive that the Prosecution would provide to the Defense counsel in a manner which could obviate the need for the PRT to individually approve the more than 275,000 pages of discovery that the Prosecution has already disclosed to the defense. After the Prosecution's discovery is loaded onto the Accused's laptops via the portable

1

Attachment B

hard drives, the Defense can keep the hard drives for use as contemplated in the 16 May 2016 memo.

4. However, the Prosecution's position opposing certain software, to include any linear video-editing software, including Powerpoint, has not changed, and we would oppose such software being loaded onto the new laptops, and will oppose new laptops if the safeguards preventing such software from being loaded are not sufficient. As such, if each defense team can provide me a list which includes the current software on the 2008 laptops, as well as a listing of additional software you would like included on the new laptops, the Prosecution will then inform you of what software, if any, it opposes, and then new laptops can be purchased and configured with the Prosecution's agreed-upon software (which would be verified by Convening Authority IT staff). You should include any additional software you have already requested for approval in this correspondence. Any software the Defense seeks that the Prosecution opposes would then need to be litigated, as was originally contemplated in AE 182.

5. Please let me know if you are amenable to this process. I can be reached at [REDACTED] or via email at Claytoga@[REDACTED]

Regards,

Clay Trivett  
Managing Trial Counsel  
*U.S. v. Mohammad, et al.*



DEPARTMENT OF DEFENSE  
MILITARY COMMISSIONS DEFENSE ORGANIZATION  
1620 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1620

29 June 2016

MEMORANDUM FOR Trial Counsel

FROM: James G. Connell, III & Lt Col Sterling Thomas, Defense Counsel for Ammar al Baluchi  
SUBJECT: Laptop computers

1. We are in receipt of your letters dated 16 May and 9 June 2016. As the situation currently stands, the government is in violation of the military commission's order in AE182K, as we described in AE182M(AAA) Mr. al Baluchi's Response to Government Status of Compliance with AE182K Order. Your letters, and this response, are part of an effort to resolve the laptop issue through negotiation.
2. We propose that the Military Commissions Defense Organization (MCDO), through channels, purchase laptop computers model Toughbook 54 CF-54CX005CM, with no optional DVD burner. MCDO information technology staff will certify that it has disabled wireless and Bluetooth capability, but not USB connectivity, for the laptops. The Office of the Chief Prosecutor (OCP) will provide the releasable discovery on 2TB hard drives as described in your 9 June 2016 memorandum. Information on hard drives brought into Echo 2 will be governed by AE018JJJ Interim Order or its permanent replacement. Each defense team will provide OCP and the Chief Defense Counsel a list of the software it wishes to install on the laptops, to be agreed upon or litigated as the case may be. Joint Task Force-Guantanamo Bay will permit interested defendants to possess and use the laptop under its current terms. The government will not impose additional procedures, restrictions, or requirements beyond those articulated in the 16 May and 9 June letters.
3. If this proposal is amenable to you, please let me know so that we may formally advise the Chief Defense Counsel of our request. If all parties concerned comply with this proposal, Mr. al Baluchi will take the position that the government has satisfied the requirements of AE018K.

Very respectfully,

//s//

JAMES G. CONNELL, III  
Learned Counsel

Counsel for Mr. al Baluchi

//s//

STERLING R. THOMAS  
Lt Col, USAF  
Defense Counsel

Attachment C

**Military Commission Defense Organization**

**Client Laptop Disablement Checklist**

\_\_\_\_ Technician Name \_\_\_\_\_

\_\_\_\_ Client Name \_\_\_\_\_

\_\_\_\_ Model Laptop \_\_\_\_\_

\_\_\_\_ Serial Number laptop \_\_\_\_\_

\_\_\_\_ MAC addresses of the laptop \_\_\_\_\_

\_\_\_\_ Convening Authority Observer's Printed Name/Signature for verification \_\_\_\_\_

**Functions that will be disabled on the laptop:**

\_\_\_\_ Wireless Network Interface Cards

\_\_\_\_ Ethernet Network Interface Cards

\_\_\_\_ SD Card Readers

\_\_\_\_ IEEE 1394 Connectors

\_\_\_\_ Modem ports

\_\_\_\_ Microphones

\_\_\_\_ cameras (if present on system)

\_\_\_\_ Peripheral ports (not covered by the rest of the checklist)

\_\_\_\_ CD/DVD-writing software will be uninstalled (or disabled in windows)

\_\_\_\_ set of unique BIOS passwords

\_\_\_\_ no administrative privileges available to the user (only official DoD administrators)

\_\_\_\_ Word Processor Program (must be available)

\_\_\_\_ Screws on the exterior of the laptop will be glued

\_\_\_\_ Verification that software is on the "Approved List of Software for Accused Laptops" (as of 15 September 2016 approved software limited to Microsoft Service Packs, Word, Excel, Windows Media Player, Real Player, WinZip, WinRAR, Casemap, and Adobe Acrobat Pro).

Attachment D

# ATTACHMENT D



Exclusive: Alleged mastermind tells Obama 9/11 was America's fault | Miami Herald

70°

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GUANTÁNAMO

## Alleged mastermind tells Obama 9/11 was America's fault

BY CAROL ROSENBERG  
[crosenberg@MiamiHerald.com](mailto:crosenberg@MiamiHerald.com)



FEBRUARY 08, 2017 1:25 PM

The alleged mastermind of the Sept. 11 terror attacks wrote former President Barack Obama

### VIDEOS



These guys brew the freshest beer at Guantánamo



These guys brew the freshest beer at Guantánamo



Guantánamo limbo



Now Moana really is at Guantánamo

[VIEW MORE VIDEO](#)

### SPECIAL REPORTS

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

Exclusive: Alleged mastermind tells Obama 9/11 was America's fault | Miami Herald

in a long suppressed letter that America brought the 9/11 attacks on itself for years of foreign policy that killed innocent people across the world.

"It was not we who started the war against you in 9/11. It was you and your dictators in our land," Khalid Sheik Mohammed, 51, writes in the [18-page letter](#) to Obama, who he addressed as "the head of the snake" and president of "the country of oppression and tyranny." It is dated January 2015 but didn't reach the White House until a military judge ordered Guantánamo prison to deliver it days before Obama left office.

“

ALLAH HELPED US TO DEFEND  
OURSELVES AND ATTACK YOUR MOST  
SIGNIFICANT MILITARY AND COMMERCIAL  
TARGETS IN YOUR LAND FOR YOUR  
CRIMES IN OUR LANDS.

Khalid Sheik Mohammed, accused Sept. 11 attacks mastermind

In it, the man on trial for his life at Guantánamo as the alleged architect of the hijackings that killed nearly 3,000 people in New York, the Pentagon and a Pennsylvania field adds that he neither fears a death sentence nor life in a prison cell. He also appends a 50-page [manuscript](#) he wrote, "The Truth About Death," illustrated with a picture of a noose.

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ABOUT CAROL ROSENBERG

@CarolRosenberg  
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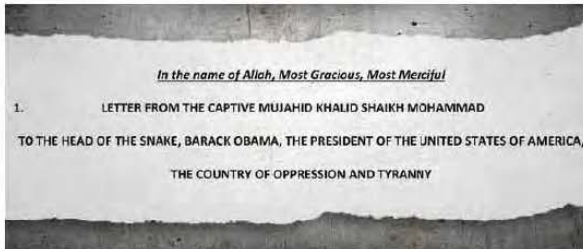
Exclusive: Alleged mastermind tells Obama 9/11 was America's fault | Miami Herald

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@carolrosenberg

Carol Rosenberg reports on Guantánamo Bay, Cuba, the place, policy, people, war court.



An excerpt from Khalid Sheik Mohammed's letter to former President Barack Obama.

"I will be happy to be alone in my cell to worship Allah the rest of my life and repent to Him all my sins and misdeeds," he says in the letter that he wrote at the U.S. Navy base in Guantánamo Bay, Cuba.

"And if your court sentences me to death, I will be even happier to meet Allah and the prophets and see my best friends whom you killed unjustly all around the world and to see sheik Osama bin Laden."

THE HERALD OBTAINED THE DOCUMENT FROM MOHAMMED'S LAWYERS AFTER A JUDICIALLY ORDERED 30-DAY REVIEW PERIOD EXPIRED.

The Kuwait-born Pakistani citizen of Baluch ethnic background, lists a long litany of U.S. overseas interventions — from Iraq and Iran to Vietnam and Hiroshima — to justify the worst

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Defense lawyers quit. Not so fast, says war court judge, who orders them to Guantánamo

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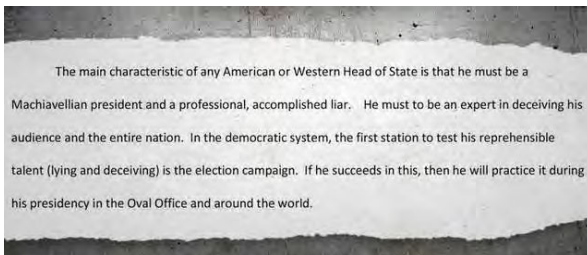
<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

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terror attack on U.S. soil.

MORE GUANTÁNAMO →

But he is particularly focused on the cause of the Palestinians, highlights civilian suffering and accuses Obama of being beholden to special interests, notably Israel and “the occupier Jews.” Israel gets 39 mentions while Osama bin Laden gets a dozen, including once to excoriate Obama for the mission that hunted down and killed the founder of the al-Qaida movement for the 9/11 attacks.



An excerpt from Khalid Sheikh Mohammed's letter to former President Barack Obama.

Mohammed ridicules Obama — “a smart attorney, well acquainted with human rights” — who “can kill his enemy without trial and throw his dead body into the sea instead of giving him to his family or respecting him enough as a human being to bury him.”

The former al-Qaida operations chief wrote the letter “in the context of violence in Gaza and the occupied territories,” said Mohammed’s death-penalty defense attorney, David Nevin. He called it “the primary motive for the drafting of the letter” and declined to say whether the client or his legal staff typed it up.

Mohammed began drafting the letter during 2014 when Israel had an offensive in the Gaza Strip that claimed civilian lives, according to his

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

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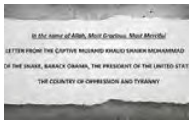
military attorney, Marine Maj. Derek Poteet.

"He's upset at U.S. foreign policy and he plainly perceives that the United States has signed a blank check to Israel," Poteet said. In the opening paragraph Mohammed tells Obama: "Your hands are still wet with the blood of our brothers and sisters and children who were killed in Gaza."

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About the KSM letter you read:  
The Pentagon now says it's classified



## Khalid Sheik Mohammed's attorney discusses the letter the alleged 9/11 mastermind wrote Obama

In an Aug. 14, 2014 news conference at the U.S. Navy base at Guantánamo Bay, Cuba, Khalid Sheik Mohammed's attorney, David Nevin, discusses the letter that Mohammed sent to

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]



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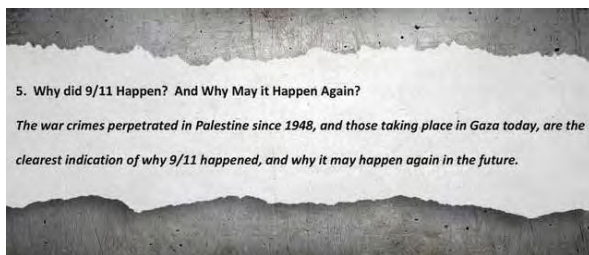
President Obama.

Department Of Defense

Mohammed is one of five men in pretrial hearings at the Guantánamo war court that accuses them of engineering the Sept. 11, 2001 hijackings, and seeks their execution if convicted. The man was hidden for 3 1/2 years in the CIA's secret prison network, where he was waterboarded 183 times and subjected to other brutal interrogation techniques.

"I will never ask you, or your court for mercy," he writes. "Do what you wish to do, my freedom, my captivity and my death is a curse on all evil doers and tyrants."

Mohammed spent about three years in North Carolina in the 1980s. He attended Chowan College in Murfreesboro for one semester and then transferred to North Carolina A&T in Greensboro, where he earned an engineering degree in 1986.



An excerpt from Khalid Sheik Mohammed's letter to former President Barack Obama.

Prison officials refused to deliver the letter, a position backed by prosecutors who said it should be suppressed as propaganda.

His Pentagon-paid defense attorneys asked the judge to intervene in September 2015, arguing

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

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Exclusive: Alleged mastermind tells Obama 9/11 was America's fault | Miami Herald

Mohammed's First Amendment right to petition the president. The Army judge in charge of the trial, Col James L. Pohl, eventually ruled that the commander in chief could receive it, virtually as the Obamas were packing out of the White House — and the public could see it a month later, once President Donald J. Trump moved in.

“What’s so troubling to me is it took so long to get approval, even to get this litigated,” Nevin said, reminding that the defense team started out asking the military, “How do we provide this to the president of the United States?”

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[LINK TO THE HERALD GUIDE TO GUANTÁNAMO'S SEPT. 11 TRIAL HERE](#)

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In the letter Mohammed also:

- Endorses Al-Jazeera. “Don’t let Fox, CNN, BBC, or American and pro-Israeli channels cover your eyes ... Their main task is brainwashing. They are experts at lying and distorting the facts to achieve their masters’ ends.”
- Invokes “the blood of the innocents your drone attacks killed in Waziristan, Yemen, Iraq, Libya, Afghanistan, Somalia, and elsewhere around the globe.”
- Singles out “the CIA, the FBI, the Jewish community of Brooklyn, the merchants of AIPAC, the war profiteers, to pro-Israeli militias and the Christian-Zionist Lords” for condemnation, as well as “the Christian right wing and the followers of Jerry Falwell, Gary Bauer, Pat Robertson and John Hague.”

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

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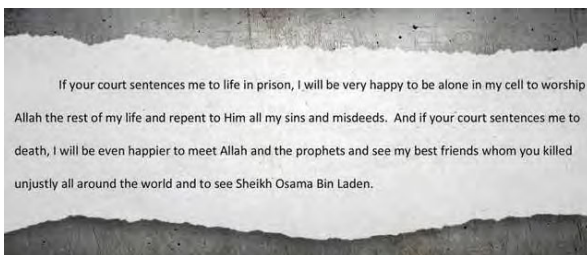
Exclusive: Alleged mastermind tells Obama 9/11 was America's fault | Miami Herald

▪ Says “Allah aided us in conducting 9/11, destroying the Capitalist economy, catching you with your pants down, and exposing all the hypocrisy of your long-held claim to democracy and freedom.”

The theme is not new. In October 2012, when he was first allowed to wear a hunting vest to the war court **he scolded** the judge with this: “Your blood is not made of gold and ours is made out of water. We are all human beings.”

The Herald obtained the document from Mohammed's lawyers after a judicially ordered 30-day review period expired. Pohl ruled on Jan. 6 that there was no “legal basis for continued sealing of the letter's contents” but gave the prison an extra month to scrub it of sensitive information before releasing it on the Pentagon war court website whose motto is “Fairness \* Transparency \* Justice.”

