

Operations Manual

Part 1: Identification of Matters (IM)
Section 1: **Portfolio assessment and
review**

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IM01 – Portfolio assessment and review

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the portfolio assessment and review governance functions of the Crime and Corruption Commission (CCC).

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure does not deal with procedures relating to the portfolio assessment and review of research and intelligence projects or corporate matters.

This policy and procedure does not deal with assessment procedures related to witness protection.

3. Policy

The CCC's policy and standards with respect to portfolio assessment and review is set out in Part 3, clause 3.4 (assessment) and Part 4, clause 4.1.3 (review) of the [Operational Framework](#).

4. Procedure

4.1 General principles

Responsibility for the CCC's portfolio assessment and review functions sits with the Executive Leadership Team (ELT).

The Secretariat for ELT is the Executive Officer to the Chief Executive Officer.

Matters for portfolio assessment and review are considered by ELT at separate meetings.

For more information on the membership, role and responsibilities of ELT, refer to the Executive Leadership Team Charter.

4.2 Portfolio assessment

Portfolio assessment incorporates the consideration and assessment decisions made in regards to what action the CCC should take on matters related to major crime, criminal activity, corrupt conduct, police misconduct, or proceeds of crime.

Through its Portfolio assessment function, ELT has responsibility for:

- approving a course of action for matters referred to it
- determining the prioritisation of matters
- coordinating resource commitments (e.g. assigning project leads and reviewing resource forecasts).

ELT Portfolio assessment meetings are conducted weekly.

4.2.1 Referral of a matter for ELT Portfolio assessment

Before an operational matter is referred to ELT for a decision, it is assessed. For more information on the types of matters that are referred to ELT for Portfolio assessment. Refer to IM03 – Assessment of matters.

Once a matter is assessed as appropriate for consideration by ELT Portfolio assessment an Investigation Proposal (Assessment) and any relevant attachments are prepared.

The proposal sets out the basis of the submission and provides supporting evidence to assist in the assessment of the matter. If a matter is recommended for investigation (including for preliminary investigation) the proposal outlines the scope (allegations and conduct) of the investigation and business justification for undertaking the investigation as opposed to an alternative course of action. Where an alternate course of action, other than investigation, is recommended, the proposal will outline the factors in support of that recommendation, including why investigation is not required.

Documentation for ELT must be approved by the relevant ELT member. Once approved, ELT papers and any attachments are combined into a single PDF document.

The PDF document is submitted to the ELT Secretariat by saving the PDF document into the eDRMS folder for the relevant meeting date. The ELT Secretariat uses the documents within this folder to generate an agenda and papers for each meeting.

4.2.2 ELT Portfolio assessment decision

Assessment decisions made by ELT Portfolio assessment may be:

- final: the decision may be implemented without further authorisation
- recommendatory: the assessment decision must be authorised by another authority (e.g. the Crime Reference Committee (CRC), the Chairperson, or, for corruption matters, a Commission officer with the relevant legislative delegation) before it may be implemented.

The specific criteria used by ELT when making assessment decisions for each type of matter is outlined in **Appendix A**.

If ELT authorises or recommends a matter for investigation, ELT Portfolio review assumes responsibility for monitoring the matter and making any subsequent decisions in regards to the feasibility, delivery or post-investigation stages (refer to section 4.4).

If ELT approves or recommends a course of action for a matter other than an investigation, for example referral to a Unit of Public Administration, the matter is referred back to the relevant team for action. If required, any further reporting to ELT on the matter is undertaken through ELT Portfolio review as per the requirements for matters at the delivery phase.

If an ELT Portfolio assessment decision is recommendatory and a final assessment decision is made elsewhere, the ELT Secretariat is notified of the final outcome and includes it in the meeting papers for the next ELT Portfolio assessment meeting.

For more information on specific ELT assessment decisions, refer to IM04 – Implementation of assessment decisions.

For information on how ELT Portfolio decisions are communicated, refer to section 4.5.



ELT assessment decisions for urgent matters

For matters that are urgent and cannot wait until the next scheduled ELT Portfolio Assessment meeting, Portfolio assessment is undertaken through an out-of-session briefing.

The briefing is circulated to ELT members by the ELT Secretariat via email. Any feedback or decisions arising are captured and minuted for the next meeting.

Matters assessed outside of ELT Portfolio assessment

If timing does not permit an in- or out-of-session assessment decision to be made by ELT Portfolio assessment for matters it would usually have oversight of, ELT must be notified of the outcome. Examples of when this may occur include:

- significant events where CCC oversight of an investigation by the Queensland Police Service is required but timing prevents consideration of ELT Portfolio assessment prior to implementation
- Specific Crime Referred Investigations where the next CRC meeting precedes the next ELT Portfolio assessment meeting.

To notify ELT, the responsible ELT member raises the matter, the relevant assessment decision and any actions arising for noting at the next ELT Portfolio assessment meeting.

4.3 Portfolio review

ELT oversees, reviews and monitors matters that have been approved and are in the feasibility, delivery, or post-investigation stage. This function is referred to as Portfolio review.

Through Portfolio review, ELT may:

- make key decisions for matters
- approve high-level delivery plans (feasibility and delivery)
- coordinate resource commitments (e.g. assigning or re-assigning investigation leads and reviewing resource forecasts)
- oversee and review the progress of operational activity (scope, time, resource use, budget, risks, issues and outcomes)
- monitor performance of operational activity against plan/s
- monitor the progress of matters referred to Units of Public Administration for action
- review the scope and way in which a matter is being undertaken to ensure it continues to represent the best value for the CCC.

ELT Portfolio review meetings are conducted monthly.

For more information on the management of investigations, refer to MM01 – Matter management, planning and conduct.

4.3.1 Referral of a matter for ELT Portfolio review

Generally, at Portfolio review, ELT consider matters at the end of feasibility stage, during and at the end of the delivery phase and during the post-investigation stage of an investigation. See MM01 – Matter management, planning and conduct for further details.

Different documentation is prepared for consideration by ELT Portfolio review, according to the particular investigation stage.

Where a feasibility (or preliminary) investigation is undertaken, a Feasibility Report is prepared for ELT Portfolio review. The report sets out the status and assessment of the information known. Where there is a recommendation to transition to the delivery stage of an investigation, the



Feasibility Report proposes a scope for the delivery stage of the investigation and a business case for undertaking the investigation. The report also forms the basis of subsequent delivery planning via a high-level delivery plan and identifies the human and financial resources necessary to support the proposal.

During the feasibility, delivery and post-investigation stage, the status of matters are reported, generally on a monthly basis, to ELT for Portfolio Review in the format from time to time approved by the Chief Executive Officer:

- in the feasibility stage, reporting need only be by exception
- in the delivery stage, the schedule outlines the strategy, insights, investigation outcomes or products delivered during the reporting period
- in the post-investigation stage, the schedule provides information about the status of prosecutions, disciplinary action and/or recovery.

Where a risk or issue is identified that is anticipated to impact or threaten the achievement of one or more operational objectives, an Exception Report is prepared for ELT Portfolio Review. The report describes the risk(s) or issue(s) identified and proposes the decision(s) necessary to manage or mitigate the risks or, if a change of scope is proposed, the justification for continuing to undertake the investigation.

All reports are prepared using the relevant CCC template. Additional documentation may be included as an attachment to reports. Further information, including template references, is available in MM01 – Matter management, planning and conduct.

All reports or schedules are saved into the relevant eDRMS folder.

Depending on the status of a matter, the following documentation is prepared for consideration by ELT Portfolio review:

Stage of matter/investigation	Documentation
Feasibility	<ul style="list-style-type: none"> • Monthly report (need only be by exception) • Feasibility Report
Delivery	<ul style="list-style-type: none"> • Monthly report • Exception Report • Investigation Completion Report, Part A: Finalisation
Post-investigation	<ul style="list-style-type: none"> • Monthly report (Prosecutions and Recovery)

Matters at feasibility stage

For matters at the feasibility phase, ELT Portfolio review determines whether the investigation transitions to the delivery stage, and approves the scope, high level delivery plan and resources necessary to progress the investigation.

To seek approval from ELT Portfolio review to move into the delivery stage, a Feasibility Report is prepared. For more information on the feasibility stage and associated reporting, refer to MM01

– Matter management, planning and conduct.

Matters at delivery stage

Progress of matters in the delivery stage is reported at each ELT Portfolio review meeting via a monthly progress report. An Exception Report is prepared where risks or issues are identified that may impact operational objectives, and where approval for a decision is sought. For more information on requirements during the delivery stage refer to MM01 – Matter management, planning and conduct.

Matters at post-investigation stage

During the post-investigation stage the status of prosecutions, disciplinary action and recovery is reported via a monthly report. Matters that have existing matter outcomes should also be reported via a monthly report.

When all matters are finalised, an Investigation Completion Report, Part C: Closure is prepared for ELT Portfolio review seeking approval to close a matter.

For more information on requirements during the post-investigation stage refer to MM01 – Matter management, planning and conduct.

Submitting papers to ELT Portfolio review

Documentation must be approved by the relevant ELT member prior to submission to the Secretariat for inclusion on the next meeting agenda. Once approved, ELT papers and any attachments are combined into a single PDF document.

To submit to the ELT Secretariat, the responsible officer saves the PDF document into the eDRMS folder for the relevant meeting date. The ELT Secretariat uses the documents within this folder to generate an agenda and papers for each meeting.

4.3.2 ELT Portfolio review decisions or outcomes

Following ELT Portfolio review meetings, ELT may:

- make key decisions regarding:
 - whether matters at the feasibility stage progress to delivery
 - alterations to the scope of an investigation
 - resource commitments
- approve investigation plans (feasibility and delivery)
- note or provide feedback on the progress of operational activities in regards to operational scope and planning

4.4 Communicating and recording ELT Portfolio meeting decisions or outcomes

ELT Portfolio assessment and review decisions or outcomes are recorded in the case management system.

ELT members are responsible for communicating decisions or outcomes relating to their business units to the appropriate officers, and for ensuring there is appropriate delegation of responsibility to effect the decisions of the ELT.

Additional meeting information is included in the minutes, which are prepared by the ELT



Secretariat and made available in the relevant eDRMS folder within the following timeframes:

- for Portfolio assessment: the following morning
- for Portfolio review: within 48 hours.

5. Definitions

Term	Meaning
Assessment decision	A decision about whether the CCC should investigate information about major crime, criminal activity, corrupt conduct or police misconduct or undertake a confiscation investigation.
CC Act	<i>Crime and Corruption Act 2001</i>
CRC	Crime Reference Committee
eDRMS	The CCC's electronic document records management system
ELT	Executive Leadership Team

6. Forms

The forms referenced in this document and in the table below can be accessed via MM01 – Matter management, planning and conduct.

Document reference	Document title
MM01-A01	Investigation Proposal (Assessment) – Matters recommended for CCC investigation
MM01-A02	Investigation Proposal (Assessment) – Corruption matters not recommended for CCC investigation
MM01-F01	Feasibility report
MM01-D02	Exception Report (Delivery)
MM01-DP01	Investigation Completion Report Part A: Finalisation Part B: Post-investigation Assessment Part C: Closure
MM01-PO2	Matter Progress Schedule (post investigation) <ul style="list-style-type: none"> • Prosecution (outstanding and finalised) • Recovery

7. Related policies and procedures

- IM02 – Receiving and recording matters
- IM03 – Assessment of matters
- IM04 – Implementation of assessment decisions
- MM01 – Matter management, planning and conduct
- Executive Leadership Team Charter
- Operating Model Governance Arrangements



8. Administration

Responsible officer:	Executive Director, Crime Operations	Accountable officer:	Senior Executive Officer, Corruption
Date approved:	February 2022	Review date:	February 2023

9. Appendices

9.1 Appendix A: Assessment considerations by matter type

Corruption matters

The CCC is required, as far as practicable, to direct its attention to the more serious cases of corrupt conduct and cases of systemic corrupt conduct within a Unit of Public Administration (UPA), and whenever possible, liaise with a relevant public official in performing its corruption functions.

For matters involving the Queensland Police Service the CCC has primary responsibility for dealing with information about corrupt conduct while the Commissioner of Police has responsibility for dealing with police misconduct subject to the CCC's monitoring role.

In approving a full investigation, relevant considerations include whether:

- there is evidence or reliable information sufficient to raise a reasonable suspicion of the occurrence of corruption justifying a more complete investigation
- the subject matter of the investigation involves:
 - serious conduct, for example, where bribery or another serious criminal offence is involved,
 - the value of money or benefit alleged is significant, or the public official/sinvolved is/are of some seniority, or the subject officer has a significant relevant complaints history, or
 - systemic and/or organised conduct
- the relevant UPA does not have capacity to conduct the investigation and/or the investigation of the matter involves or is likely to involve the use of significant resources and CCC powers, for example because:
 - of the complexity and/or number of allegations being investigated
 - cross-divisional use of CCC resources or significant assistance/cooperation with an external agency may be required
 - the investigation requires the use of specialised skills and/or technology
 - coercive powers, such as a public hearing, are likely to be used
 - covert and intrusive methodologies, such as surveillance devices, telephone intercepts and/or controlled operations are likely to be necessary.
- The public interest requires the matter be investigated by the Commission
- The complainant, or complainant group is particularly vulnerable and Commission involvement is necessary to protect their interests.

Crime matters

The Matters Prioritisation Model (MPM) as outlined in the [Crime Division Position Statement](#) should be applied when considering whether to recommend that the CRC or authorised person be asked to approve a crime investigation or confiscation investigation. The MPM is used to assess the priority of each investigation, project or initiative (a matter) based on public interest and stakeholder value.

The Matter Prioritisation Model (MPM) is used in connection with the governance and oversight

processes represented in the [CCC Operating Model](#).



Crime and Corruption
Commission

QUEENSLAND



Operations Manual

Part 1: Identification of matters (IM)
Section 2: **Receiving and recording
matters**

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IM02 – Receiving and recording matters

1. Purpose

The purpose of this policy and procedure is to outline the requirements for receiving and recording matters for action pursuant to the *Crime and Corruption Act 2001* (CC Act).

This includes requirements for recording information received by the Crime and Corruption Commission (CCC) about alleged major crime, criminal activity, corrupt conduct, police misconduct or the need to undertake a confiscation investigation.

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure does not apply to procedures related to witness protection.

This policy and procedure does not deal with research or intelligence projects.

3. Policy

The CCC is committed to receiving and recording matters in a timely and appropriate manner.

The CCC's policy and standards for recording information about potential matters for action are set out in Part 3, clause 3.1 of the [Operational Framework](#).

4. Procedure

4.1 Corruption matters

4.1.1 Types of corruption matter

The CCC receives the following types of corruption matters:

- **Section 36 complaints** are matters received by the CCC concerning suspected corrupt conduct, made by:
 - a public interest discloser under the *Public Interest Disclosure Act 2010*
 - a member of the public
 - a person complaining on behalf of an individual, organisation or group of people
 - prisoners and detainees
 - a legal representative acting on behalf of a person or organisation
 - an elected official on behalf of a constituent
 - an anonymous complainant – although the CCC may be limited in its ability to respond.
- **Notifications** are matters given to the CCC by, or on behalf of, a public official in accordance with s.37, 38 and 40 of the CC Act.



- **Information** is suspected corrupt conduct that is not received as a complaint, notification, CCC generated matter or non-jurisdictional matter. For example, information from sources such as CCC activity, media reports or intelligence reports from a law enforcement agency.
- **CCC generated** matters are adverse findings made by an official body such as Parliament, a court or tribunal that a person has, or may have, engaged in corrupt conduct.
- **False complaint** is when information obtained after the receipt of a complaint indicates that the person who made the complaint, or counselled or procured another person to make the complaint, provided information to the CCC which they knew to be false or misleading, or made the complaint:
 - frivolously
 - vexatiously
 - not in good faith
 - primarily for a mischievous purpose
 - recklessly or maliciously.
- **Intention to lodge** is contact from a person that advises of their intention to lodge a complaint or provide information to the CCC, but does not provide sufficient information to formally record a s.36 Complaint or Information matter type. If further correspondence is received within 21 days, the matter is processed as a s.36 complaint or Non-jurisdictional matter.
- **Non-jurisdictional matters (Issues)** are allegations that do not involve corrupt conduct (as defined by the CC Act) or police misconduct, but where the allegation refers to a Unit of Public Administration (UPA) within CCC's jurisdiction.
- **Out of jurisdiction matters (issues)** are allegations that do not involve a unit of public administration and therefore are not within the CCC's jurisdiction.
- **Significant event – police related death** is an incident where a death occurs in the context of police actions or operations or where the State Coroner deems that a matter should be treated as a death in police operation or custody.
- **Significant event - other** are Queensland Police Service (QPS) notifications to the CCC (and the QPS Ethical Standards Command) of a "police related incident",¹ including certain police pursuits or other incidents which may come under public scrutiny.

4.1.2 Responsibilities for receiving and recording corruption matters

A variety of officers are involved in the process of receiving and recording corruption matters. For example:

- a Complaints Officer (or similar role) may receive a matter and conduct a preliminary assessment
- receipting of a matter is completed separately
- the matter is allocated to an appropriate officer for registration, dependent on the matter's categorisation.

¹ In line with QPS Operational Procedures Manual 1.16.2 and the Memorandum of Understanding on deaths in custody or as a result of police operations.



This policy and procedure uses the term 'responsible officer' to refer to the officer allocated to undertake a specific part of the process. Specific roles are named only where their delegation for decision-making is necessary.

4.1.3 Receiving corruption matters

Receiving corruption matters other than notification of significant events

Corruption matters may be received by telephone, post, email, fax or via the online complaint lodgement form on the CCC website. Matters may also be received by personal attendance at CCC premises. Information on receiving complaints in person is provided in **Appendix A**.

On receiving information about a potential corruption matter, the responsible officer reviews the information and undertakes a preliminary assessment to confirm that the matter is a:

- s.36 complaint
- Notification
- Information
- CCC generated
- Non-jurisdictional matter

If it is confirmed that the matter is a corruption matter, the responsible officer categorises the matter using the Complaint Categorisation and Prioritisation Model (CCPM). Matters are categorised as High, Medium or Low. This determines the officer assigned to assess the matter.

Refer to IM03 - Assessment of matters for further information on undertaking a preliminary assessment of corruption matters other than a notification of significant events.

If a corruption matter is identified as urgent, based on information provided by the referring agency, perceived severity, associated risk to people or evidence, or sensitivity of the matter, **the Executive Director, Integrity Services (EDIS) or Director, Assessment must be notified immediately**. In the absence of either the EDIS or the Director, Assessments then the matter should be referred to the Director, Reviews.

Receiving notification of significant events

The receiving and recording procedures adopted for significant events are the same, regardless of the type of significant event.

The CCC is usually notified of a significant event by telephone. The EDIS is identified to QPS as the first point of contact.

The procedure for receiving notifications differs according to whether it is received within or outside business hours.

Method of receipt	Actions to be taken
Telephone - business hours	In most cases the notification is received by the EDIS. If any other CCC officer receives a notification, they must immediately transfer the call to the EDIS or one of the available Directors in Integrity Services; or in their absence to the Senior Executive Officer (SEO), (Corruption).
Telephone - outside business hours	EDIS, SEO Corruption or other nominated Senior Officer, Integrity Services



	Any assessment considerations or decisions regarding staff deployment is to be discussed with Executive Director, Corruption Operations (EDCO)
Written notifications	The notification is allocated to the responsible Manager (or their delegate) in the Corruption division and the EDIS is notified as soon as is reasonably practicable.

For notifications received by telephone, the receiving officer details the notification in writing. This information is sent to the Assessment Unit via email.

Significant events received in writing are directly assigned to the responsible Manager (or their delegate), to receipt and register the matter.

For all significant events, QPS must be requested to provide copies of any camera footage/body worn video from the event. This can occur verbally during the initial notification or thereafter by the officer responsible for registering the matter. The footage received is recorded as part of the incoming matter.

Receipting corruption matters

Once the jurisdiction and categorisation of a corruption matter are confirmed, the matter is receipted.

The allocated responsible officer is to ensure all relevant documentation is attached to the electronic file in Contents Manager.

4.1.4 Recording corruption matters

Corruption matters are recorded through registering the matter in COMPASS. The registration process records known or deduced information about the matter. It evaluates all available information to confirm priority, or criticality, as identified at matter receipt, and identifies preliminary recommendations.

To register a corruption matter, the responsible officer reviews and confirms the information provided at receipt, and enters the relevant information into COMPASS.

The allocated responsible officer must also ensure that any subsequent conversations, by telephone or otherwise, are recorded in COMPASS as soon as practicable and in any event before the close of business the following day.

If the matter is a Public Interest Disclosure, a record is to be made as to whether the complaint constitutes a disclosure under either s.12 or s.13 of the *Public Interest Disclosure Act 2010*.

This finalises the registration process.

4.2 Crime matters

4.2.1 Types of crime matter

The CCC investigates major crime, approved pursuant to a General Referral or Specific Referral, and criminal organisations and participants involved in criminal activity or incidents that threaten public safety.

The CCC categorises these investigations into four types of crime matter:



- **CCC Crime Investigation** – an operation approved under an established General Referral or a Specific Referral where the CCC, whether alone or in cooperation with another agency, is responsible for investigation outcomes (arrests, charges, proceeds action, etc.)
- **Referred investigation** – an operation approved under an established General Referral or a Specific Referral where the QPS is the lead agency and the CCC is not responsible for investigation outcomes but has been engaged for the use of powers not ordinarily available to police
- **Specific intelligence operations** – an operation approved by the Crime Reference Committee (CRC) under s.55A of the CC Act
- **Immediate response operations** – an operation approved by CRC under s.55D of the CC Act.

4.2.2 Receiving crime matters

Receiving a crime matter proposal from QPS or another enforcement agency

Most proposals for approval of a crime matter from the QPS or an external agency are initially received by telephone or email enquiry. The officer responsible for receiving the enquiry, depends on the type of crime matter:

Type of crime matter	Responsible officer
CCC Crime Investigation (s.27)	Executive Director, Crime Operations
Referred Investigation (General Referral-s.27)	Executive Director, Crime Hearings and Legal
Referred Investigation (Specific Referral-s.27)	Executive Assistant to the SEO (Crime)—for all formal proposals in writing Executive Director, Crime Hearings and Legal—in any other case
Intelligence Operation (s.55A)	Executive Director, Crime Operations
Immediate Response Investigation (s.55D)	Executive Director, Crime Hearings and Legal

With the exception of formal proposals for a Referred Investigation under a Specific Referral, on receiving the initial enquiry or other communication, the responsible officer ensures it falls within the CCC's crime jurisdiction, and provides any necessary advice to the proponent, including the likelihood of success of the proposal, based on the Matter Prioritisation Model (MPM). If a formal application is to be made, the responsible officer provides the proponent with the relevant application form (IM02-Form 2) to complete and return.

The Executive Director, Crime Hearings and Legal must ensure a record of all preliminary enquiries or consultations in relation to proposals for Referred Investigations, are maintained in the eDRMS system.

Receiving a crime matter proposal from a CCC Officer



The Executive Director, Crime Operations is responsible for receiving all proposals by CCC officers for the approval of a crime matter, including intelligence target assessments for consideration by the Crime Pre-Assessment Committee.

An intelligence target assessment is undertaken to ascertain the suitability of alleged major crime for further action by CCC.

4.2.3 Recording crime matters

Crime matter proposals are not considered for formal assessment unless they have been made in writing using the approved form, for example, by way of written application (IM02-Form 2) or intelligence target assessment (IM02-Form 3).

Once received, crime matters and intelligence target assessments are saved or uploaded to eDRMS by the responsible officer.

An operation name must be assigned before a crime matter is registered. The name is selected from the list maintained by Records Management and then registered using the Operation/Project/Probe name registration form (IM02-Form 4). The responsible officer should ensure the operation name is included in the formal application upon receipt from the proponent. Intelligence target assessments are initially named using the relevant eDRMS number. If later approved as a project or operation, its name will be amended accordingly. A project will be given an operation name if it results in a formal operation application.

All formal applications for crime matters must be saved or uploaded to eDRMS. Where an existing crime matter deals with the same crime incident or has an identical operation/project name, the matter is still receipted as a new matter with the operation/project name given an ordinal number suffix, as appropriate (for example, if Operation Brown already exists, the new matter is given the name Operation Brown 2).

Applications to amend the terms of reference for an existing crime matter are not treated as an application for a new crime matter. For more information see: [MM01 – Matter management, planning and conduct](#).

The Application to commence a crime investigation (draft) or intelligence target assessment (if applicable) must be saved or uploaded to eDRMS.

Upon receipt, the responsible officer is to ensure the matter is subject to an assessment within 14 days of receipt. Refer to [IM03 – Assessment of matters](#) for further information.

Once a Crime Operation is approved, the operation is to be created in OASIS.

4.3 Confiscation matters

4.3.1 Types of confiscation matter

The CCC is responsible for the administration of confiscation matters under the *Criminal Proceeds Confiscation Act 2002* (CPCA). The CCC investigates confiscation matters under the following schemes:²

- Non-conviction civil confiscation scheme
- Serious drug offender confiscation scheme.

Matters are received primarily from the QPS, but may also be related to CCC crime or corruption investigations, or be proactively generated by the Proceeds of Crime unit.

² Chapters 2 and 2A of the CC Act.





4.3.2 Receiving confiscation matters

All confiscation matters are received in writing.

Referred matters

External referrals

External referrals are typically received from QPS via the [REDACTED] mailbox using the QPS 'Application for Criminal Proceeds Confiscation Assistance' (QP0503) form. If further information is required to process the referral, it may be obtained from QPRIME and discussions with the referring officer.

Internal referrals

Internal referrals from CCC Crime or Corruption Divisions are received via the [REDACTED] mailbox or sent directly to the Director, Proceeds of Crime using the 'Application for Criminal Proceeds Confiscation Assistance' (IM02-Form 5).

Proactively generated matters

Confiscation matters may also be proactively generated by:

- the Director of Public Prosecutions
- the Proceeds of Crime unit (e.g. from macro searches of QPRIME or from 'Serious Drug Offender' Certificates issued by courts upon the conviction for a serious drug offence or scanning of media reports).

4.3.3 Recording confiscation matters

Confiscation matters are receipted in the CMS upon receiving the relevant application form. All relevant documentation is uploaded in the Confiscation workspace in the eDRMS.

Once the matter has been recorded, it must be assessed within five business days of receipt for referred matters and 10 business days of allocation to a Case Officer for proactively generated matters.

This finalises the receipting part of the process.

5. Definitions

Term	Meaning
CCPM	Complaint Categorisation and Prioritisation Model (for corruption matters) or Crime Categorisation and Prioritisation Model (for crime matters) (under construction)
COMPASS	Complaints and Operations Management, Processing and Statistical System
Complaint Lodgement Form	Paper form used to submit forms in writing. Refer to Complaint Lodgement Form



Term	Meaning
Commission officer	As defined in Schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under s.32 of the CC Act
CPCA	<i>Criminal Proceeds Confiscation Act 2002</i>
CRC	Crime Reference Committee
Corrupt conduct	As conferred by s.15 of the <i>Crime and Corruption Act 2001</i>
Corruption	Corrupt conduct or police misconduct
EDIS	Executive Director, Integrity Services
eDRMS	Electronic document record management system
OASIS	Operation and Statistical Information System
Police misconduct	As conferred by schedule 2 of the <i>Crime and Corruption Act 2001</i>
Police related incident	An incident resulting in death or serious injury that involves: (i) an officer acting in the course of that officer's duty; (ii) an off duty officer; (iii) staff members or police recruits, whilst performing duty or otherwise; or (iv) Service property, e.g. service firearms, vehicles, watchhouses, stations or establishments.
Public official	As conferred by Schedule 2 of the CC Act
QPS	Queensland Police Service
QPRIME	Queensland Police Service database
SEO	Senior Executive Officer
UPA	Unit of Public Administration

6. Forms

Document reference	Document title
Corruption matters	
IM02-Form 1	Complaint lodgement form (also available on CCC website)
Crime matters	
IM02-Form 2a	Application to Approve a Particular Investigation (Organised Crime (Facilitators) General Referral 2015)
IM02-Form 2b	Application to approve a particular investigation (Organised Crime General Referral 2015)
IM02-Form 2c	Application to Approve a Particular Investigation (Serious Crime (Homicide) General Referral 2018)



IM02-Form 2d	Application to approve a Particular Investigation (Serious Crime (Sexual Offences) General Referral 2015)
IM02-Form 2e	Application to Approve a Particular Investigation (Serious Crime (Vulnerable Victims) General Referral 2013)
IM02-Form 2f	Application to Approve a Particular Investigation (Terrorism - General Referral 2004)
IM02-Form 2g	Application to Make a Specific Referral (Serious Crime SEOC request)
IM02-Form 2h	Application to Approve an Immediate Response Investigation
IM02-Form 2i	Application for Authority to Undertake a Specific Intelligence Operation
IM02-Form 2j	Application to Approve a Particular Investigation (Criminal Paedophilia General Referral 2015)
IM02-Form 3	Intelligence target assessment
IM02-Form 4	Operation/Project/Probe name registration form
Confiscation matters	
IM02-Form 5	Application for Criminal Proceeds Confiscation Assistance form
QP0503	Application for Criminal Proceeds Confiscation Assistance (QPS Form)

7. Related policies and procedures

- IM03 – Assessment of matters
- IM04 – Implementation of assessment decisions
- MM01 – Matter management, planning and conduct
- Complaint Categorisation and Prioritisation Model (Corruption)
- Crime Categorisation and Prioritisation Model (under construction)
- Personnel Security Policy and Procedure
- Personal attendance policy
- Physical Security Policy and Procedure
- Australian Standard AS/NZS 10002:2014: Guidelines for complaint management in organisations
- Memorandum of Understanding - deaths in custody or in the course of or as a result of police operations

Legislative references

- *Crime and Corruption Act 2001*
- *Public Interest Disclosure Act 2010*
- *Criminal Proceeds Confiscation Act 2002*
- *Coroners Act 2003*

8. Administration

Responsible officer:	Executive Director, Integrity Services	Accountable officer:	Senior Executive Officer, Corruption
Date approved:	March 2022	Review date:	March 2023





9. Appendices

9.1 Appendix A: Complaints by personal attendance

9.1.1 Pre-arranged interview

Decision to conduct the interview

Prior to offering an in-person interview, the responsible officer undertakes security checks and a risk assessment to ascertain if the complainant has a significant criminal history, or a proven propensity for violence or making threats. To acquire this information, the responsible officer contacts the relevant Integrity Services Intelligence Analyst who undertakes a QPRIME security check.

The responsible officer, in consultation with the Senior Complaints Officer (SCO), uses the information to decide whether the interview should be conducted. This decision is electronically documented on the CMS.

Notifying the complainant of the interview

When confirming a date and time for the interview, the responsible officer advises the complainant that when attending:

- they will be subject to screening
- photo ID will be requested upon arrival
- they are required to complete a Complaint Lodgement Form prior to the interview
- they are only permitted to bring documents into the interview, no carry bags or other large items are allowed.

Procedures on the day of the interview

On the day of the interview the responsible officer:

- requests a QPRIME check to confirm the initial assessment remains unchanged
 - If the assessment has changed, the decision to interview is reviewed.
- notifies security of the interview via the electronic Visitor Form in Outlook. The notification should include:
 - relevant information from the risk assessment
 - any security precautions to be implemented
 - the room in which the interview will take place.

When the complainant arrives at reception, identification procedures are undertaken and the completed Complaint Lodgement Form requested. The responsible officer is notified.

For next steps refer to 9.1.3 below.

9.1.2 Attendance without an appointment

Individuals may present at CCC reception without an appointment and ask to make a complaint between the hours of 8:00am and 4:30pm.

Before notifying Integrity Services, the complainant is:

- asked for photo ID to confirm their identity
- provided with Making a Complaint Brochure and Complaint Lodgement Form (if not previously received).



Once the Complaint Lodgement Form is complete, an SCO is contacted and provided with the complainant's name, date of birth and other applicable personal information.

If the SCO confirms that officers from Integrity Services are available to receive the complaint, the complainant is offered an interview over the telephone in the CCC reception area.

Face-to-face interviews are only considered in extenuating circumstances, as relevant security checks may take over an hour to complete.

Refusal to provide name

If a complainant refuses to provide their name upon arrival, they are advised that a face-to-face interview will not be conducted.

The SCO assesses if the complainant should be interviewed by telephone based on advice regarding any potential threats based on their behaviour and demeanour.

Interview by reception telephone

If the complainant agrees to the reception telephone interview, the SCO selects an officer to call them.

The complaint is processed based on the information provided in the call and the Complaint Lodgement Form.

Any hard copy documents provided by a complainant are processed as correspondence and are recorded and assessed as per the procedure for written corruption matters.

Face-to-face interviews without an appointment

If circumstances suggest that a face-to-face interview is required without pre-arrangement, the complainant is advised that security checks are required and that these may take some time.

The SCO contacts the appropriate Integrity Services Intelligence Analyst who undertakes a QPRIME security check. The SCO uses the information to decide whether the interview should be conducted.

Proceeding with a face-to-face interview without an appointment

If the interview is to occur the SCO:

- selects an officer, police officer or other suitable person to conduct the interview as soon as reasonably possible, and
- determines the appropriate second floor interview room (secure or public).

For next steps refer to Conducting face-to-face Interviews below.

Not proceeding with face-to face-interview without an appointment

A decision to not proceed with the interview may be made if the complainant is:

- on the CCC's 'No further communication' list
- assessed as high risk following the QPRIME check.

If an interview is not conducted, the complainant is informed by the Security Officer on reception and provided with the option to write a letter or telephone the CCC outlining their complaint.



- [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]

- _____
- _____

[REDACTED]

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- 1 [REDACTED]
2 [REDACTED]

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Crime and Corruption
Commission

QUEENSLAND

Operations Manual

Part 1: Identification of matters (IM)
Section 3: **Assessment of matters**

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IM03 – Assessment of matters

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the assessment of matters pursuant to the *Crime and Corruption Act 2001* (CC Act).

This includes the assessment of all matters received by the Crime and Corruption Commission (CCC) including alleged major crime, criminal activity, corrupt conduct, police misconduct, or the need to undertake a confiscation investigation.

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure does not apply to assessment procedures related to witness protection.

This policy and procedure does not deal with the assessment of information about proposed research and intelligence projects.

3. Policy

The CCC is committed to assessing each matter made or notified to it, or otherwise coming to its attention, and determining the appropriate action to deal with its contents in a timely and professional manner that accords with the CC Act.

The CCC's policy and standards with respect to the assessment of potential matters for action are set out in Part 3, clauses 3.3 and 3.4 of the [Operational Framework](#).

4. Procedure

Commission officers must assess all matters in a fair and impartial way, and ensure that the decisions they make are not affected by self-interest, private affiliations, or the likelihood of personal gain or loss. Commission officers are responsible for ensuring actual, apparent or potential conflicts of interest are identified and disclosed. For more information, refer to Disclosures and conflicts of interest (policy and procedure).

4.1 Corruption matters

4.1.1 Assessment principles for corruption matters

The CCC is required to direct its attention to more serious cases of corrupt conduct and cases of systemic corrupt conduct within Units of Public Administration (UPAs).

For all corruption matters, assessment procedures are underpinned by the following principles:¹

- **Cooperation:**
 - to the greatest extent practicable, the CCC and UPAs should work cooperatively to prevent corruption
- **Capacity building:**
 - the CCC has a lead role in building the capacity of UPAs to prevent and deal with cases of corruption effectively and appropriately

¹ s.34 CC Act



- **Devolution:**
 - subject to the cooperation and public interest principles and the capacity of the UPA, action to prevent and deal with corruption in a unit of public administration should generally happen within the unit
- **Public interest:**
 - the CCC has an overriding responsibility to promote public confidence:
 - in the integrity of UPAs, and
 - if corruption does happen within a unit of public administration, in the way it is dealt with
 - the CCC should exercise its power to deal with particular cases of corruption, when it is appropriate having primary regard to the following:
 - the capacity of, and the resources available to, a UPA to effectively deal with the corruption
 - the nature and seriousness of the corruption, particularly if there is reason to believe that corruption is prevalent or systemic within a UPA
 - any likely increase in public confidence in having the corruption dealt with by the CCC directly.

4.1.2 Assessment process for corruption matters

Assessment of corruption matters other than notification of significant events

There are two steps in the assessment of a corruption matter:

- A preliminary assessment that is undertaken by the officer responsible for receipting the matter (refer to [IM02 – Receiving and recording matters](#)) to:
 - determine whether the matter falls within the jurisdiction of the CCC
 - categorise and allocate the corruption matter in accordance with the Complaint Categorisation and Prioritisation Model (CCPM).
- An assessment resulting in an assessment decision. The assessment decision is made by an appropriate officer or committee, depending on the categorisation of the corruption matter.

Preliminary assessment of corruption matters other than notification of significant events

Preliminary assessment is undertaken by the officer responsible for receipting a corruption matter and requires consideration of a matter's jurisdiction and categorisation against the CCPM.

Jurisdiction

This step of the assessment establishes that the matter involves suspected corruption, whether corrupt conduct or police misconduct and that the agency is under the purview of the CCC.

Categorisation and Allocation

This step of the assessment categorises the complaint using the CCPM. Matters are categorised as High, Medium or Low based on a range of factors (refer to Complaint Categorisation and Prioritisation Model for detailed information).

The categorisation of the matter determines the officer responsible for undertaking further assessment.



Details of the preliminary assessment are registered at the recording stage. For more information refer to IM02 – Receiving and recording matters.

Assessment of corruption matters categorised as High

Where a complaint is assessed, at the preliminary stage, as High, an appropriate responsible officer is allocated to conduct the assessment. The responsible officer must review the categorisation and confirm it is appropriate before proceeding.

The assessment of High matters must also identify whether the matter should be referred to the Executive Leadership Team (ELT) or the Remainder of High Complaints Committee (RoHCC) for an assessment decision.

Only these committees may make an assessment decision for a matter categorised as High.

Referral to the ELT for an assessment decision

To refer an assessment decision to ELT, the complaint must meet a number of criteria, for example, death or serious injury (or risk thereof) to a member of the public as a result of the conduct of a public officer, or a complaint is particularly politically sensitive or subject to media scrutiny.

A comprehensive list of the criteria to be considered when determining if a matter is to be referred to ELT is attached as **Appendix A**.

ELT assess all complaints recommended to transition to the feasibility stage of an investigation. For more information on the stages of an investigation, refer to MM01 – Matter management, planning and conduct.

For more information on the role of the ELT refer to the Executive Leadership Team Charter.

A referral to ELT is undertaken using an Investigation Proposal (Assessment). Two types of forms are available (A01 or A02) depending on the type of recommendation to be made. For more information on referring matters to ELT, refer to IM01 – Portfolio assessment and review.

The decision to refer a matter to ELT is recorded on COMPASS.

Referral to RoHCC for an assessment decision

The RoHCC assesses all matters that are categorised as High but do not meet the assessment criteria for referral to ELT.

For more information on the role of RoHCC refer to Remainder of High Complaints Committee Charter.

If a matter is assessed for referral to RoHCC, the responsible officer must consider the details of the matter and prepare a summary of their assessment considerations and a recommended course of action.

The decision to refer a matter to RoHCC is recorded on COMPASS.

To assist in making an assessment decision, RoHCC may refer High matters for further preliminary inquiries. Preliminary inquiries aim to establish whether a complaint involves:

- suspected corruption
- conduct liable to allow, encourage or cause corrupt conduct
- conduct connected with corrupt conduct.



Depending on the outcome of the preliminary inquiries, a complaint will again be referred to RoHCC for assessment or, if a transition to the feasibility stage of an investigation is recommended, or the additional inquiries meet the relevant criteria, to ELT.

For more information refer to IM04 – Implementation of assessment decisions.

Decisions made by ELT or RoHCC

Where a matter is considered and assessed by ELT, ELT may recommend a decision to be approved by the Chairperson or the SEO, Corruption, or take any other action considered necessary, including referring the matter back to Integrity Services for further enquiries to be made.

Decisions made by ELT are endorsed on COMPASS and confirmed by the SEO, Corruption.

Where a matter is considered and assessed by RoHCC, the decision maker is the Chair of the meeting, usually the SEO, Corruption or the EDIS. If neither of these officers are present the decision maker will be the Executive Director, Corruption Strategy, Intelligence, Prevention and Legal.

Decisions made by RoHCC are endorsed on COMPASS and confirmed by the EDIS

Assessment of corruption matters categorised as Medium or Low

A responsible officer is allocated to conduct the assessment, based on the CCPM. The responsible officer must review the categorisation and confirm it is appropriate before proceeding.

The responsible officer uses the General Assessment Criteria for Corruption Matters (attached as **Appendix B**) as a framework to assess the matter and determine a course of action.

Medium matters

The Director, Assessment and Director, Review are briefed on the recommended course of action. This information is used by the Director, Assessment and Director, Review to make an assessment decision with an appropriate course of action, and the allocation of an officer responsible for implementing the assessment decision.

The Director, Assessment in consultation with the Director, Review may determine that a matter should be subject to statutory monitoring. If a medium matter is to be monitored then it should be referred to the UPA, and if it is a police matter it should also be referred to JAMC for consideration. Refer to IM04 - Implementation of assessment decisions.

The assessment decision to approve a course of action is recorded in COMPASS.

Low matters

The responsible officer undertakes the appropriate action.

The assessment decision to approve a course of action is recorded in COMPASS.

For information on procedures following a decision on Low or Medium matters, refer to IM04 – Implementation of assessment decisions.

Assessment of significant event notifications (including in the event of a Death in Police Operations)

IMO2 – Receiving and Recording matters sets out methods of notification for significant events.



Regardless of the method of notification, all significant events receive urgent attention from a senior officer to ensure prompt assessment decisions and actions are undertaken.

Two assessment decisions are made in regards to notifications of significant events:

- a preliminary assessment to establish if the CCC is to provide oversight of the Queensland Police Service (QPS) Ethical Standards Command investigation
- assessment of potential corrupt conduct or police misconduct requiring further investigation by the CCC.

Preliminary Assessment of significant event notifications for CCC oversight

Preliminary assessment is undertaken by the following officers:

Method of notification	Responsible officer
Telephone – in business hours	Executive Director, Integrity Services (EDIS) If the EDIS is not available: Senior Executive Officer (SEO) (Corruption)
Telephone – outside of business hours	EDIS Any assessment considerations or decisions regarding staff deployment is to be discussed with Executive Director, Corruption Operations (EDCO)
Writing	The responsible Manager (or their delegate) in the Corruption division, in consultation with EDIS

Once notified, the preliminary assessment of a significant event notification determines the necessity for the CCC to immediately respond to the notification, and whether CCC officers should attend to observe or gather information. This decision is dependent on:

- the status of the matter and how recently it took place
- the location of the event
- whether circumstances suggest QPS investigation of the event would benefit from enhanced transparency for example:
 - serious injury or death in police operations
 - allegations of corrupt conduct or police misconduct resulting in inappropriate or excessive use of force
 - incidents of political significance.

If it is determined that an immediate response is required, Commission officers are dispatched to attend the significant event.

Advice about the notification of a significant event, and any decision to deploy, is notified to the Chairperson, CEO and SEO (Corruption) as soon as practicable, by email. If the events occur outside of normal business hours the SEO (Corruption) is notified by phone as soon as is practicable.

The officer(s) deployed to attend the incident is responsible for gathering information to enable an assessment of whether the significant event involves or may involve corrupt conduct and/or police misconduct and in the event of corrupt conduct what action, if any, the CCC should take.

Commission officer(s) in attendance relay any findings to the EDCO who discusses any further requirements or resource allocation with the SEO (Corruption). The EDCO directs attending



Commission officer(s) as to any immediate actions to be taken. The EDIS receives timely notification of any decisions made in relation to actions or resource allocation.

The Commission officers in attendance compile a report detailing the background, action and recommendations for the attention of the EDCO, EDIS, responsible Manager and SEO (Corruption).

Following receipt of any additional information, the complaint is put in writing (if it is not already) and assigned to the responsible Manager for recording and processing.

For more information on briefing processes for ELT refer to IM01 – Portfolio assessment and review.

Assessment of potential corrupt conduct or police misconduct

The responsible Manager is responsible for the assessment of notifications of significant events regarding potential corrupt conduct or police misconduct. The notification and any additional information gathered by attending officers or provided by QPS are used to inform the assessment.

The matter is then referred to either ELT or RoHCC for consideration. Assessment will include determining if the circumstances raise a reasonable suspicion of corrupt conduct and/or police misconduct.

If there is no reasonable suspicion the matter may be finalised.

If there is preliminary evidence of corrupt conduct/police misconduct then the matter is processed as a potential corruption matter. Refer to Assessment of corruption matters other than significant events, above, for further details on the assessment procedure.

4.1.3 Assessment decisions for corruption matters

Following consideration by the relevant officer or committee (ELT or RoHCC), the following assessment decisions may be made in regards to a corruption matter:

- commence a CCC investigation (transition to feasibility stage)
- refer for preliminary inquiry (matter remains in assessment stage)
- refer to the unit of public administration (UPA):
 - with CCC monitoring of the UPAs investigation
 - without monitoring, but with outcome advice to be provided to CCC
 - with no further advice (referred no further advice - RNFA)
- refer to another agency for action
- no further action (NFA)
- for significant events: CCC oversight of the investigation by QPS Ethical Standards Command.

4.1.4 Recording the assessment decision for corruption matters

For Low and Medium matters, the assessment outcome is recorded in COMPASS.

For High matters, the decision to refer a matter to a committee is recorded in COMPASS, as is the assessment decision of the committee.

Some corruption matters that have QPS subject officers may be assessed by the Joint Assessment and Moderation Committee (JAMC). Recommendations or decisions from JAMC are also recorded in COMPASS.



Where an investigation or assessment is likely to, or will, involve the making of a recommendation(s) for law reform in relation to a Cabinet process or a matter involving a constitutional convention, refer to MM01 – Matter management, planning and conduct.

This completes the recording process for assessment outcomes.

4.2 Crime matters

4.2.1 Assessment principles for crime matters

The assessment of a crime matter determines whether the available information supports a recommendation that the matter be approved by:

- the Chairperson or the SEO (Crime), for a CCC Crime Investigation or Referred Investigation under a General Referral,
- the Crime Reference Committee (CRC), for any other Crime matter.

Crime matters are assessed on the basis of the Matter Prioritisation Model (MPM). The MPM is used to assess the priority of each investigation, project or initiative (a matter) based on:

- public interest
- stakeholder value

Whether it is in the public interest for the CCC to undertake the investigation² takes into consideration:³

- the number of persons that may be involved
- the degree of planning and organisation likely to be involved
- the person or persons likely to be responsible for the planning and organising
- the likely involvement of the person or persons in similar activities
- the seriousness of, or consequences of the major crime
- the financial or other benefits likely to be derived by any person
- whether the investigation by the CCC is a justifiable use of resources
- the likely effectiveness of the investigation using powers ordinarily available to the QPS.

Stakeholder value has two aspects: the importance of the matter to the CCC's key stakeholders, and the value of the matter to the CCC.

Further information regarding the MPM can be located in the Crime Division Position Statement <[located here](#)>

Crime Matters also require consideration of:

- the proposed terms of reference for the matter
- whether the matter is within the CCC's statutory jurisdiction,⁴ and if for approval under a General Referral, whether the proposal is within the terms of the General Referral
- for a matter for approval under a Specific Referral: whether the QPS has carried out an investigation into the particular incident of major crime that has not been effective, and further investigation by the QPS is likely to be ineffective using powers ordinarily available to police officers⁵

² s.28(1)(c), 55B(1)(b) and 55E(1)(b) CC Act

³ s.28(3) and (4) CC Act

⁴ s.27, 55A, 55D CC Act

⁵ s.28(1)(a) and (b) CC Act



- for a Specific Intelligence Operation Authorisation or an Immediate Response Authorisation, the likely effectiveness of the investigation without the use of certain powers available to the CCC by virtue of the authorisation⁶
- the extent to which the matter is aligned with the CCC's strategic priorities.

4.2.2 Assessment process for crime matters

The assessment procedure adopted for a crime matter is defined by the crime matter type.

Assessment process for crime matters other than Specific Referred Investigations

Once receipted and registered, all applications for a new CCC Crime Matter must be referred to the Executive Director, Crime Operations with a draft approval or authority in the appropriate form.

Preliminary assessment

For non-urgent matters, the Executive Director, Crime Operations places the proposal on the Crime Pre-Assessment Committee (CPAC) agenda for preliminary assessment. If the matter is urgent and there is insufficient time for CPAC consideration, the Executive Director, Crime Operations immediately refers the matter to the SEO (Crime) for preliminary assessment.

A new crime matter may have more than one preliminary assessment if it is referred back to the applicant for further enquiries or development. Once a matter is referred to ELT or assessed as No further action, no further assessment outcomes may be undertaken or recorded.

Preliminary assessment of new crime matters must be undertaken within 14 days of the matter being received. If previous preliminary assessments have been undertaken, the due date for further assessment is determined by CPAC, but in any event must be within 90 days of the previous preliminary assessment.

The preliminary assessment considers the assessment principles set out in the previous section of this policy and procedure.

On preliminary assessment of the matter, the CPAC may:

- refer the matter to ELT if it is deemed suitable for recommendation of approval by either the SEO (Crime) or the CRC
- refer the matter back to the applicant and recommend further enquiries or development are undertaken.

For more information on governance and membership of CPAC, refer to the Crime Pre-Assessment Committee Charter.

Assessment by ELT

With the exception of urgent matters and Specific referrals, all new Crime matters are assessed by ELT. Urgent applications may be assessed by ELT if referred by the SEO (Crime), otherwise the SEO (Crime) notifies ELT following approval.

In referring a matter to ELT, the responsible officer for the matter will prepare an Investigation Proposal (Assessment) that:

- attaches a copy of the new crime matter proposal (application) and a copy of the draft approval or authority, and
- includes information about any recommendation made by the CPAC and the reasons for that recommendation.

⁶ s.55B(2), 55E(2) CC Act

ELT assesses whether the matter is appropriate for approval taking into account the recommendation of the CPAC and any other matter considered relevant. ELT may recommend the matter to be approved by the Chairperson, SEO (Crime) or the CRC (as appropriate), or take any other action considered necessary, including referring the matter back to the applicant for further enquiries or development.

A crime matter may have more than one ELT assessment. An ELT assessment of a new crime matter must be undertaken within 14 days of the preliminary assessment, or if there has been a previous ELT assessment, by the date specified by ELT.

For more information on ELT procedures refer to IM01 – Portfolio assessment and review.

Assessment by SEO (Crime)

If a matter is referred directly to the SEO (Crime) for assessment, the SEO (Crime) may refer the matter to ELT for out of session consideration (time permitting) or discuss the matter directly with the Chairperson.

If recommended by ELT or with the agreement of the Chairperson (as the case may be), the SEO (Crime) may approve the matter for investigation or take any other necessary action recommended or deemed appropriate in the circumstances, including referring the matter back to the applicant for further enquiries or development.

Assessment process for Specific Referred Investigations

Specific referrals from QPS are directly referred by the QPS to the CRC for consideration. The secretariat for CRC contacts QPS prior to the CRC meeting to ascertain whether any investigation for approval under a Specific Referral is proposed. If so, the QPS prepares the application and the CRC secretariat includes the matter on the CRC agenda.

If an application for approval of a crime matter under a Specific Referral is received by the CRC secretariat, and there is sufficient time prior to the next meeting, it is referred to ELT for assessment in the usual way. The SEO (Crime) nominates an appropriate officer to prepare the relevant paperwork. If ELT does not consider the matter prior to consideration by the CRC, the SEO (Crime) advises ELT of the approval at the next assessment meeting.

For information on steps following a decision by CRC, refer to IM04 – Implementation of assessment decisions.

4.2.3 Recording the assessment decision for crime matters

The assessment decision or approval made by ELT, SEO (Crime) or CRC is recorded as an assessment outcome in eDRMS.

Once a Crime operation is approved, the operation is to be created in OASIS.

4.3 Confiscation matters

4.3.1 Assessment principles for confiscation matters

The *Criminal Proceeds Confiscation Act 2002* (CPCA) contains four confiscation schemes,⁷ of which two are administered by the CCC:

⁷ The other confiscation schemes outlined in the CPCA are conviction based schemes administered by the Office of the Director of Public Prosecutions and are not covered by this policy



- Non-conviction civil confiscation⁸
- Serious drug offender confiscation order⁹ (SDOCO).

An assessment of a confiscation matter is conducted to determine if it is worthwhile to commence confiscation action. In particular, an assessment is undertaken to determine:

- if an individual owns, has an interest in or has effective control over net assets sufficient to warrant confiscation action
- if the facts of the charge support a suspicion of serious crime related activity, or if the individual is to be charged or about to be charged with a qualifying offence (CPCA, chapters 2 and 2A), and
- if so, whether there is a viable strategy available under the CPCA
- if it is in the public interest to undertake confiscation action.

The MPM is applied to assess the priority of each confiscation investigation.

4.3.2 Assessment process for confiscation matters

After receipt of a confiscation matter, the matter is allocated to a Case Officer for assessment. Assessments should be completed within five business days of receipt for referred matter and 10 business days of allocation to the Case Officer for proactively generated matters.

The assessment process starts with a number of searches to ascertain if the confiscation matter meets specific criteria to warrant confiscation action. The Case Officer uses the Investigation Proposal (Assessment) – Confiscation Matters recommended for CCC investigation (IM03-Form 1) to guide this process.

Searches may include:

- consulting relevant databases (e.g. QPRIME, Veda, AUSTRAC)
- contacting relevant financial institutions (including Notice to Financial Institutions)
- conducting other online searches
- contacting the referring officer.

Once information has been collected, the Case Officer completes the Proceeds of Crime Assessment Form with the following information:

- assessment against the confiscation assessment criteria
- strategy and risk assessment
- recommendation.

To satisfy statutory requirements, the Case Officer must consider specific confiscation assessment criteria and conduct a strategy and risk assessment, prior to seeking approval for a confiscation investigation.

Civil confiscation assessment criteria

For matters under the civil confiscation scheme:

- there are reasonable grounds to suspect the person has engaged in 'serious crime related activity' within the previous six years
- where an unexplained wealth order strategy is appropriate, there are reasonable grounds to suspect the person has engaged in 'serious crime related activity' (no timeframe defined)

⁸ Chapter 2, CPCA

⁹ Chapter 2A, CPCA



- the person owns assets or has effective control of assets and the basis of the effective control
- there are reasonable grounds for suspecting the assets may be derived from 'illegal activity' or the person may have derived a benefit from 'illegal activity'
- the extent of the person's legitimate income or other legitimate sources of finance
- it is in the public interest to take confiscation action.

SDOCO confiscation assessment criteria

For matters under the SDOCO scheme:

- there is a 'qualifying (drug) offence' (as defined in the CPCA)
- the person owns assets or has effective control of assets
- it is in the public interest to take confiscation action
- public interest considerations specific to the person have been assessed.

Strategy and Risk assessment

The Case Officer conducts a strategy and risk assessment to determine:

- the most viable recovery strategy
- any potential risks of commencing litigation
- the value of the net realisable assets
- the cost effectiveness of civil confiscation litigation or SDOCO scheme litigation.

MPM Assessment

As with crime matters, the MPM is applied to confiscation matters at the assessment stage to assess the relative priority of each matter. (See 4.2.1)

Human Rights Act Assessment

Before making a decision to commence a confiscation investigation, consideration is given to: the human rights of the person likely to be engaged; if the engagement of these human rights is authorised by law; and if the limitation of these human rights is reasonable and demonstrably justifiable considering the serious nature of criminal activity associated with the person.

The Case Officer will recommend that the matter either transition to feasibility stage of a confiscation investigation or be rejected with no further action.

Once the Case Officer completes the Investigation Proposal (Assessment), it is reviewed by a Senior or Principal Financial Investigator and approved by the Director, Proceeds of Crime.

Matters not meeting the relevant criteria are considered unsuitable for further action and are returned to the originating agency with a recommendation that further enquiries be conducted, or alternative proceedings under the conviction based scheme or other legislation be instituted.

Refer to IM01 – Portfolio assessment and review for more information on ELT referral procedures and to MM01 – Matter management, planning and conduct for further information on the stages of an investigation.

4.3.3 Recording the assessment decision for confiscation matters

The assessment decision is recorded as an assessment outcome in eDRMS.



5. Definitions

Term	Meaning
Assessment decision	A decision about how to deal with a complaint
CC Act	<i>Crime and Corruption Act 2001</i>
CCC	Crime and Corruption Commission
CCC delegate	A CCC officer to whom a Commission power or a chairman's power has been delegated under the CC Act or another Act.
CCPM	Complaint Categorisation and Prioritisation Model (corruption matters)
CMS	Case management system
Commission officer	As defined in Schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under s32 of the CC Act
Complainant	<p>A person or organisation (not a UPA) that provides the CCC with a complaint involving suspected corruption. A complainant is personally aggrieved by the conduct and expects:</p> <ul style="list-style-type: none"> • an outcome which addresses their concerns • advice of the assessment of the complaint and/or action taken to ultimately deal with the complaint. <p>[A complainant who is also a holder of an appointment in a UPA, but is not a public official notifying the CCC, may be defined as a discloser or discloser/victim.]</p>
Complaint (s. 36)	<p>A communication received by the CCC concerning suspected corruption which:</p> <ul style="list-style-type: none"> • is made by way of statutory declaration • is not made by way of statutory declaration, but the CCC has determined an exemption applies due to exceptional circumstances <p>or</p> <ul style="list-style-type: none"> • is from a public interest discloser under the Public Interest Disclosure Act 2010. • Section 36 complaints can be made or referred by: <ul style="list-style-type: none"> • members of the public • a person complaining on behalf of an individual, organisation or group of people • prisoners and detainees • a legal representative acting on behalf of a person or organisation • an elected official on behalf of a constituent
Corrupt conduct	Has the meaning conferred by s.15 of the CC Act
Corruption	Means corrupt conduct or police misconduct
CPAC	Crime Pre-Assessment Committee
CPCA	<i>Criminal Proceeds Confiscation Act 2002</i>
CRC	Crime Reference Committee
EDCO	Executive Director, Corruption Operations
Decision about a complaint	For the purposes of this policy and procedure, a decision about the way a complainant's complaint was assessed



Term	Meaning
Decision-maker	An officer who has been delegated with the power to make an assessment decision, in accordance with the levels described in the CCPM
EDIS	Executive Director, Integrity Services
ELT	Executive Leadership Team
MPM	Matter Prioritisation Model (Crime matters)
OASIS	Operation and Statistical Information System
Police misconduct	As conferred by Schedule 2 of the CC Act.
Police related incident	An incident resulting in death or serious injury that involves: <ul style="list-style-type: none"> i. an officer acting in the course of that officer's duty ii. an off duty officer iii. staff members or police recruits, whilst performing duty or otherwise, or iv. Service property, e.g. service firearms, vehicles, watchhouses, stations or establishments.
Public Interest Disclosure	A complaint made in accordance with the <i>Public Interest Disclosure Act 2010</i>
QPRIME	Queensland Police database
QPS	Queensland Police Service
RoHCC	Remainder of High Complaints Committee
SDOCO	Serious Drug Offender Confiscation Order scheme
Significant event	A "police related incident" as defined by section 1.17 of the QPS Operations Procedures Manual, or any other incident reported to the CCC pursuant to any administrative arrangement in place between the CCC and QPS requiring the reporting of events or issues likely to result in public scrutiny, such as, high-speed police pursuits, or an incident of the above nature which the QPS suspects involves or may involve "corruption".
UPA	Unit of Public Administration

6. Forms

The master copy of Documents referenced as MM01 (i.e. the Investigations Proposals) are saved in the MM01 – Matter management, planning and conduct folder in eDRMS.

Document reference	Document title
IM03-Form 1	Investigation Proposal (Assessment) – Confiscation Matters recommended for CCC investigation
MM01 – A02	Investigation Proposal (Assessment) – Corruption matters not recommended for CCC investigation
MM01 – A01	Investigation Proposal (Assessment) – Matters recommended for CCC investigation



7. Related policies and procedures

- IM01 – Portfolio assessment and review
- IM02 – Receiving and recording matters
- IM04 – Implementation of assessment decisions
- MM01 – Matter management, planning and conduct
- Complaint Categorisation and Prioritisation Model
- Crime Categorisation and Prioritisation Model (under construction)
- QPS Operations Procedure Manual, section 1.16 and 1.17
- Remainder of High Complaints Committee Charter
- Crime Pre-Assessment Committee Charter
- Executive Leadership Team Charter
- Disclosures and conflicts of interest (policy and procedure)

Legislation references

- *Crime and Corruption Act 2001*
- *Criminal Proceeds Confiscation Act 2002*
- *Public Interest Disclosure Act 2010*
- *Public Service Act 2008*
- *Coroners Act 2003*

8. Administration

Responsible officer:	Executive Director, Integrity Services	Accountable officer:	Senior Executive Officer (Corruption)
Date approved:	March 2022	Review date:	March 2023



9. Appendices

9.1 Appendix A: Referral of corruption complaints to ELT

The following HIGH complaints are to be referred to ELT - a HIGH complaint involving or where:

- Death or serious injury, or a substantial risk of death or serious injury, to a member of the public as a result of, or in connection with, the conduct of a public officer, including a death in police operation (DIPO). However DIPO matters where there is no evidence that the conduct of a police officer caused or contributed to the death can be reported to RoHCC and do not need to be reported to ELT.
- There is a reasonable suspicion that a public officer has, in performing or in connection with performing his/her duties, committed (either as a principal offender or as a party) one or more of the following offences: official corruption, misconduct in relation to public office, electoral bribery, attempting to pervert the course of justice, perjury, disclosure of official secrets, or fabricating evidence
- There is a reasonable suspicion of corrupt conduct by an executive level officer (i.e. Director-General, CEO, Vice Chancellor, Police Commissioner), an elected official, a judicial officer, a board member of a statutory authority, or an officer of the CCC

EXCEPT

Matters where an elected official is alleged to have contravened a provision of the Local Government Act that the Independent Assessor has authority to prosecute (i.e. a 'conduct provision') **should not be referred to ELT** if there is nothing else about that matter which would warrant such referral.

EXCEPT

Matters which come within section 329 of the *Crime and Corruption Act 2001* (improper conduct by commission officer) are to be dealt with under that provision and the CCC's related policies and procedures.

- Politically sensitive complaints and/or complaints that are subject to significant media attention and/or a matter in relation to which ELT has previously asked to be briefed
- There is a recommendation that ELT determines (or considers determining) that the complaint be investigated by the CCC
- Alleged dishonesty resulting in a gain or causing a detriment in excess of \$1,000,000
- Conduct which is connected to, or could compromise, a current CCC investigation
- Accessing and/or releasing confidential information to assist an offender avoid detection, compromise an investigation, or otherwise assist people committing offences
- A high risk public officer, including a high risk police officer

To remove any doubt, complaints where there is **no reasonable suspicion** that corrupt conduct has occurred **should not** be automatically referred to ELT.



9.2 Appendix B: General assessment criteria for corruption matters

General assessment considerations

The assessment of a complaint by the decision-maker should include consideration of:

- the circumstances of each case as determined by the information provided in support of the complaint, and any other information considered relevant by the CCC in the assessment process
- whether the complaint is frivolous or otherwise improper, as defined by sections 216 and 216A of the *Crime and Corruption Act 2001*, or lacking in substance or credibility
- whether the complaint is already being investigated by the CCC or relates to a CCC investigation
- whether the information in support of the complaint has potential for wider intelligence value for target development
- whether the complaint would require an unjustifiable use of resources to deal with.

UPA considerations

In relation to the relevant UPA, the decision-maker should take into consideration:

- whether the complaint relates to the culture of a UPA
- any recommendation made by the relevant UPA about how to deal with the complaint
- the CCC's knowledge of the relevant UPA's capacity and competence to deal with the complaint, based on the outcomes of audits performed by the CCC and the review of individual matters dealt with by the UPA.

The decision-maker should also consider whether the conduct is prevalent (widespread, common) or systemic (a failure of or arising from organisation design, poorly constructed control mechanisms, or inconsistent and incompatible policies or procedures) in nature by noting whether:

For prevalent behaviours:

- the conduct involves more than one person
- the conduct is or likely to be of a continuing nature
- the complaint involves conduct of a type identified as an emerging trend or issue (e.g. there has been an increase in complaints of this type) or a key focus for the CCC (e.g. precedents from the Queensland Civil and Administrative Tribunal)

For systemic issues:

- where the identified negative outcomes are arising because relevant organisational features allow for them to occur
- whether the conduct has occurred as an unintended outcome of a recent organisational change to policies, management hierarchy or other feature affecting the workplace
- where a piece-meal approach to reform may not achieve the required system rectification. For example where a suite of policies and procedures require review (rather than only one or two) in combination with staff retraining
- the issue(s) raised by the complaint are of relevance to other units of the UPA or other UPAs because of the nature of the relevant industry, geographical area, or government sector.



Subject considerations

In relation to the subject of the complaint, the decision-maker should take into consideration whether the subject:

- holds a senior or sensitive position
- has a significant complaints history, i.e. findings or previously proven actions (disciplinary behaviour or criminal convictions) for same or similar conduct, or previous allegations of a like or related nature.

Complainant considerations

In relation to the complainant, the decision-maker should take into consideration:

- whether the complainant or 'victim' is a member of a minority or disadvantaged group
- any desired outcome expressed by the complainant
- whether the complainant has consented to the referral of the complaint to a UPA or not (although this is not in itself determinative).

Under section 13(1)(a)(i) of the PID Act, public interest disclosures include the disclosure by a public officer of information about conduct that could, if proved, amount to corrupt conduct.

The assessment of complaints falling within the PID Act requires further consideration by the decision-maker, including:

- whether the discloser has articulated any concerns about:
 - their complaint being referred to the agency complained about, or
 - any risks, perceived or real, of reprisal against them
 and if so,
 - whether a risk assessment been undertaken
- whether the discloser has a preference about making their identity known or remaining anonymous, depending on the circumstances of the complaint
- whether the agency complained about has an appropriate procedure to deal with a PID as required by section 28 of the PID Act.

Where a discloser has articulated concerns about the complaint being dealt with by the UPA, or about reprisal for making the complaint, the responsible officer should make direct contact with the discloser to discuss their concerns and brief the decision-maker accordingly.





**Crime and Corruption
Commission**

QUEENSLAND

Operations Manual

Part 1: Identification of matters (IM)
Section 4: **Implementation of
assessment decisions**

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IM04 – Implementation of assessment decisions

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the implementation of assessment decisions pursuant to the *Crime and Corruption Act 2001* (CC Act).

This includes assessment decisions about alleged major crime, criminal activity, corrupt conduct, police misconduct or confiscation action that the Crime and Corruption Commission (CCC) may take in the performance of its functions.

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure does not deal with procedures related to witness protection.

This policy and procedure deals with the recording and, where appropriate, approval of assessment decisions related to the investigation of crime, corruption and confiscation matters. The policy and procedures concerning the management, conduct and planning of a matter, or processes for the amendment or review of an existing crime or corruption investigation is dealt with in MM01 – Matter management, planning and conduct.

This policy and procedure does not deal with the implementation of assessment decisions related to proposed research and strategic intelligence projects, involving publications or strategic assessments.

3. Policy

The Commission policy and standards for implementation of assessment decisions is set out in Part 3, clauses 3.4 and 3.5 of the Operational Framework.

4. Procedure

4.1 Corruption matters

4.1.1 Assessment decisions for corruption matters

For a full list of assessment decisions for corruption matters, refer to IM03 – Assessment of matters.

Consideration by Joint Assessment and Moderation Committee (JAMC)

JAMC is a collaborative meeting between the Queensland Police Service (QPS) and the CCC in relation to corruption matters. Matters are categorised into two tiers:

- Tier 1:
 - all matters with a QPS subject officer and a CCC assessment decision to refer to QPS with CCC monitoring
 - any other matters of interest, including significant events
- Tier 2 (Investigative Consultative Process (ICP)):
 - any matters with a QPS subject officer currently under investigation.



JAMC consideration occurs after an assessment decision by the responsible officer, the Remainder of High Complaints Committee (RoHCC) or Executive Leadership Team (ELT). Any decisions by JAMC are recorded in the case management system (CMS).

JAMC may make the following decisions:

- QPS to investigate as a:
 - Merit and Compliance Review (MCR)
 - Public Interest Review (PIR)
- QPS to deal with the matter as a:
 - criminal process
 - disciplinary process
 - managerial process
- Refer – No further action (RNFA)
- No further action (NFA).

Once the JAMC decision is recorded, the matter proceeds according to the assessment outcome:

- QPS to investigate as a MCR or PIR: see the Refer to Unit of Public Administration with monitoring section below
- QPS to deal with the matter: see the Refer to another agency for action section below.
- RNFA or NFA decisions: see the relevant sections below.

JAMC (Tier 2)

- The Investigation Consultation Process (ICP) is the second tier (Tier 2) of the JAMC process. Topics for discussion may include matters that are subject to the CCC's statutory monitoring, or where there are opportunities for collaboration between the QPS and the CCC on contemporary investigative methodologies.
- Additionally, the QPS can raise issues that have arisen in the course of an investigation that are contentious or that impact on resources and the CCC can make clear its expectations regarding investigations and outcomes.
- The ICP only sits when it is mutually beneficial to both agencies.

4.1.2 Implementation of assessment decisions for corruption matters

CCC Investigation

Only the ELT can approve a corruption matter for investigation as the transition from the assessment to feasibility stage of the investigation process is a key decision. If a recommendation to move to an investigation is approved by ELT, the matter is assigned to the Executive Director, Corruption Operations to commence the investigation.

Within the feasibility stage of an investigation, ELT may approve a preliminary investigation is undertaken. For more information on managing an investigation, refer to MM01 – Matter management, planning and conduct.

The assessment outcome is recorded as per the procedure for the ELT. For more information refer to IM01- Portfolio assessment and review.

Refer for further inquiry

RoHCC can recommend that a corruption matter is referred for further inquiry at the assessment stage (refer to IM03 – Assessment of matters). This decision is endorsed by the Executive Director,



Integrity Services. Such inquiries assess whether a complaint is about suspected corruption or conduct that may allow, encourage or cause corrupt conduct.

The Manager responsible for undertaking such inquiries (or their delegate) is responsible for securing approval using the relevant approval forms, and ensuring the approval is recorded appropriately.

Following an assessment decision by RoHCC to conduct further inquiries, it is assigned to a responsible officer for action. The responsible officer can undertake a range of inquiries including interview(s) with concerned parties, database searches, document review, telephony or internet provider checks, or obtaining footage for review.

The standard timeframe for assessments is 30 days. Where further inquiries are to be undertaken that will not meet the standard timeframes, an extension may be approved by the RoHCC.

Further inquiries result in an assessment decision. Refer to IM03 – Assessment of matters for further information.

Refer to Unit of Public Administration with monitoring¹

There are two types of monitoring undertaken by the CCC:

Merit and Compliance Review (MCR): MCRs are used to monitor Unit of Public Administration (UPA) activities to determine whether it is dealing with a matter appropriately. The review of UPA actions takes place after a UPA has finalised its investigation and taken action where:

- the CCC has decided not to deal with the case itself, although the alleged corrupt conduct is of a serious nature or involves systemic corruption
- the type of allegation has been identified by the Integrity Services audit program as an area of concern or interest
- the type of allegation has been identified by another area of the CCC to support a strategic focus or research directive.

MCRs focus on:

- the UPA's compliance with any guides or directions that the CCC has issued
- the UPA's compliance with its own internal policies or procedures
- the integrity with which the matter was dealt with
- the identification and implementation of recommendations addressing systemic concerns, whether procedural or with respect to an individual officer
- the provision of advice to the UPA about dealing with corrupt conduct in a way that promotes public confidence.

Public Interest Review (PIR): undertaken when matters involve serious or systemic corrupt conduct to ensure the UPA response meets public interest. PIRs take place over the course of the UPA's investigation and closely monitor the way in which the case is dealt with. Matters that are subject to PIRs cannot be closed without notification of the CCC.

PIRs consider the following:

- the UPA's compliance with any guidelines or directions that the CCC has issued
- the UPA's compliance with its own internal policies or procedures
- the adequacy, impartiality and transparency of any investigative, or other resolution, processes, including the identification of unreported allegations of corruption

¹ See Appendix 9.2



- the appropriateness of the conclusions and recommendations made as a result of any investigative or other action taken
- the appropriateness of the decision whether to initiate disciplinary proceedings or not
- where no charges are laid, the appropriateness of any other action taken
- where disciplinary proceedings are commenced, the appropriateness of the allegations and of the decision-maker to hear the allegations
- the appropriateness of any finding or disciplinary action, which may trigger a review of that decision in QCAT (“reviewable decision”).

The type of monitoring undertaken is determined by the assessment decision-maker (the responsible officer for complaints categorised as Medium, RoHCC or ELT for High complaints).

The decision to refer a matter to an agency with monitoring is recorded in the CMS. The UPA and complainant are notified of the assessment decision in writing with approval by the relevant manager.

Planning and administration of monitoring activities

The planning and administration of CCC monitoring activities forms part of the feasibility stage of an investigation. For more information on the feasibility stage refer to MM01 – Matter management, planning and conduct.

MCRs must be completed within six months and PIRs must be completed within 12 months, therefore placing timeliness requirements on UPAs.

A responsible officer is allocated to liaise with UPAs and receive and assess mandatory progress reports and UPA actions. If a complaint involves QPS officers, liaison occurs through JAMC.

Mandatory reports are required to be submitted to the CCC according to the following schedules:

- MCRs:
 - Interim report: three months
 - Final report: six months
- PIRs:
 - Interim report: six weeks, three months, six months and nine months
 - Final report: 12 months

Depending on the matter, these schedules may be altered by increasing or decreasing the frequency of reporting. For example, in the case of high-risk police matters subject to a PIR, JAMC may review the matter and set alternate mandatory reporting timelines. An Executive Director or a Director in Integrity Services may, in consultation with the relevant UPA, determine that a report format may be other than in writing.

Monitoring activities are tracked and recorded in COMPASS.

Monitoring activities and reporting

ELT

Monitoring activities, including the receipt of progress reports, form part of the delivery stage of an investigation. Monitoring activities are reported to ELT for review via a Matter Progress Schedule. For more information, refer to MM01- Matter management, planning and conduct.

The Commission and the Parliamentary Crime and Corruption Committee



Selected monitoring activities are also the subject of reporting to the Commission, via the monthly Commission report, and the Parliamentary Crime and Corruption Committee (PCCC) via the Commission's PCCC report.

Given the volume of matters which are monitored at any given time, not all matters are reported to the PCCC. The criteria by which matters are reported are set out below. The decision as to whether a monitored investigation is to be reported is to be made by the Executive Director, Integrity Services, but matters may be included or removed at the request of the Chairperson, Chief Executive Officer or Senior Executive Officer (Corruption), or where the Commission or PCCC has specifically requested reporting about a matter.

Public sector and local government matters are selected for inclusion in the reports based on the following criteria:

- Seniority of the subject officers
- Seriousness of the allegations – do they involve an area of focus or emerging issue
- Public interest considerations
- Matter is closely associated or linked to another matter which is already the subject of reporting

Queensland Police Service matters are selected for inclusion based on the following criteria:

- Seniority of the subject officers
- Involvement of high risk subject officers with serious complaint histories
- Seriousness of the allegations – do they involve an area of focus or emerging issue
- Vulnerable victims – young people, Aboriginal and Torres Strait Islander peoples, persons with mental health issues.
- Public interest considerations
- Matter is closely associated or linked to another matter which is already the subject of reporting

Significant events are selected for inclusion based on the following criteria:

- Matter involved a death in policing operations (DIPO)
- Seriousness of the allegations – do they involve an area of focus or emerging issue
- Vulnerable victims – young people, Aboriginal and Torres Strait Islander peoples, persons with mental health issues.
- Public interest considerations

Receiving and recording interim reports

Interim reports are not required to be submitted to the CCC in a specific format and are generally provided via email.

The contents of the report are likewise not specified, however UPAs are advised that they must provide copies of relevant material obtained and analysed in the course of the investigation and which have been used to support any conclusions reached about the allegations.

Final reports and monitoring outcomes

The final report details the outcome of the UPA's investigation and any actions taken. Specific requirements and an example template are detailed in *Corruption in Focus: a guide to dealing with corrupt conduct in the Queensland public sector*, which is available on the CCC website. UPAs are to be directed to this document when developing their final report.

As a minimum, final reports should include:



- Authorisation
- Scope and purpose
- The complaint
- Precis of allegations
- The evidence
- Conclusions and recommendations
- Attachments

Upon receiving a final report from a UPA, the responsible officer reviews it and determines the following:

- whether the CCC should agree with the recommendation in the final report
- assessment of the investigation (excellent, satisfactory, unsatisfactory).

For MCRs, the final report is provided to CCC once the matter is complete. Any comments as to the findings and UPA actions are provided to the UPA, however the CCC does not need to agree with or approve the final outcome.

For PIRs, the final report is provided prior to any action being taken by the UPA. The CCC must agree with the outcome prior to its finalisation. If there is disagreement, the responsible officer works with the UPA until a course of action is agreed. The outcome of the PIR is recorded in the CMS.

If the final outcome is satisfactory, the matter is finalised.

The CCC may assume responsibility for the investigation at any point during monitoring activities subject to:

- the seriousness of the allegations
- the UPA's capacity to complete the investigation
- the need to use CCC coercive powers
- a sufficiently unsatisfactory final outcome.

A recommendation to assume the investigation or investigate the matter further is made to ELT through an Exception Report. If approved for further action, the matter proceeds as an investigation.

For more information on processes relating to ELT review, refer [to IM01 – Portfolio assessment and review](#), and for more information on processes relating to the delivery of an investigation refer to [MM01 – Matter management, planning and conduct](#).

Refer to UPA with further outcome advice required

Matters may be referred without monitoring but requiring that the UPA provides the CCC with advice as to the outcome of the UPA's investigation.

Planning and administering this outcome forms part of the feasibility stage of an investigation. Awaiting the final outcome advice forms part of the delivery stage of an investigation. For more information on the stages of an investigation refer to [MM01 – Matter management, planning and conduct](#).

The UPA and complainant are notified of the decision in writing using the appropriate format (e.g. Matters Assessed Report, Letter to Complainant). Communications are uploaded to COMPASS for approval by the relevant manager when recording the assessment outcome.



Unlike monitoring, the UPA is not required to provide additional reporting or advice prior to the determination of the final outcome. Outcome advice is provided in writing.

If the final outcome is satisfactory, it is recorded and approved by the relevant manager and the matter is finalised and closed.

If the final outcome is sufficiently unsatisfactory, a recommendation for the CCC to investigate the matter further is made to ELT through an Exception Report. If approved for further action, the matter proceeds as an investigation.

For more information on processes relating to ELT review, refer to IM01 – Portfolio assessment and review, and for more information on processes relating to the delivery of an investigation refer to MM01 – Matter management, planning and conduct.

Refer to UPA with no further advice (RNFA)

This outcome is applied by the CCC when the matter does not warrant any review by the CCC as:

- the UPA will appropriately deal with the matter, or
- the alleged corrupt conduct is of a less serious nature.

The UPA and complainant are notified of the decision in writing using the appropriate format (e.g. Matters Assessed Report, Letter to Complainant). Communications are uploaded to COMPASS for approval by the relevant manager when recording the assessment outcome. Once the decision is recorded and approved by the relevant manager, the matter is finalised and closed.

Matters with an assessment outcome of RNFA are subject to the CCC's audit program. UPAs must maintain records of their dealing with the matter and provide access to CCC officers when required to facilitate relevant audit activity.² For more information on the CCC audit program, refer to **Appendix A**.

Refer to another agency for action

A matter may be referred to another agency for action if they are identified as having the relevant function to address the matter. For example, matters concerning the specific behaviour of individual local councillors may be referred to the Office of the Independent Assessor. Referral to another agency may occur in the following circumstances:

- where corrupt conduct is present, but the matter is also within the jurisdiction of that agency (either with or without CCC monitoring)
- where corrupt conduct is not present, but the matter is identified as falling within the jurisdiction of the agency.

If the CCC refers a matter to another agency, it may:

- refer the matter with monitoring (see above for more information)
- recommend action that should be taken and the time frame for taking that action
- provide the agency with any information the CCC has obtained during any investigative activities
- require the agency to provide the CCC with a report in relation to the matter and the action the agency has taken.

The UPA and complainant are notified of the decision in writing using the appropriate format (e.g. Matters Assessed Report, Letter to Complainant). Communications are uploaded to the CMS for

² A complaints management system encompasses all aspects of the policies, procedures, practices, staff, records and information technology (IT) system used by the UPA for the management of complaints.



approval by the relevant manager when recording the assessment outcome. Once the decision is recorded and approved by the relevant manager, the matter is finalised and may be closed.

For more detailed information on recording assessment decisions and the associated correspondence, refer to [IM03 – Assessment of matters](#).

No Further Action (NFA)

A matter is finalised as NFA where there is insufficient evidence of corrupt conduct or police misconduct or the matter is not capable of productive investigation.

The UPA and complainant are notified of the decision in writing using the appropriate format (e.g. Matters Assessed Report, Letter to Complainant). Communications are uploaded to COMPASS for approval by the relevant manager when recording the assessment outcome. Once the decision is recorded and approved by the relevant manager, the matter is finalised and may be closed.

Refer to [IM03 – Assessment of matters](#) for further information on recording assessment outcomes.

Significant event – CCC oversight of QPS Ethical Standards Command investigation

If it is confirmed that the CCC will oversight the QPS Ethical Standards Command (ESC) investigation of a significant event, the Executive Director, Corruption Operations (EDCO) coordinates the response.

Depending on the circumstances of the investigation, one of two approaches may be taken:

- CCC plays a role in the QPS investigation: where CCC staff continue to have a presence in the investigation
- CCC takes a monitoring role: information is shared by QPS for the duration of the investigation. If issues become apparent, CCC may become more involved.

The EDCO assigns the matter to the appropriate team. Typically, the officer who attended the matter is the responsible officer for the duration of the CCC's involvement.

For more information relating to the management of the oversight process, refer to [MM01 – Matter management, planning and conduct](#).

Assessment decisions for significant events are recorded at the assessment stage. If time permits, ELT considers and approves the decision to oversight an investigation. If it does not, ELT is notified of the decision. For more information on recording assessment decisions refer to [IM03 – Assessment of matters](#).

4.2 Crime matters

4.2.1 Assessment decisions for crime matters

New Crime matters are assessed and assessment decisions are made by the Chairperson, SEO (Crime), the Crime Reference Committee (CRC) or ELT, depending on the type and urgency of the crime matter.

For further information about the policy and procedure for assessing new crime matters, refer to [IM03 – Assessment of matters](#).



4.2.2 Implementation of assessment decisions for crime matters

Assessment decisions for a new Crime matter may result in one of the following assessment outcomes:

- Referred for enquiries
- Referred for development
- No further action
- Recommended for approval

Where an assessment outcome is Referred for enquiries or Referred for development, the matter will be subject to further assessment in accordance with the process set out in IM03 – Assessment of matters.

Where an assessment outcome is No further action, the matter is to be finalised. The responsible officer for the assessment of the matter is to ensure that the applicant for the crime matter proposal is advised of the decision in writing (email advice only) and the advice is saved/uploaded into eDRMS. Once that assessment outcome advice is delivered, the responsible officer may close the matter.

Where an assessment outcome is Recommended for approval or in the case of an urgent matter, the SEO (Crime) with the agreement of the Chairperson, has decided to approve the matter for investigation, the procedure below in relation to the approval of crime matters for investigation is to be followed.

Approval of Crime matters for investigation

Approval or Authority to undertake a Crime investigation may be given by:

- for a CCC investigation or Referred Investigation approved under the provisions of a General Referral: the Chairperson or SEO (Crime)
- in any other case: the CRC.

An Approval or Authority to undertake a Crime investigation must be given in the approved form.

Where an Approval has been made in relation to a CCC investigation or Referred Investigation under the provisions of a General Referral, the CRC must be notified of the Approval as soon as practicable after the Approval has been given³ and for that purpose the SEO (Crime) must ensure that the following documents are included in the meeting papers for the next scheduled meeting of the CRC:

- a copy of the (signed) Approval
- a copy of the Application for the Approval
- a draft CRC Notification and Resolution form (IM04-Form 1)
- any other information relevant to the approval decision.

Where the CRC is requested by the SEO (Crime) or the QPS Commissioner (Specific Referrals only) to give an Approval or Authority for a crime matter, the SEO (Crime) will arrange for the following documents to be included in the meeting papers for the next scheduled meeting of the CRC:

- a draft of the Approval or Authority
- a copy of the (signed) Application for the Approval or Authority
- any other information relevant to the determination of the approval decision.

³ ss. 277(1)(b) and 277(2) CC Act

The SEO (Corruption) may make a request for Authority under 55A(1)(b) (Specific Intelligence Operation). In these circumstances, the SEO (Corruption) is responsible for ensuring relevant documentation is prepared for inclusion on the agenda for CRC and provided to the CRC Secretariat.

The Executive Assistant to the SEO (Crime) (the CRC Secretariat) is responsible for providing secretariat services for the CRC. All correspondence and agenda items for the consideration of the CRC are to be referred to the CRC Secretariat via the SEO (Crime).

As soon as practicable or within two business days following consideration by the CRC of an Approval or Authority, the CRC Secretariat is to notify the ELT Secretariat and the responsible officer for the matter (refer to IM02 – Receiving and recording matters and IM03 – Assessment of matters for more information) and provide:

- the approval outcome information that must be recorded for the matter
- a copy of the Approval or Authority
- in the case of a Specific Referral, a copy of the Specific Referral application.

The ELT Secretariat will ensure information about an approval outcome is included in the meeting papers for the next scheduled ELT Portfolio assessment meeting.

The responsible officer is to ensure that the applicant for the crime matter proposal is advised of the approval outcome in writing (email advice only) and the advice is saved/uploaded into eDRMS.

Where approval for the matter has been given or confirmed by the CCC, the responsible officer is to ensure its management, planning and conduct is undertaken in accordance with MM01 – Matter management, planning and conduct.

Recording approval outcomes for crime matters

A crime matter may have more than one approval outcome. The first is designated as the original decision and any further approval outcomes are designated as reviewed/amended (refer to MM01 – Matter management, planning and conduct for more information on reviewed/amended approval outcomes).

All approval outcomes are recorded in eDRMS.

Further information is also available in IM03 – Assessment of matters.

Documents to be saved/uploaded:

- Application to commence a crime investigation
- Approval/Authority – crime investigation (final or draft, if the approval was not given)
- CRC notification and Resolution of approval (only for CCC Investigation or Referred Investigation approved under General Referral).

4.3 Confiscation matters

4.3.1 Assessment decisions for confiscation matters

Only ELT can approve the commencement of legal proceedings for a confiscation matter..

Following ELT consideration, a confiscation matter may be:

- approved for commencement of legal proceedings.
- rejected as unsuitable for legal proceedings.



4.3.2 Implementation of assessment decisions for confiscation matters

Investigation of confiscation matters

Following approval, the matter is assigned to the relevant Case Officer to action.

For more information on the management of an investigation, refer to MM01 – Matter management, planning and conduct.

Implementing no further action decisions

Matters assessed as unsuitable for the commencement of legal proceedings may be returned to the Case Officer to action further inquiries or investigation or may be returned to the originating agency with a recommendation that further enquiries be conducted or that alternative proceedings under the conviction based scheme or other legislation be instituted.

The case officer provides oral feedback to the referring agency or officer, whether in person or by phone call, followed by confirmation in writing.

Recording assessment decision

The assessment decision by ELT is recorded according to the procedure for ELT. For more information, refer to IM01- Portfolio assessment and review.

5. Definitions

Term	Meaning
CC Act	<i>Crime and Corruption Action 2001</i>
CCPM	Complaint Categorisation and Prioritisation Model
corrupt conduct	As defined in s.15 of the CC Act
CRC	Crime Reference Committee
Decision-maker	Officers or groups of officers that have been delegated with the power to determine the appropriate assessment outcome based on the complaint category
EDCO	Executive Director, Corruption Operations
EDIS	Executive Director, Integrity Services
ELT	Executive Leadership Team
ESC	Ethical Standards Command of the QPS
JAMC	Joint Assessment Moderation Committee
NFA	No further action
RNFA	Referred No Further Advice
QPS	Queensland Police Service

6. Forms

Document reference	Document title
IM04-Form 1	Notification and Resolution for Crime Reference Committee – Approval of a Particular Crime Investigation by SEOC or Chairperson



7. Related policies and procedures

- IM01 – Portfolio assessment and review
- IM03 – Assessment of Matters
- MM01 – Matter management, planning and conduct
- Complaint Categorisation and Prioritisation Model
- *Corruption in Focus: A guide to dealing with corrupt conduct in the Queensland public sector*

Relevant legislation

- *Crime and Corruption Act 2001*
- *Criminal Proceeds Confiscation Act 2002*

8. Administration

Responsible officer:	Executive Director, Integrity Services	Accountable officer:	Senior Executive Officer, Corruption
Date approved:	March 2022	Review date:	March 2023



9. Appendices

9.1 Appendix A: CCC Audit Program

The CCC maintains a corruption audit program that includes review of the identified systems and practices for dealing with corrupt conduct or police misconduct within UPAs. The proposed audit program is set out in the two-year Corruption Audit Plan, which is based on four principles: risk, value, method and scope.

The audit program outlined in the Corruption Audit Plan may include audits in regards to:

- specific classes of complaints at an agency or sector level including:
 - allegation types of increasing prevalence and concern (e.g. misuse of facilities, process corruption)
 - particular types of complainant (e.g. people making a public interest disclosure)
 - individual public sector officers or general public sector positions that have a significant complaints history (e.g. white collar positions, purchasing officers)
 - workplaces, business units, areas, regions of an agency or an agency itself which have been the subject of a considerable number of significant complaints and/or allegations
- complaints that were dealt with by UPAs either with CCC notification (matters assessed as RFNA) or without (s.40, category 3 complaints)
- public interest topics identified by the CCC or via a research directive.

Audits outlined in the Corruption Audit Plan may be reprioritised to ensure the incorporation of emerging risks and responsiveness to areas of public interest.

To facilitate the CCC's audit program UPAs must maintain a robust complaints management system⁴ and provide access to the CCC when required.

⁴ s.40A of the CC Act



9.2 Appendix B: Criteria for referring a matter to a Unit of Public Administration with monitoring.

Factors that are considered when determining whether a matter should be referred to a Unit of Public Administration (UPA) subject to monitoring by way of a Public Interest Review (PIR) or a Merit and Compliance Review (MCR) include one or more of the following:

- the level of seriousness and/or the systemic nature of the allegation/s.
- whether the allegation/s is a current area of focus for the CCC.
- the political sensitivity of the allegation and/or media attention that the matter may attract
- whether the allegation/s is an identified area of concern for Integrity Services e.g. assaults in custody/failure to activate Body Worn Vision (BWV).
- whether the allegation/s relates to an emerging issue/ identified corruption risk e.g. improper influence in selection processes.
- the monetary value involved in the allegation (likely to monitor if >\$100 000).
- the level of confidence the CCC has in the UPA to deal with the matter appropriately e.g. previous concerns may have arisen regarding timeliness, compliance with standards or integrity in the way an UPA has dealt with a complaint.
- whether the allegation involves a subject officer with a pattern of behaviour/concerning history of allegations
- the capability of an UPA to deal with an investigation appropriately e.g. a remote Council that has been referred an investigation may benefit from the guidance of a Review Officer monitoring it.
- whether a matter involves a non-UPA that is in CCC jurisdiction under s 15(2) where the conduct is of a sustained and complex nature resulting in the actual or potential loss of significant public funds.



Notes:

Matters involving very serious and/or systemic corruption are more likely to be monitored by PIR than MCR as they require a closer level of scrutiny and the CCC may potentially assume responsibility if necessary.

If a matter has been assessed as high in accordance with the Case Categorisation and Prioritisation Model (CCPM) it would be more likely to be monitored by way of a PIR than a MCR.

In some matters the allegation/s might meet one or more factors of the listed criteria however there is no supporting evidence therefore it would be unlikely it would be monitored.



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**Crime and Corruption
Commission**

QUEENSLAND

Operations Manual

Part 2: Management of matters (MM)
Section 1: **Matter management,
planning and conduct**

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MM01 – Matter management, planning and conduct

1. Purpose

The primary purpose of this policy and procedure is to outline the requirements for the conduct and planning of Crime and Corruption Commission (CCC) investigations related to its crime and corruption work, and to ensure they are conducted professionally and can withstand scrutiny by the public, media, government and court processes.¹ This policy and procedure also sets out the requirements for managing a matter where the CCC has decided not to undertake an investigation but to deal with the matter in another way.

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure deals with the following kinds of matter:

- Crime matters:
 - CCC crime investigations (including assessment projects)
 - Referred crime investigations
 - Specific intelligence operations
 - Immediate response operations
- Confiscation matter:
 - Criminal proceeds confiscation investigations
- Corruption matters:
 - Corruption investigations
 - Monitored matters (PIR)
 - Monitored matters (MCR)
 - Corruption matters (outcome only)
 - Significant events

In this policy and procedure:

- all Crime matters, Confiscation matters and Corruption investigations are referred to as “CCC investigations”
- Monitored matters and Corruption matters (outcome only) are referred to as “Monitored matters”²
- Corruption matters that are significant events are identified separately.

This policy and procedure does not deal with management, planning and conduct procedures related to projects, or witness protection which is dealt with in [MP5 - Witness Protection](#).

3. Policy

The CCC policy and standards for the management, conduct and planning of an investigation is set out in Part 4 of the Operational Framework. The Operational Framework sets out the CCC’s

¹ Operational (Op) Framework, Part 4 Introduction

² Note: A monitored matter may change to a CCC investigation (i.e. a corruption investigation) if a decision is made at any time that the CCC itself will undertake an investigation in relation to the matter and conversely, a corruption investigation matter may convert to a monitored matter, in a similar way. In this policy and procedure, whether a matter is a monitored matter or a “CCC investigation” will depend on its status at the relevant time.



management approach to the planning and conduct of investigations, and the delivery framework.

The CCC Operating Model describes the framework to deliver investigations that is designed to ensure:

- the CCC's resources are invested to provide optimal value at all stages of the investigation
- the most critical questions, requirements and risks for an investigation are addressed early, and
- the progress of an investigation is transparent.

4. Procedure

4.1 Roles and responsibilities

The activities involved in managing, planning and conducting an investigation take place at different levels within the CCC Operational Framework. At each level there are distinct roles and responsibilities that are aligned with and are supported by the CCC's broader organisational structures and systems.

The CCC Operational Framework recognises four distinct levels at which investigation roles and responsibilities are exercised: Governance, Management, Operational and Technical.³ Due to the CCC's functions and size, some positions in the CCC may be involved in the activities of more than one role and therefore role separation is not always possible. It is important therefore that Commission officers recognise and manage the inherent risk impacts of role integration, particularly as they affect good decision-making to ensure that at any given time:

- the information and context they are working with in any particular role, is adequate for the activity or decision making in which they happen to be engaged, and
- their activities and communications are sufficiently clear to avoid confusion about the particular role they are exercising and the nature of any communication or decision.

4.1.1 Undertaking a joint investigation or establishing a police task force

A CCC investigation may be conducted jointly (or co-operatively) with one or more agencies. The CCC may be the lead in circumstances where, for example, it is expected that the CCC and the relevant agency would benefit from the more timely completion of the investigation by combining resources and/or capabilities.

Joint investigation

For Corruption investigations, a UPA could be the lead agency only in circumstances where it is considered the UPA has sufficient resources and skills to undertake the investigation, but requires some specific assistance to undertake a particular aspect of the investigation (for example, the use of coercive powers or assistance with financial aspects of an investigation).

For Crime matters, investigations may be jointly conducted with the Queensland Police Service (QPS), or other interstate or Commonwealth law enforcement agencies. The CCC may or may not be the lead agency.

Where a joint investigation requires officers from other agencies to work within CCC premises, have access to CCC systems and/or exercise powers under the *Crime and Corruption Act* (CC Act), those officers should be seconded under section 255 of the CC Act. Refer to the Secondments into and out of the CCC (policy and procedure) for further information.

³ Op Framework, 4.1 Roles and Responsibilities.

Police task force

Crime investigations may also be assisted by the establishment of a police task force under section 32 of the CC Act, pursuant to arrangements between the Chairperson and the Commissioner of Police. The Senior Executive Officer, Crime determines whether a request is to be made to the Commissioner of Police for the establishment of police task forces at the commencement of such joint investigations. The Instrument establishing a police task force (MM01-TF01) form should be used for this purpose.

Where a crime investigation is conducted jointly with the QPS and requires members of a police task force to work within CCC premises, applications⁴ are to be made to the Chairperson and his or her authorised delegate for authorisation for police task force members under section 272 (2) of the CC Act, at the commencement of the task force arrangement. This authorises nominated police task force members to be empowered as Commission Officers, and to exercise the powers and functions thereof. The extent of the authorisation can differ, for example it may be for the purpose and duration of the investigation, or limited to a particular warrant or notice under which powers are sought to be exercised.

The instructions for the establishment of a police task force under section 32 of the CC Act are set out in the Establishment of Police Task Forces and authorisation to task force members work instruction.

Cooperation with foreign agencies

Australian authorities can provide and request various types of mutual assistance to/from foreign agencies under the *Mutual Assistance in Criminal Matters Act 1987* (Cth). Mutual assistance generally involves the collection of evidence in admissible form or the use of coercive powers. Refer to MP11 Mutual Assistance policy and procedure.

Any other type of cooperation with a foreign entity (other than a commercial entity) must be discussed with the Senior Executive Officer, Crime or Corruption and the Executive Director, Legal, Risk & Compliance. Other types of cooperation can include information sharing arrangements. Such arrangements may be classified as “foreign arrangements”. Under *Australia’s Foreign Relations (State and Territory Arrangements) Act 2020* (Cth), foreign arrangements need to be notified to the Department of Premier and Cabinet and the Attorney-General (Qld) prior to negotiation. Refer also to MM04 Disclosure and requests for information.

4.1.2 Governance

The Executive Leadership Team (ELT) has responsibility for overseeing and reviewing the CCC’s investigation portfolio. One important governance responsibility of the ELT involves making key decisions, recommending key decisions, or endorsing a key decision of an appropriate delegate or authority (such as a Senior Executive Officer or the Crime Reference Committee (CRC)).⁵

A **key decision** is a decision that establishes, confirms or affects the business case for a CCC investigation, the issues an investigation is required to address, key performance criteria and outcomes. Other key decisions include the decision to undertake a joint investigation or establish a police task force, conduct a public hearing⁶ as well as the decision to transition a matter from one stage of an investigation to the next (for example, from assessment to feasibility). While many key decisions are made by the ELT, not every key decision is made by the ELT. **Appendix A** is a table of important key decisions for an investigation, who is responsible for making those decisions and examples for recording those decisions.

⁴ Applications are made using the MM01-TF02 form – Instrument of authorisation (for s.32 police task force members)

⁵ ELT Charter

⁶ Op Framework, 4.4 Key Decisions



Key decisions must be supported by relevant and accurate information that is sufficient to justify the decision on a legal and strategic basis. Where a CCC policy or procedure sets out specific criteria for a key decision, that criteria must be addressed in support or otherwise of the decision.

When a key decision is made, it is the responsibility of the Case Manager⁷ to ensure information about the key decision is recorded⁸ in the CCC case management system, including:

- a concise statement of the decision
- the reason the decision was made
- the information upon which the decision was based
- the expected benefit to be achieved and/or risk to be avoided as a result of the decision, and
- the date of, and who made the decision.

This information must include any additional information (if any) recorded about the decision or decision recommendation in the ELT minutes.

4.1.3 Management

Management activities and management decisions are the responsibility of the CCC operational Executive Directors.⁹ Those activities involve:

- coordinating resources and where required, contributing strategic, operational, technical and tactical advice for consideration and action by the investigation team, and
- engaging in planned and informal communications with the relevant Case Manager to ensure that an investigation or project is meeting the CCC's strategic and performance objectives and that key decisions are understood, translated correctly and given operational effect.

The operational Executive Directors are to ensure that important management activities, decisions and communications are recorded in the CCC case management system including:

- a concise statement of the decision
- the reason it was made
- the date of, and who made the decision, and
- any other relevant information.

The relevant operational Executive Director is responsible for allocating a Case Manager for each investigation. One other important management responsibility for an investigation involves identifying and ensuring appropriate resources for the investigation team, having regard to the following matters:

- *Skills*: team members should have the appropriate knowledge, expertise and personal skills to conduct and complete an investigation, given its subject matter, nature and complexity
- *Size*: the size of the team should be appropriate to the requirements of an investigation.
- *Stability*: the team, or at least the core of the team should as far as possible remain the same for the period of an investigation and be located as close as possible to each other to ensure there is continuity of communication and efficient transfer of information between team members, and

⁷ Op Framework, 4.4.1 - The technical and operational levels. Case Managers are senior specialists, team leaders or operations co-ordinators who may be appointed to manage one or more investigations.

⁸ Op Framework, 4.4 Key Decisions.

⁹ Op Framework, 4.1.2 The management level. Operational Directors are persons of that title within each of the CCC's operational and support divisions.



- *Empowerment*: team members should have the autonomy, authority and knowledge required to make operational and technical decisions, according to the particular responsibilities assigned to them.

An investigation team may be required to undertake one or more investigations. Where the available team resources are inadequate or insufficient, whether temporarily or otherwise, operational Executive Directors are responsible for escalating the issue to their Senior Executive Officer for resolution. Where the Senior Executive Officer is not able to resolve the issue, or the resolution of the matter involves a key decision, the matter should be referred to the ELT with a recommendation or option(s) for determination.

4.1.4 Operational

Operational activities and decisions are the responsibility of the relevant Case Manager as leader of the investigation team.

Operational activities include the day to day work undertaken by the team to progress the investigation towards realising its anticipated value. These activities involve:

- implementing key decisions and the intent of other governance and management requirements to achieve the purpose of the investigation
- engaging and managing the structured cycles (“sprints”) of operational planning and decision-making
- managing or co-ordinating the delivery of investigation products and results, and
- leading the investigation team, and managing and coordinating the investigation resources.

Each Case Manager has responsibility for a group of individuals, which will comprise various disciplines and specialists (for example, investigators, professional and technical specialists and support officers), and will designate all or some of these officers, including a Primary and Secondary Case Officer, to a particular investigation.

Additionally, the Case Manager’s division and the Operations Support Division may have specialist technical and support staff and resources which the Case Manager may engage if required, in consultation with the relevant manager in that division.

The Case Manager for an investigation is to ensure all operational activities, decisions and communications concerning an investigation for which they have responsibility are recorded in the CCC case management system.

The Case Manager for an investigation is also to ensure that team members are recorded in the CCC case management system and those records remain current throughout the life of the investigation.

Recommendations for law reform which may affect Cabinet or Constitutional conventions

Where an investigation or assessment is likely to, or will, involve the making of a recommendation(s) for law reform in relation to a Cabinet process or a matter involving a constitutional convention,¹⁰ commission officers are to follow the Commission’s decision of 27 September 2019 and seek external constitutional legal advice.

Examples of the above may include a recommendation that:

¹⁰ A constitutional convention is something other than a law which governs the operation or protocols both within Parliament and between Parliament and other entities.

1. Parliament consider introducing a new criminal offence in relation to a matter that occurs in, or is part of, a Cabinet process
2. would affect or amend caretaker conventions (including, relations between members of the Cabinet and shadow Cabinet if major decisions need to be made during this period)
3. would affect the role of Cabinet (e.g. selection processes approved by Cabinet for recommending appointments by Governor in Council or the principle of collective responsibility of all Ministers for government decisions)
4. would affect relations between the Cabinet and the Parliament or the Governor (e.g. the processes by which ministers and departments ensure they are accountable to Parliament and do not mislead Parliament or the governor), or
5. mandates the disclosure of Cabinet in confidence material to CCC investigations.

The external legal advice referred to in the Commission's decision should be obtained at the earliest opportunity in the assessment or investigation process.

4.1.5 Technical

Technical activities and decisions are the responsibility of team members, whether working alone, or together, applying specialist skills or techniques to achieve the particular requirements of the investigation. These activities involve undertaking discrete investigation or project practices and technical work such as collecting evidence by interviewing or examining a witness; executing a search warrant, notice or other authority; engaging in surveillance; undertaking forensic analysis; collating, analysing, researching or reviewing information and evidence; preparing reports, correspondence and briefs; and administrative activities to support the investigation.

Team members are to ensure that appropriate records of technical activities and decisions concerning an investigation in which they are involved are recorded in the CCC case management system.

4.2 Matter stages and sub-stages

There are four key stages in the life-cycle of a matter prior to closure:

- Assessment (pre-project assessment)
- Feasibility
- Delivery
- Post-delivery

The matter stages may have one or more sub-stages. **Appendix B** describes a matter life-cycle through its key stages and sub-stages. The transition of a matter from one stage or sub-stage to another is a milestone that in each case will be supported by a key decision.

Where a matter is approved for progression to another stage, a clearly defined scope for the next stage must be articulated, and a business case identified, that is sufficient to justify the key decision.

The **scope** of a matter that is approved for investigation refers to what is, and is not to be investigated along with any additional constraints or assumptions (i.e. the terms of reference for crime matters). The **business case** for the investigation refers to the justification for, and anticipated value in undertaking it from an organisational perspective having regard to the CCC's strategic purpose, objectives and strategy, strategic risks and opportunities, priorities, legislative obligations and resources.



4.2.1 Assessment stage

The CCC has an assessment process to determine how to deal with information about crime, corruption or proceeds of crime action, including which matters the CCC should itself investigate. The assessment process begins with the receipt of information about a matter in the way described in IM02 - Receiving and recording matters, that is:

- for a *corruption* matter, with the receipt of information about the matter by any means
- for a *crime* matter, upon receipt of a proposal in the approved form
- for a *confiscation* matter, upon receipt of a referral in writing.

In the assessment process the CCC balances strategic risks, opportunities and priorities with a view to ensuring that only those matters that are of potential value in delivering the CCC's strategic objectives are selected for investigation by the CCC (see IM03 - Assessment of matters for further information).

In the assessment stage a matter will transition through the following sub-stages:

- Registration
- Assessment
- Under CRC consideration (but only for crime matters of the sub-type: specific referral, specific intelligence operation or immediate response investigation)

The assessment process ultimately culminates in a key decision whether or not to proceed to the next appropriate stage of the matter life-cycle. Where such a recommendation is to be made, the recommendation and supporting information is outlined in the **Investigation Proposal (Assessment)**. Two types of forms are available (A01 or A02), depending on the type of recommendation to be made. The key decision is recorded in the CCC case management system as an "Assessment Outcome".

For both Corruption and Crime matters, a proposal for a joint investigation or for the establishment of a section 32 police task force should generally be considered at the assessment stage and be included in the Investigation Proposal's **business case**.

If a final Assessment Outcome results in a matter being finalised, the matter will transition from the assessment stage to the post-delivery stage (see further IM04 – Implementing assessment decisions).¹¹ Otherwise, the matter will transition to the feasibility stage.

An Assessment Outcome may require the approval of an authority or delegate before it can be given legal effect. For example, a crime investigation authority must be in writing and given by the Chairperson, the Senior Executive Officer (Crime) or the CRC. In such cases, the matter will not transition to the Feasibility stage until that approval is given. Refer to IM04 – Implementing assessment decisions for further information.

4.2.2 Feasibility stage

The feasibility stage for a matter commences once the relevant Assessment Outcome (to transition a matter to that stage) is final or an approval to investigate is otherwise given by the appropriate delegate or authority.¹² A matter that has transitioned to the feasibility stage is an

¹¹ Note: A Corruption matter that is a Significant Event matter, will always transition to finalised and never to feasibility. If investigation is required, the Significant Event matter will be finalised and a new Corruption matter of an appropriate kind will be commenced.

¹² For example, the feasibility stage for a Crime matter commences upon the relevant Approval or Authority being executed by the Crime Reference Committee, the appropriate SEO or Chairperson.

“investigation” as that term is used in the CC Act. Accordingly, investigation powers may be used if appropriate, to progress a matter in the feasibility stage.

Scope and purpose

For a CCC investigation, the feasibility stage involves undertaking activities in the nature of a **preliminary investigation**, whether by way of collecting evidence or information, undertaking enquiries, or examining or considering existing or additional material, to determine or assure that the investigation (including the scope of the investigation) is required or justified (on a business case basis), and is technically feasible and cost-effective. The feasibility stage must therefore address whether the investigation is likely to be productive and, if so, what strategies and resources may be required to deliver it, over what time frame, and whether the investment of those resources is justifiable, having regard to relevant strategic considerations, risks and priorities.

At the commencement of the feasibility stage for a CCC investigation, the relevant operational Executive Director, will ensure the scope for the preliminary investigation, as identified in the assessment decision and reasons, is understood by the Case Manager. The operational Executive Director and/or Case Manager should consult with the relevant Senior Executive Officer if further clarification is required.

For a monitored matter, the feasibility stage involves undertaking any necessary activities, including administrative processes, to implement the Assessment Outcome (in accordance with IM04 – Implementing Assessment Decisions) so that the matter can transition to the delivery stage for ongoing monitoring.

Requirements (CCC investigations)

For a CCC investigation, the Case Manager is to ensure that the Case Officer, in consultation with the investigation team, has identified and prioritised the high level requirements the investigation is to address during feasibility. The requirements to be explored by the investigation (both at high level and their elements) are to be prioritised so that a decision can be reached as efficiently as possible as to whether the investigation (and recommended scope) should proceed to the delivery stage, or an alternative and more appropriate course of action, including discontinuing the matter, should be taken. See section 4.3 of this policy and procedure on principles for identifying, prioritising and recording the investigation requirements.

Progress and conduct (CCC investigations)

The Case Manager will ensure, in consultation with the relevant operational Director or Executive Director, that a team of individuals of adequate number and relevant skill are assigned to the matter to deliver the requirements for the feasibility stage within the relevant time frame.

The time frame for the feasibility stage may be fixed and specified in the Assessment Outcome information and will depend on the type of matter and the urgency with which a decision on feasibility is required.

Investigation activities in the feasibility stage are to be progressed in accordance with the delivery model described in section 4.3 of this policy and procedure. The Case Manager, in consultation with the Case Officer will determine the number (one or more) and length of **sprints** to be completed during feasibility, having regard to the urgency of the matter, and the nature and extent of the feasibility requirements.

Activities undertaken during feasibility will ordinarily be limited to confidential enquiries, and those that involve the use of conventional methods and powers. Typically, feasibility activities should not include longer term operational strategies such as the use of surveillance devices, telephone intercepts, controlled operations, a significant hearing program or other program of



tactical action. In certain circumstances, limited tactical activities such as coercive hearings or covert surveillance may be adopted provided they can be undertaken in the approved time frame and do not involve the commitment of substantial resources. Such activities should be incorporated into the Investigation Proposal (Assessment) as part of the scope of the feasibility. Activities involving the commitment of substantial resources must only be planned and undertaken as part of an investigation in the delivery stage.

Reporting

Progress on a matter in the feasibility stage will be monitored by the Case Officer and Case Manager.

For a CCC investigation (except confiscation matters) in the feasibility stage, reporting is to occur on a monthly basis to the ELT Corporate and Portfolio Review meetings.

For crime matters, reporting is to include the current matter priority assessment score in accordance with the Matter Prioritisation Model (Crime). The reports must also be referred to the CRC as soon as practicable following their submission to the ELT.

Concluding feasibility

For a CCC investigation, the feasibility stage ultimately culminates in a key decision whether to confirm the investigation, or to proceed to the next appropriate stage of the matter life-cycle, including post-delivery, for example, if the matter is to be finalised with no further action to be taken.

A Feasibility Report will be provided to ELT to support their approval of the key decision to transition from feasibility to the delivery stage of an investigation, except if the key decision recommends:

- a monitored matter be finalised with no further action or proceed to the delivery stage in accordance with the Assessment Outcome, in which case the Executive Director Integrity Services or other delegate may approve the decision, without further advice or reference to the ELT, or
- a *referred crime investigation* or *immediate response operation* proceed to delivery, in which case the Executive Director Crime Hearings and Legal may approve the decision, without further reference to the ELT, or
- a *confiscation investigation* be finalised with no further action, where the Director Proceeds of Crime may approve the decision, without further advice or reference to the ELT.

Where required, a Feasibility Report must identify how the requirements of the feasibility stage were or were not met.

A Feasibility Report will typically be produced at the end of the feasibility stage to recommend a decision to approve the transition of a matter to delivery (i.e. full investigation). This must be supported by a well-developed business case that is aligned with the CCC's strategic objectives and resource priorities. The Feasibility Report will address why a full investigation is likely to be productive, the broad investigation strategy, the resources required to deliver it (including an estimation of resources from other agencies for a joint investigations or police task force) and over what time frame (via a draft high level delivery plan), and why the investment of those resources is justifiable. The report should also identify the minimum products that the investigation is anticipated to deliver.

The **high level delivery plan** for the investigation describes the primary stages for the delivery stage of the investigation. The stages of delivery and their purpose are described in more detail in section 4.2.3 below.



The Case Manager is to ensure the decision to transition a matter from feasibility to the next appropriate stage is recorded in the CCC case management system as a Key Decision.

4.2.3 Delivery stage

The delivery stage for a matter commences once a key decision is made by the appropriate delegate or authority to transition the matter to delivery.

Scope and purpose

The delivery stage for a CCC investigation involves engaging in investigation practices and related activities to collect and analyse information and evidence, and organise it so that it can be used for one or more discrete **products** of the investigation, such as a report, brief of evidence or disclosure. These products can be applied (for example, in taking disciplinary or prosecution action) to ultimately produce **outcomes** for the investigation, such as a penalty or sentence, a sanction, the forfeiture of property, a change of practice or other impact. The investigation products may be delivered and put into use incrementally as they are completed.

For a monitored matter, the delivery stage may involve:

- monitoring the way in which a unit of public administration (UPA) is dealing with a matter, whether the matter is being dealt with by way of investigation or other activities, or
- waiting on outcome advice only as to how a UPA has dealt with the matter.

Requirements (CCC investigations)

The Case Manager is to ensure that the Case Officer, in consultation with the investigation team, has identified and prioritised the high level requirements the investigation is to address during delivery. Section 4.3.1 contains further information on identifying and prioritising investigation requirements, the purpose of that exercise and relevant factors that need to be taken into account.

The investigation requirements may be affected by new information discovered during the investigation resulting in one or more of the requirements not being met, or unlikely to be met. Alternatively, new requirements may emerge.

Changes in requirements may impact anticipated time and resourcing requirements. An investigation may evolve into a joint investigation, or the desirability of a police task force may emerge, at any point during the delivery stage. Similarly, a joint investigation may evolve into a CCC-only investigation, or a police task force may be dis-established at any point before completion of the delivery stage.

Any change in the investigation requirements must be assessed for their impact on the scope and business case for the investigation, the issues the investigation is to address, key performance criteria, time-frames for delivery, or a stage of delivery, resources and outcomes.

The Case Manager is to ensure that any new risk, issue or key decision resulting from such an assessment is reported to the ELT via an **Exception Report** for information and determination as necessary. The Exception Report incorporates the identified risks and issues, and recommends actions necessary either by way of re-prioritising requirements, or changing requirements or resourcing of the investigation, including the undertaking or cessation of a joint investigation or police task force. Section 4.3.4 provides further information on identifying risks and issues.



Progress and conduct (CCC investigations)

The Case Manager will ensure, in consultation with the relevant operational Executive Director, that, having regard to the investigation scope and requirements, a team of individuals of adequate number and relevant skill are assigned to the matter so that the requirements of the investigation are able to be delivered within the relevant time frames set out in the delivery plan.

At the commencement of delivery the relevant operational Executive Director will ensure the:

- approved scope of the investigation is understood by the Case Manager
- the requirements are appropriately prioritised, and
- the approved high level delivery plan for the investigation is accurately recorded in the CCC case management system.

The operational Executive Director and/or Case Manager should consult with the relevant Senior Executive Officer if further clarification is required in relation to any of the above matters.

Activities in the delivery stage are to be progressed in accordance with the delivery model described in section 4.3 of this policy and procedure. The principles underlying the delivery model ensure that the business case for an investigation is reviewed at regular intervals, and particularly at the completion of each sub-stage of the delivery stage, to ensure it remains sound, and the investigation is focused and is meeting its purpose.

The investigation requirements are addressed through a series of **sprints**. Section 4.3.3 of this policy and procedure describes how these sprints are planned and carried out. The Case Manager, in consultation with the Case Officer will determine the length of the sprints, but must ensure that at least one sprint is completed between each report on investigations that is prepared for ELT's monthly Corporate and Portfolio Review meetings.

Sub-stages of delivery

Sub-stages of delivery and their focus are described below. Not all sub-stages described are necessary for every matter and some sub-stages may overlap in timeframe. For example, some investigations will only utilise a public hearing and publication sub-stage.

The overall time frame for the delivery stage will depend on the type of matter, scope, key performance targets or the urgency (or priority) with which the investigation is required to be undertaken.

Sub-stage	Focus	Conclusion
<i>Monitoring (corruption matter)</i>	<p>The focus of the monitoring sub-stage is on monitoring the UPA's activities to determine whether it is dealing with a matter appropriately. The level of monitoring will depend on the type of monitoring to be undertaken: either Merit and Compliance Review (MCR) or Public Interest Review (PIR)</p> <p>During the monitoring sub-stage, a UPA will provide the CCC with interim and final reports. See IM04 – Implementation of Assessment decisions for further information on the schedule of reporting.</p>	<p>The monitoring sub-stage of delivery (if applicable) commences when the delivery stage begins when the key decision is made to commence the delivery stage. The monitoring sub-stage ends when a key decision has been made by the appropriate delegate that, in the case of an:</p> <ul style="list-style-type: none"> • MCR— the final report sought has been provided • PIR— the final report sought has been provided and the UPA course of action has been agreed.



Sub-stage	Focus	Conclusion
<i>Awaiting Outcome Advice (corruption matter)</i>	Whilst there is no particular activity in which the CCC is engaged while awaiting outcome advice from a UPA, regular and timely communication should be undertaken to ensure timeframes and/or expectations are managed.	The Awaiting outcome advice sub-stage of delivery (if applicable) commences when the key decision is made to commence the delivery stage and ends when a key decision has been made by an appropriate delegate that the outcome advice sought has been received from the UPA.
<i>Confidential</i>	The confidential sub-stage, if relevant, is the first sub-stage of delivery for an investigation. The focus of this sub-stage is to complete those activities for which the secrecy of the investigation presents a tactical advantage and the activities themselves can be carried out without compromising that advantage. For example, the opportunity to secure evidence of alleged ongoing conduct and evidence that might otherwise be lost, damaged or destroyed.	The confidential sub-stage of an investigation (if applicable) commences when the key decision is made to commence the delivery stage. The confidential sub-stage ends where there is some level of exposure of the investigation that substantially diminishes the advantage of secrecy. This usually follows on from a particular investigation activity, such as the execution of a search warrant, and so the decision to undertake the exposing activity and thereby end the confidential sub-stage is to be recorded as a key decision to end the confidential stage.
<i>Overt</i>	The focus of the overt sub-stage of an investigation is on completing the various activities involved in collecting sufficient evidence and information to achieve the requirements of the investigation.	The overt sub-stage commences when the confidential sub-stage ends, or if no confidential sub-stage, then on commencement of the delivery stage. The overt sub-stage will be complete when the investigation is finalised and transitions to the post-delivery stage. The decision to finalise an investigation and thereby end the overt sub-stage is to be recorded as a key decision to end the overt sub-stage.
<i>Public Hearing</i>	The focus of the public hearing sub-stage is on completing the activities involved in examining witnesses with a view to determining facts, supporting other investigation activities and acquiring information to achieve the requirements of the investigation and objectives of the inquiry terms of reference. Although a decision to hold a public hearing may lengthen the time needed to complete an investigation and require an exception report for approval to extend the timeframe, a public hearing should not be treated as a new investigation if it is intended to solely or primarily be used as a strategy to support the existing investigation. The decision to hold a public hearing is a key decision .	<p>The public hearing sub-stage commences on the first day the hearing is open to the public. The public hearing sub-stage is complete on the last day the hearing is open to the public.</p> <p>NOTE: While the <i>Public Hearing</i> is a sub-stage of significant operational activity for the purpose of progressing the investigation, it is at the same time, a product of the investigation that is able to generate outcomes for the CCC through its role in exposing corruption (or crime) and related prevention issues. The delivery of the public hearing is therefore also a key product of the investigation.</p>

Sub-stage	Focus	Conclusion
<i>Reporting to agencies & others with a proper interest</i> <i>Publication</i>	<p>The focus of this reporting and publication sub-stage is on reporting on investigation outcomes to relevant agencies, complainants, subject officers, and other individuals who may have a proper interest in being advised of an investigation outcome and preparing reports and/or correspondence for publication to a party or parties external to the CCC. These publications may be confidential or for public consumption.¹³ This sub-stage may also involve activities, whether via a process of submissions or otherwise, that ensure procedural fairness has been afforded to persons who may be the subject of an adverse comment in a report.</p>	<p>The reporting and publication sub-stage commences when the requirement to prepare the report and/or correspondence arises. This ordinarily follows from a key decision to give a report and/or correspondence to an entity and/or others with a proper interest or otherwise publish a report.</p> <p>The publication sub-stage ends when the report is given to an entity and/or others with a proper interest or published and if more than one report is to be given or published in relation to the investigation, when the last report is given or published.</p> <p>There may be instances where it is appropriate for an investigation to be finalised even though work on a public report is ongoing. In making this decision, a decision-maker should consider the relevant factors set out in the Operating Model and Operational Framework. Generally, the investigation should be finalised if further resourcing required in relation to the matter is relatively minimal.</p>
<i>Brief preparation</i>	<p>The focus of the brief preparation sub-stage is on compiling one or more briefs of evidence for taking prosecution or disciplinary action against a person of interest to the investigation, or obtaining advice about whether such action should be taken. The brief preparation sub-stage involves more than just generally marking or noting evidence that may be of future relevance to brief preparation.</p>	<p>The sub-stage commences when a key decision is first made to allocate one or more team resources to the specific task of preparing a brief of evidence. The brief preparation sub-stage is complete on the day the last brief of evidence for an investigation has been delivered or disclosed to the appropriate parties.</p>
<i>PoC Litigation</i>	<p>The focus of the Proceeds of Crime (PoC) litigation sub-stage is on the activities involved in taking confiscation action in a court to restrain and forfeit serious crime or serious drug related property.</p>	<p>The sub-stage commences when a key decision is made to commence a confiscation action and ends when a Court makes final orders or a key decision is otherwise made to discontinue the confiscation action.</p>

The Case Manager is to ensure that each key decision supporting the commencement and conclusion of a delivery stage or sub-stage is recorded in the CCC case management system and also, that the commencement and end dates of each relevant sub-stage is accurately recorded against the high level delivery plan for the matter.

In some corruption matters, the Case Manager may be required to review the need to communicate with the complainant(s) and/or subject officer(s), and the most appropriate method of communication throughout the delivery stage. Generally, written correspondence will be

¹³ Note: A report may include an Intelligence Brief.

headed 'Private and confidential' and where communication is made on the basis of confidentiality, the consequences of a breach of section 213 of the CC Act will be outlined. Where appropriate, communication with complainants will typically take place at the beginning of the delivery stage, at least quarterly thereafter and upon finalisation of the investigation. Reasons not to communicate should be recorded.

Where a subject officer is aware of the existence of a complaint, the officer should be communicated with at the same time the UPA is advised of the outcome of the investigation. Subject officers interviewed during the course of the investigation should be notified of the outcome of the investigation. If the subject officer was not aware that he/she was the subject of a complaint at the time of the interview, the Case Manager should consider whether it is necessary to correspond with the subject officer if the allegation is not substantiated. Where a request for advice on the status of the investigation is received from a subject officer, the Case Manager should liaise with the Executive Director, Corruption Operations, to determine the best course of action. For further information, see the guidance provided under the 'Matter outcomes' heading below (4.2.3).

Reporting

Progress on a matter in delivery stage will be monitored by the Case Officer and Case Manager.

For a CCC investigation (except in the case of a confiscation matter), reporting is to occur on a monthly basis to the ELT Corporate and Portfolio Review meetings.

For Crime matters, reporting is to include the current matter priority assessment score in accordance with the Matter Prioritisation Model (Crime). The reports must be referred to the CRC as soon as practicable following their submission to the ELT.

Where risks or issues are identified that are anticipated to impact or threaten the achievement of one or more operational objectives, including timeliness, an **Exception Report** to ELT is required that describes the risk or issue/s, identifies their human and/or financial impact, and recommends key decisions that may include reducing the scope of an investigation, referring elements of an investigation to another agency or discontinuing the investigation.

Monitored matters will generally not be the subject of reporting to the ELT. It is the responsibility of the Executive Director, Integrity Services to ensure a timely review of both final and interim investigation reports, and also to ensure that UPAs are followed up where reports are not submitted to the CCC as required. However, monitored matters will be the subject of reporting to the ELT in the following circumstances

- where the UPA is ten (10) weeks late in relation to the submission of an interim or final report, or
- where an interim or final report has been submitted and has not been reviewed within eight (8) weeks of receipt.

In these cases, the monitored matter will be reported to the ELT by way of an Exception Report.

Matter outcomes

The Case Manager must ensure that all matter **outcomes** are recorded in the Case Management system.

For corruption matters:

For a corruption investigation, an **Investigation Report - Corruption** should be completed providing a summary of the matter, including the allegations, the persons of interest, the



investigative steps undertaken, a summary of the evidence obtained, the findings and conclusions and any recommendations.

When a corruption matter is finalised, unless the complainant has not given their name or address, does not require a response in writing, or has been given a section 216 notice (frivolous complaint), the CCC must give the complainant a response stating that—

- what action, if any was taken by the CCC in relation to the complaint
- if action was taken, the results of the action taken and why the CCC considered the action taken was appropriate in the circumstances
- if no action was taken, or taken but subsequently discontinued, then the reason for taking no action or otherwise discontinuing action.¹⁴

The CCC's response to a complainant about how it dealt with a corruption complaint must not include information that would be contrary to the public interest to include.¹⁵

The Case Manager for a corruption matter is to ensure any necessary response is given to a complainant about action taken by the CCC, including action taken by way of CCC investigation. The approved form of correspondence is to be used for this purpose.¹⁶

Where the complainant is a UPA, advice on the outcome of the investigation will often, but not always, be accompanied by a copy of the investigation report and, where appropriate, copies of relevant evidence so the UPA can consider taking disciplinary action. An outcome letter to a UPA must refer to section 49 of the CC Act and, where evidence is being provided, also to section 60(1). The outcome letter is to be settled by a lawyer who should consider whether redactions to the investigation report are necessary, e.g. to remove references to evidence that should not be disclosed to the UPA such as an oral statement obtained pursuant to section 75 of the CC Act where the witness has claimed self-incrimination privilege and the protection available under s. 197(2). Where the CCC has investigated substantive allegations against a person, then it is CCC policy that the person is to be given a response in writing as to the outcome of the investigation but only if the CCC has previously communicated with the person about one or more of the allegations. The written response to the person is to be limited to addressing:

- the allegations about which the CCC has previously communicated with the person, and
- any additional matters that are to be referred to another authority for action, including disciplinary action, but only if the relevant authority has been consulted about the giving the person the response and the response does not include information that would be contrary for the public interest, for example, because it would compromise or prejudice any action that might be taken by the authority.

An outcome letter to a person who has been investigated is to be settled by a lawyer and consideration should be given, where appropriate, to making the letter confidential by including an express reference to section 213 ('Secrecy') of the CC Act.

For Referred Crime investigations:

When a referred crime investigation is finalised and a hearing has been held in relation to the investigation, the CCC Case Officer must ask the QPS Case Officer to complete a **Crime hearing assessment** (in the approved form) as to the value the hearing added to the investigation and outcomes. The CCC Case Officer should make every effort to ensure the crime hearing assessment is returned to the CCC as soon as possible after the matter is finalised and in any event within 30 days of the matter being finalised.

¹⁴ Section 46 of the CC Act

¹⁵ Section 46(6)(b) of the CC Act.

¹⁶ See IM04 Implementation of assessment decisions for further information.



Concluding delivery

The delivery stage of an investigation ends with a key decision to finalise a matter. This will occur on the earlier of the following. In the case of a:

- corruption matter:
 - if for an investigation matter the outcome is to be reported, then when the report is provided to all relevant parties (including by way of correspondence), or
 - otherwise, when the investigation report is approved by the Executive Director, Corruption Operations, or
 - for a matter subject to monitoring or awaiting outcome advice, when the monitoring sub-stage or awaiting outcome advice sub-stage has concluded and no further action is to be taken in relation to the matter
 - otherwise, when a key decision is made to discontinue the investigation by the Executive Director, Corruption Operations
- crime matter:
 - with the approval of the Senior Executive Officer (Crime), the Chairperson or the Crime Reference Committee (CRC), or
 - when the CRC directs the CCC to end the investigation (includes the expiry of the terms of reference)
- *confiscation investigation*:
 - when a court makes final orders, or
 - a key decision is made to discontinue the investigation.

The Case Manager is to ensure the decision to finalise an investigation is recorded in the Case Management System as a key decision.

4.2.4 Post-delivery stage

A matter enters the post-delivery stage when it is finalised.

For a CCC investigation, the focus of activity in the post-delivery stage is on ensuring the products of the investigation are applied, monitored and evaluated through the CCC's reporting processes, including reporting to the ELT (in review). Examples of post-delivery activities for an investigation include:

- giving intelligence and other material, collateral to the objectives of an investigation, to appropriate authorities
- instituting and supporting prosecutions
- monitoring and awaiting the outcome of disciplinary or other action taken by a UPA
- instituting and supporting disciplinary or other action in the Queensland Administrative Appeals Tribunal (QCAT), whether under section 50 (prosecute corrupt conduct) or under Part 2 of Chapter 5 (disciplinary proceedings relating to corruption) of the CC Act
- monitoring and following-up on a response from a UPA in relation to our procedural, prevention or reform recommendations
- ensuring final court orders for a confiscation matter have been complied with, or

For all matters, the post-delivery stage also involves completing a number of activities to meet legal or administrative requirements prior to closure of the matter.

Post-delivery assessment (CCC Investigations)

Except in the case of a referred crime investigation or confiscation matter, within one month of the finalisation of a CCC investigation in which there was a delivery stage, the Case Manager must ensure that the **Investigation Completion Report (Part B: Post-delivery Assessment (PDA))** is undertaken to measure whether the investigation achieved its purpose, how well the



investigation was undertaken and whether there are any lessons to be learned or opportunities for future improvement.

The PDA process involves two steps:

- a) conducting a post-delivery de-brief, and
- b) preparing and submitting the Investigation Completion Report (Part B PDA) to the relevant Senior Executive Officer for endorsement.

The Case Manager will arrange for the post-delivery de-brief to be conducted by another Case Manager (“the facilitator”) whose team members were not substantially involved in conducting or assisting to conduct the investigation. The facilitator will arrange for the debrief meeting to occur at a suitable time and location at the CCC and invite the following persons to participate:

- *in all cases*: the Case Manager and investigation team members
- *if available*: other CCC officers, who were involved in, or provided support or assistance with substantial aspects of the investigation (for example, staff from various areas within Operations Support Division, or the Corporate Communications staff)
- *if necessary*: a member of the ELT, and any external law enforcement officers, UPA officers or parties, who were substantially involved in the investigation.

Where an invitation has been extended to a person in the last category, their attendance should be limited to a discussion of the specific area of interest and the agenda should be organised as conveniently as possible for this purpose.

The agenda for the debrief meeting is to cover the following:

- *Summary of the investigation*: why the investigation was conducted (the business case), the scope of the investigation, how the investigation was undertaken and the investigation products and outcomes to date
- *The investigation objectives*: whether the investigation achieved all or any of its objectives and reasons, opportunities missed and future opportunities
- *Investigation roles and responsibilities*: communication (including reporting) within and between role levels, decision-making, collaboration and teamwork and skills and capabilities
- *Conduct and planning*: resources, planning and prioritising, investigation practices and administrative practices, and
- *Summary*: summary of recommendations and suggested future action.

Prior to the debrief meeting the Case Officer will assist the facilitator by preparing a draft of the PDA and circulating the document to the debrief attendees for discussion at the debrief meeting. Following the de-brief meeting the Case Officer will prepare a PDA as part of the Investigation Completion Report Part B: PDA and circulate it for any comment and endorsement by the Case Manager and facilitator. Once the Case Manager and facilitator have endorsed the PDA, the Case Manager will ensure the final report is referred to the relevant Senior Executive Officer for noting and decision in relation to any significant procedural recommendations. The PDA should be made available to the relevant Senior Executive Officer no later than two months after the debrief meeting.

Where the relevant Senior Executive Officer has accepted a recommendation in the PDA, they will assign responsibility for that action.

Reporting

Progress on a matter in post-delivery stage will be monitored by the Case Officer and Case Manager.



Reporting to the ELT (in review) for matters in post-delivery stage is to occur by way of monthly reports to the ELT Corporate and Portfolio Review meetings but is only required for matters with outstanding matter outcomes.

Reporting for crime and confiscation matters must be referred to the CRC as soon as practicable following their submission to the ELT.

Administrative requirements

The post-delivery stage ends when all outcomes for the matter have been determined, for example:

- all proceedings initiated as a result of the matter (including any appeal proceedings) are final
- any awaiting agency responses to procedural recommendations have been received and accepted
- all disclosures (CCC initiated) have occurred
- all investigation records and documents have been filed in accordance the CCC operations manual policies and procedures and the CCC records management policy
- all property items held by the CCC in connection with the investigation have been disposed in accordance with IP12 Property Management, and
- all record entries in the CCC case management system for the investigation have been closed
- all assets have been forfeited and/or all money orders have been collected.

To close a matter, the Case Manager must complete the **Investigation Completion Report (Part C: Closure)** for review and approval by the appropriate key decision maker.

4.2.5 Closed matters

The Case Manager is responsible for attending to formal closure of a matter in the CCC case management system.

Upon closure of a matter, no further activities are to be undertaken in connection with it but the benefits of matter outcomes may continue to be realised.

Once a matter is closed, the CCC does not continue to assess the benefits of matter outcomes in a formal way, however there are informal ways in which matter outcomes continue to be evaluated and considered. For example, important lessons learned and intelligence consolidated in the CCC's case management systems are fed back into the assessment of opportunities for, and the feasibility of, future investigations. This information may also inform corruption prevention projects, education activities and speaking engagements.

4.2.6 Closed matters not to be re-opened

Once closed, a matter may not be re-opened. This policy exists to ensure the integrity of the CCC's administrative processes, legal compliance and that there is complete transparency in the decision-making processes for the way in which the CCC assesses and deals with information about crime or corrupt conduct.

However, information and evidence (including copies) retained by the CCC in connection with any matter (including an investigation) may be used in connection with any future investigation of the CCC.

Any complaint or notification received by the CCC about the subject of a closed Corruption matter, must be referred to the Executive Director, Integrity Services, to be dealt with as a new matter in accordance with the CCC's assessment policies and procedures. There are no exceptions to this



requirement and it includes the case where a key witness wishes to change their evidence previously provided to the CCC.

4.3 The delivery model

The CCC has an agile delivery model for investigations that is designed to ensure operational planning occurs in a structured and progressive way and operational decisions are appropriate, timely and advance the investigation toward achieving its purpose with efficiency.

The delivery model supports two conditions for good decision-making:

- (a) *Quality*: Operational decisions should be responsive to changing circumstances in the investigation and be informed by complete, relevant and current information. This means most operational decisions will need to be made closest in time to when the decision is required, when as a result of what has been discovered in the investigation, the right information is available to inform those decisions.
- (b) *Context*: Operational decisions should be assessed and evaluated with reference to the investigation business case and with the learning and insight derived from the developing investigation. This means there needs to be a structure to investigation planning and activity that provides regular opportunity to pause, consolidate and reflect as the investigation develops from the high-level requirements identified in the scope, to the detailed requirements that guide the collection of specific evidence, that will be organised, delivered and used to realise the intended value of the investigation.

To achieve these conditions, the CCCs delivery model for an investigation uses an iterative development sequence in which operational planning, decision making and activities cycle within defined periods of time. These are referred to as ‘**Sprints**’.

All CCC investigations will utilise investigation **Sprint Actions Plans** to manage the investigation progress.

The matter practices policies and procedures identify when specific discrete plans are required for significant operational or technical activities such as the execution of a search warrant, the conduct of a controlled operation, public hearings or a significant publication.¹⁷

4.3.1 Identifying and prioritising requirements

The scope of a CCC investigation is framed by the requirements to be addressed. The requirements of an investigation are those issues or questions that must be addressed for it to achieve one or more of its purposes. At a high level, the issues or questions for an investigation exist in the form of allegations which are then broken down into elements (what, how, when, where or why), in relation to which one or more discrete facts are concerned. In the same way, high level prevention requirements will be broken down to questions that are derived from the hypotheses that require exploration, validation and potential solution.

The granularity of the requirements will differ depending on whether a matter is in the feasibility or delivery stage. In feasibility, the requirements will be specified at a higher level, and corruption prevention areas of interest may not be specified at all. For example

- for a corruption or crime matter, alleged offences or disciplinary breaches, relevant to the topics under investigation or terms of reference,¹⁸ if relevant, hypotheses relevant

¹⁷ For example, for a public hearing one or more hearing plans must be approved in accordance with the procedures set out in *MP03- Compulsory Examinations and public inquiries*. The publication plan is prepared in accordance with *MM04 – Matter reports and publications*.

¹⁸ For a crime matter, the terms of reference will always be set out in the written approval or authority for the matter.



to each prevention area of interest, identify at a high level, the requirements the investigation will need to address in order to meet its purpose, and,

- for a *confiscation* matter, the scope of the investigation is framed by the person(s) of interest and the particular confiscation strategy engaged to restrain and recover the criminal assets and proceeds.

The investigation Case Manager is responsible for ensuring the investigation requirements are appropriately recorded and maintained as current, in the CCC case management system.

The requirements of an investigation need be prioritised so that the investigation proceeds efficiently, with the most critical questions or issues addressed as early as possible. In prioritising the investigation requirements, two matters should be taken into account:

- The investigation phase:* It is important to consider what stage the investigation is at, and what is the particular focus or objective of that stage or sub-stage. For example, for an investigation in the feasibility stage, the priority requirements are those issues and questions that will most assist the key decision whether to transition the matter to the delivery stage. For the confidential sub-stage of delivery, the priority requirements are those that can be carried out without compromising the advantage of secrecy.
- The business case impact:* An allegation, issue, or strategy may fail because a single fact or element (which may be one in the same) exists or cannot be established. The business case impact of that failure will vary according to the nature of the allegation and its importance. The priority requirements are those questions and issues that present the greatest risk to the investigation business case, for example, questions of jurisdiction.

4.3.2 Estimating requirements

For a CCC investigation, estimating the time and resources required to deliver an investigation is undertaken at the transition of the assessment stage (in the Investigation Proposal form A01) and feasibility stage (in the Feasibility Report), and reviewed thereafter against the high level delivery plan. While the CCC does not apply discrete budgets to its investigations (because it's financial and human resources are largely fixed) estimation of the investigation requirements is used to:

- determine whether the CCC is likely to meet its key performance indicators
- prioritise and coordinate the investigation portfolio
- understand the resources required in the delivery of products/results, such as a public hearing, a publication or a brief of evidence
- manage resources for intensive activities such as the execution of multiple search warrants (requiring resources to be temporarily diverted from other investigations or projects)
- manage specialist resources such as physical surveillance and forensic services
- monitor investigation performance generally.

At a high-level, estimates of time and resources are used to forecast stage and sub-stage due/completion dates in the investigation delivery plan. At the most detailed level, they are used to determine what work can realistically be completed within a sprint.

When estimating the time and resources requirements necessary to conduct an investigation, we are concerned with size of the requirements (quality and number) and the level of effort needed to complete them. Estimations are necessarily based on certain assumptions, for example:

- resources (quality, type and quantity) to meet the requirements
- reliability those resources (i.e. leave commitments, competing investigations)
- legal certainty (i.e. jurisdiction, powers, administrative arrangements, litigation),
- practical certainty (i.e. comparative risk/prospects of success), or



- prior experience of how similar requirements have been achieved in the past.

The certainty with which the requirements of the investigation are able to be known will also affect the precision of the estimation at the time it is made. What is known about the requirements will depend upon their purpose and the time horizon for the estimation. For example, the requirements estimation at preliminary investigation should be reasonably precise for that purpose but there could be no confidence in estimating the length of a potential public hearing at the same point. Conversely, there should be little uncertainty in estimating the time and resources that can be addressed within a discrete Sprint.

As **estimations are not static**, the Case Manager is to ensure they are reviewed regularly and at least at the commencement of each stage or sub-stage of the investigation and at the beginning/end of each Sprint. Where estimations or reviews give rise to a risk or potential issue, the Case Manager is to record the risk or issue (see further below).

4.3.3 Using sprints

Except in the case of a confiscation matter, a referred or immediate response investigation, sprints will correlate with the investigation progress reporting periods set by the ELT. Unless the specific requirements of an investigation require more frequency, one sprint will be completed between each ELT report and each sprint should be scheduled to end in sufficient time for the results to be incorporated into the investigation progress report to ELT when due.

Sprint periods are structured in the following way:

Sprint planning:

The purpose of the sprint planning is to identify and prioritise the investigation requirements that will be addressed or progressed within the sprint, agree and prioritise what work will be done to achieve those requirements, who will be responsible for doing the work, when it will be completed, and when the work will be formally reviewed.

The Case Officer is responsible for recording the discrete requirements identified in the sprint planning as “actions” in the CCC’s case management system and assigning them to the appropriate team member. The “actions” should describe what is required, rather than the detail of the method or how the requirement will be actually achieved.

Execution:

In execution, the work agreed is actually undertaken. This is where information and evidence is gathered through the application of investigation practices.

It is important during the execution phase that the team have the opportunity to share information about their activities and, if necessary, re-plan or re-organise them.

Other than informal communications, information is shared via the recording of operational activities (“actions”) in the CCC’s case management system. Another communication method that may be employed by the Case Manager is a daily stand-up meeting. This is a short meeting (maximum of 15 minutes), usually at the same time and place each day, where each team member in turn describes what they have achieved since the last stand-up, what they will be doing next and any problems, risks, or issues they have identified that impact on achieving the agreed objectives.

Review:

The purpose of review is to assess and consolidate what was done (or not done) and what was discovered in execution (including how well the investigation practices were



undertaken), what requirements were satisfied,¹⁹ whether the investigation is still on track and is being undertaken in the best way, and decide if it is necessary to do something different because of the information now available that wasn't available at the start of the sprint. The backlog of incomplete "actions", the learning and conclusions from review are then cycled back into the next sprint planning activity.

The Case Manager²⁰ is responsible for implementing and managing the sprint methodology. Except for the first Sprint in the investigation, in practice the sprint review and sprint planning activities will be dealt with as two parts of the same operational meeting, held at the end/beginning of each sprint. The Case Manager is responsible for scheduling the sprint planning meeting. All investigation team members should attend.

The CCC has a template "**Sprint Action Plan**" to assist with documenting the Sprint planning meeting and to ensure the planning and review objectives are met. The action plan should be scanned to the main eDRMS file for the matter and linked to the record of the planning meeting in the CCC's case management system. In this way, all action plans for the matter may be easily collated and tracked.

4.3.4 Risks and issues

A risk is something that might happen that will affect the certainty of achieving the purpose of an investigation. An issue is something that has happened or is happening of that same affect. A risk or issue impact is something that could result from the thing happening or has resulted because the thing happened.

The CCC's risk management strategy for undertaking investigations operates at three levels:

- *Strategic and general operational risks:* at a high level, standard strategic and operational risks are recorded and managed via the GRC system.
- *Technical activity risks:* At the most detailed level, investigation policies and procedures specify when technical activity risk management plans for specific technical activities are required, some examples of which are provided in clause 4.3 above.
- *Ad hoc risks/issues:* In between the above two levels are ad hoc risks/issues that emerge within the investigation, usually because they challenge an assumption of the investigation, and require attention according to the circumstances in each case. These risks include for example, legal risk/issues (such as a change in legislation or collateral litigation) or the unexpected flight of a person of interest from the jurisdiction.

The Case Manager²¹ is responsible for approving and ensuring ad hoc risks/issues are recorded in the CCC's case management system and where appropriate, are included in the ELT reporting cycle for the investigation (using the Exception Report). Collectively the ad hoc risks recorded in the case management system, form the risk register for the investigation.

When recording a new risk or issue, the Case Manager should include the following information:

- title of the risk/issue

¹⁹ In project terms, the acceptance criteria for the investigation requirements are assessed on the basis of a standard. For criminal investigation, that standard, may vary according to the nature of the requirement: for ultimate issues (elements of an offence) the standard is whether they could be accepted beyond reasonable doubt; for other facts, i.e. circumstantial, the standard may be one of reasonable satisfaction.

²⁰ For referred crime investigations, the lawyer allocated as counsel assisting is regarded as the Case Officer and the Executive Director, Crime Hearings & Legal will perform the Case Manager role.

²¹ Refer to footnote 18.



- description of risk/issue
- description of the risk/issue impact/s
- (for a risk) the likelihood of the risk becoming an issue
- and consequence risk/issue and any suggested treatment
- (for a risk) the risk rating

When closing a risk or issue, the Case Manager is to ensure the action is updated with the reason for closure.

4.4 Key management documents

The management framework for the CCC's investigation delivery model is supported by a number of key management documents that are set out in **Appendix C** to this procedure. All of these documents and how they are used have been mentioned throughout this policy and procedure however, **Appendix C** provides a succinct summary of their purpose and who is accountable for them.

5. Definitions

Term	Meaning
Assessment decision	A decision about how to deal with a complaint
Commission officer	As define in schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under s.32 of the CC Act
Delegate	A CCC officer to whom a Commission power or a chairman's power has been delegated under the CC Act or another Act.
ELT (in review)	See IM01 – Portfolio assessment and review
Key decision	Is a decision that establishes, confirms or affects the business case for a CCC investigation, the issues an investigation is required to address, key performance criteria and outcomes
QPS	Queensland Police Service
Significant event	Means a "police related incident" as defined by section 1.17 of the QPS Operations Procedures Manual, or any other incident reported to the CCC pursuant to any administrative arrangement in place between the CCC and QPS requiring the reporting of events or issues likely to result in public scrutiny, such as, high-speed police pursuits, or an incident of the above nature which the QPS suspects involves or may involve "corruption"



6. Forms

Document reference	Document title
MM01-A01	Investigation Proposal (Assessment) – Matters recommended for CCC investigation
MM01-A02	Investigation Proposal (Assessment) – Corruption matters not recommended for CCC investigation
MM01-F01	Feasibility report
MP20-F01	Feasibility report – Confiscation investigation
MM01-D02	Exception Report (Delivery)
MM01-Sp01	Investigation Sprint Action Plan
MM01-D01	Investigation Report - Corruption
MM01-DP01	Investigation Completion Report Part A: Finalisation Part B: Post-delivery Assessment Part C: Closure
MM01-PO2	Prosecution Progress Schedule (post-delivery)
MM01-PO3	Crime hearing assessment
MM01-TF01	Instrument establishing a police task force (s.32)
MM01-TF02	Instrument of authorisation (s.272(2)) for police task force members

7. Related policies and procedures

- IM01 – Portfolio Assessment and Review
- IM02 – Receiving and Recording
- IM04 – Implementing Assessment Decisions
- MM04 – Disclosure and requests for information
- MM11 – Mutual assistance
- Executive Leadership Team Charter
- Secondments into and out of the CCC (policy and procedure)
- Establishment of Police Task Forces and authorisation to task force members work instruction
- Matter Prioritisation Model (Crime)

Legislation references

- *Crime and Corruption Act 2001*
- *Criminal Proceeds Confiscation Act 2002*
- *Public Interest Disclosure Act 2010*
- *Public Service Act 2008*
- *Coroners Act 2003*
- *Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (Cth)*
- *Mutual Assistance in Criminal Matters Act 1987 (Cth)*



8. Administration

Responsible officer:	Director, Corruption Legal	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	March 2022	Review date:	March 2024

9. Appendices

9.1 Appendix A: Key decisions for an investigation

Decision type	Responsible Entity	Example
Public hearing	Chairperson or Commissioner	To conduct a public hearing
Assessment decision	Corruption Division officer with legislative delegation, upon the recommendations of ELT	Assessing a matter for investigation
Matter stage transition	ELT except when the key decision is: <ul style="list-style-type: none"> • a <i>referred crime investigation</i> or <i>immediate response operation</i> proceed to delivery, the Executive Director Crime Hearings and Legal may approve the decision, without further reference to the ELT, or • a <i>confiscation investigation</i> proceed to feasibility, the Director Proceeds of Crime may approve the decision, without further advice or reference to the ELT, or • a <i>confiscation investigation</i> be finalised with no further action, the Director Proceeds of Crime may approve the decision, without further advice or reference to the ELT, or • a monitored matter be finalised with no further action or proceed to the delivery stage in accordance with the Assessment Outcome, the Executive 	Transition from Feasibility stage to Delivery stage.



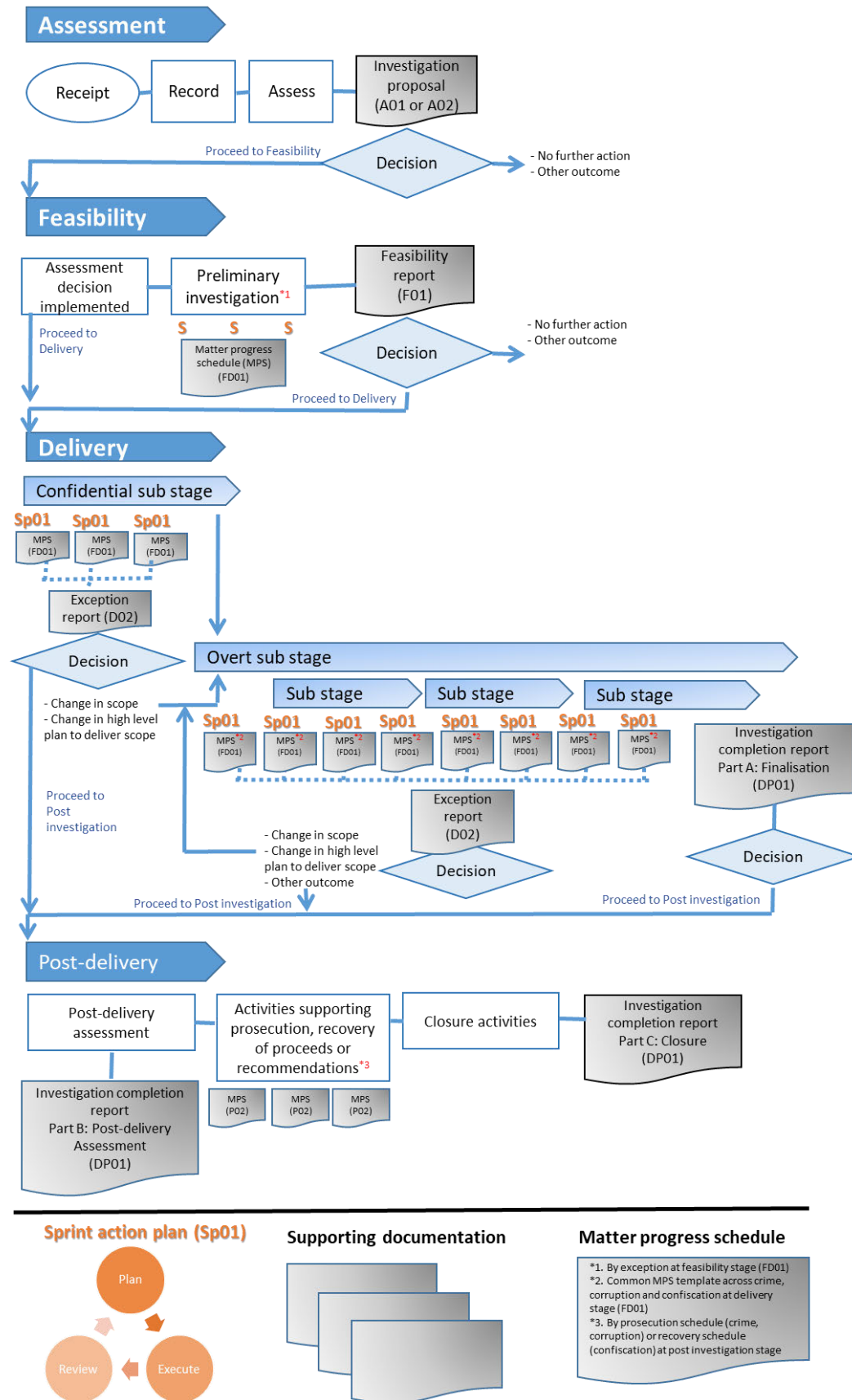
Decision type	Responsible Entity	Example
	<p>Director Integrity Services or other delegate may approve the decision, without further advice or reference to the ELT.</p> <p>Refer to 4.2.2 for further information.</p>	
	<p>For a Crime matter:</p> <ul style="list-style-type: none"> the SEO (Crime), Chairperson or the CRC <p>For a Corruption matter:</p> <ul style="list-style-type: none"> when a report is provided to all relevant parties, or the Executive Director, Corruption Operations, or when no further action is to be taken in relation to a monitored matter when a key decision is made to discontinue. <p>For a confiscation matter:</p> <ul style="list-style-type: none"> when a court makes final orders, or when a key decision is made to discontinue. <p>Refer to section 4.2.3 for further details.</p>	Transition from Delivery stage to Post-delivery stage
Matter sub-stage transition	Case manager or Delegate (refer to table in section 4.2.3 Sub-stage of delivery)	Transition from confidential to overt
High level delivery date changes (except changes to closed date)	ELT	Changes to the delivery date either extending or reducing
Changes in scope requirements (high level)	ELT or delegate	During the delivery stage, investigation reveals a broader or narrower existence of criminality that may impact delivery dates, resources, etc. This may include a recommendation to evolve an ongoing investigation to a joint investigation or police task force, or to cease such activities.



Decision type	Responsible Entity	Example
Business case impact	ELT	Changes to the estimated value of fraud



9.2 Appendix B – Investigation Lifecycle Model



9.3 Appendix C – Key Management Documents

Document	Stage	Purpose
Investigation proposal (assessment)	Assessment : To support a stage transition from assessment to feasibility	<ul style="list-style-type: none"> To provide an assessment of the information available, and a business case for progressing the matter to feasibility
Feasibility report	Feasibility: To support a stage transition from feasibility to delivery	<ul style="list-style-type: none"> To provide an assessment of the options available. For the preferred option, to provide a business case, scope and high level delivery plan
Sprint action plan	Feasibility and Delivery	<ul style="list-style-type: none"> To provide a framework for the iterative approach to planning, executing and reviewing the activities undertaken and outcomes or products delivered in the feasibility and delivery stages of a matter.
Prosecution progress schedule	Post-delivery	<ul style="list-style-type: none"> To provide a consistent structure for the ongoing reporting of matters In the post-delivery stage, a prosecution schedule (for crime and corruption) or recovery schedule (for proceeds) is adopted.
Exception report	Feasibility and Delivery	<ul style="list-style-type: none"> To explain identified risks or issues impacting, or anticipated to impact, the scope of an investigation and the key decisions necessary to effectively progress the investigation/s.
Investigation Completion Report:		
Part A: Finalisation report	Delivery: To support a stage transition from delivery to post-delivery	<ul style="list-style-type: none"> To summarise the outcomes of an investigation and assess effectiveness in meeting operational objectives.
Part B: Post-delivery assessment report	Post-delivery	<ul style="list-style-type: none"> To evaluate performance through the course of an investigation, identify learnings and significant procedural recommendations.
Part C: Closure report	Post-delivery: To support closure of an investigation	<ul style="list-style-type: none"> To report the activities undertaken post finalisation of an investigation and assess effectiveness in meeting operational objectives.



**Crime and Corruption
Commission**

QUEENSLAND



Crime and Corruption Commission
QUEENSLAND

Operations Manual

Part 2: Matter Management (MM)

Section 2: **Matter briefs**

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MM02 – Matter briefs

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the compilation and management of briefs of evidence, including those relating to criminal, disciplinary and confiscation proceedings.

2. Application

This policy and procedure applies to all Commission officers involved in preparing briefs of evidence.

3. Policy

The Crime and Corruption Commission (CCC) is committed to delivering consistently high quality briefs of evidence.

The CCC's policy and standards for the compilation and management of matter briefs is set out in section 4.8 of the [Operational Framework](#).

4. Procedure

4.1 General principles

An investigation or project may produce one or more results, for example:

- One or more persons being charged
- An investigation report, that may be the result of a public hearing, or a brief of evidence for referral to a prosecuting authority
- The referral to a Unit of Public Administration (UPA) of information that is relevant to the exercise of the UPA's functions, including for disciplinary action
- The restraint and forfeiture of property
- Corruption prevention recommendation
- A public report (refer to [MM03 – Matter reports and publications](#))
- The dissemination of intelligence and information (refer to [MM04 – Disclosure and requests for information](#))
- No further action by the CCC.

If litigation is to be undertaken or is contemplated, such that advice or approval is being sought, one of the following types of briefs must be produced by the CCC:



Type of brief	Use
Criminal brief of evidence	<p>Required for all criminal matters listed for committal proceedings or a summary hearing requiring a full brief of evidence when the charge(s) is contested.</p> <p>Also required if:</p> <ul style="list-style-type: none"> For corruption matters: approval is being sought from the Chairperson to refer the matter to an appropriate police officer seconded to the CCC for consideration of the appropriate charge(s) (refer to 4.2.2 Requirements for criminal briefs relating to corruption operations). The matter is being referred to the Director of Public Prosecutions (DPP) (refer to 4.2.7 Referring to DPP for advice). <p>Whilst not a brief of evidence, a Queensland Police Service (QPS) QP9 brief form is required for all criminal matters for first appearance before a Magistrate.</p> <p>Briefs of evidence to support indemnity applications are required when indemnification is sought for a witness in relation to a matter which the brief refers to.</p>
Disciplinary brief of evidence	<p>Required for all disciplinary matters, including commencement of disciplinary proceedings in the Queensland Civil and Administrative Tribunal (QCAT).</p>
Brief of evidence to support confiscation matters	<p>Required in circumstances necessitating a confiscation brief of evidence being collated, and the matter progressing to a trial hearing before the Supreme Court. This can include:</p> <ul style="list-style-type: none"> Defence of an exclusion application by either the respondent or a third party that claims an interest in the restrained property Collation of evidence in support of a final relief confiscation order that is contested and is to proceed to trial Defence of a hardship application by a spouse or dependant of the respondent, after a confiscation order has been granted.

A number of offences require the approval of the DPP before a prosecution can be commenced. If necessary, legal advice should be obtained to clarify this requirement.

4.1.1 Including hearing materials in a criminal brief

CCC Protocol for dealing with hearing materials of the accused

For the purposes of the following clauses, 'hearing materials' means any answer given, statement, document or thing produced to the CCC by an individual upon requirement, despite an objection on the basis of self-incrimination privilege, to giving or producing any of those things.



The CCC must **not** include the hearing materials of a person charged in a brief to the DPP or police prosecutions, unless the charge being prosecuted is about a matter described under section 197(3) of the CC Act (including a prosecution for perjury by the witness).

Where the brief is being provided to the DPP for the prosecution of an offence other than under section 197(3):

- the CCC must include a description of the nature of the hearing materials in the Index to Brief (i.e. transcript or audio of the accused's examination on the relevant date)
- the Index to Brief provided by the CCC must also set out a description of the nature of:
 - exhibits tendered at CCC hearings (i.e. document or thing)
 - contact details of the CCC case officer(s).

In relation to the accused's copy of the brief:

- the CCC must provide a copy of the hearing materials directly to the accused or their lawyer (if known) to comply with the prosecution's disclosure obligations
- the CCC must advise the DPP in writing when copies of the hearing materials have been provided to the accused or their lawyer.

If at any time the DPP wishes to access the hearing materials, then:

- the request by the DPP should be in writing (an email will suffice) and before providing any material to the DPP, the commission officer is to ensure that the consent of Commission has been obtained and that otherwise, the disclosure of the materials is not contrary to an authorisation or order of the Commission.

If a charge of perjury arises out of a CCC hearing a separate brief of evidence must be prepared for that charge. The brief relating to the perjury charge must not be combined with the brief relating to the substantive charge that the DPP has carriage of.¹

For further information relating to the dissemination of hearing material, refer to MM04 – Disclosure and requests for information, and in particular the requirement that the disclosure of hearing materials is authorised by the Commission, and not contrary to authorisation or an order of the Commission.

4.1.2 Briefs to counsel (external)

In appropriate cases, external counsel or solicitors may be briefed by the CCC, for the purpose of:

- Representing the CCC and officers before any court, tribunal or inquiry
- Providing advice to the CCC.

Transparency and accountability is of critical importance in the procurement of services by external providers. To develop a procedure for engaging external counsel and solicitors to best meet the individual needs of the CCC, as well as ensuring a transparent and accountable process, a number of issues must be considered. These considerations include the need to comply with the State Procurement Policy, as well as the acquisition of the best possible legal representation for the CCC having due regard to the importance of a specific matter.

To ensure that these requirements are met, it is imperative that consideration be given to, and supporting documentation be kept, identifying the reasons why external counsel or solicitors are required, as opposed to internal counsel, and the reasons for the selection of particular counsel or solicitors. These requirements must be assessed on a "case by case" basis.

¹ The DPP should allocate a separate legal officer and Crown Prosecutor to those that are assigned to the substantive charge and ensure that the briefs are kept separated during the prosecution of both matters.



Assessment of cases to determine the need for an external counsel or solicitor

A Commission officer may consider a need exists to procure the services of an external counsel or solicitor in circumstances where:

- Time does not permit internal counsel to attend to the matter
- It is anticipated a matter will be lengthy
- The issues involved are deemed to be complex or of such importance that external counsel should be briefed, or
- The matter involves CCC staff or interests such that independent counsel should be briefed.

Further considerations which may be relevant when considering whether to brief an external counsel or solicitor include:

- The importance of the matter
- The value of any claim
- The degree of publicity attached to the matter
- The fact that the matter has been taken on appeal
- The potential for the matter to be the subject of an appeal, and
- The seniority of counsel for the opposing party.

Alternatively, in a matter which has been referred to Corporate Legal for advice or litigation, the Executive Director, Corporate Legal or the Director, Litigation and Advocacy may consider that, for the same reasons, a need has arisen to engage an external counsel or solicitors.

Refer to the CCC's *Activities of Corporate Legal and Litigation policy and procedure* for the procedure to select and engage external counsel or solicitors.

4.1.3 Advice on certain cases

In certain cases (determined by reference to the criteria set out below), advice is to be sought from either the Director of Public Prosecutions (DPP) or external senior counsel (Queen's Counsel or Senior Counsel).

Cases in which such advice may be sought are those where the matter involves novel, complex or infrequently used criminal charges or the application of charges in a novel manner, and may include cases in which mandatory suspension or disqualification from office is a consequence of charging or conviction.

The determination as to whether a matter should be referred for advice on this basis is to be made by the Senior Executive Officer (Crime) or Senior Executive Officer (Corruption), in consultation with the Chairperson. In matters in which the relevant Senior Executive Officer has a conflict of interests which prevents them from making that decision, the determination is to be made by the Executive Director, Crime Hearings & Legal, or Executive Director, Corruption Strategy, Prevention & Legal (again in consultation with the Chairperson) as is appropriate.

The case officer in a given investigation may consider that the matter is one in which external advice should be obtained. In such a case the case officer may seek such advice through the relevant Senior Executive Officer or Executive Director.

Also, in connection with any matter, whether it arises from the exercise of the Commission's corruption or crime function, where there is a real question as to whether consideration might be given to the indemnification of a person proposed to be charged, this is a matter for DPP, and the matter ought be referred to the DPP for that advice rather than Senior Counsel.



Ordinarily the advice will be sought at the conclusion of an investigation, when a decision is to be made as to whether a matter will be referred (for a Corruption investigation – see s4.2.2), or arising out of a Crime investigation. However, such advice may be sought at any point in the investigation (noting that the conclusion of the investigation, when all evidence has been gathered is generally the appropriate time to obtain advice about prospects). Usually a matter will only be referred for advice where the investigation has formed the view that there is sufficient evidence to form a reasonable suspicion that an offence has been committed.

Where a matter is to be referred to external counsel for advice, the relevant SEO or Executive Director is responsible for providing instructions to Corporate Legal, who will engage counsel in accordance with the *Activities of Corporate Legal and Litigation policy and procedure*. Senior counsel will have expertise in criminal law relevant to the matters under consideration.

The case officer is primarily responsible for collating the material which is to form the brief to counsel. The case officer (or other officers involved in the investigation) may also be required to provide instructions on specific points relevant to the advice, and may be required to attend conferences with counsel.

Counsel is to advise on the prospects of success of a criminal prosecution (and, if applicable, any related corrupt conduct proceedings in QCAT). Counsel may also advise as to whether a prosecution would be in the public interest, or as to relevant public interest factors which ought be considered by the decision-maker in deciding whether to refer a matter for consideration of prosecution.

Counsel's advice is legal advice. It is not a decision on whether a matter will proceed to a prosecution or not. It may inform the decision-maker, but does not substitute for that decision.

Counsel's advice is to be provided to the relevant SEO or Executive Director, and a copy of the advice (subject to any need for strict confidentiality or issues of privilege) should also be provided to the case officer.

Corruption matters

For Corruption matters, if consideration is being given to referral to a prosecuting authority, if the advice is that there are reasonable prospects of success in a prosecution, and the matter is provided to the Chairperson to consider referral for consideration of prosecution under 4.2.2, then the advice should be included in those materials. The cover sheet should indicate whether the relevant SEO or ED agrees with the advice.

If the advice is that there are no reasonable prospects of success and the relevant SEO or ED agrees with the advice, then the advice is to be provided with a covering memorandum confirming that view, as well as recommending any further action to be taken.

If the relevant SEO or ED disagrees with the conclusion reached as to prospects, then the relevant SEO or ED must provide the advice to the Chairperson, along with a detailed memorandum setting out the bases for disagreement and any recommended course of action.

It is ultimately the Chairperson's decision (absent a conflict, in which case the decision may be escalated to the Commission for decision) as to whether the matter should be referred for criminal or disciplinary action.

Where a matter is referred to the DPP for advice, the DPP's decision in relation to the matter is final, and such advice must be communicated to the case officer.

4.1.4 Observations on brief – Corruption matters

The allocated lawyer is to prepare a legal advice ('Observations') in relation to the matter.



Observations are required in all Corruption investigations. The requirement for Observations in a Corruption investigation may only be dispensed with where a record is prepared by the allocated lawyer of the reasons why observations are not necessary in a particular case (this may be by way of memorandum, or by email as appropriate), and this must be endorsed by the Senior Executive Officer (Corruption) or Executive Director, Corruption Strategy, Prevention & Legal.

Observations may be requested by the SEO (Crime) or Executive Director, Crime Hearings & Legal in relation to a Crime investigation if it is considered the investigation requires such advice.

Observations must include:

- A summary of the factual allegations arising from an investigation (this may be by reference to an investigation report prepared by another officer)
- An articulation of potential criminal or disciplinary charges identified as arising from the investigation (this may be by reference to an investigation report prepared by another officer)
- An analysis of the evidence which supports those disciplinary or criminal charges (this may be by reference to an evidence matrix or investigation report, whether prepared by the lawyer or another officer)
- An analysis of any issues which arise in relation to that evidence, including considerations of admissibility, credibility or weight
- An analysis of any evidence which weighs against those disciplinary or criminal charges (including matters which raise a defence, or which provide a reasonable explanation consistent with innocence)
- Any public interest considerations relevant to the decision as to whether to proceed, or not proceed, in relation to disciplinary or criminal charges

Observations should ultimately state a view as to whether there are prospects of success in relation to any criminal or disciplinary prosecution.

Observations may deal with potential proceedings in relation to an individual arising from an investigation or may deal with more than one subject officer. This will ordinarily depend on whether the factual allegations and admissible evidence are relevant to multiple subject officers (such as where multiple persons would be jointly charged in relation to joint criminal activity) or where similar evidentiary or factual considerations (such as a jurisdictional bar which would foreclose action) are relevant to multiple discrete subject officers.

As observations deal with the specific facts of a particular investigation, they would not ordinarily be included in the Legal Advices Database (see *Legal Advices policy and procedure*). However, there may be matters dealt with in the observations which mean that the advice is of enduring value or broader application. This may include where there are particular evidentiary matters which may arise in other cases (such as the use of coercively obtained evidence), where novel or uncommon charges are being considered, or where the particular application of a charge to a set of circumstances represents a new approach.

It is the responsibility of the SEO (Corruption), Executive Director, Corruption Strategy, Prevention & Legal, and Director, Corruption Legal, to consider whether observations in a Corruption matter should be included in the legal advices database (including any appropriate anonymisation or access controls).



It is the responsibility of the SEO (Crime), or Executive Director, Crime Hearings & Legal, to consider whether observations in a Crime matter should be included in the Legal Advices Database (including any appropriate anonymisation or access controls).

4.2 Criminal briefs of evidence

4.2.1 QP9 court brief

At the time of arrest, the arresting officer must complete a Form QP9 (available within QPRIME) in accordance with the QPS Operational Procedures Manual (QPS OPM). A QP9 should contain an accurate summary of the substantial evidence in the prosecution case and the value of the alleged offence. The QP9 must be submitted for all matters for mention before a Magistrates Court as soon as practicable and prior to the initial appearance date in accordance with the QPS OPM.

Prior to the initial appearance, and within a reasonable time of any request, the QP9 is to be delivered to the defence by the prosecuting authority.²

In order to assist the defence and prosecution conduct case conferencing prior to the call over, the defence may request “specified statements or exhibits” - statements of the prosecution witnesses who will provide the substantial evidence in the matter and important exhibits. These statements/exhibits must be provided within 14 days of any request.³

The QP9 should not detail the identity of any witness who has provided a 13A statement.

4.2.2 Criminal briefs in Corruption Matters

If the CCC decides in a Corruption matter that prosecution proceedings should be considered by a police officer seconded to the CCC, the Chairperson, Deputy Chairperson, or the delegate of the Chairperson, may refer the matter to an appropriate police officer seconded to the CCC. That police officer, who maintains all the powers of a police officer while seconded to the CCC,⁴ will consider the matter and, if warranted, issue the appropriate charge(s).

Full Brief of evidence

In such cases, all relevant information known to the Commission that supports a charge and supports a defence that may be available to the person should be provided to the Chairperson or the Deputy Chairperson to allow a proper assessment of the matter. The same information must be provided to the seconded police officer selected to consider if charges should be issued.

In effect, this means a full brief of evidence containing all relevant evidence should be provided to the Chairperson or Deputy Chairperson and to the relevant seconded police officer. In some circumstances, it may not be possible to prepare a full brief of evidence that complies in all respects with the requirements outlined in the following section. Any non-compliance must be approved by the Executive Director, Corruption Operations, or the Senior Executive Officer (Corruption) prior to the brief being finalised.

Seconded Police Officer

The seconded police officer selected to decide if charges should be issued will have the appropriate rank and experience required to fulfil the function.

In deciding whether to lay charges, the seconded police officer should apply the same two tiered test that the DPP applies in determining whether to commence a criminal prosecution, namely:

² Administrative Arrangement, paragraphs 24 and 25 Practice Direction 13, paragraph 4

³ Practice Direction 13, paragraph 6

⁴ s.174(2) of the CC Act.



1. is there sufficient evidence?, and
2. does the public interest require a prosecution?⁵

4.2.3 Format of criminal briefs

Criminal briefs must include all the evidence the prosecutor proposes to rely upon in a proceeding, or has a duty to adduce as part of the prosecution case, even though that evidence may not be favourable.

The brief must include anything in the possession of the prosecution (the CCC) that might help the case for the accused person. Further information relating to disclosures is outlined in **Appendix A**. Following the format set out below ensures compliance with the mandatory disclosure requirements.

The brief must follow the format shown below:

- A. Index to brief
- B. List/non-availability of witnesses (including police/Commission officers)
- C. Precis
- D. Original Statements
- E. Records of Interview
- F. Exhibits
- G. Child Witness Documentation
- H. Other Things

The brief can be in hard copy or electronic format. For larger briefs, an electronic brief is preferable.

Section A - Index to brief

The Index to Brief (BOE-C-Form 1) is to be placed at the front of the brief.

Section B - List/non-availability of witnesses

The List/Non-Availability of Witnesses form (BOE-C-Form 2) outlines the availability of all proposed witnesses.

The completed List/Non-Availability of Witnesses (including police/Commission officers) (BOE-C-Form 2) is only attached to the prosecutor's copy of the brief.

Section C - Precis

The case officer should always prepare a "precis" of the evidence that concisely and accurately sets out the evidence to assist an understanding of the prosecution case. The precis should include evidence which presents relevant difficulties or defences. Where there is more than one offence, the precis should clearly identify relevant particulars in relation to each offence alleged. The precis should also identify any outstanding material and arrangements that have been made to obtain that material along with a relevant time frame for its delivery.

The precis may contain legal argument but should not do so where separate 'Observations' or 'Notes for prosecutor' are prepared by a CCC lawyer. Statements of opinion should be avoided

⁵ See paragraph 4 of the Director's Guidelines.



but if it is necessary to express an opinion about any matter, the basis for the opinion should be clearly articulated.

To assist both prosecution and defence, the precis may identify any significant events that relate to the facts in issue of the charges.

Section D - Original statements

The case officer must include all forms of statement that may have been made by a relevant witness. All statements included in this section should be numbered and placed in the brief in a logical order. Statements must be listed in the order they are presented in the Index to Brief and should include the date on which the statement was made, signed, or came into existence.

Where a witness has provided more than one statement, the statements should appear sequentially in the Index to Brief, be clearly marked 'Addendum' where appropriate, and dated to show each subsequent statement is an addendum to the original statement.

Any exhibits relating to statements must be clearly identified and referenced to maintain clarity. The words "I am able to produce the (...exhibit to be produced...) which I have referred to in my evidence", should be used. Where difficulties have been or are expected to be encountered in respect of any witness, a notation to this effect is attached to the brief of evidence. This notation is provided on a separate page headed 'Notes to Prosecutor' and should contain all relevant information and reasons. Difficulties include criminal histories of witnesses (if any), any hostile reaction which may be anticipated from any witness and the associated reasons, any facts believed to be within the knowledge of a witness which has not been disclosed, or any witness refusing to sign or provide a statement.

The brief includes statements from a scene of crime officer(s) or other scientific officer(s) who conducts an examination or test in relation to an investigation. These statements are included whether or not the results of the investigation by the crime scene/scientific officer are positive or negative.

Statements obtained for the purposes of compiling a brief are to be prepared using:

- the CCC 'Statement of Witness' template, or
- the relevant QPS template (QP0125), if provided by a QPS officer who is not seconded to the CCC.

Declarations on statements

Commission officers who take statements as part of an investigation, which may be produced in court, must ensure the person providing the statement:

- signs each page of the original statement, and
- completes a written acknowledgement under the *Justices Act 1886*, or
- completes a sworn declaration under the *Oaths Act 1867* before a Justice of the Peace or a Commissioner for Declarations, on the final page of the original statement. If there is insufficient room on the final page, the declaration or acknowledgement is placed on the reverse of the last page. The declaration or acknowledgement must not be placed on a separate page or any page of the statement other than the last page.

If practicable, statements for offences which may be committed to a District or Supreme Court should be sworn under the *Oaths Act 1867* before a Justice of the Peace or a Commissioner for Declarations at the time of taking a statement.

Statements of persons who are dead or incapable of testifying



If it is intended to adduce evidence of a representation made under section 93B *Evidence Act 1977*, the case officer must ensure the following information is provided in the Index to Brief:

- the full name of the person making the representation
- the reason the person is unable to testify
- the name of the person who saw, heard, or perceived the representation, and
- particulars of the representation and the circumstances in which it was made.

Section E - Records of interview

A copy of the written Record of Interview must be attached to the brief of evidence wherever possible. If a full transcript of a Record of Interview is required, it is prepared in accordance with the CCC Guidelines for Transcription and attached to the brief. The transcript must document that the interview has been transcribed by the CCC, and outline the name, registered number, and station of the arresting officer.

If an electronic Record of Interview has been conducted with an accused person, and the accused has stated they declined to take part in the interview, a statement to such effect should be included in the witness statement of the arresting officer. The electronic recording or transcript should not form part of the brief or be tendered at the committal proceedings.⁶

In all cases where a transcript of an audio recording made during an investigation has been prepared, a copy of the transcript is attached to the brief.

Section F – Exhibits

The following list contains the types of exhibits generally relied upon in CCC briefs and the suggested order of their compilation:

- Exhibit Ref A – Telecommunications interception, PCCR, CCR and stored communications (refer to MP16 – Telecommunications interception and access)
- Exhibit Ref B – Electronic Surveillance
- Exhibit Ref C – Physical Surveillance
- Exhibit Ref D – Expert and Forensic Exhibits/Certificates
- Exhibit Ref E – Overt Search Warrants (refer to MP08 – Search warrants)
- Exhibit Ref F – Covert Search Warrants
- Exhibit Ref G – Witness Document Exhibits
- Exhibit Ref H – Photographs and Video
- Exhibit Ref I – Interviews, Field Tapes and Transcripts
- Exhibit Ref J – Mobile Phone and Forensic Computer Analysis
- Exhibit Ref K – Financial Analysis

Expert and forensic documentary exhibits/certificates

If it is intended to adduce forensic or expert evidence as part of the prosecution case, a copy of the expert's report or other documentation is to be included in Section F of the brief under Exhibit Reference D. Examples of such evidence in section 590AH (2)(g) of the Criminal Code include, DNA, fingerprint or another scientific identification procedure. The case officer should also include statements and reports from document examiners, forensic accountants, medical practitioners, forensic computing specialists and any other witness whose evidence is substantial in the nature of expert evidence.

⁶ Guideline 28: 'Disclosure: Sections 590AB to 590AX of the Criminal Code' subsection (ix): 'Committal Hearings' of the Director of Public Prosecutions (State) Guidelines)



If an expert witness statement or report is not available at the time of preparation of the brief, the case officer must ensure a description of the outstanding test or procedure is provided under the relevant heading of the Index to Brief.

Electronic evidence exhibits

Where evidence consists of audio, video or picture data files or other electronic media, the case officer must ensure the format is of a type able to be presented at the relevant court by prosecutions. All electronic exhibits must be listed in the Index to Brief and should be described with sufficient particularity so that the nature and relevance of the exhibit is readily apparent. The description of exhibits and other documents must follow a consistent format.

The electronic exhibit must be filed in the relevant exhibit reference category it most significantly relates to. Example: An electronic surveillance log provided by a Physical Surveillance Officer in the field would be filed under Exhibit Ref C – Physical Surveillance.

If a copy of the original exhibit is not included in the brief, the case officer must place a notation in the Index to Brief. Conditions for viewing an original exhibit should be inserted in the relevant place indicated on the Index to Brief. A case officer must not provide the original exhibit to an accused or allow them to view or examine the exhibit except in accordance with procedures set out below and in accordance with MP12 - Property management.

If a case officer receives a request from an accused to view or examine an original exhibit, the case officer may only grant the request if the viewing or examination is for the purpose of the prosecution in which the original exhibit is evidence. The case officer must protect the integrity of the exhibit by ensuring that, at all times, the viewing or examination is supervised by a Commission officer, and takes place under appropriate conditions.

A court may make an order directing the prosecution to allow an accused person or another appropriate person to view and examine an original exhibit if the court is satisfied that conditions can be attached to the order to protect the integrity of the original exhibit. The case officer may consult with the case manager in relation to any application of this nature proposed by an accused, and ensure the DPP is informed of any viewing that the CCC arranges in relation to the matter. Where a case officer is required to do something because an order has been made by a court, the case officer must notify the Senior Executive Officer, Crime or Corruption, before taking any action in accordance with the order.

Section G - Child witness documentation (where relevant)

Where required, the written report of an appropriately qualified expert must be completed to confirm a child witness under eight years of age is competent to give evidence.⁷

If it is intended that an *affected child witness* will be called to give evidence for the prosecution, the case officer must ensure the full name of the affected child witness is listed in the Index to Brief, including a statement as to the reasons it is considered that the witness is an affected child witness.

If no child witnesses are listed, the Index to Brief should reflect this by inserting the words “NIL” under the relevant section heading.

Section H - Other things

⁷ Guideline 7: ‘Competency of a child witness’ of the Director of Public Prosecutions (State) Guidelines).



This section contains other documents relevant to the prosecution such as:

- Notes for prosecutor or observations
- Proposed witnesses
- Hearing materials (Audio and Transcript of CCC hearing evidence)
- Outline of pending material.

Notes for prosecutor or observations

If separate 'Notes for prosecutor' or 'Observations' are prepared by CCC lawyer or case officer they are to be attached in Section H – Other Things.

If separate 'Notes for prosecutor' are included in the brief, Section C - Precis should not contain legal statements or opinions.

CCC hearing evidence

If hearing materials is to form part of a brief, refer to 4.1.1 Including hearing materials in a criminal brief. The audio and transcript must be filed under this section of the brief.

Proposed witnesses

If a formal statement for a witness does not exist, yet it is intended that the witness will be called by the prosecution, the case officer must ensure the full name of the witness is listed in the Index to Brief. The case officer must ensure that any document containing the evidence, that the proposed witness is expected to give, is included in the brief Exhibits section (i.e. hearing transcript, officer's notes or audio).

Pending material

Pending material may consists of exhibits that are not yet ready for disclosure because the CCC are yet to receive original copies from other law enforcement areas or transcripts of audio material have not been completed.

Any pending material must be summarised in the Index to Brief. On receipt of the pending material, the supplementary copy, digital or otherwise must be delivered to the DPP and defence at the first available opportunity.

Where an incomplete brief is forwarded to the prosecutor, a notation to this effect is attached to the brief outlining the reason(s) why it is not complete, and details of when the complete brief can reasonably be expected to be available for the prosecutor. A precis of the anticipated evidence is also to be included.

4.2.4 Standards for presentation of exhibits

General consideration for the collation of criminal briefs

Commission officers compiling hard copy briefs are to ensure the compilation does not hinder the copying of statements or exhibits. Originals of statements and documents are not to be bound in a manner that prevents them being tendered as individual exhibits. Folders or volumes of folders are to be marked clearly and outline whether the brief is for 'Defence', 'Prosecution' or 'Court'.

Electronic briefs must be provided in a format that is easily accessible by the courts, defence and DPP. The preferred format for producing documents is in a portable document format (PDF). The case officer should ensure that any electronic files are also provided in a common file format. Devices must be clearly labelled and outline whether the brief is for 'Defence', 'Prosecution' or 'Court'.



Copies of certificates

Originals of certificates should be retained by the arresting officer and produced in evidence by the relevant witness. Commission officers compiling a brief are to ensure that where certificates are to be produced, copies of such certificates are attached to the brief.

Hand-up statements

Section 110A: Use of tendered statements in lieu of oral testimony in committal proceedings of the *Justices Act* provides the process by which written statements of witnesses are admitted as evidence during committal proceedings without the need for witnesses to give oral evidence.

However, witnesses may still be required to attend court to give evidence if ordered by the court (refer sections 83A(5AA) and 110A (5) of the *Justices Act*).

Before any statement may be tendered, the following conditions are to be met:

- each original statement is to be prepared in accordance with section 110A(6C) of the *Justices Act*
- the defendant is to be represented by a legal practitioner, unless the justices are satisfied the criteria in section 110A(4) of the *Justices Act* have been met
- the defence is to be supplied with a copy of the statement.

Officers who prepare a 'hand-up' brief are to prepare it in the normal manner. They are to ensure that statements are signed in accordance with the section on "Declarations on statements" within Section D - Original statements.

Where police prosecutors have provided statements to the defence in this process, the defence legal representatives are entitled to retain all copies, in all circumstances.

Officers involved in matters covered by this process should refer to and comply with the provisions as outlined the Director of Public Prosecutions (State) Guidelines.⁸

⁸ Section 3.4.5 of Director of Public Prosecutions (State) Guidelines.



Computer records (Evidence Act)

A brief may include a copy of computer records that are to be relied upon as evidence in a proceeding.⁹

Computer records are to be accompanied by a section 95 certificate, completed by a person responsible for the device or process by which the records are wholly or partly produced.

Supply of prints and other prescribed articles

An agreement has been reached with DPP concerning the supply of three sets of photographic exhibits at committal proceedings (one as the court exhibit, one for the prosecutor and the third set for the defence lawyer).

This agreement does not apply to:

- requests by defence lawyers for replacement/additional sets of photographic exhibits
- marked photographic exhibits supplied by the Scientific Section and Fingerprint Bureau.

Where photographs are intended for production as exhibits at committal proceedings, officers are to prepare three sets of photographs for court. Prints or other prescribed articles are only to be supplied to a defendant, or a defendant's lawyer, by a police prosecutor or a DPP prosecutor.

Photographs tendered as exhibits must be sequentially marked with numbers or letters. A description is to be included in the statement of a witness who produces or refers to photographs in their evidence, briefly explaining what is depicted in each photograph to which the witness refers.

If a photograph tendered as an exhibit is considered 'sensitive evidence' by the arresting officer (as per section 590AF of the Criminal Code), refer to **Appendix A** for further information on handling sensitive evidence and the limitations on the disclosure of sensitive evidence (section 590AO).

Video and photographic evidence recorded during the commission of offences

Video and photographic evidence taken by closed circuit television (CCTV) or security surveillance cameras are to be treated as documentary exhibits and the provisions set out in MP12 - Property management apply.

Admissibility of photographs, audio and video recordings and film

A photograph, recording (audio or video) or film of a crime being committed is admissible as real evidence with evidence of the provenance and integrity of such exhibits provided. Authentication may be obtained in a number of ways, for example, through a statement from the person who took the photograph, video or film recording testifying to its integrity. Alternatively, evidence of a person present when the recording was made, and able to attest to the accuracy of what is depicted by the exhibit may also suffice.

Where a recording, photograph or film is to be relied upon, and evidence from a photographer or a person present is not available to prove the provenance and integrity of the exhibit, (e.g. CCTV footage), a statement from a person who can give evidence of the operation of the camera, the retrieval of the images, subsequent storage and, where necessary, a certificate under section 95 Admissibility of statements in documents or things produced by processors or devices of the *Evidence Act* is to be obtained.

⁹ Refer to section 95 Admissibility of statements in documents or things produced by processes or devices of the *Evidence Act*.



Where recordings from security systems contain evidential value, the Commission officer collecting the recording is to make arrangements to ensure the media format is of a type capable of being replayed to the relevant court by prosecutions. If there is any concern or confusion regarding the suitability of the media format, the relevant police prosecution corps or DPP officer should be consulted.

Presenting electronically recorded evidence in court

Where the case officer intends to present electronically recorded evidence from security systems as evidence in court, the case officer must ensure the format of the media can be replayed in the relevant court. The case officer should contact the Information Technology or Forensic Computer Unit if assistance is required to convert a recording into a suitable format for court presentation.

4.2.5 Checking criminal briefs

The case manager must ensure that the case officer, arresting officer and nominated brief checker (normally, the case lawyer) collaborate and resolve evidentiary issues relating to the brief.

All briefs are to be checked by a nominated checker prior to being delivered to the prosecuting authority. When submitting a brief for checking, the case officer must also submit any video or audio recordings (including recordings of a suspect/offender interview) for checking.

The brief checker reviews the brief of evidence to:

- Ensure it complies with the provisions of this manual
- Consider whether the facts contained on the Court brief (QP9) are consistent with those contained in the full brief, and that the wording of all charges is correct and appropriate
- Ensure applicable current legislation and the wording of charges is verified by reference to legislation and the specimen charge system on the QPS Intranet.

The brief checker must quality audit samples of audio/video recordings to be tendered as evidence. If the quality of the recordings made by CCC owned recording equipment is substandard, action is to be taken to ensure any recording equipment faults are rectified. Additionally, if the quality of the recordings is so poor that it may affect its value as evidence, consideration is to be given to the enhancement of the recording or sufficiency of evidence test. If the brief consists of audio, video or picture data files or other electronic media, the brief checker must ensure it is in a format capable of being presented to the relevant court. Refer to 4.2.4 Video and photographic evidence recorded during the commission of offences. To assist the brief checker, a Brief Check List (BOE-C-Form 8) has been developed.

If the brief is complete and complies with the provisions of this manual, the case manager or the brief checker must action the brief as approved and return the brief of evidence to the case officer for delivery to the relevant prosecution corps or the DPP.

4.2.6 Delivery of criminal briefs

Irrespective of whether a committal hearing or summary trial is to be prosecuted by the DPP or a police prosecutor, the case officer must ensure that the Prosecution Copy (including material marked 'Privileged') and the Defence Copy(s) is delivered to the DPP or police prosecutor, as soon as practicable after the relevant charge has been laid and in any case, **within 35 days** of the matter being set for a committal or summary trial and **at least 14 days** before the commencement of the committal hearing or summary trial. Refer to the Magistrate Courts Practice Direction number 13 of 2010 for further information.

Copies of the brief must be identified by the following:

- Original Court copy



- Prosecution copy
- Defence copy (plus any further copies produced for multiple defendants).

The CCC must retain a full copy of the brief either electronically or in hard copy format.

Delivery of a criminal brief to prosecutions

The case officer must ensure that an acknowledgement receipt is obtained from the relevant DPP officer or police prosecutor at the time the prosecution brief is delivered. A delivery receipt must be prepared and used for this purpose and the case officer should ensure that a copy of relevant indices attached to the brief is recorded on the receipt. The receipt must be uploaded into the case management system.

Where a brief is delayed, the case officer or arresting officer is to provide timely advice to the relevant prosecution corps, specifically where a witness statement is not available. The case officer or arresting officer is to advise the prosecuting authority of:

- the witness' name
- a precis of anticipated evidence
- the reason it is not available
- what attempts have been made to obtain the statement
- when these efforts commenced, and
- what date prosecutions will have the statement.

If exhibits are not available, the arresting officer is to advise the prosecuting authority of:

- the nature of the evidence
- what action has been taken to obtain it
- when this action commenced, and
- the date prosecutions should expect to receive it.

The case officer is responsible for checking QPRIME for the notification of the date on which the delivery of the brief is required. The date is to be updated in the matter running sheet.

The case manager must ensure local arrangements are put in place to ensure officers under their control deliver completed and checked briefs of evidence to the relevant prosecution corps or the DPP, as appropriate, no later than the date set by the relevant prosecutor. Any failure to deliver briefs by the due date are to be investigated by the case manager and must ensure appropriate action is taken to address the failure and notify the relevant prosecution corps or DPP office.

Delivery of documentary exhibits to prosecutions

The case or arresting officers are to ensure that when documentary exhibits are delivered to the DPP, all exhibits are to be clearly marked with:

- the defendant's name, and
- the QPRIME case file ID number, and
- the CCC reference number.

Upon delivery of documentary exhibits to the DPP a receipt listing all documentary exhibits received must be obtained from the receiving person. If the documentary exhibit is removed from a property point, the DPP exhibit receipt is scanned and uploaded into the relevant QPRIME occurrence or CCC case management system. Refer also to chapter [MP12 - Property management](#) in relation to Commission officer's responsibilities for property management.



Non-documentary exhibits

The DPP does not have the facilities to securely store non-documentary exhibits. Secondary evidence should be delivered in lieu of the exhibit, unless specifically requested otherwise by the DPP.¹⁰ These exhibits are to be retained and dealt with in accordance with MP12 - Property management and where property is stored at QPS Evidence Management or QPS property points, QPS OPM Chapter 4 - Property.

4.2.7 Referring to DPP for advice or where the DPP's consent is required

The CCC may seek the DPP's advice on a matter or may require the consent of the DPP prior to commencing a prosecution, for example, for secret commission offences. Where advice is being sought, the Chairperson or the relevant Senior Executive Officer will liaise with the DPP or a Deputy Director of Public Prosecutions prior to referring such a matter.

Prior to referral to DPP

Prior to the referral of the matter brief of evidence to DPP, a minimum of two (2) copies of the brief must be prepared:

1. One (1) copy is to be labelled, "Prosecution Copy" on the spine and face of each volume (if more than one) and is the copy that must be provided to the DPP together with any privileged material for consideration
2. The remaining copy and a copy of the privileged material are to be filed with CCC Records Management.

Upon advice to commence a prosecution

Upon receipt of advice from the DPP to commence a prosecution against a person(s), the case officer is to ensure, if necessary, that the original brief, the prosecution copy and the CCC copy is amended or updated in accordance with the DPP's advice and any other instruction to include further material or to conduct further investigations or inquiries (if any).

One copy of the original brief must be made for each person charged and each copy is to be marked with the words, "Defence Copy" on the spine and face of each volume (if more than one).

4.2.8 Briefs for indemnity applications

If an application for an indemnity is required or contemplated in a particular investigation, an application to the DPP for such an indemnity needs to be supported by a brief of evidence.¹¹

Any consideration for indemnity must be raised and communicated with the DPP at the earliest opportunity for direction.

Generally, an accomplice should be prosecuted regardless of whether he or she is to be called as a Crown witness. An accomplice who pleads guilty and agrees to testify against a co-offender may receive a sentencing discount for that co-operation. There will be cases, however, where the accomplice cannot be prosecuted. The issue of immunity most commonly arises where there is no evidence admissible against the accomplice, but he or she has provided an induced statement against the accused.

The Attorney-General has the prerogative power to grant immunity from prosecution. This is in the form of a 'use-derivative-use undertaking' (an undertaking not to use the witness's evidence in a nominated prosecution against the witness, either directly or indirectly, to obtain other

¹⁰ Guideline 53: 'Exhibits' of the Director of Public Prosecutions (State) Guidelines

¹¹ See paragraph 35 of the Director's Guidelines



evidence, but may also be an indemnity (complete protection for nominated offences)). Protection in either form will be dependent upon the witness giving truthful evidence. Any application to the Attorney-General should be through the DPP. It is a last resort only to be pursued when the interests of justice require it. The witness's statement must exist in some form before an application for an undertaking is made.

An indemnity can only be considered in respect of completed criminal conduct. It cannot operate to cover future conduct.

When, during an investigation, or subsequent to a person being charged with an offence(s), officers who identify a participant in the criminal activity under investigation as a person who is likely to be of more value as a prosecution witness than as a defendant, should at the earliest opportunity seek advice, through the case manager, from the DPP as to the appropriateness of such a course, unless for some reason this is not practicable.

Officers intending to make an application for the granting of an indemnity against prosecution in favour of a defendant/suspect are to furnish a report through the relevant Executive Director, Crime or Corruption Operations who will, if considered appropriate, refer the application to the DPP. Additionally, Guideline 35: 'Immunities' of the Director of Public Prosecutions (State) Guidelines provides that the report should summarise:

- a. the witness's attitude to testifying without immunity
- b. the existing prosecution case against the accused (without immunity for the witness)
- c. the evidence which the witness is capable of giving (including the significance of that evidence and independent support for its reliability)
- d. the involvement and culpability of the proposed witness, and
- e. public interest issues including:
 - the comparative seriousness of the offending as between the accused and the witness, and
 - whether the witness could and should be prosecuted (i.e. what is the quality of the evidence admissible against the witness and what is the likely sentence).

In cases involving Commonwealth offences, a similar procedure should be followed except that the Commonwealth Director of Public Prosecutions is involved.

4.3 QCAT disciplinary briefs of evidence (Corruption)

Where the CCC resolves to institute proceedings against a person for corrupt conduct in the original jurisdiction of QCAT, or applies for a review of a reviewable decision, it is the role of the lawyer in the relevant investigation team to gather all relevant material and deliver it to the Director, Litigation and Advocacy. Corporate Legal must conduct the litigation subject to the instructions of the Chairperson or Senior Executive Officer and, where appropriate, must brief external counsel or solicitors in accordance with the CCC's policy and procedure on Engaging External Counsel and Solicitors.

For briefs supporting proceedings against a person for corrupt conduct in the original jurisdiction, the corruption investigation team is responsible for producing the brief and handing over to the Director, Litigation and Advocacy.

The lawyer from the investigation team must continue to provide any information or other assistance sought by Corporate Legal about the matter.

Corporate Legal is responsible for:

- preparing briefs and all court documents required for all other litigation matters
- providing high quality instructions to counsel representing the CCC in litigation.



Initial instructions to counsel must be provided in writing, with notes of any verbal instructions to be made and added to the file contemporaneously. Instructions should be clear, comprehensive and comply with any directions provided by the Chairperson or the Senior Executive Officer, Crime or Corruption, in relation to a matter.

4.3.1 Components of a disciplinary brief

In comparison with a criminal brief, a disciplinary brief:

- does not require a QP9 as criminal charges are not issued
- includes a disciplinary interview.

A disciplinary interview can be conducted at any point during an investigation. If a police officer is interviewed by a Commission officer, a written direction must be given to the police officer. The written direction must be signed by an officer of a more senior rank than the police officer being interviewed.

The case officer responsible for compiling the disciplinary brief must provide it to the Corporate Legal to initiate proceedings. The case officer must make themselves available to provide any follow-up documentation as required by Corporate Legal. Corporate Legal is responsible for the following documentation:

- Application or referral – disciplinary proceeding (QCAT form 22) is submitted to QCAT listing the following annexures:
 - Annexure 1: Disciplinary charges of corrupt conduct schedule (BOE-D-Form 1)
 - Annexure 2: Letter to QPS s48(1)(d) of the CC Act outlining the CCC has assumed responsibility for and complete an investigation into corrupt conduct (BOE-D-Form 2a) OR Letter to UPA s49(2)(f) of the CC Act advising of the investigation outcome (BOE-D-Form 2b).

The assigned lawyer in Corporate Legal is responsible for reviewing the disciplinary brief and drafting the Disciplinary charges of corrupt conduct schedule that forms 'Annexure 1' to the Application or referral – disciplinary proceedings form (QCAT form 22).

Letters in accordance with the CC Act are to be provided:

- If, at any point during the monitoring of an investigation into corrupt conduct by a UPA, the CCC decides to assume responsibility for and complete an investigation. If so, a letter under the hand of the Chairperson is to be sent advising the relevant agency to that effect under section 48(1)(d) of the CC Act.
- At the conclusion of an investigation, if it is determined that the matter should be dealt with through a disciplinary process by the UPA, Corruption must advise the relevant agency, in writing under section 49(2)(f). The investigation report is to be released to that agency under section 49(2)(f) at the time of filing the matter with QCAT and forms 'Annexure 2' of the brief.

When compiling the brief of evidence, the assigned lawyer should be mindful of any applicable disclosure obligations.

Preparation of documents and instructing counsel



Non-publication orders in QCAT

A Non-Publication Order, under section 66 of the *Queensland Civil and Administrative Tribunal Act 2009*, should only be sought if circumstances of the matter require it or the CCC considers it would serve a useful purpose.

If a Non-publication order is made by QCAT, a prominent notation of its existence must be made by the lawyer with carriage of the matter in eDRMS and on the physical file (e.g. a label on the front of the file).

Appellate jurisdiction of the QCAT and Court of Appeal

Where the CCC resolves to institute appellate proceedings in the QCAT or Court of Appeal, the Director, Litigation and Advocacy will have conduct of the appeal or, where appropriate, brief external counsel or solicitors in accordance with Engaging External Counsel and Solicitors Policy and Procedure.

Similarly, where the CCC is responding to an application in QCAT or a matter before the Courts, the Director, Litigation and Advocacy will have conduct of the matter.

4.4 Briefs of evidence to support confiscation matters

4.4.1 General principles

The CCC is responsible for the administration of the civil confiscation scheme (Chapter 2) and the Serious Drug Offender conviction-based confiscation scheme (Chapter 2A) of the *Criminal Proceeds Confiscation Act 2002* (CPCA).

These schemes operate in the civil jurisdiction, not the criminal jurisdiction, and progress normally in a two phased approach:

1. Restraint
2. Final relief orders and other applications.

Restraint

Matters assessed as suitable for confiscation under the Chapter 2 or 2A schemes of the CPCA and approved by the Executive Leadership Team (ELT), progress by way of application to the Supreme Court for a restraining order. The CCC on behalf of the State needs to demonstrate to the Court the following:

- For Chapter 2 matters:
 - there is a reasonable suspicion that the respondent (defendant) has been involved in a serious crime related activity (as defined in Schedule 2 of the CPCA), and
 - the Respondent owns or has effective control of property, sought to be restrained.
- For Chapter 2A matters:
 - the respondent (defendant) has been charged or is to be charged with a qualifying drug offence (as defined), and
 - the respondent owns or has effective control of property, sought to be restrained

The CCC supports the application with a sworn or affirmed affidavit from a police officer involved in the investigation (deposing to the alleged criminal activity of the respondent) and an affidavit from an authorised Commission officer formulating the suspicion that the respondent was



engaged in serious crime related activity or has committed the qualifying drug offence and depositing to the property holdings of the respondent. Restraining order applications can be made ex parte or on notice.

The Court must make a restraining order in relation to property if after considering the application and the filed affidavits it is satisfied there are reasonable grounds for the suspicion that:

- the respondent has engaged in serious crime related activity or has committed the qualifying drug offence
- the specified property is owned or effectively controlled by the respondent, and
- it is in the public interest to make the restraining order.

Normally a lawyer from the DPP Confiscations Unit will advocate on behalf of the State for applications for restraining orders. However, if the matter is determined to be contentious, external counsel may be engaged by the State to argue the matter (refer to section 4.1.2).

Once the restraining order is made by the Court, the property title is effectively frozen and cannot be dealt with. In some instances the Court may order the property to be surrendered to the Public Trustee of Queensland, to be held in trust until the litigation is finalised.

It is normal practice for the CCC at the time of restraint to seek an ancillary order seeking the respondent provide sworn particulars of all the property over a nominated value (normally \$5,000) currently owned or controlled or any property they have owned or controlled in the past 6 years.

Final relief orders and other applications

Pursuant to Chapter 2 of the CPCA, once all property has been restrained, financial investigations are commenced to gather evidence to identify the provenance of the restrained property and to determine which confiscation strategy or strategies should be pursued. The Chapter 2 scheme provides for three different confiscation strategies or final orders:

- Forfeiture order: where the existence of the property cannot be lawfully explained or is tainted
- Proceeds assessment order: where evidence exists to quantify the benefit a Respondent derived as a result of their suspected criminal activity
- Unexplained wealth order: where an investigation into a respondent's financial affairs calculates unexplained or unsourced income.

Chapter 2A matters, although in the civil jurisdiction, are conviction based and require the criminal conviction to be successful and a qualifying serious drug offender certificate to be issued by a criminal Court before the Supreme Court can grant a confiscation order against property of the respondent.

The defining feature of the civil confiscation scheme is that it does not require the prior conviction of a person for the offence which gave rise to the proceeds of crime. Because conviction is not a necessary precedent to the making of any final order, actions initiated under Chapter 2 may be settled in accordance with terms agreed between the State and the respondent. Where there are prospects for a matter to settle, a memo is furnished to the Senior Executive Officer (Crime) for consideration and approval (refer to [MP20 - Criminal proceeds confiscation](#)).

It is the preferred process of the CCC to have the settlement arrangement formalised by the Supreme Court as an agreed consent order under section 256A of the CPCA and the relevant sections of the confiscation strategy before the property is recovered or a monetary order awarded.



Conversely if material is filed by the respondent that can reasonably explain the provenance of property, refute the basis of a confiscation application by the State, or if there is insufficient evidence available to the State to support the prospects of a successful confiscation litigation, the State may discontinue its action. The Director, Proceeds of Crime approval must be obtained for any discontinuance of confiscation litigation, as such action most likely will result in the State being liable for the respondent's costs.

There are a number of circumstances that give rise to a confiscation brief of evidence being collated and the matter progressing to a trial hearing before the Supreme Court:

- Defence of an exclusion application by either the respondent or a third party that claims an interest in the restrained property
- Collation of evidence in support of a final order that is contested and is to proceed to trial, or
- Defence of a hardship application by a dependant of the respondent, after a confiscation order has been granted.

The brief of evidence produced by the CCC on behalf of the State for trial purposes, would comprise sworn or affirmed affidavits (civil jurisdiction) exhibiting the relevant evidence to be relied on in the trial. Under the civil jurisdiction, documentary evidence may be accepted into evidence by agreement of the parties without the need for the material to be proved. Consideration may be required in certain circumstances to seek immunity from prosecution through the Attorney-General, if a witness is required to depose to evidence in an affidavit which may incriminate themselves.

It is the CCC procedure to engage external counsel to provide advice on evidence and appear before the Supreme Court in any contested application. Depending on the nature of a matter, a junior counsel or a senior counsel may need to be engaged. Additionally, oral evidence may be required from nominated witnesses, who have deposed to affidavits, filed in the matter which are being relied upon for the particular application. Refer to [MP20 - Criminal proceeds confiscation](#).

Confiscation briefs will vary in nature and evidence required, depending on the issues in contention. Pursuant to section 9 of the CPCA, any order under the CPCA requiring the payment of an amount or imposing a penalty other than for a conviction for an offence against the CPCA, is not a punishment or sentence for any offence.

5. Definitions

Term	Meaning
Accused	Where the context permits, also means a lawyer acting for an accused person.
Arresting Officer	For a person charged with an offence, means: <ul style="list-style-type: none"> a) the police officer who arrested the person or, if the person was not arrested, the police officer who brought the charge against the person, or b) at any time the person mentioned in a) is unavailable, another police officer designated by the CCC or the Commissioner of the Police Service as the arresting officer for the person.
Brief of Evidence	A CCC brief of evidence referred to in this Operation Manual.



Term	Meaning
Case manager	Is appointed for each CCC investigation, project or witness protection matter. Case managers are senior specialists, team leaders or Operations Directors (Crime of Corruption) at the CCC.
Case Officer	For a CCC brief the CCC officer responsible for the investigation of a matter, or where a person has been charged with an offence arising from a CCC investigation, the 'arresting officer' as in section 590AD <i>Criminal Code</i> .
Commission officer	As defined in Schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under section 32 of the CC Act.
Disclosure Contrary to the Public Interest	Includes, but is not limited to, circumstances where there are reasonable grounds for considering disclosure of the thing: <ul style="list-style-type: none"> a. would prejudice the security, defence or international relations of Australia, or b. would damage relations between the Commonwealth and a State or between 2 or more states, or c. would facilitate the commission of another offence, or d. would prejudice the prevention, investigation or prosecution of an offence, or e. would prejudice the usefulness of surveillance or other detection methods, or f. would disclose, or enable a person to find out, the existence or identity of a confidential source of information relating to the enforcement or administration of a law of the Commonwealth or a State, or g. would cause unlawful or dishonest interference with potential witnesses, or h. would prejudice the proper functioning of the government of the Commonwealth or a State, or i. to the accused person is prohibited by law.
DPP	The Director of Public Prosecutions Queensland
Director's Guidelines	The Director's Guidelines issued by the DPP available at: http://www.justice.qld.gov.au/__data/assets/pdf_file/0015/16701/directors-guidelines.pdf
eDRMS	Electronic Document and Records Management System
Exculpatory Thing	In relation to an accused person, means reliable evidence of a nature to cause a jury to entertain a reasonable doubt as to the guilt of the accused person.
Hearing materials	Any answer given, statement, document or thing produced to the CCC by an individual upon requirement, despite an objection on the basis of self-incrimination privilege, to giving or producing any of those things.



Term	Meaning
Privileged Material	Communications between a person and their legal advisor that attract legal professional privilege on the basis that they are made in the course of providing legal advice or in anticipation of litigation.
Protected Witness	A person: <ul style="list-style-type: none"> a) who is a protected witness within the meaning of s.21F <i>Evidence Act 1977</i>, or b) who is or has been included in a witness protection program under the <i>Witness Protection Act 2000</i>.
Prosecutor	A member of the DPP assigned to a CCC case to prosecute an offender.
QPRIME	Queensland Police Service database
Sensitive Evidence	Anything containing or displaying an image of a person ('the imaged person'): <ul style="list-style-type: none"> a) that, disregarding the fact the thing was brought into existence, or is in the possession of the prosecution, for the purpose of providing evidence of an offence, is obscene or indecent, or b) the disclosure of which to another person, without the imaged person's consent, would interfere with the imaged person's privacy. (s.590AF)
Specified statement or Exhibits	Statements of the prosecution witnesses who will provide the "substantial evidence" in the matter and of exhibits of substantial evidence as requested by the defence or prosecution for the purposes of finalising a case conference.
Statement	In relation to a person means: <ul style="list-style-type: none"> a) a statement signed by the person, or b) a statement of the person that is potentially admissible under the Evidence Act 1977, s.93A, or c) c) any other representation of fact, whether in words or otherwise, made by the person.
Substantial evidence	The evidence which tends to prove an offence but does not include corroborative evidence of continuity evidence or evidence of ownership (except where it is expected that such evidence will be a major point of the litigation).
Witness Contact Detail	Includes details of the address and telephone number and facsimile number of: <ul style="list-style-type: none"> d) a proposed witness for the prosecution, or e) a person who has provided a statement containing evidence relevant to the proceeding but upon which the prosecution does not intend to rely.



6. Forms

Document reference	Document title
Criminal brief forms	
BOE-C-Form 1	Index to Brief
BOE-C-Form 2	List of non-available witnesses
BOE-C-Form 3	Disclosure under s.590AB(2)(b)
BOE-C-Form 4	Notice of Sensitive Evidence for a Relevant Proceeding (s.590AO)
BOE-C-Form 5	Notice of Disclosure Contrary to Public Interest for a Relevant Proceeding (s.590AQ)
BOE-C-Form 6	Supplementary Notice for a Relevant Proceeding (s.590AL)
BOE-C-Form 7	Disclosure of Request for a Relevant Proceeding (s.590AJ)
BOE-C-Form 8	Brief Check List
Disciplinary brief forms	
BOE-D-Form 1	Disciplinary charges of corrupt conduct schedule (Annexure 1)
BOE-D-Form 2a	Letter to QPS s48(1)(d) CCC assumed responsibility for investigation (Annexure 2)
BOE-D-Form 2b	Letter to UPA s49(2)(f) of the CC Act advising of the investigation outcome (Annexure 2)

7. Related policies and procedures

Relevant Legislation:

- *Crime and Corruption Act 2001*
- *Criminal Code Act 1899* (Queensland), Division 3, Chapter 62, Sections 590AB to 590AX
- *Police Service Administration Act 1990*
- *Evidence Act 1977*
- *Witness Protection Act 2000*
- *Justices Act 1886*
- *Oaths Act 1867*
- *Queensland Civil and Administrative Tribunal Act 2009*
- *Criminal Proceeds Confiscation Act 2002*
- Criminal Practice (Fees) Regulation 2000

Other relevant information:

- MP08 – Search warrants
- MP12 – Property management
- MP16 – Telecommunications interception and access
- MP20 - Criminal proceeds confiscation
- Engaging External Counsel and Solicitors Policy and Procedure
- CCC Guidelines for Transcription



- Queensland Police Service Operational Procedures Manual
- Magistrate Courts Practice Direction
- Director of Public Prosecutions (State) Guidelines

8. Administration

Responsible officer:	Executive Director, Corruption Operations	Accountable officer:	Senior Executive Officer (Corruption)
Date approved:	March 2022	Review date:	March 2023



9. Appendices

9.1 Appendix A: Disclosure of criminal briefs

Mandatory disclosures

The brief of evidence is subject to mandatory disclosures that must always be made under section 590AH (2)(a) to (k) of the Criminal Code, set out below:

- a. a copy of the bench charge sheet, complaint or other initiating process
- b. a copy of the accused person's criminal history. If an accused has no criminal history, then the case officer should insert a page within this section, upon which the following words appear in large print, "(Name of Accused) has no criminal history"
- c. a copy of any statement of the accused person. The case officer must include all forms of statement that may have been made by the accused person, including any statement upon which the prosecution does not intend to rely and irrespective of whether the statement may be admissible against the accused
 Example: The audio and transcript of the evidence given by an accused person in a CCC hearing where the accused has been directed to answer questions after a claim of privilege. (Refer to 4.1.1 Including hearing materials in a criminal brief).
- d. for each proposed witness for the prosecution who is, or may be, an affected child - a written notice naming the witness and describing why the proposed witness is, or may be, an affected child
- e. for each proposed witness for the prosecution other than a proposed witness mentioned in paragraph (d):
 - a copy of any statement of the witness in the possession of the prosecution
 Example: a statement made by a proposed witness for the prosecution in an audio recording of an interview.
 - if there is no statement of the witness in the possession of the prosecution—a written notice naming the witness.
- f. if the prosecution intends to adduce evidence of a representation under the Evidence Act 1977, section 93B, a written notice stating that intention and the matters mentioned in Criminal Code Act 1899, section 590C(2)(b) to (d).
- g. a copy of any report of any test or forensic procedure relevant to the proceeding in the possession of the prosecution
 Examples of a forensic procedure - DNA, fingerprint or other scientific identification procedure
- h. a written notice describing any test or forensic procedure, including a test or forensic procedure that is not yet completed, on which the prosecution intends to rely at the proceeding
- i. a written notice describing any original evidence on which the prosecution intends to rely at the proceeding
- j. a copy of anything else on which the prosecution intends to rely at the proceeding
- k. a written notice or copy of anything else in possession of the prosecution prescribed under a regulation.