A spokesman at the Pentagon could not explain Wednesday why the document was not yet posted on the website. The Herald asked Obama's office on Tuesday whether the former president had read the letter. It has yet to respond.



An excerpt from Khalid Sheikh Mohammed's letter to former President Barack Obama.

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article131466294.html>[10/25/2017 1:13:31 PM]

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*Carol Rosenberg: 305-376-3179,  
@carolrosenberg*

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#### ADDITIONAL READING:

- Jan. 16, 2017: [Alleged 9/11 plotter's letter reaches White House](#)
- Jan. 11, 2017: [Judge orders prison to deliver alleged 9/11 plotters letter](#)
- Oct. 6, 2015: [Guantánamo prosecutor calls accused Sept. 11 plotter's letter 'pure propaganda'](#)
- Sept. 7, 2015: [Accused Sept. 11 plotter seeks judge's help delivering letter to Obama](#)
- Aug. 15, 2014: [Accused Sept. 11 mastermind has written to Obama: Will U.S. military let letter out of Guantánamo?](#)
- Oct. 17, 2012: [Accused Sept. 11 architect wears hunting vest to Guantánamo court](#)

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# ATTACHMENT E



EVIDENCE/PROPERTY CUSTODY DOCUMENT				MPR/CID SEQUENCE NUMBER	
For use of this form see AR 190-45 and AR 199-5, the proponent agency is US Army Criminal Investigation Command				CRD REPORT/CID RPT NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba			
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10011 <input type="checkbox"/> OTHER		ADDRESS (Include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360			
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE		TIME/DATE OBTAINED 0630 18OCT2017	
ITEM NO	QUANTITY	DESCRIPTION OF ARTICLES (Include model, serial number, condition and unusual marks or scratches)			
1	1	BLACK PELICAN CASE			
2	1	TOUGHBOOK S/N CF-19HGAXAM			
3	1	SONY HEADPHONES			
4	1	CHARGING ADAPTER			
5	1	PANASONIC BATTERY			
6	1	E-READER POWER ADAPTER			
7	1	ACER LAPTOP S/N NXMC9AA [REDACTED]			
NOTHING FOLLOWS					
CHAIN OF CUSTODY					
ITEM NO	DATE	BY	BY	PURPOSE OF CHANGE OF CUSTODY	
1-7	18-Oct-2017	[REDACTED]	[REDACTED]	EVIDENCE STORAGE	
		NAME, GRADE OR TITLE MP BADGE 2000	[REDACTED]		
		SIGNATURE	SIGNATURE		
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE		
		SIGNATURE	SIGNATURE		
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE		
		SIGNATURE	SIGNATURE		
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE		
		SIGNATURE	SIGNATURE		
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE		

DA FORM 4137, 1 JUL 78 Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-R, Provost Act Statement 28, See 75 Which are Obsolete

LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_

USAPPC V1.00

ITEM NO.	DATE	CHAIN OF CUSTODY (Continued)		
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		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

FINAL DISPOSAL ACTION	
RELEASE TO OWNER OR OTHER (Indicate)	
DESTROY	
OTHER (Specify)	

FINAL DISPOSAL AUTHORITY	
TERMS	ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING (Grade)
(Signature)	(Signature) (If (ARF) NO LONGER)
REQUIRES AN EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE. (If attached must be retained, do not sign, but explain in separate communication)	
(Typed/Printed Name, Grade, Title)	(Signature) (Date)

WITNESS TO DESTRUCTION OF EVIDENCE	
THE ARTICLES LISTED AT ITEM NUMBERS (WAS/WERE) DESTROYED BY THE EVIDENCE	
CUSTODIAN IN MY PRESENCE, ON THE DATE INDICATED ABOVE.	
(Typed/Printed Name, Department)	(Signature)

USAMPS V1.01

EVIDENCE/PROPERTY CUSTODY DOCUMENT		MRR/CID SEQUENCE NUMBER	
For use of this form, see AR 190-45 and AR 195-5, the proponent agency is US Army Criminal Investigation Command		CRD REPORT/CID ROR NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba	
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10013 <input type="checkbox"/> OTHER		ADDRESS (include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360	
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18OCT2017
ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES (include model, serial number, condition and unusual marks or scratches)	
1	1	BLACK PELICAN CASE	
2	1	TOUGHBOOK S/N: CF-54D0001KM	
3	1	EXTERNAL HARD DRIVE [REDACTED]	
4	1	STARTECH PORT EXPRESS CARD	
5	1	PANSOSONIC CHARGING ADAPTER	
6	1	SONY HEADPHONES	
7	1	EARBUD HEADPHONES	
8	1	JVC EARBUDS	
9	1	ILUV EARBUDS	
10	1	MINITURE USB MOUSE	
11	1	ARABIC KEYBOARD STICKER	
12	1	TOOTHBRUSH	
CHAIN OF CUSTODY			
ITEM NO.	DATE	PURPOSE OF CHANGE OF CUSTODY	
1-12	18-Oct-2017	EVIDENCE STORAGE	
MP BADGE 2000		[REDACTED]	
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SIGNATURE		SIGNATURE	
NAME, GRADE OR TITLE		NAME, GRADE OR TITLE	
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NAME, GRADE OR TITLE		NAME, GRADE OR TITLE	
SIGNATURE		SIGNATURE	
NAME, GRADE OR TITLE		NAME, GRADE OR TITLE	

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LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_ JSARPC V3.00

EVIDENCE/PROPERTY CUSTODY DOCUMENT			MPR/CID SEQUENCE NUMBER	
For use of this form, see AR 190-45 and AR 195-5; the proponent agency is US Army Criminal Investigation Command			CRD REPORT/CID ROI NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba		
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10013 <input type="checkbox"/> OTHER		ADDRESS (include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360		
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18OCT2017	
ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES <i>(include model, serial number, condition and unusual marks or scratches)</i>		
13	1	MINITURE BRUSH		
14	1	CHEWING STICK		
15	1	GLASS CLEANER CLOTH		
16	1	ACER POWER ADAPTER		
17	1	ACER LAPTOP S/N: NXM09AA [REDACTED]		
-----NOTHING FOLLOWS-----				
CHAIN OF CUSTODY				
ITEM NO.	DATE	NAME, GRADE OR TITLE	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
13-17	18-Oct-2017	[REDACTED] MP BADGE 2000	[REDACTED]	EVIDENCE STORAGE
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		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

DA FORM 4137, 1 JUL 76 Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-R, Privacy Act Statement 26 Sep 75 (When in Disuse)

LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_

USAPPL 93 151



CHAIN OF CUSTODY (Continued)				
ITEM NO	DATE	RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

**FINAL DISPOSAL ACTION**

RELEASE TO OWNER OR OTHER (Name/Unit) \_\_\_\_\_

DESTROY \_\_\_\_\_

OTHER (Specify) \_\_\_\_\_

**FINAL DISPOSAL AUTHORITY**

ITEM(S) \_\_\_\_\_ ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING \_\_\_\_\_ (Grade)

(Name) \_\_\_\_\_ (Organization) \_\_\_\_\_ (IS) (ARE) NO LONGER

REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE. (If article(s) must be retained, do not sign, but explain in separate correspondence.)

(Typed/Printed Name, Grade, Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**WITNESS TO DESTRUCTION OF EVIDENCE**

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) \_\_\_\_\_ (WAS) (WERE) DESTROYED BY THE EVIDENCE

CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

(Typed/Printed Name, Organization) \_\_\_\_\_ (Signature) \_\_\_\_\_

USAPPC V1.00



EVIDENCE/PROPERTY CUSTODY DOCUMENT			IMPR/CID SEQUENCE NUMBER	
For use of this form see AR 190-45 and AR 195-5, the proponent agency is US Army Criminal Investigation Command			CRD REPORT/CID ROB NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba		
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10018 <input type="checkbox"/> OTHER		ADDRESS (Include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360		
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18 OCT 2017	
ITEM NO	QUANTITY	DESCRIPTION OF ARTICLES <i>(Include model, serial number, condition and unusual marks or scratches)</i>		
1	1	BLACK PELICAN CASE		
2	1	PANASONIC TOUGHBOOK S/N: CF-19FHGXAM		
3	1	PANASONIC BATTERY		
4	1	PWR+ BATTERY CHARGER		
5	1	PANASONIC POWER ADAPTER		
6	1	USB MINI KEYBOARD		
7	1	USB MOUSE		
8	1	USB CABLE		
9	1	USB EXTENTION CABLE		
10	1	MICRO USB ADAPTER		
11	1	SKULLCANDY EARBUDS		
12	1	AUDIO PORT SPLITTER CABLE		
CHAIN OF CUSTODY				
ITEM NO	DATE	SIGNATURE	SIGNATURE	PURPOSE OF CHANGE OF CUSTODY
1-12	18-Oct-2017	[REDACTED]	[REDACTED]	EVIDENCE STORAGE
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

DA FORM 4137, 1 JUL 76

Replaces DA FORM 4137, 1 Aug 74 and  
DA FORM 4137A, Privacy Act Statement  
28 Sep 75 which are Obsolete

LOCATION \_\_\_\_\_

DOCUMENT  
NUMBER \_\_\_\_\_

USA/PEC V1.00

EVIDENCE/PROPERTY CUSTODY DOCUMENT			MP/PCID SEQUENCE NUMBER	
For use of this form see AR 190-45 and AR 195-5, the proponent agency is US Army Criminal Investigation Command			CRD REPORT/CID RCI NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba		
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10018 <input type="checkbox"/> OTHER		ADDRESS (include Zip Code) TFP Joint Task Force Guantanamo Bay, Cuba 09360		
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18OCT2017	
ITEM NO	QUANTITY	DESCRIPTION OF ARTICLES <i>(include model, serial number, condition and unusual marks or markings)</i>		
13	1	DATALOCKER HARD DRIVE [REDACTED]		
14	1	DATALOCKER HARD DRIVE [REDACTED]		
15	1	ACER LAPTOP S/N: NXM09AA [REDACTED]		
16	1	LITE ON POWER ADAPTER [REDACTED]		
NOTHING FOLLOWS				
CHAIN OF CUSTODY				
ITEM NO	DATE	SIGNATURE		PURPOSE OF CHANGE OF CUSTODY
13-16	18-Oct-2017	[REDACTED]		EVIDENCE STORAGE
NAME, GRADE OR TITLE		[REDACTED]		
SIGNATURE		[REDACTED]		
NAME, GRADE OR TITLE		[REDACTED]		
SIGNATURE		[REDACTED]		
NAME, GRADE OR TITLE		[REDACTED]		
SIGNATURE		[REDACTED]		
NAME, GRADE OR TITLE		[REDACTED]		
SIGNATURE		[REDACTED]		
NAME, GRADE OR TITLE		[REDACTED]		

DA FORM 4137, 1 JUL 76 Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-B, Privacy Act Statement, 26 Sep 75 Which are Obsolete

LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_

CHAIN OF CUSTODY (Continued)				
ITEM NO.	DATE	RELEASED BY:	RECEIVED BY:	PURPOSE OF CHANGE OF CUSTODY
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

**FINAL DISPOSAL ACTION**

RELEASE TO OWNER OR OTHER (Name/Unit) \_\_\_\_\_

DESTROY \_\_\_\_\_

OTHER (Specify) \_\_\_\_\_

**FINAL DISPOSAL AUTHORITY**

ITEM(S) \_\_\_\_\_ ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING \_\_\_\_\_ (Grade)

(Name) \_\_\_\_\_ (Organization) \_\_\_\_\_ IIS (ARE) NO LONGER \_\_\_\_\_

REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE. (If article(s) must be retained, do not sign, but explain in separate correspondence.)

(Typed/Printed Name, Grade, Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**WITNESS TO DESTRUCTION OF EVIDENCE**

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) \_\_\_\_\_ (WAS) (WERE) DESTROYED BY THE EVIDENCE CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

(Typed/Printed Name, Organization) \_\_\_\_\_ (Signature) \_\_\_\_\_

USA/PC V1 00

EVIDENCE/PROPERTY CUSTODY DOCUMENT		MFR/CID SEQUENCE NUMBER		
For use of this form: See AR 190-45 and AR 195-9. The preparing agency is US Army Criminal Investigative Command.		CID REPORT/CID DOI NUMBER		
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba		
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10024 <input type="checkbox"/> OTHER		ADDRESS (Include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360		
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18OCT2017	
ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES (Include make, serial number, condition and unusual marks or scratches)		
1	1	BLACK PELICAN CASE		
2	1	PANASONIC TOUGHBOOK S/N CF-19FHGAXAM		
3	1	SONY HEADPHONES		
4	1	POWER CHARGING ADAPTER		
5	1	PANASONIC BATTERY		
6	1	E-READER POWER ADAPTER		
7	1	JACONY POWER ADAPTER		
8	1	ACER LAPTOP S/N. NXM09AA [REDACTED]		
9	1	SUPER POWER SUPPLY POWER ADAPTER		
NOTHING FOLLOWS				
CHAIN OF CUSTODY				
ITEM NO.	DATE	NAME, GRADE OR TITLE	SIGNATURE	PURPOSE OF CHANGE OF CUSTODY
1-9	18-Oct-2017	[REDACTED]	[REDACTED]	EVIDENCE STORAGE
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	
		NAME, GRADE OR TITLE	SIGNATURE	

DA FORM 4137, 1 JUL 76 Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-4, Previous Ed. Superseded 26 Sep 75 Which are Obsolete

LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_



ITEM NO.	DATE	CHAIN OF CUSTODY (Continued)		PURPOSE OF CHANGE OF CUSTODY
		RELEASED BY	RECEIVED BY	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

FINAL DISPOSAL ACTION	
RELEASE TO OWNER OR OTHER (Name/Unit)	
DESTROY	
OTHER (Specify)	
FINAL DISPOSAL AUTHORITY	
ITEM(S) _____ (ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING _____ (Grade)	
(Name)	(Organization) (If (A)RE NO LONGER
REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE (If article(s) must be retained, do not sign, but explain in separate correspondence.)	
(Typed/Printed Name, Grade, Title)	(Signature) (Date)
WITNESS TO DESTRUCTION OF EVIDENCE	
THE ARTICLE(S) LISTED AT ITEM NUMBER(S) _____ (WAS) (WERE) DESTROYED BY THE EVIDENCE CUSTODIAN IN MY PRESENCE, ON THE DATE INDICATED ABOVE.	
(Typed/Printed Name, Organization)	(Signature)

USAPPC V1 00



EVIDENCE/PROPERTY CUSTODY DOCUMENT			MPR/CID SEQUENCE NUMBER	
For use of this form, see AR 180-45 and AR 195-5, the proponent agency is US Army Criminal Investigation Command			CID REPORT/CID NOT NUMBER	
RECEIVING ACTIVITY JTF-TFP		LOCATION Guantanamo Bay, Cuba		
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER ISN 10014 <input type="checkbox"/> OTHER		ADDRESS (Include Zip Code) TFP Joint Task Force, Guantanamo Bay, Cuba 09360		
LOCATION FROM WHERE OBTAINED CAMP 7 [REDACTED] Joint Task Force Guantanamo Bay, Cuba 09360		REASON OBTAINED EVIDENCE	TIME/DATE OBTAINED 0630 18OCT2017	
ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES (Include model, serial number, condition and unusual marks or scratches)		
1	1	BLACK PELICAN CASE		
2	1	PANASONIC TOUGHBOOK S/N CF-19FHGAXAM		
3	1	SONY EARBUDS		
4	1	HP 15 EARBUDS		
5	1	PANASONIC POWER ADAPTER		
6	1	STARTECH PORT EXPRESS CARD		
7	1	PANASONIC BATTERY		
8	1	DATALOCKER HARD DRIVE [REDACTED]		
-----NOTHING FOLLOWS-----				
CHAIN OF CUSTODY				
ITEM NO.	DATE	NAME, GRADE OR TITLE	SIGNATURE	PURPOSE OF CHANGE OF CUSTODY
1-8	18-Oct-2017	[REDACTED] MP BADGE 2000	[REDACTED]	EVIDENCE STORAGE
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

DA FORM 4137, 1 JUL 76 Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-R, Privacy Act Statement 26 Sep 75 Which are Obsolete

LOCATION \_\_\_\_\_ DOCUMENT NUMBER \_\_\_\_\_

ITEM NO.	DATE	CHAIN OF CUSTODY (Continued)		
		RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	
		SIGNATURE	SIGNATURE	
		NAME, GRADE OR TITLE	NAME, GRADE OR TITLE	

**FINAL DISPOSAL ACTION**

RELEASE TO OWNER OR OTHER (Name/Unit) \_\_\_\_\_

DESTROY \_\_\_\_\_

OTHER (Specify) \_\_\_\_\_

**FINAL DISPOSAL AUTHORITY**

ITEM(S) \_\_\_\_\_ ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING \_\_\_\_\_ (Grade)

\_\_\_\_\_  
(Name) (Organization) (IS) (ARE) NO LONGER

REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE (If article(s) must be retained, do not sign, but explain in separate correspondence.)