Disclosures that must be made under s.590AB(2)(b) (in addition to Mandatory Disclosures)

In the brief of evidence, the case officer must include a copy of all things in the CCC's possession, other than things where disclosure would be unlawful or contrary to public interest or that has already been provided in the brief.



If copying a relevant thing is not possible or would be too expensive or onerous to copy, the case officer must ensure that a full and complete description of the thing and conditions for viewing the thing are included in the appropriate place on the form (BOE-C-Form 3).

Examples of the type of material that might be disclosed are limitless, however as a general guide, the case officer should consider whether, on the information available and having regard to any possible defences the accused may raise, the accused would have a legitimate forensic purpose to access the material.

- Example 1: The prosecution case relies upon one document which is part of a large file and the document has been disclosed in the brief. The CCC should disclose to the accused that it has possession of the balance of the file and conditions for its viewing.
- Example 2: Taking the above example further, the CCC may have also obtained a list of persons who were present at the relevant time and place alleged by the accused. The CCC did not interview all of these persons because one or two could not be located and the CCC had evidence suggesting the accused was not there anyway. In the circumstances, the CCC should still disclose the list of persons to the accused.
- Example 3: The CCC has obtained the statement of a witness whose evidence is materially inconsistent with the prosecution case. The prosecution has no duty to call a witness because objectively the person is not considered a witness of truth. The CCC must still disclose the statement to the accused.

Ongoing obligation to disclose

Subject to the specific limitations on disclosure identified, the prosecution has an ongoing obligation to disclose to an accused person the material referred to in the brief. This obligation continues until the prosecution ends, whether by the accused person being discharged, acquitted, convicted or in another way. If a document or thing is an exculpatory thing, the obligation to disclose the exculpatory thing to an accused person continues until the accused person is discharged or acquitted or dies.

When the case officer becomes aware of the existence of a document or thing that has not been disclosed in accordance with these procedures, because for example, the case officer did not have possession of the thing in sufficient time or the thing did not exist when the brief was originally provided to the DPP or police prosecutor, the case officer must disclose the thing to the DPP or police prosecutor as soon as practicable after it comes into the possession of the case officer and in any case:

- for a committal proceeding or summary trial, within **35 days** of the committal or at least **14 days** before evidence starts to be heard in the proceeding, or
- for a trial on indictment, no more than **28 days** after presentation of the indictment, or if the trial starts less than 28 days after presentation of the indictment, before evidence starts to be heard at the trial.

Where supplementary disclosure becomes necessary because of the above mentioned ongoing disclosure obligation, the case officer must prepare a BOE-C-Form 6 – Supplementary Notice for a Relevant Proceeding and attach a copy of the relevant document or thing. If the case officer considers that it is not possible to provide a copy of a relevant thing with the BOE-C-Form 6 notice because it is not capable of being copied or the thing would be too expensive or otherwise onerous to copy, the case officer must ensure that a full and complete description of the thing is provided in the BOE-C-Form 6 Notice and conditions for viewing the thing are included in the appropriate place on the Form.



The case officer must ensure that an acknowledgement of receipt is obtained from the relevant DPP officer or police prosecutor at the time the BOE-C-Form 6 notice is delivered. This can be obtained by a notation in an Official or Police diary and acknowledged by the DPP officer. A copy of the acknowledgement must be uploaded to the case management system.

Disclosure that must be made on request

Subject to the limitations on disclosure outlined in these procedures, if requested, the prosecution must provide an accused person with the following:

- a) particulars, if a proposed witness for the prosecution is, or may be, an affected child and
- b) a copy of the criminal history of a proposed witness for the prosecution in the possession of the prosecution
- c) a copy or notice of anything in the possession of the prosecution that may reasonably be considered to be adverse to the reliability or credibility of a proposed witness for the prosecution
- d) notice of anything in the possession of the prosecution that may tend to raise an issue about the competence of a proposed witness for the prosecution to give evidence in the proceeding
- e) a copy of any statement of any person relevant to the proceeding and in the possession of the prosecution but on which the prosecution does not intend to rely at the proceeding
- f) a copy or notice of any other thing in the possession of the prosecution that is relevant to the proceeding but on which the prosecution does not intend to rely at the proceeding.

If a case officer receives a request from an accused directly or via the DPP or police prosecutor, for any of the above mentioned material and that material has not already been disclosed, the case officer must respond to the request as soon as practicable. If the request relates to material that does not fit any of the above described things, the case officer must refer the matter to the case manager for advice. If the request is non-specific and is only made generally using terms similar to all or any of the things described in paragraphs a) to f) above the case officer must refer the matter to the case manager for advice.

Where disclosure upon request is made, the case officer must prepare a BOE-C-Form 7 – Disclosure on Request for a Relevant Proceeding and attach a copy of the relevant document or thing requested. If the case officer considers that it is not possible to provide a copy of a relevant thing with the BOE-C-Form 7 notice because it is not capable of being copied or the thing would be too expensive or otherwise onerous to copy, the case officer must ensure that a full and complete description of the thing is provided in the BOE-C-Form 7 notice and conditions for viewing the thing are included in the appropriate place on the form.

If a case officer considers that the requested material should not be disclosed because of a limitation on disclosure, the relevant forms must be completed (refer to sections below on limitation on disclosure).

The case officer should respond to a disclosure request by providing the material directly to the person who made the request. If disclosure is made directly to the accused, the case officer must ensure that a copy of the material disclosed and the BOE-C-Form 7 is also provided to the DPP or police prosecutor. The case officer must ensure that an acknowledgement is obtained from accused and the relevant DPP officer or police prosecutor. This can be obtained by a notation in an Official or Police diary and acknowledged by the receiver. A copy of the acknowledgement must be uploaded into the case management system.



Limit on disclosure of things an accused person already has (s.590AN)

Section 590AN Criminal Code provides that the prosecution is not required to give the accused person any thing the accused person already possesses or has already been given by the prosecution.

In theory this provision is designed to safeguard proceedings against being unnecessarily delayed because an accused relies upon the loss of material already supplied by the prosecution, particularly where there have been changes in legal representation. In practice, ultimately the defence will need access to all the material upon which the prosecution intends to rely, if the prosecution is to proceed fairly.

Where a case officer receives a request from an accused (including where this request is received via the DPP) for material already supplied, the case officer should obtain an explanation for the loss of the material and if such explanation is not received in writing, make a file note of the explanation given. Ordinarily the case officer should respond to such a request by resupplying the requested material. Where the case officer considers that the request by the accused to resupply material is onerous, the material should ordinarily be supplied only upon agreement by the accused to pay reasonable photocopy costs associated with the request or for the accused to pay or provide an electronic device to store the material. Photocopy charges should not exceed photocopy fees specified in the Criminal Practice (Fees) Regulation 2000.

Limit on disclosure of sensitive evidence (s.590AO)

A case officer must not include in the brief, or give an accused person, a copy of a thing that could reasonably be considered to be sensitive evidence other than in accordance with this procedure.

Instead of including in the brief, or giving an accused person, a copy of the sensitive evidence, the case officer must include in the brief, or otherwise provide the accused person with a BOE-C-Form 4 - Notice of Sensitive Evidence for a Relevant Proceeding.

A court may make an order directing the prosecution to provide a copy of *sensitive evidence* to an accused person or allow an appropriate person to view sensitive evidence in certain circumstances and under certain conditions set out in section 590AO Criminal Code. Where possible, the case officer should consult with the case manager in relation to any application of this nature proposed by an accused and ensure the DPP is informed of any view the CCC has in relation to the matter. Where a case officer is required to do something because such an order has been made by a court, the case officer must notify the case manager, before taking any action in accordance with the order.

Limit on disclosure of evidence act section 93A device statement (s.590AOA)

A case officer must not give an accused person a copy of an *Evidence Act* section 93A device statement unless otherwise required under section 590AOA. Instead, the case officer must give the accused a written notice describing the statement and stating that the prosecution considers the statement to be an *Evidence Act* section 93A device statement and is not required to give the accused person a copy of the statement other than as required under that section. The notice must also set out the matters listed in subsection 590AOA(3) or (6).

A case officer may give a lawyer a copy of an *Evidence Act* section 93A device statement on the conditions as set out in subsection 590AOA(3).

Limit on disclosure of witness contact details (s.590AP)

A case officer must not give an accused person a witness contact detail other than in accordance with these procedures. Further, if the case officer is not required to give an accused a witness



contact detail, the case officer must delete the witness contact detail from, or render illegible in, a thing that is disclosed to, or may be viewed by, the accused person. However, a case officer may, at the request of the accused, pass onto a person, a request from the accused that the person contact the accused.

A witness contact detail must be included in the brief of evidence or otherwise given to the accused if the detail is materially relevant as part of the evidence for the prosecution case.

Limit on disclosure contrary to public interest (s.590AQ)

A case officer must not include in the brief, or give to an accused person a thing, the disclosure of which would be contrary to the public interest other than in accordance with these procedures.

Instead of disclosing in the brief, or to an accused person, a thing the case officer considers would be contrary to the public interest, the case officer must include in the CCC brief a BOE-C-Form 6 - Notice of Disclosure Contrary to Public Interest for a Relevant Proceeding.

In circumstances where a court is satisfied that the disclosure of a thing would not be contrary to the public interest and is not otherwise unlawful, the court may make an order directing the prosecution to disclose to provide a copy of a thing. Where possible, the case officer should consult with the case manager in relation to any application of this nature proposed by an accused and ensure the DPP is informed of any view the CCC has in relation to the matter. Where a case officer is required to do something because such an order has been made by a court, the case officer must notify the Executive Director, Crime or Corruption Operations, before taking any action in accordance with the order.

Example: It would be unfavourable to disclose details of a witness who has provided a 13A statement for a particular matter until such time as the 13A statement becomes relevant to protect the witness from any perceived harm.





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Operations Manual

Part 2: Management of Matters (MM)
Section 3: **Matter reports and
publications**

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MM03 – Matter reports and publications

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the preparation and production of reports or publications for external audiences that are the product of an investigation. The reports or publications may be public or confidential.

2. Application

The following information applies to all Commission officers involved in the preparation, production, review and approval of externally focussed reports or publications arising from operational matters.

This policy and procedure does not apply to:

- internal reports produced to support management, governance or matter finalisation requirements
- public reports based on research, prevention, intelligence or procedural improvement.

3. Policy

The CCC's policy and standards for the preparation and furnishing of investigation or project reports is set out in Part 4, clause 4.8.3 and 4.8.5 of the [Operational Framework](#).

4. Procedure

4.1 General principles

Publishing information is a key element of the CCC's communication strategy. Decisions about what to publish and how best to communicate are informed by a number of considerations, including:

- the status of an operational matter and any related activities
- considerations of equity to all stakeholders who have an interest in a matter
- considerations of any criminal prosecution
- the need to afford natural justice to persons adversely affected by a proposed publication, including the need to comply with section 71A of the CCC Act
- obligations arising from legislative provisions
- how best to communicate the work of the CCC to its stakeholders and increase public confidence about the use of our powers
- the opportunities to maximise our reach to a particular audience
- timeliness and cost
- longevity of the published material.

The above considerations require careful balancing of the competing demands before decisions are made about what, when, where and how to publish.



4.2 Types of reports and publications

Publications constitute a stage of the delivery phase of an investigation, incorporating the preparation of reports or similar products that include:

- confidential reports provided to the head of an agency, recommending specific action to be undertaken in response to a CCC investigation
- public reports based on information gathered through a public inquiry or investigation outcomes
- publications using specific investigation outcomes to highlight prevention lessons for the public sector (Prevention in Focus series).

4.3 Planning and approval

4.3.1 Planning

The external communication of information should be considered:

- **Within the feasibility stage:** as an anticipated or likely product of an investigation, supporting the business case and forming an element of the high-level delivery plan in the Feasibility Report for ELT review
- **Within the delivery stage:** as a stage of delivery, thereby included in the high-level delivery plan where requirements estimates will forecast the resource requirements and completion dates for the publication stage (refer to MM01 – Matter management, planning and conduct for further information).

It is the responsibility of the case manager to liaise with Corporate Communications to:

- identify appropriate opportunities for the external publication of reports or similar products with reference to the principles outlined in section 4.1
- consider the most appropriate delivery channel(s) and format, based on the audience and their needs, and any requirements specific to that audience (e.g. language, format or tone)
- identify any additional factors requiring consideration, such as the publication of other material by CCC, timeliness or resource availability
- if a public report, consider printing and distribution requirements, including provision to the Legislative Assembly
- the recommended release classification (public or confidential). Different products from the same investigation may have different release classifications depending on their content and target audience.

Based on these considerations, a discrete plan is developed that incorporates:

- Detailed requirements/estimates, including the quality, type and quantity of resources required, and the reliability of those resources based on leave commitments or competing priorities
- The activities required to complete the publication stage of the investigation and who is responsible for completing each activity, and
- The associated timeframe to complete the stage of the investigation.

The publication stage of an investigation is dependent on many factors and estimates are not static. Hence, the case manager is required to review the high-level delivery plan ongoing and in light of the progress of delivery, and liaise with Corporate Communications to support effective resource planning and ensure a timely and high quality product.



4.3.2 Approval to prepare a report or publication

The requirement to prepare a confidential investigation report or a report for the public is a key decision. Approval is dependent on the investigation phase and type of product.

Within the feasibility stage, the investigation products form part of the business case for ELT review.

Within the delivery stage, publications comprise a sub-stage of delivery and are reviewed as part of the high-level delivery plan (refer to IM01 – Portfolio assessment and review for further information on governance arrangements).

Where an investigation or assessment is likely to, or will, involve the making of a recommendation(s) for law reform in relation to a Cabinet process or a matter involving a constitutional convention, refer to MM01 – Matter management, planning and conduct.

The Case Manager must ensure the ELT decision is recorded in the CCC Case management system.

4.4 Product delivery

4.4.1 Content development

In accordance with the discrete publication plan, the officers tasked with specific activities are responsible for:

- delivering content that is technically accurate
- ensuring that the correct security classification is applied
- ensuring that dissemination authority is obtained (refer to MM04 - Disclosure and requests for information)
- ensuring the content adopts the In-house CCC style guide and brand guidelines.

The case manager is responsible for liaising with the Corporate Communications Unit to coordinate their appropriate input to ensure any proposed publication:

- conforms to the CCC brand guidelines and In-House styles
- is prepared in a format consistent with existing CCC publication types
- adheres to Queensland Government Standards where necessary (refer to Communications policy and procedure for further information)
- adheres to CCC standards (for example, use of PDF format in reports to UPA's or the application of a 'DRAFT' watermark. Refer to Communications policy and procedure for further information and CCC Standards)
- adopts the correct tone, style and messaging for the identified audience
- is supported with the appropriate permissions to reproduce any copyright material, including images
- has the necessary intellectual property requirements (refer to the Intellectual Property policy and procedure and the Communications policy and procedure)
- has any additional proofing or editing requirements planned appropriately
- has a physical production schedule in place if applicable.

The Corporate Communications Unit may also identify additional content requirements relating to the production of communications and will liaise with the investigation team accordingly.



4.4.2 Content review and approval

Confidential reports provided to the head of an agency, recommending specific action to be undertaken in response to a CCC investigation are reviewed by the relevant operational Director and assigned legal officer, and approved by the Senior Executive Officer (Crime or Corruption).

Published CCC materials that are considered a routine matter, are:

- reviewed by the relevant Executive Director Operations, appropriate legal officer(s), assigned legal and Corporate Communications Director, and
- approved by the Senior Executive Officer (Crime or Corruption).

If a product is non routine, the Senior Executive Officer is encouraged to consult the CEO and/or Chairperson (refer to the Communications policy and procedure).

5. Definitions

Nil.

6. Forms

Nil (refer to MM01 – Matter management, planning and conduct for planning documentation).

7. Related policies and procedures

Relevant Legislation

Nil

Other relevant information

- IM01 – Portfolio assessment and review
- MM01 – Matter management, planning and conduct
- MM04 - Disclosure and requests for information
- Communications (policy and procedure)
- Intellectual Property (policy and procedure)
- CCC style guide (in-house)
- 1CCC brand guidelines
- More information about the retention and disposal of public records can be found on the website of the Queensland Government Chief Information Office – QGCIO.



8. Administration

Responsible officer:	Executive Director, Corruption Operations	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	February 2022	Review date:	February 2023





**Crime and Corruption
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Operations Manual

Part 2: Matter Management (MM)
Section 4: **Disclosure and requests for
information**

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MM04 – Disclosure and requests for information

1. Purpose

The purpose of this policy and procedure is to outline the requirements for the disclosure of intelligence or other information, by the CCC, under section 60 or section 201 of the *Crime and Corruption Act 2001* (CC Act).

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure does not apply to the following type of disclosures:

- Disclosure in response to an access application, including an internal review, under the *Right to Information Act 2009* (Qld) or *Information Privacy Act 2009* (Qld) - refer to the Information Access: Right to Information and Information Privacy (Policy)
- Disclosure in response to a subpoena, discovery application or other legal process in court or tribunal proceedings where the CCC is a party to the proceeding – refer to the *Conducting Litigation on behalf of the CCC (Policy & Procedure)*
- Disclosure pursuant to employee disciplinary information sharing obligations under the CC Act (Chapter 6, Division 9)
- Information that is already publicly available, for example, the Annual Report¹
- Disclosure to the Parliamentary Crime and Corruption Commissioner under the CC Act²
- Return of material to an entity that supplied that material to the CCC, including seized material – refer to MP12 - Property Management
- Disclosure by the CCC to the media – refer to MM03 - Matter reports and publications
- Disclosure of telecommunications data and Telecommunications Interception (TI) information – refer to MP16 - Telecommunications interception and access
- Disclosure of Electronic Surveillance Device material – refer to MP14 - Electronic Surveillance

3. Policy

The Commission's policy and standards for Information Sharing is set out in Part 2, clauses 2.5 and 2.6.2 of the Operational Framework.

Commission officers generally have authorisation to deal with CCC information when relevant to the discharge of their duties and in performing the Commission's functions.³ However, it is Commission policy that the **written** authority of an authorised delegate is required prior to the disclosure of:

- CCC information for the purpose of another entity (under section 60(2) or 202 CC Act), or

¹ See section 213(3)(c) CC Act

² See section 213(3)(a)(i) and (b)(i)(A) CC Act

³ Section 60(1) and 342 CC Act

- CCC hearing information (unless the disclosure would not be an offence against section 202(1) CC Act).

4. Procedure

4.1 General principles

In performing its functions, the CCC holds a large amount of information, much of which is confidential or sensitive. It is an offence for Commission officers to disclose CCC information except where it is for the purposes of the CCC or the CC Act, the parliamentary committee, the parliamentary commissioner or an investigation into an alleged contravention of section 213 of the CC Act or the information is already publicly available.⁴ It is also an offence to publish hearing materials information without the Commission's **written** consent or contrary to the Commission's order except in prescribed circumstances.⁵

Generally, entities that receive confidential information from the CCC commit an offence if they further disclose that information.⁶ Former Commission officers, including those seconded from another entity, are bound by the secrecy provisions in the CC Act (section 213) in relation to information that has come to their knowledge while an officer of the CCC. Former Commission officers may not deal with CCC information without authority in accordance with this policy.

Section 60 of the CC Act is the principal disclosure provision and authorises the CCC to:

- use any information, document or thing in the CCC's possession in performing the CCC's functions⁷
- give intelligence information or other information to any entity the CCC considers appropriate.⁸

Appendix A sets out the framework for the disclosure process under this policy and procedure.

4.2 Requirements for disclosures

Disclosures under the CC Act must satisfy the following general requirements:

- prior written authority by a person with appropriate delegation is provided where such authorisation or approval for disclosure is required
- compliance with the CC Act and other legislation
- compliance with CCC record-keeping, information-transfer and security classification requirements
- the disclosure is "appropriate" in all the circumstances
- consideration has been given to whether information disclosed should be treated as confidential by the recipient or its use otherwise restricted.

The application for a disclosure should be sufficient to enable the delegate to authorise the disclosure (refer 4.2.2 Authorisation or approval from a person with delegated authority). In some

⁴ Section 213 CC Act

⁵ Section 202 CC Act

⁶ Section 213 CC Act

⁷ Section 60(1) CC Act

⁸ Section 60(2) CC Act

instances, a delegate may, after consulting with the applicant, require further clarification from an appropriate officer.

4.2.1 Authority for disclosures in performance of duties and functions

The CCC has express powers to disclose information as well as necessary or implied powers in the performance of its statutory functions and its administrative and executive functions as a corporate body.⁹

Disclosures expressly permitted in the *Witness Protection Act 2000* or necessary to provide witness protection are disclosures for CCC purposes.¹⁰

A Commission officer may only disclose information in the performance of CCC powers and functions, when it is in the discharge of the officer's duties.¹¹

The Chairperson has issued a written standing authorisation to confirm that Commission officers may, in the discharge of their duties, disclose information relevant to the performance of those duties. This written authorisation includes permission to disclose CCC hearing information to other Commission officers for performing CCC functions.

Where a report is provided to the CEO of a UPA under s49, this dissemination is made under s60(1). In those circumstances, the report and evidence obtained during the investigation, including compulsorily acquired evidence, can be forwarded to the CEO without the need for a formal disclosure under section 60(2) to be signed. The covering letter must state that the evidence is being provided pursuant to sections 49 and 60(1) of the CC Act and is to be settled by a lawyer who will consider whether redactions to the investigation report are necessary and if certain evidence should not be disclosed, e.g. an oral statement obtained pursuant to section 75 of the CC Act where the witness has claimed self-incrimination privilege and the protection available under s. 197(2). Refer to **Appendix B** for a non-exhaustive list of the types of disclosures that may be for CCC purposes and **Appendix C** for a list of the CCC's statutory functions.

4.2.2 Authorisation or approval from a person with delegated authority

The power to authorise a disclosure under section 60(2) or 201 of the CC Act may be delegated to a CCC position or an individual Commission officer, with or without any specific limitation on the exercise of the delegation.¹² The relevant statutory delegate, as listed in the Delegations Register, is responsible for ensuring the authority is exercised within the conditions outlined in the Delegations Register.

In all cases, and particularly where the CC Act or the instrument of delegation enables more than one individual to authorise a particular disclosure, the delegate exercising the authority must ensure that:

- they have access to all relevant information

⁹ Section 60 CC Act

¹⁰ Section 36 *Witness Protection Act 2000*

¹¹ Section 60(1) and section 342 CC Act

¹² Section 269 CC Act

- the nature, scope and circumstances of the proposed disclosure make it appropriate for them to decide rather than some other position or person holding the same power to disclose
- no other delegate has exercised their statutory delegation in respect to the proposed disclosure.

Examples of appropriate use of delegation are outlined in **Appendix D**.

Further certification by a more senior officer or other appropriate officer need only be completed if requested by the delegate. The delegate may request further certification if, for example, the delegate has no prior knowledge of the issues, where the matter is complex or sensitive, or where the delegate wishes for the request to be reviewed or considered by an interim officer (such as a lawyer or the requesting officer's manager where the request comes from a more junior officer). If the delegate does not consider further certification necessary, it may be left blank. A dissemination request from one senior officer to another will typically not require a further certification.

4.2.3 Compliance with the law

CCC information must only be disclosed in accordance with the law. Apart from the CC Act prohibitions and restrictions on the disclosure of CCC information, other Queensland and Commonwealth legislation may also prohibit or restrict the disclosure of information in the possession of the CCC.

The responsible officer and delegate must ensure any disclosure is lawful in accordance with such legislation. If you have any doubts about the lawfulness of the proposed disclosure you should seek internal CCC legal advice.

Human rights, for example, may be triggered by a dissemination of material. When disseminating material, consideration must be given to any limit/s on an entity's human rights and whether the limit/s are reasonable and justifiable under section 13 of the *Human Rights Act 2019*. Those human rights likely to be engaged are the right to privacy and reputation, right to a fair hearing, and rights in criminal proceedings.

Other examples of legislation that may prohibit or restrict the disclosure of CCC information are outlined in **Appendix E**.

4.2.4 Factors to consider when determining whether a disclosure is appropriate

The disclosure of information is generally regulated by section 60(2) of the CC Act. That section provides that the CCC may give information to any entity it considers appropriate. In assessing appropriateness, the CCC must consider whether the entity has a proper interest in the information. In all cases, consideration should be given to the appropriateness of the disclosure.

In determining whether it is appropriate to disclose information, the requirement to act independently, impartially and fairly in accordance with the CC Act must be considered, along with the importance of protecting the public interest. The following factors should be considered in each case:

- (a) the nature and extent of the information to be disclosed

- (b) the interest of the receiving entity in the information, for example, whether this is a proper interest and whether the interest is within the functions of the receiving entity
- (c) any formal or operational agreement in relation to disclosure between the CCC and the receiving entity
- (d) the interests of the source of the information, for example: whether the information was provided to the CCC subject to conditions or an agreement, and the security classification on the information. In some cases, it will be necessary to seek the consent of the source of the information before disclosure.
- (e) whether the CCC was given the information under the protection of section 343 of the CC Act (for breach of confidentiality provisions) or another law of the Commonwealth, a State, Territory or a foreign power
- (f) the security measures available to the receiving entity to protect the CCC information from further disclosure
- (g) the way the CCC obtained the information, for example, by use of coercive powers
- (h) whether the receiving entity's rights, ability or capacity to use the information is subject to any legislative or other restrictions
- (i) whether disclosure could compromise ongoing CCC operations
- (j) the risks associated with the release or non-release of the information (refer to the CCC Risk management framework – guide for implementation)
- (k) procedural fairness, for example, whether the disclosure could affect an interest or privilege held by another person, and if so, the practical steps involved to provide procedural fairness prior to any disclosure, if any
- (l) whether the information is subject to a non-publication order and whether the reasons for the order remain
- (m) whether disclosure could discourage people voluntarily providing information to the CCC
- (n) whether disclosure of personal information, for example a person's Tax File Number, would impinge upon the privacy of an individual or cause harm, refer to the CCC's Information Privacy Policy and Information Privacy Plan
- (o) whether the disclosure could endanger a person's health or safety
- (p) whether disclosure limits/restricts human rights and if so, whether the limitation is reasonable and demonstrably justifiable taking into account the matters in section 13(2) of the *Human Rights Act 2019*
- (q) any other factor relevant to protecting the public interest.

Where concerns arise about the appropriateness of the disclosure, consideration should also be given to whether the concerns can be adequately addressed by:

- obtaining the consent of the source of the information
- imposing conditions on the recipient's use of the information
- redacting some of the information.

4.2.5 Maintaining confidentiality and minimising the risk of unauthorised disclosure

Section 213 of the CC Act provides that a person to whom the CCC has given information on the express or implied understanding that the information is confidential, must not make a record of, or wilfully disclose, the information, except in the case of:

A RECORD -

- the record is made for the purposes of the Commission, the CC Act, the parliamentary committee, the parliamentary commissioner or an investigation of an alleged contravention of section 213 CC Act; or
- the making of the record was lawful under a repealed Act; or
- the information was publicly available.

DISCLOSURE -

- the disclosure is made for the purposes of the Commission, the CC Act, the parliamentary committee, the parliamentary commissioner or an investigation of an alleged contravention of section 213 CC Act; or
- the disclosure is made at the direction of the parliamentary commission (under chapter 6, part 4 of the CC Act; or
- the disclosure was lawful under a repealed Act; or
- the information was publicly available.

Delegates who consider the information is of such a nature that it should not be further disclosed by the named recipient or made public, should ensure that the disclosure expressly states that the information disclosed is confidential and that section 213 secrecy obligations apply to the person receiving the information.

If the delegate is certain that there is no requirement for the information to be treated as confidential, the delegate should ensure that there are no conditions attached which would imply confidentiality and otherwise expressly state the information does not need to be treated as confidential by the recipient.

The imposition of conditions upon further disclosure of the information by the recipient does not necessarily mean that the information is confidential. Conditions may be appropriate to protect the integrity of the information or maintain control over its further distribution. Conversely, merely imposing conditions on the use or further disclosure of the information without also ensuring a mutual understanding that the information is confidential may be insufficient to engage protections under section 213.¹³

Example conditions that may be suitable to impose on a recipient are set out in **Appendix F**. The responsible officer should ensure that any suggested conditions, not inconsistent with the purpose of the disclosure, are included in the request for authority for consideration by the delegate.

¹³ A mutual understanding may be express or implied by using standard terms or words that imply confidentiality. For example, "without prejudice communications" or communications deemed confidential by the terms of a MOU.

4.3 Requests for information

Where a request for the disclosure of CCC information has been received or a Commission officer identifies information that the officer considers should be given to an appropriate entity, the matter is to be referred to the case manager for consideration.

4.3.1 Identifying the type of disclosure

The case manager must determine:

- if the proposed disclosure is for the performance of CCC functions or another entity's purposes (and not for CCC's purposes)
- whether the proposed disclosure relates to closed hearing information which is subject to specific legislation
- whether any other specific legislative provision applies, and
- who will be the responsible officer to search for the relevant information and prepare the material for disclosure.

4.3.2 Disclosures to an appropriate entity (for other entity's purposes): section 60(2) CC Act

Section 60(2) authorises the Commission to give intelligence or other information to any entity the Commission considers "appropriate". This subsection authorises the disclosure of CCC information other than in the performance of CCC functions, for example, for the purposes of the other entity.

Section 60(2) includes a non-exhaustive list of entities that the Commission or its delegate may consider are appropriate recipients of CCC information:

- a unit of public administration
- a law enforcement agency
- the auditor-general
- a Commissioner under the *Electoral Act 1992* (Qld)
- the ombudsman.

Section 20(1) defines a 'unit of public administration' as:

- the Legislative Assembly, and the parliamentary service;
- the Executive Council;
- a department;
- the police service;
- a local government;
- a corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act;
- a non-corporate entity, established or maintained under an Act, that is funded or financially assisted by the State;
- a State court, its registry and other administrative offices; or
- another entity prescribed under a regulation.

Written authority to disclose hearing materials under section 60(2) constitutes written consent for the purposes of section 202(1) (refer to section 4.3.3 Disclosure of CCC hearing information: section 60(2) below).

Section 60(2) is to be construed as overriding the general principle¹⁴ that evidence obtained using compulsory powers can only be used or further disclosed for the same purpose that the evidence was originally obtained. This means that evidence obtained using compulsory powers (e.g. a search warrant or hearing notice issued under sections 87 or 82 of the CC Act) may be disclosed to another entity for its own use if the delegate is satisfied the disclosure is 'appropriate' (having regard to the considerations in s57, and the other provisions of this policy).

Appendix G provides examples of disclosures that may be appropriate disclosures to entities for their own purposes.

Unless approved as an urgent and oral disclosure, the responsible officer must obtain written approval from the delegate prior to disclosing the information to an appropriate entity under section 60(2), in accordance with the procedure outlined in section 4.4 Process for obtaining written consent and making the disclosure.

Where there is an approved agreement between the CCC and the other entity, the process set out in the agreement should also be followed to the extent that the process is not inconsistent with this policy and procedure.

Where the information to be disclosed is witness protection information, which is otherwise unlawful to disclose under section 36 or 37 of the *Witness Protection Act 2000*, the written authority of the chairperson, as delegate of the Commission, under section 60(2) of the CC Act constitutes the chairperson's consent or authority for the purposes of section 36(2)(b) or section 37(2)(a) of the *Witness Protection Act 2000*, respectively.

4.3.2A Disclosure of documents in response to a subpoena addressed to the CCC

Where the CCC is served with a subpoena to produce documents (or similar process such as a summons to produce documents or notice of non party disclosure) in proceedings to which it is not a party:

- the subpoena or similar process may be referred to the Director, Litigation and Advocacy for advice;
- any decision to produce documents in response to the subpoena or similar process which involves the exercise of discretion by a CCC officer should be taken in accordance with MM04, in particular the requirements for a s60(2) dissemination authority;
- where there is a court order for the CCC to produce document/s in response to the subpoena or similar process and no exercise of any discretion to disclose by a CCC officer is required, a s60(2) dissemination authority is not required to be completed;
- where there is a court order for the CCC to produce document/s in response to the subpoena or similar process, the document/s must be disclosed under cover of a letter signed by a Senior Executive Officer or Executive Director who has knowledge of the court order and the subpoena it relates to;

¹⁴ See *Johns v. Australian Securities Commission* [1993] HCA 56

- a record must be kept of the court order, the letter by which the document/s are produced and the copies of the document/s disclosed.

4.3.3 Disclosure of CCC hearing information: section 60(2) and 202(1)

Under section 202(1) of the CC Act it is an offence for a person to publish CCC hearing information without the Commission's written consent or contrary to the Commission's order. Section 202(2) provides a list of exceptions and consequently, the prohibition primarily applies to CCC hearing information from closed hearings and hearing information that is subject to a non-publication order by the presiding officer under section 180(3) of the CC Act. **Appendix I** details exceptions to the general prohibition on disclosure of CCC hearing information in section 202(2). Public hearing information which is not subject to any Commission order, does not require written consent and can be disclosed in the same way as non-hearing information.

As the Chairperson has issued a written standing authorisation, Commission officers can, in discharging their duties, disclose CCC hearing information, subject to any constraints imposed by a Commission order, to other Commission officers for performing CCC functions without further written authorisation.

However, Commission officers are only permitted to disclose or publish CCC hearing information to another entity for specified purposes (either for performing CCC functions or for the purposes of the other entity) where written authority has been given by an authorised delegate under section 60(2). This authority may be given at the same time as, or any time after, a Commission hearing is authorised.

A written Authority to disclose CCC hearing information by an authorised delegate constitutes the Commission's written consent under section 202(1).

4.3.4 Disclosures of CCC hearing information upon request by defendant: section 201

Section 201 of the CC Act requires the CCC to give "evidence" to a defendant or the defendant's lawyer if:

- there is a request for the evidence from the defendant or the defendant's lawyer,¹⁵ and
- there is no court order to prohibit the evidence being given to the defendant or defendant's lawyer.

For the purpose of section 201 of the CC Act, a "defendant" is a person charged with an offence before a court and "evidence" is anything stated at a CCC hearing or a document or thing produced at a CCC hearing that is relevant for the defence against the charge.

A court may make an order that the evidence not be given to a defendant or their lawyer if an application is made by an 'authorised Commission officer'.¹⁶ The court must make the order sought if it considers it would be unfair to a person or contrary to the public interest to do so.¹⁷

¹⁵ Section 201(2)

¹⁶ An authorised Commission officer is an officer authorised under s272 of the CC Act

¹⁷ Section 201(4)

A defendant who receives evidence under section 201 can only use the information to defend the charge.¹⁸

If the delegate is not satisfied of the fairness and public interest considerations, then the delegate should refer the matter to Corporate Legal for the purpose of making an application to a court for a non-disclosure order under section 201(4).¹⁹

4.3.5 Urgent and oral disclosures

This section of the procedure only applies to CCC information (non-hearing).

Oral Disclosures

Although it is preferable to disclose information in writing, in urgent circumstances, the information may be disclosed orally to the recipient after obtaining the written authority of the delegate to do so. The Request for Authority must include reasons why an oral disclosure is necessary.

The officer disclosing the information must make a written file note of their oral disclosure as soon as reasonably practicable after doing so. A copy of the written file note or its electronic record number must be included with the material provided for registering the disclosure with Records Management.

Oral Authority to disclose

In the following circumstances the delegate may give oral authority to disclose the information:

- it is not reasonably practicable to obtain a prior written authority
- the responsible officer provides the delegate with sufficient information to enable a decision to be made as to whether the disclosure is appropriate
- the delegate decides that the disclosure is appropriate and the urgency of the situation justifies an oral authority to disclose
- a written record of the oral authority and the supporting information provided to the delegate is made as soon as reasonably practicable
- as soon as possible after the disclosure, the responsible officer prepares a Request for Authority and obtains the written authority of the delegate
- the responsible officer complies with all other steps set out above for disclosures under section 60(2)
- a copy of the written record or its electronic record number must be included with the material provided for registering the disclosure.

Appendix H provides an example of an appropriate oral authorisation.

Where a threat of self-harm or harm to another person comes to a Commission officer's knowledge through an intercept under the *Telecommunications (Interception and Access) Act 1979*, any disclosure of that information must comply with MP16 – Telecommunications interception and access.

¹⁸ Section 201(5)

¹⁹ See further, *Conducting Litigation on behalf of the CCC (Policy and Procedure)*

4.4 Process for obtaining written consent and making the disclosure

4.4.1 Complete request for authority

The responsible officer must complete (as applicable) either a:

- Request and authority to disclose information to another entity (DIS-01) – for disclosure under section 60(2)
- Request to disclose and publish CCC hearing information to an appropriate entity (DIS-02) – for disclosure under section 60(2) and 202(1)
- Authority to disclose and publish CCC hearing information to an appropriate entity (DIS-02) – for disclosure under section 60(2) and 202(1), or
- Request and authority to give CCC hearing information to a Defendant (DIS-03) - for disclosure under section 201.

Copies of the information to be disclosed or access to an electronic copy of the information must accompany the request to the delegate. An electronic records number to identify the disclosed information or its source document must be included in the request.

4.4.2 Delegate authorises disclosure

If a delegate is satisfied that a disclosure under section 60(2) is appropriate and otherwise complies with the relevant provisions of the CC Act and this policy and procedure, the delegate may authorise the disclosure, in writing subject to any suitable conditions, by signing or approving the section 60(2) Authority to disclose and publish form.

Otherwise, the delegate may decline the section 60(2) request or ask the responsible officer to take appropriate further action.

Authorising a disclosure under section 201 requires the delegate to consider the section 201 requirements as set out above, including considering whether the disclosure is unfair to a person and not in the public interest. The delegate authorises the disclosure by signing the section 201 Authority to Disclose form (DIS-03).

Generally, the following information should not be disclosed, and the delegate should always give careful consideration as to whether it is appropriate, in the public interest or in the case of section 201, would be unfair to a person to disclose:

- information prior to the witness being brought into the hearing room concerning the relevance of the witness to the investigation, and
- information identifying the witness's residential address or contact information, and any information which might tend to identify the residential address(es) or contact details of the witness's family members.

4.4.3 Making the disclosure

Once the disclosure is authorised, the responsible officer must send the information to the recipient in accordance with the CCC Transfer and transmission of information (procedure). The responsible officer must ensure that any conditions on the disclosure are brought to the recipient's attention, by for example, including them in the accompanying letter or email (DIS-04).

The responsible officer should also ensure that all of the disclosure documentation and information to be disclosed is classified according to the CCC Information security classification (procedure).

If the information to be disclosed is hearings information from a closed hearing (transcripts of evidence given by a witness, and/or exhibits tendered at the hearing) or hearing information subject to a non-publication order under section 180(3) of the CC Act, a watermark is to be added (the watermark) to the document identifying the entity to whom the information is being disclosed and the date of disclosure.

In circumstances where the recipient requests an additional copy of the material to disclose to another entity (for example, if QPS desire to include the material in a brief of evidence to be served on the prosecuting agency and the defendant, or if a legal representative for the defendant requests an additional copy of the material to provide to counsel for the defendant), a further written request is to be submitted to the CCC setting out the reasons for the request.

If the delegate authorises the giving of additional copies of the information disclosed, the additional copies of the material provided to the entity making the request must include the watermark.

4.4.4 Registering the disclosure

As soon as practicable after the disclosure, the responsible officer must ensure that the original^{11.21} Request and Authority or Request for Authority, the delegate's written Authority and a copy of the disclosed information (unless the information has been previously saved electronically and the record number is detailed in the disclosure request and authority) is forwarded to the CCC's Records Management section for registering.

4.5 Disclosure register maintained by CCC's Records Management section

The CCC's Records Management section is responsible for maintaining a Disclosure Register which is used to record data and may be audited, for example by the Parliamentary Commissioner. The signed authorities, consents and supporting documentation for disclosures under sections 60(2) and 201 must be filed by the responsible officer in accordance with this procedure.

The Disclosure Register records a unique document number for each Authority to Disclose/Written Consent and details of:

- the responsible officer and business unit
- the delegate
- the recipient
- the legislative provision under which the authority was given
- the date the authority was signed by the delegate
- the security classification of the information disclosed.

The internal auditor may audit, in accordance with the audit plan, the records held in Records Management to ensure disclosures are being properly authorised and registered.

5. Definitions

Commission officer	As defined in schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under s32 of the CC Act.
Confidential information	CCC information that is subject to a constraint upon use or disclosure by virtue of the CC Act or a condition imposed by a delegate.
CCC information or information	Information that has been generated by, or has come into the possession of, the CCC for the performance of functions under the CC Act. Includes data on any medium and knowledge of any kind.
Deal with	Includes use, communication or disclosure.
Delegate	Commission officer with delegated authority to authorise a disclosure
Disclosure	The provision of information by the CCC, including <ul style="list-style-type: none"> disclosures for the purposes of the CCC disclosures for the purposes of another entity.
Entity	Includes an individual, a corporation and an unincorporated body [<i>Acts Interpretation Act 1954 (Qld) Sch 1</i>].
Former Commission officer	A person who was but is no longer a Commission officer as defined in Schedule 2 of the CC Act.
Hearing materials	Any answer given, statement, document or thing produced to the CCC by an individual upon requirement, despite an objection on the basis of self-incrimination privilege, to giving or producing any of those things. For the purpose of <u>this</u> policy and associated delegations, hearing materials does not include CCC public hearings which are not the subject of a non-publication order.
Intelligence Information	The product of a process by which information is collated, analysed and evaluated.
QPS	Queensland Police Service.
Responsible officer	Commission officer tasked with preparing information for disclosure and may also be the person making the disclosure.
UPA	Unit of Public Administration.
Witness protection information	Information that has been generated by, or has come into the possession of the CCC in the performance of the CCC's witness protection function, including information about the witness protection program, a protected witness or a witness protection officer as those terms are defined in the <i>Witness Protection Act 2000</i> .

6. Forms

Document reference	Document title
MM04-DIS-01	Section 60(2) Request and authority to disclose information to another entity
MM04-DIS-02	Section 60(2), 202(1) Request to disclose and publish CCC hearing information to an appropriate entity
MM04-DIS-02	Section 60(2), 202(1) Authority to disclose and publish CCC hearing information to an appropriate entity
MM04-DIS-03	Section 201 Request and authority to give CCC hearing information to a Defendant
MM04-DIS-04	Disclosure letter

7. Related policies or procedures

- MP03 – Hearings (closed and public)
- MP16 – Telecommunications interception and access
- CCC Recordkeeping (policy) and CCC Record management (framework)
- Information Privacy Policy and Information Privacy Plan
- Information security classification (procedure)
- Transfer and Transmission of Information (procedure)
- Delegations, approvals and authorisations (policy and procedure)
- CC Act Delegation Register

Legislative references

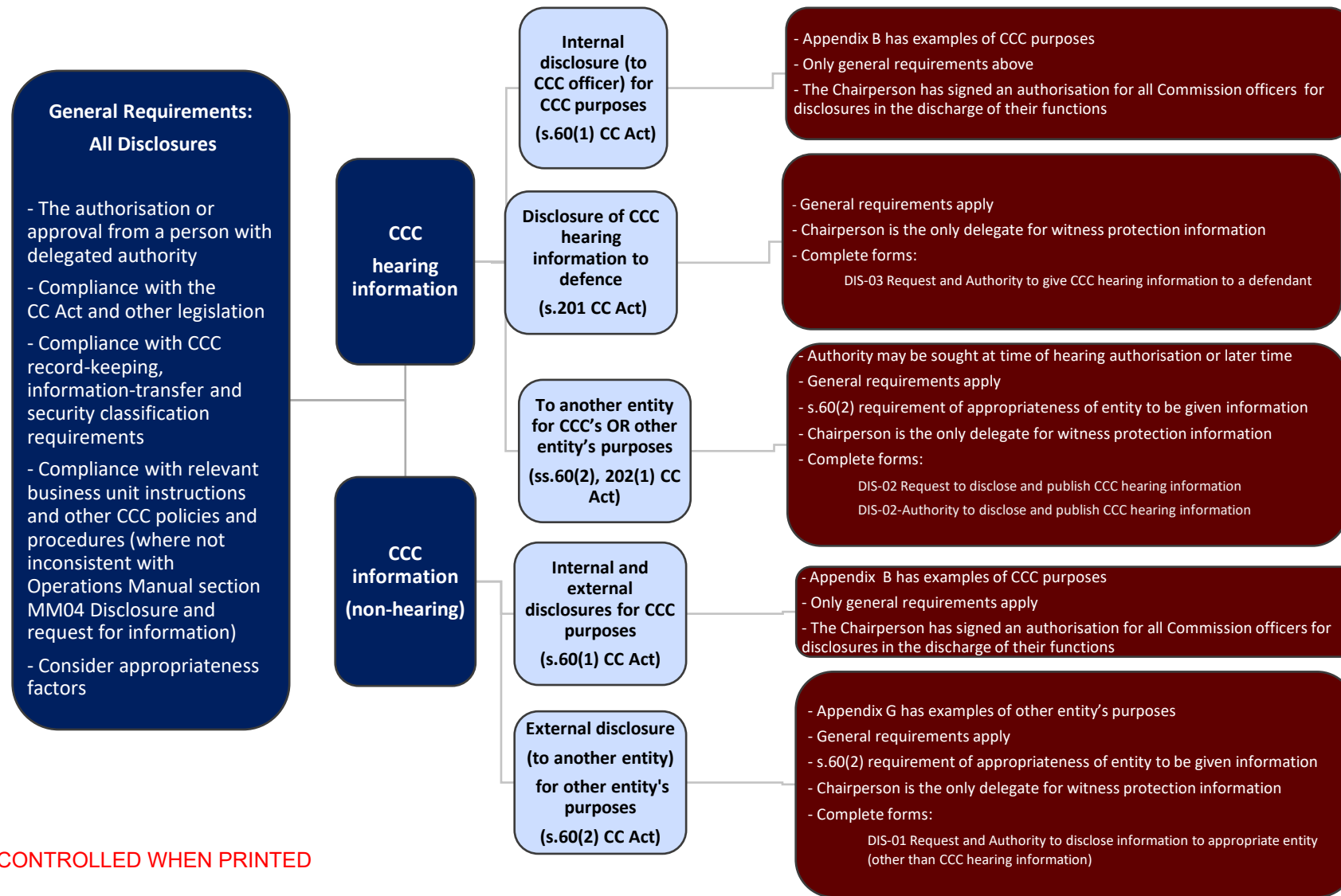
- *Crime and Corruption Act 2001*
- *Witness Protection Act 2000*
- *Telecommunications (Interception and Access) Act 1979* (Cth)
- *Right to Information Act 2009* (Qld)
- *Information Privacy Act 2009* (Qld)

8. Administration

Responsible officer:	Executive Director, Corporate Legal	Accountable officer:	General Manager, Corporate Services
Date approved:	March 2022	Review date:	March 2024

9. Appendices

9.1 Appendix A: Framework for disclosure process



9.2 Appendix B: Examples where disclosure is made for performance of CCC functions (for CCC purposes): s. 60(1)

These examples are not exhaustive and each proposed disclosure must be assessed on a case by case basis	
Type of information	Business unit
Information disclosed about CCC IT systems and data provided for the purpose of seeking tenders for an IT contract.	Corporate Services
Information disclosed about a Commission officer to an entity, for example: to a health professional, to enable a HR decision to be made or to QSuper to enable a superannuation issue to be resolved.	Corporate Services
Information about CCC's activities and performance to Department of Attorney General and Justice for reporting purposes.	Corporate Services
Information provided in a budget submission to Treasury.	Corporate Services
Disclosure of an investigation report and evidence obtained during the investigation, including compulsorily acquired evidence, to the CEO of a unit of public administration (UPA) with a recommendation to consider taking disciplinary action (section 49 CC Act).	Corruption Operations
Disclosure of an investigation report and evidence obtained during the investigation, including compulsorily acquired evidence, to a Minister where there is a recommendation to consider terminating the appointment of a person who heads up a UPA	Corruption Operations
Disclosures between Commission officers and members of a taskforce established under section 32 of the CC Act relating to the crime investigation.	Crime
Providing information to the QPS to obtain QPS cooperation and assistance with a CCC major crime or corruption investigation.	Corruption or Crime
Sending a complainant's letter to a UPA following a referral to the UPA under section 46 of the Act.	Integrity Services
Forwarding further material to a UPA relating to an ongoing complaint previously referred to the UPA.	Integrity Services
Providing information relating to crime or corruption prevention to another government entity or the general community.	Office of the Commission and various
Forwarding a draft report or part of a report to a UPA to obtain feedback.	Strategy Insights and Innovation



These examples are not exhaustive and each proposed disclosure must be assessed on a case by case basis	
Type of information	Business unit
Forwarding a report or a part of a report to a person for the purpose of providing procedural fairness.	Various
Providing information to another entity about a person in a witness protection program where the disclosure is necessary to provide witness protection, for example to provide new schooling or public housing.	Witness protection
Disclosure of information to another entity under section 31 of the <i>Witness Protection Act 2000</i> about the property of a protected witness to ensure the person meets their prior civil and criminal obligations, for example to pay a SPER debt.	Witness Protection

9.3 Appendix C: CCC Statutory functions under the CC Act

The CCC's statutory functions under the CC Act include:

- prevention function (sections 23, 24)
- crime function (sections 25, 26)
- corruption functions (sections 33, 34, 35)
- research function (section 52)
- intelligence function (section 53)
- witness protection function (section 56, Sch 2)
- civil confiscation function (section 56, Sch 2)
- functions under other Acts (section 56).

9.4 Appendix D: Examples of appropriate use of delegation

- crime hearings information subject to a non-publication order is more appropriate for the Chairperson or the Senior Executive Officer, Crime rather than the Senior Executive Officer, Corruption — unless the Chairperson or Senior Executive Officer, Crime are unable to consider the matter
- corruption complaint information related to both Integrity Services monitoring and Corruption Operations investigations may be more appropriate for the Senior Executive Officer, Corruption or the Chairperson rather than the Executive Director, Integrity Services or the Executive Director, Corruption Operations
- trivial or inconsequential matters should not be raised for decision by the Chairperson, but sensitive matters may be appropriate for the Chairperson, the Chief Executive Officer or a Senior Executive Officer.



9.5 Appendix E: Examples of legislation that may prohibit or restrict disclosure

Examples of legislation that may prohibit or restrict the disclosure of CCC information include:

- Section 197(2) of the CC Act which says that certain evidence that an individual is compelled to provide to the CCC is not admissible in evidence against the individual in any civil, criminal or administrative proceeding
- the *Child Protection Act 1999* (Qld), which contains restrictions on the disclosure of the identity of notifiers of harm or risk of harm and of confidential information
- the *Criminal Law (Sexual Offences) Act 1978* (Qld), which contains prohibitions against the publication of the complainant's and defendant's identities
- the *Public Interest Disclosure Act 2010* (Qld), which contains protections against disclosure for confidential information in relation to public interest disclosures
- the *Parliament of Queensland Act 2001* (Qld) in relation to information protected by parliamentary privilege
- the *Witness Protection Act 2000* (Qld), which contains prohibitions against the disclosure of information that may threaten the security of a protected witness or the integrity of the witness protection program
- the *Taxation Administration Act 1953* (Cth), which restricts the disclosure of taxation information provided to the CCC by the Australian Taxation Office
- the *Telecommunications (Interception and Access) Act 1979* (Cth), which restricts the disclosure of telecommunications data obtained under the Act [refer to MP16 - Telecommunications interception and access].



9.6 Appendix F: Conditions

Examples of Conditions that may be imposed on recipients	Circumstances where Condition may be considered suitable
Note: more than one condition may be imposed	Note: this is for guidance only; each disclosure must be assessed on a case by case basis
No conditions imposed (section 213 does not apply)	<ul style="list-style-type: none"> Where it is not practical to impose any conditions and the information is not sensitive, for example a public inquiry Where the information will need to be further disclosed, for example disclosure to the QPS of self-harm threat made by a complainant
The documents are confidential and any disclosure of the information is an offence under section 213 of the <i>Crime and Corruption Act 2001</i> (Qld). (section 213 will apply)	<ul style="list-style-type: none"> The document is an operationally sensitive internal document being provided to other law enforcement agencies There is a high risk of damage to the CCC's reputation or performance of functions if information was disclosed beyond the named recipient
The documents are confidential and carry the security classification: '[insert classification]' (section 213 will apply)	<ul style="list-style-type: none"> Same circumstances as above for section 213 condition
The documents are not to be copied or disclosed by any means to a third party outside your agency other than any legal representative for the purposes of providing advice, or with the express written authority of the Chairperson or [position of approving delegate] of the CCC. (section 213 will apply)	<ul style="list-style-type: none"> The information has some sensitivity, for example information or statistics, and the CCC wishes to maintain some control over its further distribution The third party may be required to give the agency an undertaking to not copy or disclose the documents
The documents are only to be used by [insert details] for the purpose of [insert details]. (section 213 does not apply)	<ul style="list-style-type: none"> The document is not highly sensitive but the CCC wants to limit its use to a specified purpose as nominated by the entity This would be a common condition where the entity has statutory functions and has been specific about the proposed purpose.
If the documents are, or appear likely to be, subject to an access application under legislation such as the <i>Right to Information Act 2009</i> (Qld)	<ul style="list-style-type: none"> The information has some sensitivity, for example personal information or confidential statistics, and the CCC wishes



<p>(RTI Act), an application for discovery, a subpoena or any other process by which access may be required by law, the Chairperson or [position of approving delegate] of the CCC must be informed immediately (and in any event prior to compliance with such application or process) so that the CCC may take whatever action it considers necessary and appropriate to maintain confidentiality. (section 213 does not apply)</p>	<p>to maintain some control over its further distribution</p> <ul style="list-style-type: none"> • This would be a common condition where the information is being provided to an entity that is subject to legislation such as the RTI Act.
<p>That any document which cites or makes any reference to the documents given be provided to [the chairperson or position of approving delegate] of the CCC before it is circulated so s/he can ensure the documents are appropriately summarised and referred to, and that the CCC has been appropriately acknowledged. (section 213 does not apply)</p>	<ul style="list-style-type: none"> • The CCC expects that the information will be cited or referred to in the other entity's publication and the CCC wants to protect its reputation.



9.7 Appendix G: Examples where disclosure is made to an appropriate entity (for other entity's purposes): s. 60(2)

These examples are not exhaustive and each proposed disclosure must be assessed on a case by case basis	
Type of information	Business unit
Disclosure, to another Queensland agency, information gained through a procurement process that a tenderer who has a contract with that other agency has criminal connections	Corporate Services
Information provided to the Information Commissioner in response to a notice to give information under the RTI Act or <i>Information Privacy Act 2009</i> (Qld) (IP Act), except where the notice is in respect of an external review to which the CCC is a participant.	Corporate Services
Information provided to another agency when providing views about an access application as a third party under the RTI Act or IP Act	Corporate Services
Following an investigation into corrupt conduct of a councillor, a disclosure to the Independent Assessor of the investigation report and evidence obtained during the investigation, including compulsorily acquired evidence, for the purpose of the OIA considering or bringing disciplinary action	Corruption Operations
Following an investigation into corrupt conduct, a disclosure to a professional regulatory body (e.g. Legal Services Commission) of evidence obtained during the investigation, including compulsorily acquired evidence, that concerns a member of the public who appears to have engaged in professional misconduct	Corruption Operations
Following a review into a police-related death, a disclosure to the State Coroner of the investigation report and/or correspondence sent to the QPS Commissioner	Corruption Operations
Corruption investigation information to defence for person to apply for convictions to be set aside due to the arresting officer having (allegedly) falsified evidence	Corruption Operations
Information to the Australian Federal Police regarding persons suspected of being involved in drug importation activities	Corruption/Crime
Information to NSW police relating to persons of interest based in NSW suspected of being involved in drug related activities with Queensland-based CCC targets	Corruption/Crime
Surveillance information to the QPS to assist the QPS progress a drug related investigation (with a view to obtaining sufficient evidence to prosecute)	Corruption/Crime



These examples are not exhaustive and each proposed disclosure must be assessed on a case by case basis	
Type of information	Business unit
Information to interstate or overseas law enforcement agency about suspected paedophile activity in that jurisdiction	Crime
Information to a Department regarding an improper executive selection processes when the complaint has been assessed as not within the CCC's jurisdiction	Integrity Services
Information to the Health Ombudsman's Office about an allegation of improper prescriptions and medication to a prisoner when the complaint has been assessed as not within the CCC's jurisdiction	Integrity Services
Redacted data to the Queensland Audit Office regarding fraud related allegations in local government	Integrity Services
Information to the QPS regarding known and unknown suspects' use of child exploitation material	Integrity Services
Information to the QPS relating to threats (for example, from aggrieved complainants) to the life or personal safety of police officers or threats of self-harm.	Integrity Services
Information to the Office of the Information Commissioner (OIC) in response to a request or a notice about the status of a complaint to the CCC, where the CCC is not a participant to the review by the OIC	Integrity Services
Intelligence information to the QPS or other law enforcement agency derived from CCC hearings	Corruption/Crime/ Operations Support
CCC database intelligence information provided to another entity, for example, the ACID database.	Corruption/Crime/ Operations Support
CCC operational and strategic products provided to another Queensland or interstate government entity or law enforcement agency as deemed appropriate	Corruption/Crime/ Operations Support
Providing a copy of the CCC's unpublished research papers to another Commission of Inquiry for that Inquiry's purposes	Strategy, Innovation and Insights
Providing another research body with a copy of a research instrument (for example, a survey) used in a CCC published report	Strategy, Innovation and Insights
Providing academic researchers with de-identified data previously used for CCC research purposes	Strategy, Innovation and Insights



These examples are not exhaustive and each proposed disclosure must be assessed on a case by case basis	
Type of information	Business unit
Information to the Department of Housing and Public Works regarding a public housing tenant breaching public housing eligibility requirements by owning multiple properties	Proceeds of Crime
Bank records obtained by the CCC to the Australian Taxation Office (ATO) for the purpose of the ATO investigating tax related offences	Proceeds of Crime
Disclosure to the QPS for a fraud related investigation of withdrawal bank vouchers containing identification particulars that came into CCC possession through a QPS proceeds of crime referral	Proceeds of Crime
Disclosure of information about a protected witness to the Family Court for the purposes of a property settlement between the protected witness and their spouse	Witness Protection



9.8 Appendix H: Example of an appropriate oral authorisation

Integrity Services receive a phone call that a complainant is threatening self-harm. The responsible officer provides this information and any supporting information to the delegate. If satisfied that the disclosure is appropriate and urgent, the delegate may orally authorise a disclosure of this information to the QPS (responsible officer to make written record of conversation). After making the disclosure (oral or written), the responsible officer must prepare a request for authority and obtain the written authorisation from the delegate who gave the oral approval. The responsible officer must record and register the disclosure in accordance with this policy and procedure.

9.9 Appendix I: Exceptions to the general prohibition on disclosure of CCC hearing information in section 202(2)

The following are exceptions to the general prohibition on disclosure of CCC hearing information in section 202(2):

- the CCC hearing was a public hearing and the disclosure is not contrary to the Commission's order [section 202(2)(a) and (b)]
- the disclosure is made to a person charged with an offence for the purpose of defending the charge [section 202(2)(c)]
- the disclosure is for the purpose of making a submission to the Parliamentary Committee about the conduct of the CCC's investigation [section 202(2)(d)]
- the disclosure is for the purposes of a disciplinary proceeding or to start a prosecution for an offence [section 202(2)(e)]. The CCC may apply to a Supreme Court judge for an order prohibiting publication of this disclosure [section 202(4)]
- the disclosure is made with the witness's implied or express consent [section 202(3)(a)]
- the information has been generally made known by the witness or the CCC [section 202(3)(b)].





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Operations Manual

Part 2: Management of Matters (MM)
Section 5: **Unreasonable complaint
management**

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MM05 – Unreasonable complaint management

1. Purpose

The purpose of this procedure is to provide direction to Crime and Corruption Commission (CCC) officers when dealing with difficult and/or unreasonable people, in particular people connected with corruption complaints.

2. Application

This policy and procedure applies to all Commission Officers.

3. Policy

The CCC Charter of Service sets out the standards of service that people who lodge a complaint about corruption in the public sector can expect. The CCC is committed to meeting the standards set out in the Charter. However, some people (complainants and others) can behave unreasonably and/or expect an unreasonable level of attention from the CCC, potentially compromising the CCC's ability to effectively and efficiently deal with complaints and/or causing distress to CCC officers. This policy sets out procedures for dealing with such people.

4. Procedure

The CCC occasionally deals with people/complainants who may be classified as 'difficult' and/or 'unreasonable'. People connected with corruption complaints can be emotionally affected and at times may be angry, frustrated, intoxicated, abusive, incoherent, harassing and/or exhibit violent tendencies. Some may resort to abuse or threats, particularly if told something they do not wish to hear. Some may have a significant criminal history and / or a proven propensity for violence or making threats.

There may also be people who persistently contact the CCC in relation to an issue, despite being informed that there is no further action that the CCC can take in relation to their issue. In some instances, this may involve the person sending further correspondence, including multiple items, daily. This further material may relate to the same issues, or each communication may raise completely new and unrelated complaints.

Such behaviour has a significant impact on the CCC's limited resources and can cause stress to CCC officers. Of significance is the CCC's obligation to provide a safe working environment for CCC officers and others who may be working at CCC premises.

The CCC recognises that, in certain circumstances, it may be necessary to cease communication with people who exhibit inappropriate behaviour, so that a balance is maintained between:

- client service standards
- the safety and wellbeing of CCC officers
- the efficient and effective use of resources.



4.1 Determining behaviour that results in no further communication

The majority of complainants are reasonable and responsible during their interactions with CCC staff. However, there are a minority whose behaviour is inappropriate or unacceptable despite our best efforts to assist them.

This minority may pose a risk when the nature or frequency of their contact is such that it raises substantial health, safety, resource or equity issues for our organisation, staff, members of the public, or the complainant themselves.

CCC officers should remember that given the type and nature of the CCC's work, it is to be expected that some complainants or other stakeholders may react or engage in a way that seems unreasonable, irrational, or unduly emotional. Complainants are often people who genuinely feel aggrieved, angry, and upset. However, this does not mean staff are expected to tolerate abusive or threatening behaviour, whether in person, via telephone or email. Moreover, the CCC does not have the resources to respond to repeated and unreasonable demands for service.

The CCC is committed to providing all complainants/clients with a satisfactory level of interaction and service consistent with our values. The CCC also takes a risk-based approach to any person who contacts the CCC and exhibits unreasonable behaviours and/or conduct that poses a risk to the health and safety or wellbeing of CCC staff. Further, it must be acknowledged that expending resources dealing with an unreasonable complainant may mean that resources cannot be allocated to matters of genuine need. In such cases the CCC may mitigate any risk by determining to have 'no further communication' with a person.

A 'no further communication' list is maintained by the Executive Director, Integrity Services (EDIS) and stored in eDRMS. It lists those external people who have exhibited difficult and/or unreasonable behaviour during contact with the CCC on a number of occasions, or have displayed extreme threatening behaviour on a single occasion. Recognising that there is significant potential for overlap between unreasonable and difficult complainants, and those who may pose a security risk in engagement with the CCC or its staff, Security Officers are provided with updated lists on a regular basis to assist should a person identified on the list present at the CCC's office.

A person may be considered difficult and/or unreasonable if one or more of the following attributes is present:

- unreasonable persistence, this may include:
 - making an excessive number of calls or emails;
 - providing voluminous material despite being asked not to or failing/refusing to provide their complaint in succinct terms;
 - an unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with;
 - continuing to provide the same complaint information at numerous points over a period of time to elicit a different outcome and / or multiple responses from the CCC;
 - email 'bombing' – sending correspondence to multiple agencies, including the CCC, without clearly indicating the purpose of sending the email, or directing it specifically to the CCC - after being repeatedly requested not to do so.

- unreasonable demands, this may include:



- demanding extra reviews of decisions because they disagree with the outcome or alleging the reviewing officer is somehow involved in the original conduct complained about;
 - insisting on talking to the CEO, Chairperson, or other executive level officer personally when it is not appropriate or warranted;
 - refusing to provide all the information unless the CCC (and no other agency) conducts a 'full investigation';
 - demanding that the CCC take action which it is not empowered to do, such as change the processes and/or outcomes of other government agencies, jurisdictions or courts
- unreasonable lack of cooperation, this may include –
 - failing or refusing to identify the issue of the complaint;
 - deliberately providing disorganised information where the topic of the complaint is not easily identifiable, or not providing information to support their complaint when they have previously agreed to do so;
 - providing little or no detail about the issue of concern or presenting information in 'drips and drabs' despite a request to provide all the material;
 - withholding information, acting dishonestly, or deceitfully or misquoting others
 - unreasonable arguments, this may include:
 - expressing irrational claims or beliefs, conspiracy theories or unrealistically denying any responsibility for actions or inaction;
 - making false, inflammatory or defamatory claims
 - making irrelevant or scandalous claims
 - unreasonable behaviour, this may include
 - acts of aggression, verbal abuse, harassment or intimidation (may include a single act directed towards a CCC officer);
 - derogatory, racist, sexist or homophobic remarks;
 - rude, confronting or threatening correspondence;
 - making threats of self-harm, or harm to complaint handlers or a third party;
 - making personal attacks on complaint handlers;
 - expressing unreasonable anger, aggression or violence,.

When a person is considered to demonstrate unreasonable behaviour and the CCC is no longer able to provide any assistance, or cannot continue to justify the use of resources required to respond to the person, the person may be entered in the 'no further communication' list.

There are three categories within the list:

- No further communication by phone or in person: People with whom the CCC will not communicate by phone or in person. The CCC will accept written correspondence but will respond only when a new complaint or information provided by the person can be acted upon.
- No further communication on identified matters: People with whom the CCC will not communicate about a particular issue by phone, in person or in writing, but who may contact the CCC by any means in relation to a new issue.
- No further communication on any matters: People with whom the CCC will not communicate on any issue for a stated period of time. An initial direction of no further



communication may be made for a three month period, and then subject to review. If necessary, the direction may be the subject of extension.

4.2 Placing a person on the ‘no further communication’ list

Any officer within the CCC can recommend that a person demonstrating difficult and/or unreasonable behaviour is placed on the ‘no further communication’ list.

The EDIS is the decision maker to approve the recommendation. If unavailable, the Senior Executive Officer (Corruption), Chief Executive Officer or Chairperson may approve the recommendation.

To make a recommendation, particularly in relation to behaviour demonstrated over a protracted period of time, the relevant CCC officer (case officer) **must** provide a verbal or written briefing to the decision maker. If a verbal briefing is provided and approved, the officer must record the verbal briefing and approval on COMPASS and then prepare the associated correspondence. In the case of a written briefing and approval, this should be recorded on COMPASS and relevant documents saved to eDRMS:

- The brief must provide sufficient information and justification for the recommendation, and
- The correspondence must outline to the person the restrictions placed on their communication with the CCC, and the reasons for this decision.

In both developing and assessing the written brief, the following factors should be considered:

- the frequency and nature of the contact
- how time-consuming the contact is for CCC officers
- the status of any complaint made, and the response given in relation to that complaint (for example, is the matter within the CCC’s jurisdiction, is or has the matter been subject to a complaint service review).
- the behaviour of the person during the contact, including whether the person was abusive, threatening or violent, or has a history of such behaviour
- any known mental health condition and/or disability that the person has, and whether the condition has contributed to the person’s behaviour
- whether the person’s complaint is also being dealt with by another agency
- whether the person has previously been warned by the CCC about their conduct either verbally or in writing
- any proposed restrictions that should be included in the ‘no further communication’ letter, for example, the CCC will no longer accept emails from this person, limits about the volume of material to be provided, or the matters/issues on which complaints will no longer be further considered.
- whether the person is complaining about conduct that is incompatible with a human right that is protected under the *Human Rights Act 2019*
- whether placing the person on the list would constitute a limit on one or more of their human rights (e.g., freedom of expression, the right to take part in public life, rights relating to privacy and reputation) which is not reasonable and cannot be demonstrably justified.

If the decision-maker **approves** the recommendation:

1. The decision-maker will endorse the written brief accordingly, including highlighting the category of no further communication, and return it to the officer. The officer is then required to make a record of the meeting and the decision in the case management system.



2. The decision-maker will sign the correspondence. Integrity Services Support Officers forward the letter to the person and update the 'no further communication' list with all relevant information.
3. The case officer should ensure that COMPASS is updated with details of the 'no further communication' decision and check that the dialogue notification window appears when the relevant record is accessed by a CCC Officer
4. The case officer arranges for an Integrity Services Support Officer to notify, by email, the following officers of the decision not to communicate with the person:
 - all Integrity Services staff, the Security Manager and Security Officers
 - CCC Media
 - the Executive Officer (to the CEO)
 - all Corruption Division Directors and Executive Directors, and the Senior Executive Officer (Corruption).
5. If the decision-maker determines that other agencies, such as the Queensland Police Service, should be notified, the officer must ensure this takes place.

If the decision-maker **does not approve** the recommendation, the decision-maker must provide the reasons why this determination was made on the written brief or make an entry into the relevant case management file. This decision must also be recorded on COMPASS.

4.3 Contact by someone on the 'no further communication' list

Contact by phone

The CCC officer contacted may advise the person that, in accordance with the letter they have received, CCC officers will not enter into any further conversation with them, but that new information may be provided to the CCC for consideration, as outlined in the letter they have received. If the person has been the subject of direction for no communication on any matters, the person is to be reminded and referred to the relevant correspondence.

If the person persists with discussing the proscribed topic, or again exhibits unreasonable behavioural traits then the contact officer may terminate the telephone call. The contact officer **must** make a record describing the contact (in the case management system for the relevant matter). No further communication with the person is required.

If the person persists in calling the CCC, then the officer should inform the Director – Assessments or in his / her absence the Manager – Assessment Unit (MAU) who may consider implementing further risk mitigation options.

Contact in person

Any contact by a complainant in person is to be dealt with in accordance with IM02 – Receiving and recording matters, Appendix A – Complaints by Personal Attendance.

For people on the 'no further communication' list, the contact officer may advise the person that, in accordance with the letter they have received, CCC officers will not enter into any further conversation with them about a particular topic, but that if they have new information, they may provide that to the CCC in person or writing (depending on the letter they have received) and it will be considered.

If the person persists with discussing the proscribed topic, the contact officer may then ask the person to leave and, if necessary, have a security officer or police officer escort the person from CCC premises.

As the first point of contact for many in person situations, security officers are regularly provided with an updated 'no further communication' list. If the security officer knows the person is on the



list, that officer should deal with the person without calling on a complaints officer or other CCC officer, unless a police officer is required to assist in escorting the person from the premises. If the person is providing information in relation to a new complaint, the security officer should contact a complaints officer to progress the matter.

The security officer must contact a complaints officer as soon as practical and detail the encounter. The complaints officer is responsible for preparing the relevant file note and recording it in COMPASS.

Contact in writing or via email

- Correspondence from people on the 'no further communication' list shall be reviewed in accordance with their level of risk. This may require a review of further material to determine if the correspondence contains new information warranting assessment. **If it contains new information**, the information must be processed and assessed in accordance with IM02 – Receiving and recording matters and IM03 – Assessment of matters.
- **If it does not contain new information**, the case officer must note on COMPASS that the matter falls within the ambit of the no further communication decision, and that for this reason no further action is required other than placing the correspondence on eDRMS.

4.4 Persistent complainants subject to 'no further communication' direction

When a person is placed on a 'no further communication' order in relation to stated issues, there may be instances where the person continues to phone, write or lodge online complaint forms with the CCC. As indicated above, this contact or correspondence must be reviewed by a complaints officer to identify if it falls within the ambit of the order, or is a new complaint.

When complainants continue to contact the CCC after being placed on the no further communication list, sometimes on a daily basis (including multiple emails in a single day) the review of these emails can involve the diversion of significant resources to review and categorise these matters.

When this occurs, a CCC officer may make application to the EDIS to make a further no further communication decision, that for a stated period any further complaints received from the person will not be considered, they will simply be placed on a relevant file. An initial decision may be made for a period of three months, at which time the decision must be reviewed. Upon review, the decision may be lifted, or extended for a further three month period.

A direction of this nature may only be considered after a no further communication direction has been made on stated issues, and where subsequent to that order the complainant has continued to submit frequent and/or voluminous correspondence in breach of that direction.

The CCC officer briefing the EDIS, in relation to this matter must provide information about the frequency and volume of the communication. All briefings and decisions, whether verbal or in writing, must be recorded on COMPASS, and where appropriate filed on eDRMS.

When conducting the review, the CCC officer and the EDIS will consider the following factors:

- the complainant's conduct and any interactions between the complainant and the CCC since the order was made
- the level of potential harm and risk posed by the complainant
- Whether the CCC's actions in not considering the complaints places the complainant at risk of harm
- any other information that may be relevant in the circumstances



- any restrictions previously placed on communication, i.e., written correspondence only
- any significant impact on CCC resources, including any notifications regarding repetitive / voluminous emails
- whether the complainant is complaining about conduct that is incompatible with a human right that is protected under the *Human Rights Act 2019*.
- whether the CCC's actions in not considering the complaints would constitute a limit on one or more of the complainant's human rights under the *Human Rights Act 2019* which is not reasonable and cannot be demonstrably justified.

If the request is approved a letter must be sent to the person explaining the decision, and advising that the CCC will review the decision in three months.

During the period that the order is in place, all correspondence received from this person may be placed on to the relevant file without further review.

At the end of the three month period the CCC officer who delivered the original briefing must initiate a review of incoming correspondence from the relevant person and provide advice to the EDIS. At this time the EDIS may amend the decision, or continue it for a further three months and must consider the factors set out above in making that decision.

4.5 Frivolous and/or Vexatious complaints

Under section 216 of the *Crime and Corruption Act 2001*, the CCC may give notice to a person that a matter will not be investigated, or further investigated, because it appears to concern a frivolous matter. If after being given such notice the person continues to complain, then by doing so they commit an offence.

Under section 216A of the *Crime and Corruption Act 2001*, a person who makes a complaint to the CCC:

- vexatiously; or
- not in good faith; or
- primarily for a mischievous purpose, or
- recklessly or maliciously

Or causes another person to do so, commits an offence.

When a person is considered for a no further communication direction, the CCC officer may also consider if a warning regarding the offences under section 216 and 216A are applicable.

4.6 Extreme or threatening behaviour from people not on the 'No further communication' list

Contact by phone

If, during a telephone conversation, a person becomes abusive, threatening or harassing, or continuously uses obscene or derogatory language, the CCC receiving officer **must**:

1. warn the person that if they continue to behave in that way, the call will be terminated
2. if the behaviour continues, terminate the call
3. immediately advise the Senior Complaints Officer (SCO) (or the Manager Assessment Unit (MAU) or relevant Director in the SCO's absence) that they have terminated a call due to the behaviour of the caller, and provide details of the caller
4. make a record in the relevant file of the case management system describing the contact.



The relevant Director, MAU or SCO considers whether it is appropriate to nominate another officer to whom the caller should be transferred should they call back. This may be the original receiving officer's supervisor, the MAU, the relevant Director or, in serious cases, the Executive Director, Integrity Services. An email containing the decision in this regard is sent to the "Complaints" mailbox.

Depending on the seriousness of the behaviour, the Executive Director, Integrity Services, or another decision maker, may determine that a temporary communication ban with the person is appropriate (e.g., no further telephone contact with the person for the rest of the day) or the person is to be placed on the 'No further communication' list.

Actions after contact with an unreasonable and/or difficult person

Dealing with complainants who are demanding, aggressive, or violent can be extremely stressful and can be distressing. The CCC recognises that it has a responsibility to support staff members when dealing with unreasonable people. Staff safety and wellbeing is of paramount importance to the CCC.

In order for the CCC to provide adequate support the staff member **must** discuss the contact with their supervisor from a personal wellbeing perspective and, in conjunction with advice from the supervisor, take action to deal with feelings of uneasiness or concern arising from the call or contact.

Consideration should also be given to communicating with other team members about the contact so precautions can be taken, and planning undertaken should the person make contact again.

In instances where a person has made threats of self-harm or harm to others, a decision is to be made by the Executive Director, Integrity Services or one of the Directors in Integrity Services about whether to disseminate the information to the appropriate law enforcement agency, health service or other appropriate agency in accordance with MM04 – Disclosure and requests for information.

5. Definitions

Decision maker	in relation to placing a person on the 'No further communication' list, the decision maker is generally the Executive Director, Integrity Services; however, the Chairperson, Chief Executive Officer, or the Senior Executive Officer (Corruption) can also make this decision.

6. Forms

Nil.

7. Related policies and procedures

- IM02 – Receiving and recording matters
- IM03 – Assessment of matters
- MM04 – Disclosure and requests for information



Relevant Legislation

- *Crime and Corruption Act 2001*

8. Administration

Responsible officer:	Executive Director, Integrity Services	Accountable officer:	Senior Executive Officer (Corruption)
Date approved:	March 2022	Review date:	March 2023





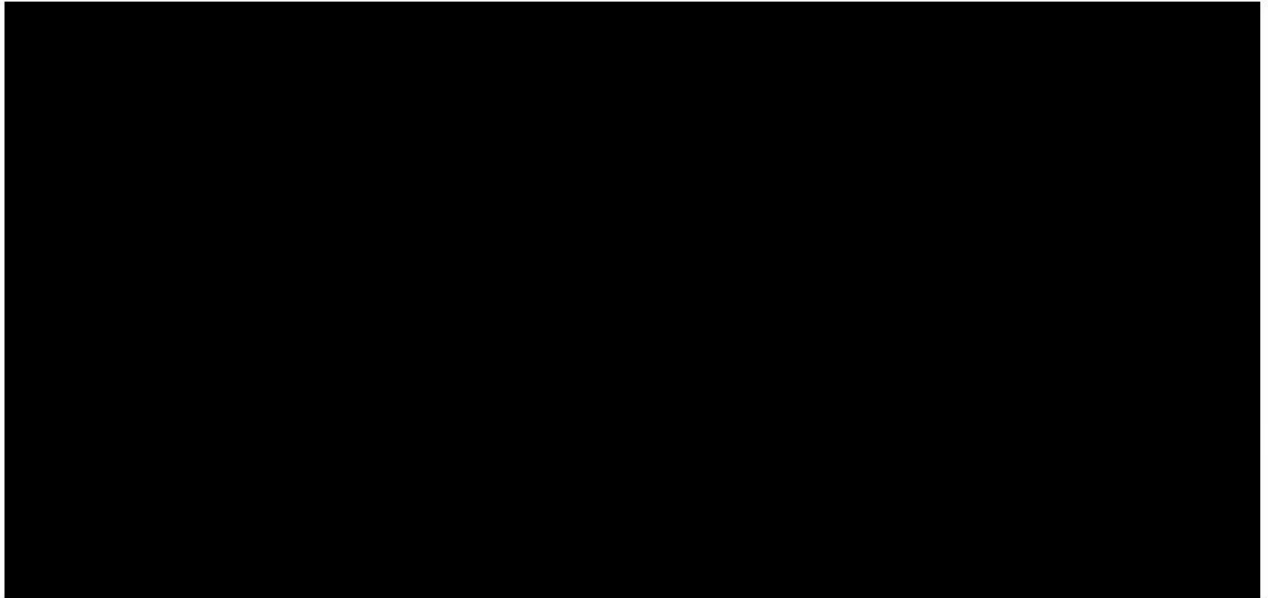
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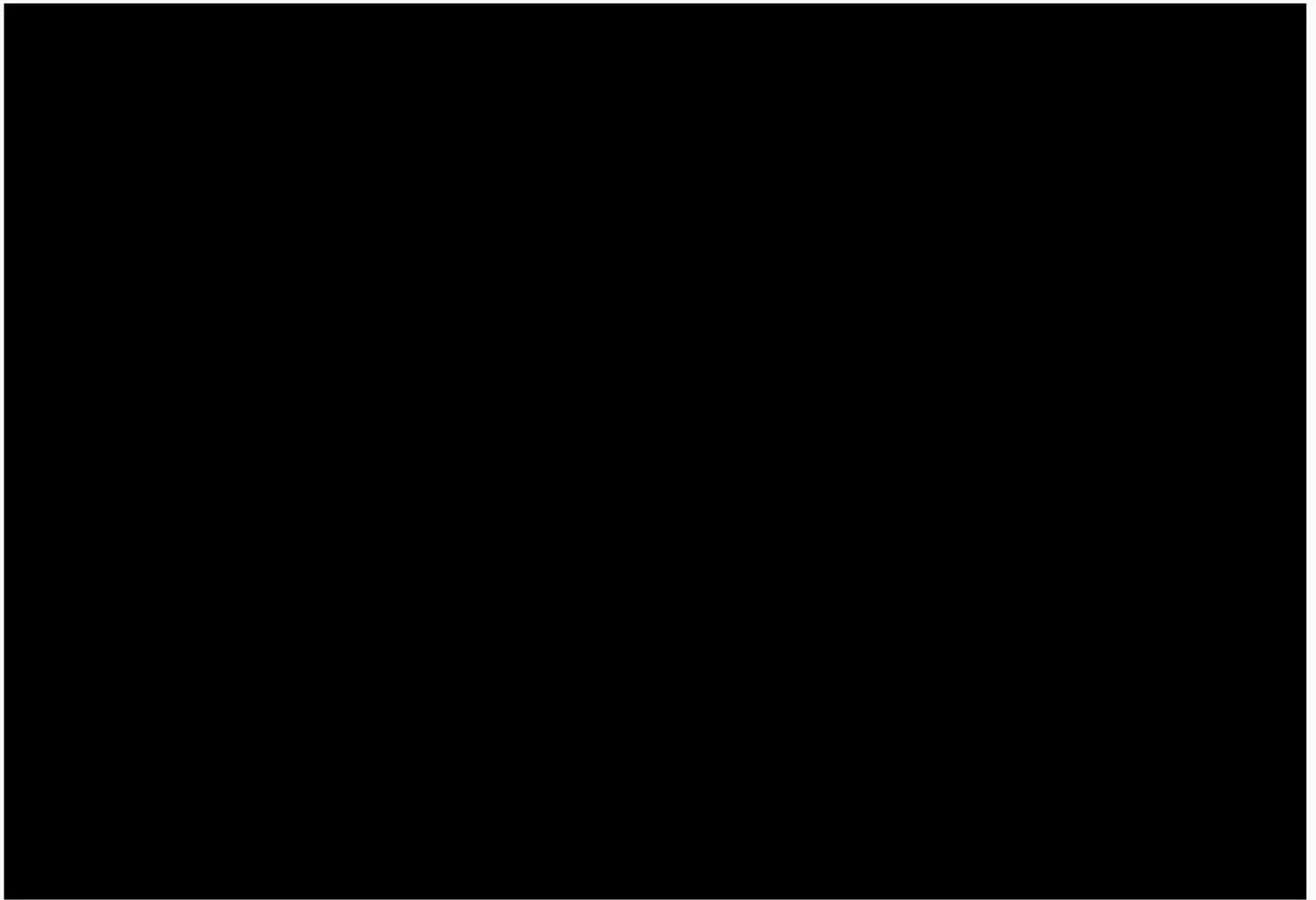
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the first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these cities, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these cities, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these cities, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.

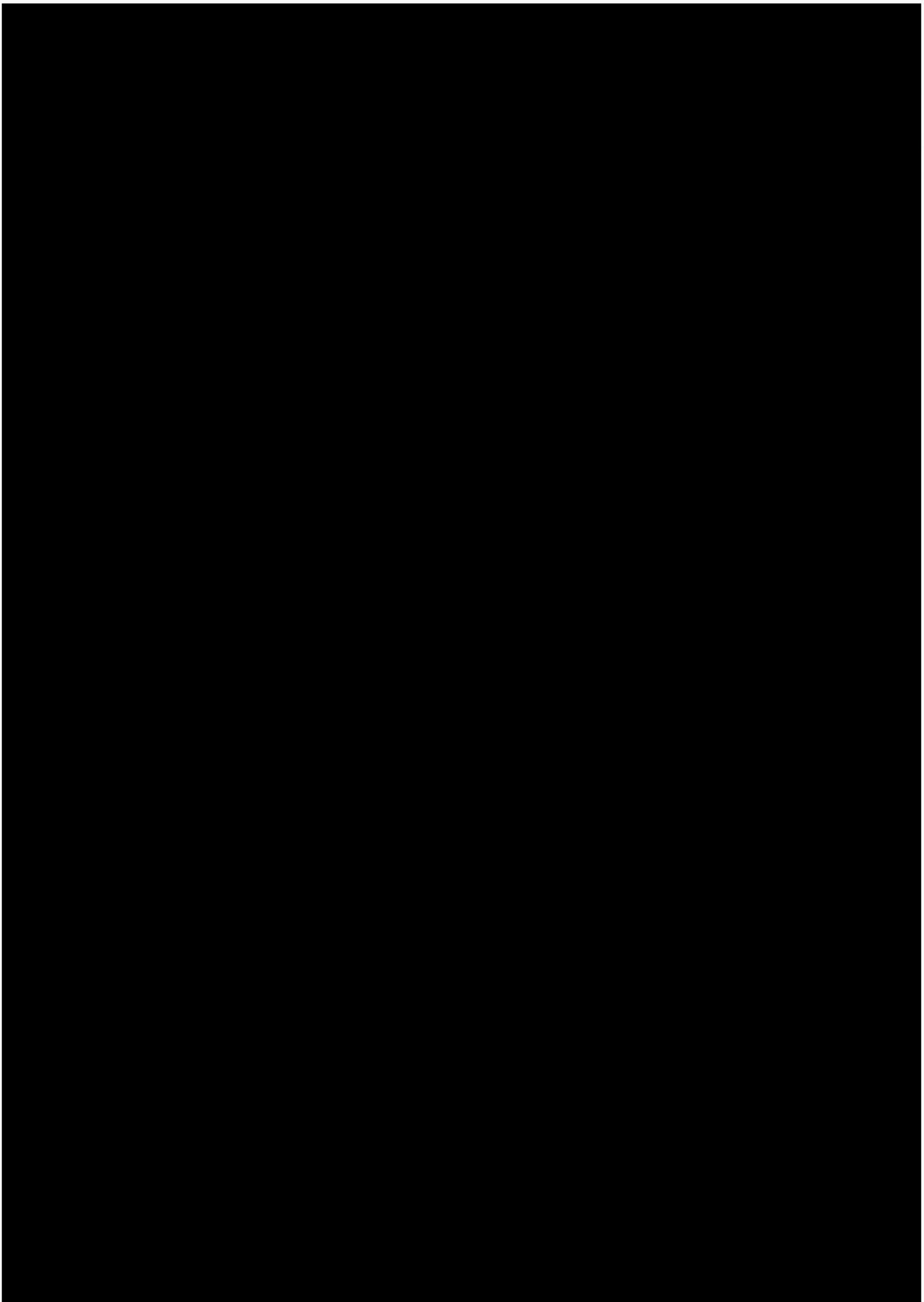
The second of these problems is the fact that the majority of the population is now living in rural areas. This has led to a concentration of people in a few large villages, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these villages, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these villages, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these villages, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.

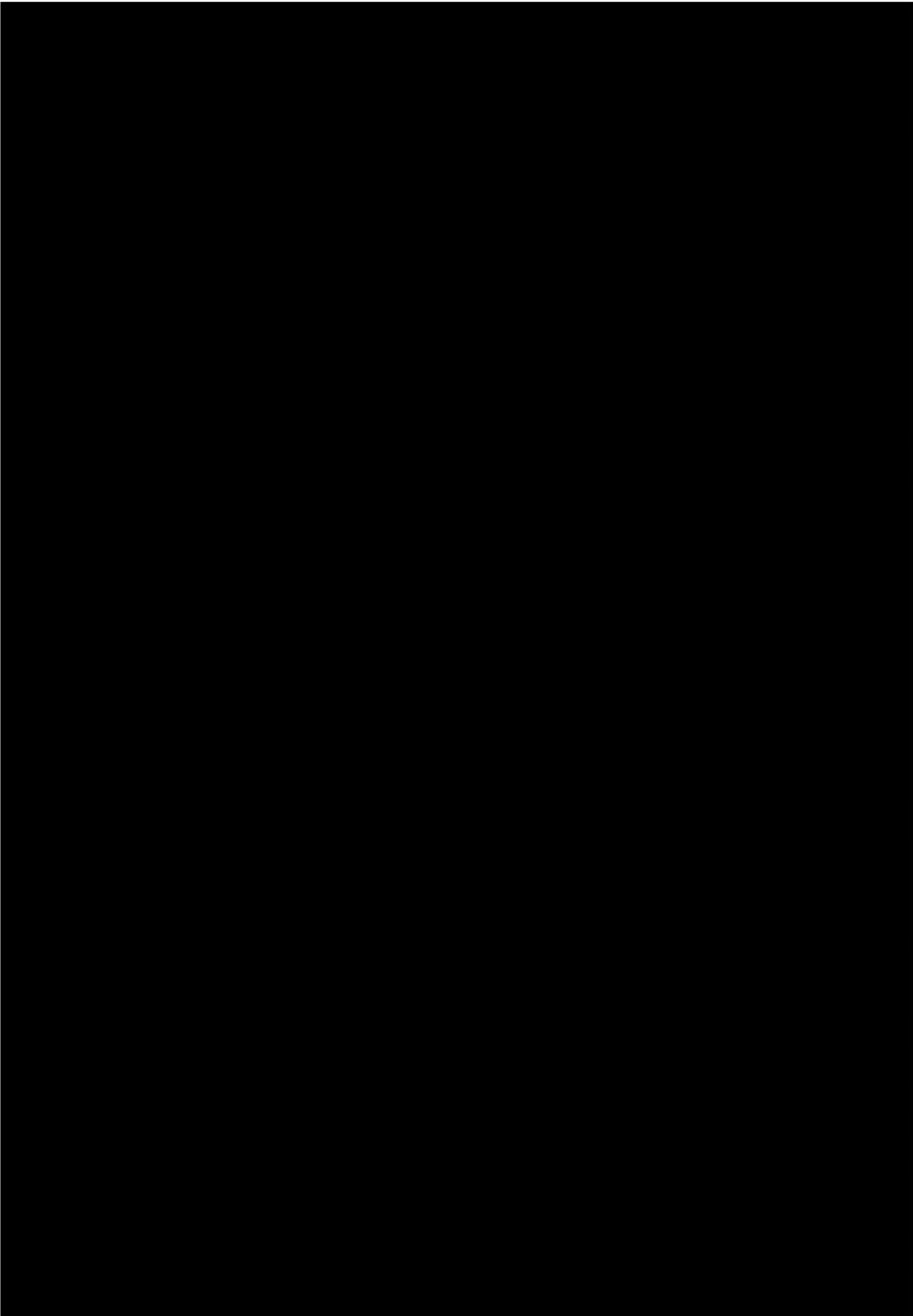
The third of these problems is the fact that the majority of the population is now living in semi-urban areas. This has led to a concentration of people in a few large towns, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these towns, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these towns, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these towns, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.

The fourth of these problems is the fact that the majority of the population is now living in remote areas. This has led to a concentration of people in a few small villages, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these villages, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these villages, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these villages, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.

The fifth of these problems is the fact that the majority of the population is now living in isolated areas. This has led to a concentration of people in a few small hamlets, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these hamlets, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these hamlets, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these hamlets, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.

The sixth of these problems is the fact that the majority of the population is now living in scattered areas. This has led to a concentration of people in a few small groups, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these groups, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these groups, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these groups, there is no proper school system, and the children are often left to fend for themselves. This is a major cause of illiteracy, which in turn leads to a number of other problems.





the 1990s, the number of people in the UK who are employed in the public sector has increased by 1.5 million, from 2.5 million in 1980 to 4 million in 1998. The public sector has become a major employer in the UK, and its growth has been a major factor in the overall growth of the economy.

The public sector has also become a major provider of social services, and its growth has been a major factor in the overall growth of the economy. The public sector has become a major provider of social services, and its growth has been a major factor in the overall growth of the economy.

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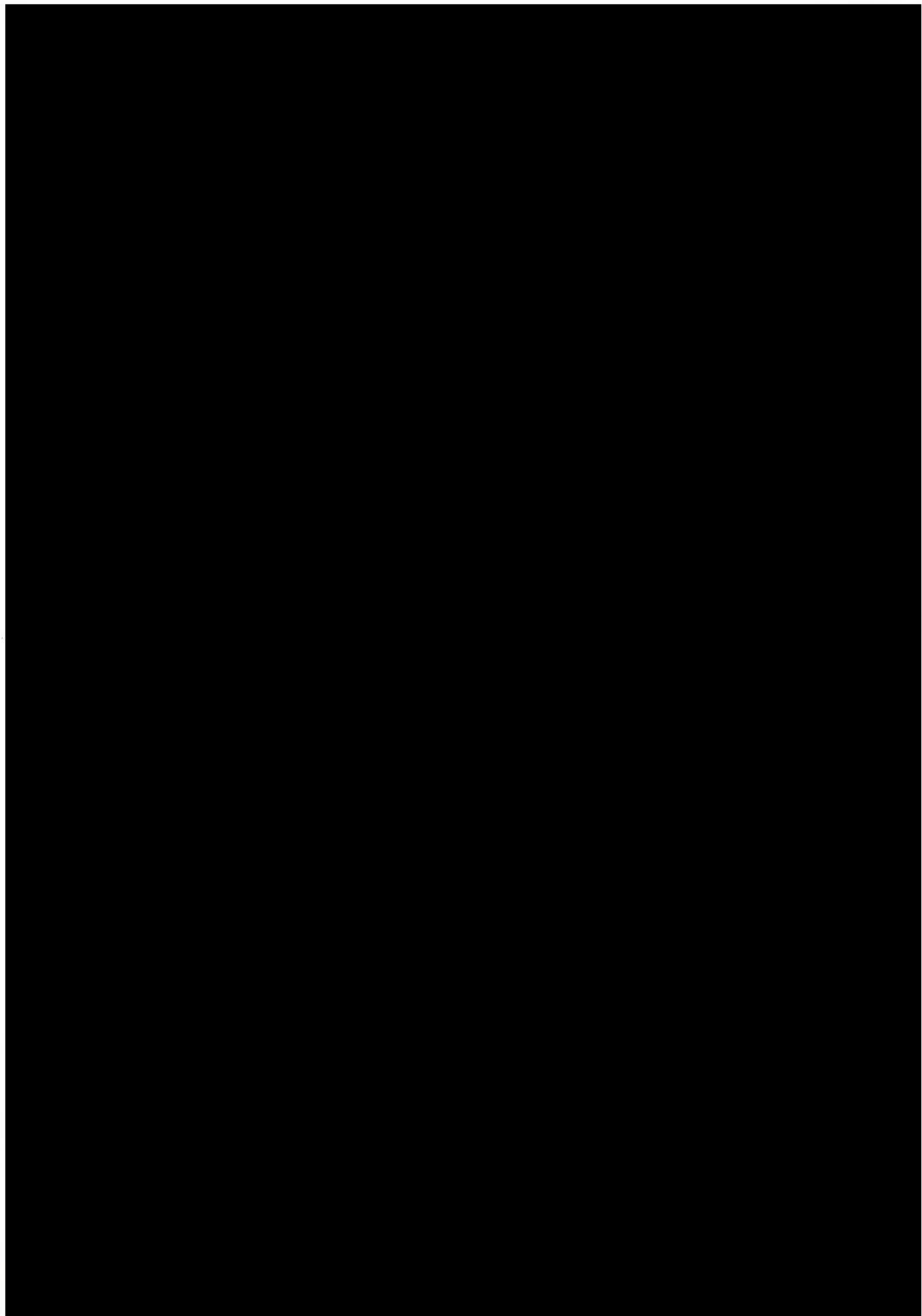
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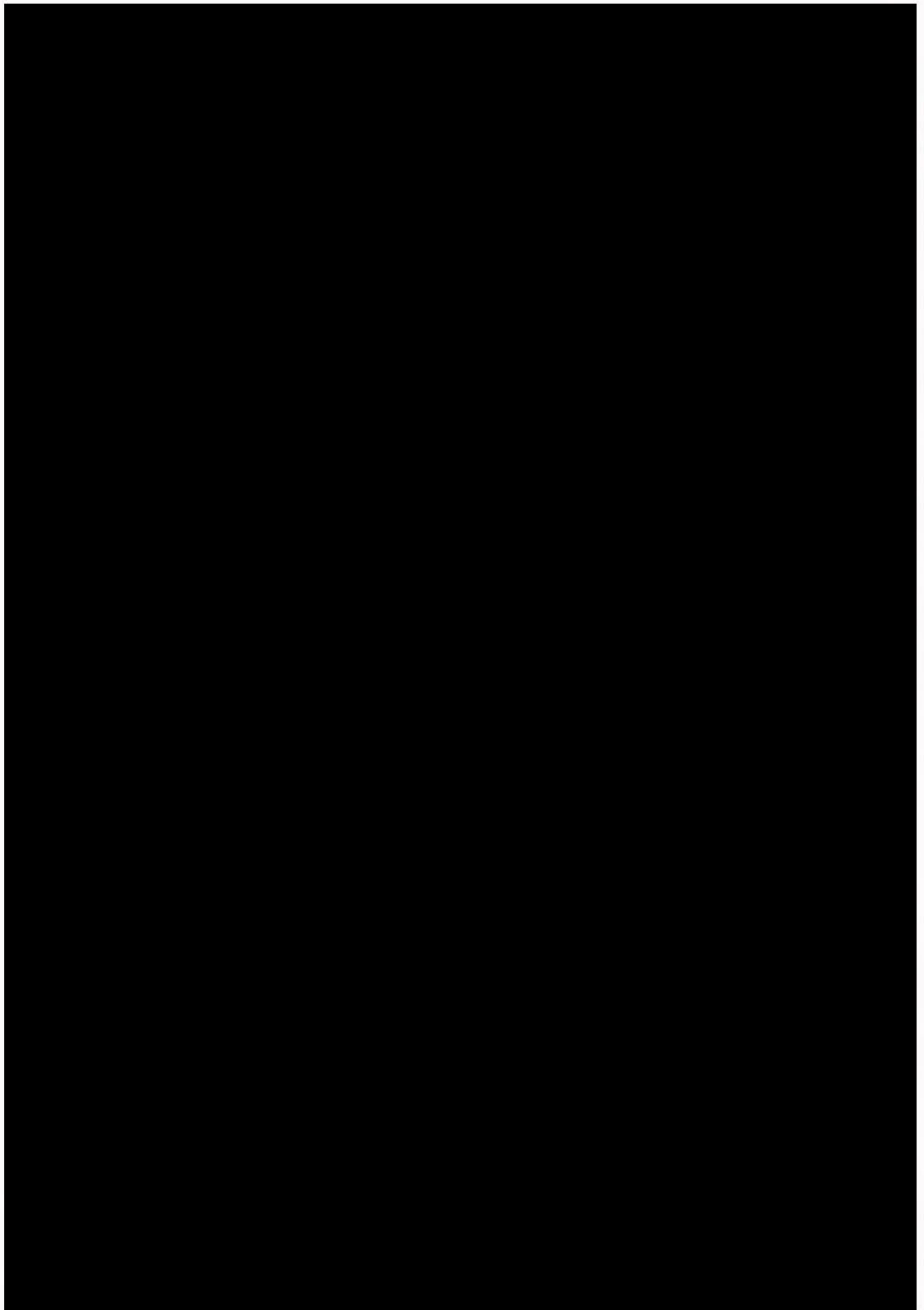
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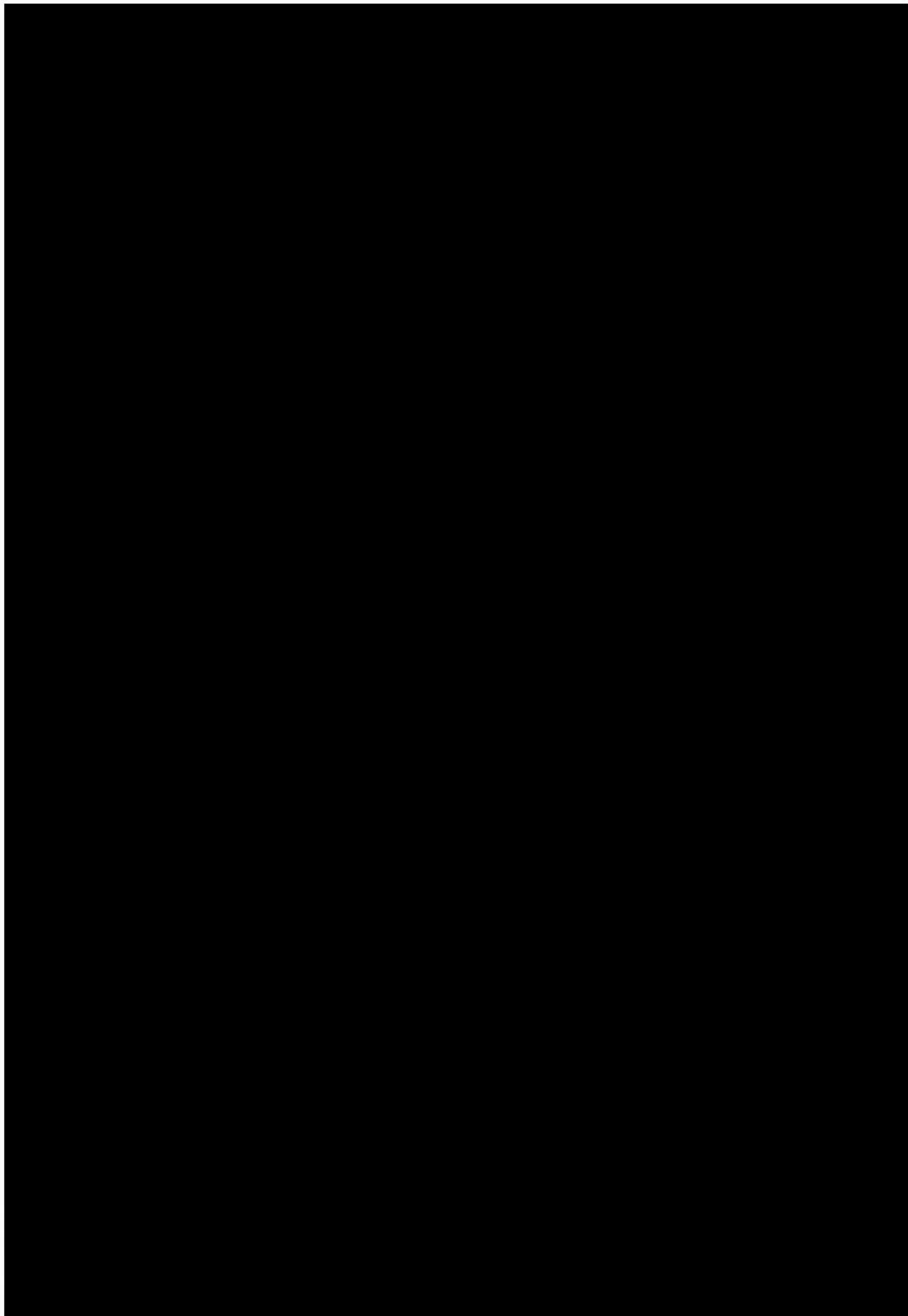
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the 'information' and 'communication' fields. The 'information' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'communication' field is defined as:

...the study of the processes of communication production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information science' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information studies' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information research' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information practice' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information policy' field is defined as:

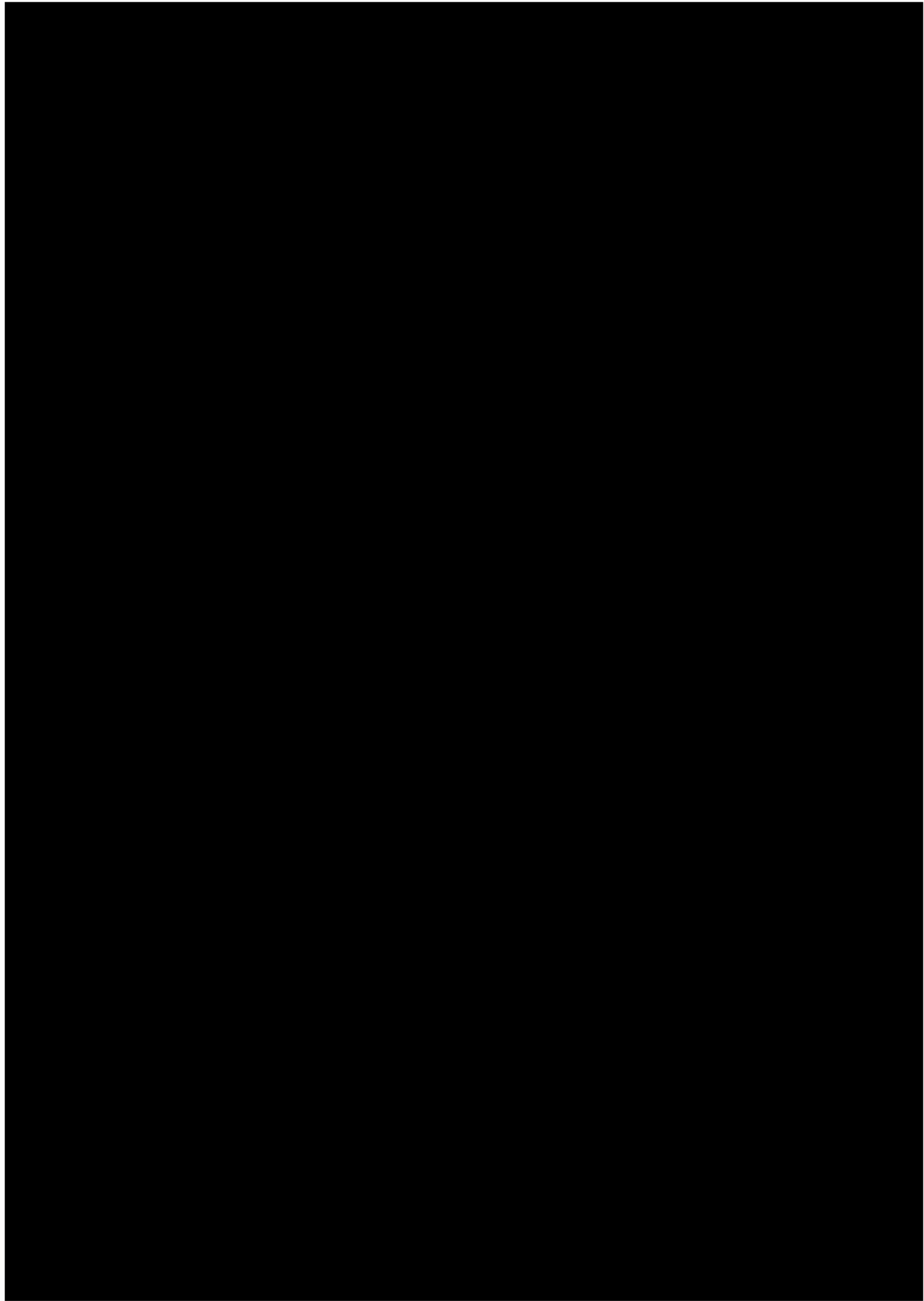
...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

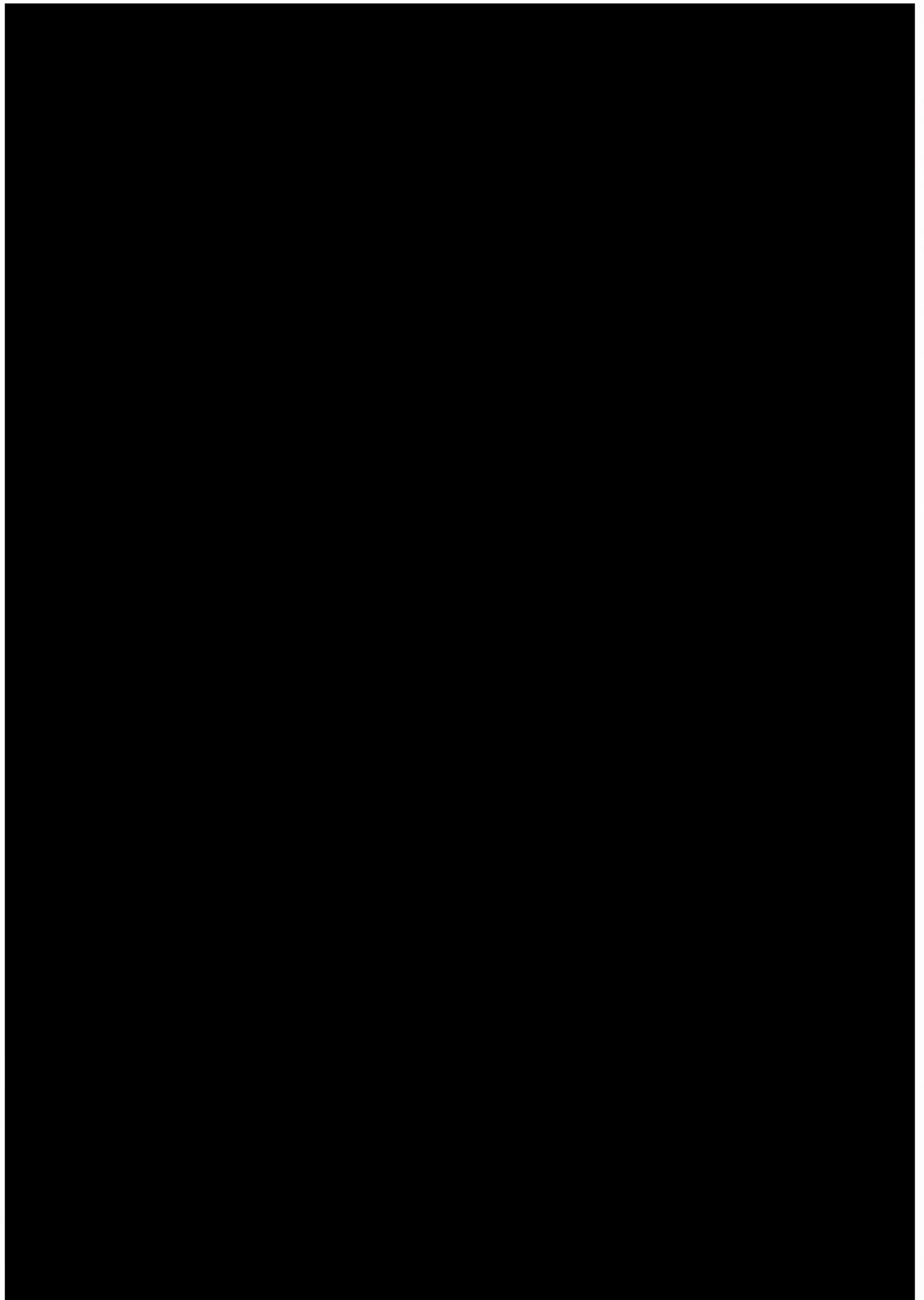
The 'information management' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

The 'information technology' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)





the 1990s, the incidence of *S. flexneri* has increased in the United Kingdom [10]. In the United States, *S. flexneri* has been reported as the most common serotype in children with acute bacterial dysentery [11]. In the United Kingdom, *S. flexneri* has been reported as the most common serotype in children with acute bacterial dysentery [12].

There is a need to monitor the epidemiology of *S. flexneri* in the United Kingdom. The purpose of this study was to determine the prevalence of *S. flexneri* in children with acute bacterial dysentery in the United Kingdom, to identify any changes in the serotypes of *S. flexneri* circulating in the United Kingdom, and to determine the prevalence of *S. flexneri* in children with acute bacterial dysentery in the United Kingdom.

METHODS

Study area

The study was conducted in the United Kingdom. The United Kingdom is a country in Europe, and is the largest country in Europe. The United Kingdom is a country in Europe, and is the largest country in Europe. The United Kingdom is a country in Europe, and is the largest country in Europe.

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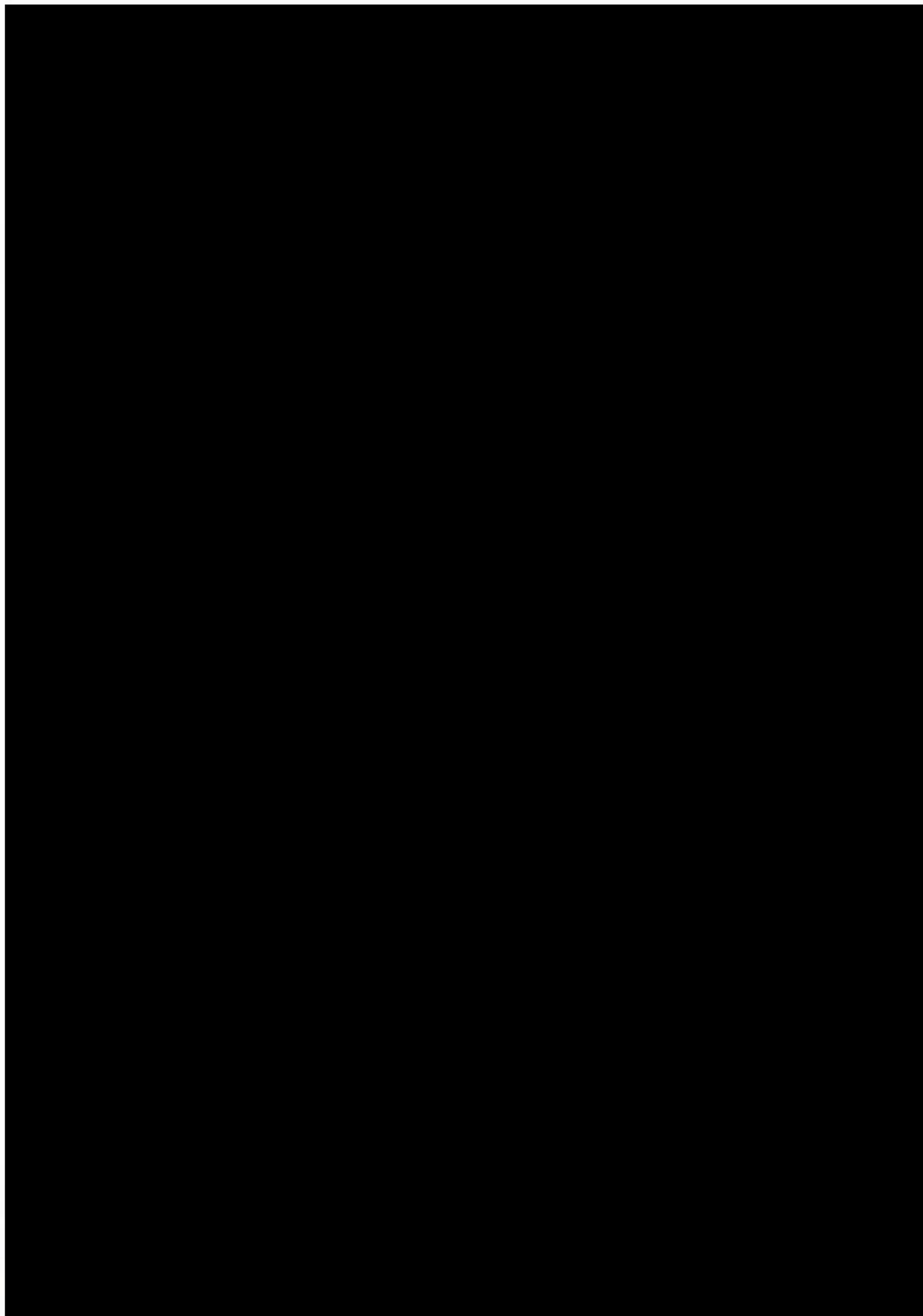
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Crime and Corruption
Commission

QUEENSLAND

Operations Manual

Part 3: Matter Practices (MP)
Section 2: **Expert witnesses**

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MP02 – Expert witnesses

1. Purpose

The purpose of this procedure is to outline the requirements for the Crime and Corruption Commission's (CCC) use of expert witnesses for the provision of expert and technical evidence.

2. Application

This policy and procedure applies to all Commission officers.

This policy and procedure covers analysis by expert witnesses in relation to crime, corruption or confiscation matters.

This policy and procedure does *not* relate to expert witnesses for intelligence matters, research projects or hearings activities. For further information about hearings, refer to [MP03 – Hearings \(closed and public\)](#).

3. Policy

The CCC's policy and standards with respect to witnesses is set out in Part 5, clause 5.1.1 of the [Operational Framework](#).

4. Procedure

4.1 General principles

An expert witness is a person whom, because of their experience, qualification or expertise, is qualified to provide an opinion or technical evidence in relation to an issue arising in a court proceeding.

Technical evidence refers to information regarding the manner of acquisition of particular evidence through specialised methodologies.

In order for expert opinion evidence to be used for a matter, a court must be satisfied that:

- there is an organised branch of science or knowledge on the subject
- the witness is a qualified expert in that field of science or knowledge
- the judge/jury is not qualified through ordinary knowledge and experience to draw inferences from the facts established on the evidence
- the evidence must be relevant.

The CCC may engage both internal and external experts to provide expert evidence.



Using expert witnesses in hearings

Expert witnesses are rarely called in regards to coercive hearings held by the CCC, however expert witnesses are regularly called to give evidence at public hearings held by the CCC.

If an expert witness is called to a hearing, then the expert is treated as a witness under the hearings policy and procedure. Refer to MP03 – Hearings (closed and public) for more information.

4.2 Engaging an expert witness

Any person can be called as an expert witness on any topic provided they can demonstrate appropriate levels of expertise in the area they are to provide evidence on.

The decision to engage an expert witness, and if so, the identification of the appropriate person to take on the role, is an operational decision made by the case manager in consultation with the relevant team lawyer.

When making the decision to engage an expert witness, consideration should be given to whether the witness selected is internal or external to the CCC.

Consideration should also be given to any disclosure requirements for the evidence they may supply and what impact this may have on the matter.

To provide expert evidence, a person must be accepted by a court as having:

- knowledge in a field that is outside the ordinary experience of the general population, and
- sufficient expertise in the field to be considered an expert.

This may be demonstrated through qualifications, experience, membership of trade or professional associations, or previous acceptance as an expert by a court.

Expert witnesses should also demonstrate sufficient independence and must declare any relevant competing interests that may affect their ability to provide independent expert evidence.

When communicating with expert witnesses, either in engaging, retaining or instructing them, or assisting an independent expert in the preparation of their evidence, CCC officers must be cautious to ensure their independent status is maintained.

4.2.1 Engaging CCC expert witnesses

The CCC has employed experts (CCC officer experts) who provide expert evidence in the following areas of professional practice:

- forensic accounting
- forensic computing and electronic evidence
- intelligence analysis.

Relevant staff are required to meet specific qualification, experience and professional development requirements to establish their role as expert witnesses. Refer to **Appendix A** for further information on the requirements by professional area.



Forensic accountants (Financial Investigators)

CCC financial investigators are forensic accounting experts who are engaged to provide financial analysis and expert financial opinion evidence for:

- crime investigations, in relation to alleged major crime or criminal activity of criminal organisations or participants
- corruption investigations, in relation to alleged corrupt conduct
- confiscation investigations, in support of proposed proceeds of crime action.

Operations teams in crime and corruption include financial investigators who may take on the role of expert witness as required.

For confiscation investigations, the financial investigator who is involved in the matter and has relevant experience is responsible for providing expert evidence.

To provide expert evidence, forensic accountants employed by the CCC must adhere to relevant professional standards including the requirements under the Accounting Professional and Ethical Standards Board standards.¹ For more information, refer to **Appendix A**

Forensic computing and electronic evidence

CCC Forensic computing analysts provide expert and technical evidence relating to the collection, preservation, analysis and interpretation of digital evidence obtained through CCC investigations.

CCC Forensic computing analysts are allocated to matters according to need, and generally provide expert evidence regarding specific matters on which they have worked. To request involvement of a Forensic computing investigator or the preparation of an expert witness statement or report, a formal request must be submitted using the Forensic computing request for assistance form.

Refer to **Appendix A** for further information regarding requirements that must be met by CCC Forensic computing analysts acting in the role of expert witness.

Intelligence analysis

CCC Intelligence analysts provide opinion and technical evidence regarding analysis of intelligence gathered as part of CCC investigations. This analysis is primarily regarding information provided through call charge records and other telecommunications data, but may also cover any other intelligence information related to an investigation.

CCC Intelligence analysts generally provide expert evidence regarding matters or investigations they are directly involved in.

The specific officer selected may differ according to their experience and skills. For more information on requirements CCC Intelligence analysts must meet to play the role of expert witness, refer to **Appendix A**.

4.2.2 Engaging external expert witnesses

External expert witnesses are engaged on a case-by-case basis according to the requirements of the matter under investigation.

The decision to engage an external witness is informed by the following considerations:

¹ Refer to the [Accounting Professional and Ethical Standards Board \(APESB\) APES Standard 215 – Forensic Accounting Services December 2015](https://www.apesb.org.au) via www.apesb.org.au for further information.



- the internal availability of specific area of expertise being sought
- whether the evidence would benefit from having a measure of independence
- CCC capacity to provide the expertise or prepare the relevant report or affidavit
- operational budget considerations.

With the exception of expert witnesses engaged through the Australian Taxation Office (ATO), there are no specific formal processes to engage external witnesses. Consideration of whether to engage an external expert witness is undertaken by the case manager in consultation with the relevant team lawyer and approval is provided by the case manager or Director Operations (Crime or Corruption), depending on the matter and nature of the witness. Where engagement decisions require expenditure of operational funds, approval to engage the witness must be consistent with authorised financial delegations.

In selecting the particular witness, the case manager should ensure that appropriate consideration is given to their expertise and independence.

Expert evidence regarding witness competency to give evidence

For some matters, and dependant on the specific witness and matter under investigation, expert evidence may be required regarding the competency of a witness to give evidence.²

Engaging a witness who is a child or has an impairment or special needs requires careful consideration. Refer to MP01 - Witness interviews, statements and other communications for further information.

Engaging external forensic computing services from the ATO

There is an existing memorandum of understanding (MOU) between the CCC and ATO for the provision of forensic computing services, including the provision of expert testimony in a court of law.

The MOU clearly prescribes requirements regarding qualifications, experience and security clearance of ATO Forensic and Investigation officers selected for this purpose.

Per the terms of the MOU, assistance must be requested via the CCC Forensic Computing Unit, (Operations Support) to engage ATO Forensic and Investigation officers. Refer to the MOU for further particulars regarding engagement of ATO officers for this purpose.

4.2.3 Requirements for expert witnesses when providing evidence

Upon engagement, expert witnesses for civil proceedings must comply with the requirements of the *Uniform Civil Procedure Rules 1999*³ (UCPR). Expert witnesses involved in criminal proceedings may refer to the UCPR rules as guidance however, must comply with any practice directions or rulings that may result in a modification of UCPR requirements. All expert witnesses should be aware of and comply with any relevant professional standards when providing expert and technical evidence.

Any evidence provided by an expert witness must:

- provide opinion, not opinion regarding facts
- remain within their field of expertise and make clear when a particular question or issue falls outside of their expertise
- exceed what is able to be surmised through ordinary knowledge and experience

² Section 9C (2) of the *Evidence Act 1997*.

³ Refer to sections 423 to 429 of the *Uniform Civil Procedure Rules 1999 (Supreme Court of Queensland Act 1991)*.



- be comprehensible to lay persons
- state the facts or assumptions upon which an opinion is based and not omit information that may detract from any conclusions
- ensure that any specialised processes or procedures are repeatable and can be tested by others to confirm findings
- state their opinion as provisional where data is insufficient to support an educated opinion
- not disclose protected methodologies
- remain neutral and devoid of interest in the outcome.

If an expert witness changes their opinion, (for example after reading an expert report prepared by an expert witness engaged by the other party) this should be communicated through legal representatives to the other party without delay and, when appropriate, to the court.

Challenges to expert evidence

Expert evidence may be challenged on:

- the person's expertise (e.g. that they do not have sufficient experience or education to be considered 'expert')
- the independence of the expert (e.g. claims of bias)
- the assumption and evidence used to form the opinion (e.g. opinion based on incorrect or misleading information)

Challenges to expert evidence generally focus on the assumptions and evidence used to form the opinion. To address such challenges, expert witnesses may be briefed on possible lines of questioning and/or have their evidence challenged prior to putting the evidence forward. Such briefings must not extend to any behaviour which could be perceived as coaching the witness.

Challenges to evidence by internal experts

The issue of independence is of particular relevance when using internal experts. Internal experts may play an advisory role throughout an investigation before ultimately providing an expert report.

The following principles should be followed to mitigate challenges to an internal expert's independence:

- ensure that evidence relied upon in the expert report is separately admitted from primary sources rather than by the expert (for example, statements of account should be admitted under a statement or affidavit by an appropriate bank representative, rather than by the CCC financial investigator)
- the report should clearly distinguish between admitted evidence relied upon by the expert (that is, the proven facts upon which the expert opinion is based) and the expert's opinion
- consider the potential for the expert's opinion to be tainted, for example, by exposure to a CCC coercive hearing of the accused or respondent, or challenged on the basis of bias.

Financial investigators in particular should be used as advisors to the investigation. A police or civilian investigator should have primary responsibility for gathering information and evidence. This approach both effectively utilises limited financial expert resources and also mitigates the risk of challenges to the evidence of an internal expert.



4.3 Products of expert witnesses

4.3.1 Using expert evidence in briefs of evidence

If expert evidence is to form part of a brief of evidence, a copy of the expert's statement, report or any other documentation is included as an exhibit.

For more information on including expert evidence in briefs of evidence, refer to MM02 – Matter Briefs.

4.3.2 Evidence reports

Evidence provided by expert witnesses must be prepared in the form of a report or, in the case of confiscations investigations, as an affidavit.

In cases where an expert witness has prepared a report but cannot assert that the report contained the truth, the whole truth and nothing but the truth without some qualification, this must be stated in the report.

Evidence report content

Evidence reports prepared for court must be addressed to the Court and signed by the expert.

Reports must include the following information:⁴

- evidence of the expert's expertise, including:
 - their qualifications
 - any professional memberships
 - experience/length of service
 - if their status as an expert witness was previously accepted by a court.
- all material facts, whether written or oral, on which the report is based
- references to any literature or other material relied on by the expert to prepare the report
- for inspections, examinations or experiments undertaken or relied on by the expert to prepare the report:
 - a description of what was done
 - whether it was done by the expert or under the expert's supervision
 - the name and qualifications of any other person involved
 - the result.
- if there is a range of opinions on matters dealt within the report, a summary of the various opinions, and the reasons why the opinion of the expert was adopted
- a summary of the conclusions reached by the expert
- a statement about whether access to additional facts would assist the expert in reaching a more reliable conclusion.

At the end of the report, the expert must confirm that:

- the factual matters stated in the report are, as far as the they know, true
- they have made all enquiries considered appropriate
- they genuinely hold the opinions stated in the report
- the report contains reference to all matters that they consider significant
- they understand that their duty is to the court and that they have complied with the duty.

⁴ Section 428 of the *UCPR*.



Evidence reports – specific requirements

The reports, statements and affidavits prepared by CCC financial investigators are the public record of the outcome of a CCC investigation and, consequently, a high quality product is required.

The evidence report must comply with the mandatory requirements of clause 5.6 of the Accounting Professional & Ethical Standards Board (APESB) APES standard 215 to the extent that the requirements of that clause are applicable to the matter at hand.⁵

The CCC requires all final evidence reports, witness statements and/or affidavits by forensic accountants be peer reviewed by a senior officer, or an officer at level with sufficient experience, prior to finalisation. As evidence that the review has been undertaken and that the reviewing officer is satisfied with the quality of the report, a completed APES 215 Checklist⁶, endorsed and saved with the reviewed report, statement or affidavit is to be saved in the appropriate eDRMS folder. It is the responsibility of the expert forensic accountant to prepare and provide a draft APES 215 Checklist for consideration of endorsement by the reviewing officer when presenting their expert report/statement or affidavit to the reviewing officer for review.

If there is a disagreement between the expert forensic accountant and the reviewer that cannot be resolved, the matter should be referred to the Director Proceeds of Crime (as the CCC's most senior forensic accountant) for appropriate resolution. If the matter cannot be resolved, the expert forensic accountant should refer the matter to the responsible Senior Executive Officer to determine an appropriate resolution of the issue.

An expert forensic accountant report, statement or affidavit must not be included in a brief of evidence or filed with the court in confiscation proceedings until the APES 215 Checklist has been authorised by the reviewer. It is the responsibility of the expert forensic accountant whose report, statement, or affidavit is included in the brief or filed in the court, to ensure this requirement is met.

4.3.3 Disclosure of evidence reports and statements

Expert statements and reports are likely to be disclosable. Advice on potential disclosure ramifications should be sought before engaging an expert witness in any matter.

For example, there is an obligation to disclose expert reports where that disclosure would potentially exculpate (help the case for) an accused person. Similarly, in some circumstances, materials briefed to an expert, working notes, and correspondence may also be subject to disclosure obligations.

5. Definitions

Term	Meaning
ATO	Australian Taxation Office
APESB	Accounting Professional and Ethical Standards Board

⁵ Refer to the Accounting Professional and Ethical Standards Board (APESB) APES Standard 215 – Forensic Accounting Services December 2015 via www.apesb.org.au for further information.

⁶ Derived from Section 5.6 of the Accounting Professional and Ethical Standards Board (APESB) APES Standard 215 – Forensic Accounting Services December 2015 via www.apesb.org.au for further information.



Term	Meaning
Expert witness	A person who, because of their experience, qualification or expertise, is qualified to give opinion evidence in relation to an issue arising in a court proceeding.
Opinion evidence	where opinion is provided on the evidence or information that has been acquired
Technical evidence	information as to how particular evidence or information came to be acquired using specialised methodologies
PPRA	<i>Police Powers and Responsibilities Act 2000</i>
IACIS	International Association of Computer Investigative Specialists (IACIS)
UCPR	<i>Uniform Civil Procedure Rules 1999</i>

6. Forms

Document reference	Document title
MP02 – Form 1	Accounting Professional & Ethical Standards Board Checklist (standard 215, section 5.6)
MP10 – Form 1	Forensic Computing Request For Assistance Form (refer to MP10 sub folder in eDRMS for this form)

7. Related policies and procedures

- MM02 - Matter briefs
- MP01 - Witness interviews, statements and other communications
- MP03 - Hearings (closed and public)
- ATO & CCC Memorandum of Understanding

Legislative references

- *Police Powers and Responsibilities Act 2000*
- *Evidence Act 1977*
- *Uniform Civil Procedure Rules 1999*



8. Metadata

Responsible officer:	Executive Director, Crime Operations	Accountable officer:	Senior Executive Officer (Corruption)
Date approved:	January 2022	Review date:	January 2023



9. Appendices

9.1 Requirements for CCC Expert witnesses

9.1.1 Requirements for Forensic accountants

In order to act as an expert witness, CCC Forensic accountants must be able to provide evidence of an appropriate level of training, qualification and experience. Specific requirements that must be met for CCC officers to be an expert witness include:

- a degree in Commerce, Business or Accounting from a recognised tertiary institution
- current membership of either Chartered Accountants Australia and New Zealand (CA ANZ) or Certified Practising Accountants Australia (CPA)
- at least 3 years' experience as a forensic accountant in a law enforcement environment.

Depending on the particular experience, skills and qualifications of CCC Forensic accountants, additional training may be provided to ensure that CCC officers are able to demonstrate the appropriate level of expertise.

Accounting Professional & Ethical Standards Board requirements

Any expert witness evidence provided by CCC forensic accountants must be consistent with the Accounting Professional & Ethical Standards Board APES Standard 215 *Forensic Accounting Services* that provides obligations relating to the provision of expert witness services including the preparation of expert witness reports.

9.1.2 Requirements for Forensic computing investigators

CCC Forensic computing investigators are expected to be qualified to act as an expert witness should the requirement arise, and this prerequisite is taken into consideration with regards to recruitment and selection of officers for these roles.

All CCC Forensic computing investigators must be certified forensic analysts by the International Association of Computer Investigative Specialists (IACIS) and must maintain their membership during their employment with the CCC.

Upon joining the CCC, Forensic computing investigators are subject to a probationary period where their work, including any expert witness services, are overseen by a more experienced officer. Depending on an officers' existing experience and qualifications, additional training, professional memberships, mentoring and peer review may be required to build the officer's credibility as an expert witness.

9.1.3 Requirements for Intelligence analysts

There are no formal requirements that must be met in order for CCC Intelligence analysts to act as an expert witness. The CCC does not expect that an intelligence analyst act as an expert witness as a condition of employment.

In selecting the appropriate officer to act as an expert witness, consideration is given to the following:

- the length of the officer's experience, with preference being given to officers with at least 5 years of experience
- whether the officer has considerable experience in the methodology of intelligence collection and collation to which the evidence relates
- any relevant qualifications or professional memberships



- any risks associated with the identity of the officer becoming public or known in the court proceedings.





**Crime and Corruption
Commission**

QUEENSLAND



Crime and Corruption Commission
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Operations Manual

Part 3: Matter Practices (MP)

Section 3: **Hearings (closed and public)**



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MP03 – Hearings (closed and public)

1. Purpose

The purpose of this policy and procedure is to outline requirements for the planning and conduct of closed and public hearings pursuant to the *Crime and Corruption Act 2001* (CC Act).

This includes hearings conducted in respect of corruption investigations or operations, crime investigations, and specific intelligence operations.

2. Application

This policy and procedure applies to all Commission officers.

3. Policy

The CCC's policy and standards for public hearings is set out in Part 4, clause 4.5 of the Operational Framework. Part 4, clause 5.1.1 of the Framework references the standards required for the examination of witnesses.

4. Procedure

4.1 General principles

The Commission may authorise the holding of a hearing in relation to any matter relevant to the performance of its functions.

For hearings authorised in relation to a corruption investigation, a crime investigation (including a specific intelligence operation or immediate response investigation), intelligence or witness protection functions, the CCC has the power to compel persons to attend and give evidence, and to produce documents or information. A person so compelled may not claim a right to silence or refuse to answer questions or produce a document or thing on the basis of privilege against self-incrimination.

Hearings may be conducted as closed or public. While the process for approval of each type of hearing differs, the conduct of the actual hearing (in terms of questioning of witnesses, and the roles of the presiding officer, counsel assisting and witnesses) is largely the same.

4.2 Authority to conduct a hearing

The process for recommending and authorising the conducting of a hearing differs depending on the purpose of the hearing and whether it is closed or public.

Once authorised, hearing details are recorded in the case management system (CMS).



4.2.1 Closed hearings

Corruption closed hearings

Closed hearings are held about specific corruption matters under investigation.

During the course of a corruption investigation, if the case manager and case lawyer consider the investigation is suitable for a hearing, they prepare the following documents in the approved form for consideration by the delegate¹ or Chairperson for approval:

- Application to Hold a Closed Hearing (s.176)
- Authorisation to Hold a Closed Hearing (s.176)
- Request to Disclose CCC Hearing Information (s.60(2) and s.202(1))
- Authority to Disclose CCC Hearing Information (s.60(2) and s.202(1)).²

The approval process requires the following preliminary step where the CCC is involved in a joint investigation with another agency.

During a joint investigation with another agency

A joint investigation may be approved by the Chairperson or delegate in accordance with the Terms of Engagement set out in MM01-J01 - Application to Approve a joint investigation (Corruption). In relation to the approval process, see further IM03 Assessment of matters.

Joint investigations will commonly be approved to undertake closed hearings to progress ongoing investigations. A lead agency is required to be nominated by the ELT in these circumstances, see further MM, Matter management, planning and conduct.

Once approved, the hearings support officer is to:

- save the documents into eDRMS
- lodge the documents with Records Management.

Hearing details are recorded in the CMS.

Crime closed hearings

Hearings may be undertaken as part of any of any type of crime matter but the approval process will depend on the type of matter.

Closed hearings for crime matters may be approved in the following ways:

CCC Crime Investigation or a Referred Crime Investigation

A closed hearing for a CCC Crime Investigation or a Referred Investigation may be approved by the Chairperson or delegate in accordance with the Terms of Reference set out in the Approval for the investigation. For more information on the approval process, refer to IM03 – Assessment of matters.

Referred Investigations will generally have been authorised for the sole purpose of undertaking a hearing for the investigation, however the need for a hearing in relation to a CCC Crime Investigation will generally be identified during the course of the investigation. In each case, the case manager will confirm or consider (respectively) the suitability of a hearing for the investigation and if appropriate, request the relevant case lawyer to prepare the following documents in the approved form for consideration of the delegate or Chairperson for approval:

¹ s.176 of the CC Act

² See further section 4.2.3 of this Policy and Procedure on disclosing and publishing hearing information



- Application for Authorisation to Hold a Hearing (s.176)
- Request and Authority to Disclose CCC Hearing Information (s.60(2) and 202(1)).³

Once approved, the hearings support officer is to:

- save the documents into eDRMS
- record hearing details in the CMS
- lodge the documents with Records Management.

Specific Intelligence Operation or Immediate Response Investigation

A closed hearing for an Intelligence Operation or an Immediate Response Investigation is permitted if authorised under a s.55A or s.55D Authority, respectively, and for the purpose of the Terms of Reference specified in the Authority. If the Authority permits the hearing, a separate authority to hold the hearing under s.176 is not required. For more information on approval of Specific Intelligence Operations or Immediate Response Investigations, refer to: IM03 – Assessment of matters.

Once an Authority under s.55A or s.55D has been issued, the team lawyer is to prepare a Request to Disclose CCC Hearing Information (s.60(2) and 202(1)) and an Authority to Disclose CCC Hearing Information (s.60(2) and 202(1)) in the approved forms for consideration of the delegate of Chairperson for approval. Once approved, the hearings support officer is to:

- save the documents into eDRMS
- lodge the documents with a copy of the relevant investigation Authority, with Records Management.

Hearing details are recorded in the CMS.

4.2.2 Public hearings

A public hearing may only be approved by the Commission.⁴

The Commission may only approve a public hearing if it considers that:

- for a crime investigation, *opening* the hearing:
 - will make the investigation more effective
 - would not be unfair to a person
 - would not be contrary to the public interest
- for a witness protection function hearing, *opening* the hearing:
 - will make it more effective
 - would not be unfair to a person
 - would not be contrary to the public interest
 - would not threaten the security or a protected witness, the integrity of the witness protection program, or other witness protection activities of the CCC
- in any other case, *closing* the hearing to the public would be unfair to a person or contrary to the public interest.

The particular considerations made in regards to conducting a public hearing, depend on the specific details of the matter. Examples of considerations that may be relevant include:

- whether the investigation or purpose of the hearing would be more effective because it would:

³ See further section 4.2.3 of this Policy and Procedure on disclosing and publishing hearing information

⁴ s.177(3) of the CC Act

- educate the public about major crime, corruption or systemic failures and issues in our public institutions or our criminal justice system
- encourage witnesses to come forward with information relevant to the investigation or matter
- through its public nature induce a witness to respond more truthfully
- encourage units of public administration to engage in reform and/or establish public understanding about why reform or change may be necessary
- achieve another objective relevant to the CCC's prevention or corruption function.
- in terms of fairness to a person:
 - whether a public hearing would provide a transparent mechanism for persons the subject of allegations in the public domain, an opportunity to provide an account
 - the desirability of protecting the privacy or reputation of persons who may be mentioned in the hearing
 - risk of prejudice to a person's reputation and what can be done to give the person an opportunity to remedy any prejudice that may occur.
- in terms of public interest:
 - the seriousness of the matter being investigated
 - the extent to which the matters to be investigated or dealt with in the hearing are in the public domain
 - the extent to which a public hearing would enhance confidence in the way in which the Commission has performed its functions or otherwise dealt with the matter in an appropriate and transparent way
 - the extent to which the public nature of the hearing may induce a witness to respond truthfully
 - whether the public nature of the hearing compromise the CCC's ability to:
 - pursue prosecution
 - disciplinary action
 - produce a public report.

Recommendation process

Where a case manager considers a public hearing is desirable in order to ensure an investigation or the purpose of a hearing would be more effective, the case manager should, with the assistance of the team lawyer for the matter, prepare and refer (via the case manager's supervisory chain) the following documents to the Executive Leadership Team (ELT) for consideration:

- where no previous authority to hold a hearing for the matter exists:
 - draft Application for Authorisation to Hold a Hearing (s.176)
 - draft Authorisation to Hold a Hearing (s.176).
- In the case of specific intelligence operation, immediate response investigation, or in any other case where there is an existing authority to hold a hearing in relation to the matter:
 - a copy of the application that supported the authorisation to hold the hearing
 - a copy of the document authorising the hearing.
- in any case:
 - a draft Request to Disclose CCC Hearing (s.60(2) and s.202(1))
 - a draft Authority to Disclose CCC Hearing (s.60(2) and s.202(1)).⁵

⁵ This authority will need to be given *in writing* to cover the information referred to in section 202(1)(b) of the CC Act (identity of witnesses about to give evidence) because the public hearing authority will only allow the publication of that information, if the witness has actually appeared, has consented or the witness or the Commission has generally made the information known. See further section 4.2.3 of this Policy and Procedure on disclosing and publishing hearing information



- a briefing note to the ELT, attaching the above documents (as relevant) and including a recommendation in relation to the proposal, with the following information:
 - background to the proposal
 - issues arising or to be resolved by the proposal
 - consultation with relevant stakeholders (if any)
 - financial implications, including all necessary staff and other resources required to support successful delivery of the proposal
 - service implications should the proposal be approved
 - potential for internal/external communications
 - any other relevant information or documents.

For more information on procedures for ELT, refer to IM01 – Portfolio assessment and review.

If following consideration of the matter, the ELT recommend the proposal that a hearing be a public hearing, then:

- for a crime matter (including a specific intelligence or immediate response investigation), the matter should be referred to the Crime Reference Committee (CRC) for consideration, prior to referral to the Commission
- in any other case, the matter should be referred to the Commission for consideration.

Authorisation

If following consideration of the matter, the ELT recommend the proposal that a hearing be a public hearing, then:

- for a crime matter (including a specific intelligence or immediate response investigation), the matter (and material considered by the ELT) should be referred to the CRC for consideration, prior to referral to the Commission
- in any other case, the matter (and material considered by the ELT) should be referred to the Commission for consideration.

Recording hearing details

When the documents are authorised and signed by the Commission, the hearings support officer:

- saves the authority and supporting application documents into eDRMS
- lodge the original documents with Records Management.

Hearing details are recorded in the CMS.

4.2.3 Disclosing or publishing hearing information to a relevant entity

Information from a closed hearing, and any record of it, is prohibited from publication to any person, without the Commission's consent or contrary to the Commission's order, by virtue of s.202(1) of the CC Act.

However, publication of hearing information may be permitted by an Authority to Disclose CCC Hearing information order issued under s.60(2) of the CC Act. The order sets out the range of investigative or intelligence purposes for which hearings materials may be used.

To issue an order, the Request to Disclose CCC Hearing Information (s.60(2) and s.202(1)) and Authority to Disclose CCC Hearing Information (s.60(2) and s.202(1)) templates are prepared and approved by the delegate.



For closed hearings, an initial authority for the hearing information to be disclosed and published to a relevant entity is usually sought in parallel with seeking the authorisation for the hearing⁶ (see above for more information). Further or bespoke orders of consent may be prepared to address additional disseminations of hearing information that are not covered by the initial order.

4.2.4 Key hearing roles

Once a hearing is approved and authorised, a lawyer is responsible for project managing the conduct of the hearing and undertakes the role of Counsel Assisting.

For some matters, a lawyer other than the team lawyer may be allocated the role of Counsel Assisting either for the entire hearing program, or for the examination of particular witnesses. This may be another CCC lawyer or external counsel may also be engaged (for more information refer to the Engaging external counsel and solicitor's policy and procedure).

This decision is made by the relevant Senior Executive Officer (SEO) or Executive Director⁷ in consultation with the responsible matter team including the lawyer(s) involved. Where another Counsel Assisting is nominated, the team lawyer retains responsibility for coordination of the hearings program.

The higher-level management of the hearing program is undertaken by senior officers in Crime and Corruption (the Executive Director, Crime Hearings and Legal and the Director, Corruption Legal). The senior officers are responsible for ensuring that the following roles are allocated to the hearing:

- Presiding Officer: the relevant SEO, relevant Executive Director⁸ or a Sessional Commissioner or other authorised officer depending on operational requirements⁹
- Counsel Assisting: see above
- For a public hearing, the relevant personnel resources (project team) approved by the ELT, including a Project Manager for the hearing
- For a closed hearing, such resources as determined necessary to support the successful delivery of the hearing program
- Hearing room orderly: officer responsible for administration of the hearing.

The project team for the hearing will ordinarily be the relevant corruption or crime hearings team or other investigations team. Within each team, hearing support officers play a role in providing administrative and operational support.

4.2.5 Pre-Hearing Preparation

Counsel Assisting is responsible for preparing and undertaking the hearing, ensuring that all relevant issues are addressed. This includes consultation with relevant internal or external stakeholders to ensure that the hearing adds value to the investigation or fulfils the purpose of the hearing.

Pre-hearing consultation should address the following:

- objectives of the hearing and the investigation/matter as a whole
- logistics, including:
 - timing and prioritisation

⁶ s.176 of the CC Act

⁷ Executive Director, Corruption Strategy, Prevention & Legal or Executive Director, Crime Hearings & Legal

⁸ Executive Director, Corruption Strategy, Prevention & Legal or Executive Director, Crime Hearings & Legal

⁹ If appropriate, the Chairperson may also take on the role of Presiding Officer. For more information refer to the Closed/Public Hearings – Request for Chairperson to Preside procedure.



- preferred location
- nomination of witnesses to be called and identification of
 - their relevance to the investigation
 - their vulnerabilities
 - the evidential or information gaps they may fill
- the sequence of proposed witnesses
- what information should be disclosed to witnesses and what should be withheld
- development of parallel investigative or other strategies to progress the hearing.

In order that the relevant internal or external stakeholders are made aware of what use they may lawfully make of any information to be provided by witnesses at the proposed hearing, Counsel Assisting should provide all such stakeholders at an early point in this consultation process with a signed copy of the Authority to Disclose CCC Hearing Information (s.60(2) and 202(1), and explain clearly to such stakeholders the meaning and effect of this instrument in terms of permissible and impermissible uses of hearings information.

The Feasibility Report prepared by Counsel Assisting, to which reference is made in section 4.2.2 of Matter Management, Planning and Conduct (MM01), should include content confirming that the Authority to Disclose CCC Hearing Information (s.60(2) and 202(1) has been provided to relevant stakeholders and its meaning and effect explained to them.

Consultation should also occur with the appropriate Executive Directors in Crime and Corruption to ensure that they are apprised of all relevant issues including the resourcing implications of the proposed hearing program.

Once a hearing program is developed, Counsel Assisting (or the team lawyer) will apply to the Commission's delegate for the issue of s.82 Attendance Notices for individual witnesses. See below for more information.

4.2.6 Communication activities for public hearings

For public hearings, early engagement with Corporate Communications should be undertaken to identify the nature and timing of any communications activities.

The specific communications activities undertaken will vary according to the subject matter of the public hearing, but may include:

- public announcement regarding the decision to hold hearings
- circulation of discussion papers
- contact with key stakeholders
- calls for public submissions either before or after the hearing
- requests for information or witnesses
- livestreaming of the hearing
- development of a public report (refer to MM03 – Matter reports and publications for more information).

4.3 Witness selection and Notices

4.3.1 Witness selection

The witnesses proposed to be called to attend a hearing are identified by the Counsel Assisting in consultation with relevant internal or external stakeholders. Consideration may be given to calling witnesses who fall into the following categories:

- persons who are recalcitrant or reluctant to get involved



- persons of interest or persons on the periphery of the criminal activity being investigated
- persons with 'dirty hands' who cannot give a version without implicating themselves in some form of criminal activity
- relatives, associates or friends of the primary suspects who may, for reasons of personal loyalty, not otherwise wish to implicate those responsible for the criminal activity
- persons who may have knowledge, experience or expertise relevant to any systemic or procedural issues to be explored in the hearing.

Calling a suspect or person charged as a witness

Generally, a suspect or person charged in a criminal investigation should not be called as a witness for a CCC hearing as the nature of hearings means that the Presiding Officer makes an order protecting the witness from the use of any self-incriminating answer in any other proceeding. Consequently, any admissions made in the hearing would be inadmissible against the witness in any criminal trial. However, there are cases where it is permissible to call suspects or persons charged when there is a legitimate forensic purpose for so doing, for example, to gather evidence against co-offenders or to obtain derivative evidence.

If consideration is being given to calling a suspect to a hearing, it is preferable to do so before the suspect is charged. It is acknowledged that this may not always be practicable, for example, if the investigation is still in a covert phase. While the CC Act allows the CCC to call a person charged, this should only be done when there is a legitimate forensic purpose to do so. For example, a 'lower order' player in a criminal syndicate who has been charged may be called to gather evidence against more senior persons within that network, or where multiple persons are suspected of engaging in criminal activity, it may be necessary to call a suspect or person charged to identify the roles and individual criminality of the various participants.

Recording hearing witness details

The details of hearing witnesses are recorded in the CMS.

4.3.2 Attendance and Production Notices (ss. 82 and 83)

To compel a witness to attend a hearing, an Attendance Notice must be prepared under s.82 of the CC Act for each witness (including prisoners). For prisoners, a s.83(1) Notice to Produce a Prisoner must also be prepared for service on the relevant chief executive to facilitate their attendance at the hearing.

Application to issue an Attendance Notice

To issue an Attendance Notice, Counsel Assisting or the team lawyer, must prepare a written application for its issue.

The application summarises the status of the investigation and should outline:

- the relevance of the witness' anticipated evidence
- the forensic purpose of the examination
- the age, antecedents, and current location of the proposed witness
- any known infirmities or physical or mental health issues
- relevant human rights considerations
- if it is proposed that the notice be a confidential notice under s.84 of the CC Act, the reasons why this is considered appropriate.

The Counsel Assisting also nominates the delegate for approving and signing the notice.

Decisions to exercise coercive powers are reviewable in the courts and therefore the supporting application for an Attendance Notice is to be factually correct and of a high quality.



Preparation of Attendance and Production Notices

To prepare an Attendance Notice or Production Notice, the hearings support officer (or, if applicable, Counsel Assisting or the team lawyer) completes the application and notice templates using the information from the application.

The correctional facility in which a prisoner is located must be identified in the Notice to Produce a Prisoner (s.83(1)). To obtain this information, Queensland Corrective Services may be contacted.

Approval process

The following CCC officers may approve and sign Attendance Notice documentation:

- for corruption hearings: Chairperson, SEO (Corruption), Executive Director, Corruption Strategy, Prevention and Legal
- for corruption-related intelligence hearings: Chairperson, SEO (Corruption), Executive Director, Corruption Strategy, Prevention and Legal
- for crime hearings: Chairperson, SEO (Crime), Executive Director, Crime Hearings and Legal
- for crime-related intelligence hearings: Chairperson, SEO (Crime), Executive Director, Crime Hearings and Legal.

To seek approval, the following documentation is provided to the delegate proposed to approve and sign the Notice:

- Application for the issue of an Attendance Notice (s.82)
- draft Attendance Notice (s.82)
- draft Notice to Produce a Prisoner (s.83(1)) (if applicable).

Once it is approved, the signed documentation is saved into the relevant eDRMS folder.

Attendance Notices with Immediate effect (s.85)

If an Attendance Notice with immediate effect (under s.85 of the CC Act), is needed, the approval of a Supreme Court Judge is required¹⁰ before the Chairperson or delegate may issue the notice.

The CC Act sets out the criteria for an immediate Attendance Notice.¹¹ If an immediate Attendance Notice is sought, an Application for the Issue of an Attendance Notice template should be prepared for the Chairperson or relevant SEO to sign. The application is prepared in the usual format, but provides additional information setting out why an immediate Attendance Notice is required, and outlines arguments for and against an immediate Attendance Notice.

For the application to the Supreme Court, the following documents are prepared by Counsel Assisting (or another lawyer as operational requirements may dictate):

- draft Attendance Notice template
- an affidavit under the hand of the Chairperson or SEO setting out the following:
 - the circumstances of the investigation
 - why the witness is to be called
 - the factual circumstances under s.85 which give rise to the need for immediate attendance
 - what factors were considered both favourable and adverse to issuing an immediate notice
 - an intention to sign the draft attendance notice

¹⁰ s.85(1) of the CC Act

¹¹ Refer to s.85 CC Act for more information.



- the draft Immediate Attendance Notice as an exhibit to the affidavit
- any other exhibits or information which are relevant to the application.
- an originating application seeking the court's approval under s.85.

4.3.3 Serving Notices

Service of Attendance Notices (s.82)

Once an Attendance Notice is issued, the hearings support officer either hand-delivers the original notice or emails a copy of the notice to the relevant internal or external investigator in order to effect service upon the witness.

The officer serving the notice must complete an Oath of Service and return it to the hearings support officer together with a copy of the Attendance Notice prior to the hearing commencing. This completed document can be hand delivered or scanned and emailed back to the hearings support officer.

Prior to service the following should be related in writing to the service officer:

- care should be taken to ensure the witnesses are served as soon as possible after provision to the service officer or at least 5 working days before the hearing in the case of prisoners, and at least 2 working days for other witnesses¹²
- it is acceptable for a legible copy of an original Attendance Notice to be served
- service must be effected with a high level of discretion to ensure that only the witness is made aware of the requirement to attend a CCC hearing.

Notices must be served on the witnesses personally for all hearings, unless a legal representative/s hold instructions to accept it on their behalf.

If personal service is not possible, the serving officer should first seek the advice of the Counsel Assisting.

All engagements should be audio-recorded.

Service of Attendance or Production notices are recorded in the CMS.

Service of Production Notices (s.83)

If a prisoner is required to attend a hearing, the Notice to Produce a Prisoner (s.83(1)) is to be emailed by the hearings support officer to the Office of the Commissioner for Corrective Services.

If a mental health patient is required to attend a hearing, the relevant Production Notice is to be emailed by the hearings support officer to the administrator of the relevant authorised mental health service.

If a detained forensic disability client is required to attend a hearing, the relevant Production Notice is to be emailed by the hearings support officer to the relevant forensic disability service commissioner.

In any of these cases, the hearings support officer is to complete an Oath of Service, which is tendered as part of hearing.

¹² A lengthier notice period is desirable in the case of prisoners to provide them with more time to arrange legal representation. Otherwise it may be difficult to refuse a request for an adjournment if a prisoner claims to have had insufficient time to make these arrangements.

Under no circumstances is an Attendance Notice to be forwarded in conjunction with a Production Notice. These are to be forwarded to investigating officers who make an appointment at the relevant facility to personally serve the witness.

Service of Attendance Notices (s.82) to interstate witnesses

If the witness resides interstate an order must be obtained from the Supreme Court of Queensland under the *Service and Execution of Process Act 1992 (Cth)* (SEPA) for leave to serve the Attendance Notice outside of Queensland. Counsel Assisting or the team lawyer have carriage of the application.

The following documents must be served on the interstate witness for service to be effective under the SEPA:

- completed Attendance Notice (can be a copy)
- Order of Supreme Court of Queensland
- SEPA form 5 Notice
- letter to witness settled by Counsel Assisting - offering to pay or tender allowances and travelling expenses and enclosing:
 - travel itinerary (if applicable)
 - transport tickets (if applicable)
 - Cabcharge vouchers (if applicable).

In addition, the following documents must be included in the package provided to the serving officer:

- Covering letter to police/serving officer settled by Counsel Assisting
- Instructions: Interstate Service of CCC Witnesses
- Oath of Service for Interstate Witness (to be completed by the serving officer after service and returned to the CCC).

4.4 Hearing documentation, logistics and security

4.4.1 Hearing documentation

Prior to the hearing, the following documentation is prepared by the hearings team.

Introductory remarks

Introductory remarks are prepared prior to each day's hearing. The introductory remarks cover the Counsel Assisting's introduction of the witness, and the opening remarks by the Presiding Officer to the witness.

The Introductory Remarks document is completed for each witness. If there is more than one witness appearing on the same day for the same matter, the introductory remarks must be completed for each witness.

Non-Publication order for a hearing (s.180(3))

The Presiding Officer may make a non-publication order¹³ under s.180(3), which prohibits, without the Commission's written consent, the publication of:

¹³ s.180(3) of the CC Act

- an answer given or document or thing produced at a hearing or anything about the answer document or thing
- information that might enable the existence or identity of a person who is about to give or has given evidence before the commission at hearing to be ascertained.

The order must be made in writing, using the Non-Publication Order (s.180(3)) template and may be signed by the Presiding Officer before or during the hearing. The original document is an exhibit and must be lodged with Records Management (see below for more information on dealing with hearing materials).

Non-Publication Orders for hearings may be prepared for closed hearings or public hearings where the evidence sought is restricted.

Hearing movement sheet

A Hearing movement sheet is completed by the hearing room orderly for each hearing day. The movements of all persons entering or exiting the hearing room whilst a hearing is in session is recorded.

Exhibit Register

An Exhibit Register is completed by the hearing room orderly for each hearing day. It is the responsibility of the hearing room orderly to record details of all exhibits tendered or admitted within this document.

Hearing notes

Hearing notes should be maintained by the hearing room orderly for each witness attending a hearing. The notes should contain a summary of the witness's evidence (including any orders made by the Presiding Officer or legal argument during the hearing).

List of Authorised Persons (for closed hearings)

A list of persons authorised to be present at a closed hearing is prepared in relation to each witness. This document must contain the full names of all persons who are allowed to be present in the hearing room as well as in any other room where the hearing may be viewed or accessed.

At the commencement of each closed hearing, the hearing room orderly should email the security team a copy of this document, as well as any amendments made thereafter.

4.4.2 Hearing logistics

Hearing enquiries

Any prior enquiries about a hearing are handled by the following staff:

- for administrative issues: the hearings support officer
- for legal issues: Counsel Assisting.

Scheduling a hearing

The Counsel Assisting advises the hearings support officer when the hearing should be scheduled, based on their availability and that of the Presiding Officer.

The following officers must be included in the invitation:

- Presiding Officer
- Counsel Assisting



- Hearing room orderly
- Relevant security staff.

Any parking arrangements for attending Queensland Police Service (QPS) Officers, Sessional Commissioners and prison vans are also made through the invitation.

Location of hearings

Hearings can be held anywhere in Queensland, usually at a place proximate to the location of the majority of witnesses. However, other factors may determine the location of a hearing or the examination of particular witnesses, including:

- location of witnesses
- tactical considerations
- security considerations
- public interest in the hearing, balanced against the need for privacy of the hearing.

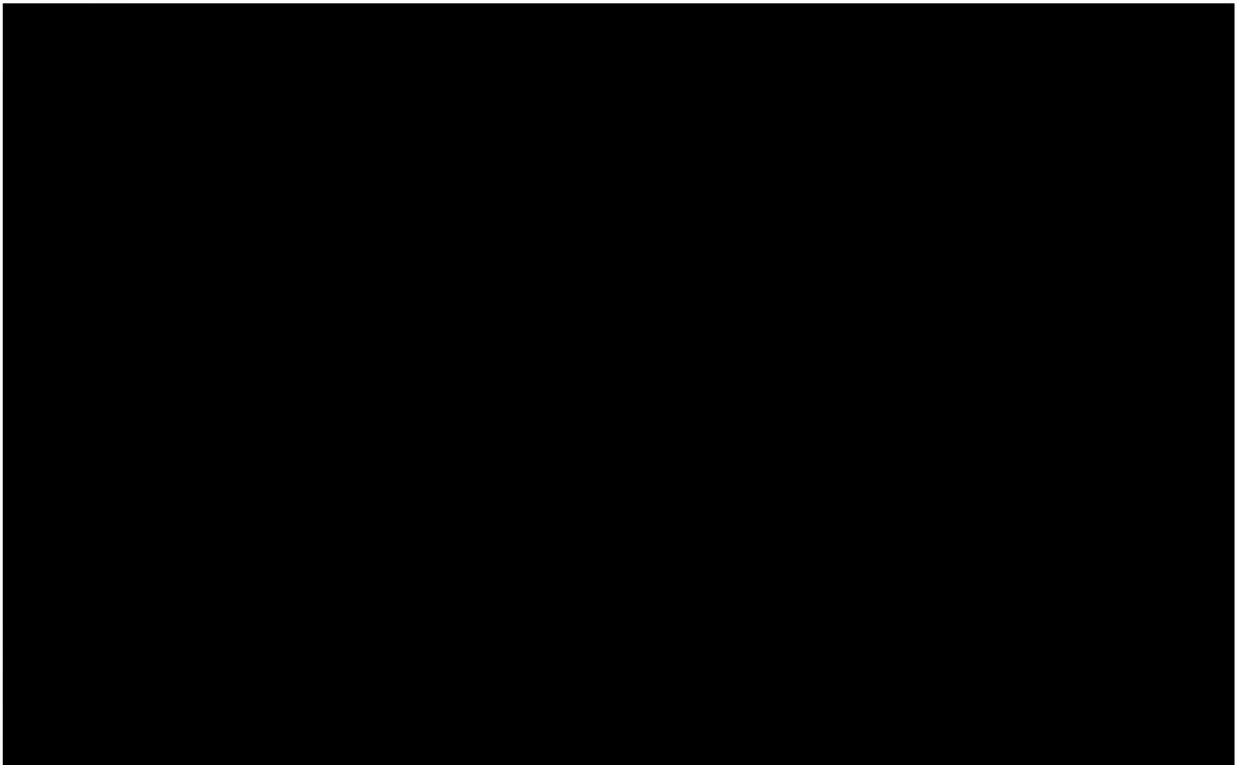
Any tactical considerations that may impact the venue for the hearing should be the subject of discussion between relevant internal or external stakeholders, Counsel Assisting and for crime, the Executive Director, Crime Hearings and Legal.

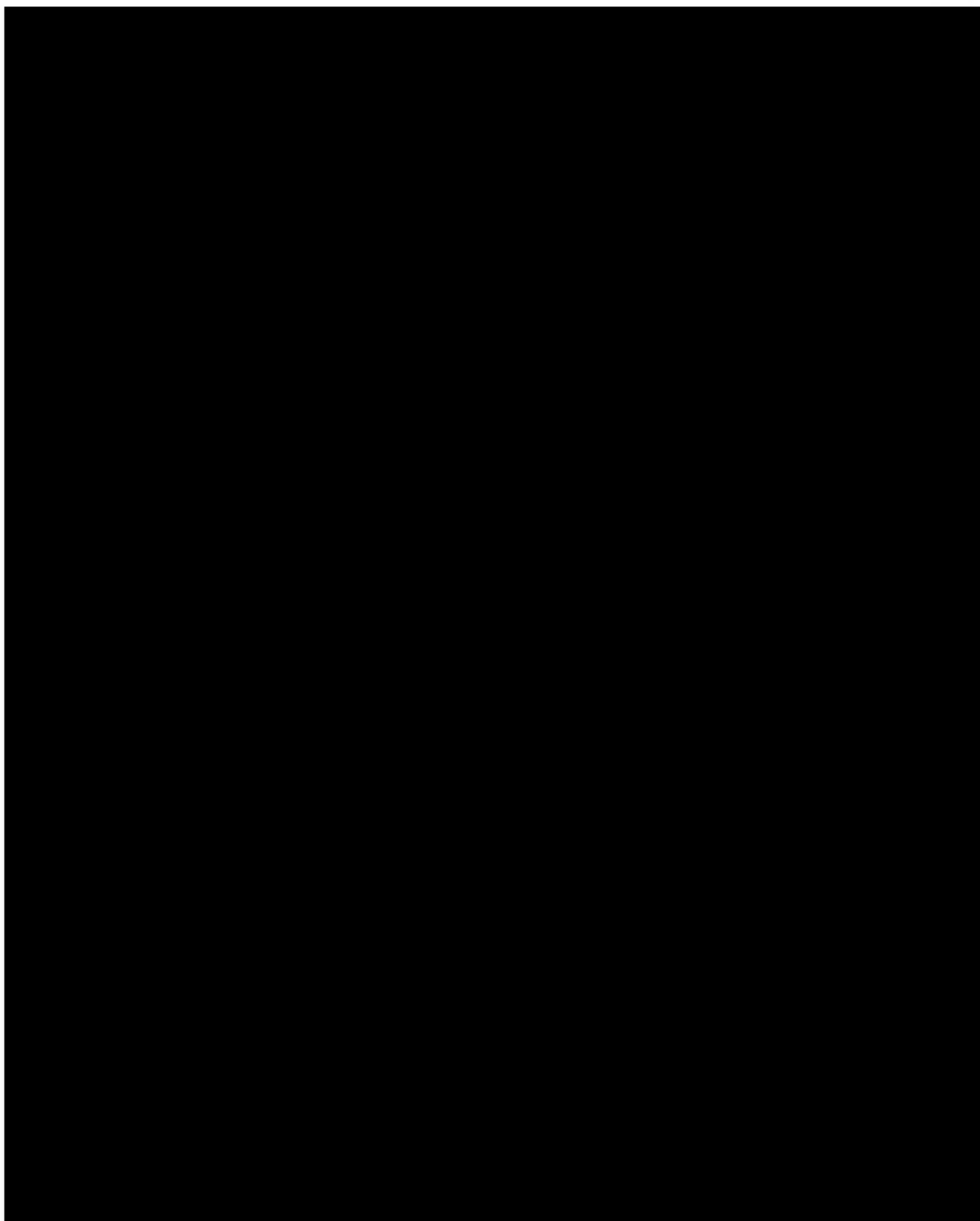
Hearings in Brisbane are generally conducted at CCC premises. In regional locations, hearings may be held in local courthouses, or other venues identified as suitable for the type of hearing being conducted and the nature of the witnesses to be called.

Duration of hearings

The duration of individual witness examinations varies greatly, depending on the range and depth of issues to be covered.

In complex matters, multiple brackets of witness examinations may be held over a number of months, with the overall direction of the hearing program reviewed and adjusted over time to take account of examinations already held and other developments in the investigation.





4.5 Conducting a hearing

4.5.1 Roles and responsibilities during a hearing

Role of the Presiding Officer



The Presiding Officer is responsible for ensuring that the hearing is conducted appropriately, fairly, and defensibly. They must exercise this responsibility in the interests of the longer term protection of the hearings power and the admissibility of evidence gained through the hearing process.

Role of Counsel Assisting

The role of Counsel Assisting during the hearing is to direct the hearing line of enquiry in the most successful direction. Counsel Assisting ask the majority of the questions and challenge, where appropriate, the evidence given by the witness.

Role of hearings team and QPS investigators

The role of the hearings team (either QPS or CCC based) during the hearing includes:

- being present (either in the hearing room or monitoring externally) to facilitate the questioning of witnesses
- on some occasions, being present to supplement witness security measures including by escorting witnesses into and out of hearing rooms and secure waiting areas.

Role of Security and Facilities Coordinator

The Security and Facilities Coordinator provides assistance in regards to witnesses as follows:

- processing the witness each time they enter the CCC tenancy according to their threat level
- coordinating with the hearing room orderly in relation to the movement of the witness or their legal representation in and out of the hearing.

The Security and Facilities Coordinator also assists hearing staff with ensuring other treatments are in place (for example, advising if external Police have arrived) and monitoring the hearing and any duress alarms.

Role of the hearing room orderly

The hearing room orderly is responsible for the day-to-day administration of the hearing, including taking notes, along with document and evidence management.

Recording hearing participants

Hearing participants are recorded in the CMS.

4.5.2 Publication of proposed witness list and hearing hours for public hearings

At, or shortly prior to, the commencement of each week of a public hearing, the CCC may publish on its website a list of witnesses proposed to be called that week. The scheduling of witnesses as published may be subject to change from time to time.



4.5.3 Documents tendered at the commencement of a hearing

Prior to the first hearing commencing, the hearing room orderly must ensure that the Presiding Officer sees or has access to a copy of the current authorisation permitting them to preside in that hearing under the CC Act.¹⁴

At the commencement of a hearing, the following document is tendered by Counsel Assisting:

- Authorisation to Hold a Hearing, or
- Authority to Undertake a Specific Intelligence Operation.

The following documents are tendered and admitted as exhibits:

- the service copy of the Attendance Notice (s.82) relating to the witness who is then being called
- if the witness is a prisoner, the service copy of the Notice to Produce a Prisoner (s.83(1)) relating to the witness who is then being called
- for closed hearings, a List of Authorised Persons who can attend the hearing (this should be admitted each day the hearing sits or for each new witness).

The Counsel Assisting tenders the relevant Attendance Notice (s.82) and is invited to make opening remarks as to the relevance of the witness and the forensic purpose of the examination.

At the start of the hearing, the Presiding Officer addresses the witness and advises them of his or her rights and obligations and makes any necessary orders under ss.180(3) (Request and Authority to Disclose CCC Hearing Information, refer to section above for more information) and 197(5) of the CC Act. The Presiding Officer also hears and rules upon any submissions made by the legal representatives of the witness, if applicable.

If a witness does not attend a hearing without reasonable excuse, an application may be made to a magistrate for the issue of an arrest warrant for the witness.¹⁵

4.5.4 Dealing with witnesses during a hearing

Legal representation

Witnesses may have legal representation in a CCC hearing.

In some cases the CCC may exclude particular legal representatives to avoid any prejudice to the investigation. This may occur where, for example, the same firm of solicitors may be seeking to act for successive hearings witnesses, or may seek to represent a witness when they are already acting for a suspect or a person charged in an investigation.

Witnesses may apply to the Attorney-General for financial help in obtaining legal assistance.¹⁶ The relevant information in this regard is contained in the Attendance Notice.

Witness rights and obligations

Witnesses are required to take an oath or affirmation.

Witnesses must not remain silent or refuse to answer a question.

If a witness refuses to be sworn or answer a question, they may be in contempt (refer to Contempt section below for further information).

¹⁴ s.178(3) of the CC Act

¹⁵ s.167 of the CC Act

¹⁶ s.205 of the CC Act



The privilege against self-incrimination may be overridden in a CCC hearing, although if the presiding officer makes an order under s.197 of the CC Act, a self-incriminating answer is not admissible in evidence against the witness in any criminal, civil, or administrative proceedings. The answer may, however, be used against a third party (refer to Claims of privilege section below for further information).

A claim of reasonable excuse may, if upheld, provide the basis upon which a witness can refuse to answer a particular question.

There is no derivative use immunity (i.e. derivative evidence that is obtained because of information provided by a witness in a hearing may be used in subsequent proceedings against the witness). For example, if a hearing identifies a new line of inquiry, it may be investigated and admissible evidence gathered from it¹⁷.

Examination and cross-examination of witnesses

All witnesses at a hearing are called and examined by the Counsel Assisting.

At the discretion of the Presiding Officer, the witness may be cross-examined by or on behalf of any person considered to have sufficient interest to do so, and by their legal representative. Counsel Assisting may re-examine.

Claims of privilege

The process for assessing a witness' claim of privilege in refusing to answer a question differs between crime and corruption hearings.

If privilege is claimed:

- in a corruption hearing: the onus is on the witness to prove the basis of privilege. The CCC must apply to the Supreme Court to have the basis of the privilege rejected.
- in a crime hearing: the Presiding Officer rules as to whether to accept the claim. If the claim is not accepted, the witness may apply to the Supreme Court for leave to appeal the decision¹⁸.

Contempt

If a witness refuses to answer a question or comply with a requirement, the Presiding Officer can hold them in contempt.

To have the contempt certified, the Counsel Assisting prepares paperwork seeking a certification of the contempt, which goes to the Supreme Court for consideration. The hearings team works with the Litigation Unit in regards to the paperwork while it is being processed.

4.5.5 Tendering and inspection of documents

Subject to the control of the Presiding Officer, Counsel Assisting determines whether and which documents are to be tendered, and when they are tendered.

Any person wishing to have a document placed before the CCC at a public hearing must notify the CCC by providing a copy of the document to the Counsel Assisting who decides whether to tender the document. An application may be made directly to the Presiding Officer to tender a document only if Counsel Assisting has indicated that the document will not be tendered.

¹⁷ S.197(7) of the CC Act

¹⁸ S.195 of the CC Act



Inspection of documents – public hearings

At a public hearing, any person (or legal representative of that person) who is authorised to appear before the CCC may request to inspect and copy any book, document or writing tendered in evidence (and not subject to any relevant order restricting publication or access) for the purpose only of appearance before the CCC.

CCC staff may require suitable arrangements are made with the person seeking inspection and/or copying of tendered documents, including the costs of any such copying, before permitting access to the document(s).

Documents and other articles may be tendered to the CCC, by Counsel Assisting and received into evidence outside a formal hearing of the CCC.

4.5.6 Dealing with hearing materials

The use and dissemination of information produced during a hearing must be carefully managed to ensure the protection of the witness, or to prevent the undermining of other judicial processes.

Hearing materials may be:

- pre-hearing Authorities
- applications and Attendance Notices
- dissemination Authorities
- SEPA documents
- memorandums
- letters of correspondence
- the actual answers given (and any documents or things produced) by the witness during their examination
- the audio/video recordings of the examination
- transcripts of the recordings
- notes of what occurred during the hearing
- the Request and Authority to Disclose CCC Hearing Information (s.60(2) and s.202(1)).

Dealing with evidence

Materials produced as evidence by a witness either voluntarily, in response to an Attendance Notice (under s.82) or a direction given by a Presiding Officer (under s.75B) are property and must be dealt with as property in accordance with the relevant policy and procedure. Refer to MP12 – Property management for more information.

If evidence produced during a hearing is to also be tendered as an exhibit, a copy must be made. Original property items must not be tendered as exhibits.

Original property items may be shown to a witness, for example to identify an original document or handwriting. However, only a copy or duplicate of an original property item is to be used for tendering or marking purposes.

If there has been no prior notice of the item produced by a witness under an Attendance Notice, or there has been insufficient time to register the item produced with Property Control (because it was produced in the course of the hearing), the hearing room orderly is responsible for completing a property receipt, making a copy of the item and delivering the original item and receipt to Property Control for registration.

Dealing with exhibits



Exhibits tendered during public or closed hearings are lodged with Records Management. As above, if evidence is also to be tendered as an exhibit, a copy of the evidence must be tendered, not the original, which is lodged with Property Control.

At the end of each hearing day, an exhibit register is generated outlining each exhibit item. The exhibit register is maintained by the relevant hearings team. The physical exhibits outlined in the exhibit register must be lodged with Records Management at the end of the hearing program or where there is a time lapse between scheduled hearings for the same matter.

Hearing exhibits are recorded in the CMS.

4.5.7 Security requirements during a hearing

The Presiding Officer is responsible for confirming that security measures outlined in the Hearing Security Risk Assessment strategies are in place prior to the commencement of the hearing. For example confirming whether QPS officers are present to provide extra security as outlined in the security risk assessment.

If Counsel Assisting or the hearing room orderly identifies that the security arrangements do not reflect the arrangements identified in the assessment, they must brief the Presiding Officer on the issue.

In either circumstance, if the Presiding Officer decides that the arrangements do not reflect those in the checklist, then they make a decision as to whether the hearing proceeds, is adjourned or what other arrangements may be made to ensure that appropriate security measures are in place.

4.6 Concluding a hearing

At the conclusion of a hearing, the Presiding Officer excuses the witness from further attendance or orders their return in the future, either at a time specified or at a time to be determined. The Presiding Officer then formally adjourns the hearing.

Documentation

At the conclusion of the hearing, the hearing room orderly is responsible for processing all of the relevant paperwork and providing it to Records Management or Property Control. This includes:

- a copy of the completed Oath of Service attached to the corresponding Attendance Notice, as well a copy of the completed Oath of Service attached to the corresponding Notice to Produce a Prisoner for a witness who is a prisoner
- the original Application for the Issue of an Attendance Notice for each witness
- Exhibits with sensitive content must be sealed beforehand.

For more information on dealing with hearing documents, refer to Dealing with hearing materials section above.

4.6.1 Witness expenses

Certain people attending a Commission hearing or inquiry are entitled to reimbursement of expenses incurred, and compensation for their time in accordance with the *Uniform Civil Procedure (Fees) Regulation 2009*. This includes costs related to:

- travelling to and from the hearing or inquiry, and
- accommodation and meals when the person is necessarily absent from their place of residence to attend a hearing.



Hearing attendees entitled to claim expenses include:

- non-professional witnesses
- professional or expert witness
- doctors employed under the *Hospital and Health Boards Act 2011* as a health service employee at a public sector hospital
- interpreters.

The allowance is paid for each day of necessary absence from the person's place of employment, practice or residence. Allowances are scaled according to the numbers of hours of necessary absence, up to a maximum daily allowance. Where a scaled allowance applies, travel time must be taken into account when deciding the amount.

For more information on calculating witness expenses, refer to Witness expenses (policy & procedure).

Processing of expense claims

To process expense claims, the *F006 - Witness payment voucher*, is completed. The Declaration in support of a claim for witness expenses section must be signed and dated by the relevant person and supporting receipts attached where possible.

The Witness payment voucher is approved by an officer with the appropriate financial delegation,¹⁹ and forwarded to Finance and Administration for payment.

4.7 Post hearing procedures

4.7.1 Post- hearing submissions for a public hearing

At the conclusion of a hearing, orders may be made regarding the provision of oral or written submissions post-hearing. Typically, such orders relate to written submissions.

The orders may limit the content of submissions to particular topics or issues, which may be addressed, and may impose time or page limits on submissions.

Any orders typically require Counsel Assisting to provide written submissions within 14 days of the close of evidence and all other parties to provide their written submissions 14 days thereafter.

Unless otherwise ordered, all written submissions are subject to a non-publication order permitting publication or communication only to the CCC, the parties involved in the public hearing and their legal representatives, or by CCC officers for statutory purposes or pursuant to further order of the CCC.

4.7.2 Recording transcripts

During the hearing, audio or video recordings may be made. This is to be transcribed at the conclusion of the hearing.

Any audio or video recordings are to be recorded in the CMS.

¹⁹ Refer to Financial management delegations register

4.7.3 Finalising and closing a hearing

For more information on closing a matter refer to: MM01 – Matter management, planning and conduct.

4.7.4 Use of hearing information

Closed hearing

Once a witness is called to a CCC hearing, the default legal position is that their evidence must not be published without the CCC's written consent or contrary to the CCC's order.²⁰

Accordingly, to permit officers of the CCC, the QPS or any other agency with an interest in the investigation to use or to act on the information that was given in a closed hearing it must be appropriately published to them.

The Authority to Disclose CCC Hearing Information (s.60(2) and s.202(1) usually permits hearing materials to be included in briefs of evidence for criminal prosecutions and used in the course of such prosecutions. Refer to the section, Request and Authority to Disclose Hearing Information for further information.

For more information on disclosure and use of hearing materials refer to MM04 – Disclosure and requests for information.

Public hearing

In respect of all evidence, oral and documentary, the following ruling applies until vacated either generally or in respect of particular evidence:

- a) the testimony of any witness before the CCC may be published unless an order is made prohibiting the publication of particular evidence
- b) any person (or the legal representative of that person) having leave to appear before the CCC will have access to any book, document or writing tendered in evidence for the purpose only of appearance before the CCC and subject to any other direction made by the CCC
- c) for the purpose of and to the extent necessary for the public reporting of the proceedings of the CCC, any authorised representative of a newspaper, magazine, radio station, online publication or television channel may inspect and take extracts from any book, document or writing tendered in evidence after it has been notified as available for inspection by counsel assisting, subject to the condition that:
 - o it not be used or permitted to be used for any purpose other than the public reporting of the proceedings of the CCC; and
 - o any part of the contents thereof indicated by counsel assisting as unsuitable for publication must not be published without the leave of the CCC. Such leave can be sought, for example, if there is a restriction, which is believed to obstruct proper reporting of any matter of significance. Any application for leave should be made in writing, in the first instance, to the Secretary.

5. Definitions

²⁰ by virtue of s202 of the Act, and a Presiding Officer's order under section 180(3) of the Act



CC Act	<i>Crime and Corruption Act 2001</i>
Commission	The five member Commission, including the Chairperson
Consent to Publication order	issued under s.60(2) of the CC Act, these orders set out the range of investigative or intelligence purposes for which hearings materials may be used.
Counsel Assisting	A lawyer is responsible for project managing the conduct of the hearing
CRC	Crime Reference Committee
Hearing	A hearing conducted by the CCC under Chapter 4 of the <i>Crime and Corruption Act 2001</i>
Hearing materials	A hearing material is any thing or document produced during the course of the hearing.
Presiding Officer	the relevant SEO, relevant Executive Director ²¹ or a Sessional Commissioner or other authorised officer who conducts the hearing.
SEPA	<i>Service and Execution of Process Act 1992 (Cth)</i>
Service officer	An officer responsible for service of an Attendance or Production Notice

6. Forms

Document reference	Document title
MP03-Form 1	Application for Authorisation to Hold a Hearing (s.176)
MP03-Form 2	Authorisation to Hold a Hearing (s.176)
MP03-Form 3	Application for the Issue of an Attendance Notice (s.82)
MP03-Form 4	Attendance Notice (s.82)
MP03-Form 5	Notice to Produce a Prisoner (s.83(1))
MP03-Form 6	SEPA Form 5 Notice to Witness
MP03-Form 7	Non-Publication Order (closed hearing) (s.180(3))
MP03-Form 8	Hearing Witness Risk Assessment
MP03-Form 9	Hearing Risk Management Plan
MM04-DIS-02	Request to Disclose CCC Hearing Information (s.60(2) and s.202(1)) Authority to Disclose CCC Hearing Information (s.60(2) and s.202(1))

²¹ Executive Director, Corruption Strategy, Prevention and Legal, or Executive Director, Crime Hearings and Legal



F006 - Witness payment voucher (CCC Finance form)

7. Related policies and procedures

- IM01 – Portfolio assessment and review
- IM03 – Assessment of matters
- MM01 – Matter Management, Planning and Conduct
- MM03 – Matter reports and Publication
- MM04 – Disclosure and requests for information
- MP12 – Property Management
- Getting results: using the CCC coercive hearings power to assist your investigations (QPS document)
- Practice Guideline – Conduct of Public Hearings
- CCC Delegations Register
- Closed/Public Hearings – Request for Chairperson to Preside procedure
- Engaging external counsel and solicitors and procedure
- Financial management delegations register
- Witness expenses (policy & procedure)

Legislative references

- *Crime and Corruption Act 2001*
- *Acts Interpretation Act 1954*
- *Evidence Act 1977*
- *Mental Health Act 2000*
- *Service and Execution of Process Act 1992 (Cth)*
- *Uniform Civil Procedure (Fees) Regulation 2009*

8. Administration

Responsible officer:	Executive Director, Crime Hearings and Legal	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	November 2021	Review date:	November 2024





Crime and Corruption
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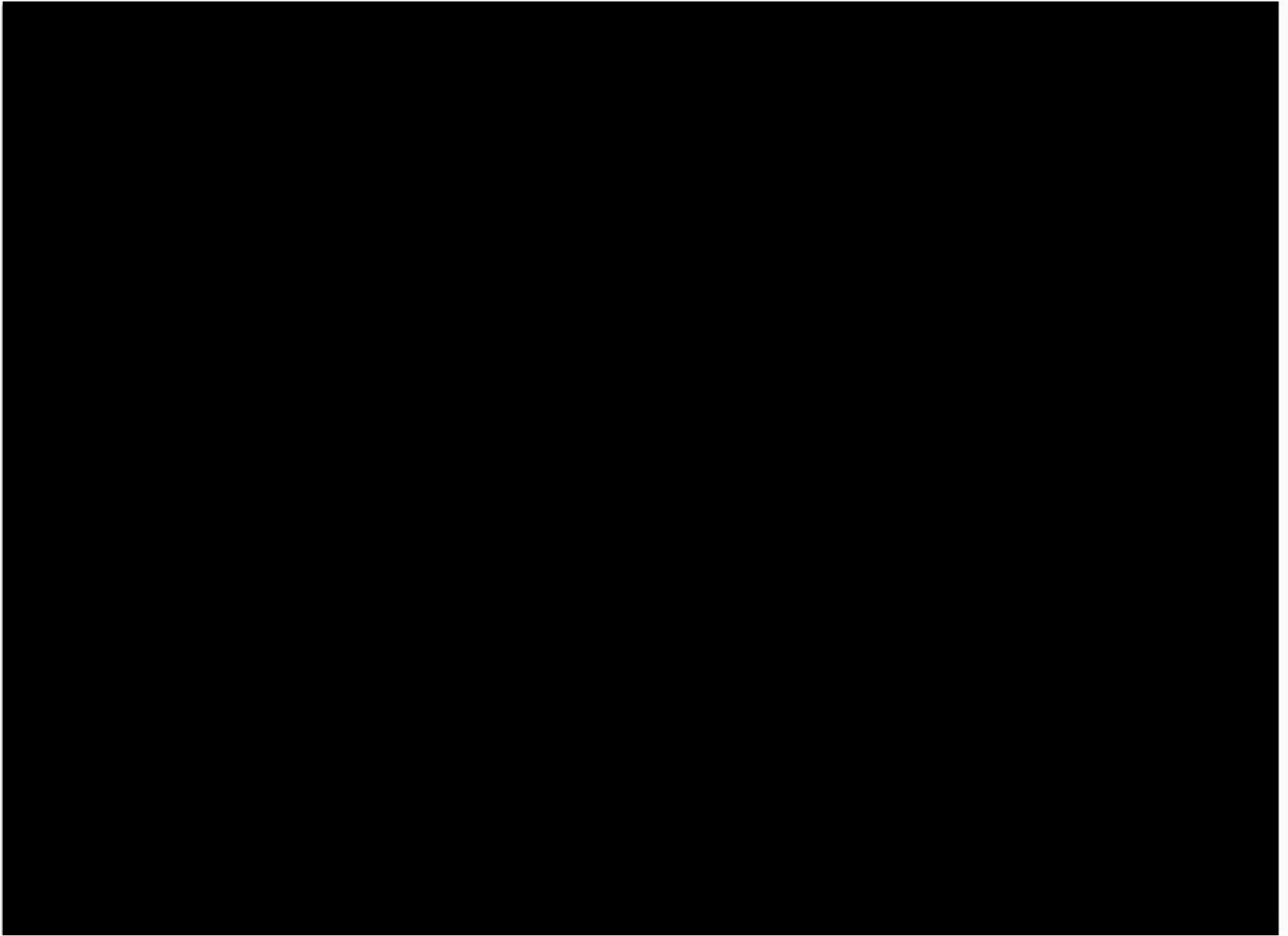
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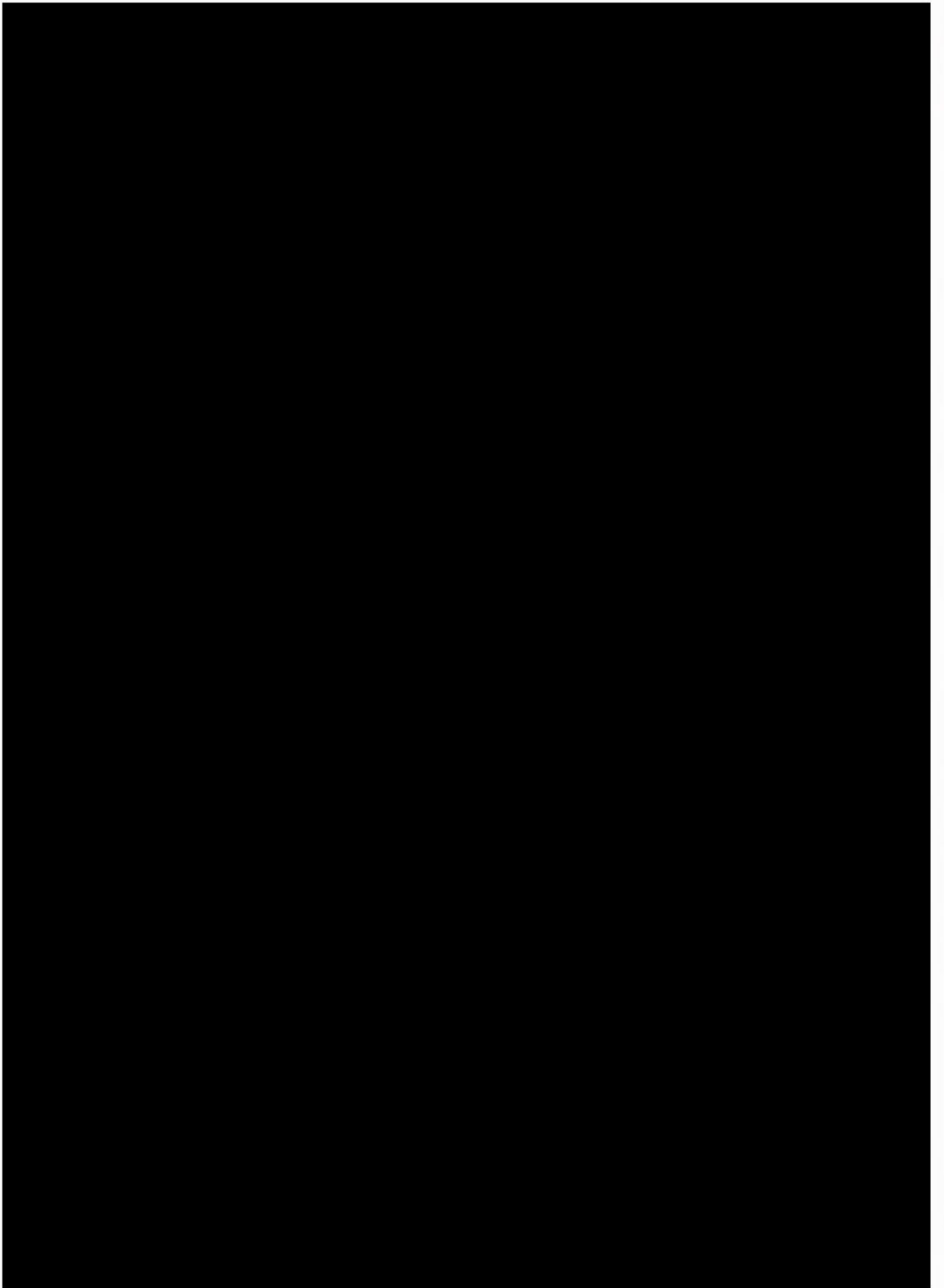


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MP04







the 1990s, the number of people in the UK who are aged 65 and over has increased by 1.5 million, and the number of people aged 75 and over has increased by 1 million (Office for National Statistics 1999). The number of people aged 65 and over is projected to increase to 10.5 million by 2026, and the number of people aged 75 and over to 5.5 million (Office for National Statistics 1999).

There is a growing awareness of the need to develop strategies to meet the needs of the ageing population. The Department of Health (1999) has published a strategy for ageing, which sets out the government's commitment to improve the lives of older people. The strategy is based on three main principles: (1) to ensure that older people have the opportunity to live independently and actively; (2) to ensure that older people have access to the services and support they need; and (3) to ensure that older people are treated with respect and dignity.

The strategy is based on the following assumptions: (1) that older people are a diverse group with different needs and interests; (2) that older people should be able to live independently and actively; (3) that older people should have access to the services and support they need; and (4) that older people should be treated with respect and dignity. The strategy sets out a range of measures to be taken to improve the lives of older people, including: (1) to improve the physical environment; (2) to improve the social environment; (3) to improve the financial environment; and (4) to improve the health and social care environment.

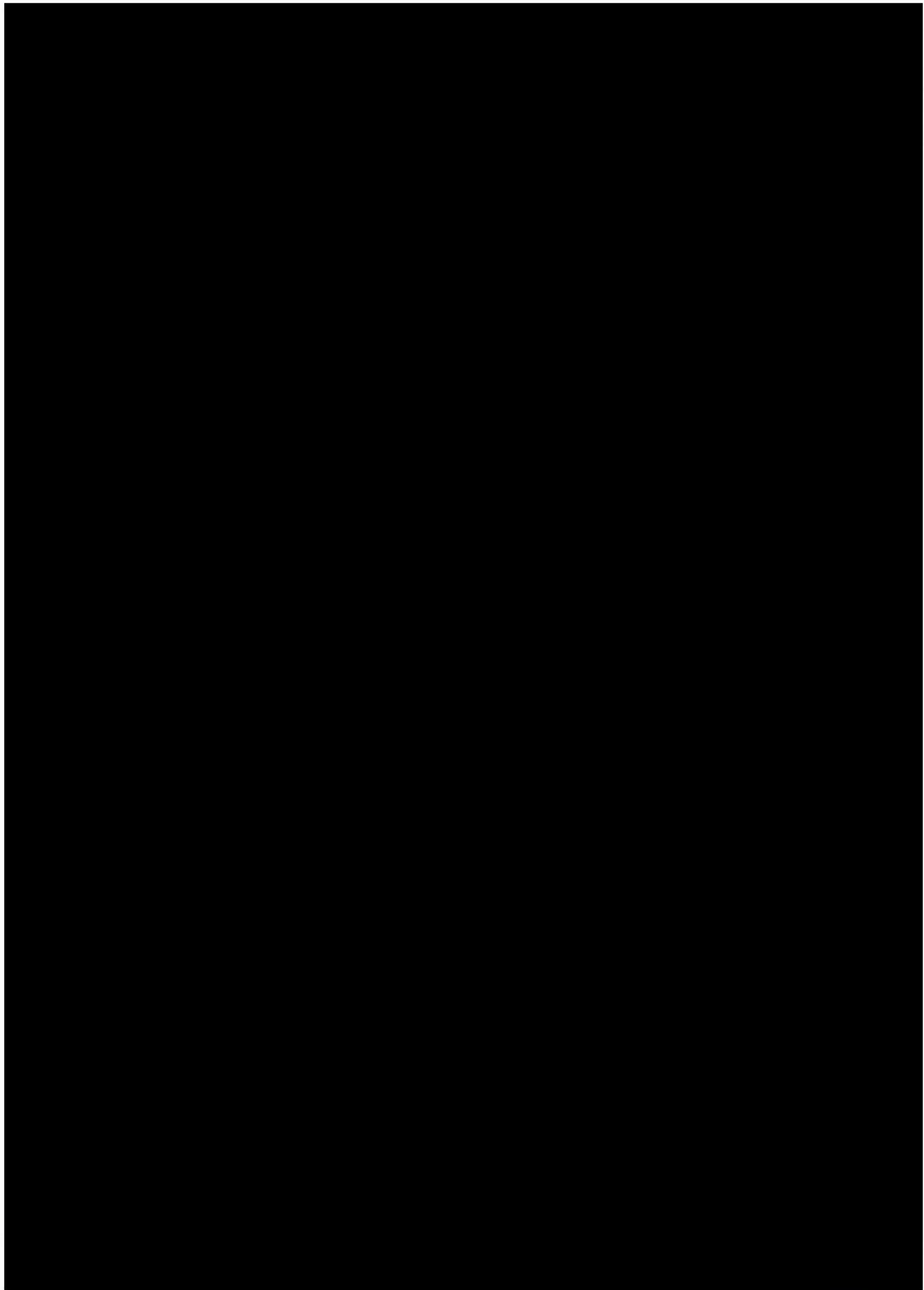
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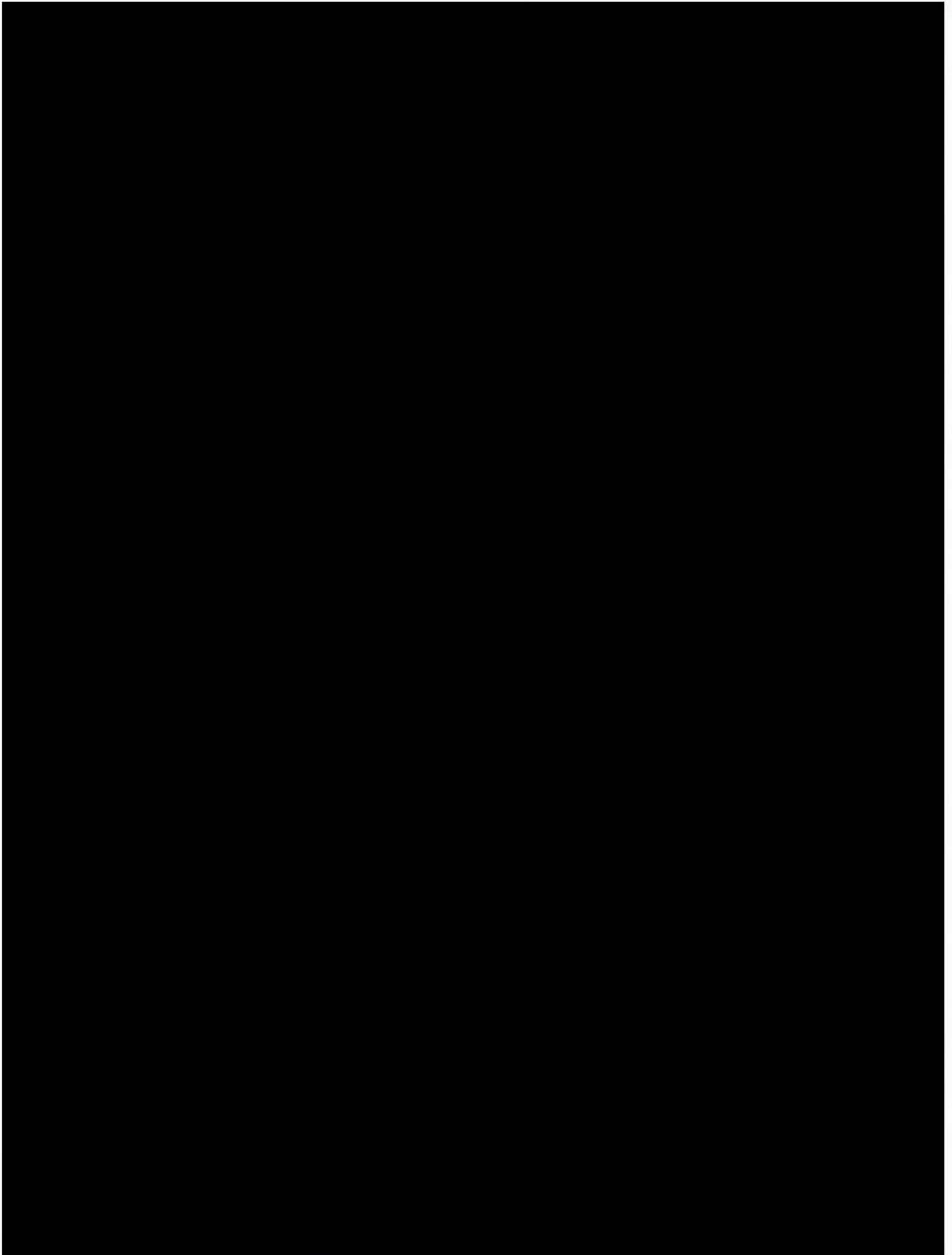
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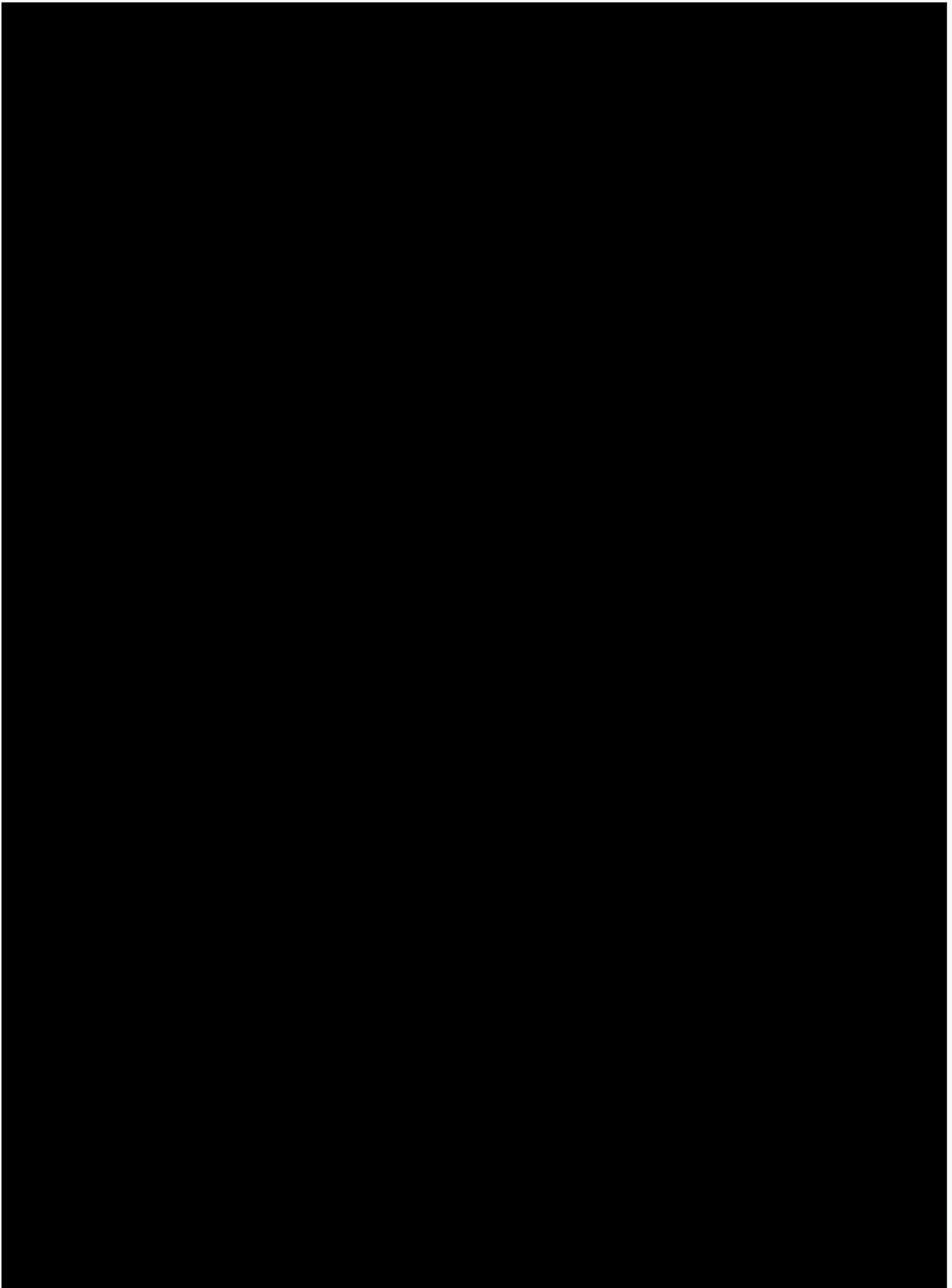


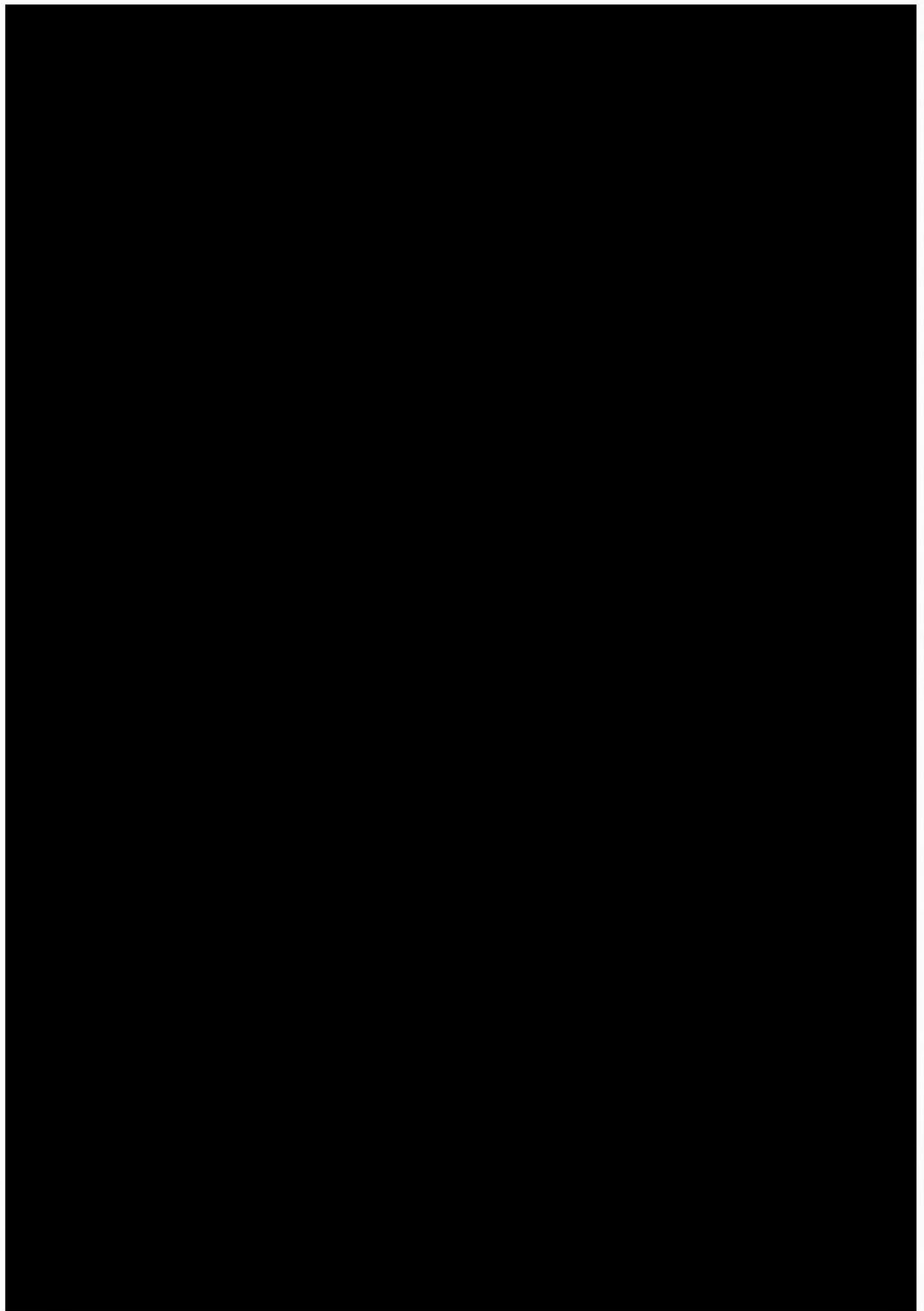
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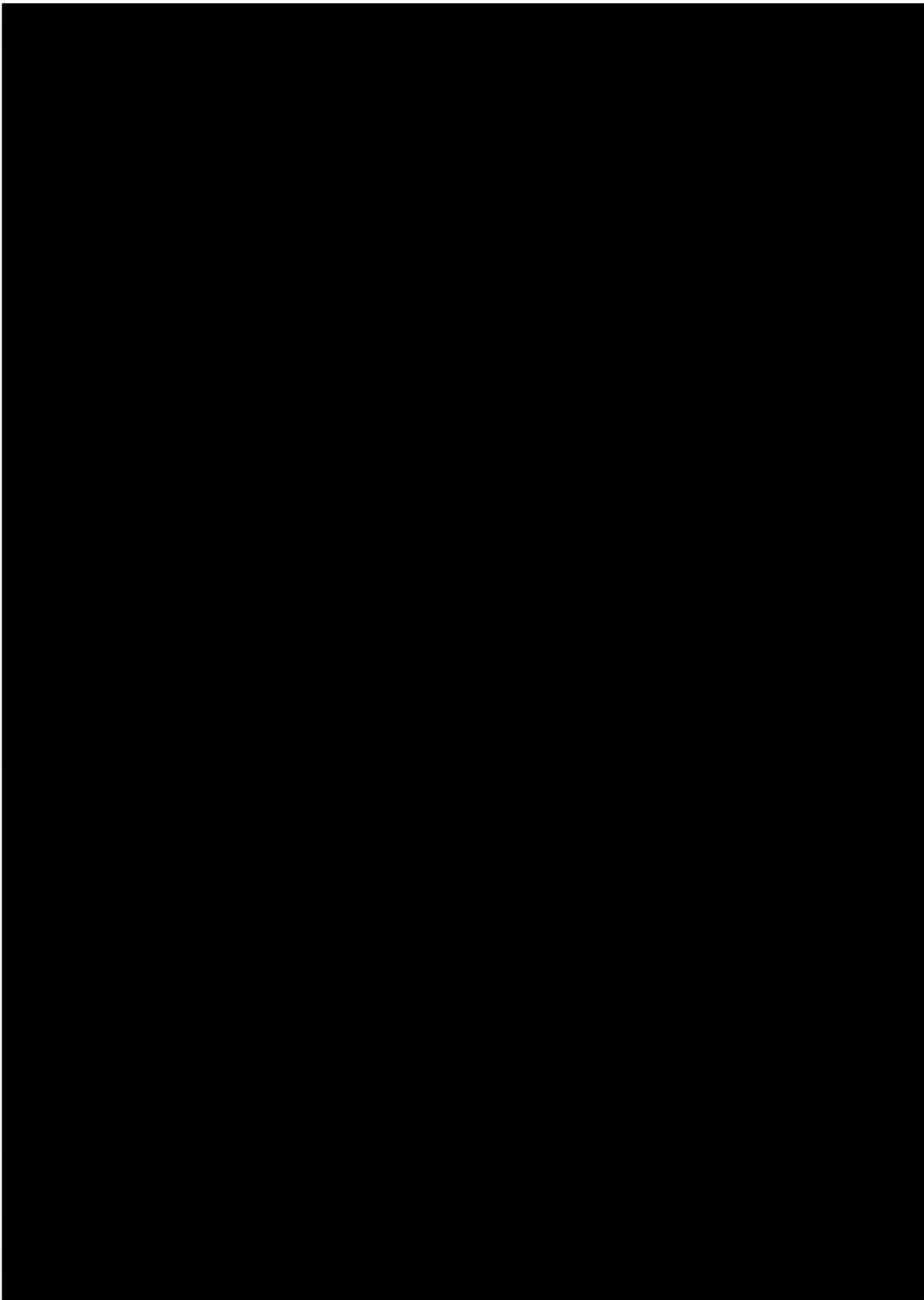
MP05











the first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these cities, the housing is overcrowded and of poor quality. This is a major cause of health problems, particularly in the case of children. Another problem is the lack of adequate sanitation. In many of these cities, there is no proper sewage system, and the waste is often dumped in the streets. This is a major cause of disease, particularly in the case of children. A third problem is the lack of adequate education. In many of these cities, there is no proper school system, and the children are often left without any education. This is a major cause of poverty, particularly in the case of children.

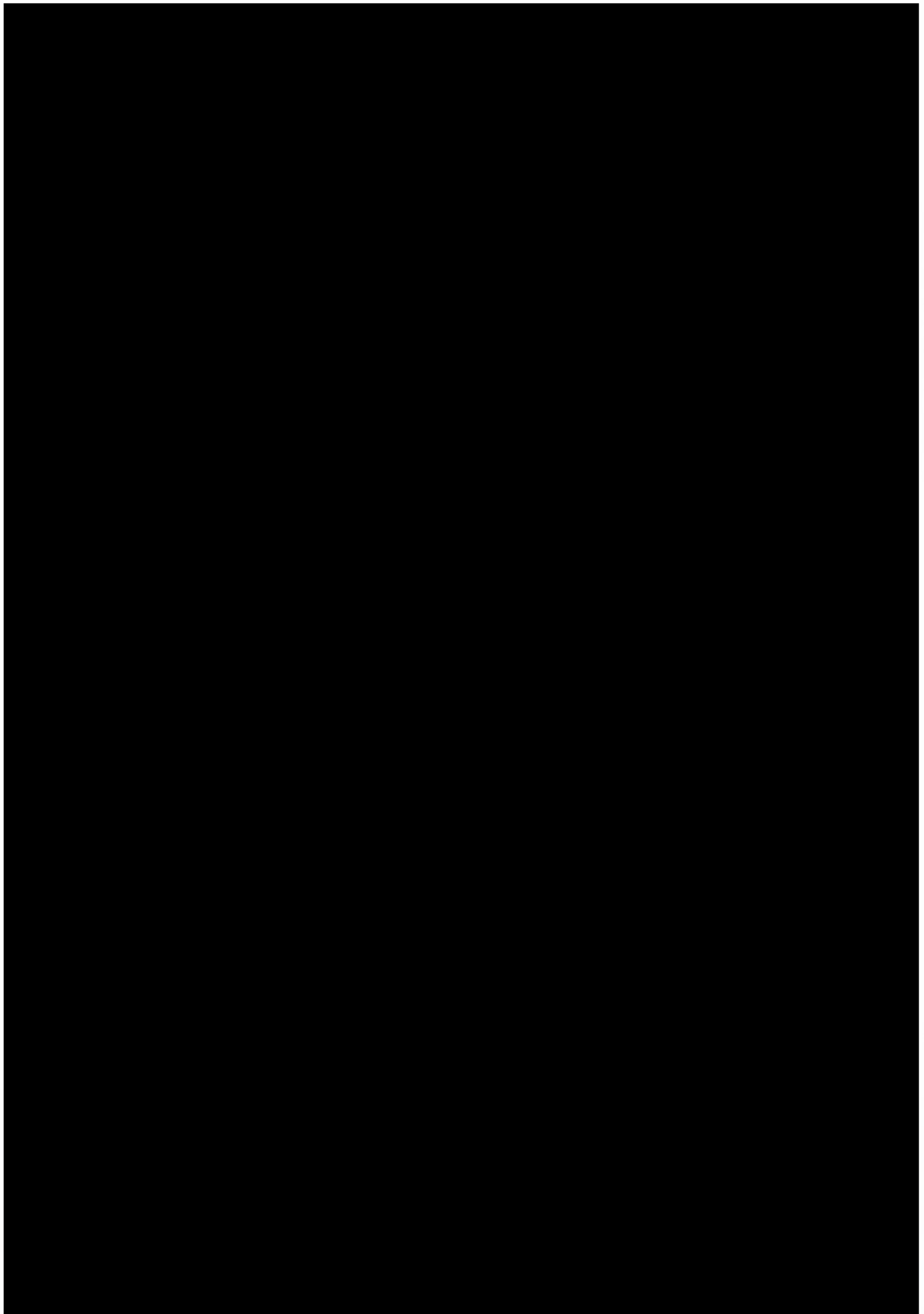
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Operations Manual

Part 3: Matter Practices (MP)

Section 6: **General collections**



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MP06 – General collections

1. Purpose

The purpose of this policy and procedure is to outline the requirements for managing evidence and information obtained from open sources, volunteered or generated by the CCC.