\_\_\_\_\_  
(Typed/Printed Name, Grade, Title) (Signature) (Date)

**WITNESS TO DESTRUCTION OF EVIDENCE**

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) \_\_\_\_\_ (WAS) (WERE) DESTROYED BY THE EVIDENCE CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

\_\_\_\_\_  
(Typed/Printed Name, Organization) (Signature)

USA/PC V1.00

# ATTACHMENT F

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**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

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**UNITED STATES OF AMERICA**

**v.**

**KHALID SHAIKH MOHAMMAD;**

**WALID MUHAMMAD SALIH  
MUBARAK BIN 'ATTASH;**

**RAMZI BINALSHIBH;**

**ALI ABDUL AZIZ ALI;**

**MUSTAFA AHMED ADAM  
AL HAWSAWI**

**Declaration of Stephen Gabavics,  
Colonel, United States Army, MP**

**Joint Detention Group Commander**

**JTF-GTMO**

27 October 2017

1. My name is Colonel Stephen E. Gabavics. I am on active duty in the United States Army with over 22 years of service as a Military Police Officer. I currently serve as the Joint Detention Group (JDG) Commander of Joint Task Force Guantanamo Bay (JTF-GTMO), Cuba. As such, I am responsible for all aspects of detention operations at JTF-GTMO, including the safety and security of detainees, guards, and visitors in the detention facility while interacting with detainees. I am familiar with all areas of detention within JTF-GTMO, including the conditions and operational policies and procedures of the various detention areas. I have held this position since 23 June 2016, and report directly to Rear Admiral Edward B. Cashman, Commander, JTF-GTMO.
2. On or about 16 October 2017, JDG guards, in accordance with Standard Operating Procedure (SOP), were conducting a routine, cursory inspection for contraband of Mr. Mohammad's legal bin while at the Expeditionary Legal Complex (ELC) at the conclusion of the day's court session in preparation for Mr. Mohammad being transported back to Camp 7. One of the guards noticed that Mr. Mohammad had papers that bore the identification number of Mr. Ali and appeared to be non-legal in nature. The legal bin is to be used solely for the storage and transport of legal materials only of that individual. The guard asked Mr. Mohammad about the papers and Mr. Mohammad responded that they were just "ICRC messages." The guard then pointed out

that some of the papers bore the identification number of Mr. Ali. Mr. Mohammad then responded that the guard should "just give them back to Ali."

3. The guard seized the relevant papers, as detainees are not permitted to have papers marked with another detainee's ISN per the SOP. The papers were properly stored [REDACTED]

[REDACTED] I have reviewed the Prosecution's notice at AE 530 (GOV), Attachment B, and I can state that one of the items contained therein is a copy of one of the papers seized by the guard from Mr. Mohammad. It can more specifically be described as a pre-printed prayer schedule for August 2017 that is provided to the detainees by the JTF and is readily available in Camp 7. On the back of the prayer schedule is Arabic handwriting. Also contained in Attachment B is an English translation of the Arabic handwriting. Based upon the date in which the prayer schedule was provided by JTF-GTMO, in August 2017, the hand-written instructions could have been more than two months old.

4. [REDACTED]

5. The five Accused had laptop computers that had been originally issued to them in 2008 for their first military commission. In recent months, new 2016 laptops were to be issued to four of the Accused pursuant to negotiations between the parties. However, all of the Accused have declined to use the new 2016 laptops, and have opted to continue to use the old 2008 laptops, with the only exception being Mr. Bin al Shibh, whose old laptop no longer operated, so he utilized the 2016 laptop. During my command, the Accused have had access to their laptops 24 hours per day and seven days per week.

6. As a result of these events, on or about 18 October 2017, one 2016 laptop and four 2008 laptop computers of the five Accused were seized, along with portable electronic hard drives, and E-Readers (Disabled laptops provided by the Prosecution that only allow for review of Discovery). These electronic items have been secured and stored consistent with principles of proper evidence storage. Each laptop is contained inside a "pelican" case. The case is sealed with evidence tape. [REDACTED]

7. In the early evening hours of 18 October 2017, guards went to the cell of Mr. Ali for the purpose of searching for and seizing an item that is now described and pictured in AE 530 (GOV), Attachment B. Upon arriving back at his cell, Mr. Ali stated to the guards that he "knew what they were looking for." He then handed to them that item which they seized and properly stored. In addition, he provided to the guards an internal computer



component that he had removed from the laptop, which he took from an envelope in his cell.

8.

9.

10. On 20 and 21 October, JTF-GTMO conducted additional searches of all of the cells of all of the detainees in Camp 7, and seized additional non-legal materials from the Accused and other detainees. Cell searches that were conducted revealed that Mr. Bin 'Attash also had a similar written letter with condensed instructions on how the Accused could compromise the laptops provided to them. Other hard copy materials of unsecured legal mail, non-legal mail, and contraband were seized. JTF-GTMO is adhering to its SOPS, and AE 018U (Amended), and is working to return the seized legal materials to the Defense counsel. The Prosecution has not and will not have access to anything marked as legal material.

I do hereby attest, under penalty of perjury, that the above is true and correct to the best of my knowledge and belief.