2. Application

This policy and procedure applies to all Commission officers involved in the collection of evidence that has been volunteered, collected from open sources or generated by the CCC.

This policy and procedure does not deal with the management of property seized under a power or authority.

3. Policy

The CCC's policy and standards for the collection of evidence is set out in Part 5, clause 5.1.2 and 5.2.3 of the Operational Framework.

4. Procedure

4.1 General principles

Evidence that is collected as a general collection under this section of the Operations Manual is categorised as follows:

- **Volunteered:** documents or property that is volunteered by a person
- **Open source information:** comprises of computer software, text, imagery, electronic files or other information that is available for public access from online sources and does not require a person to log in or provide personal information. This also includes information obtained from social media where login credentials are required.
- **CCC generated:** information, records, documents or electronic files that are produced during the course of an investigation. Examples include: a photograph or video taken in a public place by a Commission officer.

All open source and social media searches must comply with the *Information Privacy Act (IPA)*, which sets out privacy principles that govern the collection, use, disclosure, storage, security and accuracy of personal information. Refer to the *Right to Information and Information Privacy* policy and procedure for further information.

4.2 Evidence volunteered

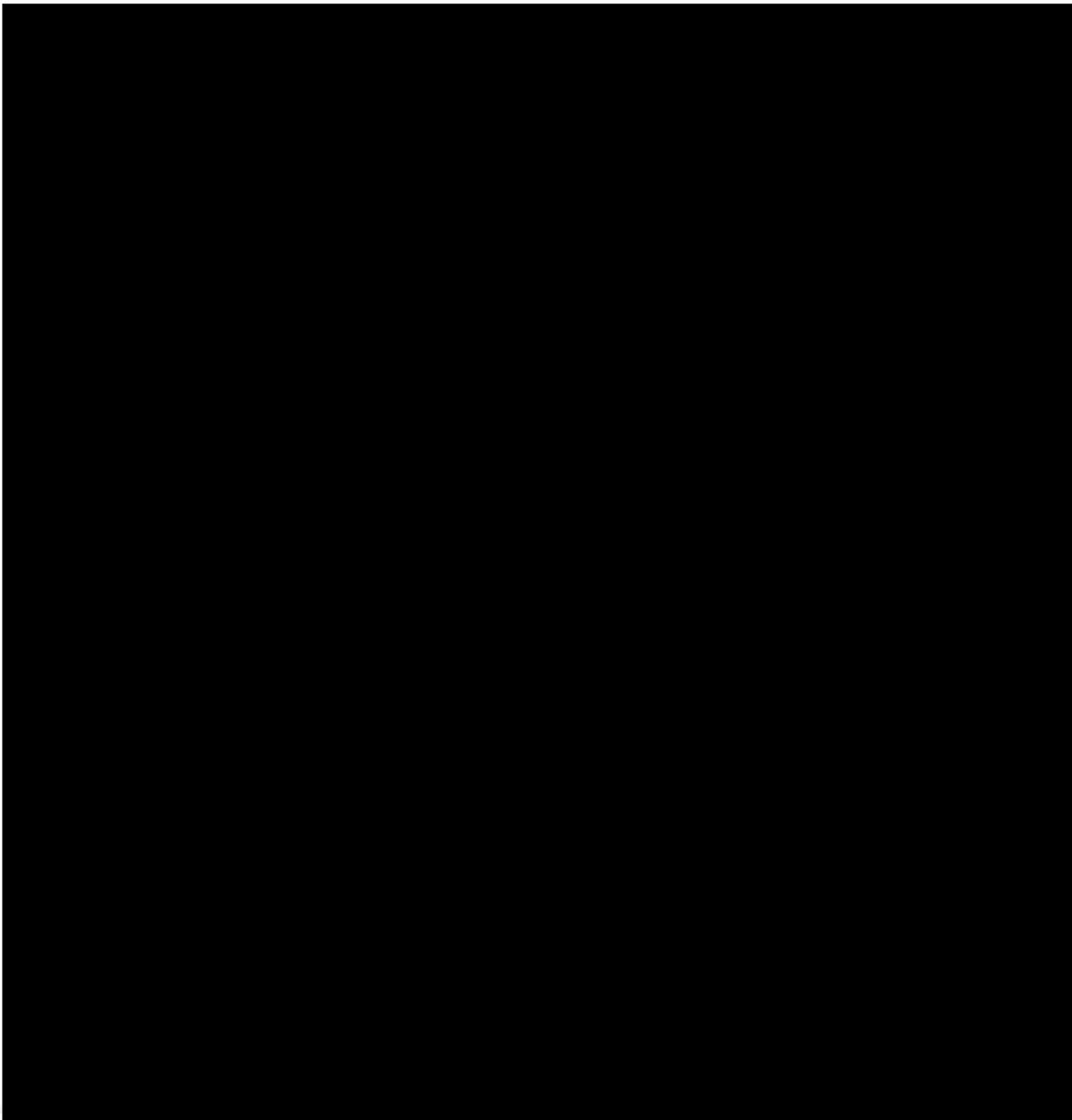
Any physical property volunteered by a person and that may assist in an investigation should be treated as evidence seized from a person under a lawful authority. Such property must be lodged with Property Control as a general collection. Refer to [MP12 – Property management](#) for further information.

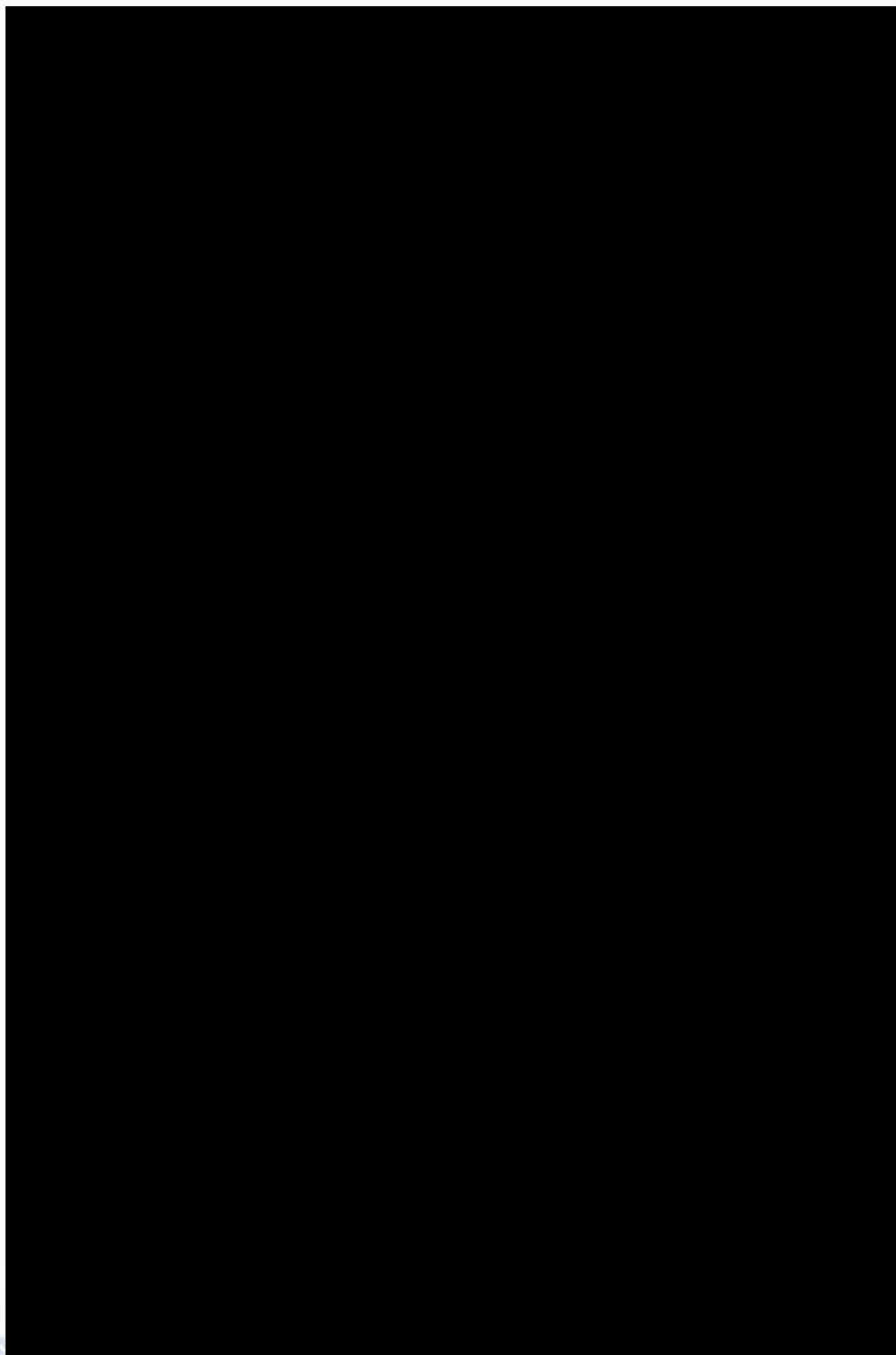


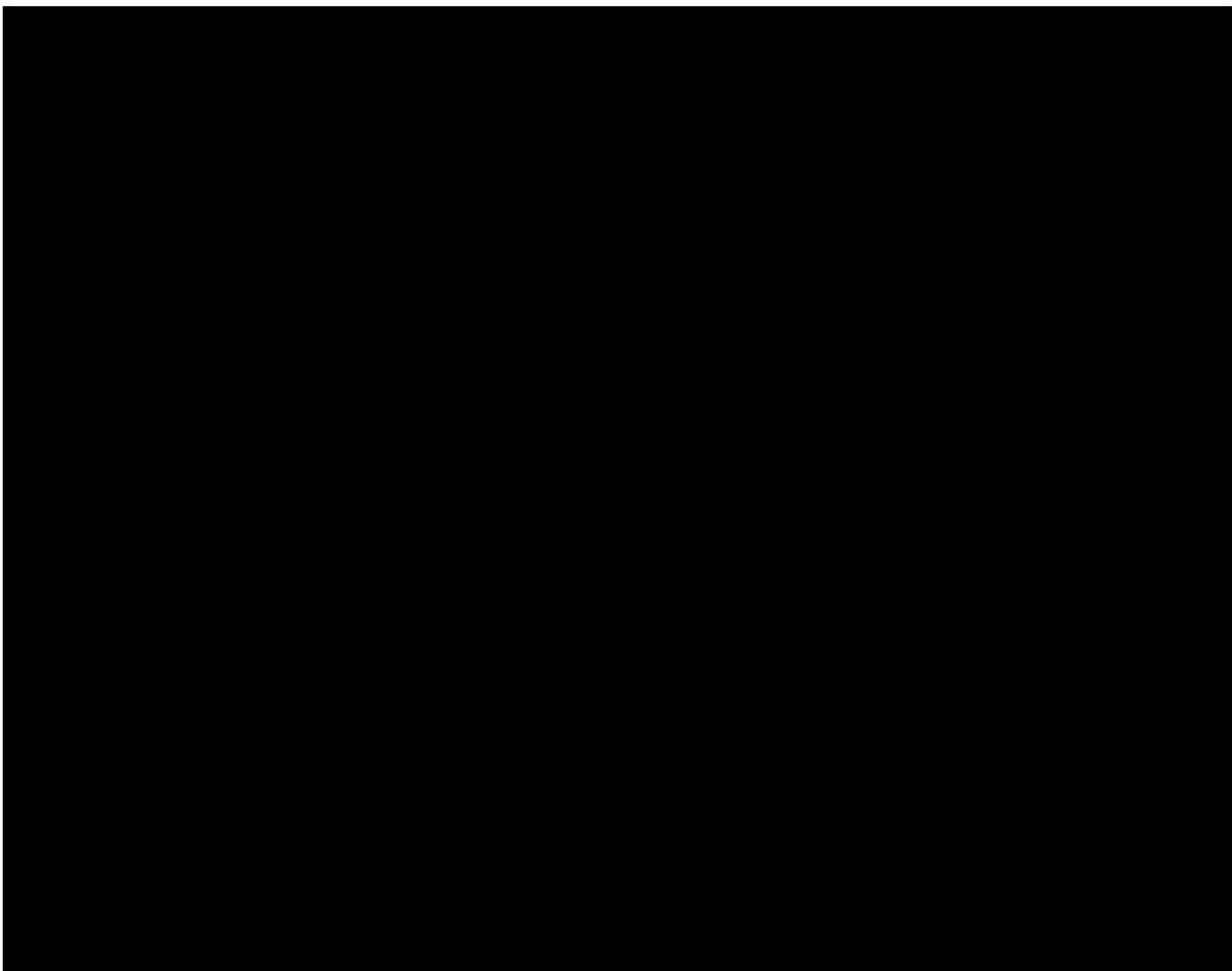
Examples of property that may be treated as a general collection include: CCTV footage, bank statements, diaries, letters, electronic storage devices, etc.

Information that is provided voluntarily should be recorded in the relevant case management system or eDRMS. This can be in the form of the investigation running sheet or note to file. [REDACTED]

Where electronic storage devices, mobile phones, etc. are volunteered and to download the information requires specialist forensic equipment, advice should be sought from the CCC Officer in Charge, Forensic Computing Unit (FCU). For further information relating to the forensic capture, processing and analysis, refer to MP10 – Electronic evidence.







4.4 CCC generated

Material generated by the CCC includes:

- Surveillance product categorised as follows:
 - Electronic surveillance device material obtained without a warrant
 - Physical surveillance material (logs, photographs and video)
 - Other CCTV footage generated by the CCC.
- Forensic computer records
- Field audio recordings from interviews, statements or search warrants and associated transcripts.

If physical property is generated, such as a USB containing electronic surveillance material, it is handled as a general collection for property lodgement purposes. Refer to MP12 – Property management for further information.

For further information on the collection and handling of CCC generated information, refer to MP10 – Electronic evidence, MP13 – Physical surveillance or MP14 – Electronic surveillance.



4.5 Retention and disposal of general collections

Information obtained as a general collection must be dealt with in accordance with the Retention and disposal of records procedure. For property items obtained, refer to [MP12 – Property management](#).

5. Definitions

Covert online persona	<p>An identity established for use in online communities and websites.</p> <p>For the purpose of open source information access, a persona is a user account created using fictitious information in order to gain access to a website, social media platform and/or online network that requires login credentials.</p> <p>Personas also include dummy accounts, false names, pseudonym accounts, alias accounts or activities implied in the term <i>covert use of social media</i>.</p>
General collection	Where property has been requested or acquired in circumstances where no power or authority has been exercised or relied upon or the property has been volunteered by a person.
Online Open Source Information	Publically available and unclassified external data sources or information. Comprises of computer software, text, imagery, electronic files or other information that is available for public access from online sources and does not require a person to log in or provide personal information. This also includes information obtained from social media where login credentials are required.
Social media engagement	<p>Social media engagement refers to all forms of communication or interaction including:</p> <ul style="list-style-type: none"> • Sending friend requests • Following other accounts • Making observational comments in public posts and forums.
Unauthorised use (websites)	Any website, chat room, forum, or electronic domain, which the access to by employees of the Queensland Government would be questionable in accordance with the Queensland Public Service Commission Use of internet and email policy , the Code of Conduct for the Queensland Public Service , and the Queensland Public Sector Ethics Act 1994 .

6. Forms

Nil.



7. Related policies and procedures

- MM01 – Matter management, planning and conduct
- MM04 – Disclosure and request for information
- MP01 – Witness interviews, statements and other communication
- MP10 – Electronic evidence
- MP12 – Property management
- MP13 – Physical surveillance
- MP14 – Electronic surveillance
- Use of ICT facilities and devices (policy)
- Right to Information and Information Privacy policy and procedure
- Retention and disposal of records
- Covert online persona for intelligence collection (work instruction)

Legislative reference(s)

- *Information Privacy Act 2009.*

Other references

- Public Service Commission, Use of internet and email policy
- Code of Conduct for the Queensland Public Service
- Queensland Public Sector Ethics Act 1994.

8. Administration

Responsible officer:	Director, Forensic Computing & Property Control	Accountable officer:	General Manager, Operations Support
Date approved:	May 2021	Review date:	June 2022



9. Appendices

9.1 Appendix A: Admiralty code

Source reliability		
A	Completely reliable	<ul style="list-style-type: none"> No doubt re authenticity, trustworthiness, competency. History of complete reliability.
B	Usually reliable	<ul style="list-style-type: none"> Some doubt re authenticity, trustworthiness, competency. History of reliable information majority of the time.
C	Fairly reliable	<ul style="list-style-type: none"> Usually some doubt re authenticity, trustworthiness, competency. History of reliable information some of the time.
D	Not usually reliable	<ul style="list-style-type: none"> Definite doubt re authenticity, trustworthiness, competency. History of occasional reliability.
E	Unreliable	<ul style="list-style-type: none"> Great doubt re authenticity, trustworthiness, competency. History of unreliable information.
F	Cannot be judged	<ul style="list-style-type: none"> Cannot be judged.
Information Validity		
1	Confirmed	<ul style="list-style-type: none"> Confirmed by other independent sources. Logical in itself. Agrees with other information on the subject.
2	Probably true	<ul style="list-style-type: none"> Not confirmed. Logical in itself. Agrees with other information on the subject.
3	Possibly true	<ul style="list-style-type: none"> Not confirmed. Logical in itself. Agrees somewhat with other information on the subject.
4	Doubtfully true	<ul style="list-style-type: none"> Not confirmed. Not illogical in itself. Not believed at time of receipt although possible.
5	Improbable report	<ul style="list-style-type: none"> The contrary is confirmed. Is illogical in itself. Contradicted by other information on subject.
6	Cannot be judged	<ul style="list-style-type: none"> Cannot be judged.





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MP07



the first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these cities, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these cities, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these cities, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.

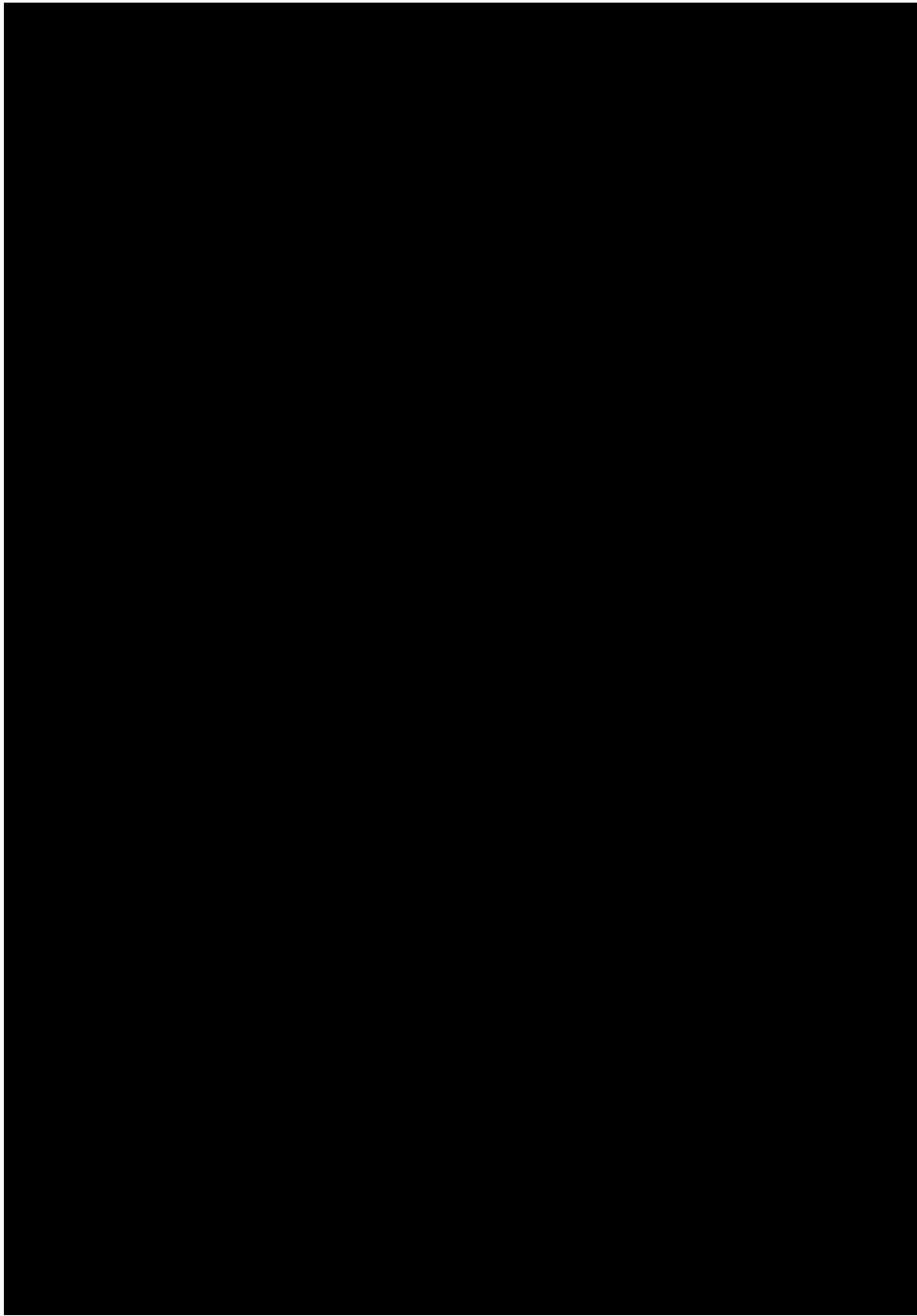
The second of these problems is the fact that the majority of the population is now living in rural areas. This has led to a number of problems. One of the most serious is the lack of adequate housing. In many of these areas, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these areas, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these areas, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.

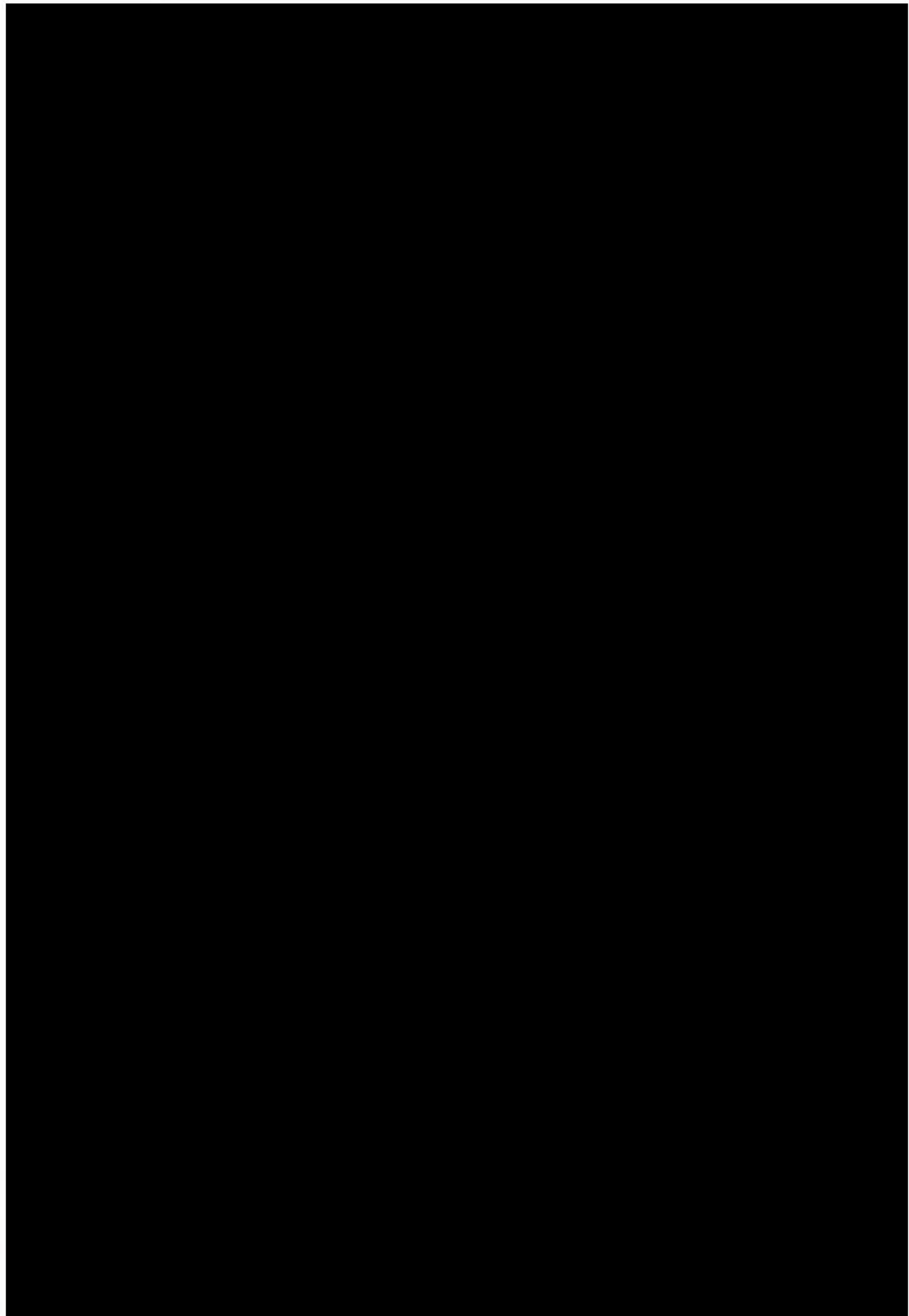
The third of these problems is the fact that the majority of the population is now living in coastal areas. This has led to a number of problems. One of the most serious is the lack of adequate housing. In many of these areas, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these areas, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these areas, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.

The fourth of these problems is the fact that the majority of the population is now living in mountainous areas. This has led to a number of problems. One of the most serious is the lack of adequate housing. In many of these areas, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these areas, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these areas, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.

The fifth of these problems is the fact that the majority of the population is now living in hilly areas. This has led to a number of problems. One of the most serious is the lack of adequate housing. In many of these areas, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these areas, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these areas, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.

The sixth of these problems is the fact that the majority of the population is now living in valley areas. This has led to a number of problems. One of the most serious is the lack of adequate housing. In many of these areas, the housing is of a very poor quality and is often overcrowded. This leads to a number of health problems, including the spread of disease. Another problem is the lack of adequate sanitation. In many of these areas, there is no proper sewage system, and the waste is often dumped in the streets. This leads to a number of health problems, including the spread of disease. A third problem is the lack of adequate employment opportunities. In many of these areas, the majority of the population is engaged in low-paying, unskilled work. This leads to a number of social problems, including poverty and crime.





the 1990s, the number of people in the world who are under 15 years of age has increased by 1.2 billion, from 1.1 billion in 1980 to 2.3 billion in 1999. The number of people aged 15 years and over has increased by 1.5 billion, from 1.9 billion in 1980 to 3.4 billion in 1999. The number of people aged 65 years and over has increased by 0.5 billion, from 0.2 billion in 1980 to 0.7 billion in 1999.

These changes in the world population have led to a significant increase in the number of people who are under 15 years of age, and a significant increase in the number of people who are aged 15 years and over. The number of people aged 65 years and over has also increased, but at a much slower rate than the other two groups.

The increase in the number of people who are under 15 years of age is due to a combination of factors, including a high birth rate in many developing countries, and a decline in the death rate in many developing countries. The increase in the number of people who are aged 15 years and over is due to a combination of factors, including a decline in the death rate in many developing countries, and a decline in the death rate in many developed countries.

The increase in the number of people aged 65 years and over is due to a combination of factors, including a decline in the death rate in many developed countries, and a decline in the death rate in many developing countries. The increase in the number of people aged 65 years and over is also due to a combination of factors, including a decline in the death rate in many developed countries, and a decline in the death rate in many developing countries.

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Crime and Corruption
Commission

QUEENSLAND

Operations Manual

Part 3: Matter Practices (MP)
Section 8: **Search warrants**

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MP08 – Search warrants

1. Purpose

The purpose of this policy and procedure is to outline the requirements for obtaining and executing search warrants.

2. Application

This policy and procedure applies to all Commission officers involved in the application and execution of:

- *Crime and Corruption Act 2001* (CC Act) search warrants, and
- *Police Powers and Responsibilities Act 2000* (PPRA) search warrants unless otherwise specified or necessarily implied.

This policy and procedure does not apply to the requirements for obtaining and executing a covert search warrant under Chapter 9 of the PPRA (refer to [MP15 Covert searches](#) for those requirements).

3. Policy

It is the CCC's policy that applications for search warrants are made under the CC Act wherever possible. The PPRA may be used in specific instances, explained in the procedure below.

The CCC policy and standards with respect to search warrants are set out in Part 5, clause 5.1.2 of the [Operational Framework](#).

4. Procedure

4.1 General principles

Search warrants for crime, corruption and confiscation investigations may be obtained by Commission officers (including Queensland Police Service (QPS) officers) under the CC Act.¹ QPS officers may also apply for search warrants under the PPRA² in certain circumstances.

The circumstances of an investigation will determine whether powers are used under the CC Act or PPRA. Powers under the PPRA should only be used if a power is not available under the CC Act, or the power is wider under the PPRA.

Ordinary search warrant powers under the CC Act are outlined in **Appendix A**.

Legal advice should be sought if a search warrant is required for a confiscation investigation as such search warrants are rarely used by CCC. Property seizure orders³ may be issued under the *Criminal Proceeds Confiscations Act 2002* (CPCA) and provides the authority for the exercise of

¹ s. 86 CC Act.

² s. 150 PPRA.

³ s. 42 CPCA



search warrant powers as if obtained under the CC Act or PPRA. A separate application for a search warrant is not required in these circumstances. Seizure of physical property under a property seizure order is undertaken in line with this policy and procedure, with the exception of requirements under section 113 and section 114 of the CC Act in regards to the retention of property. For further information refer to MP20 – Criminal proceeds confiscation.

4.2 Search warrants obtained under the PPRA

Applications for search warrants under the PPRA should only be used in specific instances and must be approved by the relevant Senior Executive Officer.

Circumstances when PPRA search warrants may be used are:

- **Urgent applications where an on-call magistrate is not available:** in these circumstances, a PPRA search warrant may be brought before a Justice of the Peace
- **Obtaining interstate property:** the PPRA may be used to support the transfer of property obtained by an interstate law enforcement agency.

All search warrants sought under the PPRA must comply with the Queensland Police Service Operational Procedures Manual (QPS OPM Chapter 2.8) and use templates obtained from QPS.

Obtaining interstate property under the PPRA

Through the PPRA and the relevant legislation in each Australian state and territory, QPS officers may request that another jurisdiction obtain and execute a search warrant in that jurisdiction, and for the seized property to be transmitted to Queensland.⁴ Circumstances in which a search warrant may be requested under these arrangements include⁵ where:

- the search warrant relates to an indictable offence in Queensland
- the offence is of sufficient seriousness that the likely result of a conviction is imprisonment or a substantial monetary penalty
- it is in the public interest
- it is approved by an Assistant Commissioner of police or their delegate.

Legal advice should always be obtained prior to seeking interstate property under the PPRA. In some circumstances, particularly relating to corruption investigations, it may be more appropriate to seek property through the equivalent interstate anti-corruption body.

Prior to sourcing interstate property using the PPRA, QPS officers seconded to the CCC must obtain the approval of the relevant Senior Executive Officer.

If requests from other jurisdictions to obtain a search warrant in Queensland are received, the relevant QPS officers seconded to the CCC must obtain CEO approval before any action is taken.

4.3 Search warrants obtained under the CC Act

Applications for search warrants should be made under the CC Act wherever possible. This approach has a number of advantages, including:

- **Resulting evidence may be used for a broader range of purposes:** for example, evidence obtained under a CC Act search warrant issued for a crime, corruption or confiscation

⁴ s. 722 PPRA, Sch. 4, Pt 4 Police Powers and Responsibilities Regulation 2012.

⁵ s. 4.9 QPS OPM.



related investigation may be able to be used in a broader range of circumstances than the equivalent PPRA search warrants.

- **The potential to be made confidential:**⁶ Search warrants under the CC Act can be made “confidential” by a magistrate or judge on application by the CCC. It is an offence for a person (including Commission officers) to disclose the existence of a confidential search warrant, except for certain specified purposes.⁷
- **Can be sought to obtain evidence of an act that does not constitute a criminal offence.**

4.3.1 Application process for search warrants obtained under the CC Act

Search warrant applications are made under section 86 of the CC Act and must be made by an authorised Commission officer⁸ (the applicant) to a magistrate or Supreme Court judge. To make an application to the court, the following approved forms must be prepared:

- an application for search warrant (SW-2)
- a draft search warrant (with attached Statement to occupier) (SW-3).

A lawyer may be allocated to settle the drafting of these documents and to appear at the making of the search warrant application.

The search powers granted under the warrant are available to any authorised Commission officer involved in the investigation to which the application relates.

Refer to **Appendix B** for an overview of the search warrant process.

Step 1: Initial information requirements and approval

When a decision to apply for a search warrant is made, the applicant must obtain an instrument number⁹ and approval must be obtained from the relevant case manager through the completion of the **Approval form** (SW-1).

Step 2: Completing the application for a search warrant

Once approved, the applicant completes the Application form (SW-2). The search warrant application must satisfy the magistrate or judge that there are reasonable grounds for suspecting evidence of major crime or corruption or confiscation related evidence is at the “relevant place” or likely to be at the relevant place within the next 72 hours.¹⁰ The “relevant place” is the place to be entered and searched under a search warrant application and may include a vehicle.

The following information must be outlined in the application:

- Place where the application is to be heard: search warrant applications are made to a magistrate unless it is intended to do anything that may cause structural damage to a building – when the application must be before a Supreme Court judge.¹¹
- Details of the applicant: surname, given name(s), position/rank and registered number (if QPS officer).

⁶ ss. 87(2), 89 CC Act.

⁷ s. 89 CC Act.

⁸ Authorisation under section 272(1) of the CC Act by the chairperson on 18 July 2017

⁹ The instrument number is provided by Records Management

¹⁰ s. 87 CC Act.

¹¹ s. 86(3) CC Act.



- Details of the place to be entered and searched (the relevant place): address/vehicle details (including, if known, registration, make, model, colour, VIN) and name of occupier (if known).
- Particulars of the matter to which the search warrant relates: the application must detail the particulars of the major crime, corruption, confiscation related activity, qualifying offence or suspected qualifying offence to which the search warrant relates¹²
- Description of the nature of what is sought under the search warrant¹³
- Grounds on which the search warrant is sought¹⁴
- Disclosure of information in relation to previous search warrants
- Powers under the search warrant
- Any orders or additional powers to be granted by the magistrate or judge
- Whether the search warrant will be executed at night
- Disclosure of all matters favourable and adverse to the issue of the search warrant¹⁵
- Whether the search warrant is to be confidential.

Detailed requirements for the above criteria are outlined in the Application form template (SW-2) and the CC Act.

Protecting the identity of sources, sensitive methodology and information

Information that might enable the existence or identity of a confidential source must not be included in the application for the search warrant. When information from a confidential source is relied upon, the application should refer to the confidential source using the source's registered identification code, comprising of letters and numbers, that identifies the person as a registered confidential source (for example, CS0001).

Where an officer is required under compulsion of law to disclose the real identity of a confidential source, the officer should be aware that there may be valid public interest grounds to resist disclosing the real identity. Legal advice should always be sought before any disclosure is made.

Care should be taken to not expose sensitive law enforcement methodology in the application that would prejudice the usefulness of surveillance or other detection methods. It is sufficient to provide enough information to satisfy the authorised officer that the method used was lawful and reliable.

Related previous search warrants

Information about any search warrants obtained in the previous 12 months relating to the place or person suspected of being involved in the commission of the major crime, corruption, confiscation related activity, qualifying offence or suspected qualifying offence to which the application relates must be outlined in the application.

The disclosed search warrant information must include:

- the court that issued the search warrant
- when and where (location of the court) any search warrant was issued
- the type of major crime, corruption, confiscation related activity, qualifying offence or suspected qualifying offence for which the search warrant was issued
- whether any evidence was seized under the search warrant

¹² s. 91(1)(b) CC Act.

¹³ s. 87(1) CC Act.

¹⁴ s. 86(4)(a) CC Act.

¹⁵ s. 86(4)(b) CC Act.



- whether any proceedings were started because of a search under the search warrant.¹⁶

The statutory requirement to provide related search warrant information only applies to information kept in the CCC warrants register that the applicant may inspect and to information the applicant otherwise actually knows.¹⁷

It is the CCC policy to also require the disclosure of related PPRA search warrant information from the previous 12 months where the applicant has access to that information or actually knows about the warrants.

Obtaining information related to CC Act warrants

To obtain information relating to CC Act warrants, the applicant must request a search of the warrants register maintained by Records Management, and Records Management will, subject to the following requirements in relation to confidential warrant information, advise the applicant accordingly.¹⁸

Where the CCC warrants register contains confidential search warrant information, the responsible officer must refer the request to the Chairperson for a decision that either:

- the Chairperson authorises Records Management in writing to release some or all of the previous search warrant information to the applicant, or
- the Chairperson does not authorise the applicant to have any access to the register.

Where the CCC warrants register contains no information about search warrants issued within the previous year, Records Management can advise the applicant that there is no relevant information contained in the CCC warrants register.

Obtaining information related to PPRA search warrants

Where the applicant has access to such information, the applicant must also obtain information about any PPRA search warrants that were issued for a major crime or corruption investigation in the last year through a QPRIME search.

Additional powers or orders

Additional search warrant powers¹⁹ may be sought in the search warrant application and are outlined in **Appendix A**.

Section 88 and section 88A orders

An order can be granted by a magistrate or judge under section 88 of the CC Act requiring a person in possession of documents of a certain type at the searched place to hand them over. If a section 88 order is sought, this must be included in the search warrant application, with a description of the type of documents sought.

An order may be sought under section 88A of the CC Act for access to information stored electronically on a storage device possessed by a “specified person” or to which the specified person has access. This order requires the specified person to do certain specified things to assist the authorised Commission officer to gain access to electronically stored information. Section 88A powers should only be used if the applicant:

¹⁶ s. 86(4)(c) CC Act; s. 3 Crime and Corruption Regulation 2015.

¹⁷ s. 86(5) CC Act. This includes warrants information that the applicant is given authority to inspect.

¹⁸ A Standing authorisation under section 166 CC Act and section 675 PPRA has been given to the Senior Property Officer, the Records Manager and the CEO.

¹⁹ s. 92(2), (3) CC Act.



- is confident there is a storage device at the relevant place, and
- has the information required under section 88A(3) at the time of making the application.²⁰

The search warrant application must identify the specified person in one of the following ways:

1. name
2. work position, for example, systems administrator or database manager
3. by referring to them as a person who satisfies the definition of specified person in section 85A.

The applicant must have a reasonable suspicion that the specified person:

- has a working knowledge of how to access the relevant storage device or computer network or measures protecting the information on the storage device, and
- is one of the following:
 - reasonably suspected of having committed an offence for which the search warrant is sought
 - the owner of a storage device
 - in possession of a storage device
 - an employee of the owner or person in possession of a storage device
 - a person who uses or has used a storage device
 - a person who is or was a system administrator for the computer network of which a storage device formed a part.

The search warrant application may seek a section 88A order in relation to more than one specified person.

Authority to execute the search warrant at night

If a search warrant is to be executed at night, the specific hours that the place may be entered, and the reasons for a night execution, must be included in the search warrant application. In the absence of a definition of night in the CC Act or the *Acts Interpretation Act 1954* (Qld), a dictionary meaning (interval of darkness between sunset and sunrise) applies. The specified hours must also be included in the search warrant signed by the magistrate or judge.²¹

Seeking a night execution for a search warrant is justified where:

- there is sufficient urgency to prevent further delay until the next morning
- the occupier is most likely to be present at the relevant place at this time.

Confidential search warrant

If the CCC wants the search warrant to be confidential, this must be requested in the application with reasons provided²² that may include:

- disclosure could compromise the investigation
- disclosure could alert the subject to the existence of the investigation
- the investigation is covert.

Step 3: Draft warrant and statement to the occupier

The draft search warrant must be prepared using the Warrant template (SW-3). It may be settled by a lawyer. The following information must be completed:

²⁰ A s. 88B access order may be sought after the storage device has been seized.

²¹ s.91(1)(d) CC Act.

²² ss. 87(2) and 89 CC Act.



- the applicant
- the name of the magistrate or judge
- the nature of the major crime, corruption, confiscation related activity, qualifying offence or suspected qualifying offence to which the search warrant relates
- the precise location and address where the evidence is to be located
- the evidence sought
- whether the search warrant can be executed at night, and if so the specific hours
- whether the search warrant is confidential
- the day and time the warrant ends²³
- the powers authorised under the search warrant, including any additional powers or orders sought.

The search warrant must state that a stated Commission officer or all Commission officers may enter the place and exercise search warrant powers.²⁴

Detailed requirements for the above criteria are outlined in the Warrant template (SW-3) and the CC Act.

The Statement to Occupier form is attached to the Warrant template (SW-3). The form must be attached to a copy of the authorised search warrant and provided to the occupier, if present, when the search warrant is executed.²⁵

Step 4: Swearing of application

The search warrant application must be sworn by the applicant²⁶ before a magistrate or judge. Therefore, the applicant must be personally satisfied of the truth of all of the contents of the application including information from any sources.

4.3.2 Making the application and issuing of the warrant

Search warrant applications are usually made to a magistrate. However, if there is a real possibility that structural damage may be caused to a building during execution of the search warrant, the search warrant application must be made to a judge of the Supreme Court.

The applicant must attend the application and a CCC lawyer may attend where necessary.

Consideration of conflicts of interest

Applicants for search warrants must be mindful of the CCC's obligations under section 58(1) of the CC Act to preserve the independence of judicial officers and not put them in a situation of conflict. Once it is known that a judicial officer may have a conflict of interest in relation to a search warrant application, appropriate steps should be taken to ensure that the applicant does not make the application to that judicial officer.

Application made to a magistrate

In Brisbane, a Magistrate is usually available to consider applications for search warrants at 8:30am or 1:30pm each day. The applicant should attend the Magistrates Court with all application material at those times and be ready to proceed with the application.

²³ ss. 90, 91(1)(e) CC Act

²⁴ s. 91(1)(a) CC Act.

²⁵ s. 93 CC Act. This form is attached to a copy of the SC-3 Search Warrant

²⁶ s. 86(4)(a) CC Act.



If an application is to be heard outside of Brisbane, the applicant must contact the relevant courthouse for information about when search warrant applications are dealt with.

On arrival, the applicant must inform the magistrate that an application will be made for a search warrant, and provide an estimate of how long the application will take and who will be present. The magistrate will provide guidance on when and where the application will be heard. Where the matter has been identified to be complex in nature, the applicant may contact the court to arrange a second magistrate to be made available or to arrange a specific time to make the application.

If a potential conflict of interest situation has been identified, the court must be contacted a day before the proposed application (refer to the [Queensland Courts website](#) for contact details) to ensure the application is dealt with by an appropriate magistrate.

Application made to a judge

A Commission officer must consult the [Supreme Court Trial Division calendar](#) to determine which judges are rostered in Applications for the relevant week, keeping in mind any actual or potential conflict of interest situations that might exist.

Once an appropriate judge has been identified, the Commission officer must contact the judge's associate to arrange a suitable time (usually by email) for the application.

Should a potential conflict of interest situation exist, the Commission officer must contact the associate of a different judge in Application for that week to request that they hear the application instead.

Additional information provided to a magistrate or judge

A magistrate or judge may refuse to consider a search warrant application until all the information they require has been provided in a way they deem appropriate.²⁷ For example, the applicant or lawyer attending might be asked to provide further detail about an investigation by way of oral submissions during the search warrant application.

In such event, the applicant or lawyer must make a record of the requests made and the additional information provided. This information must be passed to Records Management or uploaded to eDRMS.

If an application is not successful, the applicant (or officer responsible for executing the search warrant) must complete and sign the Information for CCC Warrants Register form (SW-4) and provide it to Records Management²⁸ as soon as practicable, but within 14 days of the hearing.

4.3.3 Urgent search of a place to prevent loss of evidence – major crime only

An authorised Commission officer may, without a warrant, enter a place and exercise search warrant powers (other than the power to do something that may cause structural damage to a building) at a place, as if they were conferred under a search warrant (**urgent search powers**), if the officer reasonably suspects:

- a) a thing at or about the place, or in the possession of a person at or about the place, is evidence of the commission of major crime being investigated by the CCC, and

²⁷ s. 86(6) CC Act.

²⁸ ss. 112 and 166 CC Act; s. 10 CC Regulation.



- b) unless the place is immediately entered and searched the evidence may be concealed or destroyed, or the forensic value of the evidence may be diminished.²⁹

Post-search approval

As soon as reasonably practicable after exercising the urgent search powers the authorised Commission officer must apply to a magistrate for an order approving the search (**post-search approval order**).³⁰

A post-search approval order must be made to a magistrate. To make the application for the order, the following approved forms must be prepared:

- an application for post-search approval order (SW-9)
- a draft-post search approval order (SW-10)

A lawyer may be allocated to settle the drafting of these documents and to appear at the making of the post-search approval order application.

The application for the post-search approval order must be sworn and must satisfy the Magistrate of the reasonable grounds for the authorised Commission officer exercising the urgent search powers at the place and also, that having regard to the nature of the evidence found during the search, it is in the public interest to make the order.

If the Magistrate refuses to make the order, the applicant may appeal against the decision to the Supreme Court. In such an event, the applicant should immediately seek legal advice in the event a post-search approval order is refused.

The provisions of this policy and procedure apply to the exercise of urgent search powers, the obtaining of a post-search approval order, dealing with privilege claims, warrants register and procedures post exercise of powers, as if the exercise of the urgent search powers had occurred under a search warrant, unless otherwise specified or necessarily implied.

4.4 Preparing for the execution of the search warrant

Prior to the execution of the search warrant, the following should be considered and undertaken if appropriate:

- Search warrant execution planning (including risk assessment) and a pre-warrant briefing for the proposed action
- Validation of the location of the search warrant and familiarisation with the relevant place
- Determination of whether a police officer should attend the execution of the search warrant to exercise PPRA powers
- Determination of whether a lawyer should attend the execution of the search warrant for issues relating to claims of privilege
- Ensuring the correct powers intended for the proposed action have been granted by the judge or magistrate
- Consideration of the equipment required for the execution of the warrant
- If electronic evidence may be seized, consultation with the Forensic Computing Unit (FCU), including possible attendance of a FCU officer
- Notifying Property Control if substantial evidence is likely to be obtained.
- Planning for the execution of a search warrant involves both operational and logistical considerations.³¹

²⁹ s. 96 CC Act.

³⁰ s. 97 CC Act.

³¹ s. 4.6 of the Operational Framework



Search warrant plan

A search warrant plan ensures the effective, safe, and lawful execution of one or more search warrants executed at the same time or as part of a group. A search warrant plan is to be completed in writing³² for each search warrant unless otherwise approved in writing by the case manager.

In developing your search warrant plan, you should consider the following:

- **Preparation:** Consideration of where and when a briefing will be delivered, what intelligence is available for the target persons or premises, ensure the search warrant contains the correct details and location.
- **Risks/Threats:** Consideration of the risk and/or threats that may be present during the execution of the search warrant. This may include: the type of premises, the environment of the location (i.e. bushland, rough terrain), the presence of security features (i.e. CCTV/Alarms to warn occupants, presence of dogs), the possible presence of weapons including firearms, the nature of the persons the subject of the warrant (propensity to violence or lack of respect for authority), the type of offence being investigated, whether the search warrant will be executed during the night time, the need for armed police officers to assist.
- **Resourcing:** Consideration for the number and type of resources that may be required. This may include: the number of persons expected in the premises, the need for specialist personnel or equipment.
- **Logistics:** Consideration of the type of equipment (digital cameras, body worn cameras, field recorders, entry tools) and vehicles that may be required, how exhibits will be handled, what level of dress those assist should wear, who will manage the persons located at the search warrant and how they may be transported if required.
- **Command:** This should include: Who will be in charge of the overall operation (if multiple warrants are being executed for example), who will be in charge at the warrant location, how will communications be facilitated and necessary call signs or phone numbers.

Search warrant plans in writing should generally use the search warrant plan template (SW-11).

Pre-warrant briefing

A pre-warrant briefing for all officers identified in the search warrant operations plan must take place prior to the execution of the search warrant. The briefing must cover all aspects of the operations plan and its associated risk management assessment. Each authorised Commission officer assisting in executing the warrant must be provided with an opportunity to read the authority and purpose of the relevant search warrant under which they will be acting should they require it. The briefing is also an opportunity for personnel involved in the search warrant activity to clarify any operational or logistical issues relevant to their role.

The pre-warrant briefing should include:

- **Purpose:** relevant facts about the matter under investigation, including the purpose of the search warrant, to provide the search warrant team(s) with an understanding of the investigative context and thus, increase the effectiveness of the search. This section may also include the profile of the person subject of the search warrant and any known additional occupants of the premises, outlining their association to the investigation.

³² SW-11 Search Warrant Plan



- Objective: the objective of the search warrant must be clearly stated. A list of the documents or things sought during the search must be outlined in the plan.
- Approach: including a schedule of timings for pre-execution, execution and post-execution activities, and any additional conditions, information or requirements concerning those activities. This should also include key information about the search location(s) including the address, description and photograph of the relevant place, key roles and responsibilities, and outline any special considerations³³
- Risk management assessment: should be completed in accordance with the CCC's risk management policy framework, and include risks and their treatments
- Additional resources: should identify police and emergency contacts such as the nearest medical facilities, hospital and police station, relevant investigation policies and procedures.
- Command and Communication: who is in charge and the lines of communication and command, contact details or a process to contact those persons, if required.

Search warrant team roles

A search warrant team should include the executing officer and a designated exhibit officer. Other roles that may be required include electronic evidence or other specialists. The key responsibilities of each standard role are described in the table below:

Role	Responsibilities
Executing officer	The executing officer is the authorised Commission officer responsible for executing the search warrant. They are accountable for executing the search warrant at the relevant place and ensuring the search activities conducted at the relevant place are conducted in an effective, lawful and in a safe way. They must ensure the activity conducted at the search is logged and that significant operational, logistical and safety issues are addressed in a timely way.
Senior officer	The senior officer is the most senior officer (in rank or position) present at the search warrant. This officer should be identified to the occupants of the relevant place and able to answer any questions directed to them. The senior officer oversees the execution of the warrant and ensures appropriate procedures are followed (refer to Appendix C).
Exhibit officer	The exhibit officer's primary duty is to receipt seized items ("property") delivered to them by searchers during the execution of the search warrant, and ensure continuity and accountability of all exhibits seized during the search warrant. The exhibit officer has the responsible officer responsibilities outlined in <u>MP12- Property management</u> .
Searchers	Searchers are required to undertake entry, search and seizure activities under the search warrant powers as instructed by the executing officer and in accordance with the authority under the warrant and this policy and procedure.

³³ Special considerations include: information about access to the relevant place, the presence of children, animals or cultural and religious sensitivities.



Required equipment

Standard CCC search kits and equipment³⁴ are available for use by the investigation team. Any special equipment required should be identified in the search warrant plan. Authorised Commission officers assisting in the execution of the search warrant should be provided with adequate time to become familiar with the operation of the equipment and to ensure it is working correctly.

Authorised Commission officers conducting a search should ensure they take all necessary equipment relevant to conducting and recording the search, for example:

- identification documents for CCC officers (including QPS identification where relevant)
- equipment for conducting search
- police accoutrements that may be required
- property receipt book
- search kit
- audio and video recording equipment
- equipment for forcing entry (if a PPRA search warrant or a police officer exercising powers under section 614 of the PPRA).

4.5 Executing the search warrant

General considerations

A search warrant must only be executed during the hours authorised and within the timeframe specified by the warrant unless it is endorsed by the issuing magistrate or judge for night time execution.

A search warrant is considered executed when the search is completed and those authorised under the warrant to conduct the search have left the relevant place. Multiple entries are not authorised during the timeframe specified on the warrant. Once all officers have left the relevant place, there is no right to re-enter the premises without obtaining a further search warrant. Therefore, at least one authorised officer should remain at the premises at all times during the execution of the warrant until it is terminated.

Where the executing officer is satisfied that the things sought under the warrant have been located and seized, or it is determined they are not located at the relevant place, the executing officer must terminate the search and must not remain at the relevant place without the occupier's consent. The occupier's consent may be implied, for example, where there is no objection to authorised Commission officers remaining at the relevant place to complete, verify and provide the occupier with a receipt for any property obtained.

General responsibilities of authorised Commission officers involved in executing search warrant are outlined in **Appendix C**.

4.5.1 Duties in relation to the relevant place and occupier(s)

On arriving at the relevant place, the executing officer must inform the occupier as soon as reasonably practicable:

- that the officer is an authorised Commission officer
- the officer's name

³⁴ Standard kits include torches, disposable overalls, a sharps container, property receipts, tags, packaging and storage boxes, white cotton and disposable latex gloves, batteries, etc. Other equipment available includes hand held and body-worn cameras and forensic equipment. A search kit list is available for further information.



- the officer's rank and station (if a QPS officer).

The executing officer must provide the occupier with:

- a copy of the search warrant
- a Statement to Occupier, summarising the occupier's rights and obligations under a CCC search warrant³⁵
- a property receipt (describing the thing) for anything seized under the search warrant to the person from whom the thing was seized at the time the thing was seized³⁶ or at the completion of the search.

If the executing officer reasonably suspects providing this documentation may frustrate or otherwise hinder the investigation, the officer may delay providing copies as long as their reasonable suspicion remains and another officer remains in the vicinity to keep the relevant place under observation.³⁷

The occupier of the relevant place has the following rights:

- to see a copy of the warrant
- to be provided a receipt for the property seized
- to request a copy of any document seized or any other thing that can be readily copied, and
- to receive a statement to occupier.

The executing officer must also make available their identity card (QPS and/or CCC). Other Commission officers are only required to supply identification if requested by the occupier. Refer to **Appendix C** for further information.

If possible, the Commission officer should obtain a person's consent for the CCC's retention of anything seized by obtaining the person's signature in the property receipt book (refer to MP12 – Property management for further information). Until this consent is withdrawn, there is no need to apply for an order to retain the thing beyond 30 days (see below).

For PPRA search warrants, CCC officers must comply with the PPRA and QPS OPM.

Provision of documentation for unoccupied premises

If the relevant place is not occupied, the documents that must be provided to the occupier by the executing officer must be left in a conspicuous place. However, if the search warrant is a confidential document and the occupier is not present, the Commission officer must not leave a copy of the documents. Instead and as soon as practicable after executing the search warrant, the Commission officer must give to the occupier a copy of the search warrant, a statement to occupier and a copy of the property receipt.³⁸

If the Commission officer reasonably believes no-one is in possession of the thing or the thing has been abandoned, it is not necessary to leave a receipt.

³⁵ The statement to occupier is included with the SW-2 Warrant template.

³⁶ ss. 93 and 112 CC Act.

³⁷ s. 93(3) CC Act.

³⁸ s. 93(2) CC Act. Although s. 112 CC Act does not require a receipt to be provided where the search warrant is confidential and the occupier is not present, this policy does require a receipt.



Issuing a caution to occupants

The executing officer is responsible for issuing any cautions to occupants of the relevant place if admissions are likely to be made.

4.5.2 General powers to seize evidence under the CC Act

All Commission officers authorised under the warrant have the power to seize evidence that is set out in the search warrant.

In addition to the search warrant powers, Commission officers conducting relevant investigations who have lawfully entered a place³⁹ have general powers to seize evidence for crime, corruption and confiscation related investigations.⁴⁰

In relation to crime investigations, a Commission officer, may seize and photograph evidence if the following requirements are met:

- the thing must be found in a public or lawfully entered place (including places entered under a warrant whether or not the warrant was issued for the major crime), and
- the Commission officer must reasonably suspect the thing is evidence of a major crime the commission is investigating.

In relation to corruption and confiscation related investigations, a Commission officer may seize evidence if the following requirements are met:

- the thing must be found at a place lawfully entered under the relevant corruption or confiscation related investigation search warrant
- the Commission officer must reasonably suspect the thing is:
 - admissible evidence of an indictable offence against the law of the Commonwealth or any State, or
 - for confiscation related investigations, evidence for this investigation, and
- the Commission officer must reasonably believe it is necessary to seize the thing to prevent its loss, destruction, mutilation, or concealment or to prevent its use for committing an indictable offence mentioned in the preceding dot point, or for confiscation investigations, use for a confiscation related activity.

Commission officers who obtain property from a search warrant must adhere to the CCC's policy on property management. Refer to [MP12 – Property management](#) for detailed requirements.

4.5.3 Use of audio and video recording equipment

Audio and video recording of the execution of search warrants may be considered. This will afford reliable evidence of items being located at the relevant place as well it may afford some protection from false allegations of misconduct or inappropriate behaviour by authorised Commission officers assisting with the search.

³⁹ For corruption and confiscation related investigations, the officer must have lawfully entered the place under a SW: ss. 111(1) CC Act and 110A(1) CC Act respectively.

⁴⁰ s. 110 CC Act for crime investigations; s. 110A CC Act for confiscation related investigations; and s. 111 CC Act for corruption investigations.



4.5.4 Presence of children

If present at the relevant place, the potential for young children to become distressed must be considered. In appropriate cases the executing officer should suggest to the parents that they explain to the children what is happening. If the presence of young children is considered problematic or a particular risk to the execution of the warrant, the Director, Crime or Corruption Operations should be consulted, and if unavailable, then the relevant Senior Executive Officer.

4.5.5 Search of a person

An authorised Commission officer who conducts a search of a person at a search warrant must:⁴¹

- ensure that, as reasonably practicable, the way the person is searched causes minimal embarrassment to the person
- take reasonable care to protect the person's dignity
- unless an immediate and more thorough search of the person is necessary, restrict a search of the person in public to an examination of outer clothing
- if a more thorough search of the person is necessary but does not have to be conducted immediately, conduct a more thorough search of the person out of public view, for example, in a room of a shop or, if a police station is nearby, in the police station.

Unless an immediate search is necessary, a search must be conducted by an authorised Commission officer of the same sex as the person searched. If there is no authorised Commission officer of the same sex available, another searcher of the same sex may conduct the search under the direction of the authorised Commission officer.

In conducting the search of a person, an authorised Commission officer may:

- quickly run his or her hands over the person's outer clothing
- require the person to remove his or her coat or jacket or similar article of clothing and any gloves, shoes, socks and hat (but not all of the person's clothes)
- examine anything in the possession of the person, and
- pass an electronic metal detection device over or in close proximity to the person's outer clothing or anything removed from the person.

Guidelines for conducting a personal search are outlined in **Appendix E**.

4.5.6 Damage of the relevant place or anything in/at the relevant place

Where damage is caused to the relevant place or anything on the relevant place during the execution of a search warrant (whether accidental or authorised under the warrant), the executing officer must cause:

- a record to be made of the location and extent of the damage
- photographs to be taken of the damage
- a document or record to be made of the circumstances causing the damage as soon as practicable, and
- for the relevant place to be secured if damage to the relevant place has occurred, causing it to become insecure and the occupants are not present.

The executing officer must ensure that the Senior Executive Officer, Crime or Corruption and the appropriate Director be advised of the damage and provide them with a report in relation to the matter as soon as practicable.

⁴¹ s. 100 CC Act

4.5.7 Endorsing the back of the search warrant

The executing officer must endorse the warrant to have been executed by completing and signing the “TO BE COMPLETED BY THE COMMISSION OFFICER WHO EXECUTES THE WARRANT” section of the original search warrant.

4.5.8 Property lodgement

Commission officers must follow the CCC’s property policy and procedures in relation to the handling and disposal of property seized, copied or examined (refer to MP12 – Property management).

4.6 Dealing with privilege claims

There are several types of privilege that may arise in relation to material sought under a search warrant:

- legal professional privilege (LPP)
- parliamentary privilege
- privilege against self-incrimination
- public interest immunity.

If it is anticipated that an issue of privilege will arise, a lawyer should attend the execution of the search warrant. Different procedures may be appropriate depending upon the type of privilege, for example:

- Corruption investigations, involving claims of Parliamentary privilege must follow the CCC Standard for Corruption Coinciding with Matters Subject to Parliamentary Privilege. Refer to **Appendix F**.
- Specific protocols apply to searches in relation to members of Parliament (refer to Protocol for Executing Search Warrants on Members of Parliament).

Legal Professional Privilege

If a person entitled to claim privilege claims a document (to be inspected, photographed or seized) is subject to privilege, the Commission officer must consider the claim.

Commission officers should take reasonable steps to avoid viewing privileged information. If a Commission officer inadvertently views the contents of a document (including electronic information) on which a claim of privilege is made or which the Commission officer identifies as possibly protected by privilege, the Commission officer must not further disclose or use this information, unless the privilege holder agrees to waive the privilege.

The QPS has agreed guidelines with the Queensland Law Society in relation to the execution of search warrants on solicitors’ premises (Search Warrant Guidelines between Queensland Law Society and the Queensland Police Service). This agreement does not bind the CCC, but is a useful guideline for best practice in executing a search warrant where documents may be privileged. There are some important inconsistencies between this guideline and the CC Act provisions concerning the procedure for dealing with claims of privilege where the search warrant has been issued for a corruption investigation. The CC Act, and this policy and procedure, prevail in relation to these inconsistencies.

The procedure for dealing with privilege claims in relation to corruption search warrants is set out in the CC Act⁴² and outlined in **Appendix D**. For a corruption investigation, a negotiated consent order is the preferred option.

⁴² s. 94 CC Act.



In relation to crime investigations, there is no specific procedure in the CC Act for claims of privilege. Therefore, where a Commission officer wishes to pursue access to the documents, the general law in relation to privilege should be followed. Any documents or things for which privilege is claimed should be sealed in a container and the seal signed by a Commission officer and the person claiming privilege or their solicitor. This material will be maintained in safe custody **at the CCC** and will not be examined by CCC officers except by consent or court order.

4.7 CCC warrants register

Access to the CCC warrants register is limited to the Chairperson,⁴³ a public interest monitor, the Parliamentary Commissioner and other Commission officers authorised by the Chairperson.⁴⁴ A standing authorisation to access the CCC warrants register has been issued to the Senior Property Officer, the Records Manager and the Chief Executive Officer.

The responsible officer (the applicant or Commission officer responsible for executing the search warrant 'executing officer') must complete the Information for CCC warrants register form (SW-4) as soon as practicable, but within 14 days after the execution of the search warrant. This applies for CC Act and PPRA search warrants obtained for a CCC purpose.

Information about the search warrant **must not** be recorded in QPRIME.⁴⁵

The following documents must be lodged with Records Management for both CC Act and PPRA search warrants as soon as practicable after they are made or become available:

- SW-1 Approval form (SW-1)
- SW-2 Application (copy – original maintained by courts) OR SW-9 Application for post-search approval order
- SW-3 Warrant (including Statement to Occupier) OR SW-10 Post-search approval order
- SW-4 Information for CCC warrants register
- SW-5 S88B Application (Application for Access Information Order after Storage Device has been seized) (if applicable – refer section 4.8)
- SW-6 Access Information Order – s88B (if applicable – refer section 4.8)
- SW-7 Application for Order in Relation to a Seized Thing (if applicable – refer 4.1.2 Retention order in relation to seized property)
- SW-8 Order in relation to seized thing (if applicable – refer 4.8.3 Retention orders in relation to seized property)
- SW-9 Post search approval application (copy - if applicable)
- SW-10 Post search approval order (if applicable)
- SW-11 Search warrant plan
- Order of the court in relation to privilege (if applicable).

⁴³ pursuant to the delegation in s. 269(1)(b) CC Act.

⁴⁴ s. 166 CC Act.

⁴⁵ See Enforcement Act Procedure - Responsibility of commission officer, including seconded police officer, to register enforcement act details.



4.8 Procedures implemented post execution

4.8.1 Team debrief

A team debrief is required following the execution of a search warrant to assess performance against objectives and identify possible improvements to systems, procedures and methodologies.

4.8.2 Preparing a section 88B application (order for access information)

If an electronic storage device has been seized under the search warrant and the information stored on it cannot be accessed, an application for a section 88B order may be sought requiring specified persons to assist with accessing the information. This may be necessary where a section 88A order was not included in the initial search warrant or if further access information is required (in addition to that provided pursuant to the section 88A order).

The S88B Application Information Order form (SW-6) must be completed and identify the specified person in one of following three ways:

1. name
2. work position, for example Systems administrator, Database manager
3. by referring to them as a person who satisfies the definition of specified person in section 85A of the CC Act.

The applicant must have a reasonable suspicion that the specified person has a working knowledge of accessing the relevant storage device or computer network or measures protecting the information on the storage device, and is one of the following:

- reasonably suspected of having committed an offence for which the search warrant was issued
- the owner of a storage device
- in possession of a storage device
- an employee of the owner or person in possession of a storage device
- a person who uses or has used a storage device
- a person who is or was a system administrator for the computer network of which a storage device formed a part.

The application may seek a section 88B order in relation to more than one specified person.

A section 88B application may be made to a magistrate, unless the original search warrant was made by a Supreme Court judge. In this circumstance, the section 88B application must also be made to a Supreme Court judge. The applicant must take the Application Information Order form (SW-6) and a draft S88B Access Information Order (SW-7) to court.

4.8.3 Retention orders in relation to seized property or things

Property or things seized under a search warrant must be returned to the owner within 30 days after seizure unless one of the following circumstances applies:⁴⁶

- the owner or person who had lawful possession of the property before it was seized has given consent to the CCC's retention of the property (refer to [MP12 – Property management](#))

⁴⁶ s. 113 CC Act. This section also applies to documents or things seized under s. 73 CC Act (Power to enter) and to documents or things deemed to have been seized under s. 74 CC Act [Notice to produce for crime investigation, specific intelligence operation (crime) or witness protection function] or s. 74A CC Act (Notice to produce for confiscation related investigation).



- a proceeding has started in which the property may be relevant
- the property has been destroyed or dealt with under the authority of another Act.

If the CCC requires the retention of the property beyond 30 days, it must apply to a magistrate for an order in relation to seized thing under section 114 of the CC Act. A section 114 order must also be sought if:

- a proceeding started about the property is discontinued without any order being made in relation to the property
- the owner of the property withdraws consent to the CCC's retention.

An Application for Order in relation to seized thing form (SW-7) must be completed and include a copy of the search warrant under which the property item (thing) was seized, including the endorsement on the back of the search warrant.

The application may seek any of the following orders from the magistrate in relation to the seized property:

- that it be kept in the possession of the CCC or another law enforcement agency
 - until the end of any investigation in relation to which the property may be relevant and for a reasonable time afterwards to enable the CCC to decide whether a charge is to be laid,
 - until the end of any proceeding in which the thing may be relevant
 - until the end of any appeal against a decision in a proceeding in which the property is relevant
- that it be returned, or photographed and returned, to its owner or the person who had lawful possession of it before it was seized on condition that the owner or person undertakes to produce it before a court in any later proceeding involving the property
- that it be returned to the person who the magistrate believes is lawfully entitled to possess it
- if the person entitled to possess the property is unknown, that the property be disposed of
- that it be disposed of or destroyed
- that it be dealt with by way of a proceeding under section 118 or 119
- that it be dealt with by way of a proceeding under the *Justices Act 1886*, section 39
- that it be disposed of or destroyed in the way the magistrate orders.⁴⁷

4.8.4 Disposing of seized property

Property or things seized under a search warrant may be dealt with in a number of ways:

- by order of a court at the end of a proceeding⁴⁸
- by return to the owner by order of a magistrate on application by the owner⁴⁹
- by return to the owner after the end of any prosecution proceedings and appeal⁵⁰
- by return to the owner immediately the CCC stops being satisfied its retention as evidence is necessary.⁵¹

⁴⁷ s. 114 CC Act.

⁴⁸ s. 115 CC Act.

⁴⁹ s. 118 CC Act.

⁵⁰ s. 117(a) CC Act.

⁵¹ s. 117(b) CC Act.



If the ownership of the seized property is disputed, a Commission officer may apply to a magistrate for an order declaring who is the owner.⁵²

In relation to seized documents, a person who would be entitled to the documents may inspect and take copies unless a justice has ordered otherwise.⁵³

Refer to section MP12 – Property management for further information on disposing property.

5. Definitions

Term	Meaning
Applicant	An authorised Commission officer authorised to make a search warrant application.
Case manager	Is appointed for each CCC investigation, project or witness protection matter. Case managers are senior specialists, team leaders or operations co-ordinators at the CCC. For this section, the case manager is the Operational Directors, Crime or Corruption.
Relevant place	The place to be entered and searched under a search warrant application. The relevant place may include a vehicle.
Property	A document or thing acquired by a Commission officer: <ul style="list-style-type: none"> because of the exercise of a formal power or authority under legislation (for example, the CC Act, the PPRA or another state or Commonwealth Act), or by way of general collection where the document or thing was obtained as evidence of an offence or alleged corrupt conduct
QPRIME	Queensland Police Service database
Specified person (CC Act)	A person who – <ul style="list-style-type: none"> (a) is – <ul style="list-style-type: none"> (i) reasonably suspected of having committed an offence for which a search warrant was issued, or (ii) the owner of a storage device, or (iii) in possession of a storage device, or (iv) an employee of the owner or person in possession of a storage device, or (v) a person who uses or has used a storage device, or

⁵² s. 119(2) CC Act.

⁵³ s. 116 CC Act.



Term	Meaning
	<p>(vi) a person who is or was a system administrator for the computer network of which a storage device forms or formed a part, and</p> <p>(b) has a working knowledge of –</p> <p>(i) how to access and operate a storage device or a computer network of which the storage device forms or formed a part, or</p> <p>(ii) measures applied to protect information stored on a storage device.</p>
Executing officer	The authorised Commission officer responsible for executing the search warrant.

For definitions of confiscation related activity, confiscation related evidence, corruption, major crime and qualifying offence, refer to schedule 2 of the CC Act.

6. Forms

Document reference	Document title
MP08-SW-1	Approval Form (CC Act warrants)
MP08-SW-2	Application Form (CC Act warrants)
MP08-SW-3	Warrant (including Statement to Occupier) (CC Act warrants)
MP08-SW-4	Information for CCC Warrants Register
MP08-SW-5	S88B Application (Application for Access Information Order after Storage Device has been seized)
MP08-SW-6	S88B Access Information Order
MP08-SW-7	Application for Order in Relation to a Seized Thing
MP08-SW-8	Order in Relation to a Seized Thing
MP08-SW-9	Application for post-search approval order
MP08-SW-10	Post-search approval order
MP09-SW-11	Search warrant plan
MP08-SW-12: LPP Privilege form package	<ul style="list-style-type: none"> • A: Hardcopy material (Appendix 1 to QLS Search Warrant Guidelines) • B: Electronic copy material (Appendix 2 to QLS Search Warrant Guidelines) • C: List of relevant warrant evidence (Appendix 3 to QLS Search Warrant Guidelines)



7. Related policies and procedures

Relevant Legislation

- *Crime and Corruption Act 2001 (Qld) (CC Act)*
- *Police Powers and Responsibilities Act (2000)*
- *Criminal Proceeds Confiscations Act 2002 (CPCA)*

Other relevant information

- MP12 – Property Management
- MP20 – Criminal proceeds confiscation
- Risk Management Framework and Associated Policies and Procedures
- Protocol for Executing Search Warrants on Members of Parliament
- Search Warrant Guidelines between QLD law society and QPS
- CCC Standard for Corruption Coinciding with Matters Subject to Parliamentary Privilege

8. Administration

Responsible officer:	Director, Crime Operations	Accountable officer:	Senior Executive Officer, Crime
Date approved:	November 2020	Review date:	November 2022



9. Appendices

9.1 Appendix A: Ordinary and additional search warrant powers

The following ordinary search powers under the search warrant are available to any authorised Commission officer⁵⁴ involved in the investigation to which the application relates:

- to enter the place stated in the search warrant and stay on it for the time reasonably necessary to exercise the powers
- to pass over, through, along or under another place to enter the place stated in the search warrant
- to search the place stated in the search warrant for anything sought under the search warrant
- to open anything in the place stated in the search warrant that is locked
- to detain anyone at the place stated in the search warrant for the time reasonably necessary to find out if the person has anything sought under the search warrant
- to detain a person found at the place stated in the search warrant for the time taken to search the place if the officer reasonably suspects the person has been involved in the unlawful activity
- to dig up land
- to seize a thing found at the relevant place, or on a person found at the relevant place, that the officer reasonably suspects may be evidence of the commission of the unlawful activity
- to muster, hold and inspect any animal the officer reasonably suspects may be evidence of the commission of the unlawful activity
- to photograph anything the officer reasonably suspects may be evidence of the commission of the unlawful activity
- to remove all wall or ceiling linings or floors of a building, or panels of a vehicle, to search for evidence of the commission of the unlawful activity.⁵⁵

The following additional powers may be granted:

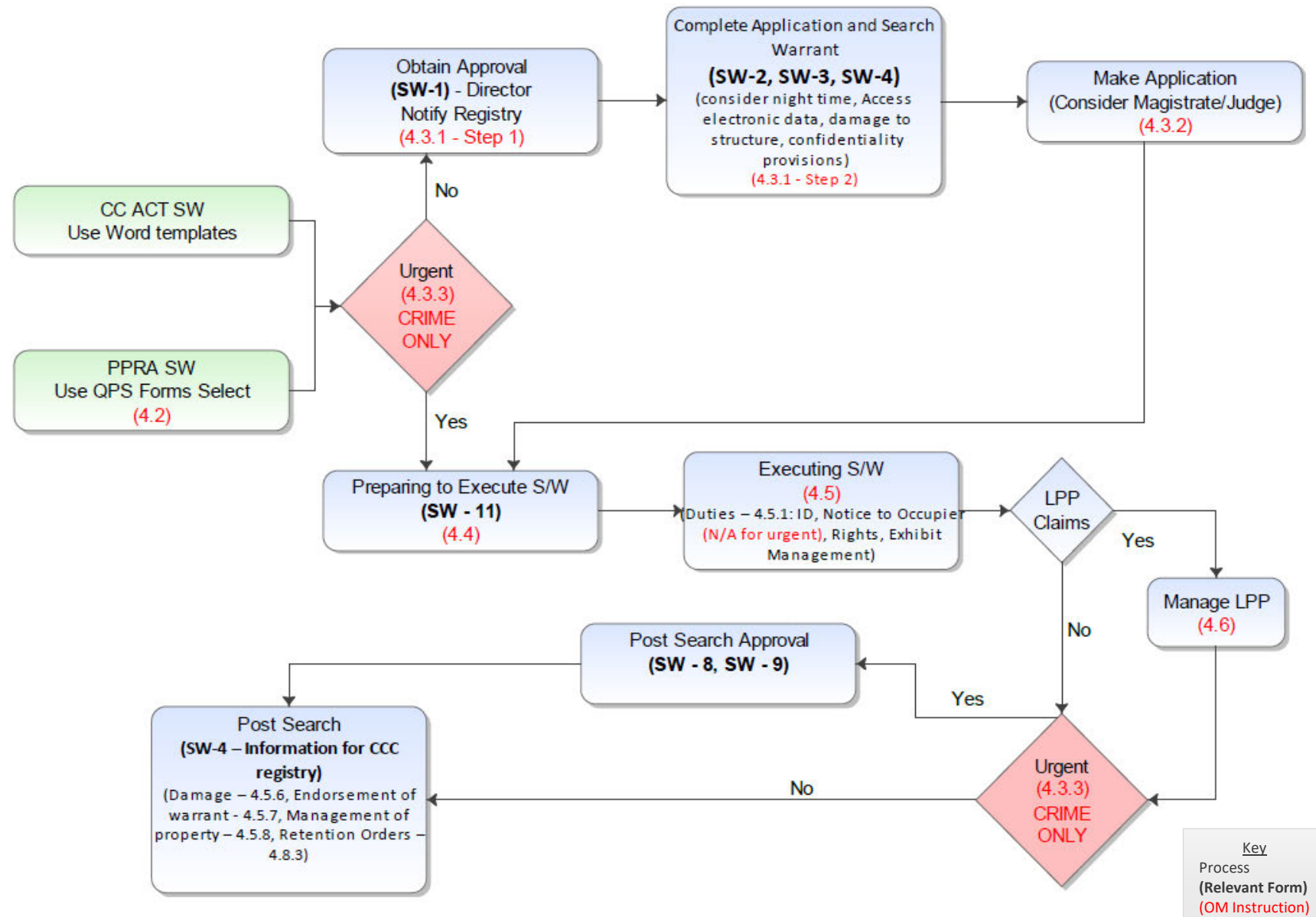
- to search anyone found at the place stated in the search warrant for anything sought under the search warrant that can be concealed on the person
- to search anyone or anything in or on or about to board, or be put in or on, a vehicle
- to take a vehicle to, and search for evidence of the unlawful activity that may be concealed in a vehicle at, a place with appropriate facilities for searching the vehicle
- to do anything at the place stated in the search warrant that may cause structural damage to a building (this power must be issued by a Supreme Court judge).

⁵⁴ Authorisation under section 272(1) of the CC Act by the chairperson on 18 July 2017

⁵⁵ s. 92(1) CC Act.



9.2 Appendix B: Search warrant flowchart



9.3 Appendix C: Responsibilities of Commission officers executing search warrants

Commission officers executing a CC Act search warrant must:

- be familiar with the place to be searched
- conduct a briefing to all officers who are to assist in the search of the place. The briefing should outline:
 - all non-confidential information known in relation to the place
 - any specific powers, orders or conditions contained in the warrant
 - the purpose of the search and the things the place is being searched for
 - the people that may reside or be an occupant at the place
 - the possibility of a dangerous situation arising
 - anything else relevant to the purpose of the search or the safety of the officers assisting with the search at the place.
- be familiar with their designated role as the executing officer for the search warrant
- enter the place and secure the location detaining and moving any occupants to a safe secure area. As soon as practicable, the executing officer must announce:
 - their name, position (rank and station/establishment if a police officer) and produce their identity card,
 - explain the reason for the attendance and serve a copy of the search warrant and statement to occupier, and
 - explain to the occupants their rights and obligations under the search warrant.
- ensure that only persons authorised by the particular warrant to enter the place, and only areas which the warrant authorises are searched within the place
- enter the place and secure the location detaining and moving any occupants to a safe secure area
- ensure that as little as possible physical and emotional disturbance occurs in executing the warrant, including consideration of the time of day or night the warrant is executed. Where practical, places which are searched should be returned to the condition in which they were found
- ensure that the utmost propriety is observed at all times and situations which have the potential to embarrass an occupant should be avoided.

Commission officer's assisting in the execution of a CC Act search warrant must:

- attend the briefing prior to the execution of the search warrant
- be familiar with any specific powers, orders or conditions authorised under the search warrant
- be familiar with their designated role as outlined in the briefing
- ensure that only persons authorised by the particular warrant to enter the place, and only areas which the warrant authorises are searched within the place
- enter the place and secure the location detaining and moving any occupants to a safe secure area
- ensure that as little as possible physical and emotional disturbance occurs in executing the warrant, including consideration of the time of day or night the warrant is executed. Where practical, places which are searched should be returned to the condition in which they were found
- ensure that the utmost propriety is observed at all times and situations which have the potential to embarrass an occupant should be avoided.



9.4 Appendix D: Corruption process for LPP claims

For corruption search warrants, the applicant may:

- cease exercising the power under the search warrant in relation to the document about which the claim is made, or
- advise the person that they may apply to, or be required to attend before the Supreme Court to establish the claim under section 196 of the CC Act.

If a privilege claim is maintained, the responsible officer must advise the person claiming privilege to immediately seal the document or thing under the supervision of the responsible officer and give it to the responsible officer for safe keeping.⁵⁶ The seal should be signed by the person claiming privilege and the responsible officer. Where possible, material for which privilege is claimed should be separated from non-privileged material, allowing the CCC to take possession of the latter under the search warrant. If it is not possible to separate privileged and non-privileged documents or information, then all this information must be sealed. This also applies where electronic material cannot be separated and may require all of the seized information stored on a device to be sealed.

The responsible officer should complete an LPP Privilege form package⁵⁷ for all documents and other things in relation to a privilege claim. The completed form should be signed by the Commission officer completing the form and the person claiming privilege. Ideally, this document should be completed at the scene in consultation with the person claiming privilege or their lawyer. It is also useful if this form records the nature of the documents, where practical, and not inconsistent with the obligation to avoid looking at privileged material.

A separate property receipt may be considered for property that is subject to privilege.

The person claiming privilege and the responsible officer must immediately deliver the sealed evidence (including electronic files) to a registrar of the Supreme Court to be held in safe custody.

If no application in relation to privilege is made within three days of delivery of the document or thing to the court, the registrar must return the sealed evidence to the person claiming privilege. Therefore, unless it is clear that the person claiming privilege will bring the application within that time, the CCC should progress the application to court.

If no privilege claim is made (because the place searched is not occupied or the person is not aware of the potential to resist seizure of the documents on the grounds of privilege) but a Commission officer considers that the documents, or part of the documents seized may be subject to privilege, the Commission officer should not examine the documents any further than to confirm that they may be subject to privilege. The Commission officer should then take the following steps as appropriate in the circumstances:

- decide not to pursue access to the documents
- if possible, advise the person holding the privilege that the documents may be subject to privilege and ask them whether they wish to pursue a claim
- follow the above process as if a privilege claim had been made, including making an application to the Supreme Court.

During the court process, it is desirable that a consent order is agreed between the parties. In relation to electronic documents, this may be that the documents are delivered to the CCC's FCU as custodians while the claim is resolved. The order may also allow CCC officers to examine file data or metadata enabling FCU to identify the documents potentially subject to privilege.

⁵⁶ s. 81 CC Act.

⁵⁷ Queensland Law Society forms



9.5 Appendix E: Guidelines for conducting personal searches

An authorised Commission officer must comply with following requirements as far as reasonably practicable in the circumstances:

- a) before conducting the search, inform the person to be searched of the following matters:
 - whether the person will be required to remove clothing during the search
 - what items of clothing are to be removed and
 - why it is necessary to remove the clothing
- b) conduct the search:
 - in a way that provides reasonable privacy for the person searched, and
 - as quickly as is reasonably practicable.
- c) conduct the search in the least invasive way that is practicable in the circumstances, and
- d) not search the genital area of the person searched, or in the case of a female or a person who identifies as a female, the person's breasts unless the searching officer suspects on reasonable grounds that it is necessary to do so for the purposes of the search.
- e) unless an immediate search is necessary, a search must be conducted by an authorised Commission officer of the same sex as the person searched. If there is no authorised Commission officer of the same sex available, another searcher of the same sex may conduct the search under the direction of the authorised Commission officer.

A person searched must be allowed to put back on any clothing that was removed for the purpose of the search as soon as a search is finished.

If clothing is seized because of the search, the searching officer must ensure the person searched has appropriate clothing available to put back on.



9.6 Appendix F: Standard for conducting corruption investigation which coincide with matters subject to parliamentary privilege

1. The Commission (CCC) is not precluded by parliamentary privilege from assessing, investigating or monitoring corrupt conduct alleged to be associated with **proceedings in the Assembly**.
2. The CCC has primary responsibility for dealing with corrupt conduct and will liaise with the Speaker, when appropriate, to ensure that its primary role is maintained when the public interest requires the CCC to exercise its power to deal with particular cases of corrupt conduct.
3. The CCC may assess, investigate and monitor corrupt conduct alleged to be associated with **proceedings in the Assembly** until relevant prosecution proceedings have been heard and determined by a court or the Assembly has heard and determined any related contempt proceedings.
4. If the CCC wishes to obtain documents of the Assembly or a committee of the Assembly, the CCC will comply with sections 60 - 63 of the *Parliament of Queensland Act 2001* which apply despite any other law.
5. The CCC may use its coercive powers to gather information or evidence relevant to a corrupt conduct investigation subject to a valid claim of parliamentary privilege. A person may choose to comply with a requirement made under coercive power despite the existence of grounds to make a valid claim of parliamentary privilege. Upon a valid claim of parliamentary privilege being accepted, the CCC will withdraw the requirement to comply with a coercive power. The CCC will not, however, withdraw the requirement upon a claim of parliamentary privilege made in relation to matters stated in section 36(2) of the *Parliament of Queensland Act 2001* or Chapter 8 of the Criminal Code. Such claims are to be determined by the Supreme Court under section 96 of the *Crime and Corruption Act 2001*.
6. If the CCC decides that prosecution proceeding for an offence under the Criminal Code, section 57 should be considered the CCC must report on the investigation to the Attorney-General as required by s.49(3) of the *Crime and Corruption Act 2001*.
7. In other cases where the CCC decides that prosecution proceedings for an offence should be considered the CCC will, if appropriate, report to the Assembly to give it an opportunity to consider whether the conduct constituting the offence is also a contempt of the Assembly, and if so, what action the Assembly proposes to take under section 47 of the *Parliament of Queensland Act 2001*.



[The back cover should always fall on a left hand page. To achieve this, a blank page may need to be inserted before the back cover. Whether using a blank page or not, the section break separating this page and the start of the back cover must NOT be deleted. Deleting this section break will affect the formatting throughout this document.]





**Crime and Corruption
Commission**

QUEENSLAND

Operations Manual

Part 3: Matter Practices (MP)
Section 9: **Notices, orders and
additional powers**

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MP09 – Notices, orders and additional powers

1. Purpose

The purpose of this policy and procedure is to outline the requirements and process for exercising coercive powers through issuing notices and orders, and applying for additional powers warrants (APWs) under the *Crime and Corruption Act 2001* (CC Act).

2. Application

This policy and procedure applies to all Commission officers involved in the issuing of notices, monitoring and suspension orders or applications for, and execution of APWs.

This policy and procedure does *not* relate to notices issued to attend hearings,¹ notices issued relating to the CCC's witness protection function² or general search warrant powers.³ Refer to MP03 – Hearings (Closed and Public), MP05 - Witness Protection and MP08 Search Warrants for further information regarding these notices and powers.

3. Policy

The Commission policy and standards for the use of CCC coercive powers is set out in Part 5, clause 5.1.2 of the CCC Operational Framework.

The Commission policy for applying for an APW for corruption investigations and crime investigations (relating to terrorism) is set out in the CCC's role and principal functions in the CCC Operational Framework.

4. Procedure

4.1 General principles

The CC Act provides the CCC with powers to compel persons, Unit of Public Administration appointees, and financial institutions to produce statements, documents, information and items in relation to crime, corruption, specific intelligence operations and criminal proceeds confiscation investigations.⁴ The CC Act also provides the CCC with the power to enter and search official premises to obtain information in relation to crime and corruption investigations. These powers are exercised through the issue of notices and orders under chapter 3 of the CC Act.

The CCC may apply to the Supreme Court for an APW⁵ to support either a corruption investigation or a crime investigation relating to terrorism.⁶ In the context of APWs, the definition of terrorism

¹ s.82 CC Act

² s74(1)(c) CC Act

³ s.86 and s.87 CC Act

⁴ Under ss.72, 73, 74, 74A and 75 CC Act

⁵ s.165 CC Act

⁶ s.157(1) & s.158 CC Act



includes activities preparatory to the commission of terrorism, or undertaken to avoid detection or prosecution for terrorism.⁷

The CC Act⁸ defines Units of Public Administration (UPA) and UPA appointees. A UPA appointee is a person who holds any office, place or position in the UPA, whether by election or selection.⁹ These definitions are relevant to the application of this policy and procedure as certain notices are issued to UPA appointees.

4.1.1 Purpose of notices, orders and APWs

Powers authorised under sections 72, 73, 74, 74A and 75 of the CC Act are enforced through the issue of notices, and are generally referred to collectively as 'notices' at the CCC.

The decision to issue a notice, order or apply for an APW as part of an investigation is made by case officers in consultation with the case manager and team lawyer. In complex or sensitive scenarios, such as APWs, consultation with the appropriate Executive Director, Operations or Senior Executive Officer (Crime or Corruption) should be undertaken.

Decisions to issue a notice, order or apply for an APW are made as part of broader investigation planning. Refer to MM01 – Matter Management, Planning and Conduct for further information regarding investigation planning.

The following table outlines the purpose of powers authorised under Chapter 3 of the CC Act.

Power	Purpose
Power to require information/documents¹⁰	To obtain a statement, document, or thing from UPA appointee in relation to a crime, criminal proceeds confiscation or specific intelligence (crime) investigation. Property seized is <u>not</u> subject to retention restrictions. ¹¹
Power to enter¹²	To enter, search, inspect, seize and remove documents or things from an official premises in relation to a corruption investigation. Property seized <i>is</i> subject to retention restrictions. ¹³
Notice to produce¹⁴	To obtain a document or thing from a person in relation to a crime, criminal proceeds confiscation or specific intelligence (crime) investigation. Property seized is <u>not</u> subject to retention restrictions. ¹⁵
Notice to discover¹⁶	To obtain a statement, document, or thing from a person in relation to a corruption investigation or specific intelligence operation (corruption). Property seized is <u>not</u> subject to retention restrictions. ¹⁷

⁷ s.157(2) CC Act

⁸ s.20 CC Act

⁹ s.21 CC Act

¹⁰ s.72 CC Act

¹¹ s.113 CC Act

¹² s.73 CC Act

¹³ s.113 CC Act

¹⁴ s.74 & s.74A CC Act

¹⁵ s.113 CC Act

¹⁶ s.75 CC Act

¹⁷ s.113 CC Act



Power	Purpose
Monitoring order¹⁸	To direct a financial institution to give information obtained by the institution regarding transactions conducted through an account held by a person reasonably suspected of having involvement in serious crime related activity or having acquired directly or indirectly, serious crime derived property in relation to a criminal proceeds confiscation investigation.
Suspension order¹⁹	To direct a financial institution to notify a commission officer immediately regarding transactions initiated, or about to be initiated, and refrain from completing the transaction for 48 hours in connection with an account held by a person reasonably suspected of having involvement in serious crime related activity, or having acquired serious crime derived property, either directly or indirectly.
Additional powers warrant²⁰	To enter, inspect and make copies of records or to seize passports, travel documents, instruments of title to property, securities and financial documents in the possession or control of a person concerned with a corruption investigation or crime investigation (relating to terrorism) from a premises. To compel a person to give the CCC sworn affidavits or statutory declarations relating to the property, financial transactions, movements of money or other assets by a UPA appointee or associate (for a corruption investigation) or a person or associate being investigated in relation to a crime investigation (relating to terrorism). Property seized <i>is</i> subject to retention restrictions. ²¹

4.1.2 Powers exercised by type of investigation

The table below summarises the various powers the CCC is authorised to exercise according to the type of investigation and recipient.

Type of power & CC Act Section	Investigation Type	Recipient
Power to require information/documents (s.72)	Crime	UPA Appointee
	Specific Intelligence (Crime)	
Power to enter (s.73)	Corruption	Official Premises
Notice to produce (s.74)	Crime	Person
	Specific Intelligence (Crime)	
Notice to produce (s.74A)	Criminal Proceeds Confiscation	Person
Notice to discover (s.75)	Corruption	Person
	Specific Intelligence (Corruption)	
Monitoring order (s.119C)	Criminal Proceeds Confiscation	Financial Institution
Suspension order (s.119I)		
Additional Powers Warrant (s.165)	Corruption & Crime (Terrorism)	Person/UPA Appointee

All notices contain specific provisions regarding claims of privilege against self-incrimination. Refer to section 4.3.5 for further information regarding claims of privilege

¹⁸ s.119C CC Act

¹⁹ s.199I CC Act

²⁰ s.165 CC Act

²¹ s.113 CC Act



Crime and corruption matters (sections 72 and 75 CC Act)

These notices can only be used to require a witness to answer specific questions orally or in writing. A witness cannot be cross-examined or challenged regarding answers provided under these types of notices, although a witness can be asked further questions regarding answer(s) provided for the purpose of clarification.

Issuing a notice to discover to obtain a statement from a witness is more appropriate than issuing a notice to attend a hearing in some instances.²² For example where:

- a witness refuses to participate in a voluntary interview but is willing to provide a statement if issued with a notice to discover
- the CCC does not intend to cross-examine or question the witness regarding evidence already obtained (e.g. telecommunications interception material)
- the witness is not the focus of the investigation but is in possession of information regarding subject matter relevant to the investigation.

If a witness refuses to participate in a voluntary interview, and has indicated an unwillingness to cooperate if served with this type of notice, case officers should consider issuing a notice to attend a hearing.²³ Refer to MP03 Hearings for information regarding this process.

Crime and criminal proceeds confiscation mattersPower to require information or documents (section 72 CC Act)

This type of notice authorises the CCC to exercise the power to require a UPA appointee, within a reasonable time, at a specified date, time, place and manner to:

- provide the CCC with an oral or written statement of information relevant to the investigation
- provide the CCC with any document(s) (or copy) or thing(s) in the possession of the UPA relevant to the investigation
- attend before an identified CCC officer to give a document or thing relating to the investigation.

Notice to produce (section 74 and section 74A CC Act)

This type of notice authorises the CCC to exercise powers to require a person within a reasonable time, at a specified date, time, place and manner to provide the CCC with any document(s) (or copy) or thing(s) in the person's possession relevant to the investigation.

Corruption mattersPower to enter notice (section 73 CC Act)

This type of notice authorises the CCC to exercise the following powers at an official premises:²⁴

- enter and search an official premises occupied or used for the official purposes of a UPA
- inspect any document(s) (or copy) or thing(s) found in or on an official premises that is or might be relevant to an investigation
- seize and remove any document(s) (or copy) or thing(s) found in or on an official premises that is relevant to an investigation

²² Under s.82 CC Act

²³ Under s.82 CC Act

²⁴ Refer to definition of 'official premises' s.73(7) CC Act



- require a person holding an appointment in a UPA to give reasonable help to the commissioner(s) authorised to exercise the above powers.

Notice to discover (section 75 CC Act)

This type of notice authorises the CCC to exercise the power to require a person reasonably suspected by the Chairperson or Chairperson's authorised delegate to have information or possession of a document or thing, relevant to an investigation within a reasonable time to:

- provide the CCC with an oral or written statement of information relevant to the investigation
- provide the CCC with any document(s) (or copy) or thing(s) in the person's possession relevant to the investigation.

Monitoring and Suspension Orders

Monitoring and suspension orders (orders) may only be used by the CCC for the purpose of enhancing the CCC's powers under the *Criminal Proceeds Confiscation Act 2002*.²⁵ These orders impose a default confidentiality requirement on the recipient.²⁶

Orders allow the CCC to obtain information from a financial institution regarding a named person who has been, or is about to be, directly or indirectly, involved in a serious crime related activity, or, has acquired, or is about to acquire serious crime derived property.²⁷

The CCC may apply to a Supreme Court Judge to obtain a:

- Monitoring order to direct a financial institution to give the CCC information obtained by the financial institution regarding transactions conducted through an account held by a person who has been or is about to be directly or indirectly involved in a serious crime related activity, or has acquired or is about to acquire serious crime derived property.²⁸
- Suspension order to direct a financial institution to notify the CCC immediately of any transaction initiated or about to be initiated on a person's account, where the person has been or is about to be directly or indirectly involved in a serious crime related activity, or has acquired or is about to acquire serious crime derived property and refrain from completing the transaction for 48 hours.²⁹

For all other criminal proceeds confiscation investigation activities, refer to MP20 - Criminal proceeds confiscation.

Additional Powers Warrant (APW)

An APW may authorise CCC officer(s) to exercise any of the following powers to:³⁰

- inspect, make copies or take extracts from records related to the subject of an investigation at the premises of a financial entity or of a suspected associate of the subject of an investigation

²⁵ s.119B CC Act

²⁶ s.119H and s.119N CC Act

²⁷ s.119D CC Act

²⁸ s.119C CC Act

²⁹ s.119I CC Act

³⁰ s.165(1) CC Act



- seize passports, travel documents, instruments of title to property, securities and financial documents found in the possession or control of a person related to an investigation
- require a person to provide affidavits or statutory declarations relating to the property, financial transactions, movements of money or other assets by the subject of an investigation, specifically for a:
 - Corruption investigation: a person holding an appointment in a UPA or someone associated with that person.
 - Crime investigation: a person being investigated for terrorism or a suspected associate of that person.

4.2 Application, endorsement and authorisation of notices and orders

4.2.1 Prior considerations

In determining whether to issue notices or orders, case officers should consider the effect on the work and lives of persons and entities compelled to comply with the CCC's requirements, and whether an alternative, less intrusive or onerous method of obtaining information and evidence for the purpose of an investigation is available, and whether or not the person is entitled to make a claim of privilege (refer to section 4.3.5 for further information about privilege).

4.2.2 Application

An application and draft notice or order must be prepared using the applicable form (refer also to section 6):

- MP09 – Form 1 - Power to require document/thing notice– Section 72 (2) CC Act
- MP09 – Form 2 - Power to require document/thing notice– Section 72 (3) CC Act
- MP09 – Form 3 - Notice to Produce – Section 74/Section 74A CC Act
- MP09 – Form 4 - Notice to Enter and Search - Section 73 CC Act
- MP09 – Form 5 - Notice to Discover - Section 75 CC Act

A team lawyer may be allocated to review the drafting of these documents.

Appendix A lists the particulars required in the application and draft notice or order.

4.2.3 Specific stipulations

Specific stipulations should be considered in the preparation of the application. Such stipulations include the requirement for immediate production of a document or thing and maintenance of confidentiality.

Immediate production

Notices to produce³¹ may stipulate the immediate production of a document or thing to an identified CCC officer if the Chairperson or Chairperson's authorised delegate believes on reasonable grounds that, for a:

- Crime Investigation or Criminal Proceeds Confiscation Investigation: a delay in production of a document may result in the document being destroyed, removed or concealed or cause serious prejudice to the conduct of the investigation.

³¹ Issued under s.74/74A CC Act



- **Specific Intelligence Operation (Crime):** in addition to the above criteria, the Chairperson or Chairperson's authorised delegate believes on reasonable grounds that a delay in the production of a document may result in the loss of an opportunity to obtain timely intelligence in advance of a significant event that may help prevent a risk to public safety.³²

The CC Act does not specifically reference the option to stipulate immediate production for notices issued under other sections of the CC Act. This does *not* preclude the CCC from requesting immediate production of a document or thing under other types of notices if it is considered reasonable for the CCC to request immediate production.

A monitoring or suspension order has immediate effect from the start of the day in which notice of an order is given to the recipient.

Confidentiality

Notices

A notice may stipulate that the notice is a confidential document.³³ This requirement precludes the recipient of the notice from disclosing the existence of the notice to any other person unless the recipient has a reasonable excuse.³⁴

A reasonable excuse for disclosing the existence of a notice means a disclosure made only for the purposes of:

- seeking legal advice in relation to the notice or in relation to the offence of disclosure of the existence of the confidential notice; or
- obtaining information necessary in order comply with the notice; or
- making a complaint to the Parliamentary Crime and Corruption Committee regarding the notice; or
- the administration of the CC Act; and
- the person informs the person to whom disclosure is made that it is an offence to disclose the existence of the document to anyone else unless the person has a reasonable excuse.³⁵

If the disclosure of a notice presents a risk to an investigation, and it is appropriate the notice be made confidential, the case officer must ensure the grounds for making the notice confidential are justified in the notice application and that the notice itself specifies the confidentiality requirement. Consultation with the team lawyer is advised in this process.

If a notice is being served in person, the case officer must ensure that the serving officer is specifically informed of the confidentiality requirement prior to effecting service in person, and instruct the serving officer to specifically inform the notice recipient accordingly.

If the notice is being served via email, the case officer must ensure the confidentiality requirement is explicitly stated in the covering email to the recipient. Refer to section 4.3 for further information regarding service.

It may be of benefit to an investigation *not* to stipulate confidentiality on a notice. For example, where the CCC is actively monitoring the recipient's communications via telecommunication interception and the recipient of the notice is expected to converse with associates regarding the existence of a notice.

³² s.74(3)(4) CC Act

³³ s.84(1) CC Act

³⁴ s.84(2) CC Act

³⁵ s.84(2)(3) CC Act



Monitoring and Suspension Orders

The CC Act requires that a financial institution that is, or has been subject to an order must *not* disclose the existence or the operation of the order to any person other than to:

- a CCC officer
- an institution officer³⁶ or agent of the financial institution for the purpose of ensuring the order is complied with
- a lawyer for the purpose of obtaining legal advice or representation in relation to the order.³⁷

A person to whom disclosure of the existence or operation of an order has been made as above must not:

- disclose the existence or operation of the order other than to another person to whom it may be disclosed in accordance with the above provisions
- make a record of, or disclose the existence or operation of the order in any circumstances when the person is no longer an officer of the financial institution as specified above.³⁸

Unauthorised disclosure also refers to the recipient of the order (or a person authorised to have knowledge of the existence and operation of the order as above) making any *reference* (i.e. through inference) to another person that could reasonably be expected to result in a person becoming aware of the existence and operation of an order.³⁹

The above requirements do not prevent a CCC officer disclosing the existence or operation of an order for reasons relating to a court proceeding, however a CCC officer cannot be required to disclose the existence or operation of an order to any court.⁴⁰

4.2.4 Endorsement and authorisation of notices and orders

A notice or order is reviewed prior to referral to the Authoriser, as outlined in the table below:

Type of Power	Endorsement Required By	Authoriser
Power to require information/documents (s.72)	Applicant and Team Lawyer ⁴¹	Chairperson OR Chairperson's Authorised Delegate ⁴²
Power to enter (s.73)		
Notice to produce (s.74)		
Notice to produce (s.74A)		
Notice to discover (s.75)	Applicant and Team Lawyer	Chairperson OR Chairperson's Authorised Delegate
Monitoring Order (s.119C)	Applicant And Case Manager and Senior Executive Officer (Crime)	Supreme Court Judge
Suspension Order (s.119I)		

³⁶ As defined by s.119H(7) CC Act

³⁷ s.119H(1) CC Act

³⁸ s.119H(2) CC Act

³⁹ s.119H(6) CC Act

⁴⁰ s.119H(4) and 119K(4) CC Act

⁴¹ Position must be a Director (Corruption/Crime Operations) as a minimum

⁴² Refer to CCC Act Delegations Register and standing authorisation under s.272 CC Act for Chairperson's authorised delegates



Type of Power	Endorsement Required By	Authoriser
	Senior Executive Officer Crime	

Interstate recipients

If the recipient of a notice resides interstate, an order must be obtained from the Supreme Court of Queensland⁴³ for leave to serve a notice outside Queensland.

Unless it is necessary to serve an interstate notice in person, the application to the Supreme Court of Queensland should seek an order that service be effected via email.

Where interstate service is required, the case officer is to seek the assistance of the team lawyer in order to prepare and manage SEPA Act applications. Refer to section 4.3.4 for further information regarding interstate service.

4.3 Service of a notice or order

4.3.1 Planning activities

Notices and orders

Service of a notice or order must be effected in an appropriately discreet manner and consideration of possible issues is required prior to service. For example:

- If a confidential notice is served on a recipient detained in a watch house amongst other detainees, the case officer must organise special arrangements for the recipient to be able to receive and comply with the notice discreetly.
- Where a decision is made to serve a notice on a UPA appointee holder at the appointee's place of employment (an office setting with numerous employees seated closely together with little privacy), the case officer should make arrangements to meet privately with the recipient to serve the notice.

Consideration should be given to issues outside of the CCC's control that may be caused by the service of a notice or order, for example, any risks that a person who is served a notice may do something to expose the existence of the notice.

Where issues are identified, a risk assessment and plan should be developed in consultation with the case manager, and where appropriate the team lawyer, to mitigate any courses of action reasonably expected in response to the service of a notice or order.

When a notice is served via email, the case officer should consider whether the contact email address for the recipient is likely to be viewed by other persons such as a personal assistant, family member or a co-worker. For instance, the contact email address may indicate that the email account is accessible by a number of persons in addition to the recipient if the email address is generic and clearly not private to the recipient (for example: reception@citycouncil.qld.gov.au, info@citycouncil.qld.gov.au, enquiries@citycouncil.qld.gov.au). In this situation, the case officer **must** contact the recipient directly to obtain a direct, private email address that cannot be accessed by other persons.

⁴³ Under the *Service and Execution of Process Act 1992* (Cth) (SEPA Act)



Power to enter notices (s.73 CC Act)

Before undertaking any search, inspection or seizure at an official premises, appropriate planning must be carried out. The following factors should be considered and undertaken if appropriate:

- ensuring the correct powers intended for the proposed activity have been authorised
- location validation and familiarisation with the relevant place and associated logistics, and any potential impediments, risks or issues
- appropriate internal consultation to determine who should attend, for example, whether a team lawyer or technical specialists (i.e. forensic computing unit officer) would improve the effectiveness of the search or seizure
- the equipment required to effectively execute the notice, or power or order. Standard CCC search kits and equipment are available for use by investigation teams. Any special equipment required for the specific tasks should be identified
- consultation with Property Control if substantial seizures of evidence are expected.

Refer to the planning and execution sections of [MP08 - Search warrants](#) for further direction for undertaking this process.

4.3.2 Service activities

Notices and orders are generally effected via email. A notice may also be served on a recipient's legal representative if authorised by the recipient.

The Proceeds of Crime unit holds a contact database for financial institution law enforcement liaison units to serve notices and orders on financial institutions via email.

If a notice is served in person, it should be undertaken with regards to the agreed planning activities, for example, in a manner that supports discretion and/or confidentiality where appropriate.

Attendance

Some notices may require the recipient to attend the CCC's office in person or for the case officer to attend an external location to inspect documents or things required by a notice or for the case officer to attend an external location to inspect documents or things. The case officer should arrange attendance or inspection to comply with a notice at a mutually agreed time and place with the recipient.

4.3.3 Mandatory service requirements**Confidentiality**

The serving officer must ensure that the recipient of a notice is properly advised of confidentiality requirements and the implications of non-compliance with this requirement (if applicable) at the time of service whether via email or in person.

Authority

The executing officer must physically produce the authority (notice or warrant document) to exercise the power to enter, search, inspect and seize if asked by the occupier of an official premises or a person acting on behalf of the occupier.⁴⁴

⁴⁴ s.73(6) CC Act



Oath of Service

The serving officer must complete an Oath of Service (MP09 – Form 6) once service has been effected both via email and in person. The Oath of service must be filed with Records Management.

4.3.4 Interstate service

If the recipient of a notice cannot be served in Queensland, for example where an individual resides and works interstate, or in the case of a corporation, only has offices interstate, an order must be obtained from the Supreme Court of Queensland⁴⁵ for leave to serve the notice outside Queensland. The team lawyer prepares and manages SEPA Act applications.

Following authorisation from a Supreme Court Judge, the following documents must be served on the recipient of the notice service to be effective under the SEPA Act:

Document	Form
MP09 – Form 1/2/3/4/5	Notice
Supreme Court of QLD Order (SEPA Act) ⁴⁶	Issued by Supreme Court of QLD
MP09 – Form 7	Notice to recipient (Form 5)
MP09 – Form 8	Letter to Interstate Notice Recipient ⁴⁷

Service to interstate recipients is generally effected via email, however if service is effected in person by an interstate police officer, the following additional documents must to be provided to the interstate police serving officer:

Document	Form
MP09 – Form 6	Oath of Service (to be completed by the serving officer and returned to the CCC).
MP09 – Form 9	Letter to Serving Officer
MP09 – Form 10	Interstate Service Instructions

4.3.5 Compliance with notices and orders

A person must comply with a notice unless the person has a reasonable excuse or is permitted not to comply by the provisions of the CC Act.

It is an offence to contravene notices or orders (such as breaching the stipulated confidentiality of a notice or failure to produce required documents/things) without a reasonable excuse.

It is an offence to provide false or misleading information in purported compliance with a notice or order.⁴⁸

If a recipient fails to comply with a notice or order, consultation is required between the appropriate case officer/s, case manager and team lawyer to determine the appropriate response (such as enforcing penalties prescribed for non-compliance under the CC Act).

⁴⁵ Under SEPA Act

⁴⁶ Issued by Supreme Court of QLD

⁴⁷ s.32, s.63(1) and s.77(3) SEPA Act

⁴⁸ s.72(4), s.74(5), s.74A(4) and s.119G CC Act



A person does *not*:

- commit an offence by failing to produce a document or thing required by a notice, if the document or thing is subject to privilege (as prescribed in the CC Act), and/or the document or thing is a secret process of manufacture applied by the person solely for a lawful purpose. Further information regarding the application of claims of privilege is provided later in this section.
- contravene statutory provisions, commercial obligations, or restrictions on secrecy imposed by law by complying with the requirements of a notice or order.⁴⁹
- incur a civil liability in relation to a statement, document or thing required by a notice.⁵⁰
- commit an offence by failing to comply with a notice if a provision of another Act prescribed under a regulation for a relevant subsection of the CC Act excuses compliance with a notice requirement.⁵¹

Compulsion for reasonable help and access

The recipient of a notice is compelled to provide reasonable help and access to identified CCC officers in obtaining documents or things required by a notice. Reasonable help and access is considered to be any sort of assistance deemed necessary by the authorising officer to enable compliance with a notice. Examples of reasonable requests include requests to:

- unlock or provide access codes, passwords or keys to CCC officers in order to obtain named documents or things required by the notice
- ensure attendance and availability at a designated time and place as stated in the notice
- ensure the premise housing the documents or things required by a notice is unlocked and accessible to CCC officers
- make logistical arrangements for CCC officer vehicles to discretely and easily remove documents or things from an official premises
- direct CCC officers to the location of certain documents or things within an official premises.

If a recipient refuses to give reasonable help and access to Commission officers in relation to a notice, the team lawyer should be consulted regarding the best alternative strategy (such as enforcing penalties prescribed for non-compliance under the CC Act).

Reasonable excuse

A recipient of a notice or order (or a recipient's legal representative) may make a submission to the CCC submitting a reasonable excuse for non-compliance with a notice or order. The authorising officer of the notice or order decides what claims constitute a reasonable excuse. For example:

- A confidential notice is served on a recipient via email requiring the recipient to present original documents in the recipient's possession to an identified Commission officer. The recipient is currently travelling overseas, and is not scheduled to return for several weeks beyond the specified timeframe for compliance. The recipient submits a request for an extension of time in order to comply and provides the CCC with proof of travel documentation showing recipient's departure and scheduled return date. The authorising officer considers that the recipient has a reasonable excuse for non-compliance and approves the recipient be given an appropriately extended timeframe to comply with the notice.

⁴⁹ s.72(6)(a)

⁵⁰ s.72(6)(b)

⁵¹ s.72(5)(b) CC Act



- A recipient is served with a notice requiring a statement be given to an identified Commission officer within three weeks of the date of issue. The recipient's legal representative submits a medical certificate and independent medical report of opinion supporting the recipient's claim to be suffering a debilitating medical condition resulting in the recipient being unable to comply with the notice. The authorising officer considers that the recipient has a reasonable excuse for non-compliance and approves that the recipient not be required to comply with the notice.

It is *not* a reasonable excuse to fail to produce a document or thing required by a notice if the recipient of the notice claims:

- privilege against self-incrimination in relation to notices to discover issued for corruption investigations⁵²
- that the document or thing required by the notice is subject to privilege other than legal professional privilege
- legal professional privilege if the recipient of a notice has authority to waive the privilege and waives the privilege.

Before an oral or written statement is taken from a witness, the case officer must explain that:

- the witness cannot refuse to answer a question on the grounds that their answer may tend to incriminate them, and
- if the witness claims privilege against self-incrimination, the witness's answers cannot be used against the witness in any civil, criminal or administrative proceedings (with exceptions).⁵³ The team lawyer should be consulted regarding any claims of privilege.

Privilege

Claims of privilege that may arise in response to a notice are limited to:

- Parliamentary privilege (only applies to corruption matters)
- Public interest immunity (only applies to corruption matters)
- Legal professional privilege
- Privilege against self-incrimination (further information is provided below).

Claims of privilege apply differently depending on the type of investigation.

Privilege other than self-incrimination privilege

Compulsory powers relating to the issue of notices or orders must *not* be exercised if the recipient makes a claim of privilege, except privilege against self-incrimination, and the claim is upheld by the authorising officer.

If a claim of privilege is rejected by the authorising officer, the recipient may appeal the CCC's decision by application to the Supreme Court. If the claim is upheld on appeal, the CCC must not exercise the powers authorised by the notice.

The team lawyer provides advice to the case officer and case manager regarding how claims of privilege apply in accordance with the relevant sections of the CC Act.⁵⁴ The authorising officer should also be briefed regarding any claims of privilege raised by a recipient.

Privilege against self-incrimination

⁵² s.188(3) CC Act

⁵³ s.197(2) CC Act

⁵⁴ s.81 CC Act (corruption matters), s.78 CC Act (crime matters) and s.78C CC Act (criminal proceeds confiscation matters)



If a recipient of a notice is required to produce documents or things they may claim privilege against self-incrimination as a reason for non-compliance with the requirement, except if the notice was issued under section 75 (Notice to discover in relation to corruption investigations).

For this reason, notices to discover should not generally be served on a person who has already been charged, unless there is a substantial forensic purpose for doing so other than to obtain evidence against the accused in respect of a charge.

Restrictions on the use of privileged documents, things, statements and applications

The CC Act imposes restrictions on the CCC's use of privileged documents, things or statements produced under compulsion.⁵⁵

The team lawyer should assess the use of documents, statements or things produced under compulsion and advise the case officer accordingly. Refer also to the requirements in relation to dealing with privilege claims against property, detailed in MP12 – Property management.

4.4 Additional Powers Warrant procedure

4.4.1 Endorsement and authorisation of an APW application

Given the unique and sensitive circumstances that give rise to an APW application, the case manager must consult with the appropriate Senior Executive Officer (Crime or Corruption) and the Chairperson, and obtain appropriate legal advice regarding a proposed application.

The team lawyer is responsible for carriage of APW applications. Endorsement of the application is required by the:

- applicant who must be an authorised commission officer (a Director, Operations or QPS officer rank of Inspector or above)⁵⁶
- team lawyer, and
- Case Manager.

The application must be approved by the Chairperson and must be heard before a Supreme Court judge.

Refer to **Appendix B** for detailed information regarding the preparation of an APW application and draft warrant document.

4.4.2 Application hearing

In considering an application for an APW, a Supreme Court Judge examines particular criteria (refer to **Appendix B**) and will only grant the APW if satisfied that there are reasonable grounds for believing that the use of the additional powers sought is justified in the particular circumstances of the case.⁵⁷

The only people who may be present at the hearing of the application are:

- the applicant (a Director, Operations or QPS officer rank of Inspector or above)

⁵⁵ S.197 CC Act, noting that s.197 does not apply to a document or thing produced under s.188, a provision applying only to a corruption investigation

⁵⁶ Refer to CCC standing authorisation of Commission officers under s.272 CC Act

⁵⁷ s.160 and s.161 CC Act



- a person the judge has permitted or directed to be present
- the team lawyer
- a person the judge has permitted or directed to be present.

The following people are *not* permitted to be present at the hearing:

- the subject of the application
- a person who is likely to disclose the application to the subject.⁵⁸

An APW cannot be granted for longer than 30 calendar days.⁵⁹ However, an application may be made to extend the APW, through the same process as the initial application.⁶⁰

4.4.3 Execution

Planning activities

Planning for the execution of an APW must include:

- a risk assessment
- pre-briefing for proposed actions to be carried out under the APW
- validation and familiarisation with location(s) of the APW execution
- additional logistical considerations including ease of access to the location or requirements for forced entry
- determination of whether a team lawyer should attend
- consideration of equipment required to execute the warrant
- consultation with Forensic Computing Unit (FCU) officers where there is a possibility of electronic evidence being seized during the APW, including determination of FCU officer attendance during the warrant
- notification to Property Control where substantial seizures of evidence are expected

An APW plan must be devised in accordance with the requirements outlined in [MP08 Search Warrants](#).

Execution

An APW may only be executed during the timeframe duration specified by the issuing judge but within this context, may be executed at *any* time of the day or night.

The execution of an APW must follow the same procedure as the execution of a search warrant as set out in [MP08 Search Warrants](#).

4.5 Property seized under notices and APWs

Case officers must follow [MP12 – Property Management](#) regarding all documents or things seized under notices and APWs.

Documents or things produced under section 73, 74 and 74A notices, and under APWs are taken to have been seized under a search warrant, and consequently, are subject to the same conditions as items seized under a search warrant. Hence, such document or things produced are subject to retention restrictions.⁶¹ Refer to [MP08 - Search Warrants](#) for further information.

⁵⁸ s.159 CC Act

⁵⁹ s.161(1) CC Act

⁶⁰ s.163(3) CC Act

⁶¹ s.113 CC Act



Retention restrictions apply to items seized under these notices held by the CCC in excess of 30 days. Where a court proceeding (e.g. criminal charges) has not commenced within 30 days of seizing an item or consent to retain possession has not been previously obtained, the team lawyer must apply to a magistrate for a retention order to be made.⁶² There are some exemptions and further considerations required in relation to these provisions.

Items obtained by notices issued under sections 72 and 75 of the CC Act are *not* subject to retention restrictions.

Refer to MP12 Property Management for further information regarding retention requirements for property seizures.

4.6 Record keeping

Appropriate records must be entered into eDRMS including all notice, application, warrant and related email communications and any other relevant documentation.

4.6.1 Registers

Formal registers must be maintained for *all* notices, orders and warrants issues.⁶³ Records Management maintains the registers for notices, monitoring and suspension orders, and APWs. The case officer must lodge the original notice, application and warrant related documents with Records Management.⁶⁴

For APWs, the Records Management team also require all of the following:

- when and where the application was made
- if known, the name of the person being investigated and the name of any suspected associate of the person
- a description of the place mentioned in the application
- the type of corruption or terrorism offence relating to the application
- whether or not the APW was issued following application to a Supreme Court Judge, and
- if the APW was issued following application:
 - when and where it was issued
 - the details of the issuing Judge and Court
 - the duration the APW was in force
 - the investigative benefit derived from exercising the powers under the APW.

Information regarding applications for APWs must **not** be recorded in QPRIME.

5. Definitions

Term	Meaning
Chairperson's delegate	A person authorised to exercise particular powers that the Chairperson has under the CC Act.

⁶² s.113(1) and s.114 CC Act

⁶³ s.166 CC Act

⁶⁴ s.166 CC Act; s.15 *Crime and Corruption Commission Regulation 2015*



Term	Meaning
Coercive powers	Powers authorised under the CC Act exercised by commission officers in order to compel a person to provide answers, statements, documents or things.
CC Act delegations register	A register of persons delegated with particular powers under the CC Act.
Identified commission officer	An authorised commission officer named on a notice or order as being authorised to receive items/things required by a notice, or execute powers authorised by the CC Act in order to serve a notice/order or apply for, and execute an APW.
Document	Any document required or seized by a notice or APW.
Privilege	A legal basis for claiming a person is not required to comply with a notice. The definition of privilege per schedule 2 of the CC Act differs depending on the type of investigation.
Team lawyer	A lawyer admitted to practise law in the state of Queensland and employed by the CCC in the capacity of a legal officer/team lawyer.
Register	Formal registers kept by the CCC that records specified information under section 166 of the CC Act pertaining to notices, orders and APWs managed by the records management team.
Notice	Any notice issued under sections 72, 73, 74, 74A and 75 of the CC Act.
Order	Either a monitoring order issued under section 119C of the CC Act or a suspension order issued under section 199I of the CC Act.
Official premises	As defined by section 73 (7) and schedule 2 of the CC Act.
Recipient	Any person to whom a notice or order is issued.
Service	The formal process of delivering a notice or order to a recipient giving effect to the powers authorised under the CC Act specified in the notice or order.
Thing	Refers to any item required or seized under a notice.
UPA	A Unit of Public Administration as defined by section 20 of the CC Act.
UPA Appointee	A person holding any office, place or position in a Unit of Public Administration, either by election or selection as defined by section 21 of the CC Act.
Additional powers warrants definitions	
APW	Additional powers warrant
Additional powers	As defined by section 165 of the CC Act.
Judge	A Judge of the Supreme Court of Queensland
Terrorism (in relation to additional powers warrant)	As defined by section 157(2) and schedule 2 dictionary of the CC Act includes something that is: (a) Preparatory to the commission of terrorism; or (b) Undertaken to avoid detection of, or prosecution for terrorism
Terrorist act	As defined by section 22A of the CC Act.





6. Forms

Document reference	Document title
Crime & Specific Intelligence Operation (Crime)	
MP09 – Form 1	Power to require document/thing notice– Section 72 (2)
MP09 – Form 2	Power to require document/thing notice– Section 72 (3)
MP09 – Form 3	Notice to Produce – Section 74/Section 74A
Corruption Investigation & Specific Intelligence Operation (Corruption)	
MP09 – Form 4	Notice to Enter and Search - Section 73
MP09 – Form 5	Notice to Discover - Section 75
Other	
MP09 – Form 6	Oath of Service
MP09 – Form 7	Notice to recipient (Form 5)
MP09 – Form 8	Letter to Interstate Notice Recipient
MP09 – Form 9	Letter to Interstate Serving Officer
MP09 – Form 10	Interstate Service Instructions

7. Related policies and procedures

- MM01 – Matter management, planning and conduct
- MM04 – Disclosures and requests for information
- MP03 – Hearings (closed and public)
- MP05 – Witness protection
- MP08 – Search warrants
- MP12 – Property management
- MP20 – Criminal proceeds confiscation
- CCC Delegations Register
- General authorisation of commission officers pursuant to s272(1) of the Act.

Relevant Legislation

- *Crime and Corruption Act 2001 (Qld) (CC Act)*
- *Crime and Corruption Commission Regulation 2015*
- *Criminal Proceeds Confiscation Act 2002 (CPCA)*
- *Service and Executive of Process Act 1992 (Commonwealth)*



8. Administration

Responsible officer:	Director, Corruption Legal	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	March 2022	Review date:	March 2023



9. Appendices

9.1 Appendix A: Administration of notices and orders

9.1.1. Identified commission officers

Identified commission officers are the officers named on a notice or order to whom the recipient of the notice must provide the items or information required by a notice or order.

The case officer preparing the application and draft notice or order must name each identified commission officer (first name, last name) on the draft application and notice.

The case officer should consult with the case manager to confirm which officers should be listed as being authorised to receive the items required by the notice or order. In most cases, all members of the investigation team should be listed to receive the items required by the notice, in order for all team members to be alerted to the receipt of the items required by the notice. This ensures that if one or more members of the investigation team are absent from the office, that another present member of the investigation team is alerted to the compliance of the notice by the recipient.

9.1.2 Section 72 and 73 notices

The case officer or applicant requests a notice number via notices_warrants@ccc.qld.gov.au.

The case officer drafts an application and notice in one single document for authorisation using the appropriate template as outlined in section 6 of this document.

The application portion of the document is for the CCC's use only and must not be disseminated to the recipient or to any other party.

The notice part of the document must include the following details (where applicable):⁶⁵

- notice number
- CCC file reference number (eDRMS location and file number reference)
- case officer name and position title
- recipient name and address (either an individual or UPA)
- type of investigation the notice relates to (crime or corruption)⁶⁶
- the legislative power authorising the notice
- location of premises to be searched
- proposed time and date powers will be exercised
- the document(s), information or things required by the CCC in sufficient detail to enable the recipient to comply with the notice
- the basis for the CCC's reasonable suspicion that the recipient of the notice has the document(s), information or thing(s) required by the notice
- relevance of the document(s), information or thing(s) to the CCC's investigation
- compliance timeframe
- named CCC officers authorised by the notice to conduct the powers authorised in the notice
- how and where the requested documents are to be delivered
- stipulation of confidentiality (if applicable)
- stipulation of immediate production (if applicable)

⁶⁵ s.72(7) CC Act

⁶⁶ Required by s.74(2A) CC Act



9.1.3 Section 74, 74A and 75 notices

The case officer or applicant requests a notice number via notices_warrants@ccc.qld.gov.au.

The case officer or applicant drafts the application and notice in one single document for authorisation using the appropriate notice template as outlined in section 6.

The application portion of the document is for the CCC's use only and must not be disclosed to the recipient or to any other party.

The notice part of the document must include the following (where applicable):

- notice number
- CCC file reference number (eDRMS location and file number reference)
- case officer name and position title
- recipient name and address
- type of investigation the notice relates to (criminal proceeds confiscation, crime or corruption)⁶⁷
- the legislative power authorising the notice
- the document(s), information or things required by the CCC in sufficient detail to enable the recipient to comply with the notice (for section 74 and 74A notices this must be a stated document or thing, i.e. something in existence prior to the notice being issued)
- the basis for the CCC's reasonable suspicion that the recipient of the notice has the document(s), information or thing(s) required by the notice
- relevance of the document(s), information or thing(s) to the CCC's investigation
- compliance timeframe
- name of identified commission officer(s) to be given the documents/information/things required
- how and where the requested documents/information/things are to be delivered
- stipulation of confidentiality (if applicable)

9.1.4 Monitoring and Suspension orders

The case officer or applicant requests an order application number via notices_warrants@ccc.qld.gov.au.

In consultation with the team lawyer, the case officer prepares the order and an accompanying sworn affidavit in support of the order.

The draft order must include:

- the grounds on which the order is sought
- information required under a regulation regarding any monitoring or suspension order (whichever applicable) issued within the previous year in relation to an account held with the financial institution by the named person (by making a request to the Records Management to perform a search of the Monitoring and Suspension Orders register)
- the name(s) in which the financial account is believed to be held
- the information the financial institution is required to provide the CCC
- the period, of not more than 3 months from the date of its making, that the order is in force
- a statement that the order applies to transactions conducted during the period stated in the order

⁶⁷ Required by s.74(2A) CC Act



- a statement that the information is to be given to any stated CCC officer, and the manner that the information is to be given

The order must also state any requirements in relation to the information or action required by the financial institution. For example:

- immediate notification to the named CCC officer of any transaction that has been initiated in connection with an account held with the institution by a person named in the order
- immediate notification to the named CCC officer of reasonable grounds for suspecting that a transaction is about to be initiated in connection with the account
- that the financial institution is required to refrain from completing or effecting a nominated transaction for 48 hours unless the named CCC officer gives the financial institution written consent to the transaction being completed immediately.



9.2 Appendix B: Additional powers warrant applications

The team lawyer prepares the APW application and draft warrant document. The team lawyer takes carriage of the application to a Supreme Court Judge.

The team lawyer requests an application number via Notices_Warrants@ccc.qld.gov.au.

The draft APW application and draft warrant must be sworn and include the following:⁶⁸

- the grounds on which the APW is sought
- the specific additional powers sought
- full disclosure of all matters of which the applicant is aware both favourable and adverse to the issuing of the APW⁶⁹
- other information that the judge must consider in determining the application, including:⁷⁰
 - the nature and seriousness of the corruption or terrorism being investigated
 - the significance of the proposed exercise of additional powers to the CCC
 - the extent to which those investigating the matter have used or can use other powers for the investigation
 - how much the use of the additional powers would be likely to help in the investigation of the matter
 - any submissions made by a monitor⁷¹
- any other information required by the judge⁷²

The final APW warrant document must including the following:

- that a stated commission officer, or any commission officer, may, with reasonable help and force, enter a place and exercise powers under the warrant
- particulars of the corruption or crime (terrorism) for which the warrant is issued
- any evidence or samples of evidence that may be seized under the warrant
- a statement that the warrant may be executed at any time of the day or night
- a statement of the day and time the warrant starts and when the warrant ends
- any conditions imposed by the Supreme Court Judge under section 161(2) of the CC Act
- any other information required by the judge.⁷³

⁶⁸ s.158 CC Act

⁶⁹ s.158 CC Act

⁷⁰ s.160 CC Act

⁷¹ s.160 CC Act

⁷² S. 158(5) CC Act

⁷³ s.158(5) CC Act





**Crime and Corruption
Commission**

QUEENSLAND

MP10



the 1990s, the number of people in the world who are under 15 years of age has increased by 1.2 billion, from 1.1 billion in 1980 to 2.3 billion in 1999 (United Nations 2000).

There is a growing awareness that the needs of children are not being met in many parts of the world. The United Nations Children's Fund (UNICEF) has estimated that 100 million children are malnourished, 100 million are illiterate, 100 million are in need of shelter, and 100 million are in need of health care (UNICEF 1999). The United Nations Development Programme (UNDP) has estimated that 1 billion children are in need of basic services (UNDP 1999). The World Bank has estimated that 1 billion children are in need of basic services (World Bank 1999).

The United Nations has set a goal of reducing the number of children in need of basic services by 50% by the year 2015. This goal is part of the United Nations Millennium Development Goals (MDGs), which are a set of eight goals that the United Nations has set for the year 2015.

The MDGs are a set of eight goals that the United Nations has set for the year 2015. The goals are: (1) to eradicate poverty and hunger, (2) to achieve universal primary education, (3) to promote gender equality and empower women, (4) to reduce child mortality, (5) to improve maternal health, (6) to combat HIV/AIDS, malaria, and other diseases, (7) to ensure environmental sustainability, and (8) to develop a global partnership for development.

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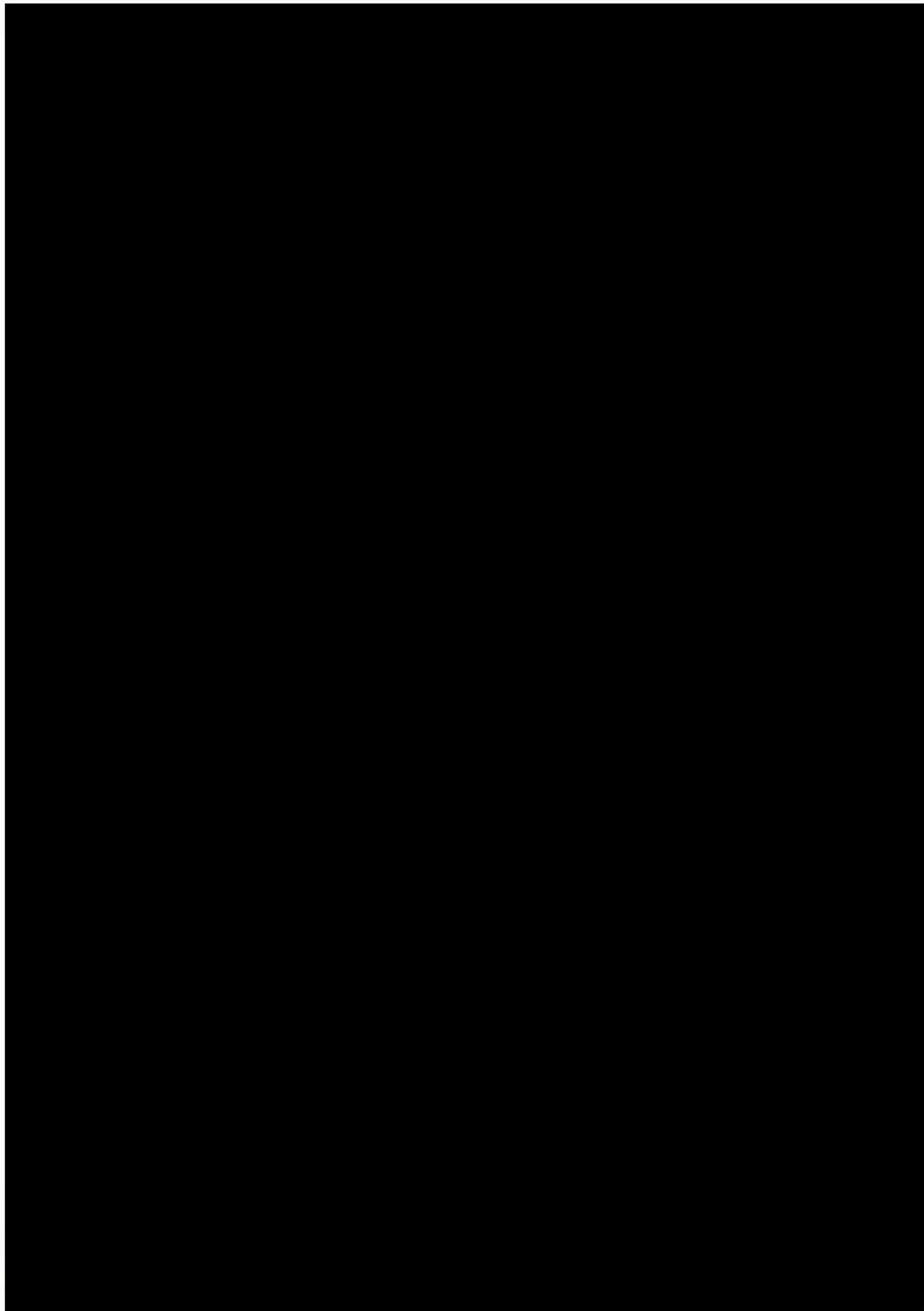
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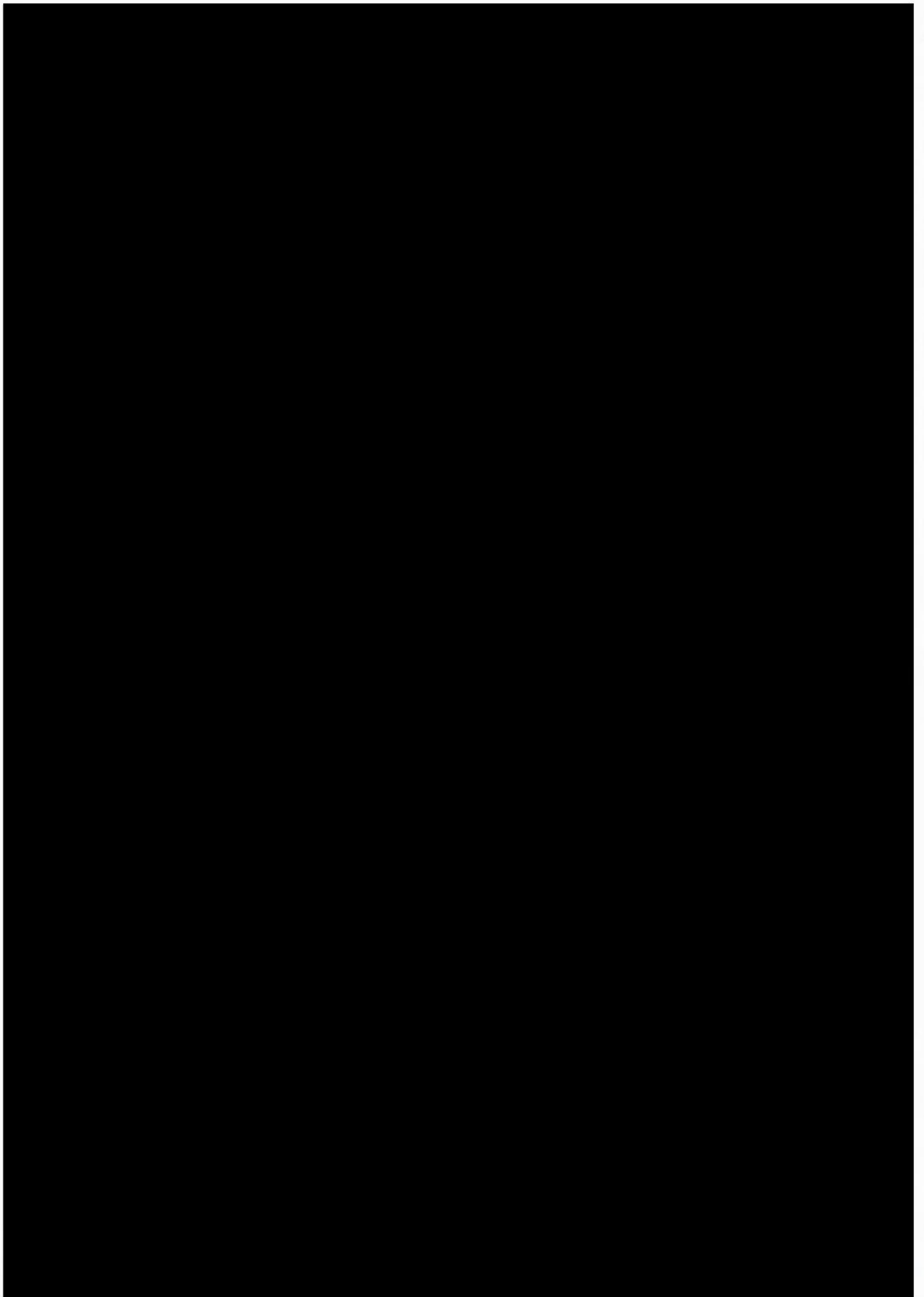
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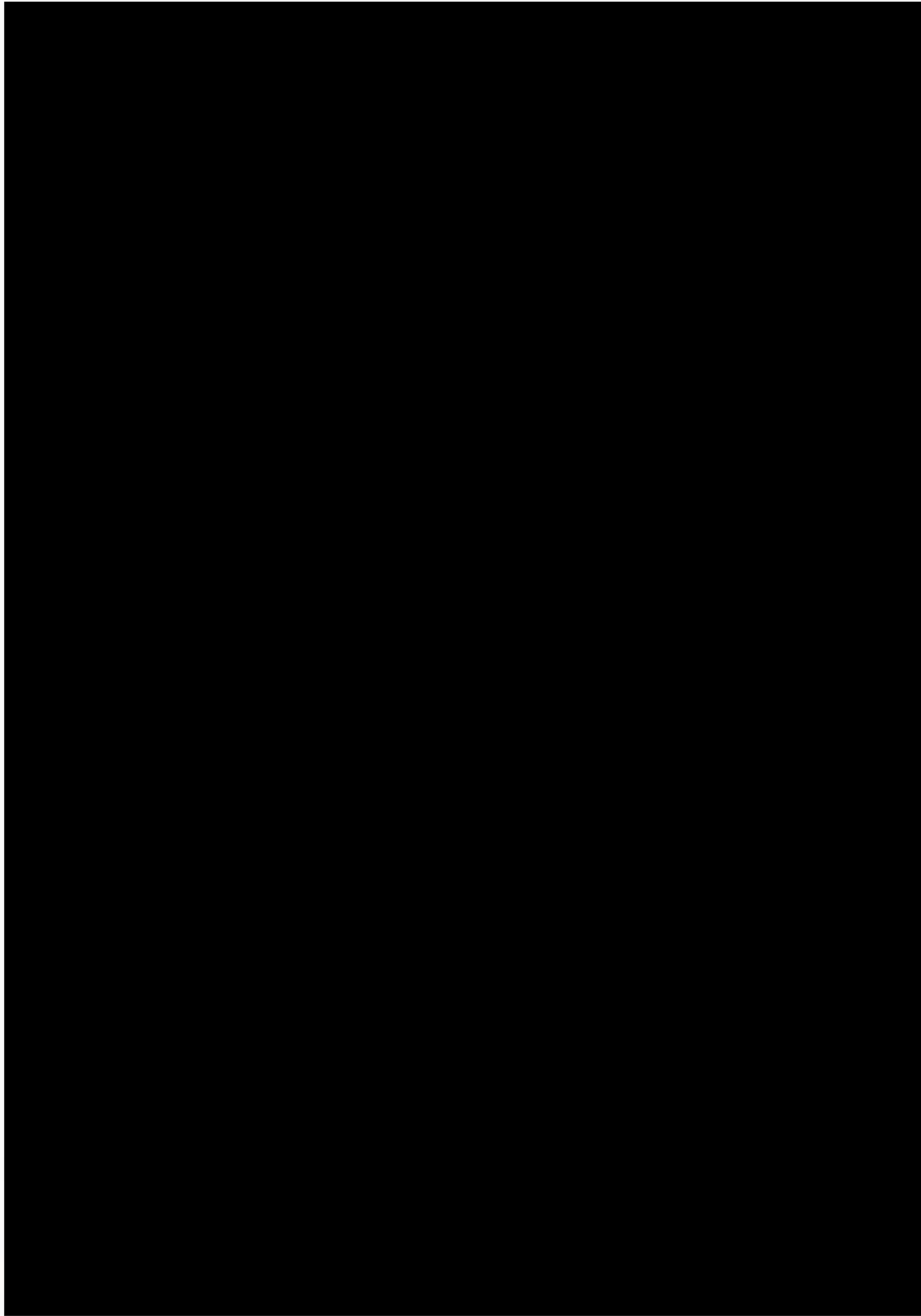
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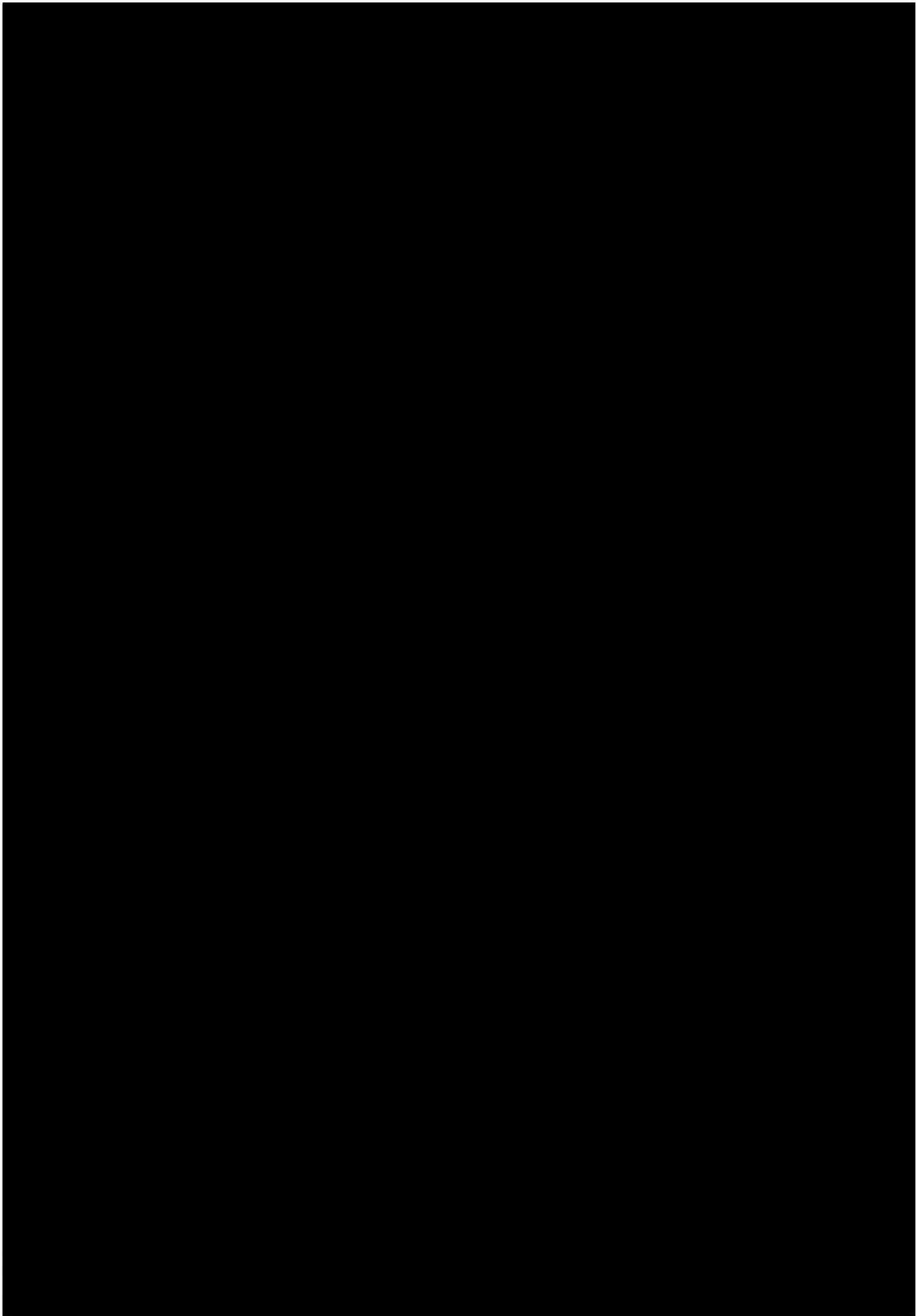
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the 1990s, the incidence of *S. flexneri* has increased in the United Kingdom [10]. In the United States, *S. flexneri* has been reported as the most common serotype in the 1990s [11]. In the United Kingdom, *S. flexneri* has been reported as the most common serotype in the 1990s [12].

The purpose of this study was to determine the prevalence of *S. flexneri* in the United Kingdom, and to determine the serotypes of *S. flexneri* isolated from patients with *S. flexneri* infection. The study was conducted in the United Kingdom, and the results are presented in this paper.

MATERIALS

The study was conducted in the United Kingdom, and the results are presented in this paper. The study was conducted in the United Kingdom, and the results are presented in this paper.

RESULTS

The results of the study are presented in this paper. The results of the study are presented in this paper.

DISCUSSION

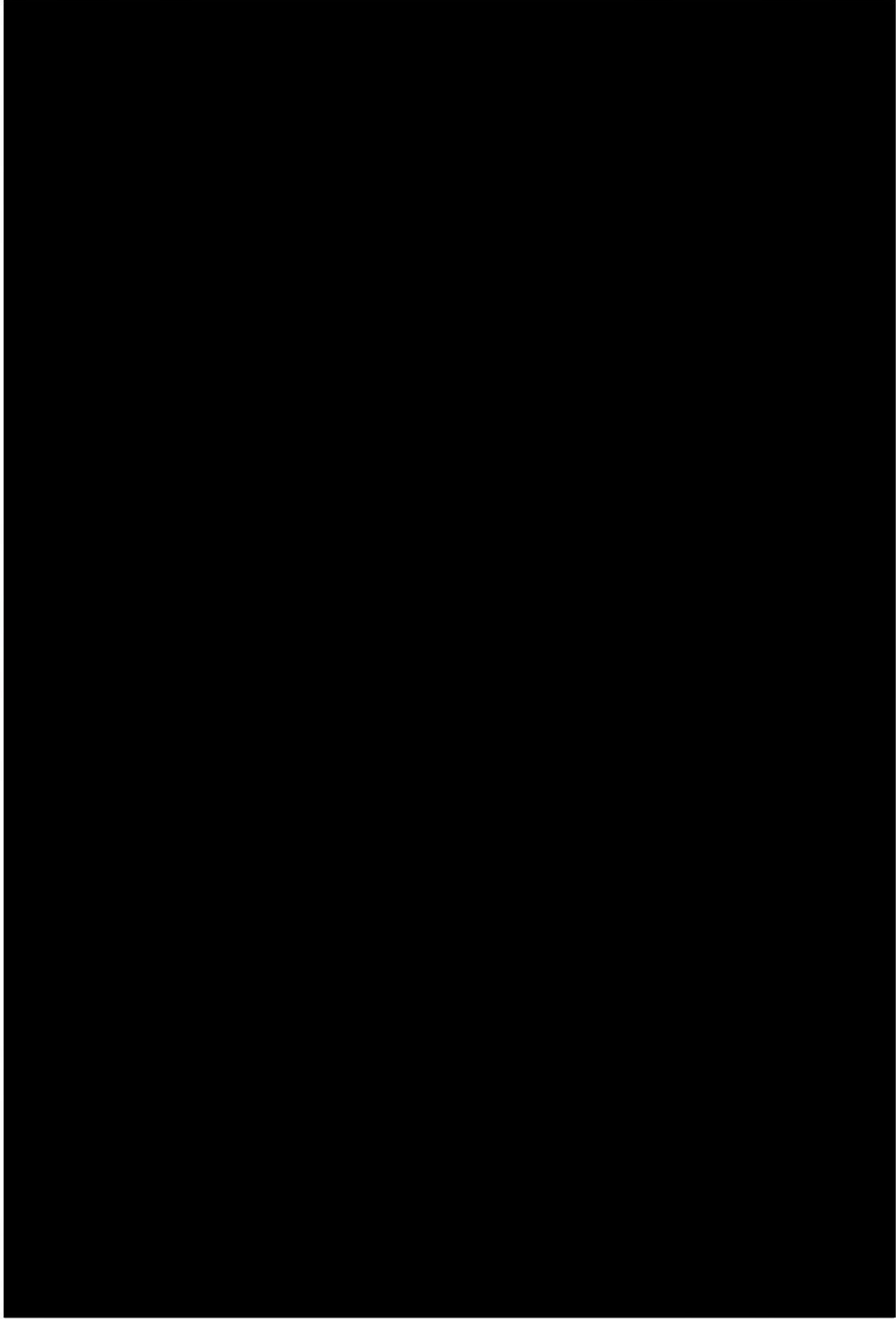
The results of the study are presented in this paper. The results of the study are presented in this paper.

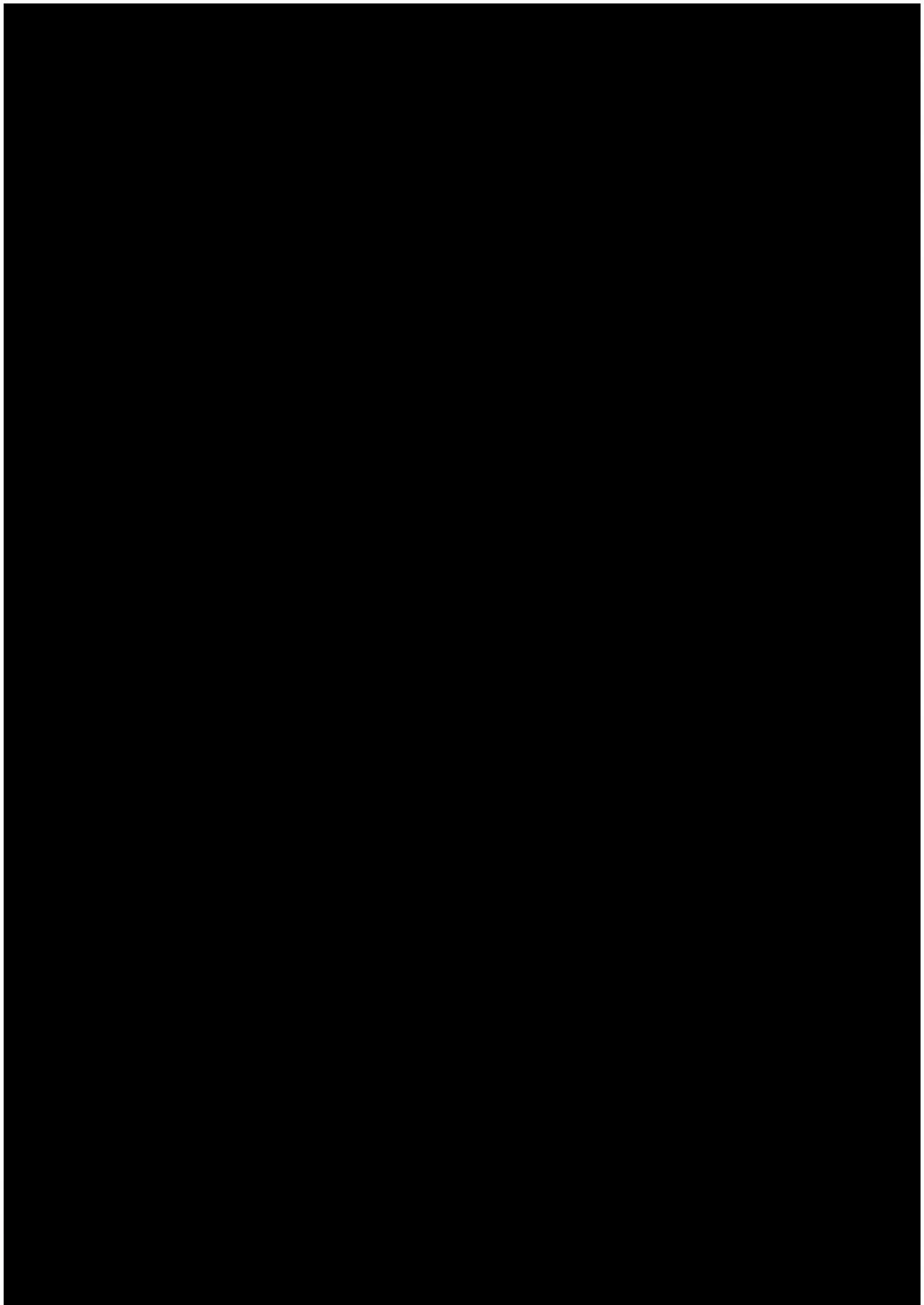
CONCLUSION

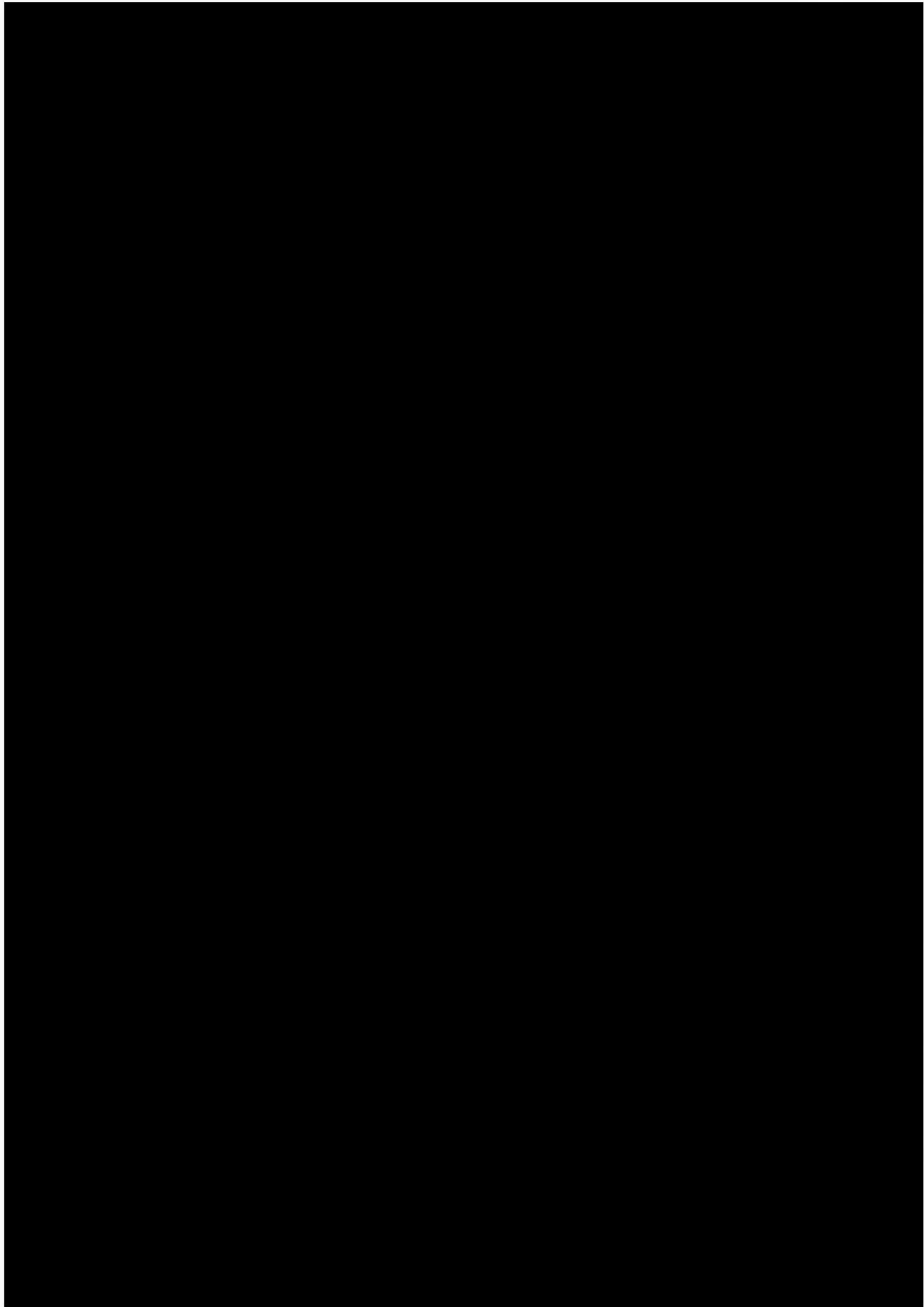
The results of the study are presented in this paper. The results of the study are presented in this paper.

REFERENCES

1. [Reference 1]
2. [Reference 2]
3. [Reference 3]
4. [Reference 4]
5. [Reference 5]
6. [Reference 6]
7. [Reference 7]
8. [Reference 8]
9. [Reference 9]
10. [Reference 10]
11. [Reference 11]
12. [Reference 12]









Crime and Corruption
Commission

QUEENSLAND

Operations Manual

Part 3: Matter Practices (MP)

Section 11: **Mutual assistance**

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MP11 Mutual Assistance

1. Purpose

The purpose of this policy and procedure is to outline the requirements for Commission officers initiating or responding to requests for assistance with foreign authorities through the Australian Government Mutual Assistance Regime.

2. Application

This policy and procedures applies to all Commission officers.

This policy does not relate to information obtained and disseminated directly between Australian State and Commonwealth authorities and the CCC. Refer to [MP07 Authorised Collections](#) for further information regarding the collection element of this process, and [MM04 – Disclosure and requests for information](#) for CCC disclosure procedures.

3. Policy

The CCC's policy and standards for outgoing and incoming requests to and from foreign authorities for information and evidence are set out in Part 2, clause 2.6 of the Operational Framework.

A CCC officer must not initiate or respond to a request, to or from a foreign authority, other than in accordance with this policy and procedure.

4. Procedure

4.1 General Principles

Mutual Assistance Requests (MARs) are a reciprocal and formal process used to obtain government to government assistance in the collection of evidence or exercise of compulsory powers in a foreign jurisdiction to ensure criminals cannot evade prosecution due to evidence or proceeds of their crimes being located in different countries.

MARs to and from foreign authorities are centrally administered by the Australian Government Attorney-General's Department International Crime Cooperation Central Authority (ICCCA). The ICCCA coordinates all activities and provides policy advice to requesting and fulfilling parties.

The Australian Government's policy is to not publically disclose the existence of any incoming or outgoing MARs. The CCC must follow this policy by not referring to the existence of any incoming or outgoing MARs in any public statements to the media or any other manner.

A CCC officer must not initiate or respond to a request, to or from a foreign authority, other than through the ICCCA.



4.2 Types of Mutual Assistance Requests

Australian authorities can provide and request various types of mutual assistance under the *Mutual Assistance in Criminal Matters Act 1987* (Cth) (the Mutual Assistance Act). Assistance not specified in the Mutual Assistance Act may also be requested in consultation with the ICCCA.

An outgoing MAR requires the CCC to lodge a formal request to the ICCCA. The ICCCA manages the request from receipt to fulfilment, liaises with relevant foreign authorities on behalf of the CCC, and then fulfils the request by sending the information/evidence requested to the CCC upon receipt from the foreign authority, or requests the foreign authority to exercise compulsory powers under the authority's own jurisdiction on behalf of the CCC.

Some examples of mutual assistance activities include:

- executing search warrants to seize evidence such as financial records from financial institutions located in foreign countries
- taking evidence from a witness in a foreign country to be used in criminal proceedings
- obtaining surveillance (including telecommunications interception) of a person located in a foreign country
- arranging for witnesses (including prisoners) to travel with their consent to a foreign country to give evidence in foreign criminal proceedings, or
- registering and enforcing restraining or forfeiture orders for the proceeds of crime.

4.3 Procedure for an outgoing MAR

4.3.1 Prior considerations

An outgoing MAR will only be considered by the ICCCA where:

- the evidence/assistance requested relates to an alleged criminal offence or prosecution, and the penalty attracted by the alleged offence is a minimum of 12 months imprisonment in the applicable Australian jurisdiction, and
- the CCC can demonstrate all other available avenues of investigative inquiry have been exhausted, and
- the CCC can demonstrate a clear link between the evidence requested and specific offences in the applicable Australian jurisdiction.

The CCC may only use evidence obtained through MAR's for the purpose stated by the CCC in the formal request.

Outgoing MARs take substantial periods of time to be considered by the ICCCA and fulfilled by foreign authorities. Case officers should be aware that outgoing MARs usually take *up to 12 months* to be fulfilled by a foreign agency even when the request is relatively simple in nature. Such delays may significantly affect a CCC investigation strategy and timeliness. Due to the significant length of time involved in fulfilling requests, MAR's should be considered a '*last resort*' to obtain evidence.

When considering whether to initiate a MAR, the case manager should seek advice from the team lawyer. The team lawyer's advice should cover:



- whether the CCC can request the proposed assistance sought by the MAR under the *Mutual Assistance in Criminal Matters Act 1987* (Cth)
- the potential value of evidence sought by the MAR
- whether the likely delay involved in pursuing a MAR will negatively impact investigation strategy, timeliness and prospects of success
- any expected impediments to a foreign agency fulfilling a MAR (such as legislative limitations regarding the provision of evidence to an Australian authority)
- provisions of the *Foreign Evidence Act 1994* (Cth) regarding the admissibility of any evidence obtained from a foreign authority.

The team lawyer's advice should be carefully considered by the case manager before a decision is made to pursue a MAR.

4.3.2 Procedure

The procedure for an outgoing MAR is listed sequentially below and as a process map, provided by the ICCCA, in **Appendix A**.

Recommendation and approval

Following consultation with the team lawyer, the case manager determines whether the potential information or evidence obtained through the MAR process is necessary to support the investigation. If a MAR is considered necessary, the case manager seeks written approval to pursue the MAR from the appropriate Executive Director, Operations (Crime or Corruption) via email.

If the matter is sensitive in nature (for example, the matter involves high profile public or political figures, minors, human trafficking, serious transnational crime, or has generated media attention), the case manager and Executive Director, Operations should brief the relevant Senior Executive Officer and Chairperson regarding the request *before* the MAR is sent to the ICCCA for consideration and fulfilment.

Completion of request

If the MAR is simple or transactional in nature, the case officer completes the Information needed to prepare a Mutual Assistance Request (MAR) Form (MP11 – Form 1) and submits it to the case manager and, where appropriate, the team lawyer for review and approval. Refer to section 6 for further information.

If the MAR is complex, the case manager should contact the ICCCA directly (refer to **Appendix B** for direct contact details) to seek guidance regarding the completion of the MAR form (MP11 – Form 1). It may be necessary for the team lawyer to directly consult the ICCCA if the complexities relate to legal matters.

If a MAR involves requests from multiple countries, a separate MAR form (MP11 – Form 1) is required for *each* foreign country the CCC intends to request assistance from.

Preservation of internet records

If the CCC is requesting internet records be retrieved by a foreign authority, the case officer must first contact the Internet Service Provider (ISP) directly to request the records be preserved *before* submitting a MAR to the ICCCA. The ICCCA will not seek preservation of ISP records on behalf of the CCC. Failure by the CCC to maintain preservation of ISP records may result in the destruction of evidence, and the MAR may subsequently be deprioritised by the ICCCA unit.



ISP contact details can be access via the ISP List website (www.search.org/resources/isp-list/).

When seeking preservation of ISP records located in the United States of America, and before submitting a MAR, the CCC will need to directly query the location of the data in question, and which location and manner the ISP will accept service of the MAR by the ICCCA. This information must be communicated to the ICCCA in the details of the MAR form (MP11 – Form 1).

Submission

Once the case officer has received approval from the case manager and team lawyer to submit the MAR, the case officer forwards the completed MAR form (MP11 – Form 1) to the ICCCA. The request must be submitted in word format. Refer to **Appendix B** for direct contact details for the ICCCA.

If at any stage, the CCC no longer requires the assistance sought (for example where a defendant pleads guilty, it is decided to drop charges pertaining to the MAR, or the matter is otherwise finalised) the case officer must contact the ICCCA as soon as possible to withdraw the request.

Review and fulfilment

The ICCCA reviews the MAR, and if satisfied that the CCC's request fulfils the necessary criteria specified in the MAR form (MP11 – Form 1), the ICCCA will fulfil the MAR by lodging a formal 'Request for assistance in a criminal matter' in the form of a written letter under ICCCA letterhead, signed by the ICCCA Principal Legal Officer. The ICCCA lodges the request with relevant foreign authorities and sends a copy of the formal request to the CCC for CCC record keeping.

Completion

Once the request has been fulfilled, the ICCCA contacts the CCC case officer to provide the evidence requested by the CCC. If the request is not able to be fulfilled by foreign authorities for any reason, the ICCCA will inform the CCC case officer.

4.4 Incoming requests

4.4.1 Prior considerations

Incoming MARs are responded to using the MM04 Disclosures and requests for information policy and procedure. An appropriate officer will be allocated to fulfil the request upon receipt from the ICCCA.

In considering whether to accept an incoming MAR from a foreign authority, the ICCCA will examine whether the statutory criteria required has been met in the request, and whether the grounds of refusal found in the Mutual Assistance Act¹ and relevant bilateral treaties exist.

4.4.2 Procedure

The CCC may be approached with an incoming MAR by the ICCCA on behalf of a foreign authority. All incoming MARs must be responded to formally following directions by the ICCCA subject to the CCC's own policy and procedure.

¹ s.8 Mutual Assistance Act



The CC Act permits the dissemination of information. In considering and fulfilling incoming MARs, officers should refer and apply the MM04 Disclosure and requests for information policy and procedure when completing an incoming MAR.

Incoming requests must be fulfilled by providing prompt, accurate and quality information, evidence and intelligence to the ICCCA.

4.5 Record keeping

All documentation relating to MARs must be recorded into eDRMS including all external and internal communications.

5. Definitions

Term	Definition
Mutual Assistance Request (MAR)	A formal reciprocal government to government process for requesting and receiving information and evidence from foreign authorities. This process is centrally administered by the Australian Government Attorney-General's Department's International Crime Cooperation Central Authority (ICCCA).
Outgoing MAR	A request made by the CCC for assistance from a foreign authority.
Incoming MAR	A request received by the CCC for assistance from a foreign authority.
Attorney-General's Department	Australian Government Attorney-General's Department (Commonwealth) in Canberra, ACT.
International Crime Cooperation Central Authority (ICCCA)	A unit of the Australian Government Attorney-General's Department that centrally administers incoming and outgoing mutual assistance requests on behalf of all State and Commonwealth agencies.
Request for assistance in a criminal matter	A formal letter of request for mutual assistance from a foreign authority drafted by the ICCCA on behalf of the CCC.

6. Forms

Document reference	Document title
MP11 – Form 1	Information needed to prepare a Mutual Assistance Request



7. Related policies and procedures

- MP07 - Authorised Collections
- MM04 - Disclosures and requests for information

Relevant Legislation

- *Mutual Assistance in Criminal Matters Act 1987 (Cth)*
- *Crime and Corruption Act 2001*
- *Foreign Evidence Act 1994 (Cth)*

Other Relevant Information

- Australian Government Attorney-General's Department International Crime Cooperation Division Fact Sheet – Mutual Assistance Overview

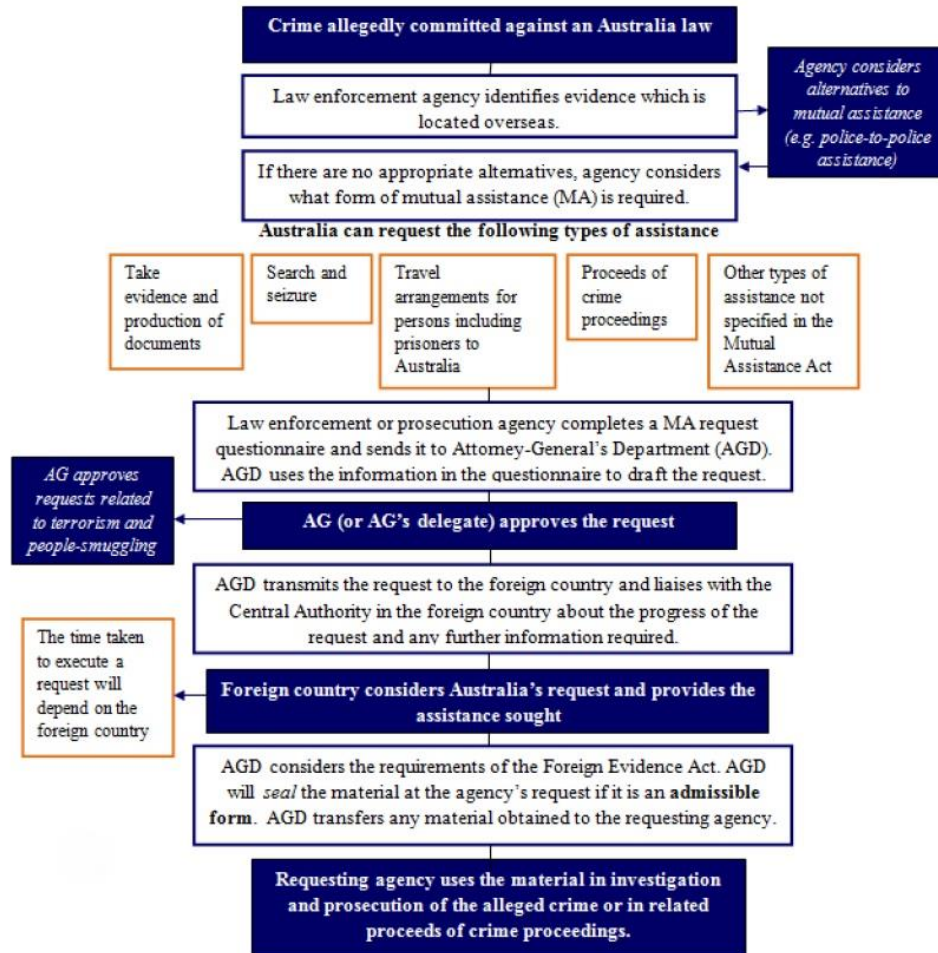
8. Administration

Responsible officer:	Director, Corruption Legal	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	February 2021	Review date:	February 2023



9. Appendices

9.1 Appendix A: Commonwealth Mutual Assistance Regime Process Flowchart



9.2 Appendix B: Outgoing Mutual Assistance Requests Contact Details

All correspondence regarding MARs should be formally addressed to:

Assistant Secretary
International Crime Cooperation Central Authority (ICCCA)
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
Telephone: (02) 6141 4864
Email: iccca@ag.gov.au





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Operations Manual

Part 3: Matter Practices (MP)
Section 12: **Property management**



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MP12 - Property management

1. Purpose

The purpose of this policy and procedure is to outline the requirements for managing property acquired by the CCC in carrying out its functions.

2. Application

This policy and procedure applies to all Commission officers.

This procedure is to be adopted by Commission officers, including instances where this procedure is different to the Queensland Police Service Operational Procedures Manual (QPS OPM).

In this policy and procedure, '**property**' is defined as a document or thing acquired by a Commission officer:

- a) because of the exercise of a formal power or authority under legislation (for example, the CC Act, the PPRA or another state or Commonwealth Act), or
- b) where property has been requested or acquired in circumstances where no power or authority has been exercised or relied upon or the property has been volunteered by a person.

Property does not include:

- (i) the following (which are treated as Commission records and maintained in accordance with the CCC Recordkeeping policy and General Recordkeeping procedure):
 - a copy made by a Commission officer of a document or thing mentioned in (a) or (b) above
 - a statement made by a witness, whether in writing or in electronic form (for example, by way of interview)
 - a transcript of an interview, hearing or other electronic document (i.e. audio or visual)
 - a hearing exhibit¹ (only copies of property may be used in a hearing and tendered as a hearing exhibit)
 - a brief of evidence
- (ii) a document or thing acquired or brought into existence under the following policies and procedures:
 - MP04 - Confidential Human Information Sources
 - MP05 - Witness Protection
 - MP16 - Telecommunications Interception and Access
 - MP18 - Assumed Identities

3. Policy

The CCC is committed to maintaining the integrity of property in its possession and ensuring such property is managed lawfully and securely.

¹ See [MP03 – Hearings \(closed and public\)](#) for further information as to requirements for dealing with hearing exhibits and transcripts

The Commission policy and standards with respect to property management is set out in Part 5, clauses 5.1.2 of the [Operational Framework](#).

4. Procedure

4.1 Property security and integrity

4.1.1 Property Control

Property Control is a secure facility for the central receipt and preservation of property. Property Control includes:

- a secure primary storage facility for property
- secondary secure overflow storage facilities within Commission premises
- management of CCC property stored at Queensland Police Service Evidence Management (QPS EM).

Property Control is staffed by officers who are responsible for ensuring:

- maintenance of the Commission's property management system and records
- the security and preservation of property held in Property Control
- that access to Property Control occurs in accordance with this policy and procedure.

4.1.2 Responsibility for property security and integrity

The 'responsible officer' for an item of property, is the officer with physical custody and control of property at any particular point in time. A responsible officer must record, preserve and deal with property:

- in accordance with any relevant legal requirement or responsibility that applies to the property
- as evidence until it is no longer required for an investigation, prosecution or other proceeding
- to negate any actual or perceived impropriety in its handling or integrity
- to avoid any detriment to the health and safety of a Commission officer or the public
- so that, subject to any order of a court or appropriate authority, it may be returned to the owner or person who produced it or is entitled to it, in the condition in which it was obtained by the Commission and as soon as practicable after it is no longer required for a lawful purpose.

It is Commission policy that unless otherwise permitted under this policy and procedure, CCC staff must work from a copy of a property item. A property item may only be removed from Property Control for the period of time reasonably necessary for:

- reviewing a property item in accordance with section 4.6 of this policy and procedure
- making a copy of a property item but only where a copy is not otherwise available or able to be accessed from the CCC's records
- the examination of a property item by a Commission officer, or a person assisting the CCC, including for example, a witness or Counsel Assisting the Commission but only if the examination of a copy of the property item would not be adequate
- the inspection of property by a person entitled under section 116 of the CC Act
- delivering a property item to the custody of an appropriate person or authority who is not a Commission officer ("a third party"):
 - for expert examination



- for admission into evidence (including collation into a brief of evidence for such purposes) before that person or authority or pursuant to an order (including subpoena) or other lawful requirement of the person or authority
- transferring a property item to another law enforcement agency if permitted under section 4.9 Disposal of acquired property of this policy and procedure
- disposal of the property, including return to its rightful owner or destruction.
(Note: The CCC may be the rightful owner of property, for example, in the case of a photograph taken by a Commission officer, or surveillance material not under warrant)
- for any other purpose, with the prior approval of the Chairperson, Chief Executive Officer or a Senior Executive Officer.

It is essential that the continuity of control of original property is maintained and can be proved. Under no circumstances can property be placed in the internal mail or be left unattended. When not stored in Property Control, a responsible officer must not leave property unattended or unsecured, even if the particular CCC area is generally considered secure.

4.1.3 Notice to Property Control of impending action or request for assistance

If practicable, Property Control should be advised at least two business days in advance of any process that is likely to result in the collection of a significant amount of property or property lodged after hours to ensure:

- Property Control will be accessible at the time required
- Property Control is available to assist with the registration of the property
- suitable arrangements for the secure storage of large quantities of property, bulky, valuable or sensitive items (excluding property items that must be stored at QPS EM) are in place
- that where required, Property Control are available to act as an 'exhibit officer' for off-site assistance.

4.2 The CCC property management system

The CCC property management system consists of:

- a register for authority sources ("the authority source register")
- a property register ("the property register").

4.2.1 Authority source register

The term 'authority source' refers to the basis upon which the Commission has acquired property, whether because of the exercise of a formal power or legislative authority or by way of general collection. Some authority sources, such as warrants and notices, are required to be made or issued in writing by a person authorised by law.

The CCC keeps a register of information about authority sources in eDRMS. Some of the information required to be kept by the CCC about authority sources, is prescribed under the CC Act or the PPRA and their respective Regulations.

Authority sources and the applications which support the issue of those documents are the responsibility of Records Management. Once registered, each Authority Source (or, if not made in writing, the authority source information) is allocated a unique identification number (Authority Source Number or 'ASN').

All inquiries and matters relating to 'authority sources' should be directed to Records Management.



4.2.2 Property Register

The CCC keeps a register (in eDRMS) of property it has acquired pursuant to an authority source. Each property item in the register is able to be identified with the Authority Source under which it was acquired.

Property receipts and documents associated with the location and movement of a property item are also kept by Property Control. Section 4.4 of this policy and procedure sets out requirements for the registration of a property item. Some of the information required to be kept by the CCC about the receipt of a property item is prescribed under the CC Act² or the PPRA³ and their respective Regulations.

Once registered, each property item is allocated a unique identification number (Property Registration Number or 'PRN').

4.2.3 Property receipts and receipt books

The CC Act and the PPRA requires a property receipt to be issued if a Commission officer seizes anything under those Acts (other than under a covert search warrant).⁴ It is Commission policy that a property receipt is issued for all property acquired by a Commission officer.

Property Control will issue a numbered Property Receipt Book to any Commission officer who may be required to seize or otherwise take possession of a property item. The Property Receipt Book is an accountable record for which the Commission officer is responsible for maintaining its integrity and completeness.

If a Commission officer ceases employment with the CCC, the Property Receipt Book will be recalled and may be re-assigned to another officer.

The Property Receipt Book comprises a series of numbered receipts in quadruplicate as follows:

- White Original: is retained by the CCC and provided to Property Control with the property items listed on the receipt
- Pink Copy: is to be provided to the person from whom the property is obtained, or left in a conspicuous place
- Green Copy: is retained by the CCC and provided to Property Control with the property items listed on the receipt
- Blue Copy: is to remain in the book and is endorsed by Property Control on presentation of the property for registration.

Instructions to correctly manage Property Receipt Books are provided on the book's cover, and detailed in Appendix A.

Audit of property receipt books

Each Property Receipt Book is subject to quarterly internal and external auditing to ensure compliance with this policy and procedure. Any breaches of the instructions recorded on the Property Receipt Book or breaches of this procedure by a Commission officer may result in that Commission officer being subjected to a notification under section 329 of the CC Act.

² Section 112 CC Act

³ Section 622 PPRA

⁴ Section 112 CC Act and section 622 PPRA



Training in property processes

All Commission officers that have a duty to handle property must undertake mandatory training in property handling processes, conducted by Property Control and via the CCC learning portal. A training attendance form must be completed to acknowledge awareness of responsibilities and procedural requirements.

4.3 Registration of property items

4.3.1 General requirements

All property must be delivered or referred directly to Property Control for registration as soon as practicable after it has been acquired but within two business days after the responsible officer's return to the Commission with the property, unless there are extenuating circumstances or special storage requirements for any particular items (for example, motor vehicles, drugs, drug contaminated items, weapons and ammunition). See section 4.4.3 for further information.

If a responsible officer is not able to access their Property Receipt Book to finalise the lodgement of property within two business days, or lodge acquired property within the timeframe listed above, they must contact the Senior Property Officer as soon as possible.

Except as otherwise provided below, a responsible officer presenting or referring property to Property Control for registration must present the Property Receipt Book that includes the Property Receipt for the item. The Property Control officer who has accepted the item for registration, will stamp the Property Receipt Book (for audit purposes), register the property and store the property as required in this policy and procedure. The following information is recorded in relation to each property item registered:

- Matter Number (linked)
- Authority Source Number (linked)
- Property Registration Number
- Property Receipt Number (including relevant item number on the receipt)
- Date and time the property item was acquired
- Name and designation of the officer who received/acquired the property item
- How the property item was acquired (i.e. by email, seized, collected)
- Person from whom the property was acquired (linked)
- Date and time the property item was lodged/referred for registration
- Name and designation of the officer who delivered or referred the property item for registration)
- A description of the property item
- Format of the property item (i.e. original, copy, electronic)
- Value of property item (if the property item is a drug, the type and weight/quantity)
- Whether the property item is subject to a privilege claim (by way of objection or substantive) and if so, the kind of privilege claimed (self-incrimination, LPP, etc.)
- The status of the privilege claim (in dispute, allowed, dismissed) and the status date
- The location of the property item upon Registration (i.e. Property Control or some other location approved under this policy and procedure)
- Retention authority (i.e. Nil, Order, Consent)
- Retention authority reference (linked to property receipt, order or written consent)
- Return address (for disposal of the property item)
- Disposal due date



4.3.2 Property item labels

When a property item is lodged with Property Control for registration, the Responsible Officer will ensure all property items are placed in suitable packaging or other storage receptacle/s. CCC secure evidence bags are available in all operational areas for officers to store individual items and are to be appropriately labelled and marked with the following information:

- Property Registration Number
- Property Receipt Number
- A description of the property (as per the property receipt description) including:
 - any relevant date or start date for the property (for example, if the property item is a collection of documents such as a bank statement)
 - the type or nature of the property item (i.e. receipt, letter, deed, external hard drive, etc.)
 - any specific attributes of the property item, including its condition or if damaged, particulars of the damage
 - any serial number or unique reference/markings appearing on the item.

4.3.3 Registration and storage requirements in particular cases

Property acquired under a joint investigation

Where joint activities between the CCC and a Queensland Police Service (QPS) Task Force result in the seizure or production of property under the PPRA, subject to a contrary provision in any joint investigation agreement, the property is handled according to QPS procedures (refer to QPS Operations Procedure Manual Chapter 4 – Property). If special circumstances require the property to be lodged at the CCC (for example, for forensic examination), the property must be signed out from the QPS Property Point and registered at the CCC's Property Control as a general collection.

Property received via email

Prior to delivery of a property receipt to Property Control, emails, including attachments relating to property received under notice, general collection, or tax are to be forwarded to a central point ('Property Request Inbox') within Property Control. No additional recording of the email in eDRMS is necessary and copies of the electronic attachments must not be stored outside the relevant eDRMS directory.

Property Receipts will be completed as outlined in **Appendix A** and additionally, must identify that the property has been received electronically.

From 1 October 2021 all notices served via email by Corruption Officers will be issued from the Corruption Property Mailbox. The recipient of the notice will email all requested material to the Corruption Property Mailbox. If a Corruption Officer receives property in their own mailbox they are to drag and drop the email into the Corruption Property Mailbox and complete a property receipt as per normal procedure.

Corruption Support Officers and Property Officers will monitor the Corruption Property Mailbox, however Corruption Officers are to ensure all acquired property is receipted and lodged within the timeframes outlined in section 4.3.1. No additional recording of the email in eDRMS is necessary, all acquired material is registered in eDRMS and is available to Corruption Officers as required.

Property Receipts will be completed as outlined in **Appendix A** and additionally, must identify that the property has been received electronically.



Property acquired under an attendance notice

It is CCC policy that property items are not to be tendered as exhibits in CCC hearings. Refer to MP03- Hearings (closed and public) for further information on the requirements for dealing with hearing exhibits.

On occasion it may be essential to show a witness an original property item, for example, to identify an original document, handwriting or something else on the document, where a copy of the document is unsuitable for that purpose. However, only a copy or duplicate of an original property item is to be used for tendering or marking purposes. A witness at a Commission hearing must never be requested or allowed to mark or alter an original property item.

A document or thing produced by a witness in responding to an attendance notice or a direction given by a presiding officer (under section 75B) is property and must be dealt with as property in accordance with this policy and procedure. This is the case even if the witness was not required under the attendance notice to produce the document or thing, the document or thing was volunteered by the witness upon their attendance to give evidence or the document or the thing was produced in the course of the witnesses evidence, whether because of a direction given by the presiding officer or otherwise. Additional information provided by the witness, that is not produced under notice or volunteered by them, for example if a witness is provided with a map and marks a specific location, is a record and managed accordingly.

If there has been no prior notice of the document or thing produced by a witness under an attendance notice, or there has been insufficient time to register the document or thing produced with Property Control (because it was produced in the course of the hearing), the responsible officer will, as soon as practicable after the document or thing has been produced by the witness, complete a property receipt for the property item, make or arrange for a copy of the property item to be made, use the copy as the hearing exhibit and deliver the original property item and property receipt to Property Control for registration.

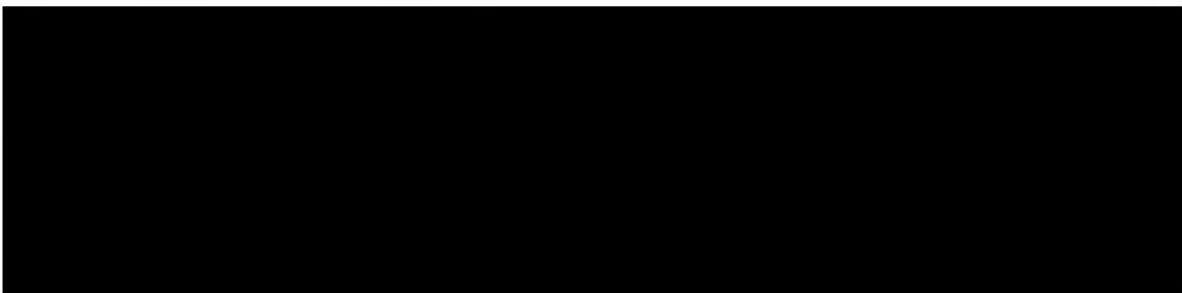
For further information about requirements in relation to hearing exhibits, transcripts and other records, refer to MP03- Hearings (closed and public).

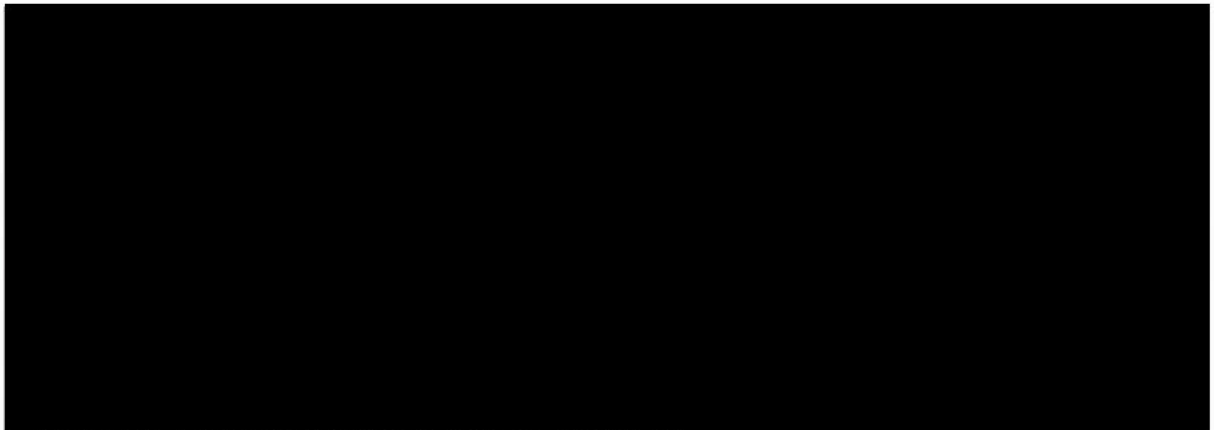
Documents acquired from the Australian Taxation Office (ATO)

Upon registration, a Property Control officer will save or scan the ATO property items into eDRMS and set appropriate security controls for the documents to limit their access to authorised Commission officers, on a read only basis (and preventing the documents being copied or printed).

Specific legislation, with heavy legislated penalties, applies to the management of ATO documents, including what is permitted or prohibited in relation to their security, copying, retention and disposal.

Once ATO documents have been registered and scanned or saved, the officer who requested the documents from the ATO will be notified that the documents are available for review.





Weapons, weapon related things and ammunition

All weapons, weapon related things and ammunition that may come into the possession of a responsible officer, must be registered and stored at the QPS EM, unless the General Manager, Operations Support determines that the investigation or operation could be compromised by such registration. In these cases, the items are to be registered by Property Control and stored in an appropriate location determined by the General Manager, Operations Support and Property Control officer. If weapons are lodged at, or disposed of from CCC premises, the Inspector, Weapons Licensing Branch must be notified.⁶

A copy of all relevant documentation with respect to lodging any weapon, weapon related things and ammunition with the QPS EM must be handed to Property Control for the items to be registered.

Money

Money which comes into the CCC's possession will be banked, unless:

- the money is a collector's item
- the money is to be fingerprinted
- the money is likely to be claimed by the rightful owner within 24 hours
- the circumstances of the case require the production of the money in evidence
- special features of the bank notes or coinage require their production in court
- the disposition of the money has been otherwise judicially decided
- any other situation exists that necessitates the retention of the money in its original state.

The receipt of money requires the following additional information to be detailed on the Property Receipt:

- Country of origin of bank note(s) or coin(s)
- Denomination
- Total amount received
- Serial number(s) of bank notes

The responsible officer lodging the money must present the Property Receipt Book to Property Control for the money to be registered.

If the money is to be retained in its original form, wherever possible, the money must be counted by two officers, with the custodian present, under camera. It must be placed within a sealable plastic receptacle, heat-sealed and the bag labelled with an appropriate notation consistent with the record made in the Property Receipt Book. Once registered with Property Control, and prior to the money being secured in the Property Control safe, Property Control must ensure that:

⁶ To comply with section 49 of the *Weapons Act 1990*, for the Police Commissioner to maintain a firearms register for Queensland.

- The money is counted by an investigating officer and property officer under camera
- The money has been photographed
- The denominations, country of origin and serial numbers have been separately recorded, noting any identifying marks
- If necessary, forensic examinations have been undertaken by an appropriate expert.

Any further access should occur only with a minimum of two officers present when breaking the seal and counting the money, under camera wherever possible. Each time the bag is opened and resealed, officers must initial and date the bag. If a new sealable bag is required the previous sealable bag is not discarded, but contained within the new bag with the money.

Property Control confirm with the responsible officer lodging the money, that the money can be banked into the appropriate CCC Trust Account. If so, Property Control complete a covering memo to the Finance section, outlining how the money came into the Commission's possession. The memo accompanies the money.

Officers from the Commission's Finance section are responsible for ensuring that money is banked as soon as reasonably practicable, by depositing the money into the appropriate CCC Trust Account and providing Property Control with a deposit receipt.

Items of value

Where items of value such as jewellery, negotiable instruments such as share certificates, bonds, works of art and any other item of value are acquired, the items are to be registered with Property Control in accordance with this policy and procedure.

In addition, the items should be placed where practicable, within a re-sealable plastic receptacle, heat-sealed and labelled in accordance with the requirements of this policy and procedure.

Following registration, the items will be secured in a safe or in the secure property room. Where a large quantity, or bulky items are taken possession of, Property Control, in consultation with the appropriate delegate, may arrange for the property to be secured in an external safe location or with the Public Trustee of Queensland.

Bulky, heavy or dirty items

Where responsible officers come into possession of a bulky, heavy or dirty item the officers must consult with Property Control to determine the best arrangements for safe-keeping.

Hazardous items

Where responsible officers come into possession of hazardous items (such as chemicals, unstable substances or explosives), they must arrange for those items to be handled and stored safely. This is done to prevent exposure of any person to risk of illness or injury.

Whenever possible, appropriate expert advice and assistance should be sought before hazardous items come into a responsible officer's possession. Arrangements should then be made (in consultation with Property Control and an appropriate expert) for keeping those items safely on CCC premises. If that is not appropriate, then at some other appropriate place that can lawfully store those items.

If, after expert advice, the item is to be destroyed:

- it must be photographed and subjected to whatever forensic examination is considered necessary (including chemical analysis), prior to destruction, and



- destruction can only take place after the appropriate authority has been provided under the provisions of the CC Act. For property acquired under the PPRA, refer to 4.8 of this procedure.

Drugs

The CCC does not provide specific safe custody facilities for storing pharmaceuticals. Responsible officers, therefore, must lodge all dangerous drugs that come into their possession with the QPS EM in line with the QPS OPM.

All drugs seized under a CCC authorisation must be clearly identified on the CCC property receipt. If the suspected dangerous drug is an unknown substance, the item must be taken to QPS EM and the location of the substance is to be noted on the CCC property receipt.

A copy of all relevant documentation with respect to lodging any dangerous drugs with the QPS EM must be handed to Property Control to record that the dangerous drugs are located at QPS EM.

Motor vehicles and motor vessels

If responsible officers come into possession of a vehicle or vessel when performing their CCC functions, the provisions with respect to bulky, heavy or dirty items shall apply. Responsible officers are to ensure that full particulars of the vehicle or vessel are provided to Property Control. Responsible officers shall make interim short-term arrangements for safe custody of the items, in consultation with the relevant case manager. If long-term storage is required, the arrangements should be made in consultation with Property Control, and the relevant case manager. If necessary, arrangements are to be made with the Public Trustee for safe keeping those items.

4.4 Privilege claims

4.4.1 Privilege claims

There are two circumstances in which a privilege claim may arise in relation to a property item:

- *A claim by way of objection:* the person producing the property item under compulsion has not been excused from producing the document and compelled to provide it in circumstances where the person:
 - has actually objected to the production of the property item on the grounds of a privilege the person is entitled to claim under the CC Act (for example, self-incrimination), or
 - is regarded as having objected to the production of the property item on the grounds of a privilege because of a direction given to the person under section 197 of the CC Act
- *A substantive claim:* the person from whom the property item was seized or by whom it was produced made a claim of privilege in respect of the property item that, if sustained, would prevent the CCC from seizing or accessing the property item on that basis.

In any case where a property item is subject to a privilege claim, whether the claim is made by way of objection or is a substantive claim, the responsible officer must ensure:

- the property item is recorded on a separate property receipt from property items that are not subject to any claim of privilege
- the property receipt identifies (written on the receipt):
 - the kind of privilege claimed (i.e. self-incrimination, Legal Professional Privilege, etc.)
 - whether the claim arises because of a direction given to the person under section 197 of the CC Act and if so, whether under section 197(1)(c) or 197(1)(5), and



- the status of the privilege claim (disputed, allowed, dismissed), and
- Property Control is provided with a copy of any correspondence between a Commission officer and the claimant (or their legal representative) in relation to making the claim.

Property Control will ensure that any property item in its custody that is subject to an allowed or disputed claim or privilege is labelled on the outside, “subject to substantive privilege claim”, “produced under objection” or “subject to PII”, as the case may be.

Once the privilege claim has been resolved,⁷ the responsible officer who delivered the property item to Property Control will ensure Property Control is advised of the change of status in relation to the claim and the date the claim was resolved. Property Control will then update this information in relation to the Property Item.

Procedure for a claim by way of objection or substantive claim of privilege (disputed)

Where a property item is subject to a disputed claim by way of objection or a substantive claim of privilege and the CCC (whether through the responsible officer or another authorised CCC delegate) has not allowed the claim or otherwise disputes the claim, then:

- *for a crime investigation or intelligence hearing or in the case of any property item obtained under a PPRA warrant* — the responsible officer is to seal the property item and deliver it to Property Control for registration and safe keeping until the claim has been resolved.

Prior to the claim being resolved, a Commission officer may only access the property with consent of the other party or under the supervision of the court, for the purpose of resolving the claim.

- *for a confiscation investigation or corruption investigation* where the property is required to be held in the *safe custody of the Supreme Court* — if the claim relates to a document or thing required to be produced or has been seized under sections 73, 74A, 75, 94 or 111 of the CC Act, the responsible officer is to seal the property item and deliver it to the Registrar of the Supreme Court to be held in safe custody until the claim has been resolved.

In addition to the Property Receipt, the responsible officer is to provide Property Control with a copy of the Privilege Form(s) (LPP Privilege form package) that must be completed at the time the property is seized or otherwise acquired.

4.4.2 Public Interest Immunity

Public Interest Immunity (PII) is a principle of common law that may be invoked by any person to protect information from disclosure in a proceeding “if it would be injurious to the public interest to do so.”⁸ A responsible officer should consider whether the whole or part of any property item may attract PII, particularly those items created or produced by the Commission or acquired from units of public administration, including the QPS.

Where a responsible officer becomes aware that a property item may attract PII, the responsible officer is to ensure that as soon as reasonably practicable, and with the approval of the case manager, Property Control is advised in writing of the nature and extent of the claim, whether the claim relates to the whole or part of the property item, and if so, which part and whether access to the property should be more restricted and if so, the extent of the restriction.

Once advised of the PII claim, Property Control will record the PII claim against the property item in the same way as any other claim of privilege is recorded.

⁷ For procedures in relation to resolving disputed claims of privilege applying to the above mentioned claims, see the relevant Operations Manual procedure, either [MP03- Hearings \(closed and public\)](#) or [MP09 – Use of notices, monitoring and suspension orders](#), as the case may be.

⁸ *Sankey v Whitlam* (1978) 142 CLR 1 38 per Gibbs J.



4.5 Review of property items

This section applies only to property items obtained as a result of the exercise of a power or authority under the CC Act, the PPRA or another Act.

The case officer for the matter to which the property item relates, must ensure a property item, to which this section applies, is reviewed within 21 days of the property item being registered.

Upon the registration of property to which this section applies, Property Control will ensure:

- a review due date is recorded against the relevant authority source for the property item in the Authority Source register, and
- cause an email to be sent to the case officer, advising him or her of the review date.

If the case officer is unable to review or cause for the property item(s) to be reviewed by the review date, the case officer is to advise Property Control via email of a further period, not exceeding one month within which the review will be undertaken. No additional extension of the review date will be granted without the approval of the case manager. The review will not be recorded by Property Control as completed until advised in writing by the case officer that all of the property acquired under the relevant authority source has been reviewed in accordance with this policy and procedure.

The property review does not involve a detailed analysis of the evidentiary value of the relevant property item(s) but is limited to the following:

- where the property was obtained under a notice, whether there has been compliance with the notice
- in any case, whether the property obtained is:
 - within the terms of authority or power that was exercised, and
 - if so, whether the property item is required to be retained for the purpose of the investigation.

Where the review reveals there has not been sufficient compliance with the authority or power (for example, an item required to be produced was not produced), then the case officer should take appropriate action in consultation with case manager.

Where the review reveals that the property obtained was outside the requirements of the authority or power, then unless the owner has consented to its retention, and its retention is otherwise lawful, the case officer must ensure the property is returned to the owner as soon as practicable, and in any event, before the review due date.

Where the property item is required to be retained for the purpose of the investigation, the case officer must advise Property Control accordingly and take appropriate action, if necessary, to obtain a court order to allow its retention for that purpose. Refer to 4.7 Timeframes for further information on holding property.

4.6 Timeframes for holding property

The Commission may hold acquired property for **30 days** from receipt of possession, under section 113 of the CC Act or section 695 of the PPRA. Property acquired under sections 74 or 74A of the CC Act is obtained as if under a warrant,⁹ but must only be held for 30 days, regardless of whether the property is provided in hard copy or electronically.

If a longer period of possession is required, an application to a magistrate seeking an appropriate order must be made to allow the property to be held past 30 days, unless:

⁹ sections 74(8) or 74A(7) of the CC Act



- a proceeding has commenced to which the property is relevant
- the owner has consented in writing or indicated on the property receipt to the keeping of the property
- it is dealt with or destroyed under the authority of an act
- a court has ordered otherwise.¹⁰

The responsible officer for the property item(s) must make an application to a magistrate seeking an order to allow the property after:

- a proceeding has been discontinued without an order made, or
- the owner withdraws their consent.¹¹

Any application to a magistrate must be accompanied by the appropriate warrant.

Consent to retain property must be obtained from the property owner/possessor signing the Property Receipt or in writing or via email.

If consent has not been obtained, it is recommended that Corporate Legal is approached no later than **14 days** after seizure so the required order regarding retention can be obtained from a Magistrate.

Property obtained under a Monitoring Order is not treated as 'property seized' but as information an institution is compelled to produce and therefore is not subject to section 114 of the CC Act or section 695 of the PPRA. Financial institutions are directed under section 119C of the CC Act and section 200 of the PPRA to provide information as outlined in the Monitoring Order. The responsible officer must ensure that all information obtained under a Monitoring Order is registered with Property Control.

4.7 Use of property

All property items are registered against a storage location. Property movements and consequential changes in custody are recorded in eDRMS. This is necessary to ensure the continuity of the chain of evidence and to ensure that disposal, return or destruction occurs in accordance with the law.

Property may only be removed from Property Control in accordance with 4.1.2.

Accordingly, the responsible officer must complete a Property Movement Request form (PTY-01) to take possession of any property item(s) with the following details:

- the responsible property officer details
- the receiving officer details
- reason(s) for item to be removed (refer 4.1.2)
- where the property item will be stored prior to return to Property Control. If the item is removed for delivery to a third party (e.g. for analysis), the identity of the third party.
- date and time of movement
- retention period

Property Control are responsible for updating the property location and other details set out in the property movement request form in eDRMS.

If a responsible officer removes a property item for a reason specified on the property movement request form, the responsible officer must not deal with the property other than for the reason

¹⁰ section 113(1) of the CC Act

¹¹ section 113(2) of the CC Act



specified. For example, a responsible officer cannot remove a property item for the purpose of reviewing the item as per the requirements of section 4.6 and return the item to the owner.

4.8 Disposal of property

The CCC is obliged to return property to its owner at the end of a prosecution or when its retention is no longer necessary¹² except if:

- a) it is otherwise required by a court order
- b) it would be unlawful to return the property, or
- c) the lawful owner cannot be identified or located.¹³

A court may order the disposal of property at the end of proceedings, or on an application by a responsible officer or an owner. Where responsible officers become aware that there is a dispute about the ownership of the acquired property, an application to a magistrate for an order may be made, under:

- section 119 of the CC Act for property acquired under that Act
- section 694 of the PPRA for property acquired under that Act
- section 39 of the *Justices Act 1886* for property that is otherwise acquired.

Where a responsible officer becomes aware that the property has been forfeited by court or under a legislative provision, and the proceedings and any appeal period has expired, the responsible officer must first apply to an authorised CCC delegate for direction on how the property is to be dealt with. The disposal process outlined in section 4.9.1 must be followed, outlining the disposal method and attaching a copy of the order authorising the disposal.

Only Commission officers who have the delegated authority under the CC Act, the PPRA or other Act, the CCC delegate can authorise disposal of property. Before authorising disposal, the CCC delegate must ensure that the disposal is appropriate and the required documentation is correct (QPS indemnity receipts **must not** be used in lieu of this process).

To minimise the time that property is held at the CCC, responsible officers should proactively advise Property Control as soon as practicable after they become aware that property is appropriate for disposal.

4.8.1 Disposal process

The process for the disposal of property will commence with the completion of a Property Disposal Authority form (PTY-02). The property disposal authority form must be signed by the case officer and his or her case manager and delivered to Property Control. The appropriate responsible officers in Crime or Corruption coordinate the return of property with the owner. Information, including contact telephone numbers and addresses, must be noted on the Disposal Authority Form or provided to Property Control via email. Property Control are not responsible for any contact with individuals in the return of property.

Upon receipt of the completed property disposal authority form, Property Control will dispose of the property in accordance with the authority and ensure that if disposed or returned to a third party on behalf of the owner, then it is returned with:

- a copy of the property receipt
- a return letter in the approved template (PTY-03).

Property must be disposed of, or destroyed, in a way or ways that:

¹² Section 117 CC Act and section 691 of the PPRA

¹³ Section 718(2) of the PPRA



- is lawful
- is fair and equitable
- does not attract undue criticism of the CCC
- minimises or eliminates any risk of injury or illness to any person, or damage to any property that is not/except the subject of disposal.

Where property other than drugs or weapons is to be destroyed, Property Control should destroy the property in the most appropriate manner in the presence of another Commission officer.

In the case of electronic property items (including emails and attachments, binary images or data extracts), Property Control must conduct searches or cause for searches to be conducted of electronic property held in designated property containers in eDRMS. Any copies of electronic property items, saved by Commission officers in non-property containers in eDRMS, constitute a record. Such records will be managed through the CCC General Recordkeeping procedure and the CCC retention and disposal schedules.¹⁴

Property Control will ensure the property register is updated in respect of each property item as follows:

- that the return letter signed by the owner is received
- the date and time of disposal
- the disposing officer
- how the item was disposed (item status).

4.8.2 Managing property disposal

Property Control use a bring-up system that allocates a disposal due date to each matter for which there is property registered. Each quarter Property Control generates a disposal report and contacts the responsible officers to clarify the status of the property due for disposal. Property that is not available for disposal is given a new 'Disposal Due Date'.

Where property is ready for disposal, the process for disposal is outlined in section 4.9.1.

5 Definitions

Case officer	A Commission officer responsible for the investigation of a matter or in the case where a person has been charged with an offence arising from a CCC investigation, has the same meaning as 'arresting officer' in section 590AD <i>Criminal Code</i> .
Case manager	Is appointed for each CCC investigation, project or witness protection matter. Case managers are senior specialists, team leaders or operations directors at the CCC. For this section, the case manager is the Director, Crime or Corruption Operations.
CCC delegate	A Commission officer to whom a Commission power or a chairman's power has been delegated under the CC Act or another Act.

¹⁴ CCC functional records retention and disposal schedule (QDAN606V2), General retention and disposal schedule for administrative records (QDAN249V8)

Commission officer	As defined in Schedule 2 of the CC Act, including police officers seconded to the CCC and police officers forming part of a Taskforce under section 32 of the CC Act.
Disposal	Return to the person who provided the property/owner, destruction, discard as refuse, donation to a charitable organisation, forfeiture, sale at auction, or retention of an item on file (documents only).
eDRMS	Electronic document and records management system.
General Collection	Where property has been requested or acquired in circumstances where no power or authority has been exercised or relied upon or the property has been volunteered by a person.
Property	A document or thing acquired by a Commission officer: <ul style="list-style-type: none"> because of the exercise of a formal power or authority under legislation (for example, the CC Act, the PPRA or another state or Commonwealth Act), or by way of general collection where the document or thing was obtained as evidence of an offence or alleged corrupt conduct.
Property Control	The unit tasked with ensuring that property is managed appropriately while in the possession of the CCC or QPS EM.
Records Management	The unit responsible for managing CCC records.
Registration	This is the recording and lodgement of property with Property Control.
Seized	Seized or deemed to be seized under a provision in the CC Act, PPRA or other Act.
Two business days	These are the days between and including Monday to Friday and do not include public holidays and weekends. If a responsible officer takes receipt of an item of property on a Friday night, the responsible officer will need to have it lodged by Tuesday.

6 Forms

PTY-01	Property Movement Request form
PTY-02	Property Disposal Authority
PTY-03	Property Return Letter
PTY-04	Exhibit Release Authority Form for TSU



MP08-SW12a-c (LPP Privilege form package)	<ul style="list-style-type: none"> • A: Hardcopy material (Appendix 1 to QLS Search Warrant Guidelines) • B: Electronic copy material (Appendix 2 to QLS Search Warrant Guidelines) • C: List of relevant warrant evidence (Appendix 3 to QLS Search Warrant Guidelines)
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7 Related policies and procedures

Legislative references

- *Crime and Corruption Act 2001*
- *Crime and Corruption Regulation 2015*
- *Police Powers and Responsibilities Act 2000*
- *Police Powers and Responsibilities Regulation 2012*
- *Justices Act 1886*
- *Criminal Proceeds Confiscation Act 2002*
- *Weapons Act 1999*

Other references

- MM02 – Matter briefs for further information
- MP03 – Hearings (closed and public)
- Queensland Police Service Operational Procedures Manual - Chapter 4 – Property
- CCC General Recordkeeping Procedure
- CCC functional records retention and disposal schedule (QDAN606V2)
- General retention and disposal schedule for administrative records (QDAN249V8)

8 Administration

Responsible officer:	Senior Property Officer, Operations Support	Accountable officer:	General Manager, Operations Support
Date approved:	November 2021	Review date:	November 2022



9 Appendices

9.1 Appendix A: Instructions to complete a Property Receipt

The responsible officer issuing a property receipt must ensure:

- All handwritten details are clear and legible
- Details of the lawful **OWNER** (if known), the **OCCUPIER** of the premises, and the **PERSON** from who the property is obtained and **TELEPHONE** number is completed
- The appropriate Authority box is identified and is compliant with the authority the property was obtained. If there is no Authority Source identified and it is not a general collection, the property cannot be lodged with Property Control
- Noting if the property obtained is the original, a copy or electronic (in the case of property received via email, refer to Property received via email).
- Sequential numbering in the 'Item No.' column is used
- Record quantities of items in the description of items received/sized section and provide sufficient description to positively identify the property
- a relevant date or start date¹⁵ in respect of the property item
- the type or nature of the item (for example, "receipt", "letter", "deed", "external hard drive", and so forth)
- the specific attribute/s of the item
- any serial number or unique reference/markings appearing on the item
- In the case of a police officer completing the property receipt, that their rank and registration number details are completed in the CCC officer section
- The return instructions are completed for each item. Any special instructions for the return of any item number should be clearly outlined in the 'Special Requirements for the return of property' section.

¹⁵ For example, if the property includes items with a range of dates, the earliest date in the range is the start date.







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the first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the problem of housing. In many of the large cities, there is a severe shortage of housing, and this has led to a number of people living in slums. Another problem is the problem of pollution. The concentration of people in a few large cities has led to a concentration of factories and other sources of pollution, which has led to a number of health problems. Finally, there is the problem of unemployment. In many of the large cities, there is a high level of unemployment, and this has led to a number of social problems.

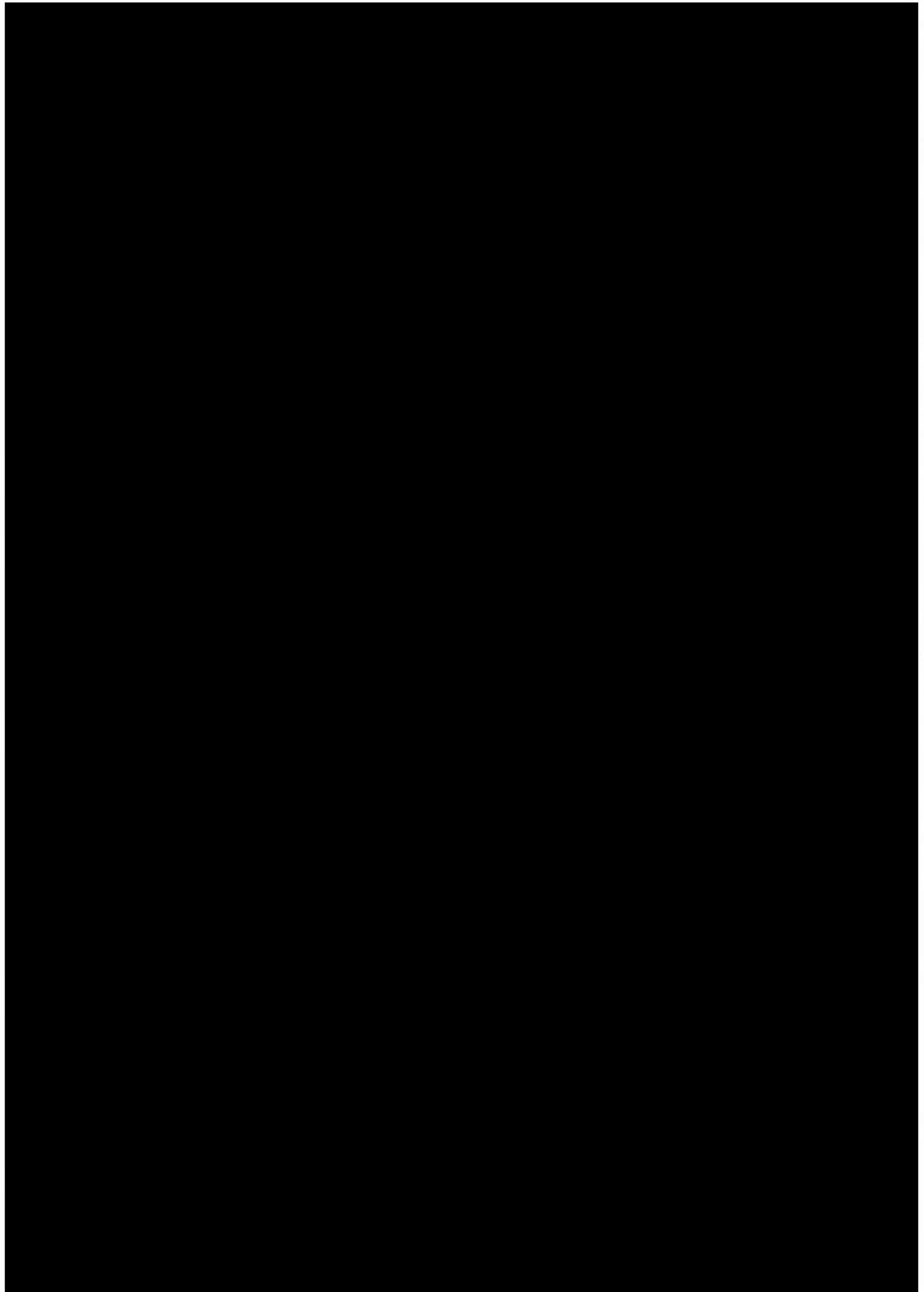
The second of the main trends is the process of industrialization. This has led to a number of changes in the economy. One of the most important is the fact that the economy has become more dependent on manufacturing. This has led to a number of changes in the labor market. One of the most important is the fact that there has been a shift from agriculture to manufacturing. This has led to a number of changes in the way that people work. One of the most important is the fact that there has been a shift from a subsistence economy to a cash economy. This has led to a number of changes in the way that people live.

The third of the main trends is the process of modernization. This has led to a number of changes in society. One of the most important is the fact that there has been a shift from a traditional society to a modern society. This has led to a number of changes in the way that people think and behave. One of the most important is the fact that there has been a shift from a collectivist society to an individualist society. This has led to a number of changes in the way that people relate to each other. One of the most important is the fact that there has been a shift from a hierarchical society to a more egalitarian society. This has led to a number of changes in the way that people are organized.

The fourth of the main trends is the process of globalization. This has led to a number of changes in the world. One of the most important is the fact that there has been a shift from a local economy to a global economy. This has led to a number of changes in the way that people trade and interact. One of the most important is the fact that there has been a shift from a national economy to a global economy. This has led to a number of changes in the way that people live and work. One of the most important is the fact that there has been a shift from a local culture to a global culture. This has led to a number of changes in the way that people think and behave.