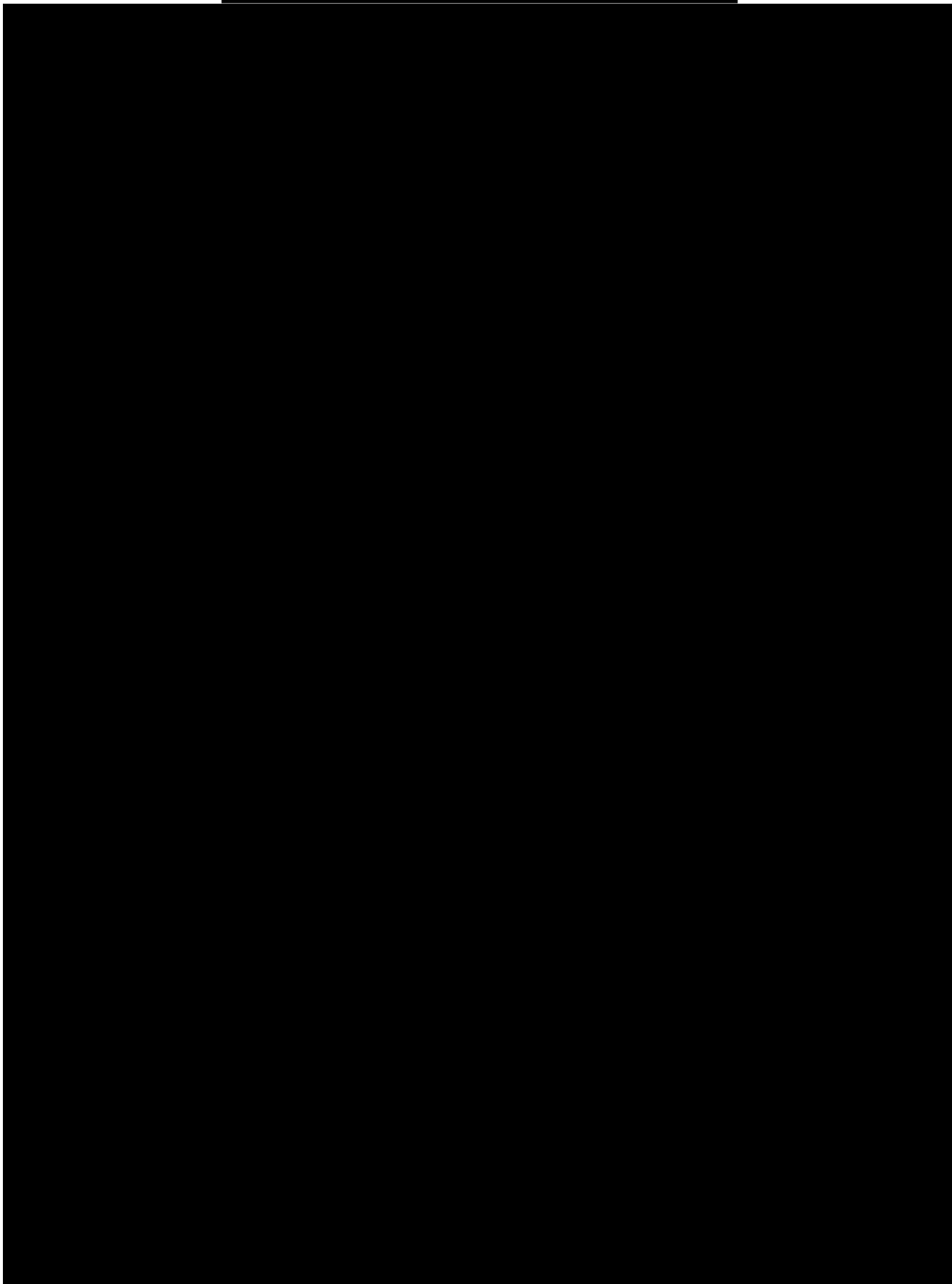
Stephen E. Gabavics

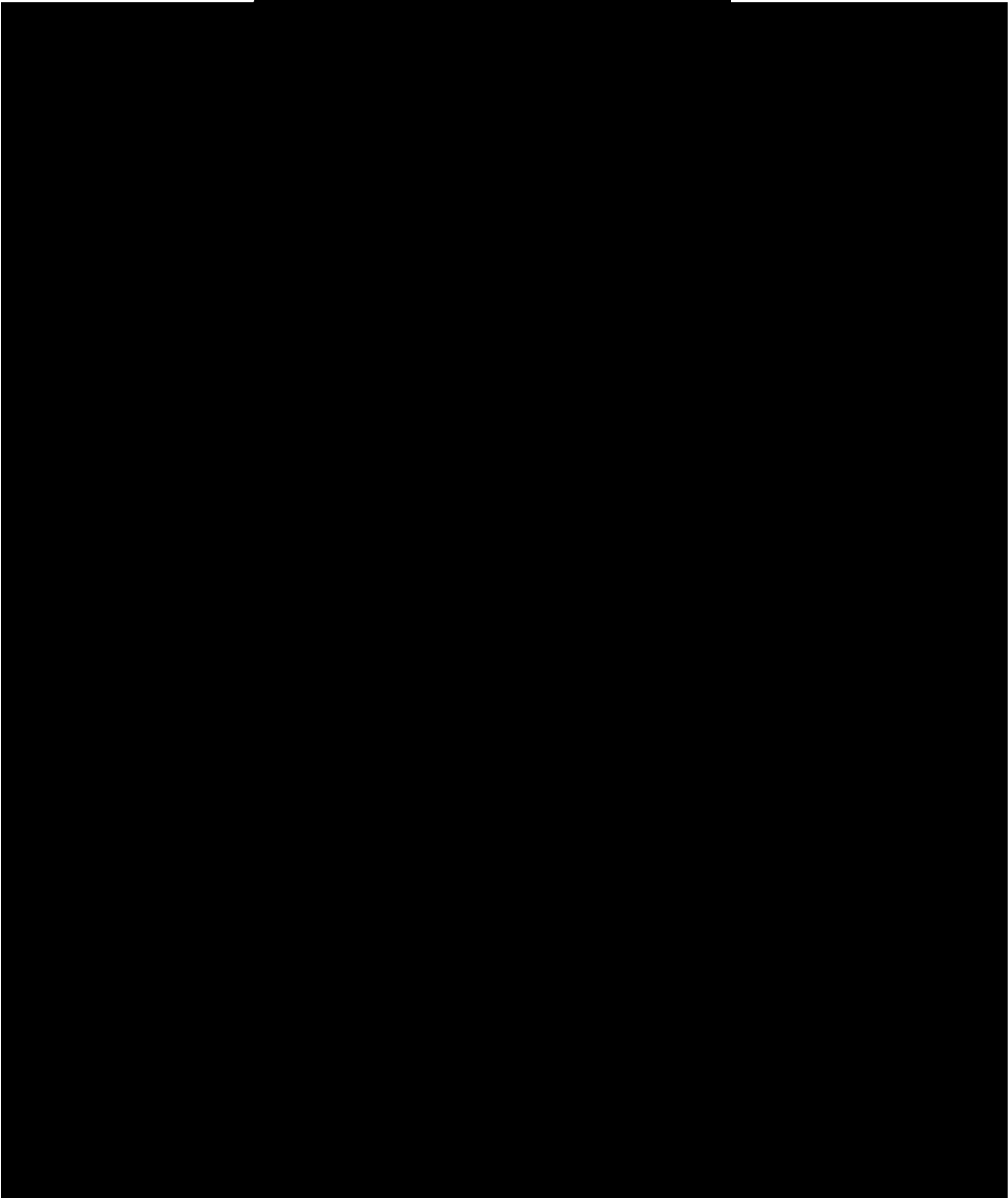
COL, USA, MP

27 Oct 17

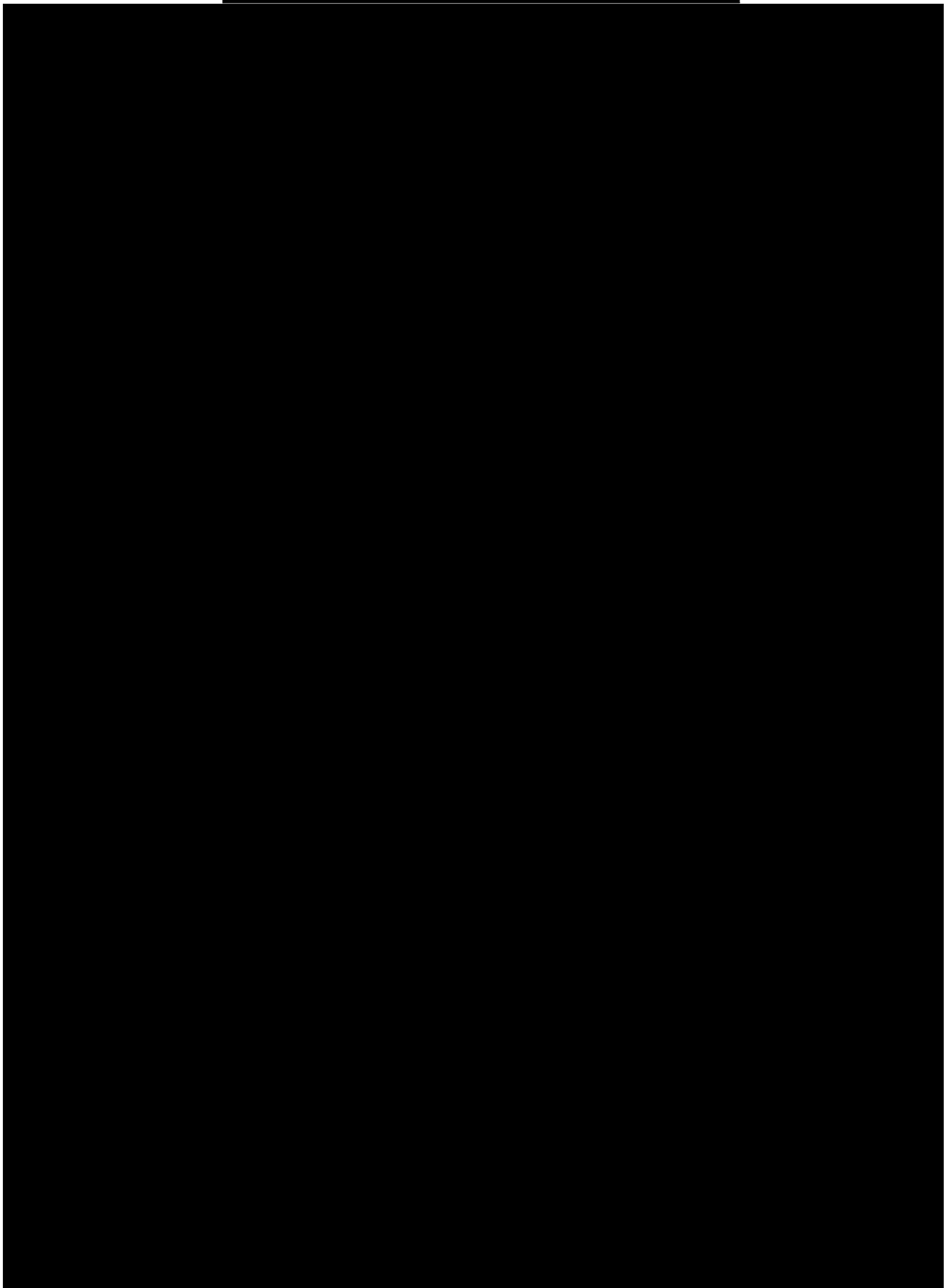
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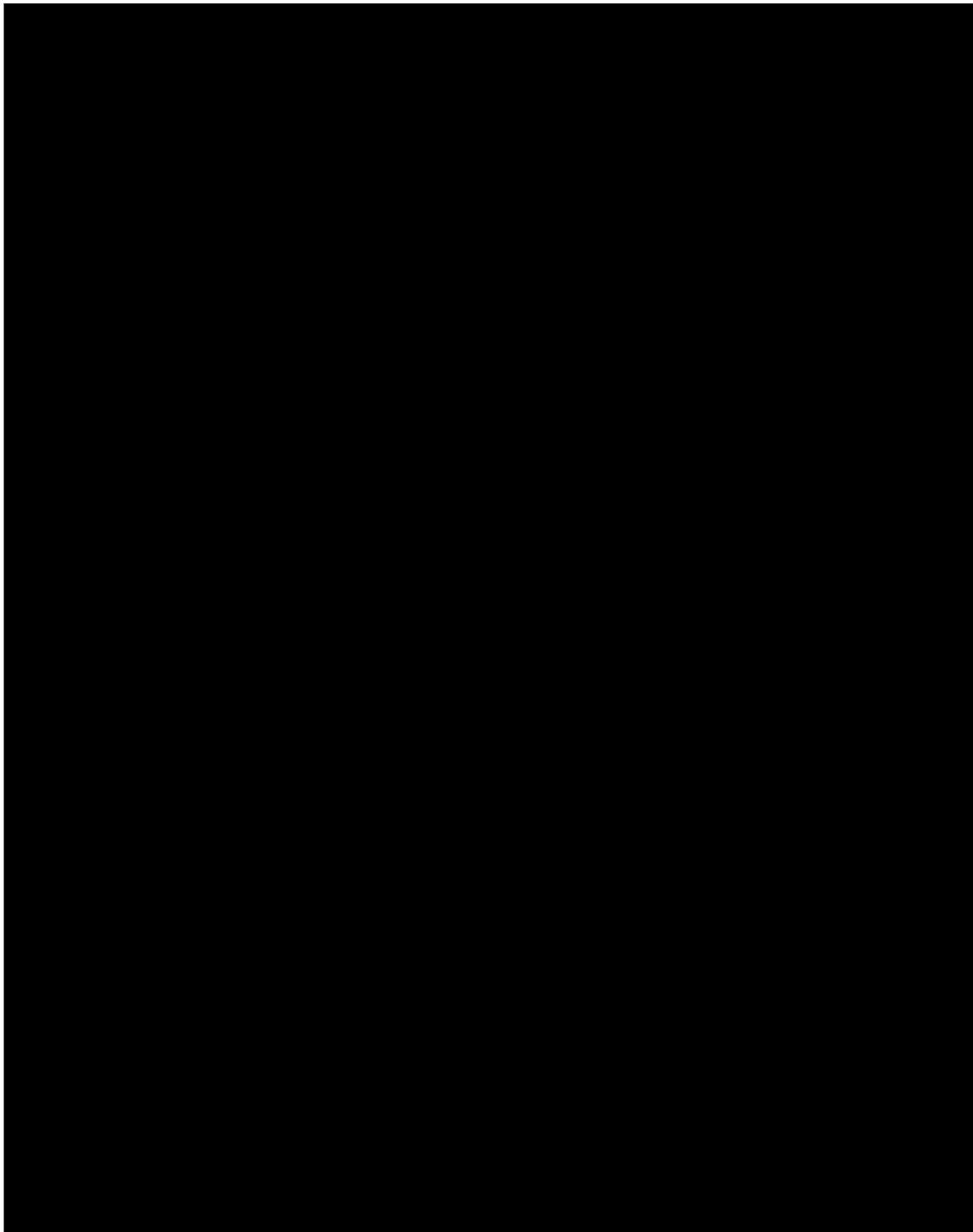
# ATTACHMENT G