The fifth of the main trends is the process of technological change. This has led to a number of changes in the world. One of the most important is the fact that there has been a shift from a traditional economy to a modern economy. This has led to a number of changes in the way that people work and live. One of the most important is the fact that there has been a shift from a manual economy to a machine economy. This has led to a number of changes in the way that people are organized. One of the most important is the fact that there has been a shift from a local economy to a global economy. This has led to a number of changes in the way that people trade and interact.

The sixth of the main trends is the process of environmental change. This has led to a number of changes in the world. One of the most important is the fact that there has been a shift from a traditional economy to a modern economy. This has led to a number of changes in the way that people work and live. One of the most important is the fact that there has been a shift from a manual economy to a machine economy. This has led to a number of changes in the way that people are organized. One of the most important is the fact that there has been a shift from a local economy to a global economy. This has led to a number of changes in the way that people trade and interact.







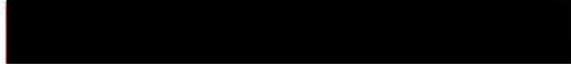
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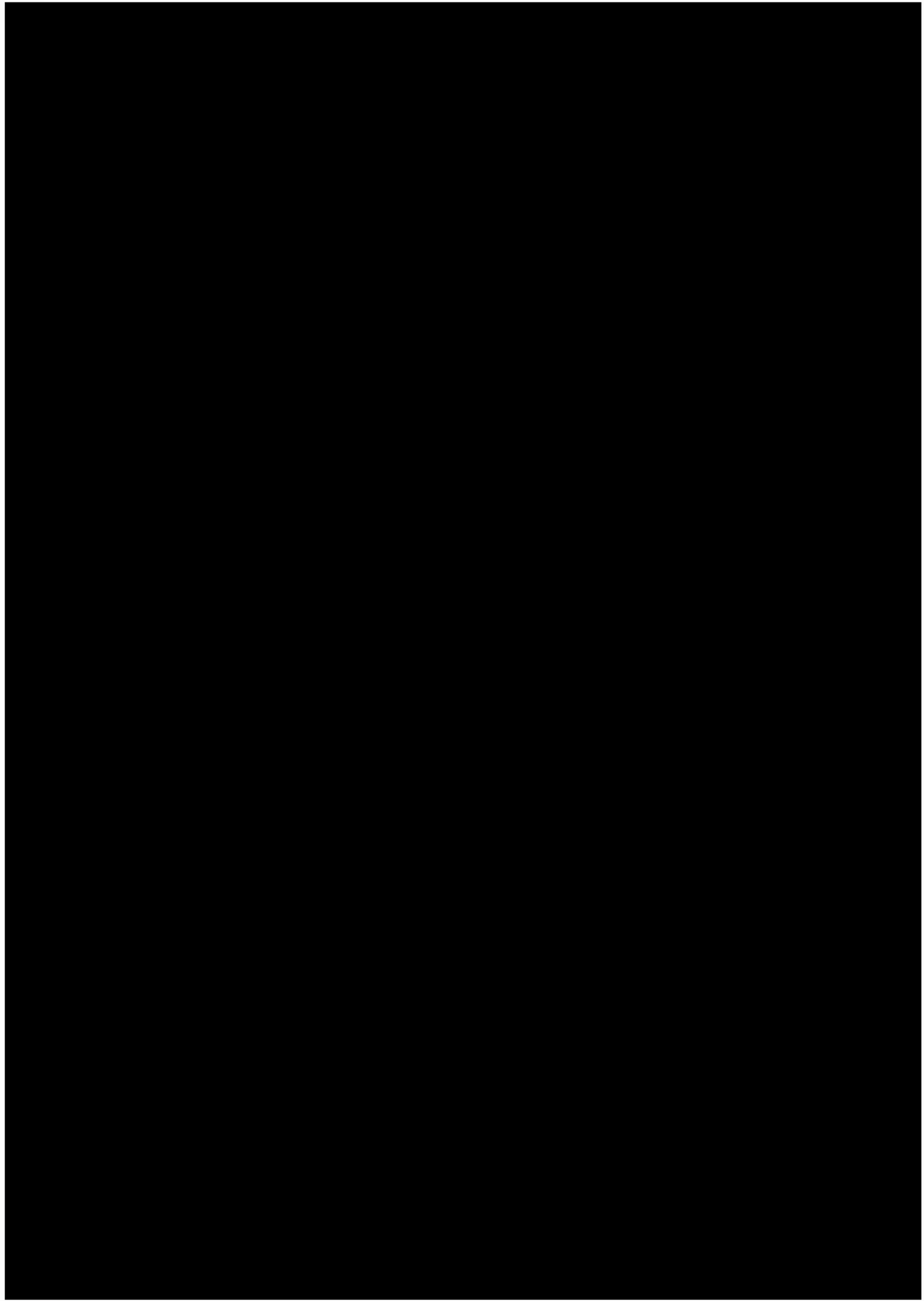
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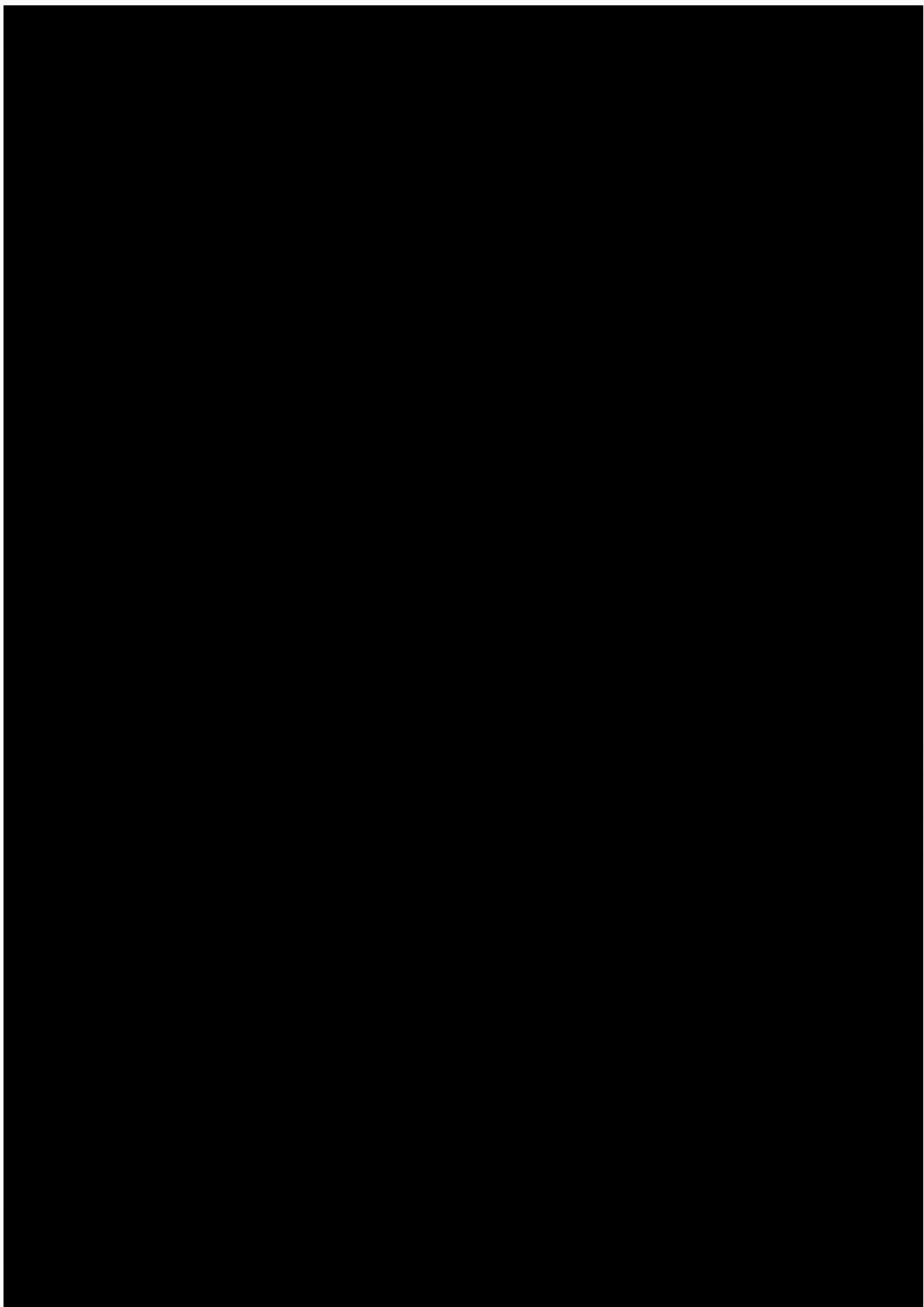


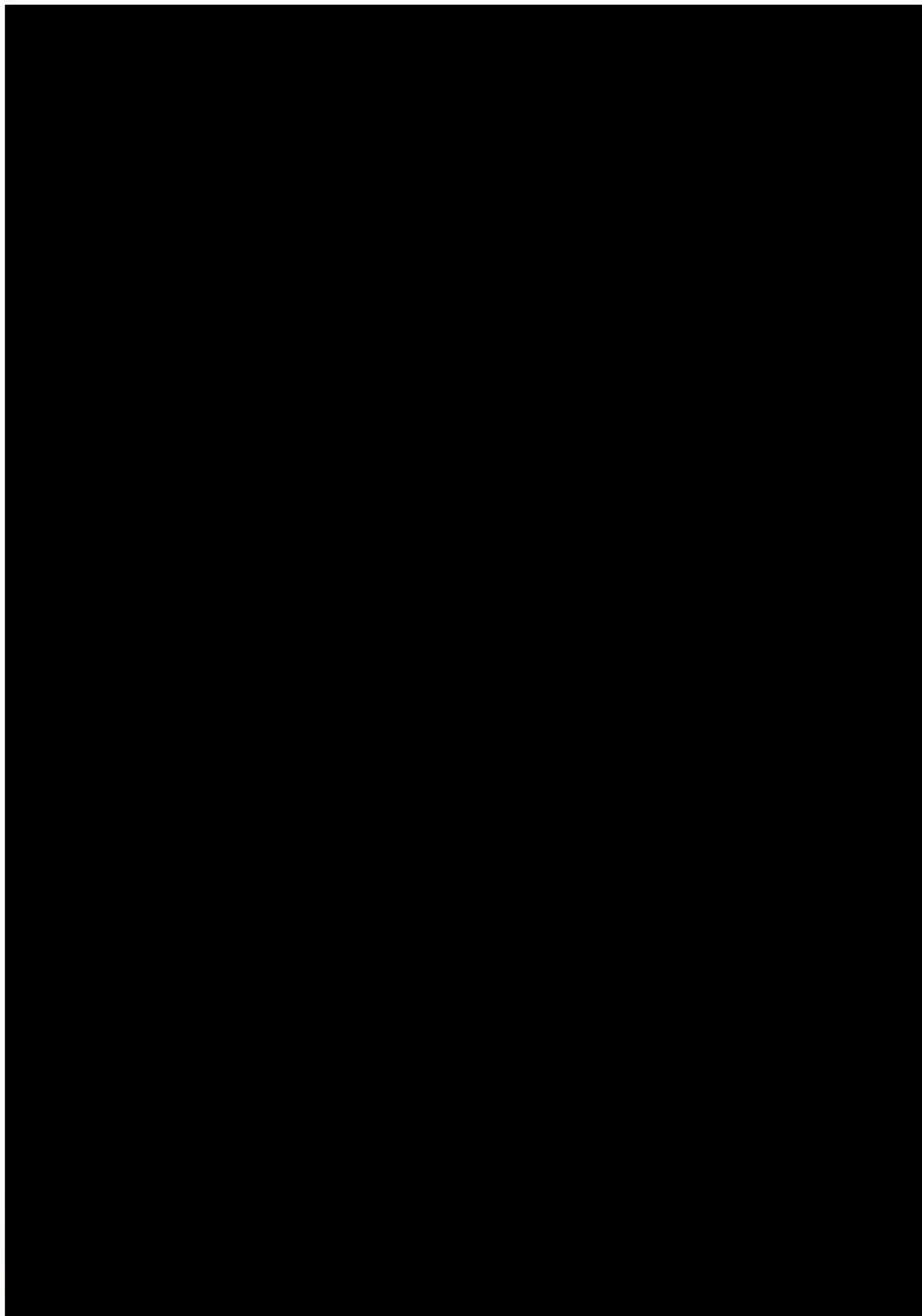
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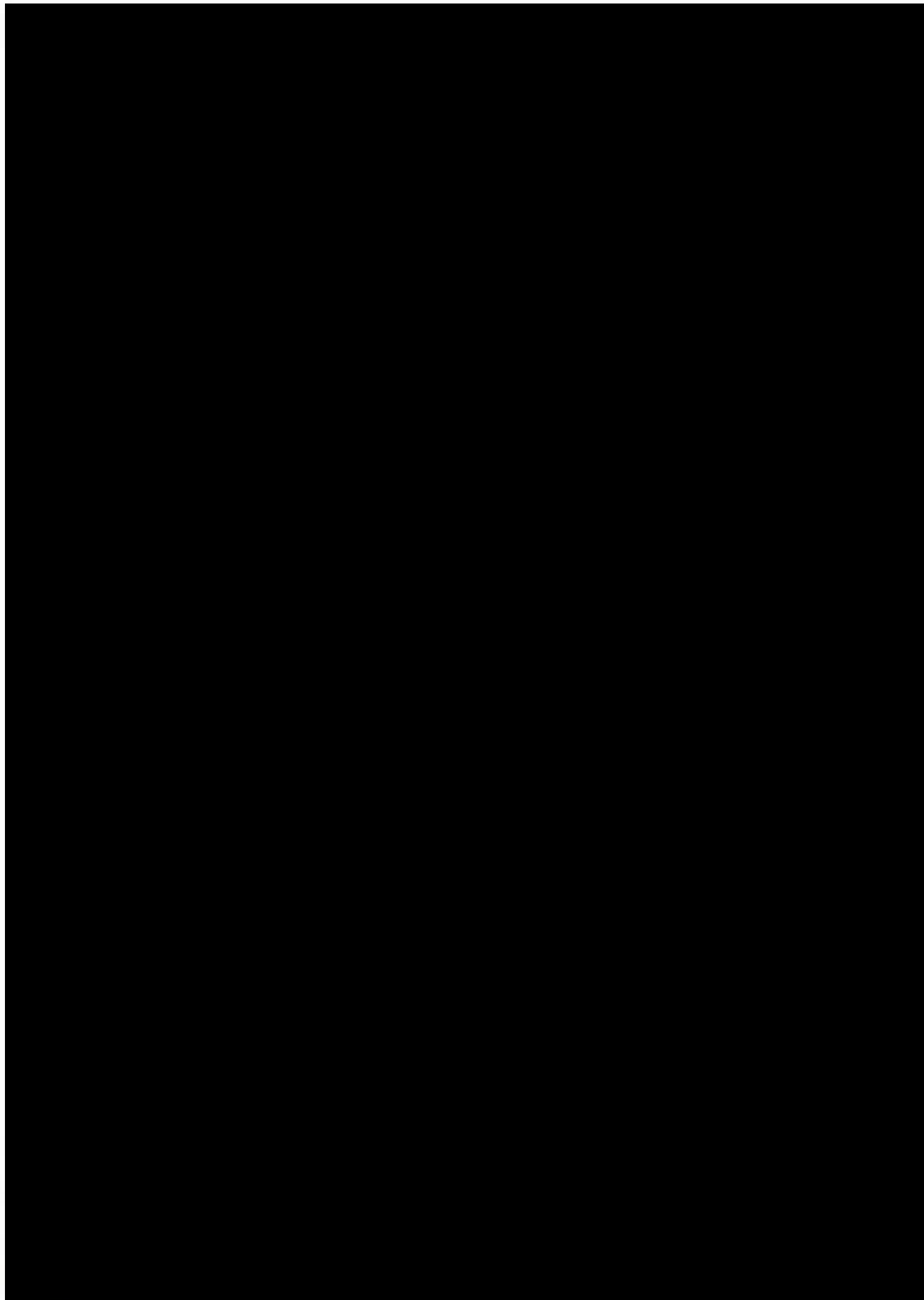
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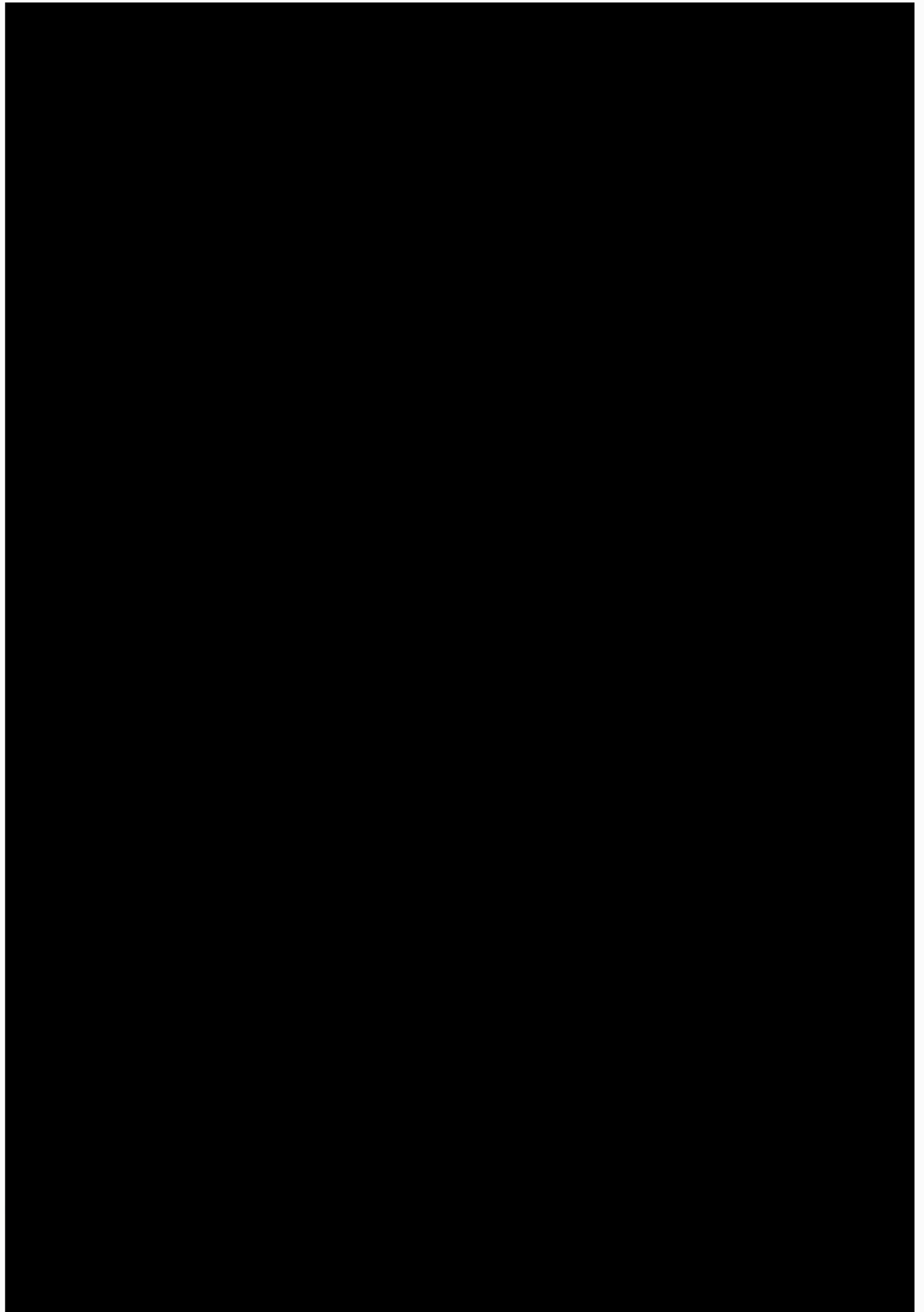


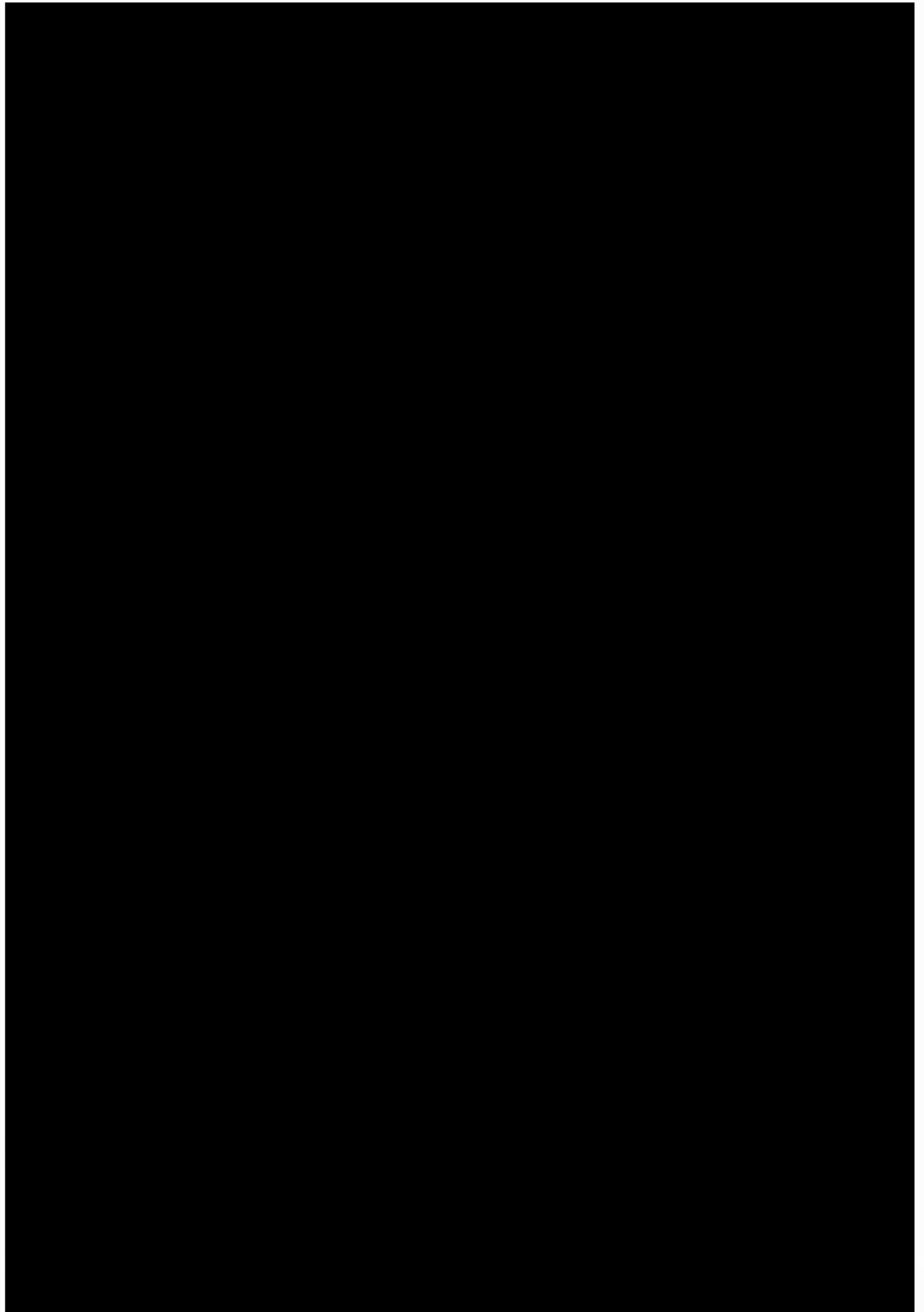


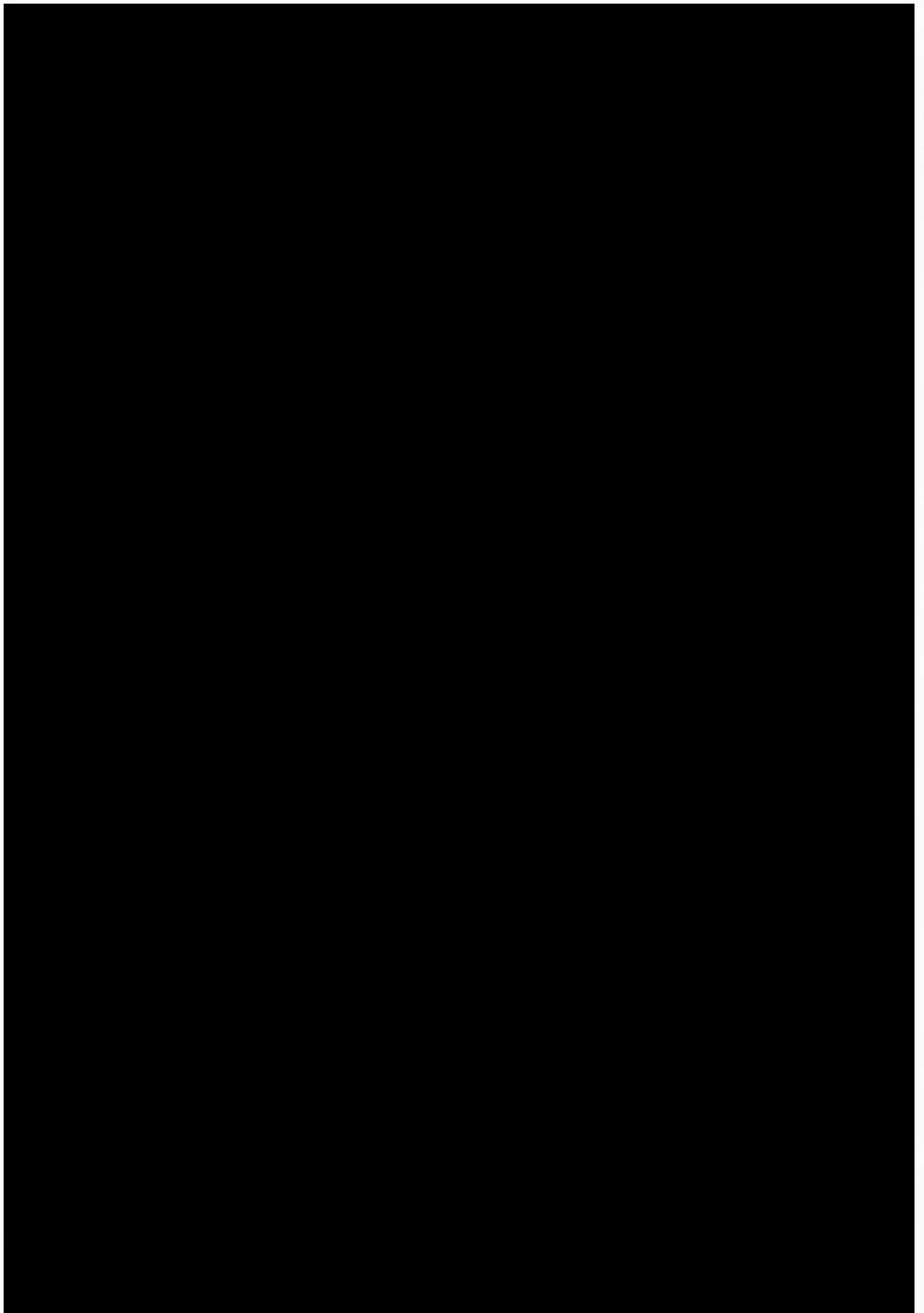












the 1990s, the number of people in the world who are under 15 years of age has increased by 1.2 billion, from 1.1 billion in 1980 to 2.3 billion in 1999. The number of people aged 15 years and over has increased by 1.1 billion, from 1.1 billion in 1980 to 2.2 billion in 1999.

There are a number of reasons why the world population is increasing so rapidly. One of the main reasons is that the number of children born to each woman has increased. In 1980, the average woman in the world had 2.5 children. In 1999, the average woman in the world had 2.7 children.

Another reason why the world population is increasing so rapidly is that the number of people who are living longer is increasing. In 1980, the average person in the world lived for 55 years. In 1999, the average person in the world lived for 65 years.

There are a number of reasons why the number of people who are living longer is increasing. One of the main reasons is that the number of people who are getting older is increasing. In 1980, there were 1.1 billion people aged 65 and over. In 1999, there were 1.2 billion people aged 65 and over.

Another reason why the number of people who are living longer is increasing is that the number of people who are getting healthier is increasing. In 1980, the average person in the world had 1.1 children. In 1999, the average person in the world had 1.2 children.

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There are a number of reasons why the number of people who are getting healthier is increasing. One of the main reasons is that the number of people who are getting older is increasing. In 1980, there were 1.1 billion people aged 65 and over. In 1999, there were 1.2 billion people aged 65 and over.

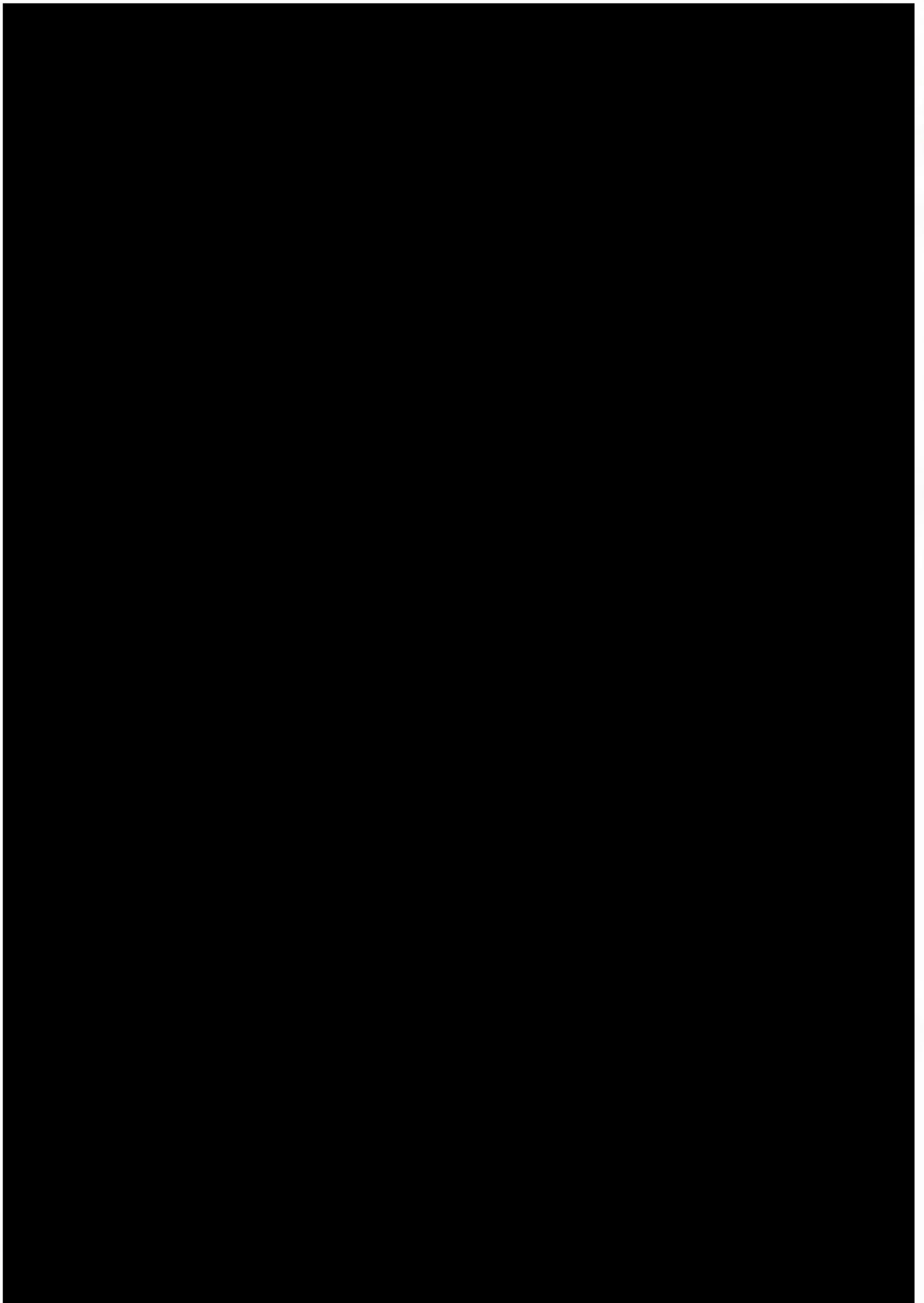
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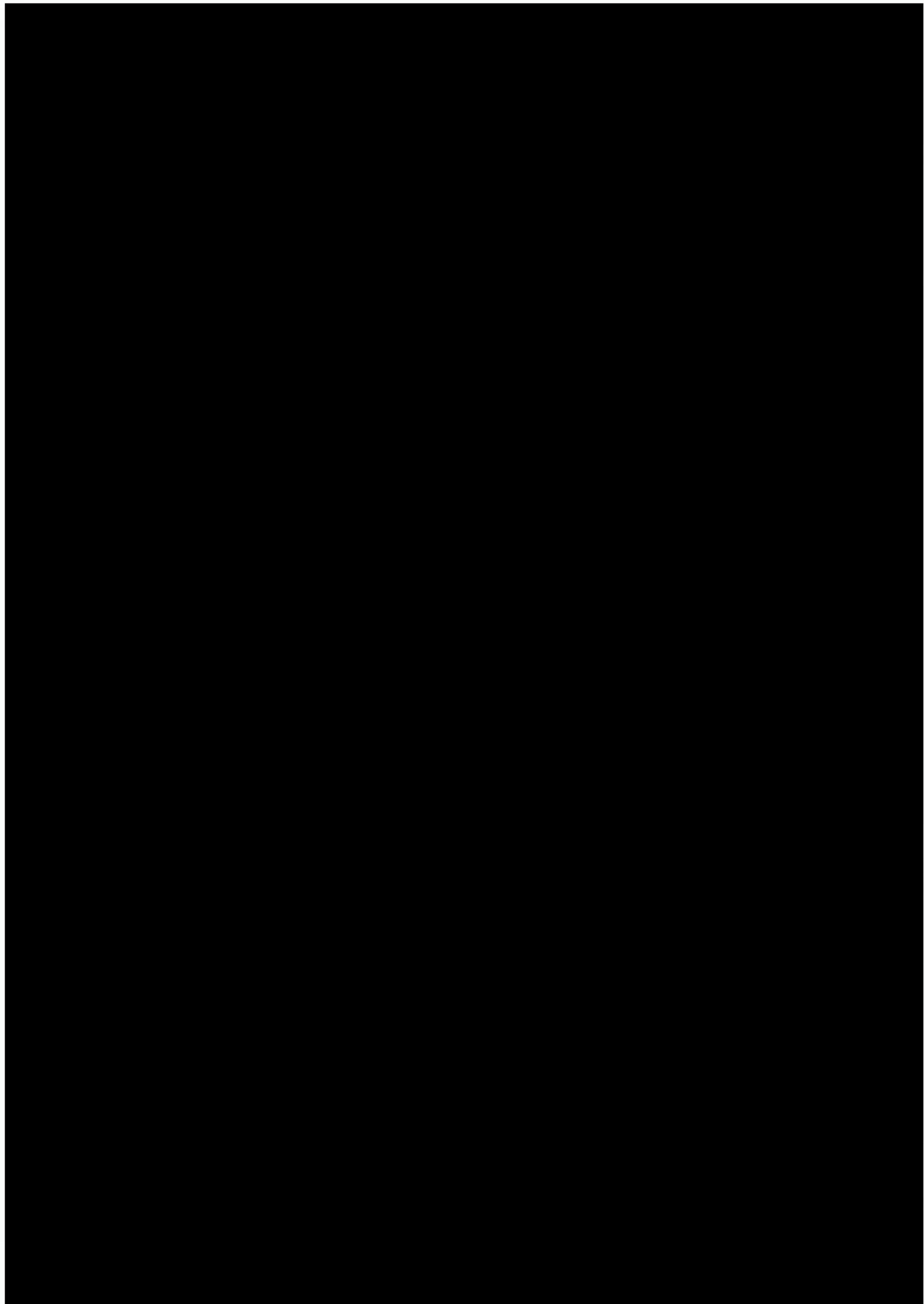
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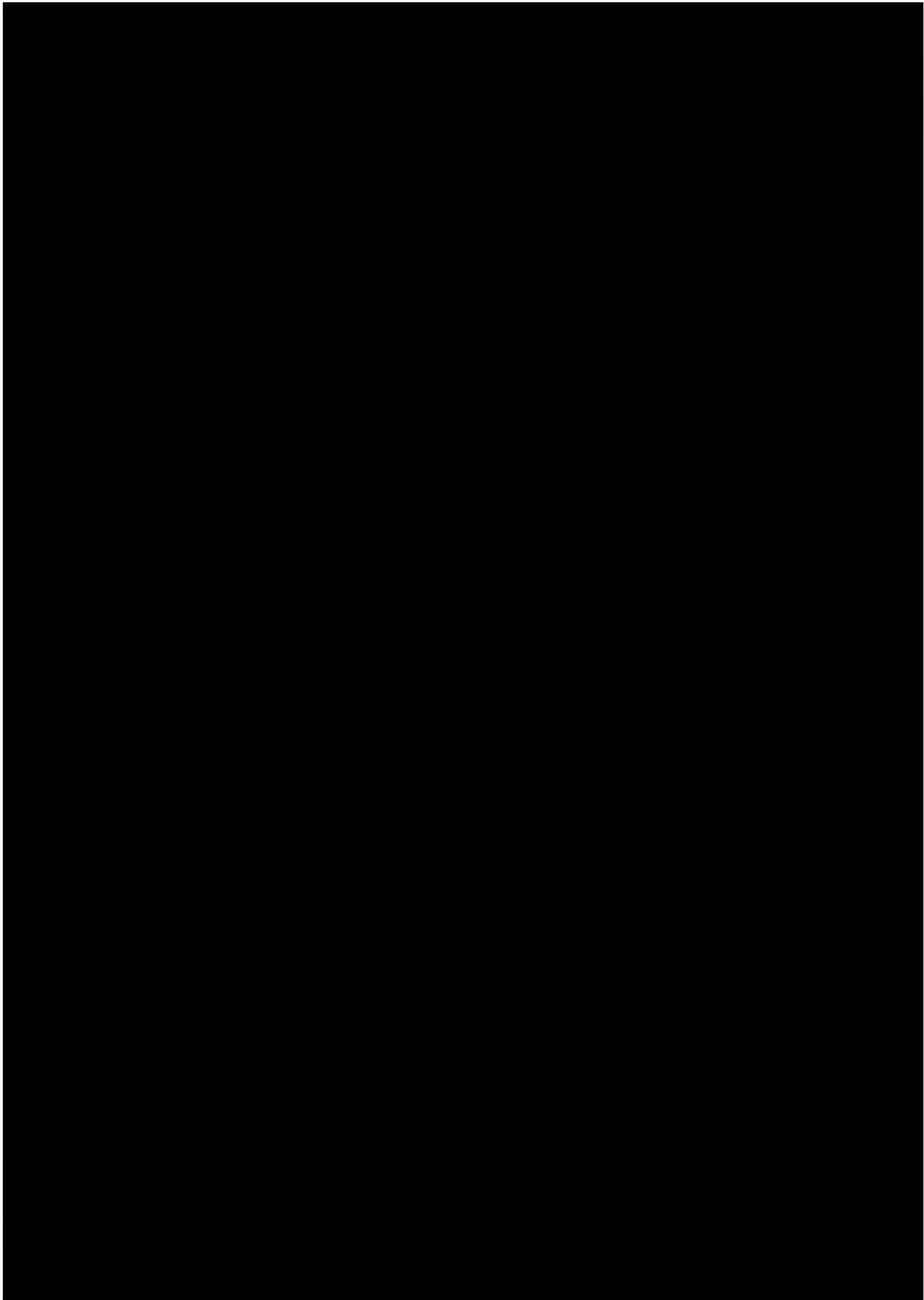
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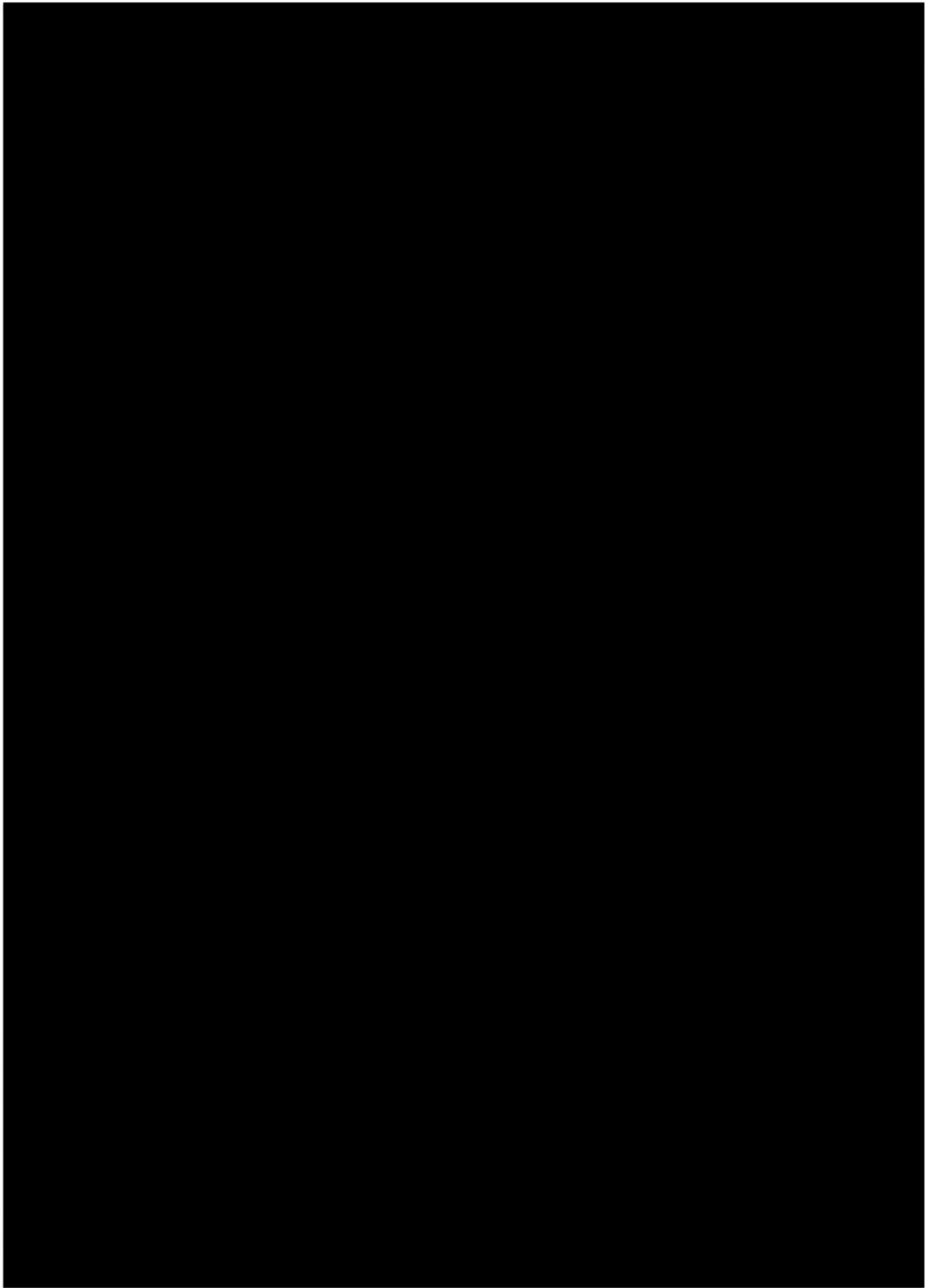
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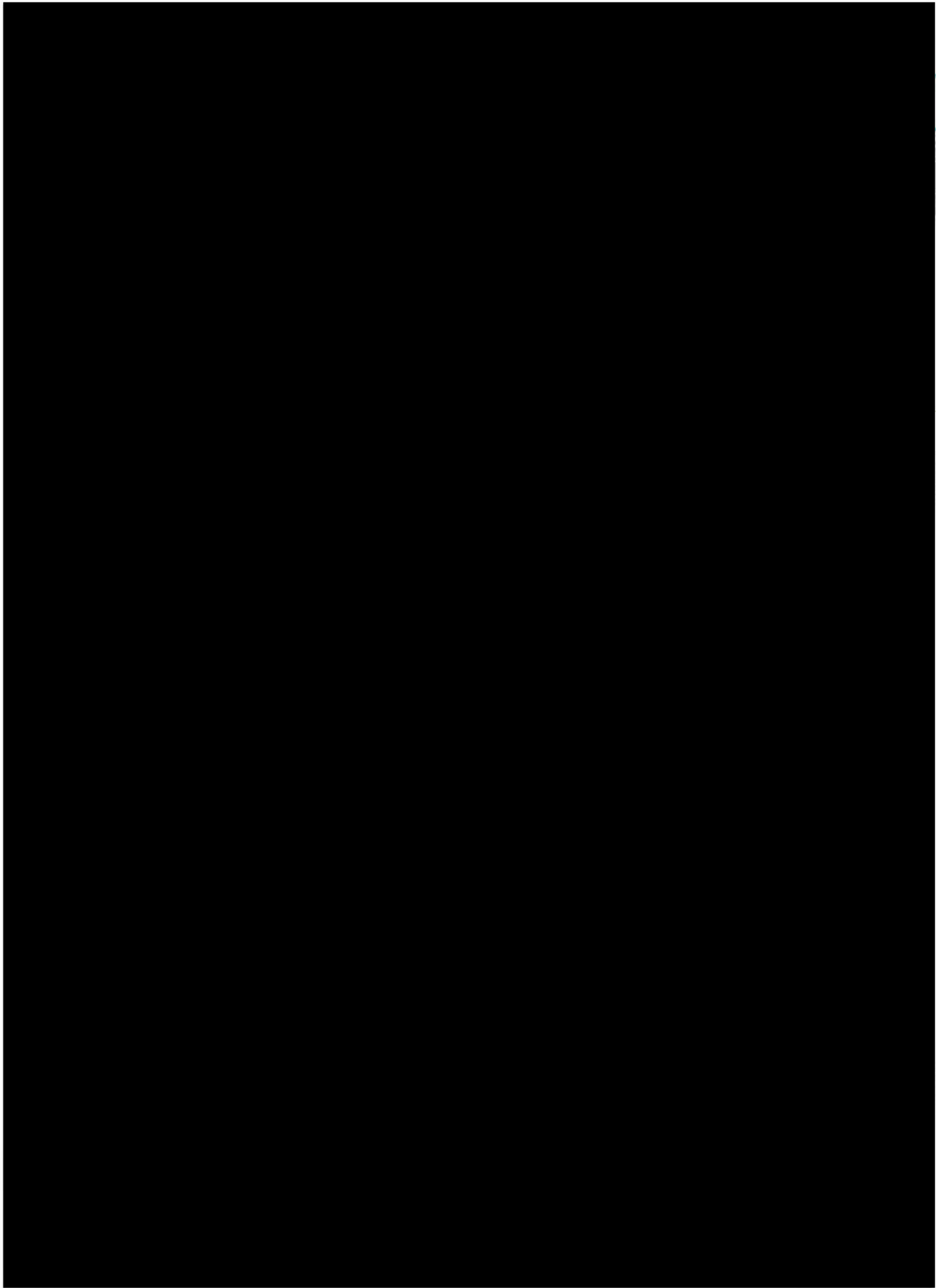
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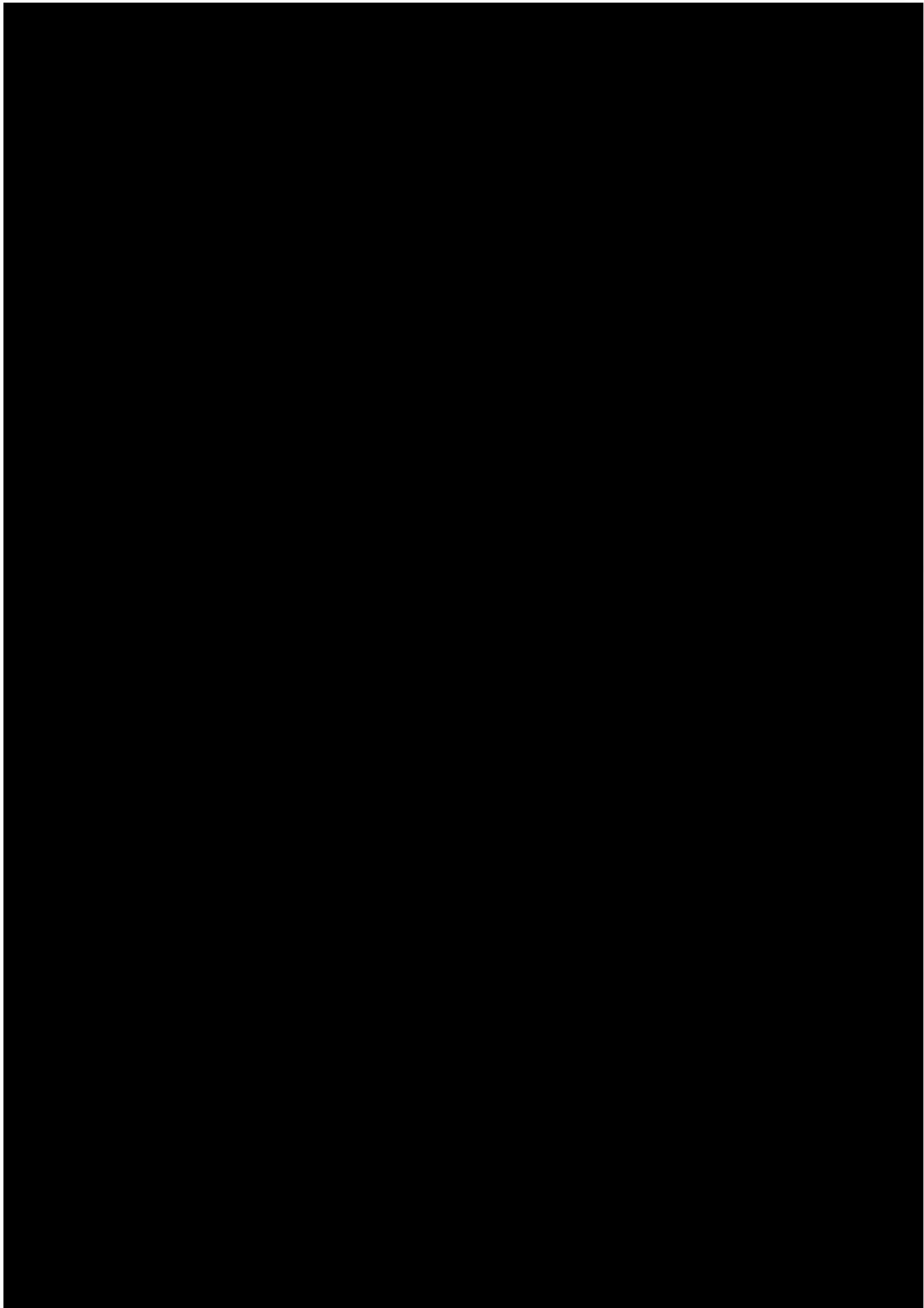


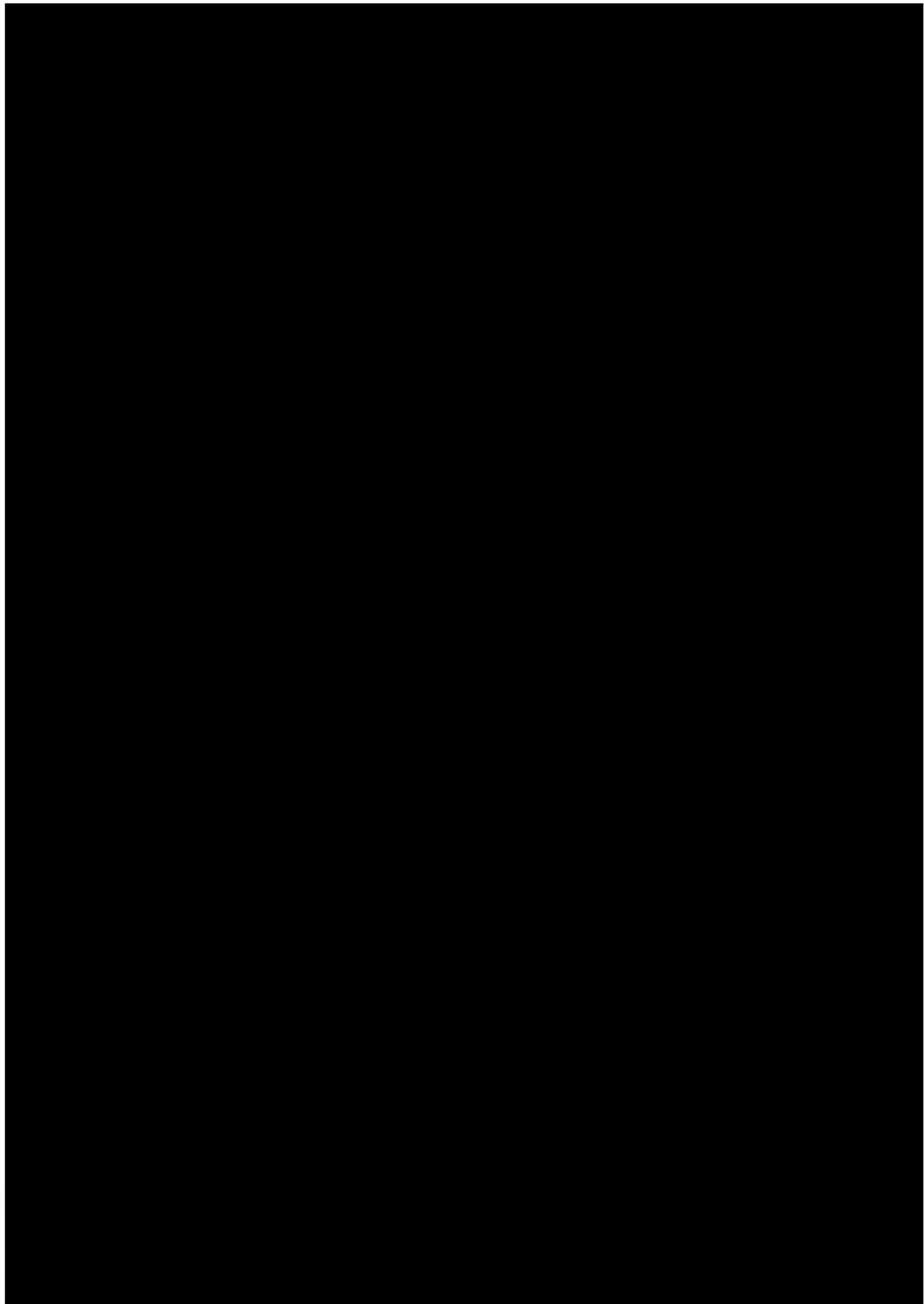












The first of these is the fact that the system is not a simple one. It is a complex system, and as such, it is not possible to understand it by looking at its parts in isolation. The system is a whole, and its behavior is determined by the interactions between its parts. This is a fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

The second of these is the fact that the system is dynamic. It is not a static system, and its behavior changes over time. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

The third of these is the fact that the system is open. It is not a closed system, and it interacts with its environment. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

The fourth of these is the fact that the system is self-organizing. It is not a system that is controlled from the outside, and it is not a system that is controlled from the inside. It is a system that organizes itself, and its behavior is determined by its own internal structure. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

The fifth of these is the fact that the system is resilient. It is not a system that is fragile, and it is not a system that is brittle. It is a system that is resilient, and it is able to withstand change and adversity. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

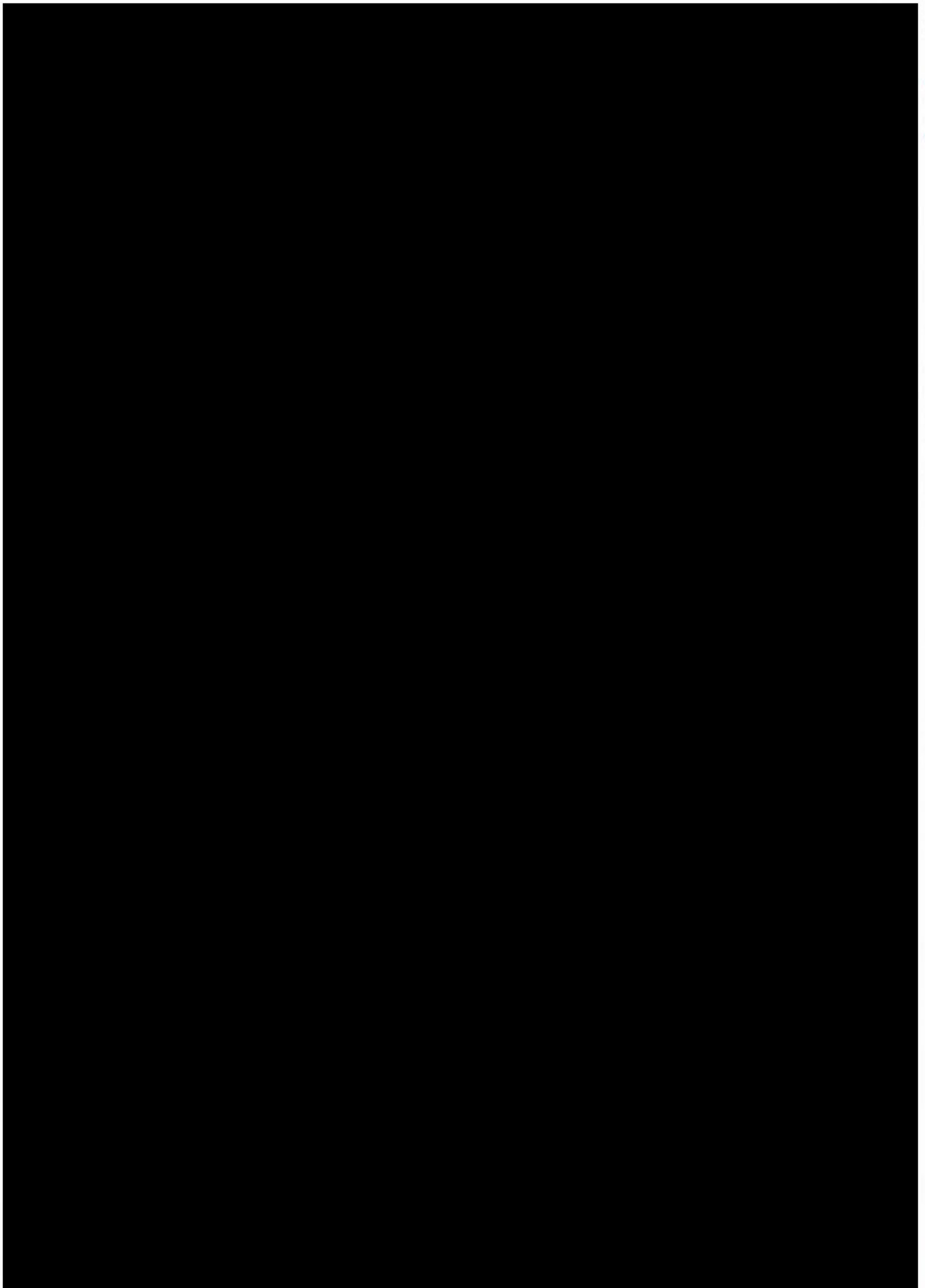
The sixth of these is the fact that the system is sustainable. It is not a system that is unsustainable, and it is not a system that is unworkable. It is a system that is sustainable, and it is able to meet the needs of the present without compromising the ability of future generations to meet their own needs. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

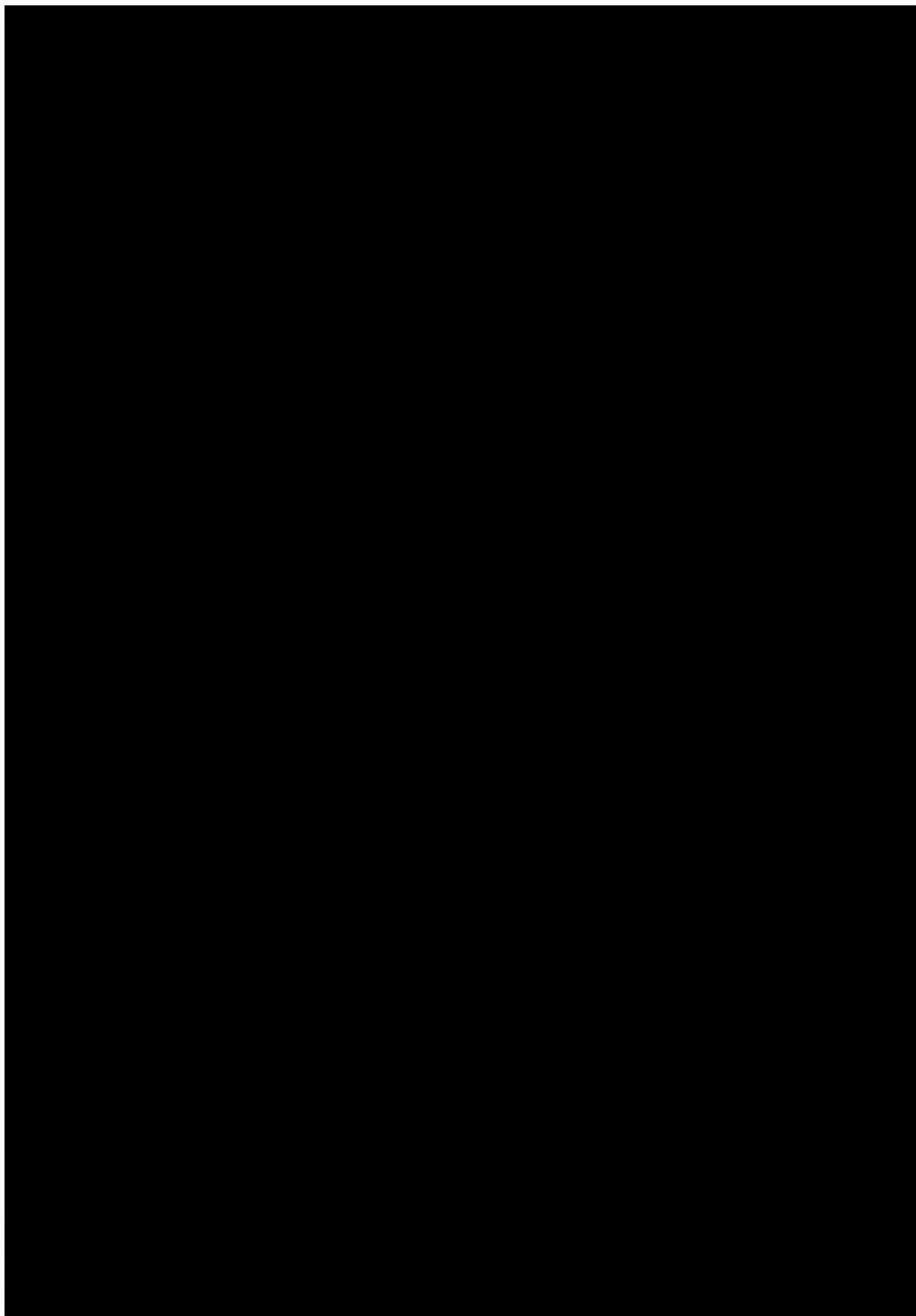
The seventh of these is the fact that the system is equitable. It is not a system that is inequitable, and it is not a system that is unfair. It is a system that is equitable, and it is able to provide for the needs of all its members. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

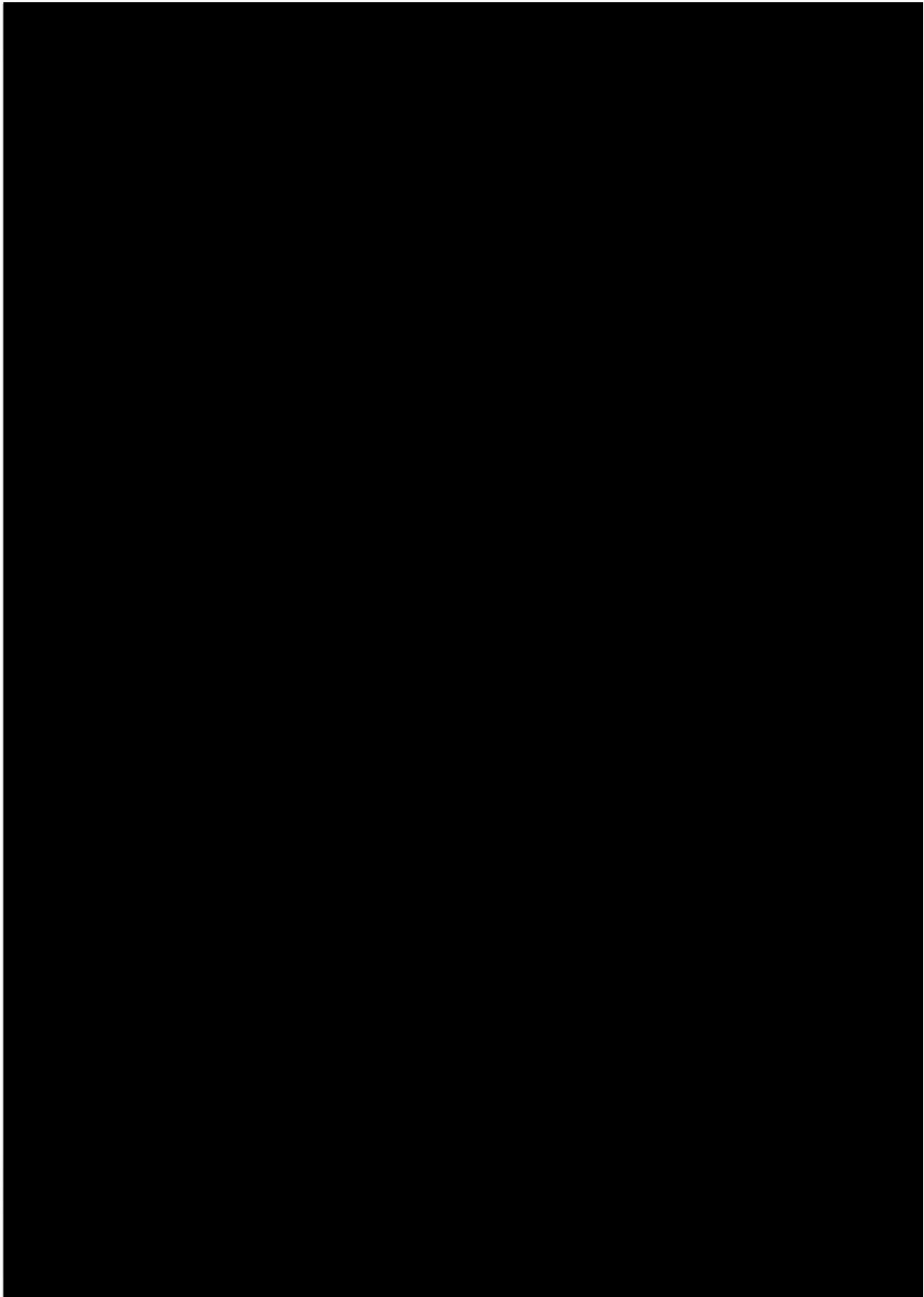
The eighth of these is the fact that the system is just. It is not a system that is unjust, and it is not a system that is unfair. It is a system that is just, and it is able to provide for the needs of all its members. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

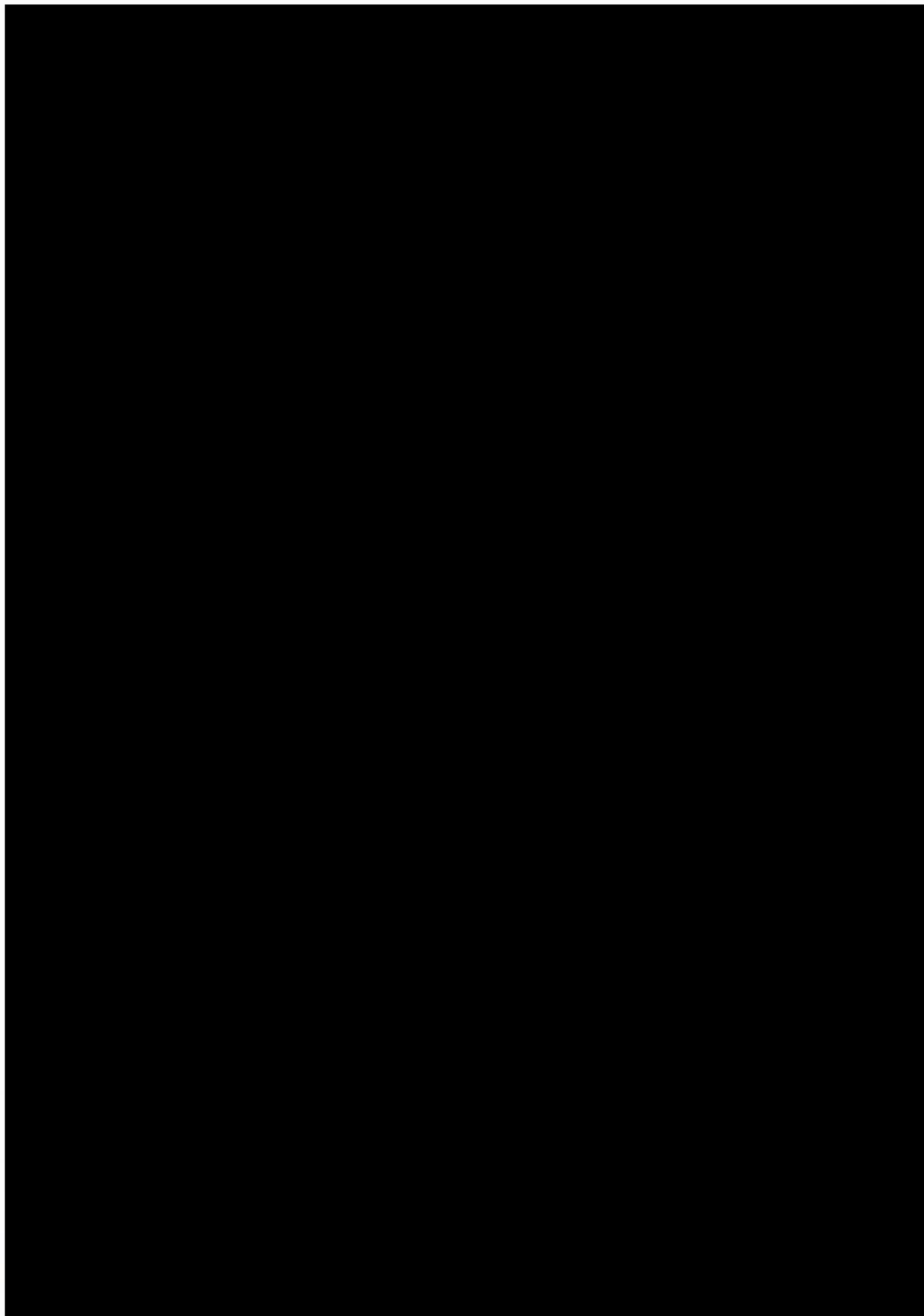
The ninth of these is the fact that the system is peaceful. It is not a system that is violent, and it is not a system that is warlike. It is a system that is peaceful, and it is able to resolve its conflicts without the use of force. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.

The tenth of these is the fact that the system is harmonious. It is not a system that is disharmonious, and it is not a system that is unbalanced. It is a system that is harmonious, and it is able to achieve a state of balance and harmony. This is another fundamental principle of systems thinking, and it is one that is often overlooked in traditional approaches to problem-solving.











Crime and Corruption
Commission

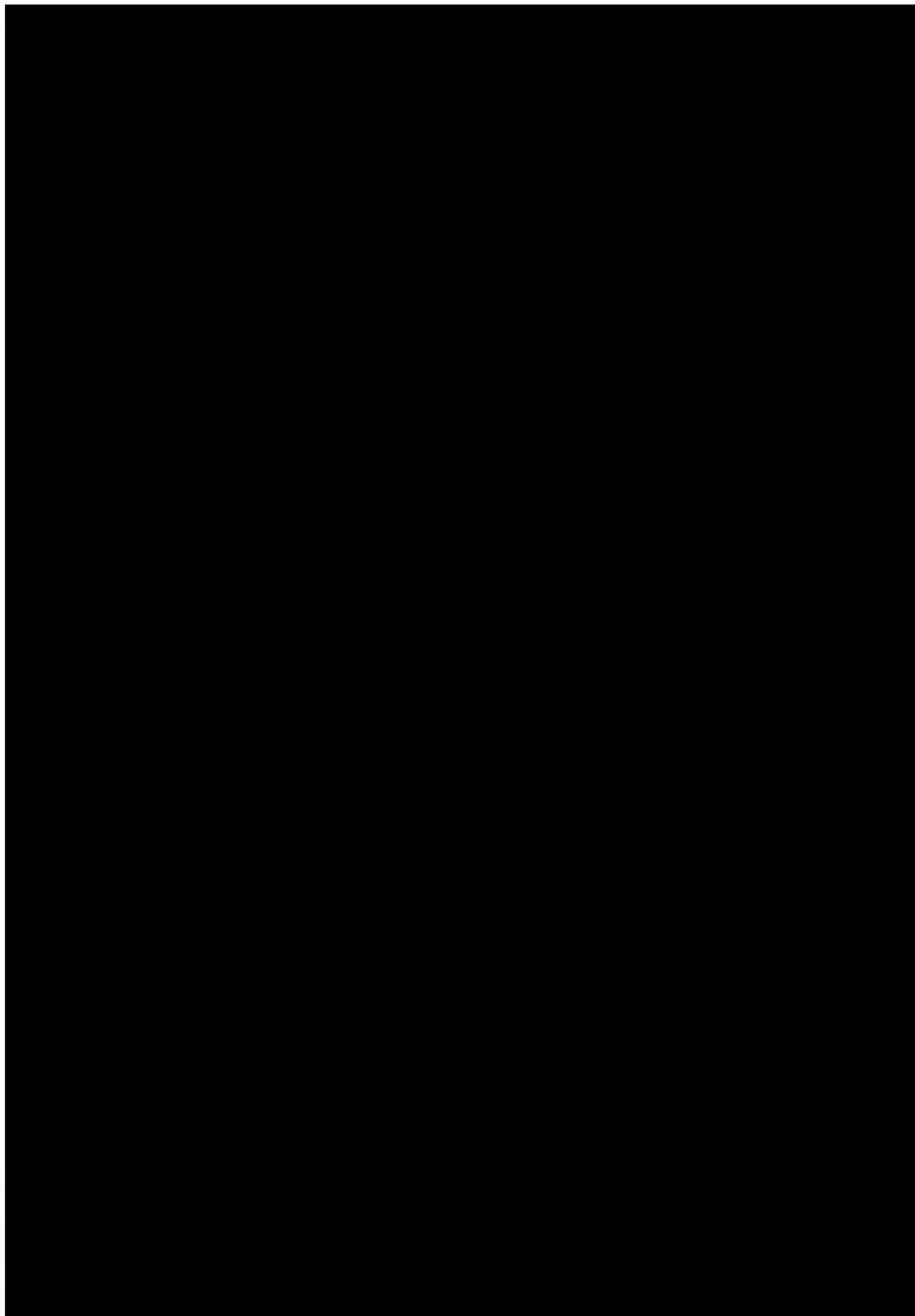
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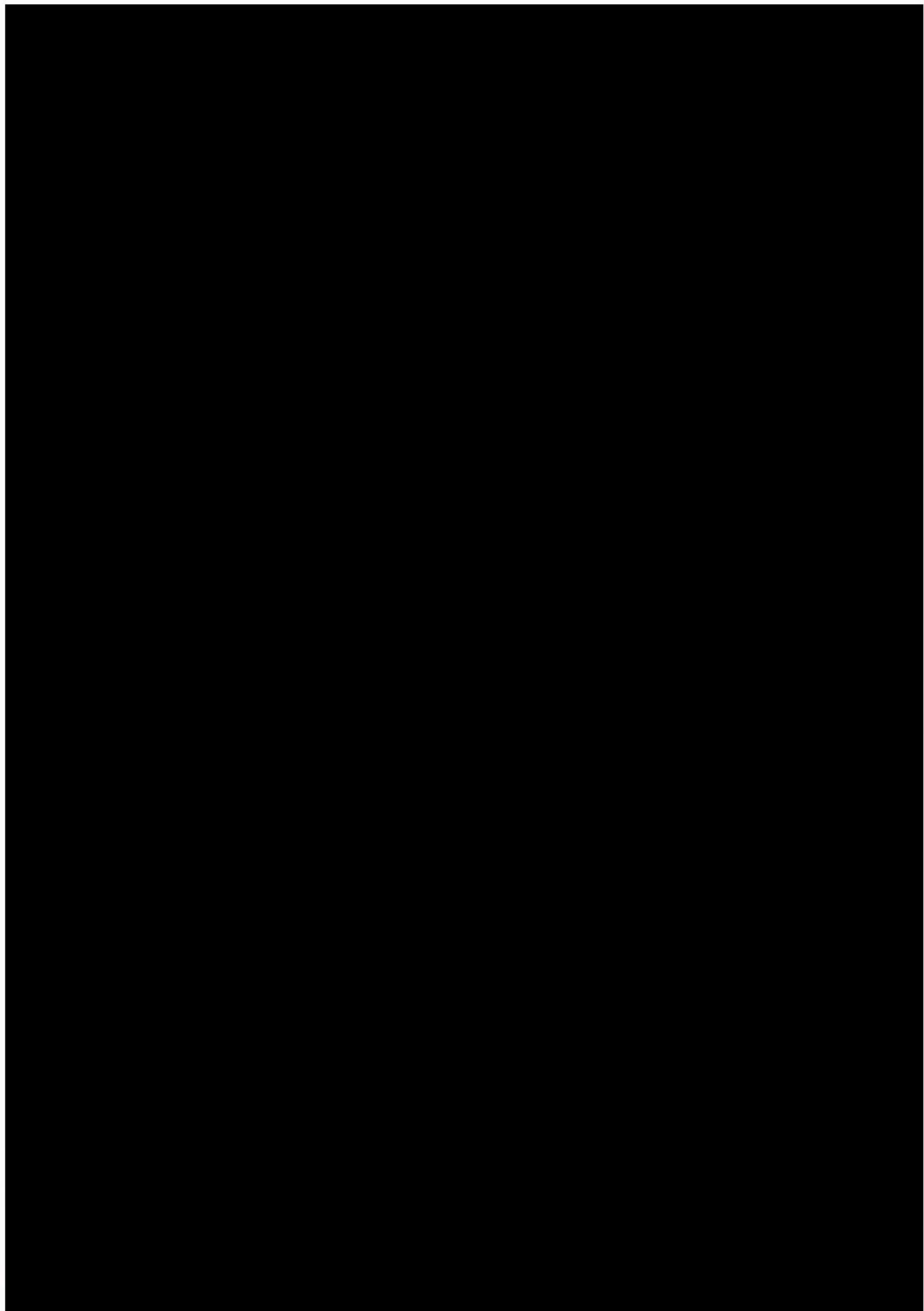


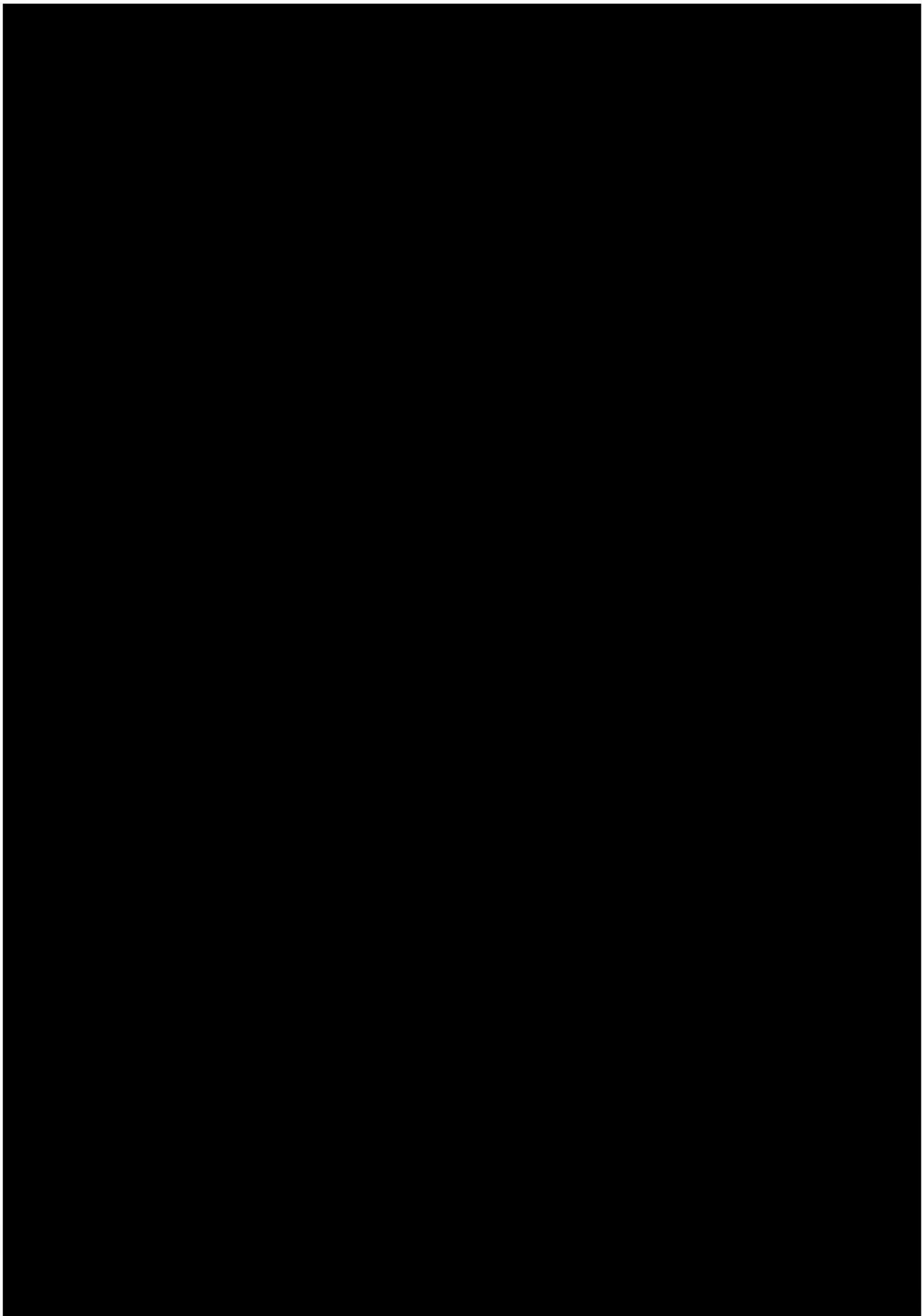
Crime and Corruption Commission
QUEENSLAND

MP15









the 1990s, the incidence of *S. flexneri* has increased in the United Kingdom [10]. In the United States, *S. flexneri* has been reported as the most common serotype of *S. flexneri* in the 1990s [11]. In the United Kingdom, *S. flexneri* serotype 3 has been reported as the most common serotype in the 1990s [12].

There is a paucity of data on the epidemiology of *S. flexneri* in the United Kingdom. In the 1980s, *S. flexneri* was the most common serotype of *S. flexneri* in the United Kingdom [13]. In the 1990s, *S. flexneri* serotype 3 has been reported as the most common serotype in the United Kingdom [12].

The purpose of this study was to determine the prevalence of *S. flexneri* in the United Kingdom. The study was conducted in the United Kingdom, where *S. flexneri* is the most common serotype of *S. flexneri* in the 1990s [12].

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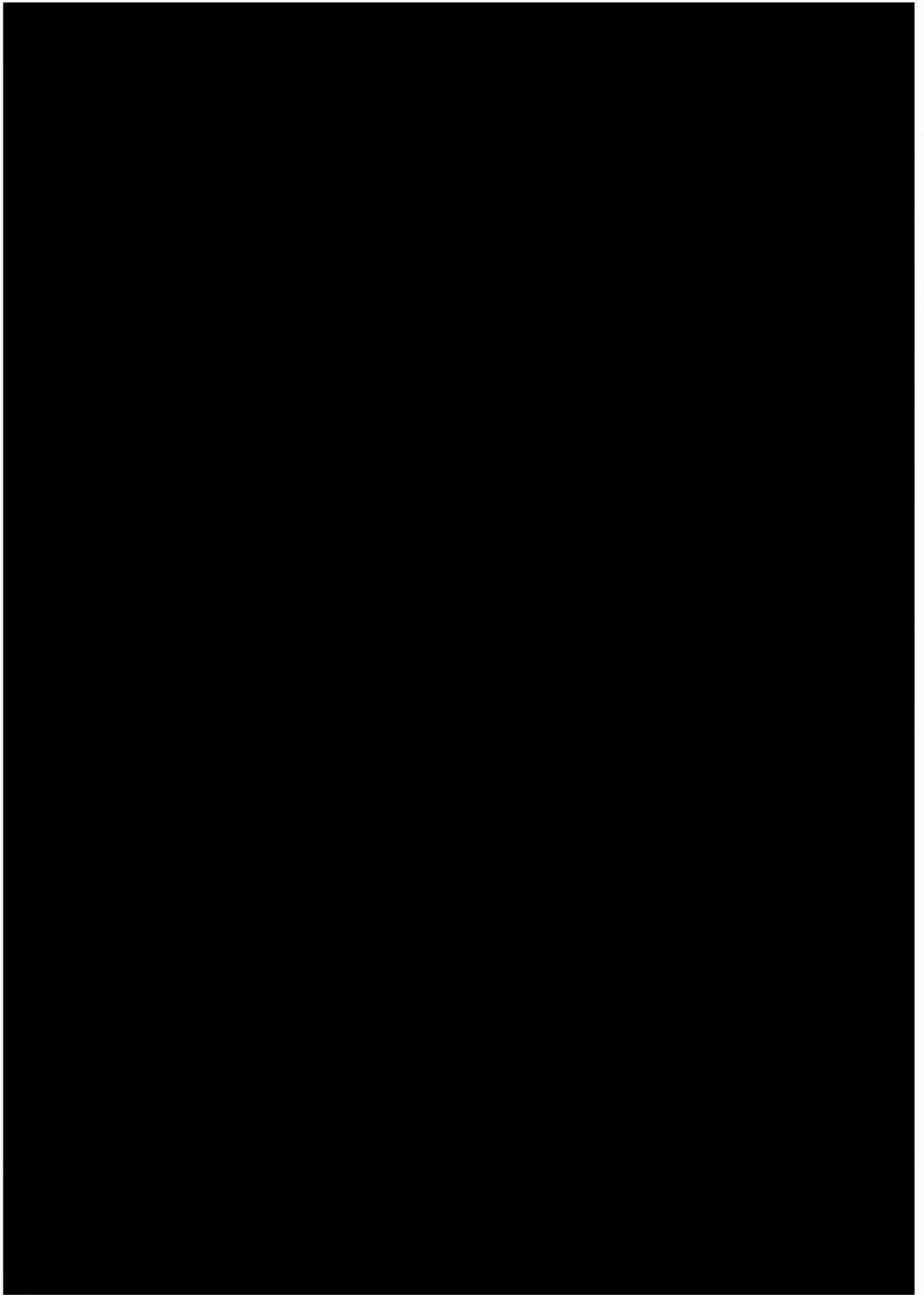
The study was conducted in the United Kingdom, where *S. flexneri* is the most common serotype of *S. flexneri* in the 1990s [12]. The study was conducted in the United Kingdom, where *S. flexneri* is the most common serotype of *S. flexneri* in the 1990s [12].

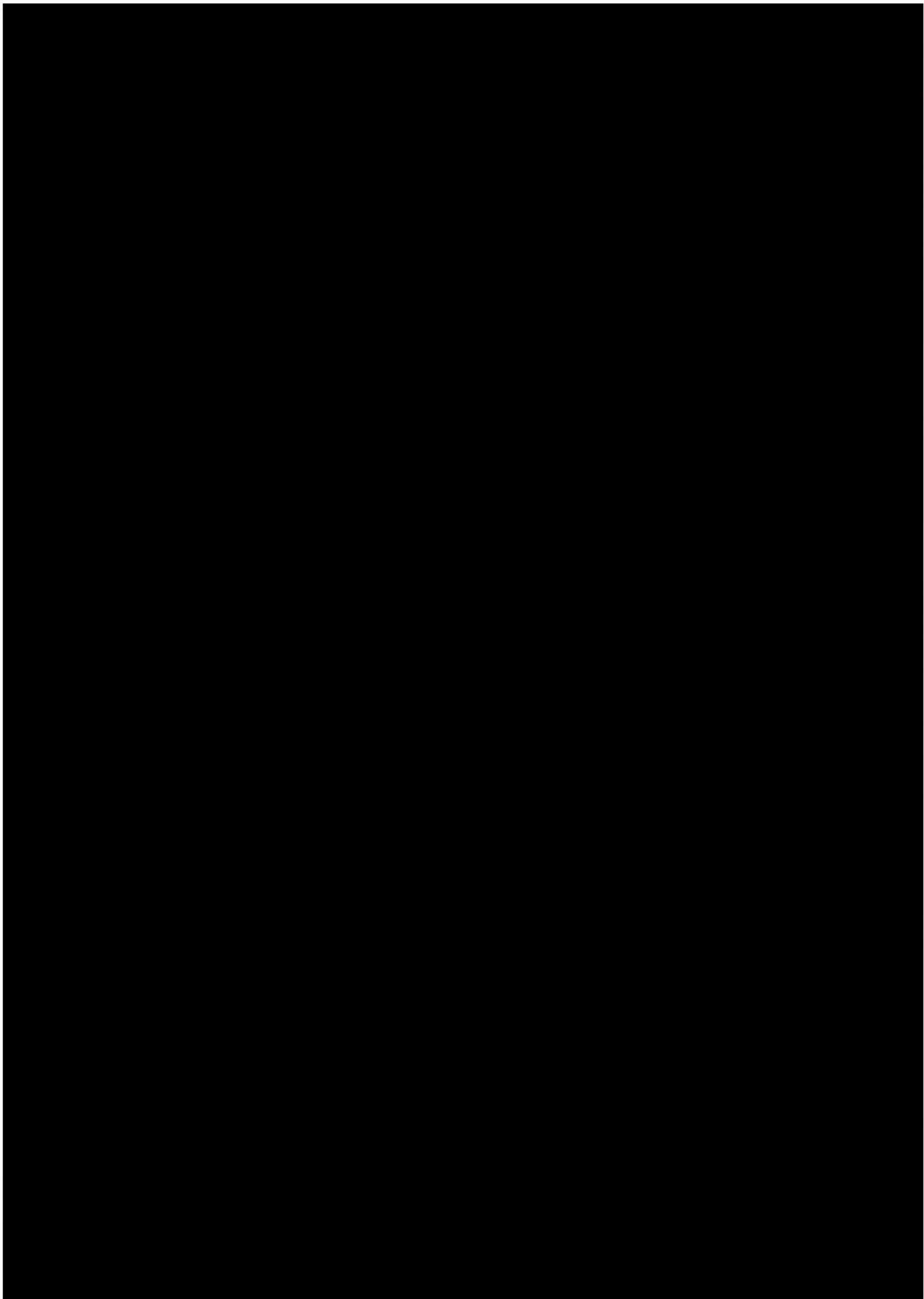
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the information science community. The paper is a review of the literature on the topic of information science and its relationship to other disciplines.

The paper is divided into three main sections. The first section discusses the history of information science and its relationship to other disciplines. The second section discusses the current state of information science and its relationship to other disciplines. The third section discusses the future of information science and its relationship to other disciplines.

The paper concludes that information science is a multidisciplinary field that draws on the knowledge and methods of many different disciplines. It is a field that is constantly evolving and that has the potential to make significant contributions to our understanding of the world.

The paper is a valuable contribution to the literature on information science and its relationship to other disciplines. It provides a comprehensive overview of the field and its current state, and it offers insights into the future of the field.

The paper is a must-read for anyone interested in information science and its relationship to other disciplines. It is a well-written and informative paper that provides a clear and concise overview of the field.