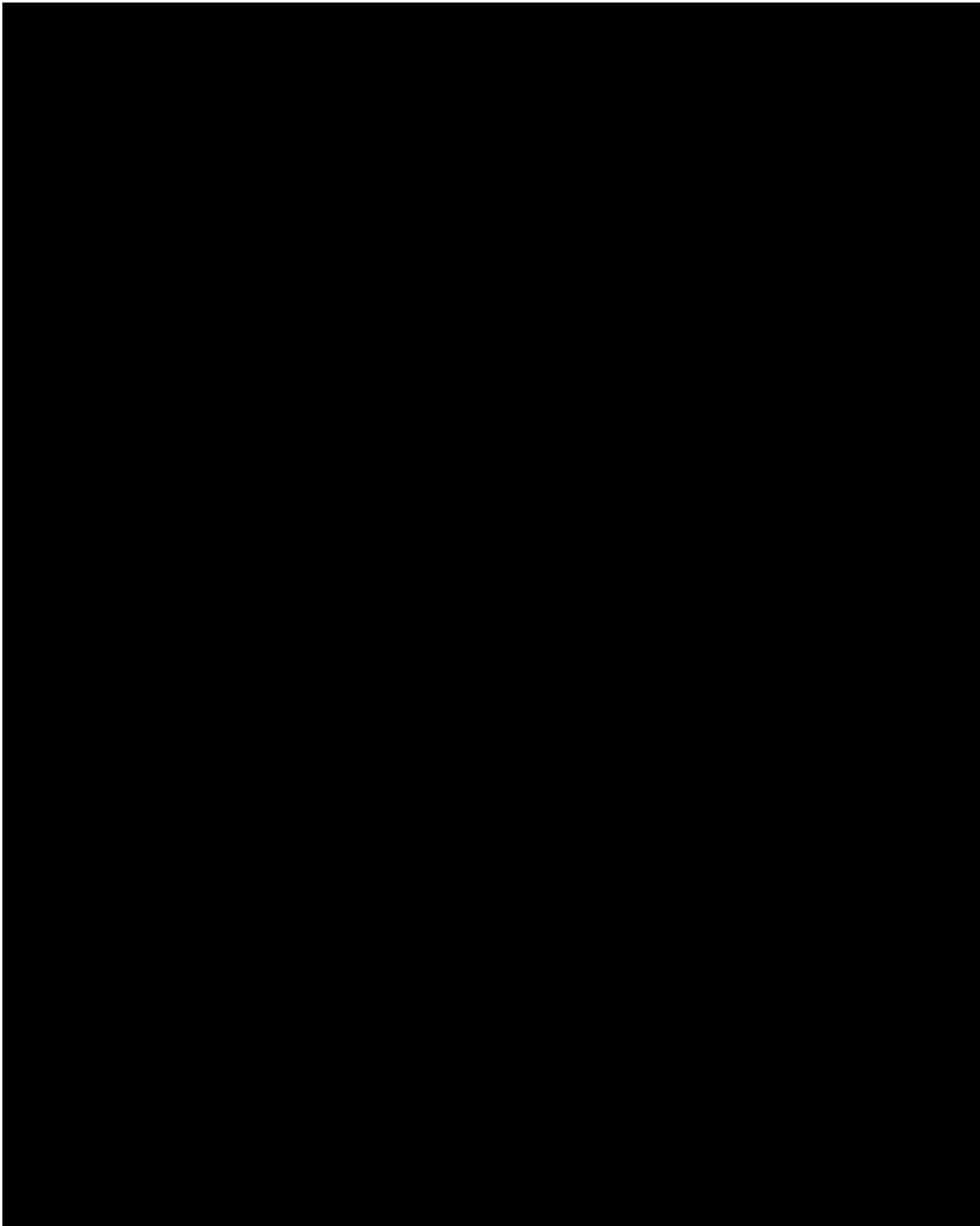


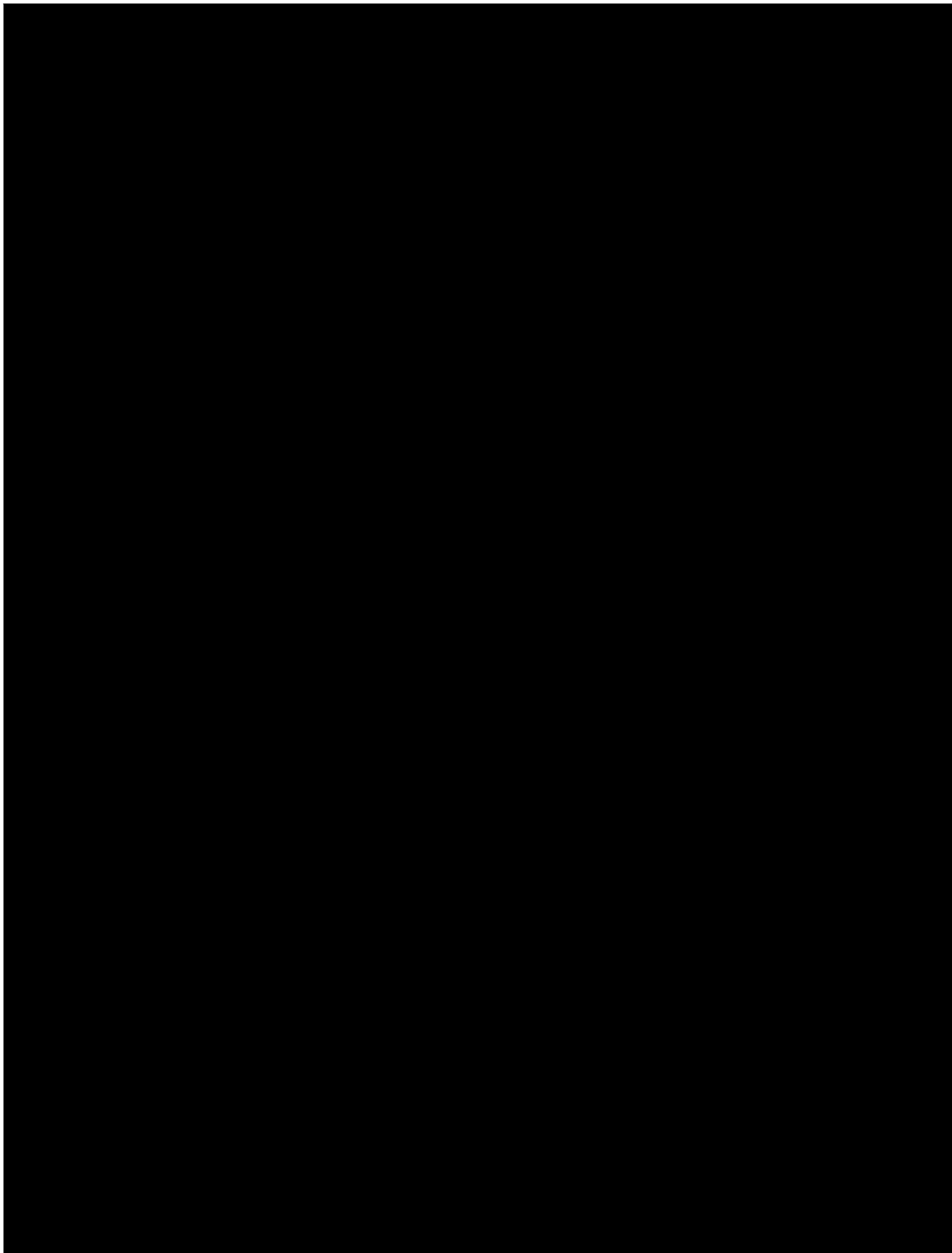


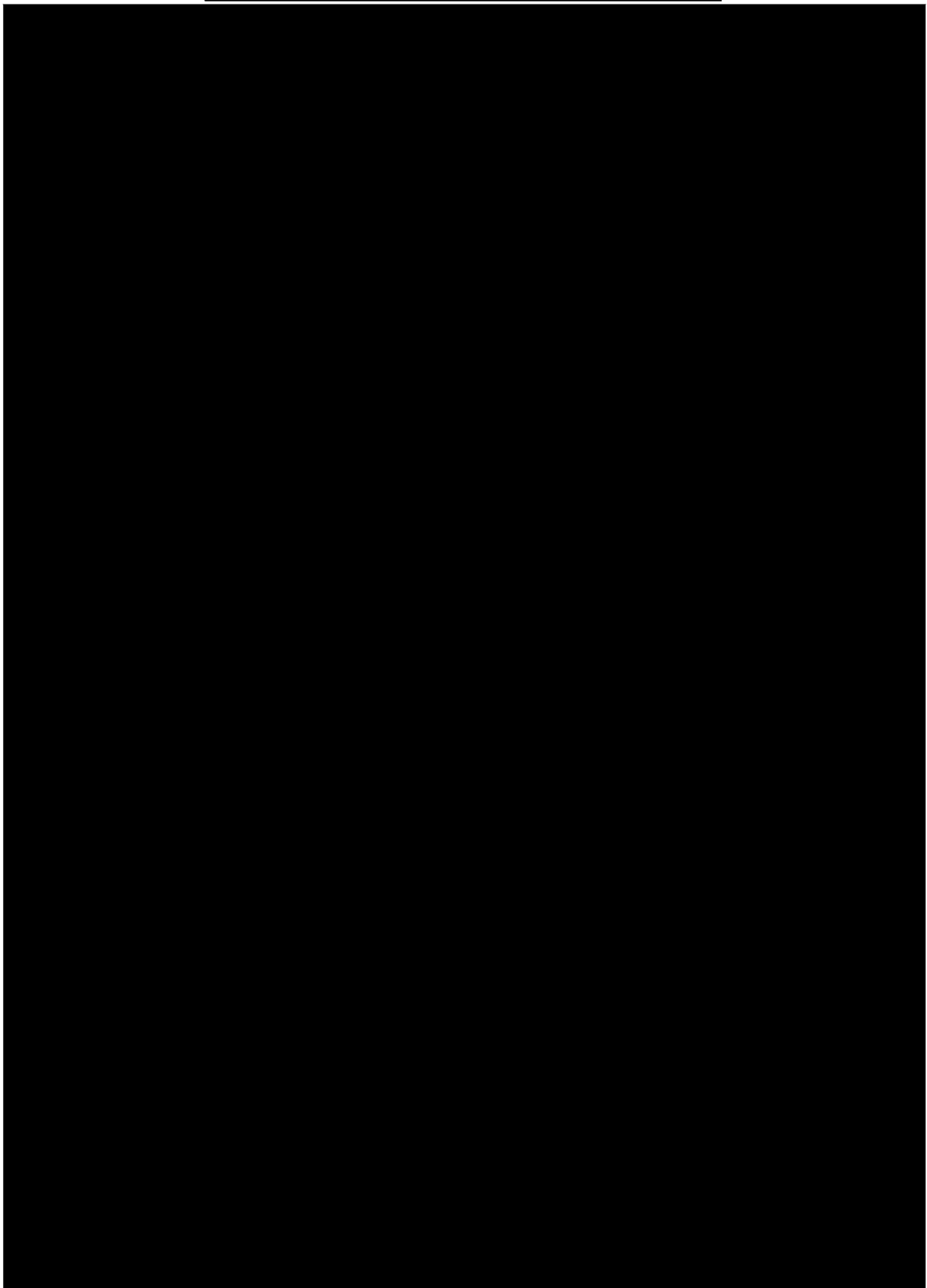




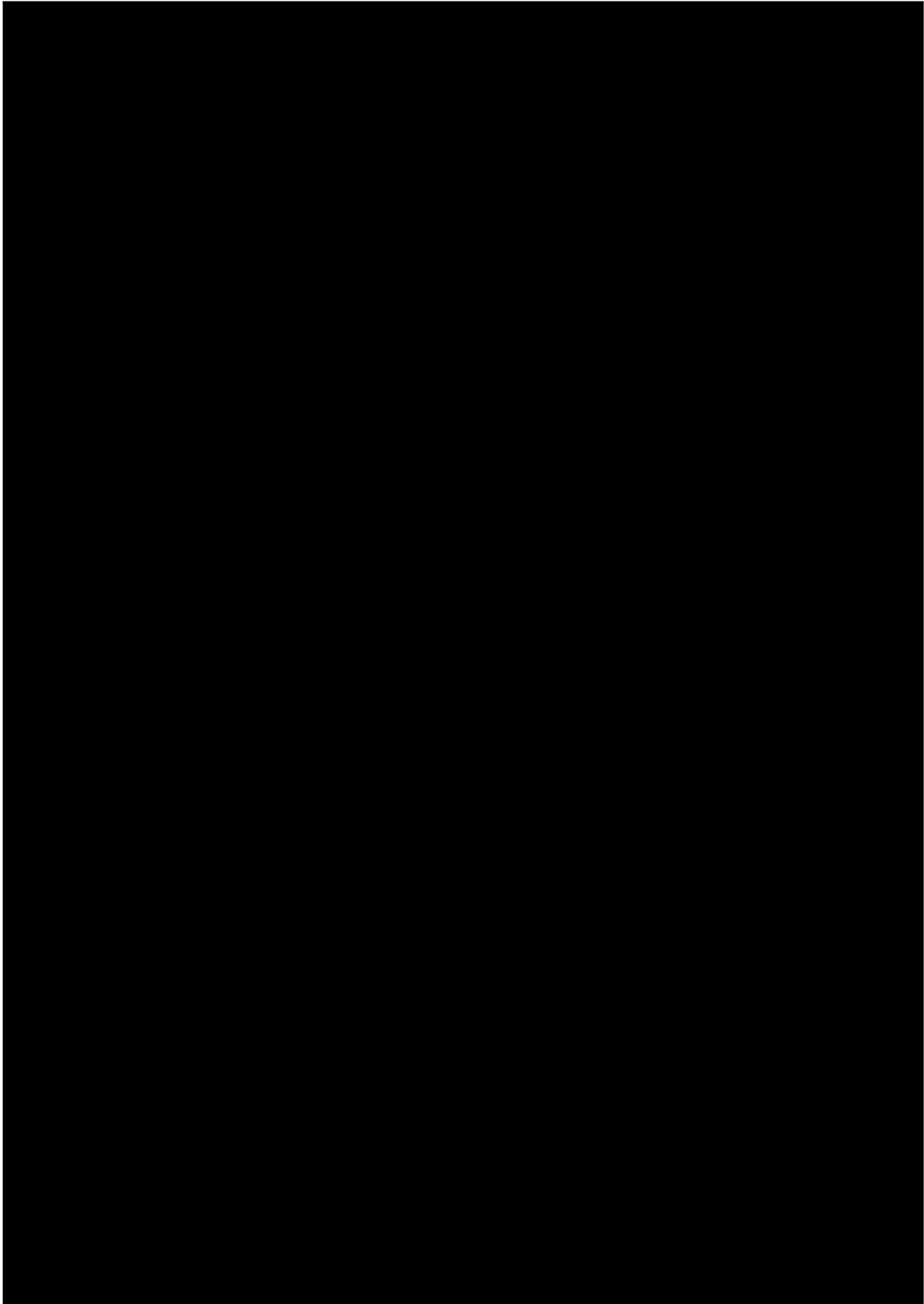


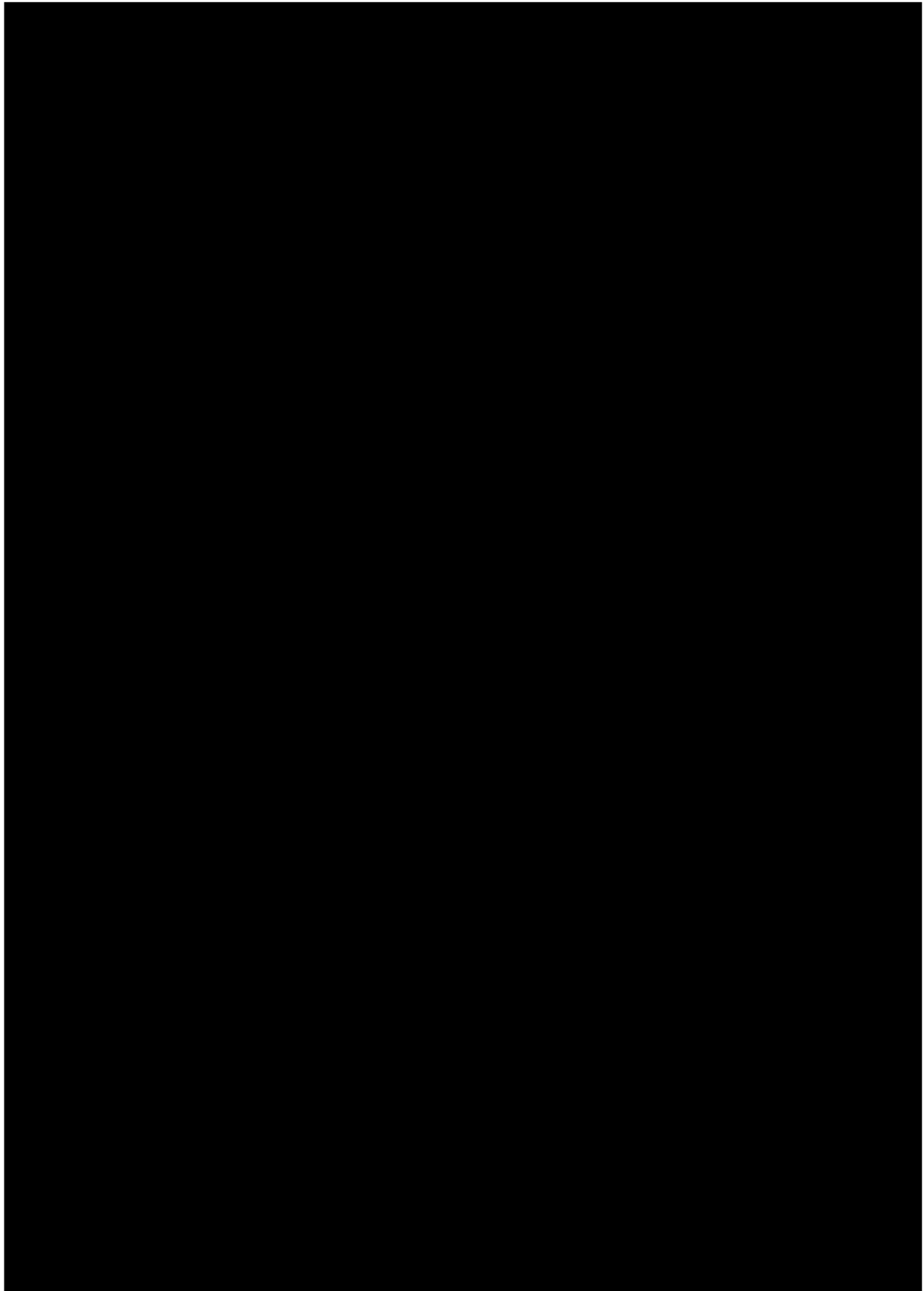


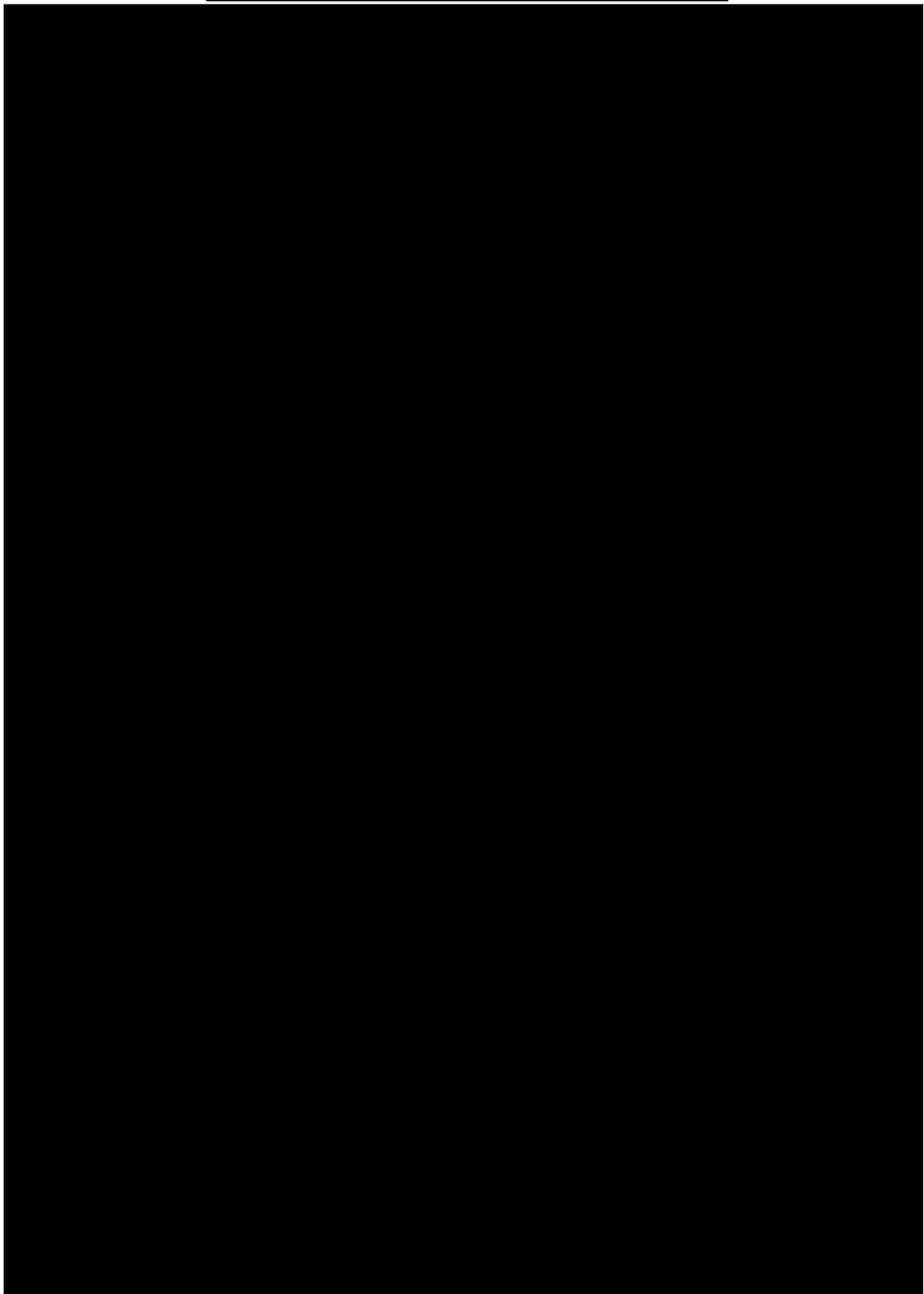


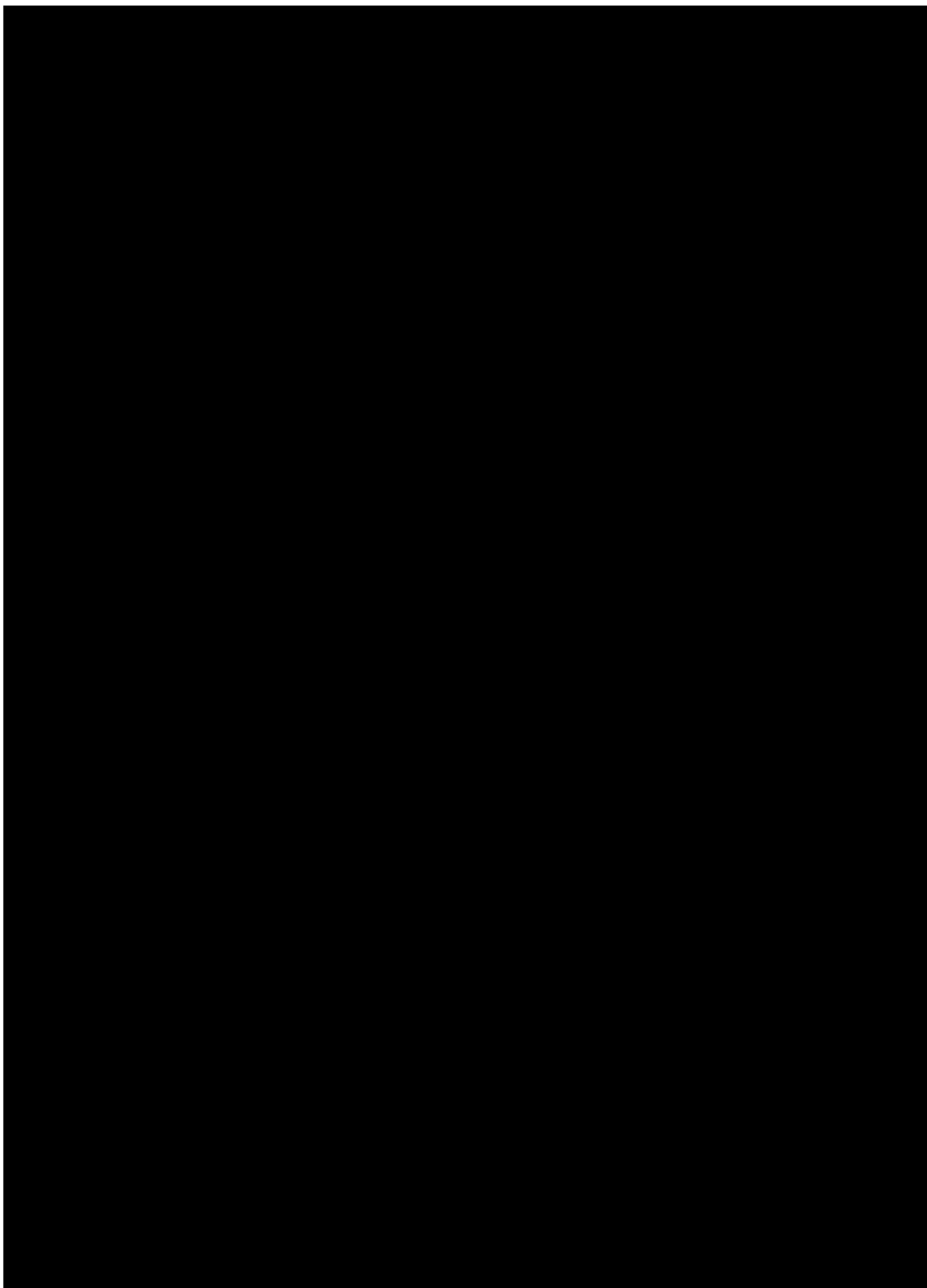


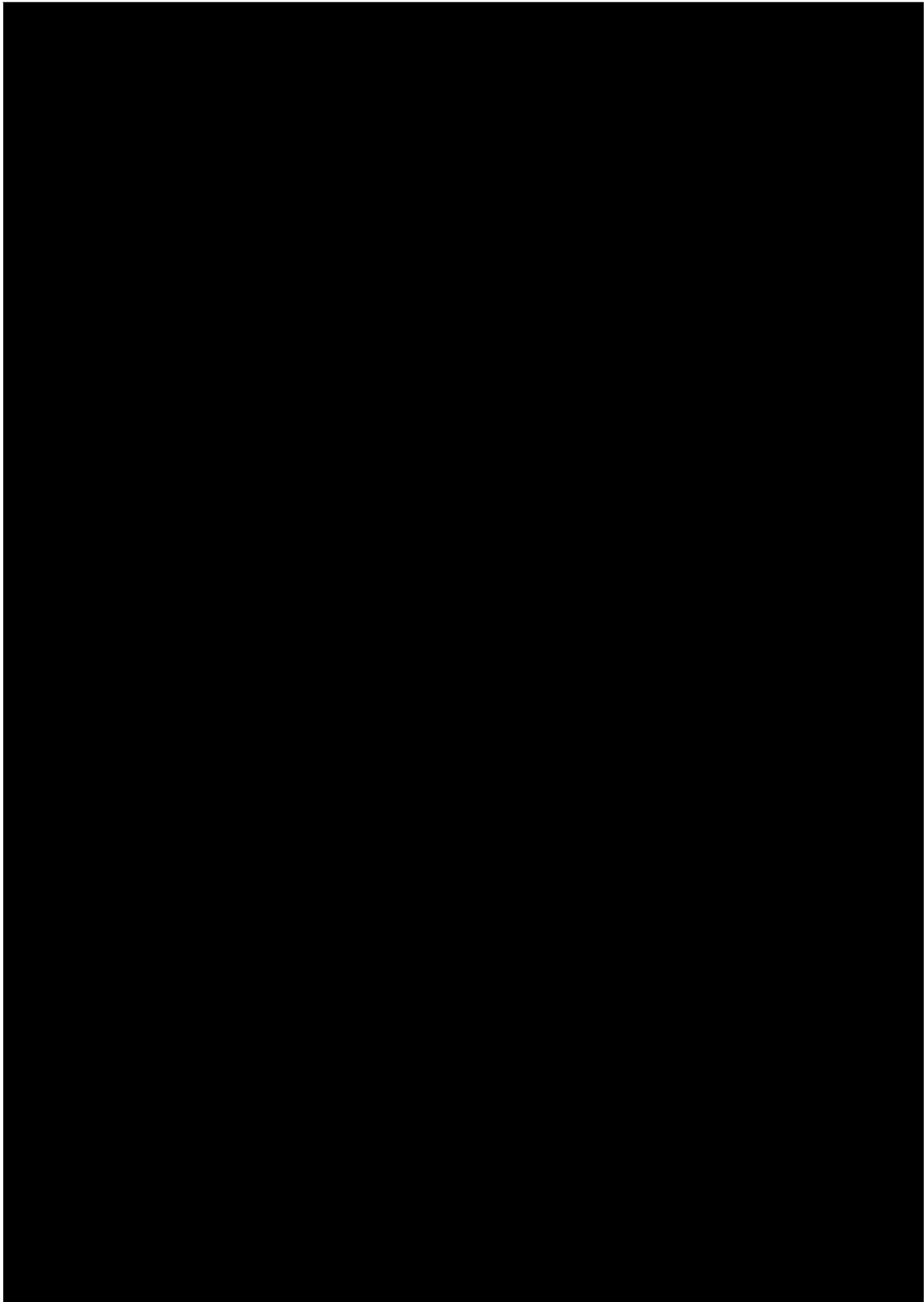




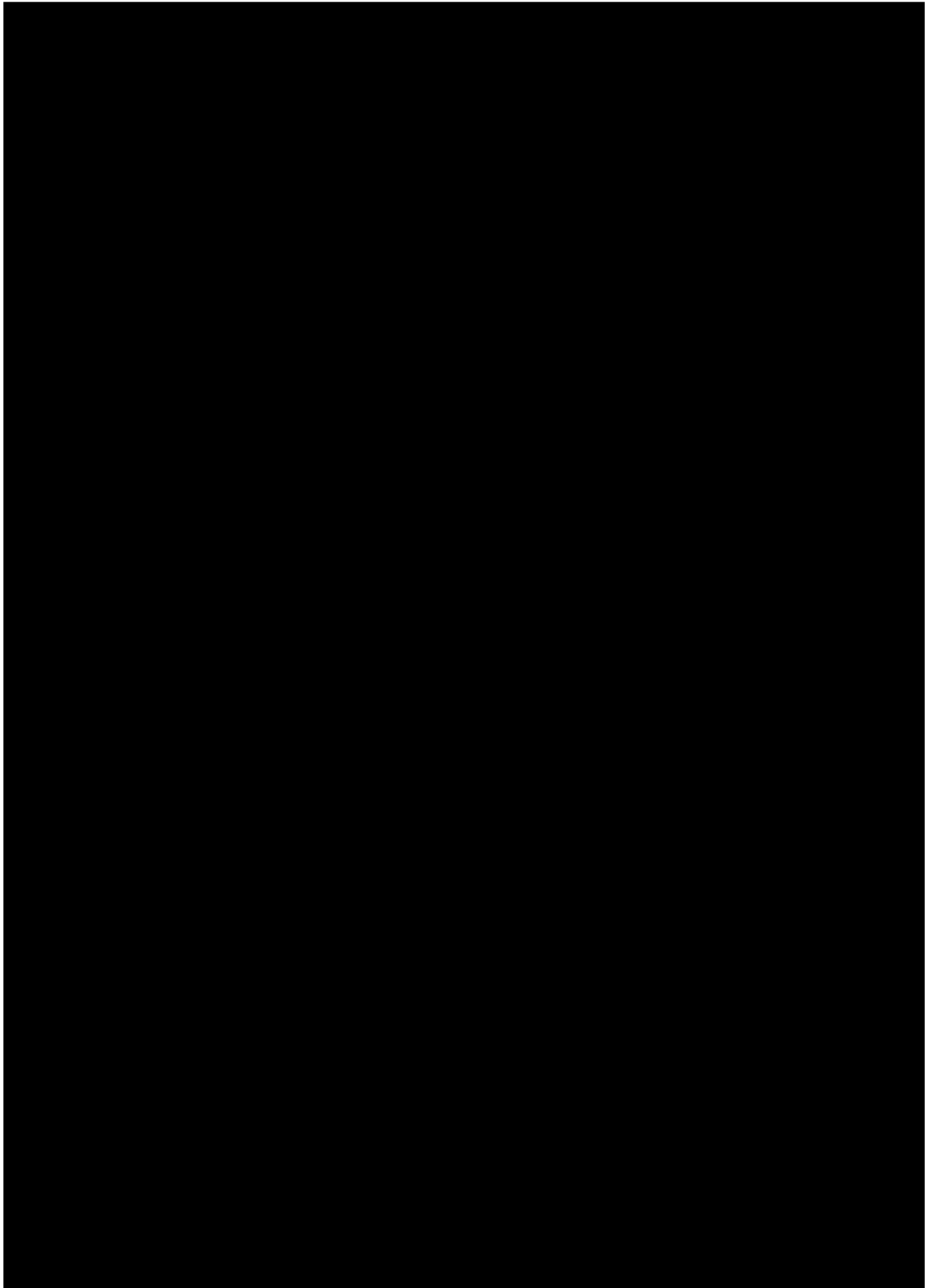


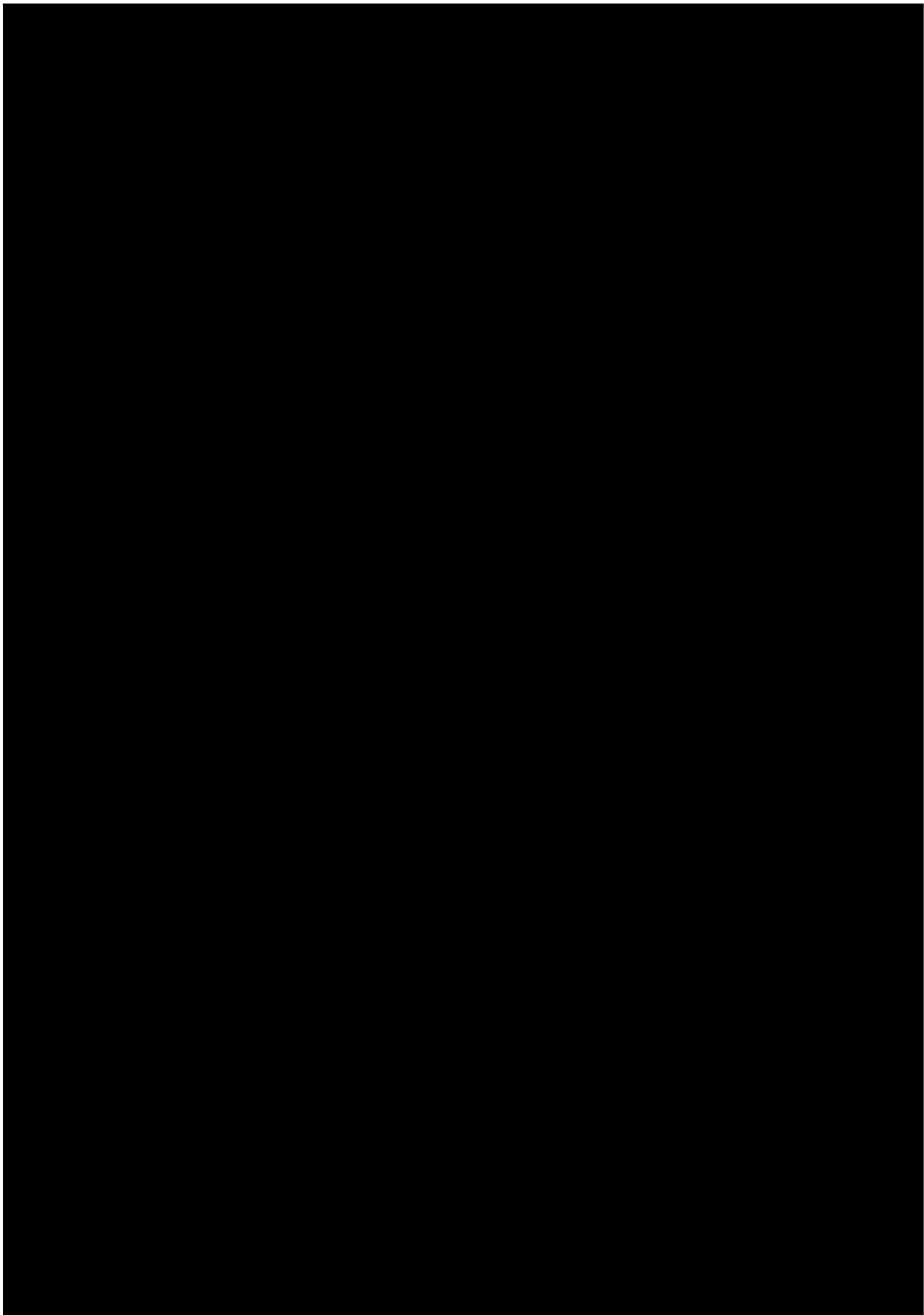


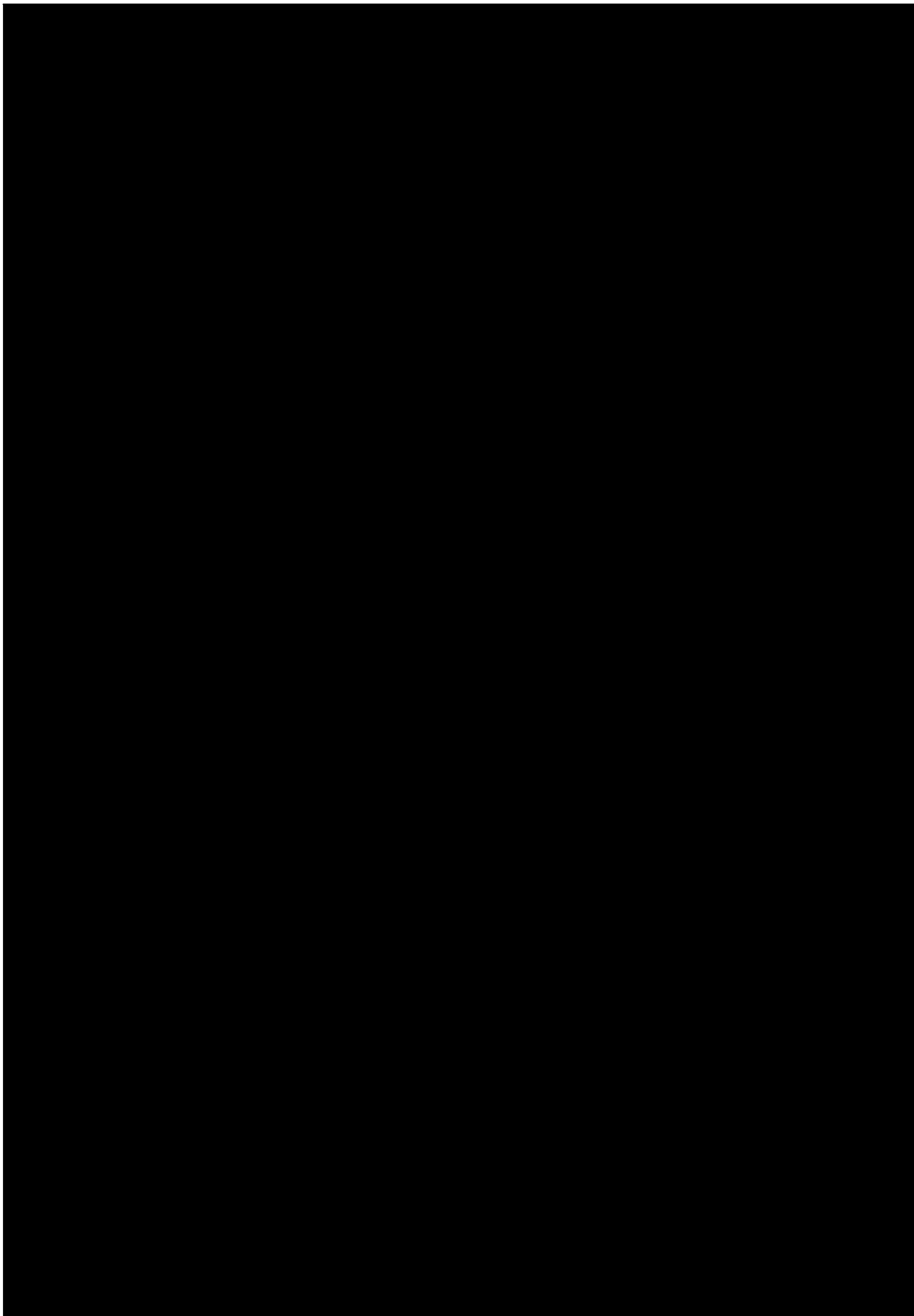


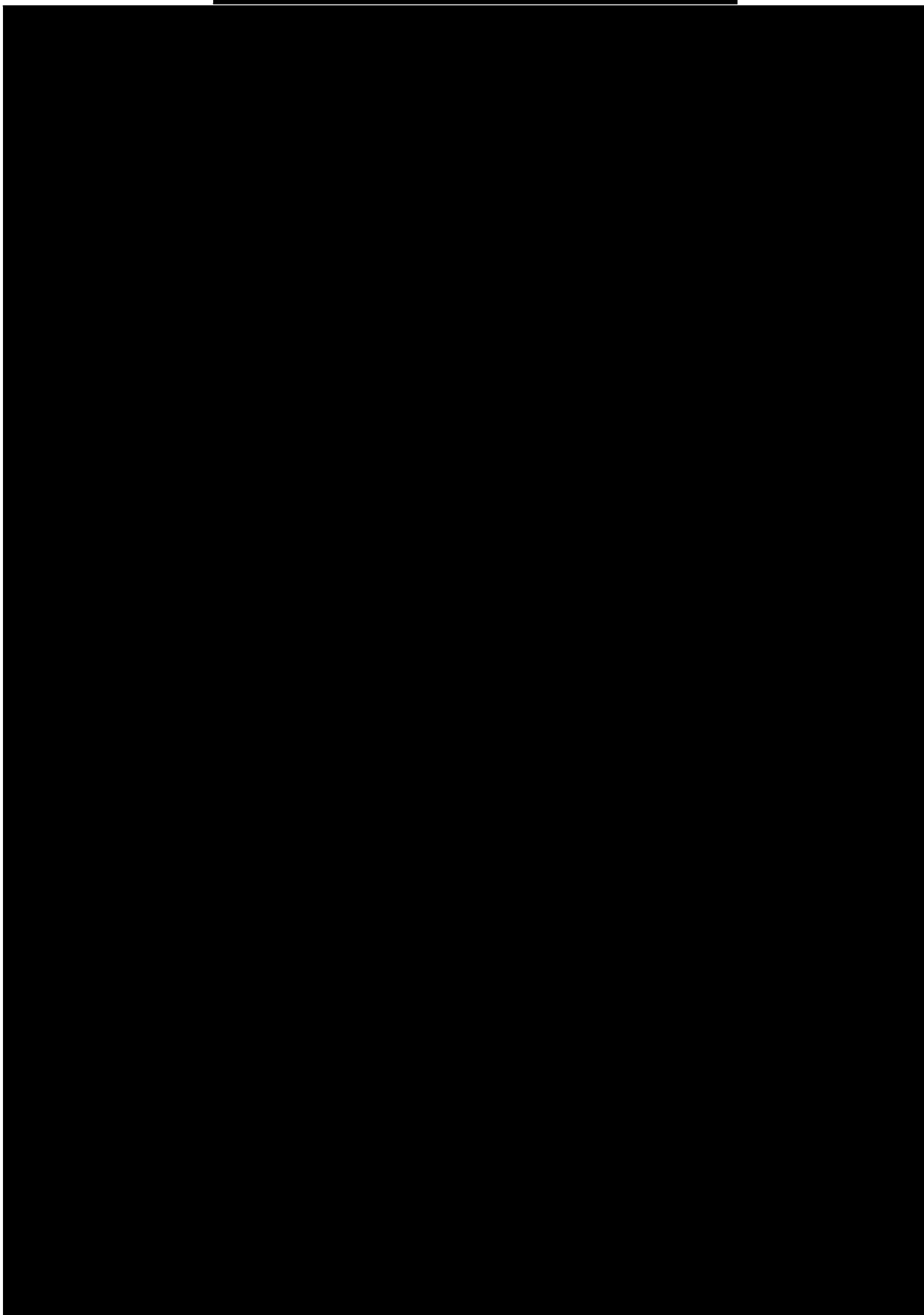


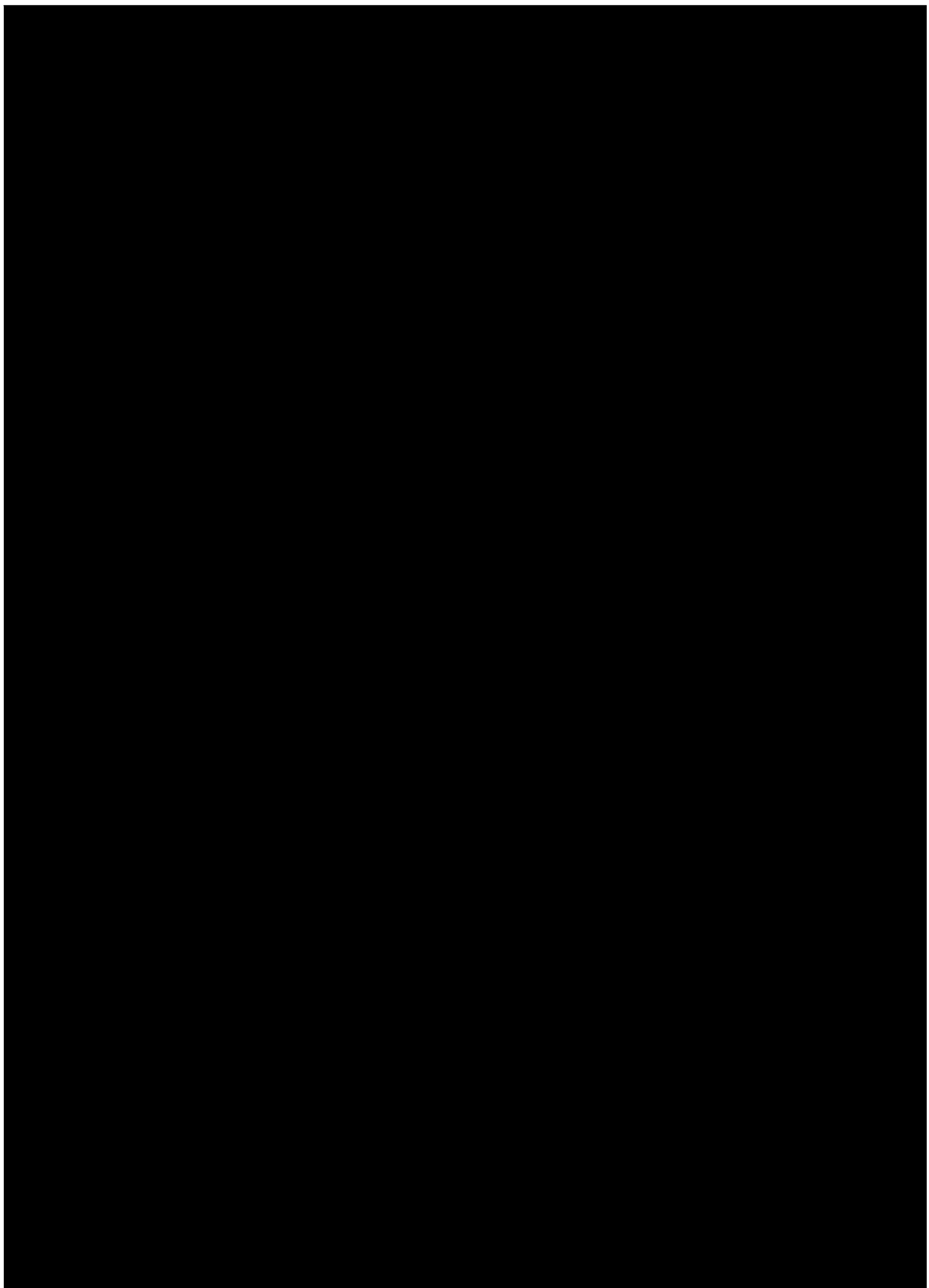




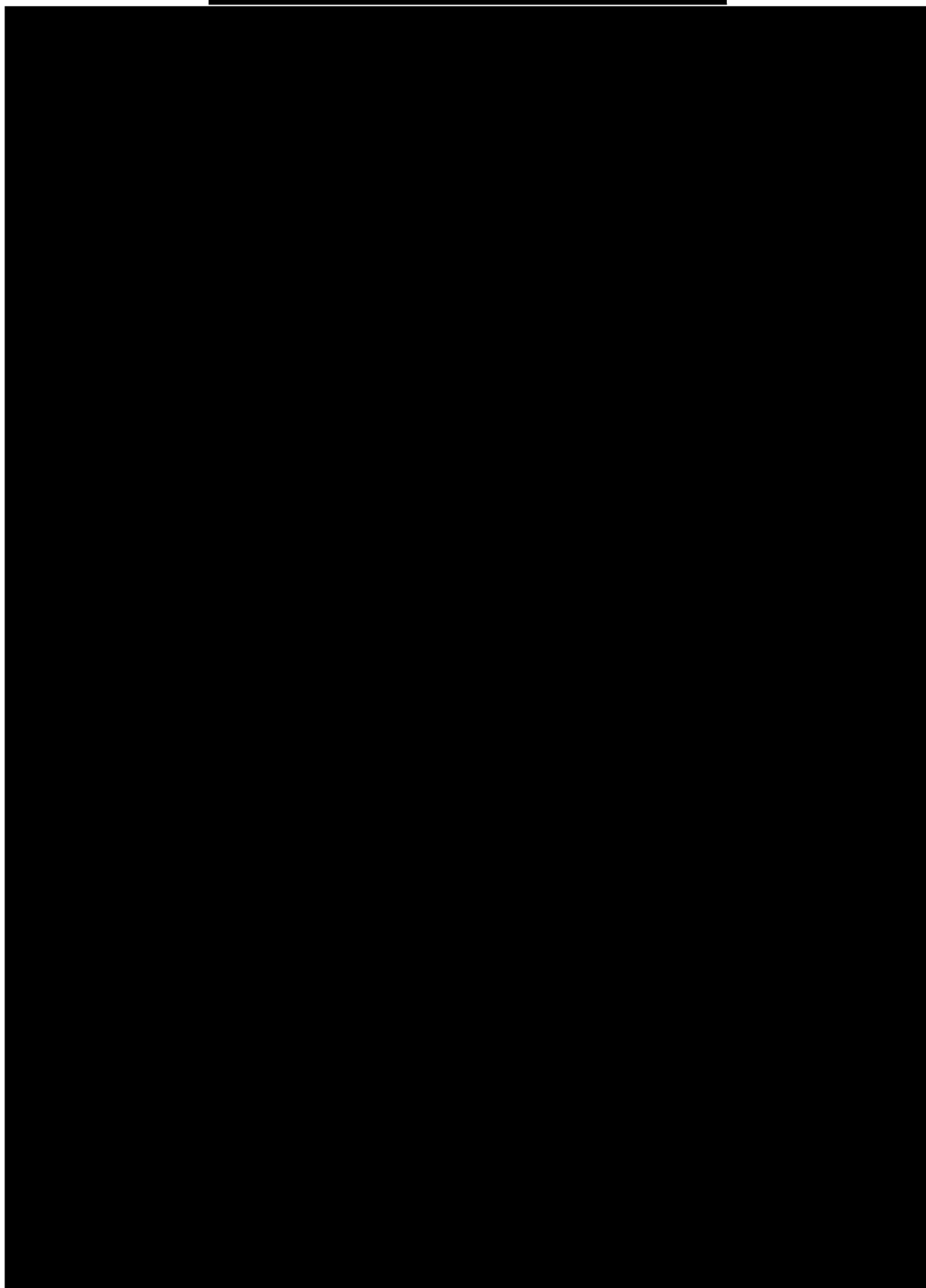




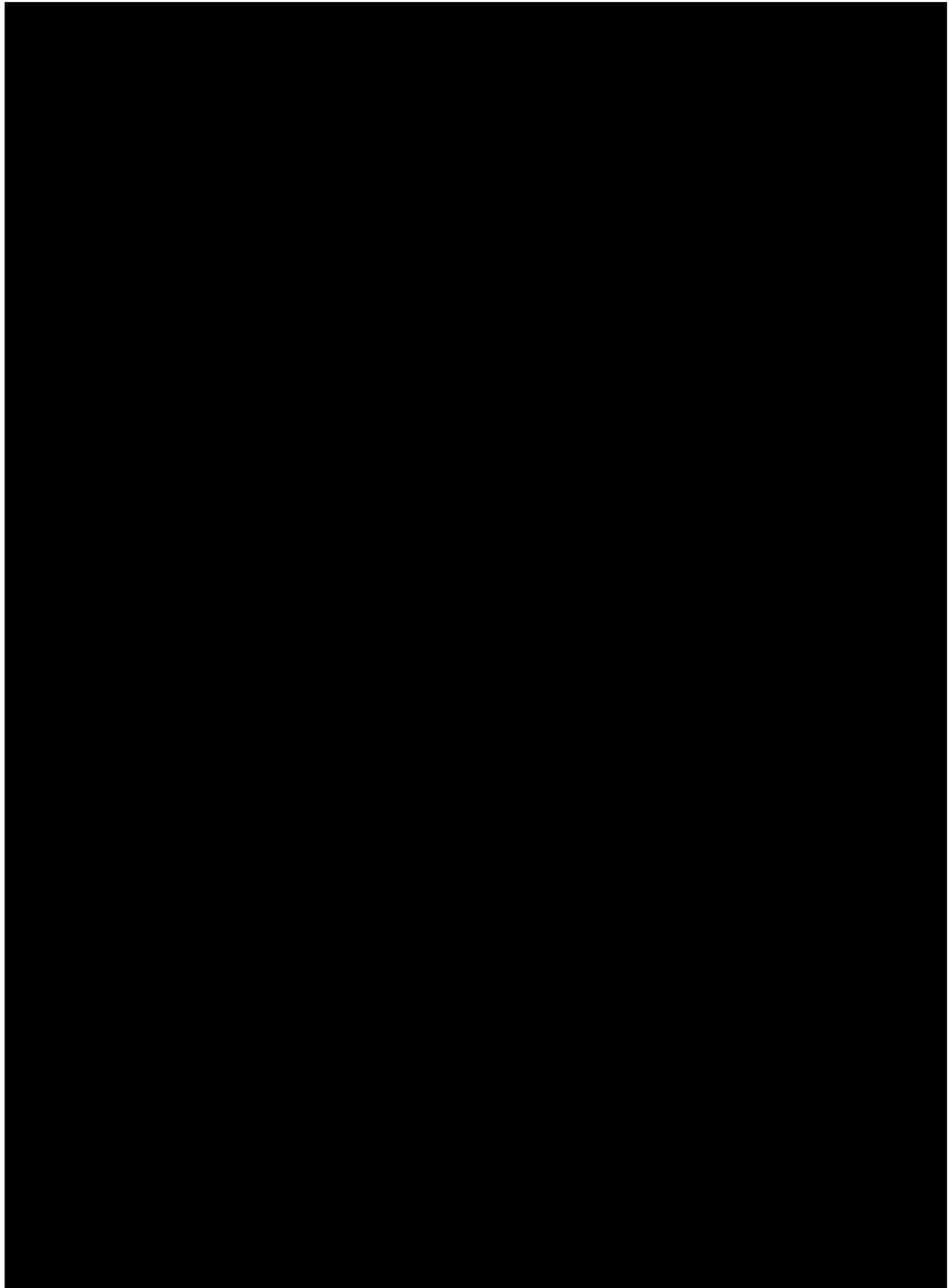






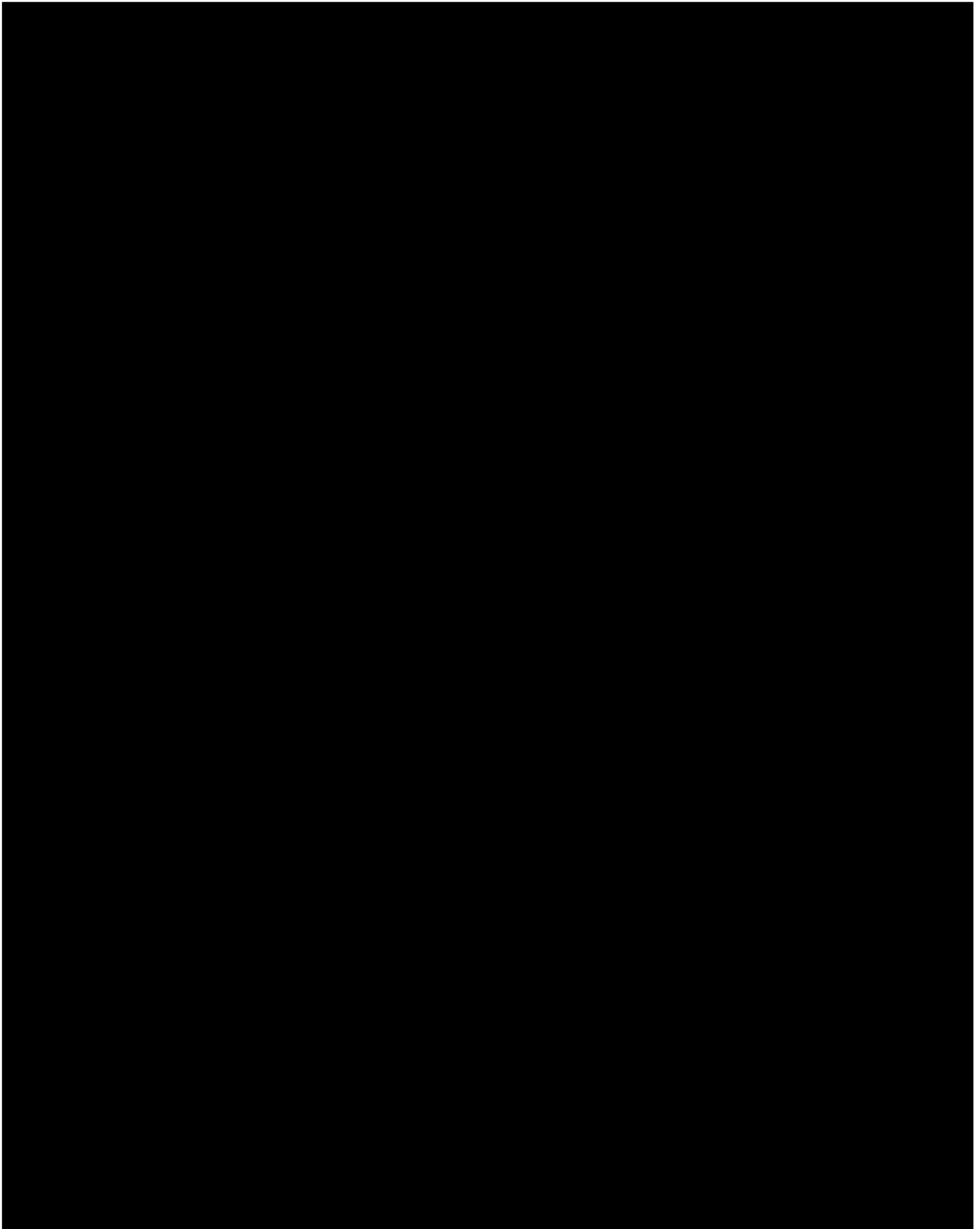


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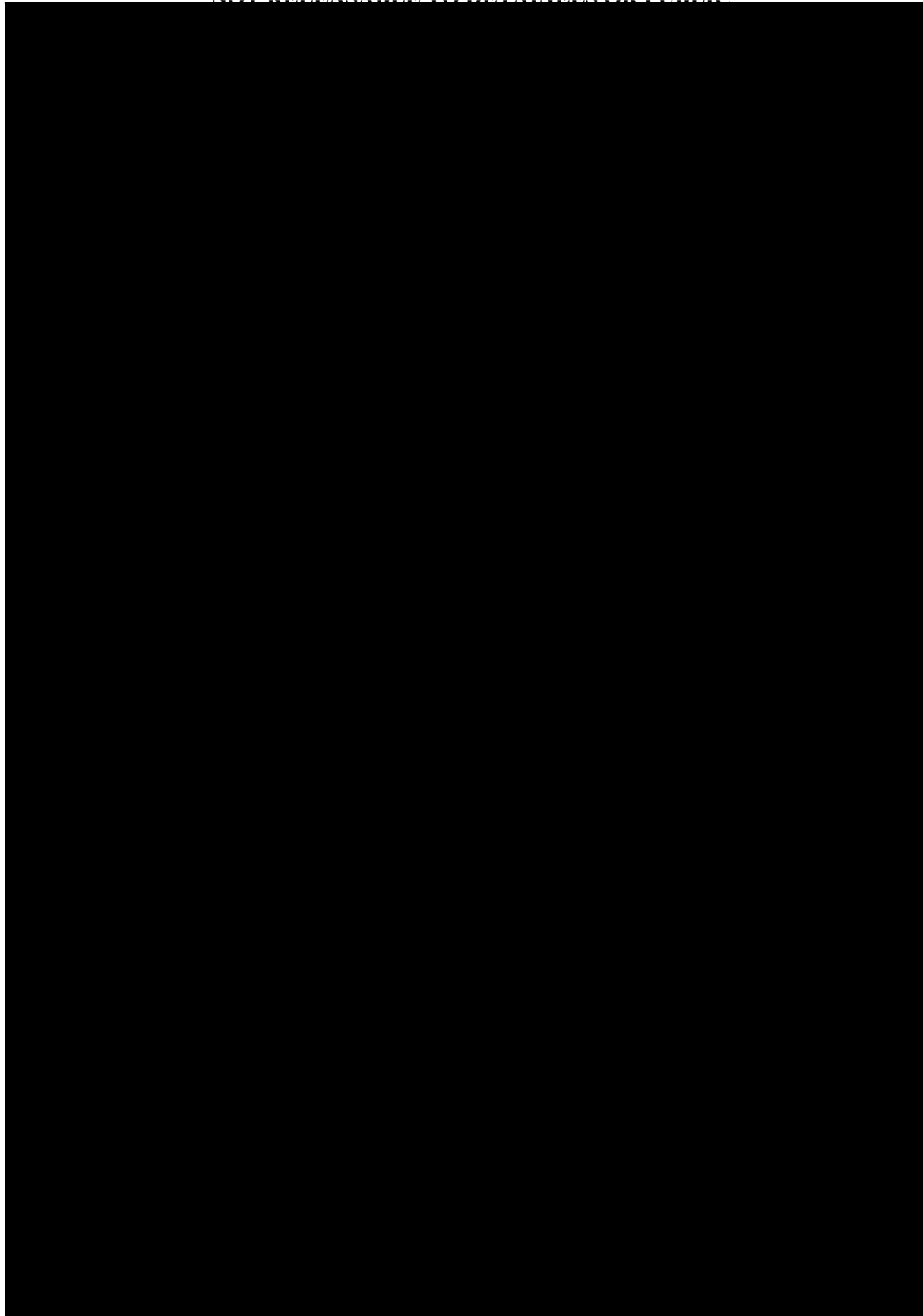
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# ATTACHMENT H

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~~NOT RELEASABLE TO DETAINEES OR PUBLIC~~MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA

<b>UNITED STATES OF AMERICA</b>	<b>AE 530 __</b>
<b>v.</b>	<b>Order</b>
<b>KHALID SHEIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ATTASH, RAMZI BINALSHIBH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI</b>	<b>Authorizing Forensic Examination of Laptop Computers, Portable Hard Drives, and E-Readers Seized from the Accused on 19 October 2017</b>
	<b>__ October 2017</b>

1. In light of the Prosecution's filing in AE 530 (GOV), AE 530F (GOV), and the evidence attached thereto, I find the United States has established the need for a forensic review of the laptops that were seized from the Accused on 18 October 2017. The forensic examination shall be conducted as follows:

2.



3. The results of the forensic examination will be provided to the Office of the Chief Prosecutor, who in turn will have a classification review performed on the report, and then

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ensure it is provided to USSOUTHCOM, JTF-GTMO, the Defense counsel in *United States v. Mohammad, et al*, and the Military Judge.

4. Following completion of all forensic examination of the laptops, the laptops will be returned to the Defense counsel for their review. Defense counsel will handle the computers and related media as if they contain classified information until such time as the Defense can review the materials, determine the appropriate classification of the information, and follow the information handling procedures of Third Amended Protective Order #1 and AE 018U, Amended Order, Privileged Written Communications, to the extent the materials or information contained therein is taken into the detention facility or discussed with the Accused. Counsel for each Accused must submit any material stored on the respective laptops to their Accused, in hard copy, in accordance with the written privileged communications order issued by the Military Judge.

5. The laptop computers, portable hard drives, or E-Readers will not be returned to the Accused unless further ordered by the Military Judge in a separate order.

SO ORDERED this \_\_\_\_ date of \_\_\_\_\_, 2017.

\_\_\_\_\_  
JAMES L. POHL  
COL, JA, USA  
Military Judge

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