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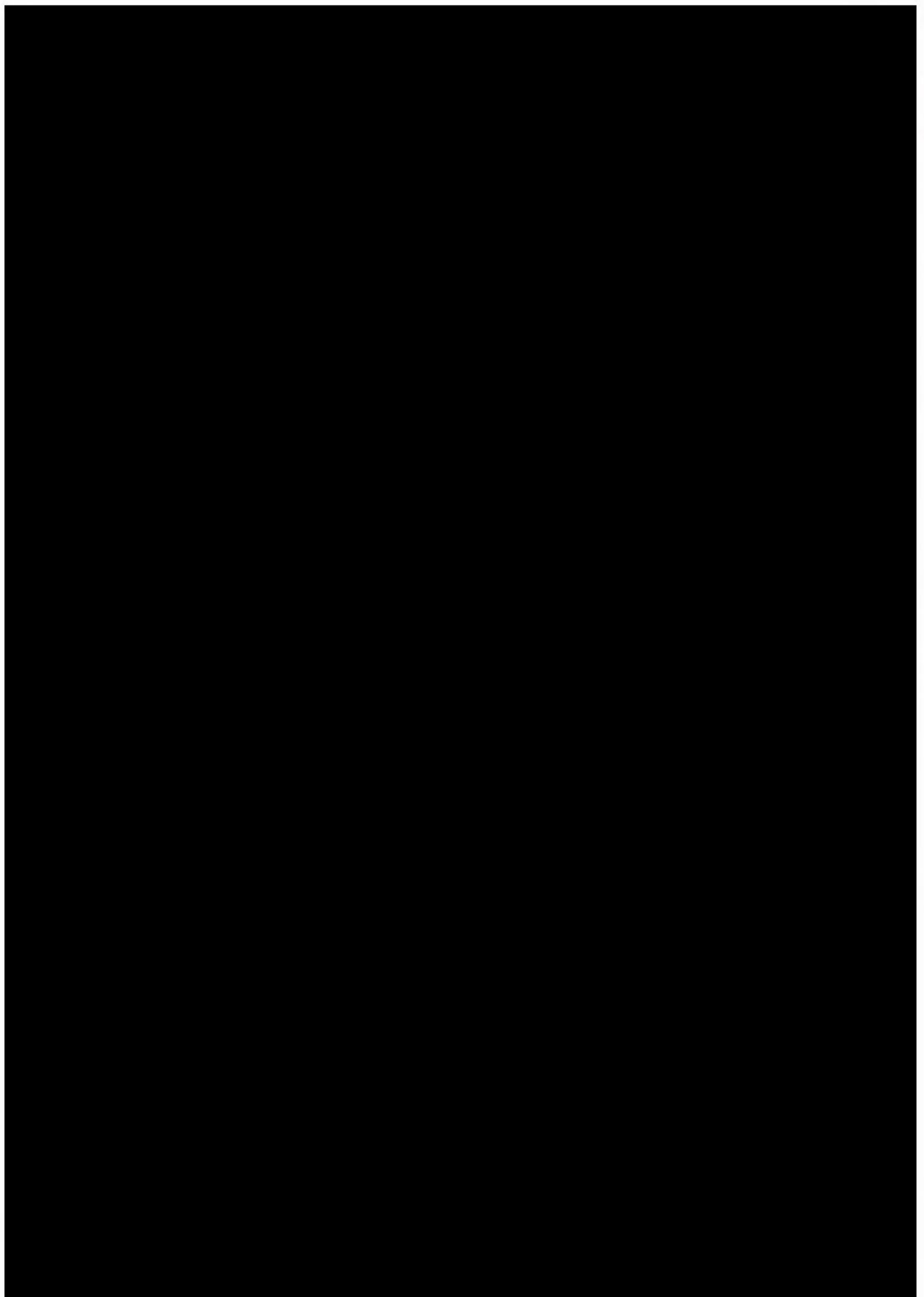
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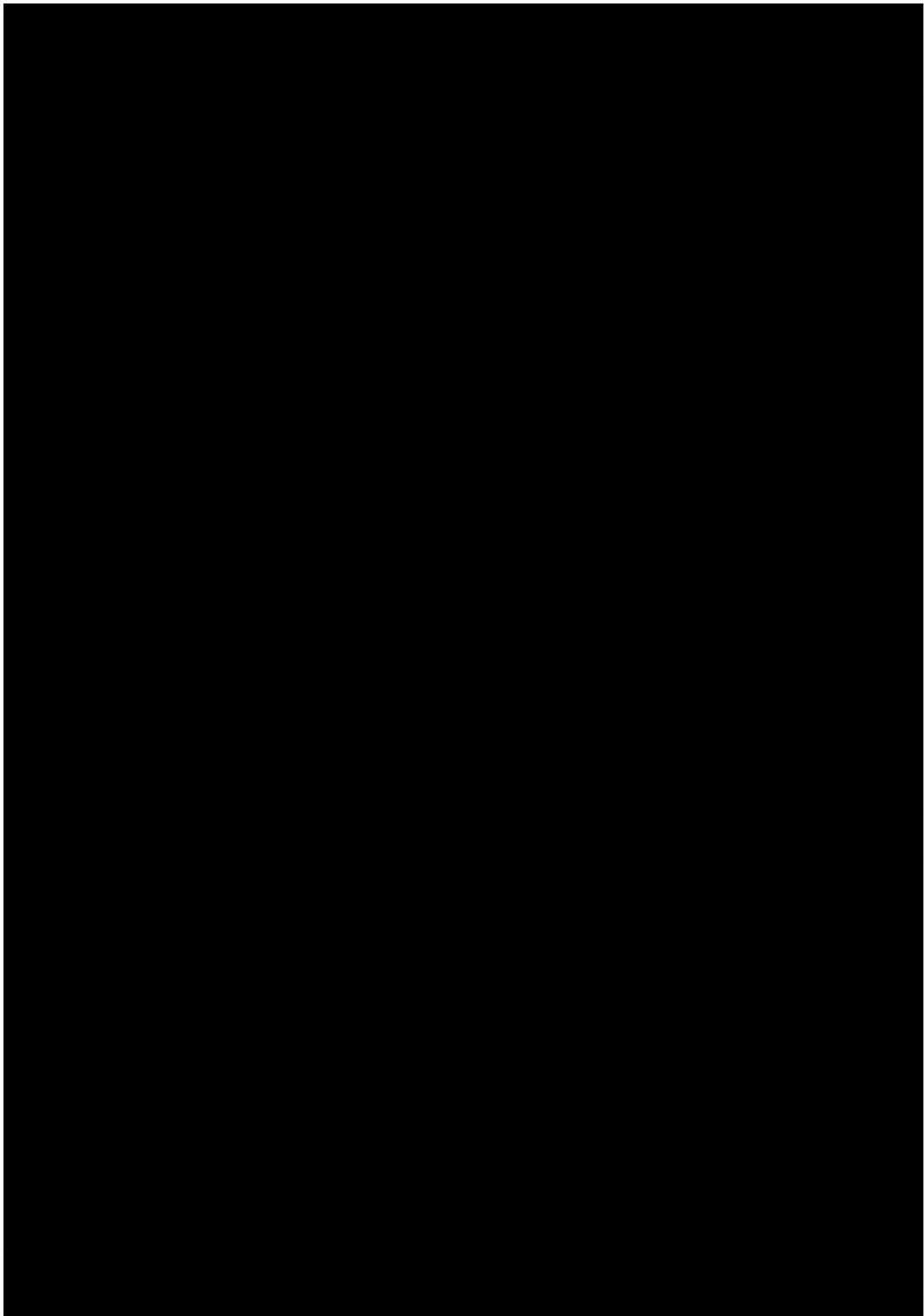
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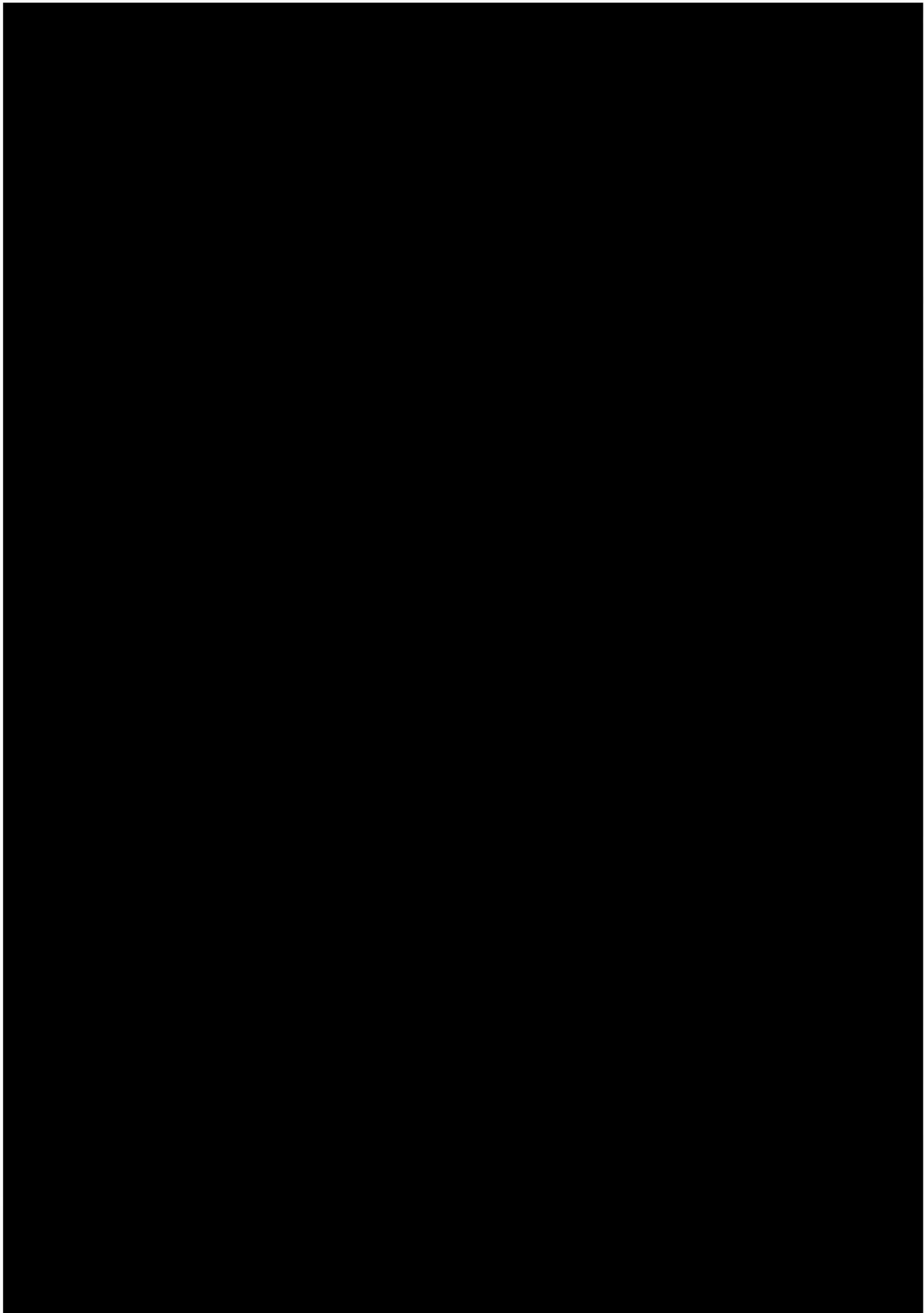
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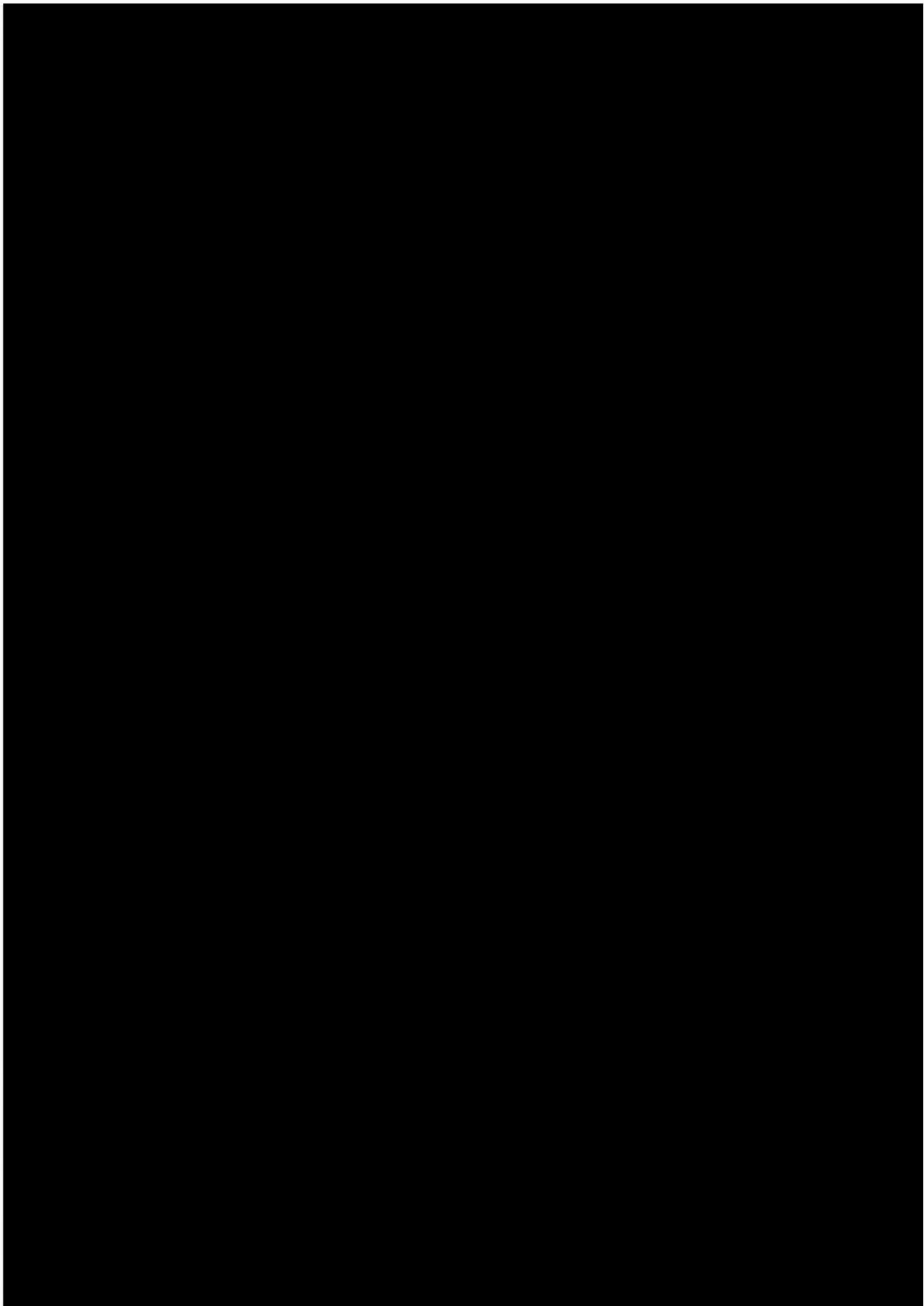
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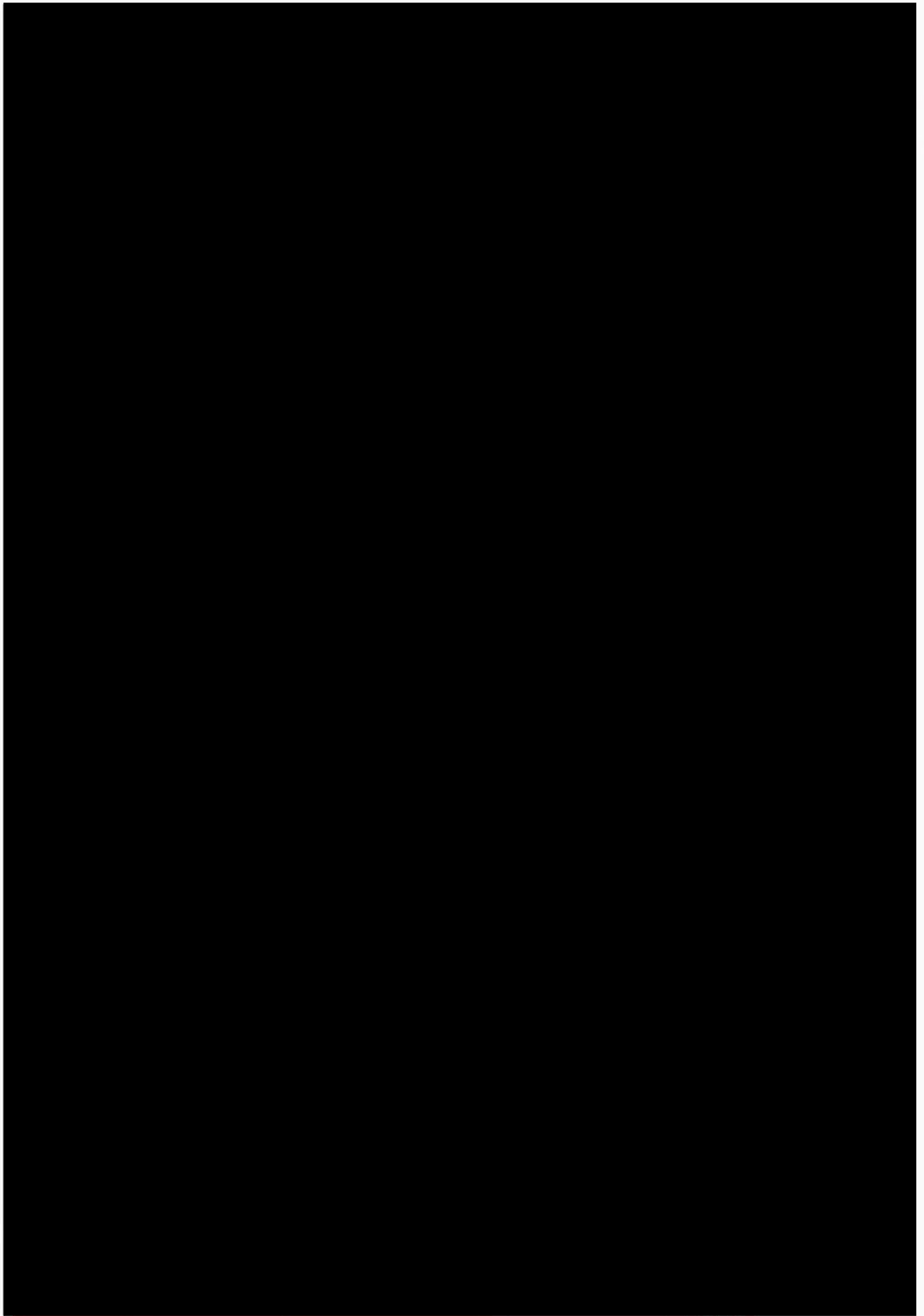
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**Crime and Corruption
Commission**

QUEENSLAND

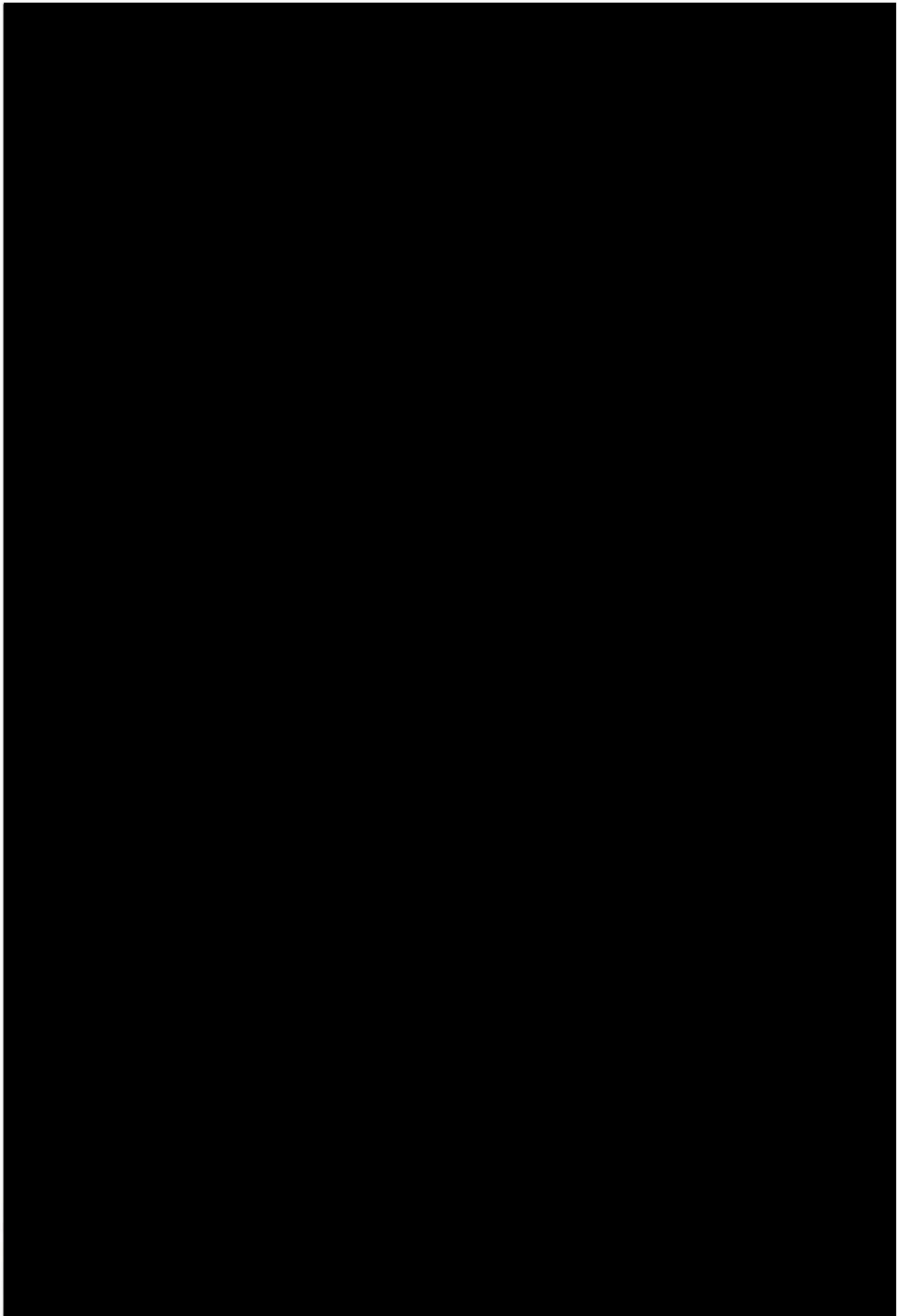


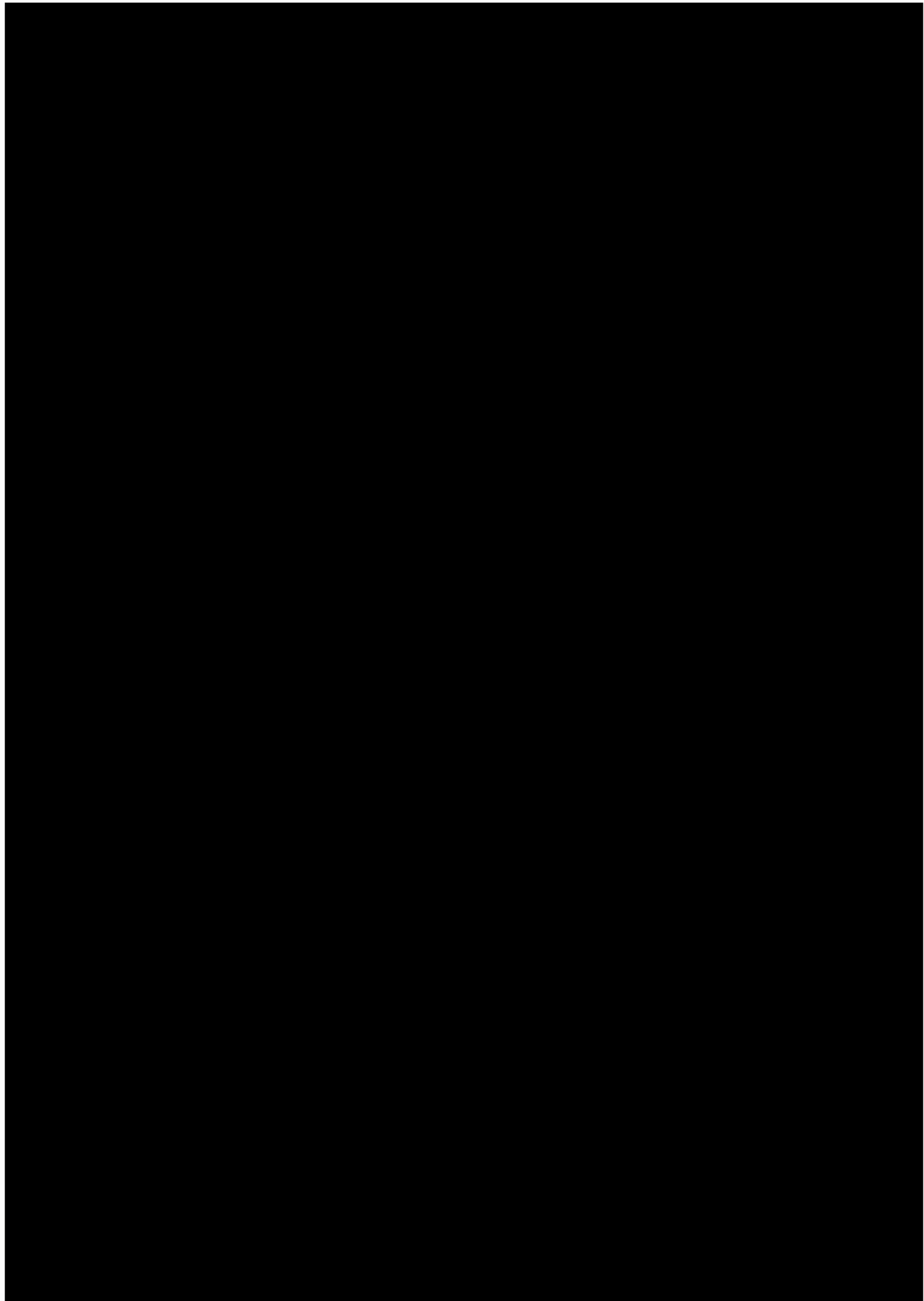
Crime and Corruption Commission

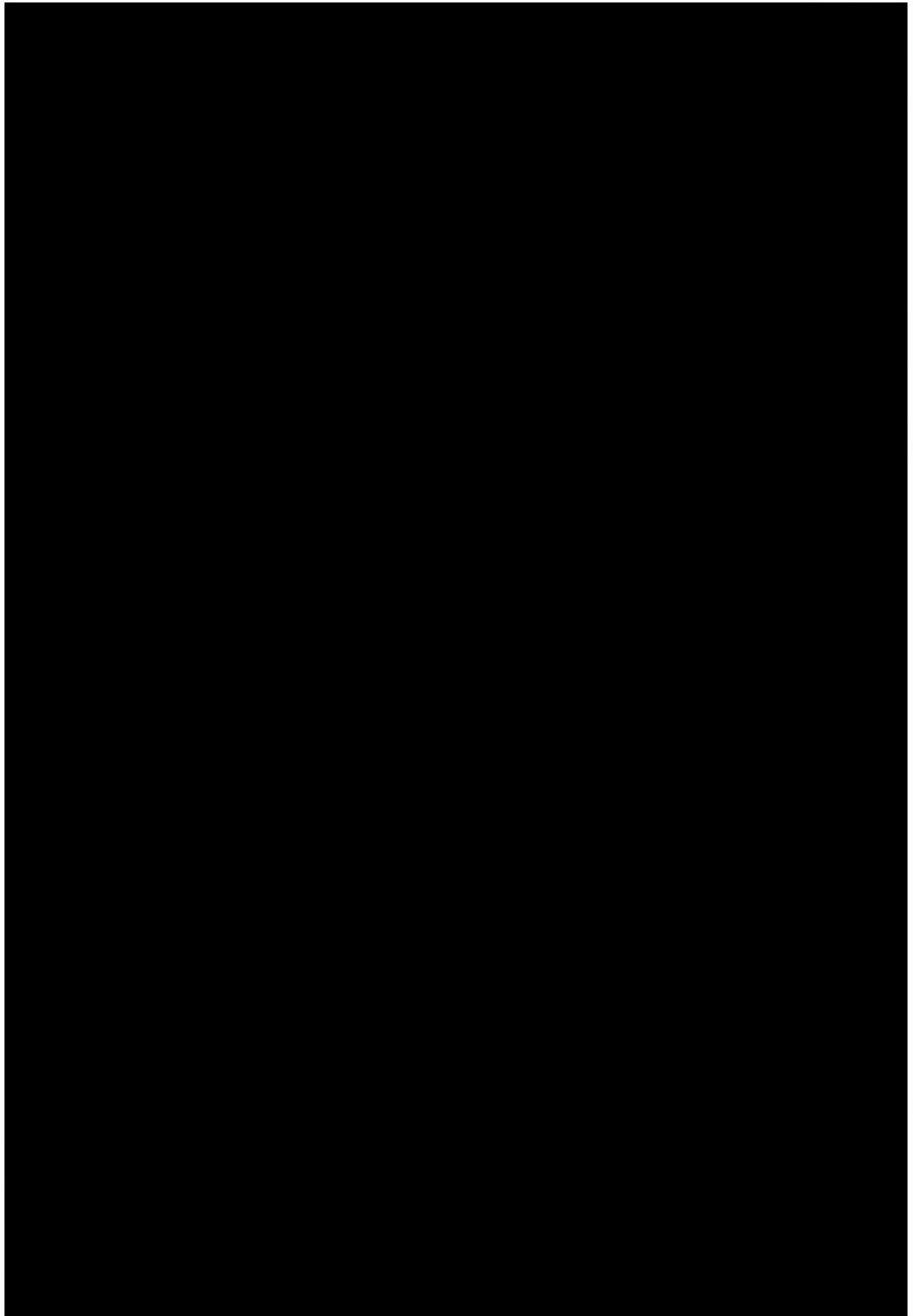
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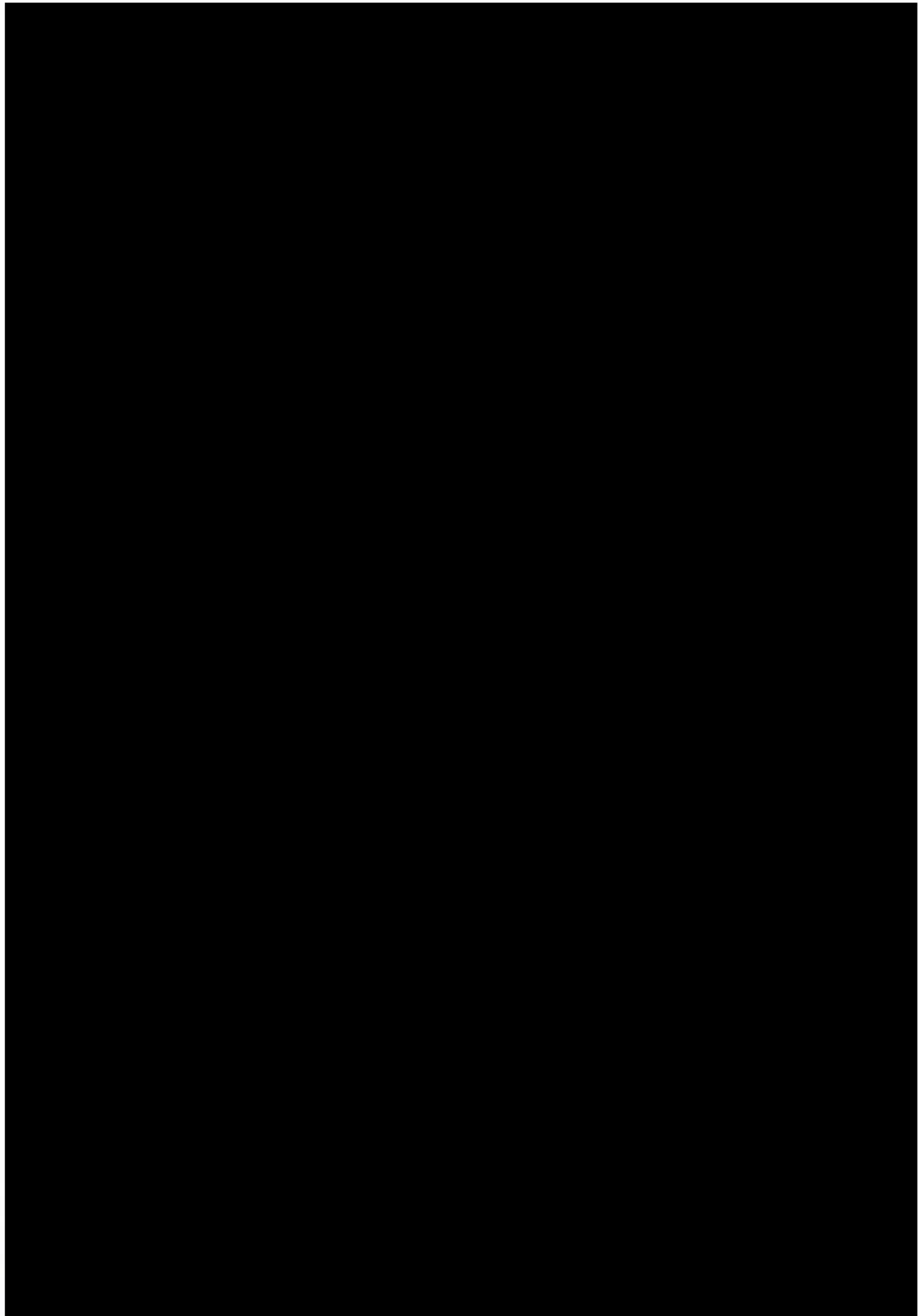
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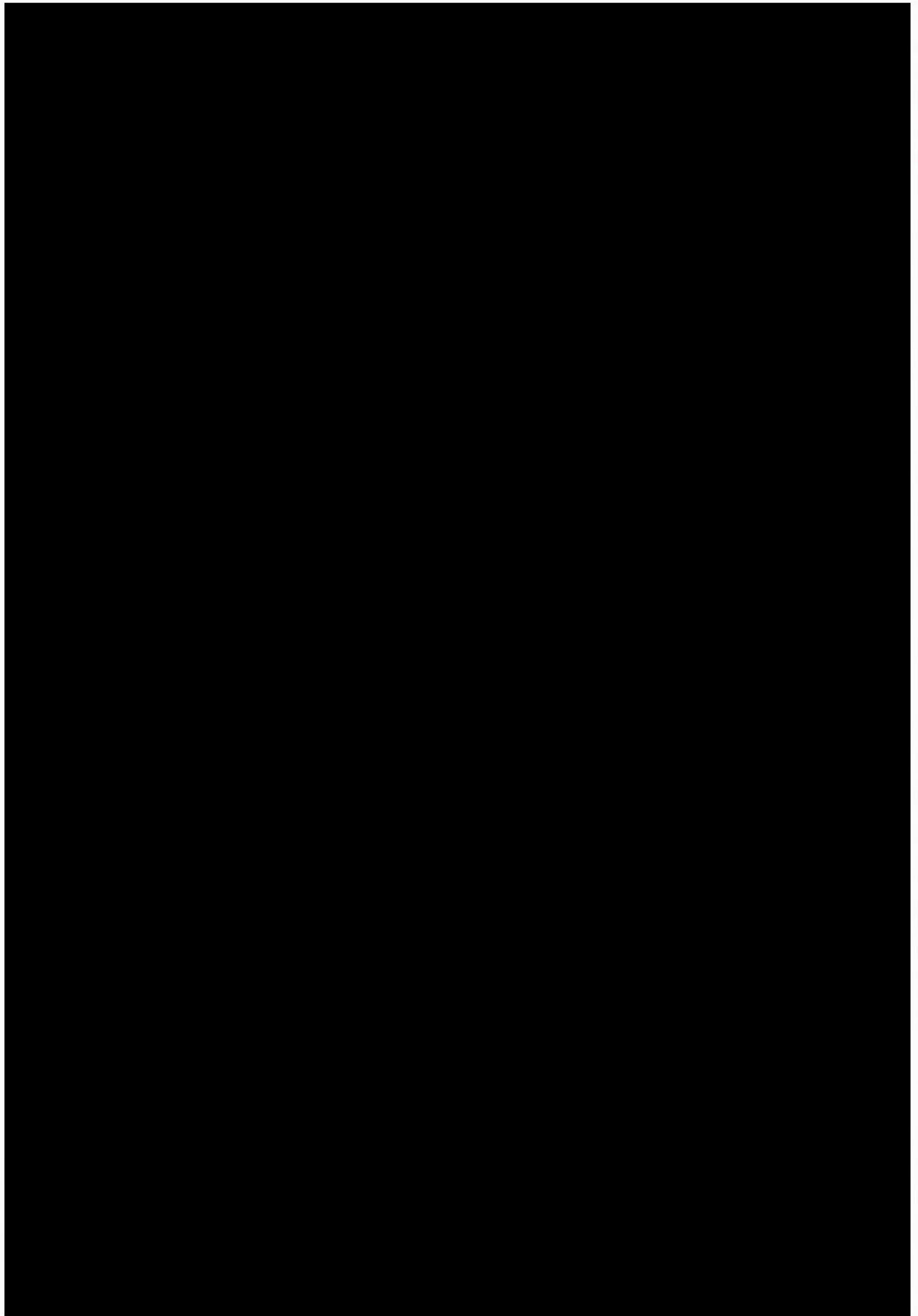


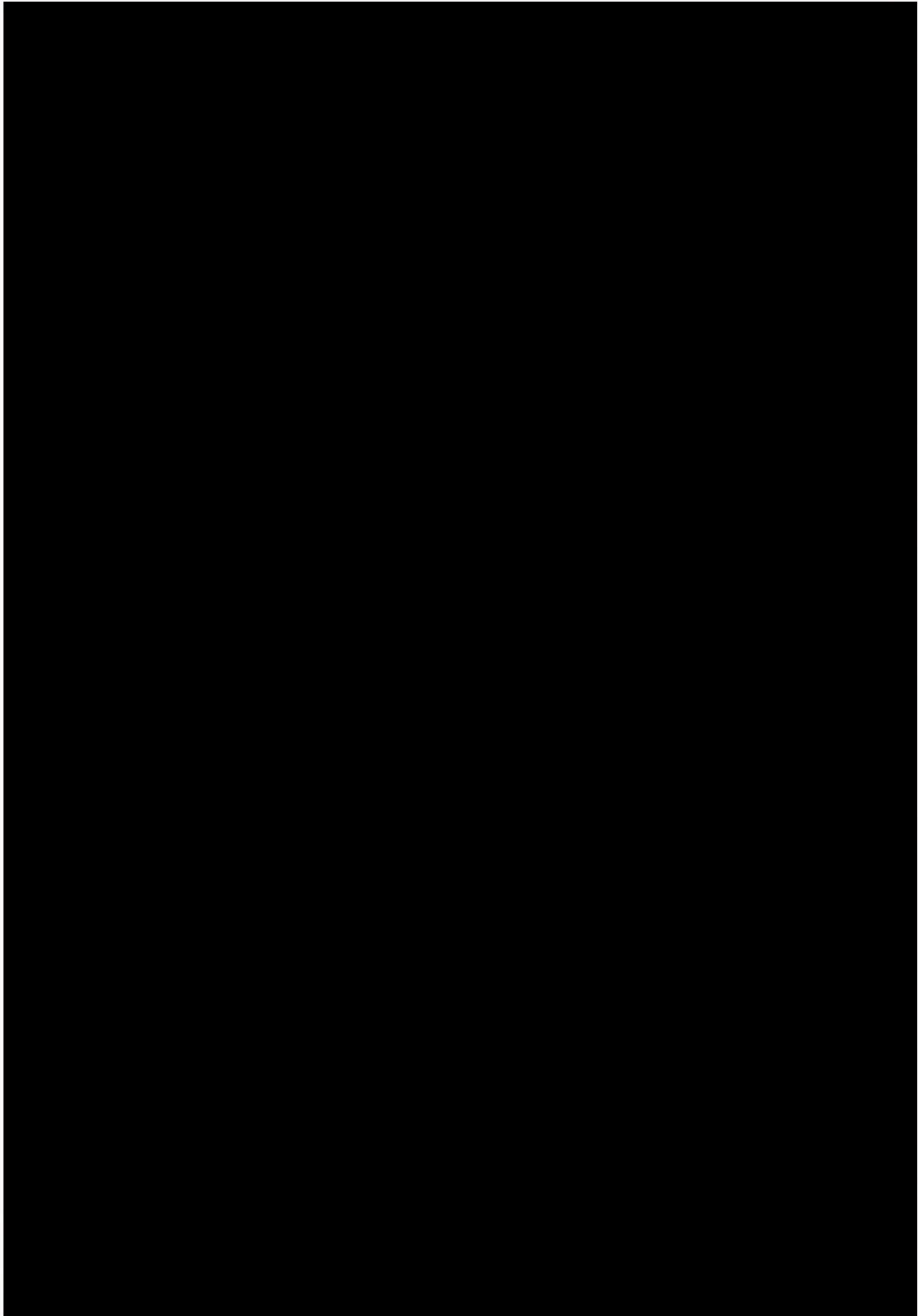


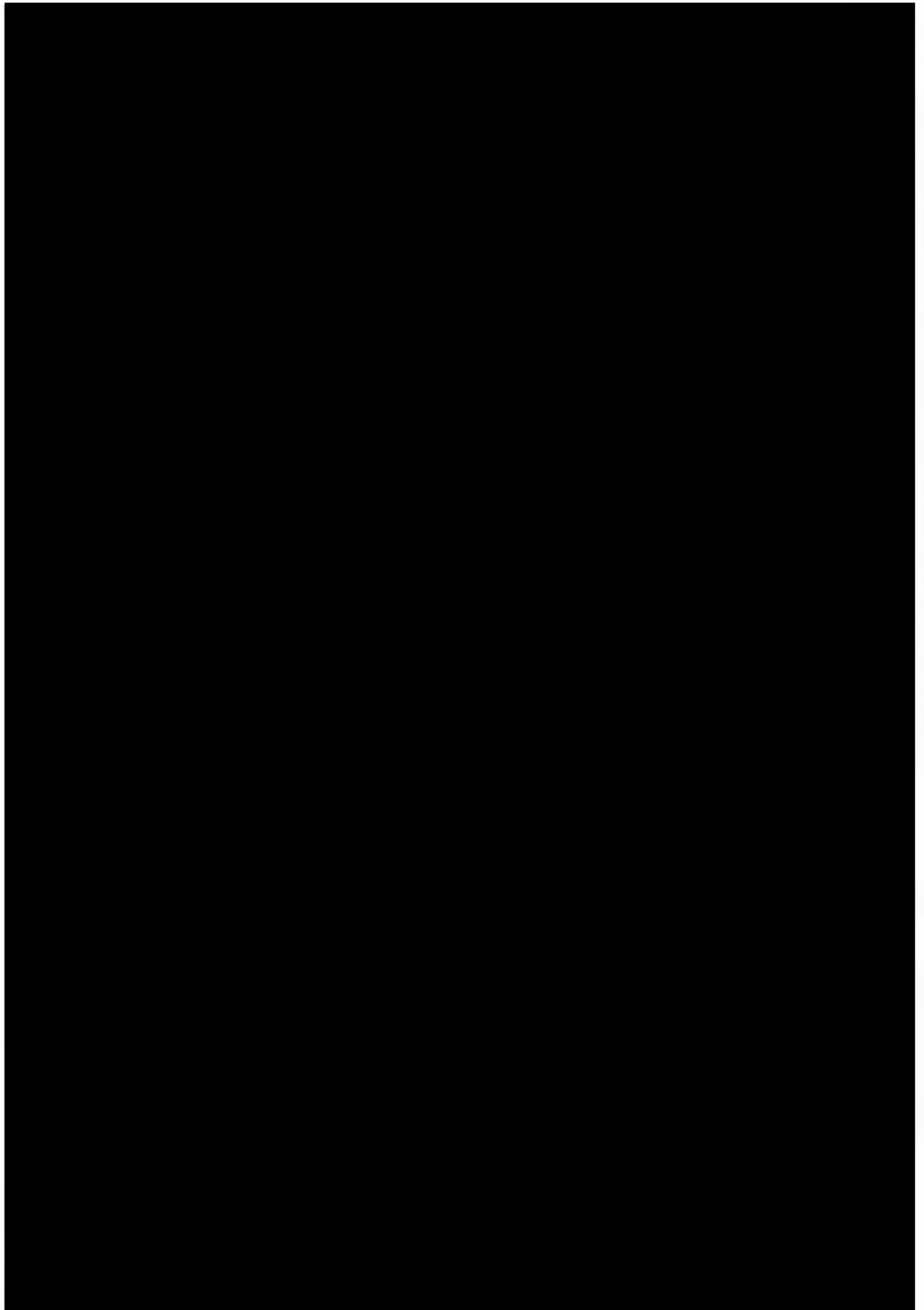


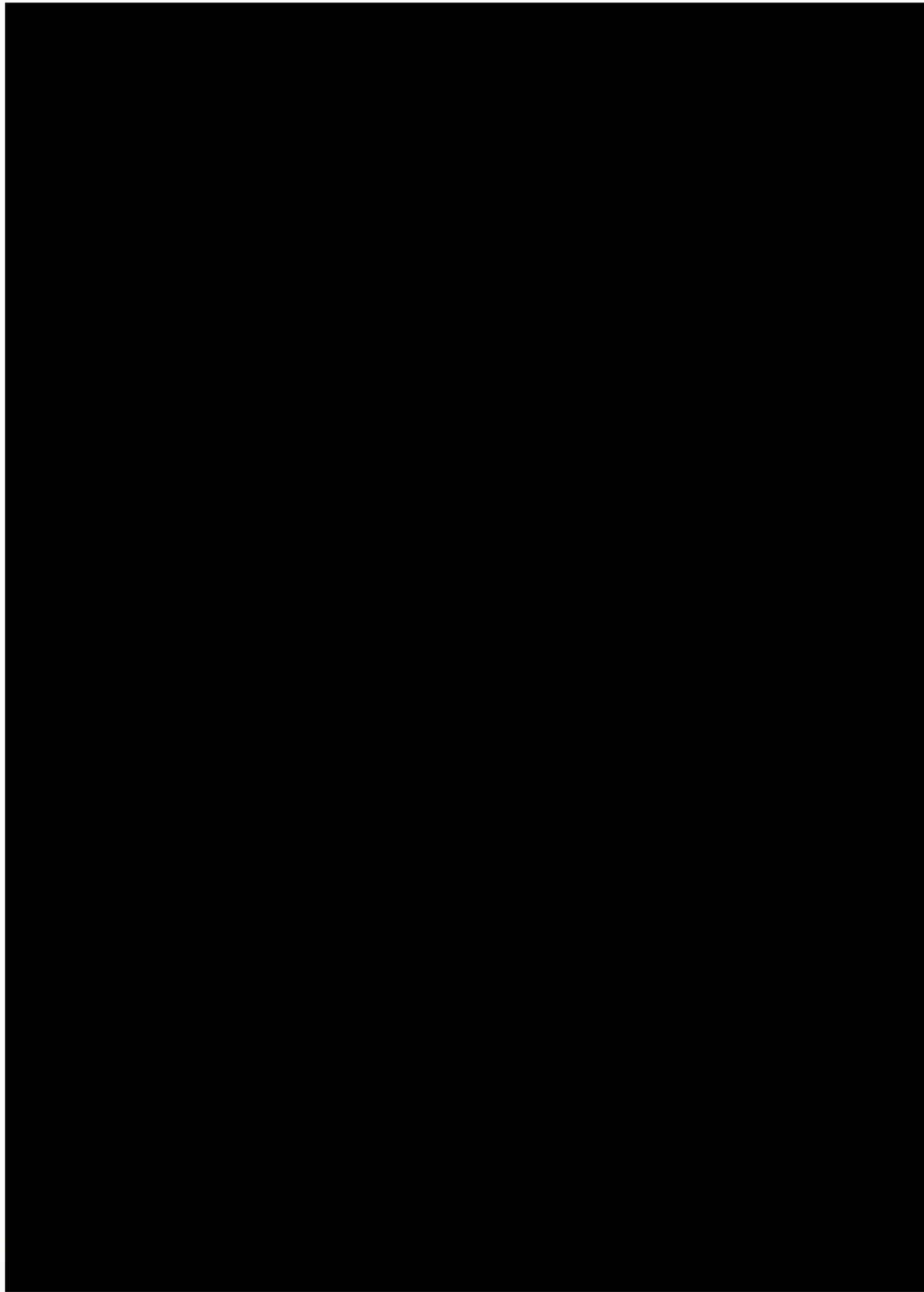


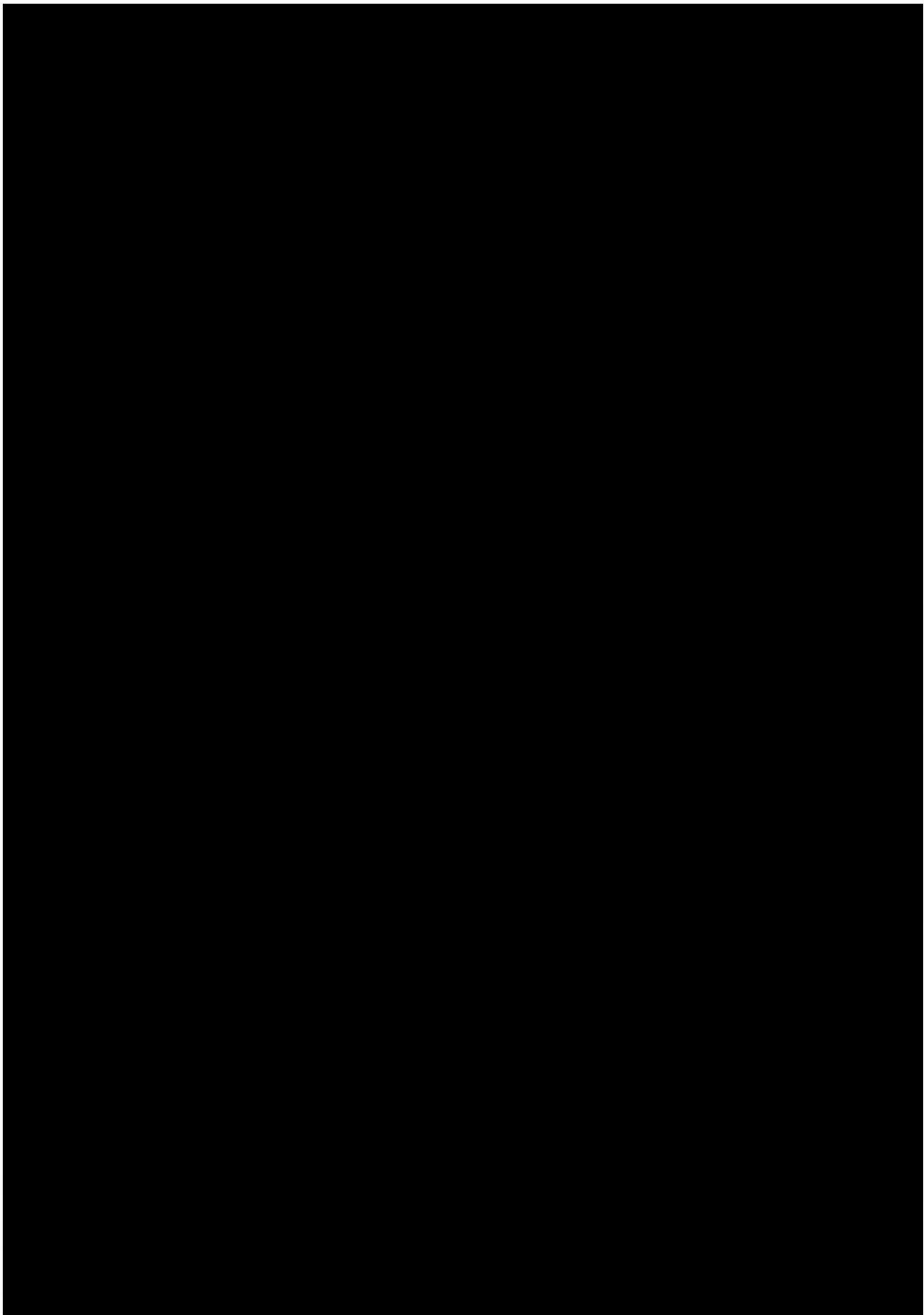
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the 'information' and 'communication' fields. The 'information' field is defined as:

...the study of the nature, sources, uses, and management of information, and the study of the communication of information. The field includes the study of the history, theory, and practice of information science, information systems, information technology, and information policy. (p. 11)

The 'communication' field is defined as:

...the study of the nature, sources, uses, and management of communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of communication science, communication systems, communication technology, and communication policy. (p. 11)

The 'information and communication' field is defined as:

...the study of the nature, sources, uses, and management of information and communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of information and communication science, information and communication systems, information and communication technology, and information and communication policy. (p. 11)

The 'information and communication studies' field is defined as:

...the study of the nature, sources, uses, and management of information and communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of information and communication studies, information and communication systems, information and communication technology, and information and communication policy. (p. 11)

The 'information and communication research' field is defined as:

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The 'information and communication science' field is defined as:

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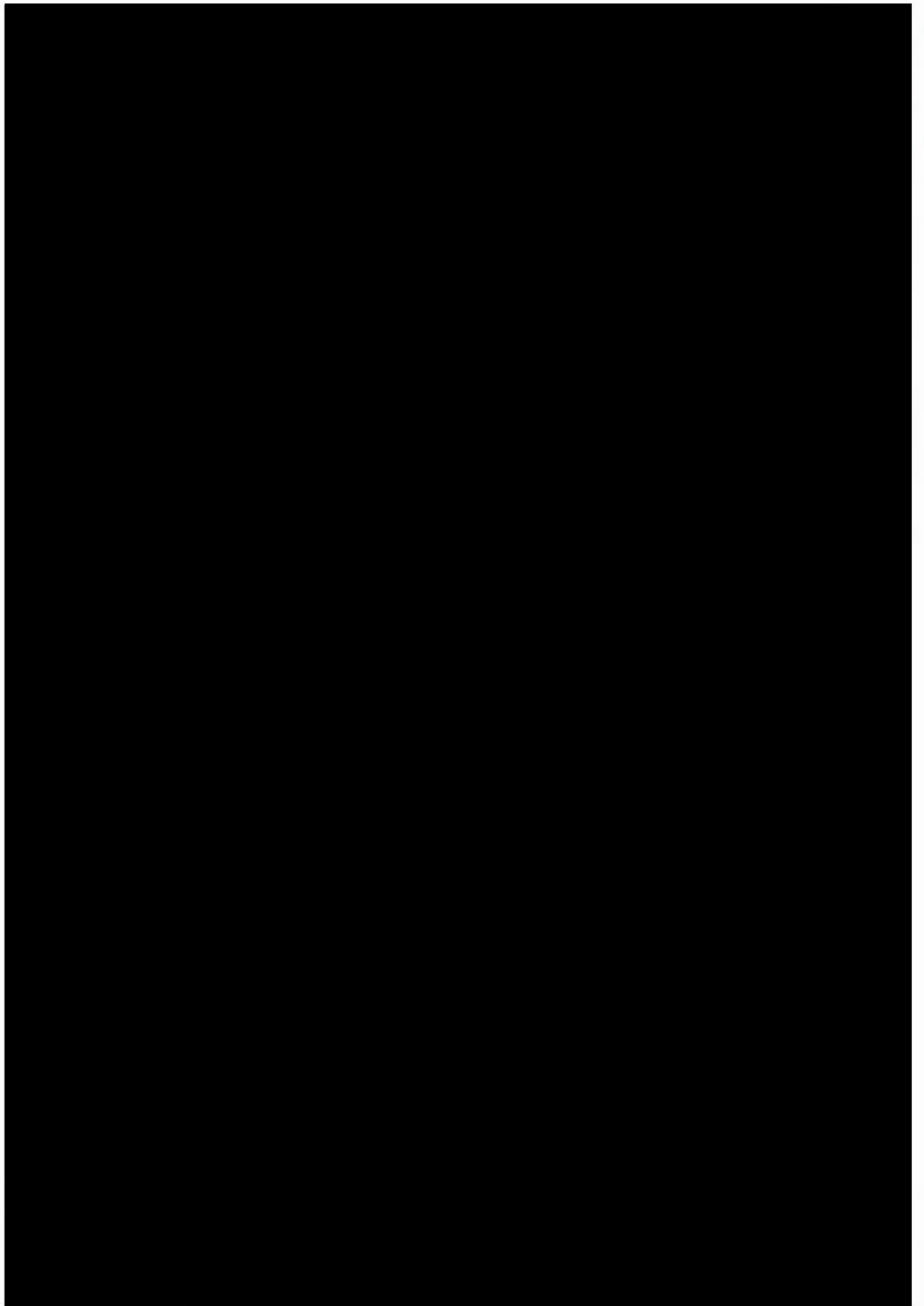
...the study of the nature, sources, uses, and management of information and communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of information and communication technology, information and communication systems, information and communication technology, and information and communication policy. (p. 11)

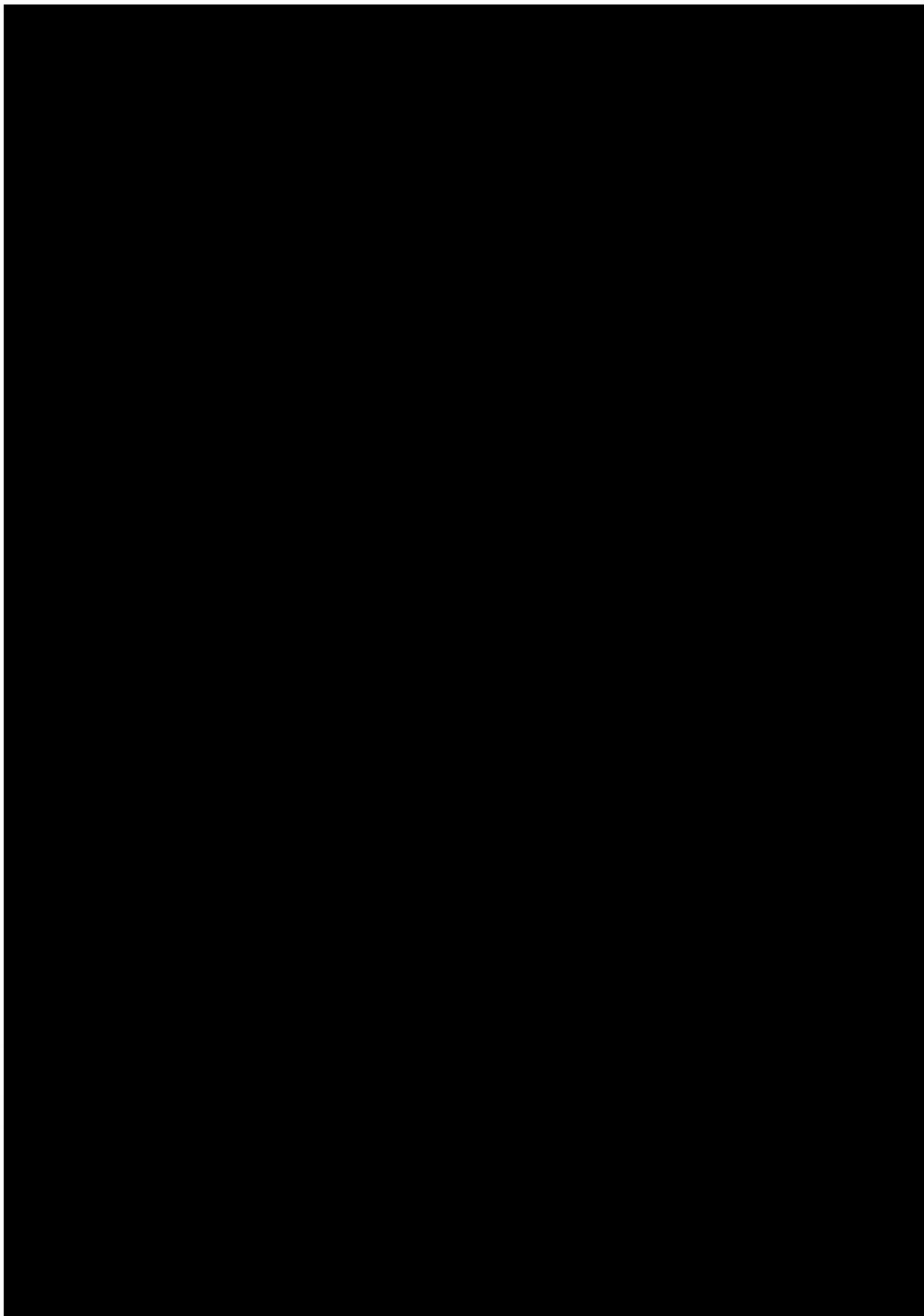
The 'information and communication policy' field is defined as:

...the study of the nature, sources, uses, and management of information and communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of information and communication policy, information and communication systems, information and communication technology, and information and communication policy. (p. 11)

The 'information and communication systems' field is defined as:

...the study of the nature, sources, uses, and management of information and communication, and the study of the communication of information. The field includes the study of the history, theory, and practice of information and communication systems, information and communication systems, information and communication technology, and information and communication policy. (p. 11)





the 1990s, the number of people in the UK who are employed in the public sector has increased by 1.5 million, from 2.5 million in 1980 to 4 million in 1998. The public sector has become a major employer in the UK, and its growth has been a major factor in the overall growth of the economy.

The public sector has also become a major provider of social services, and its growth has been a major factor in the overall growth of the economy. The public sector has become a major provider of social services, and its growth has been a major factor in the overall growth of the economy.

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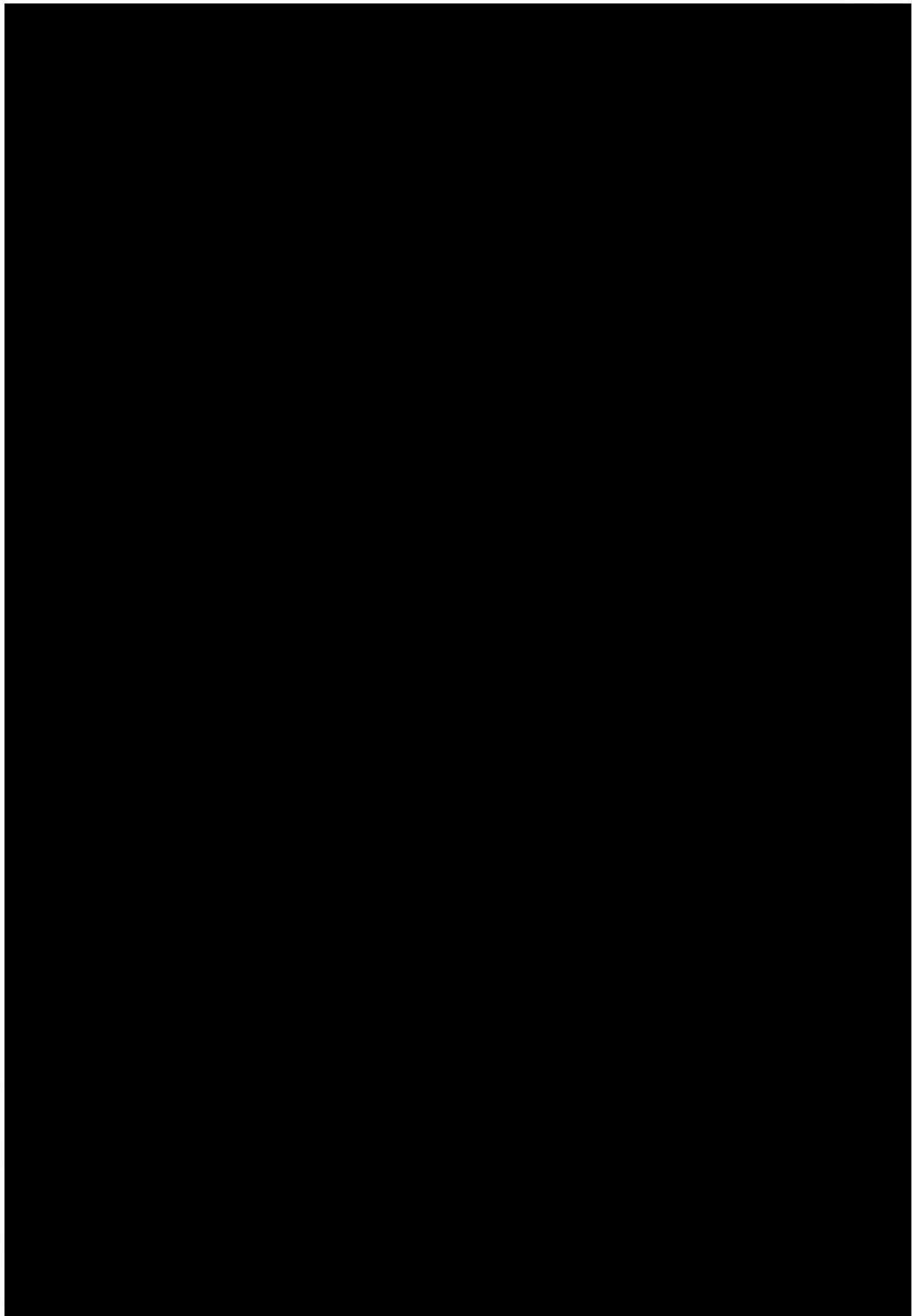
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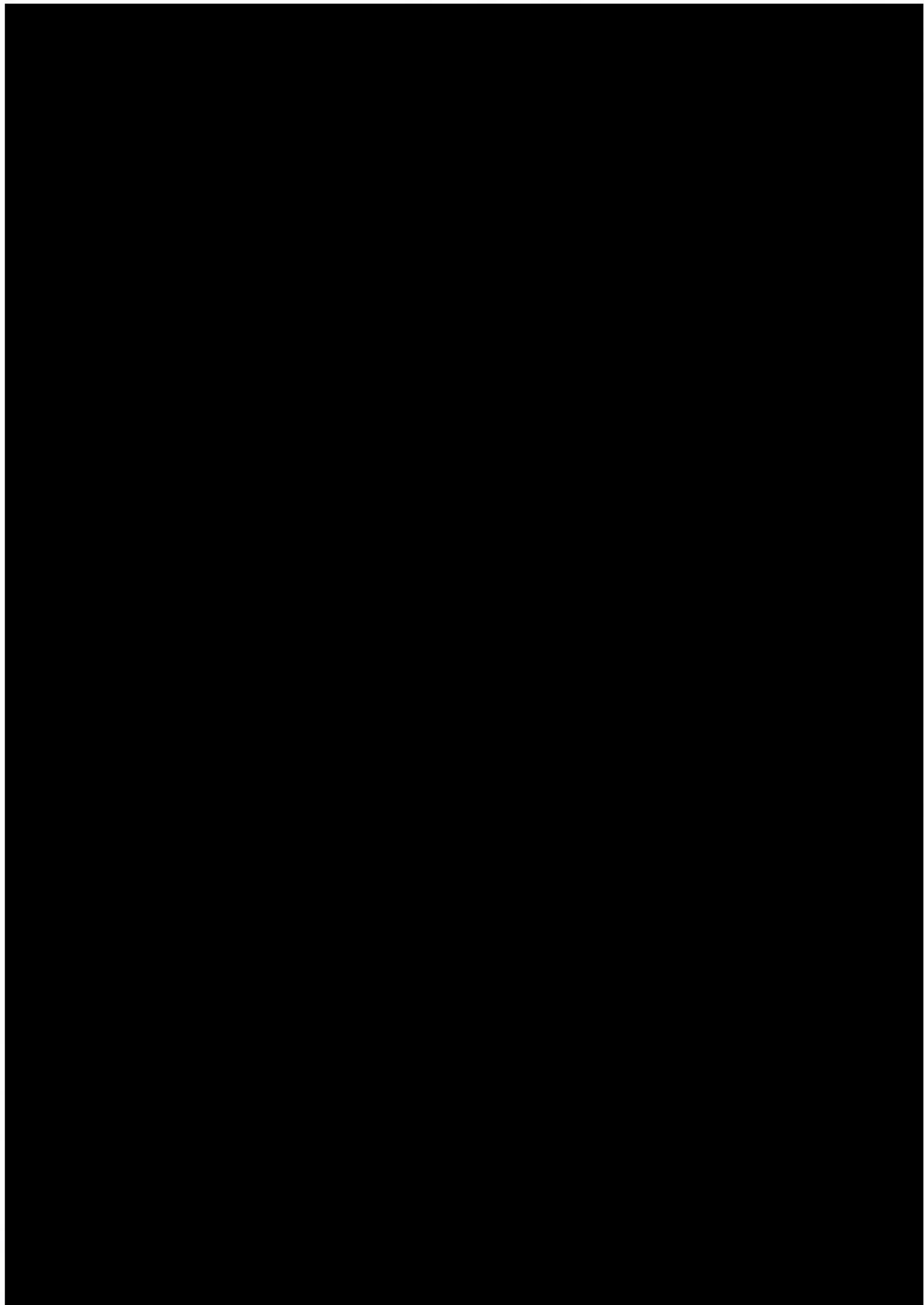
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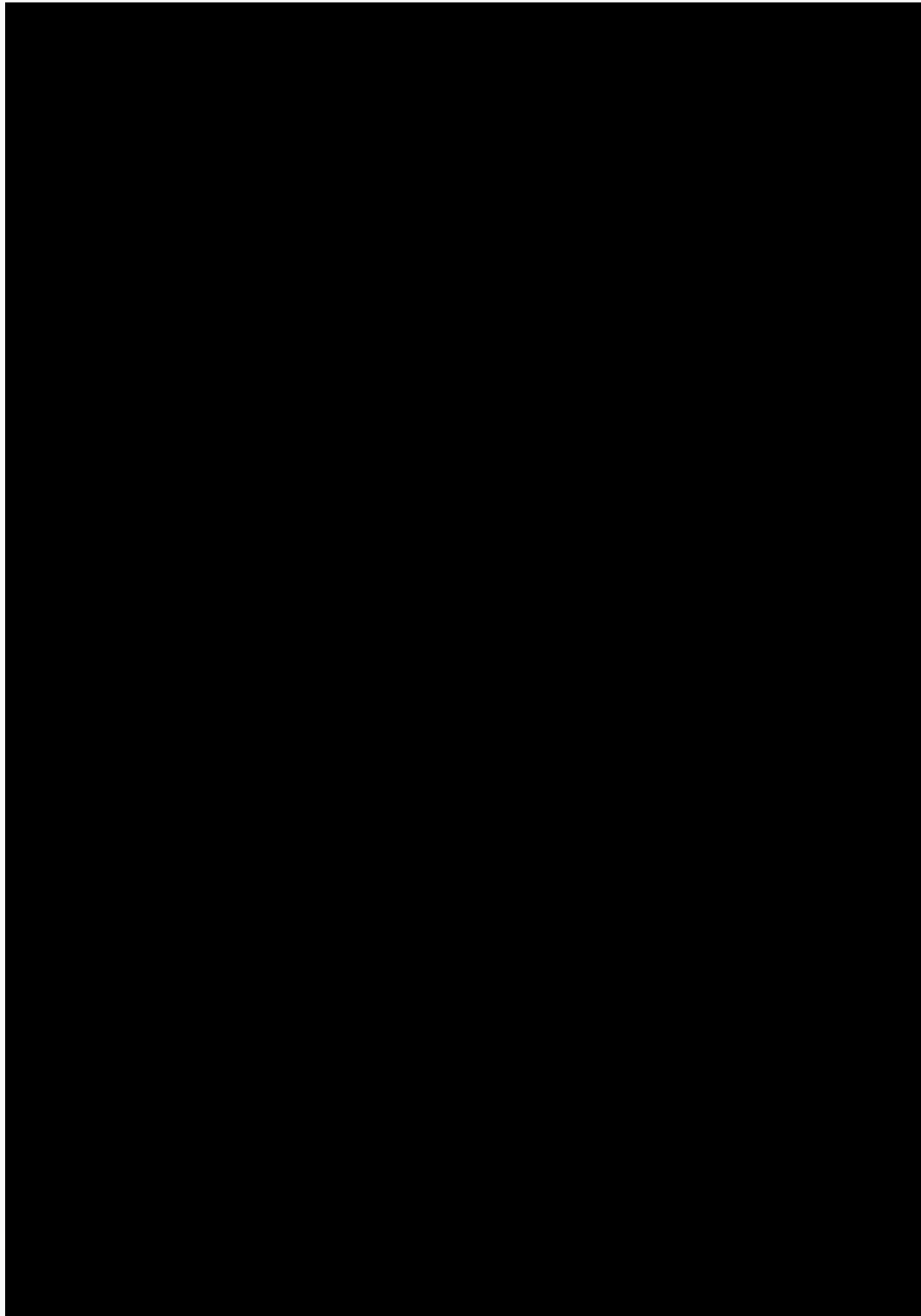
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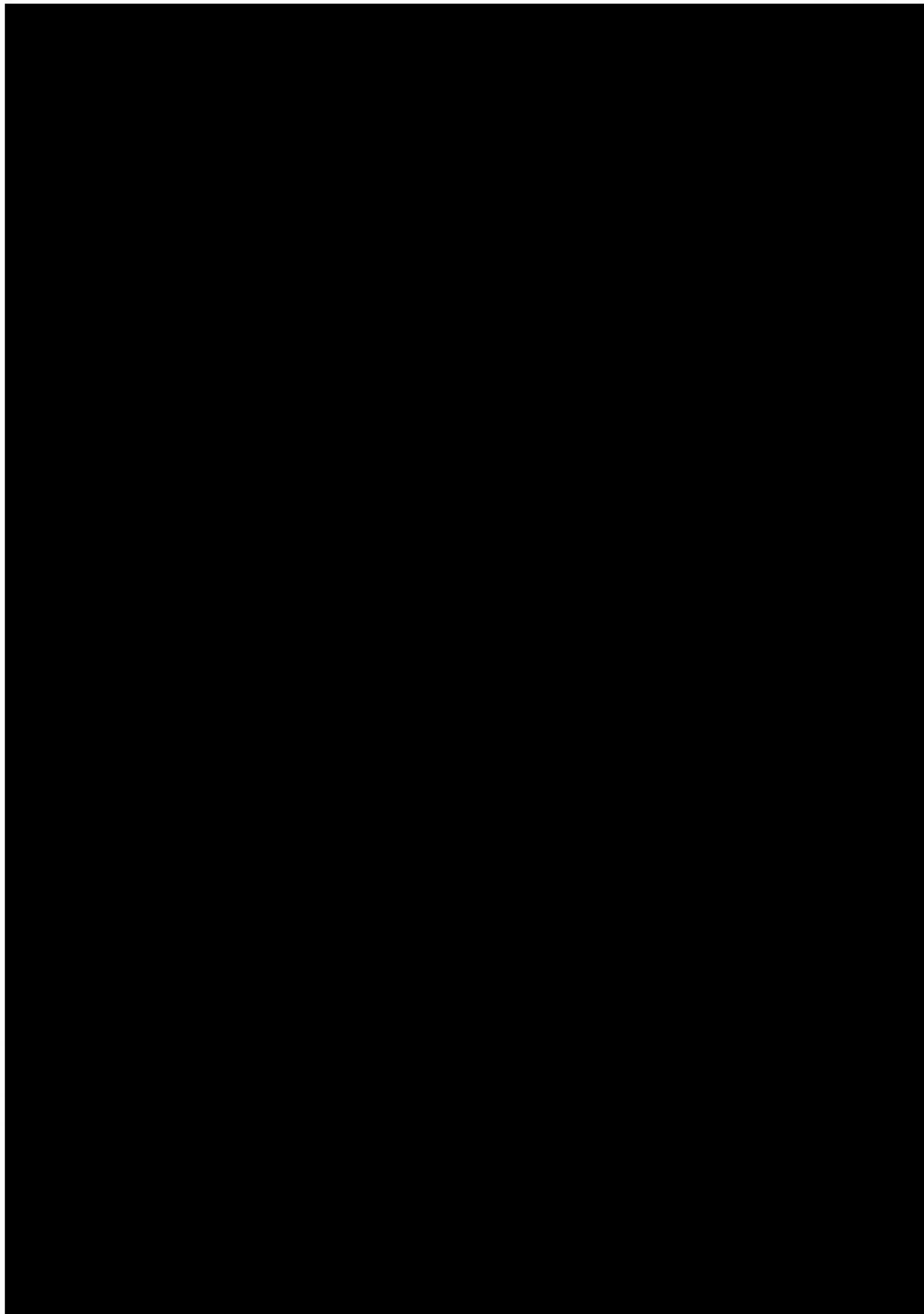
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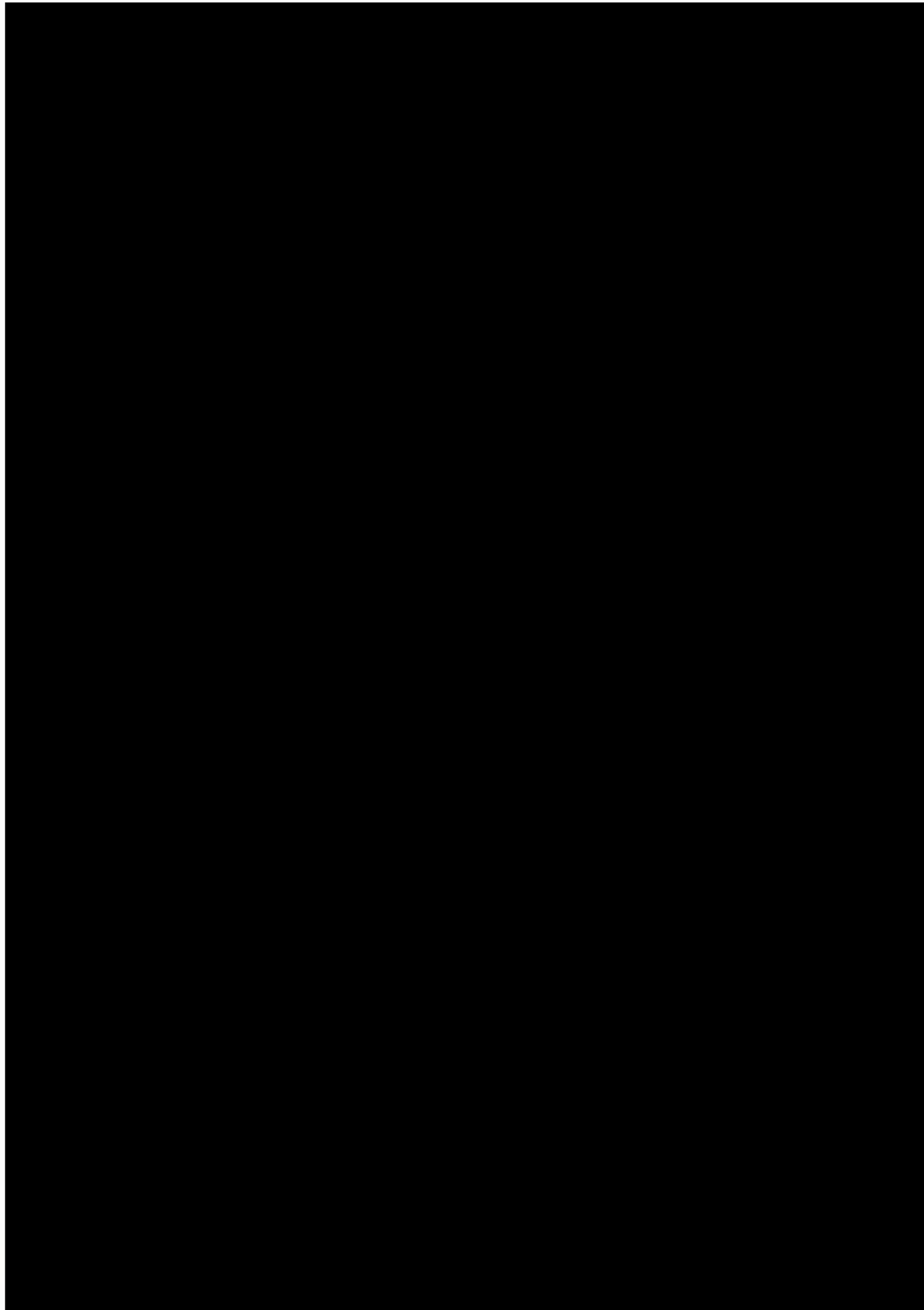
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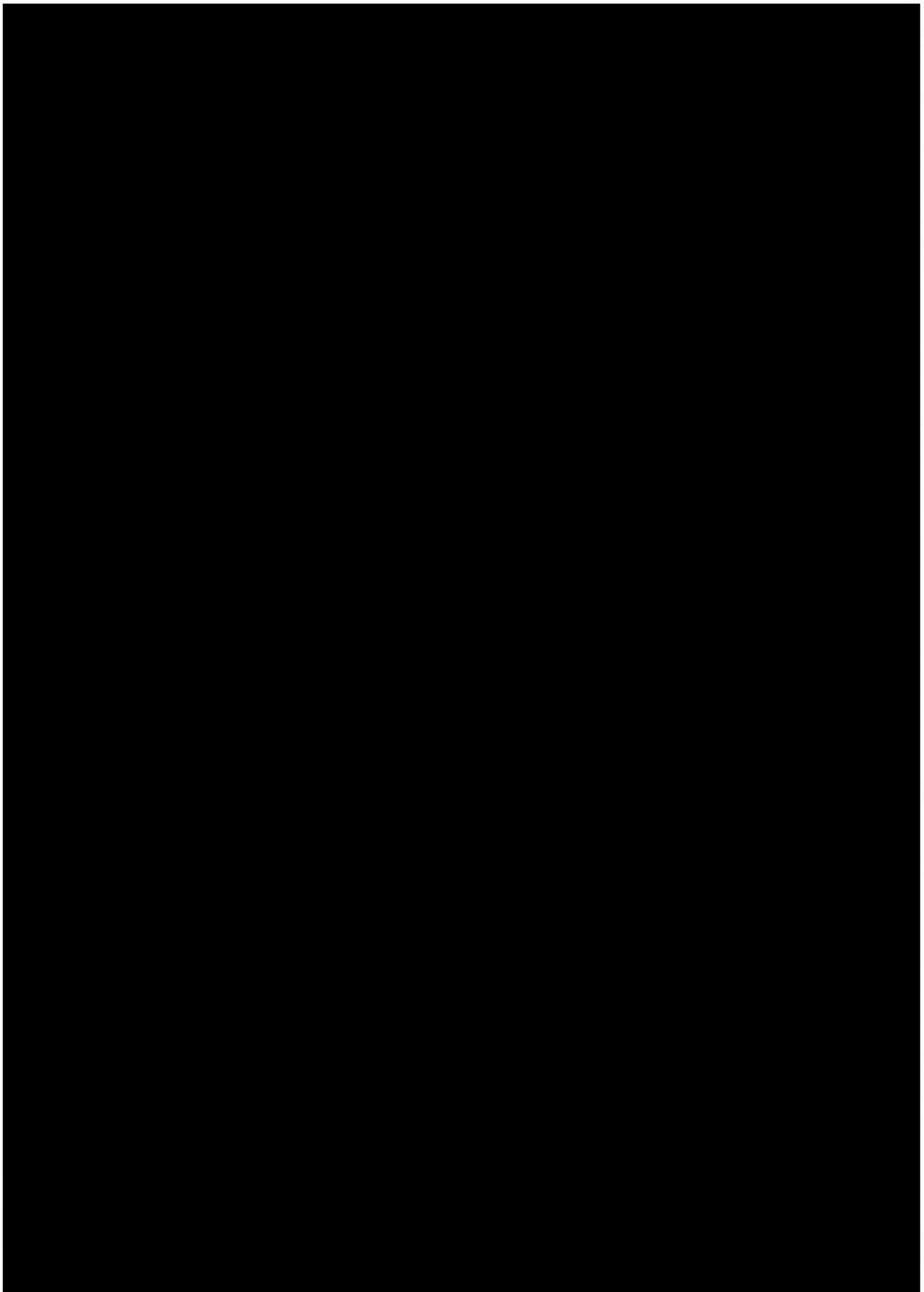


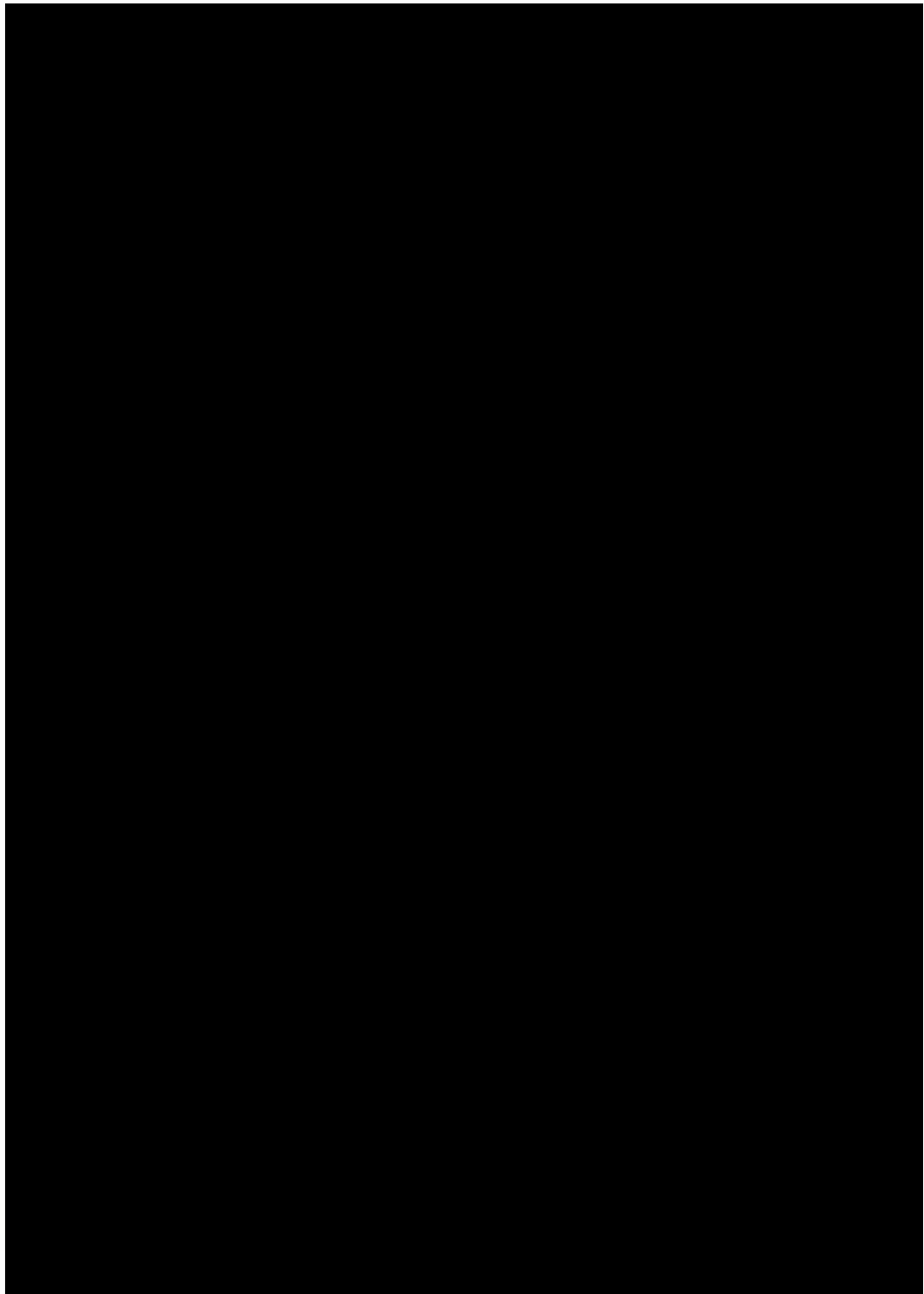


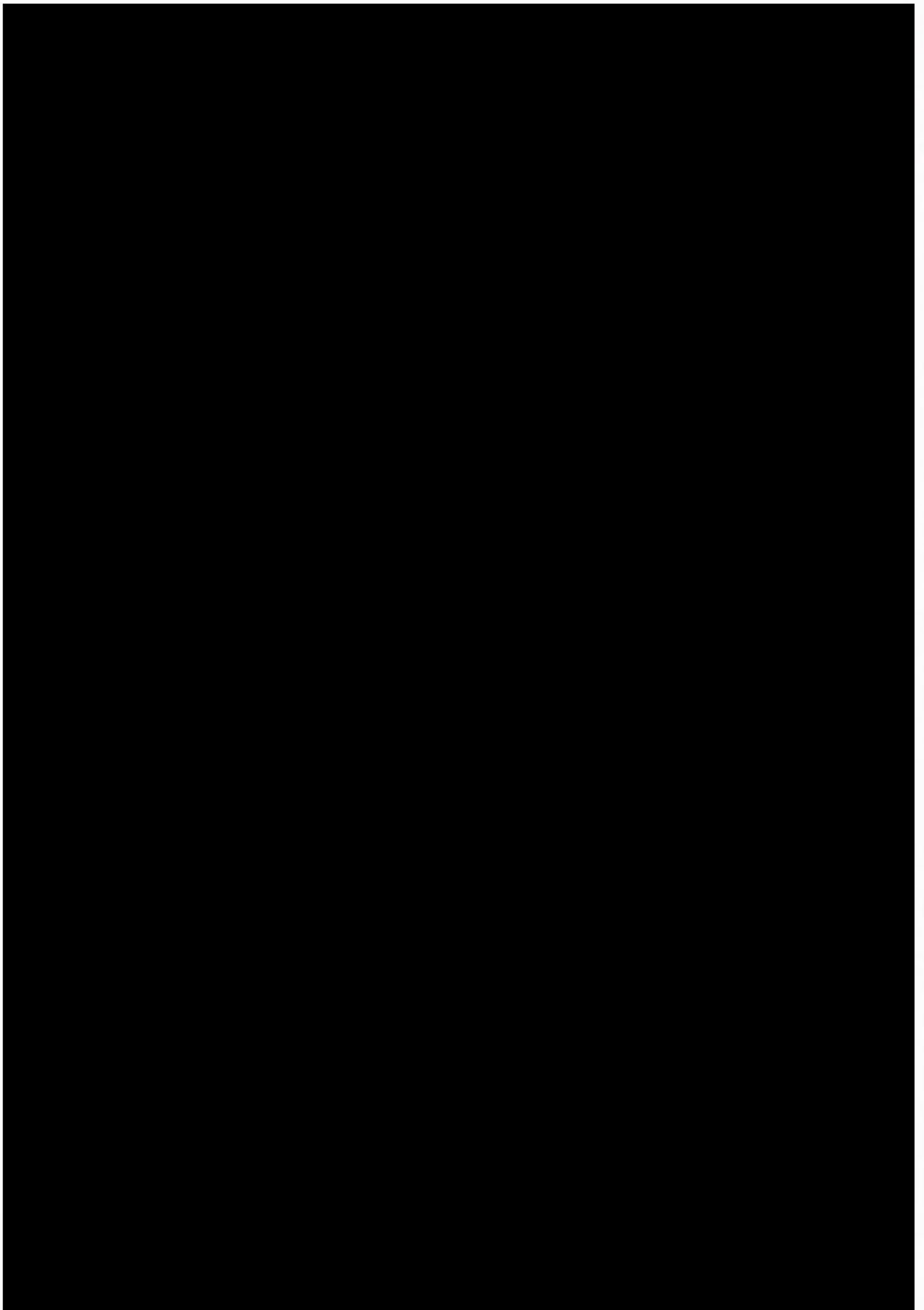












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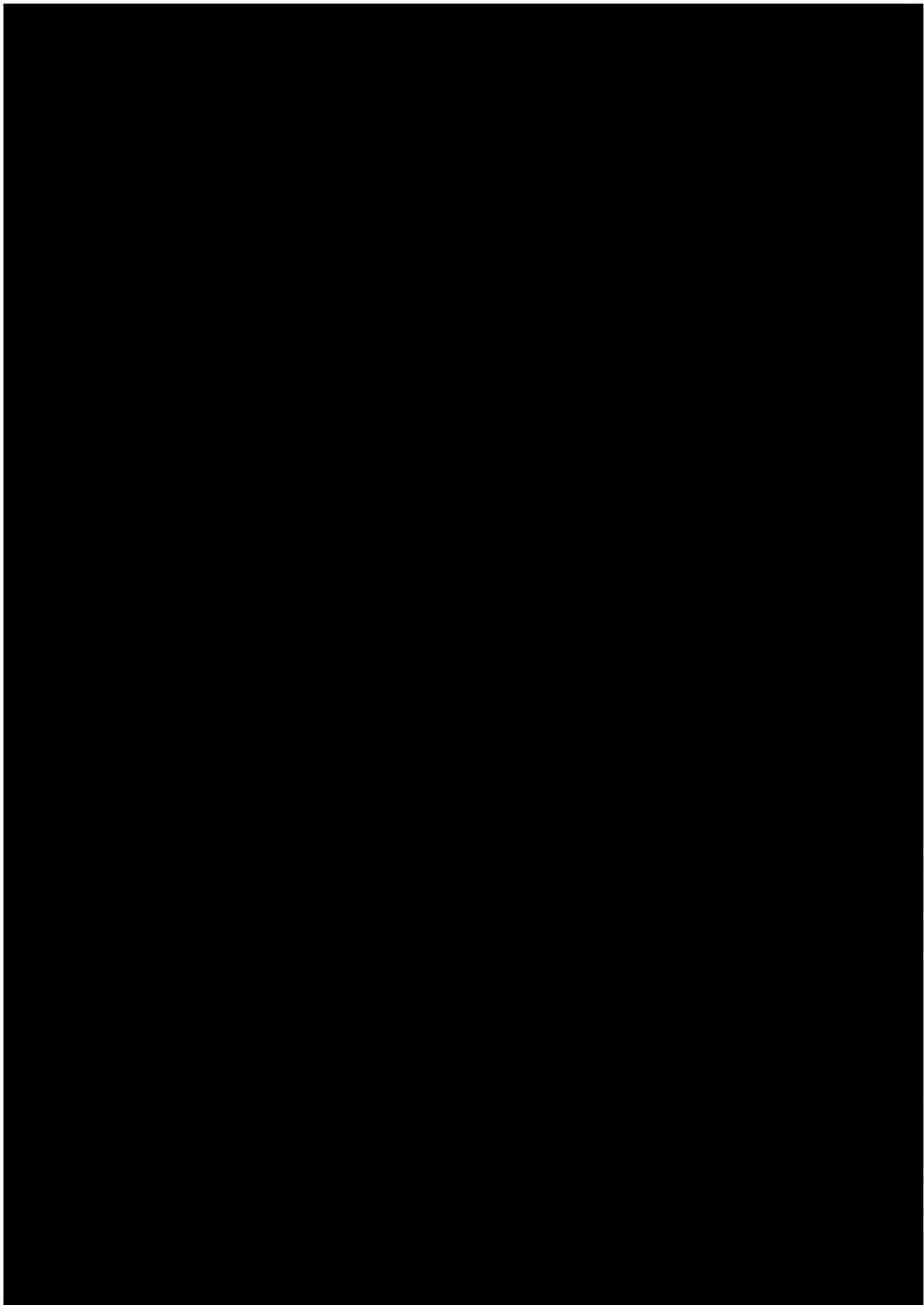
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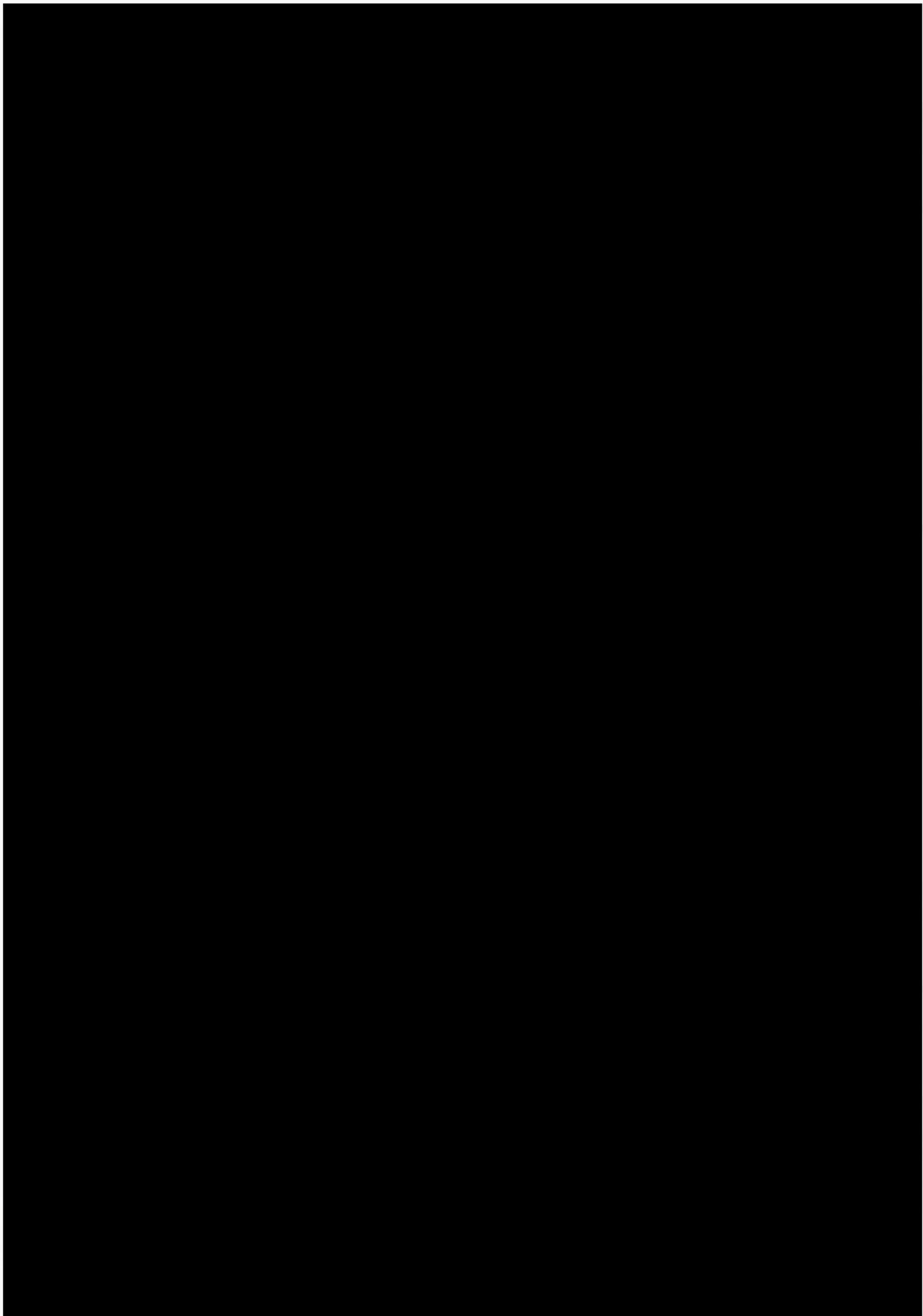
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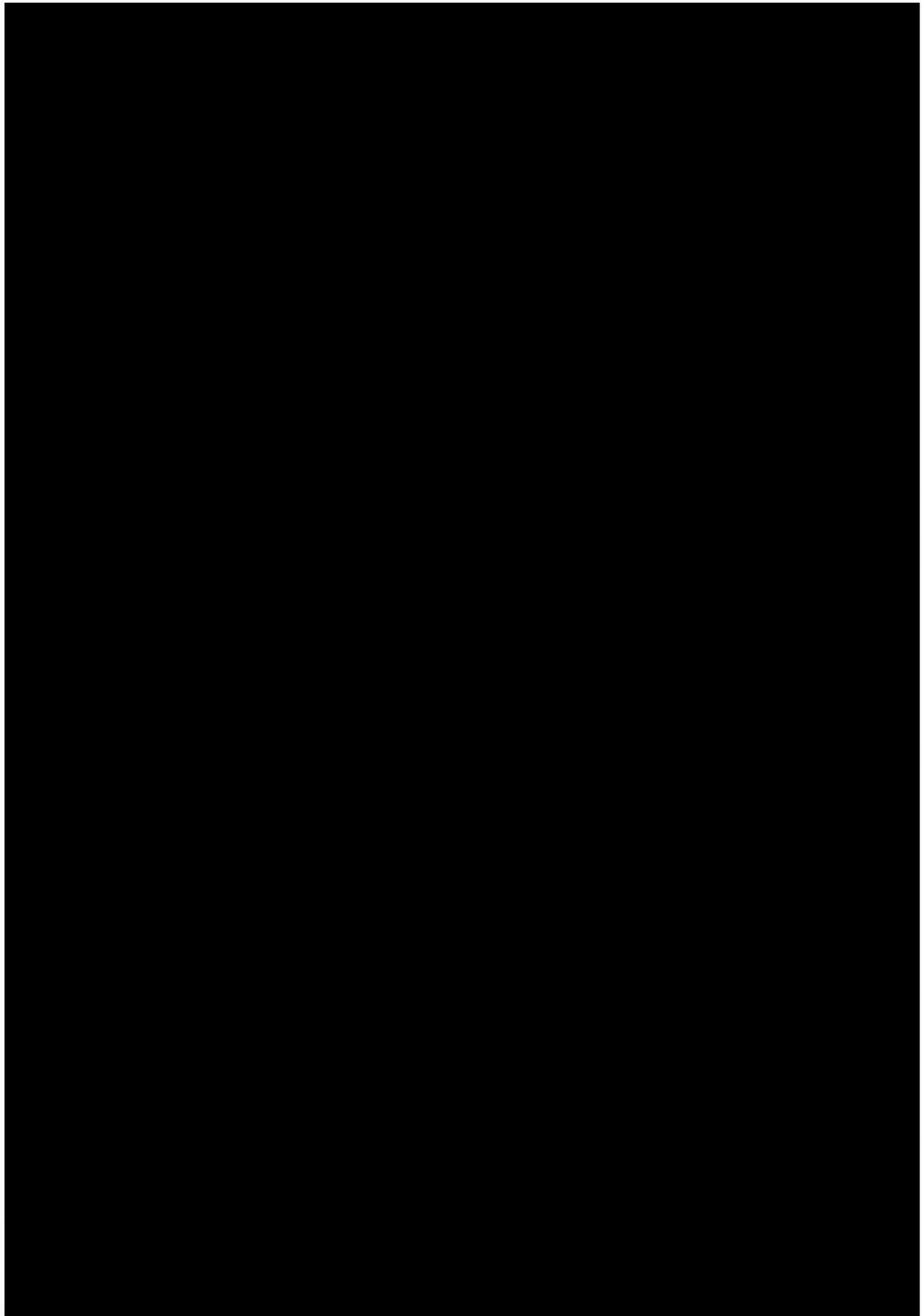
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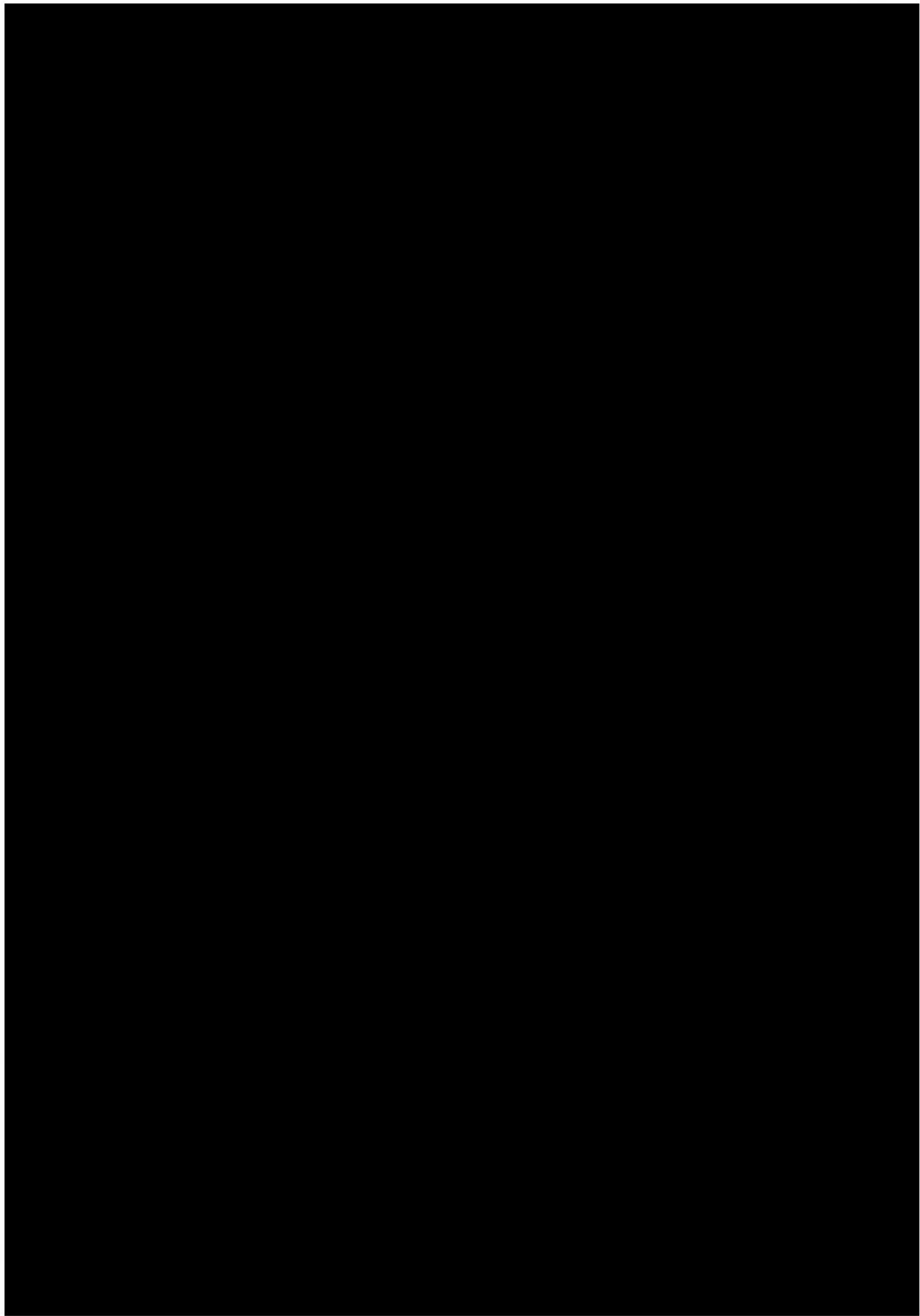
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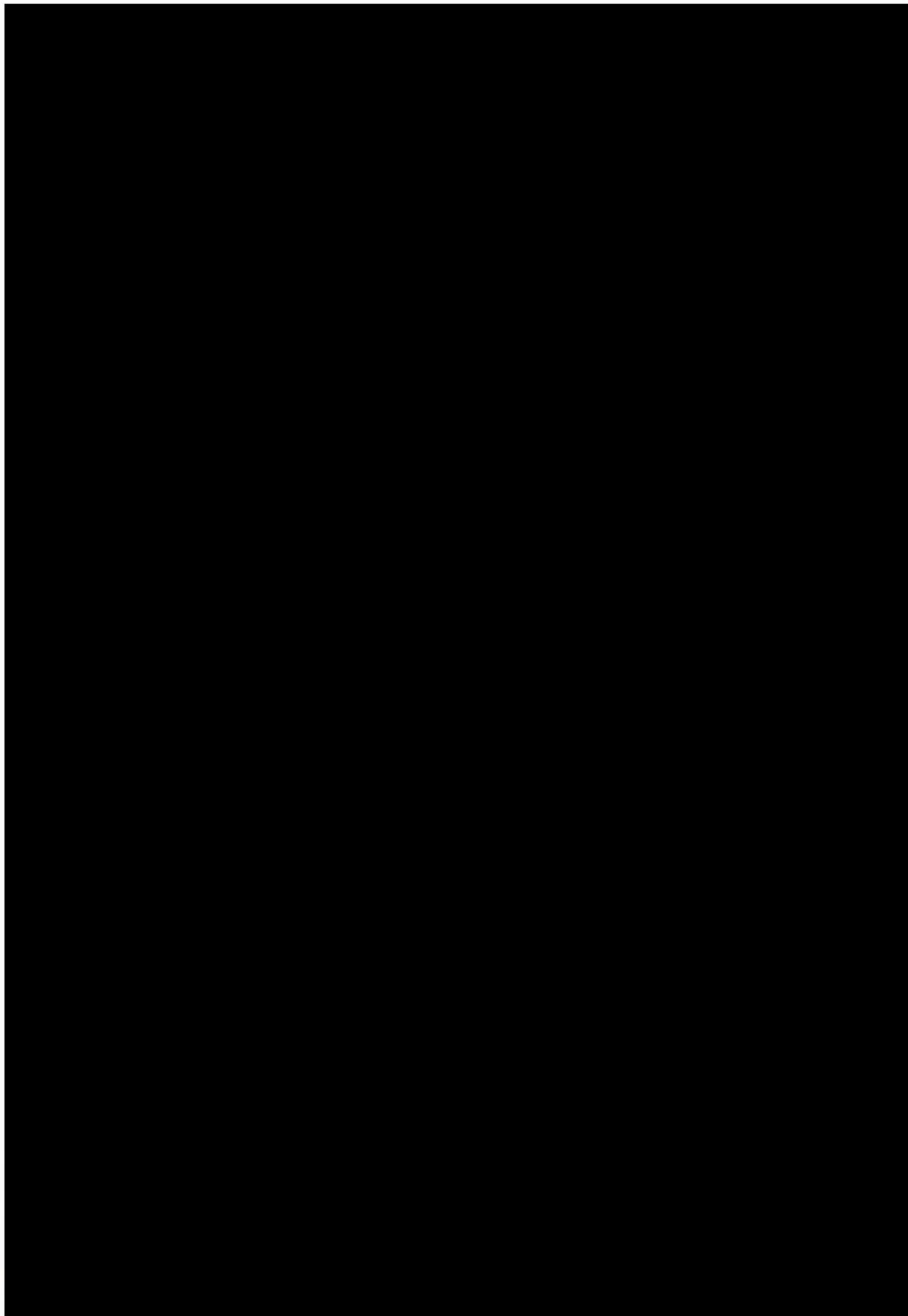
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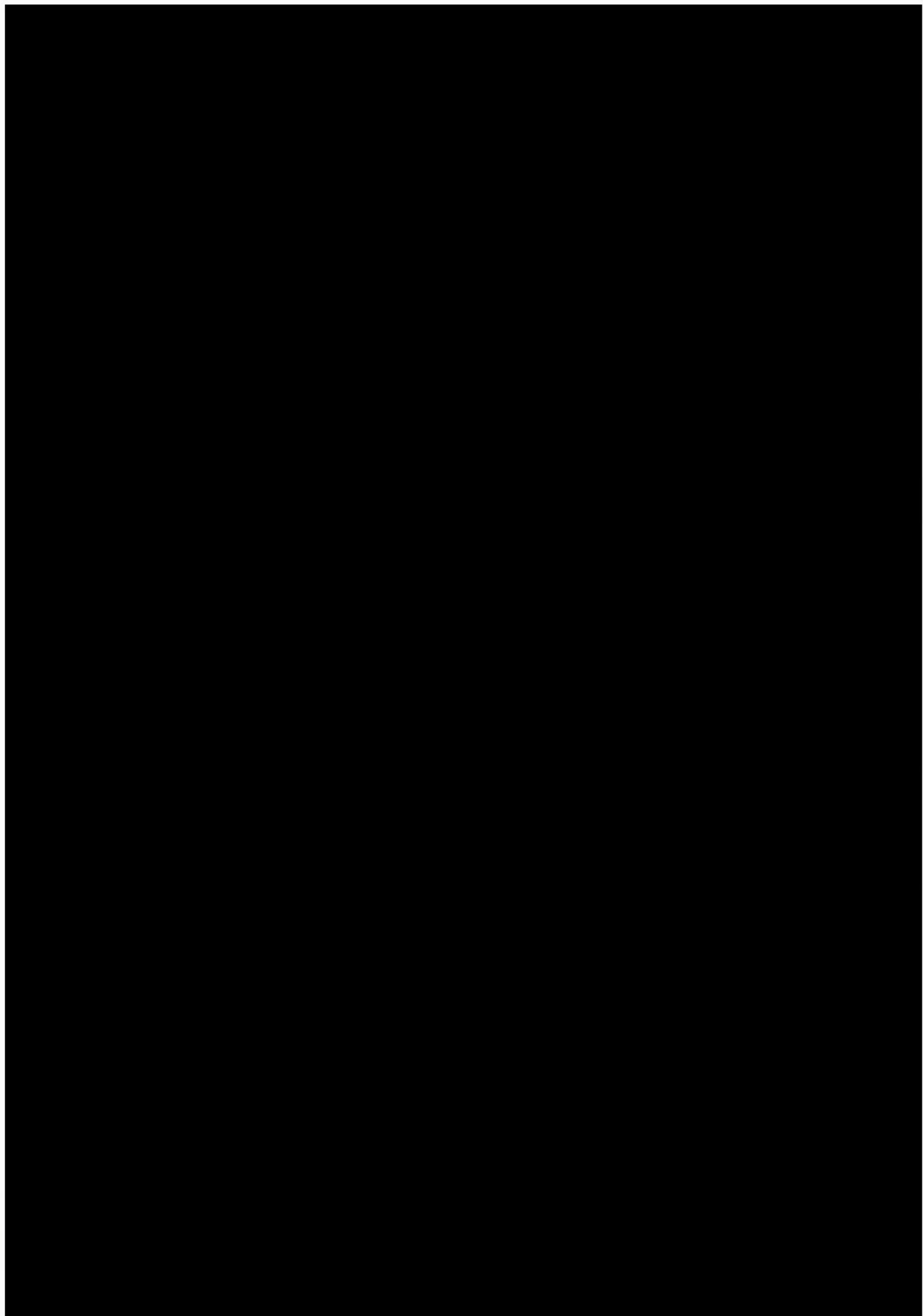


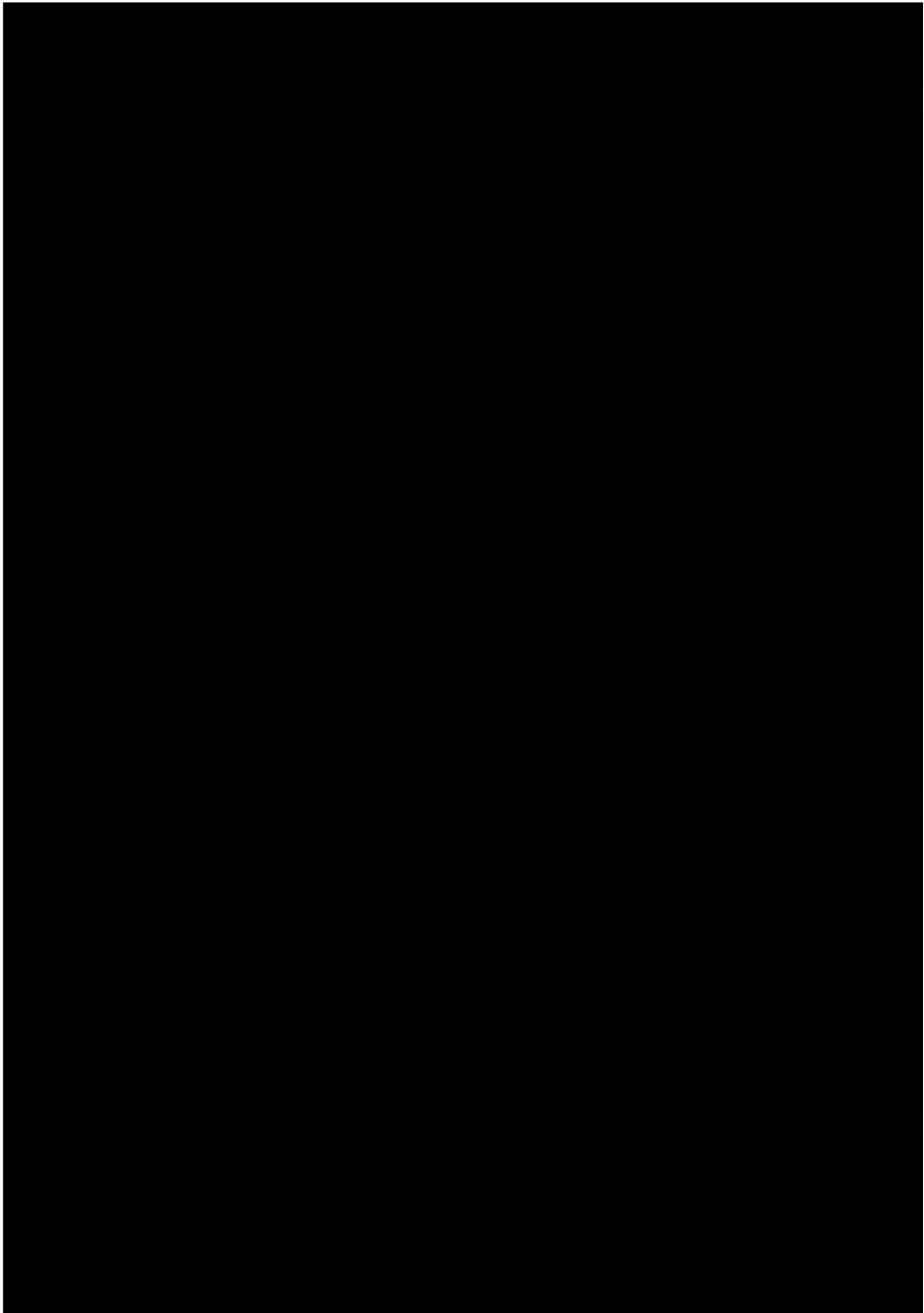




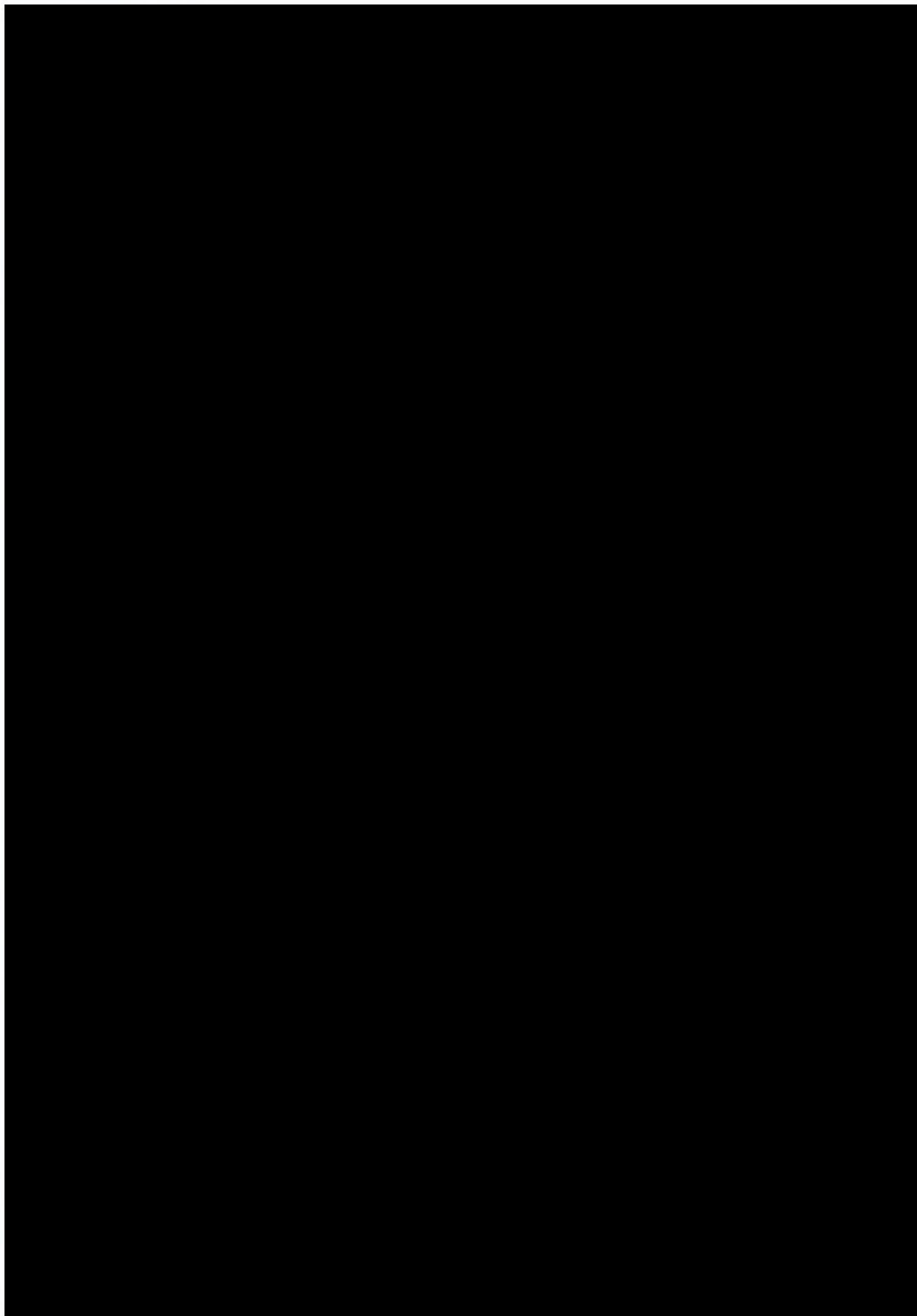


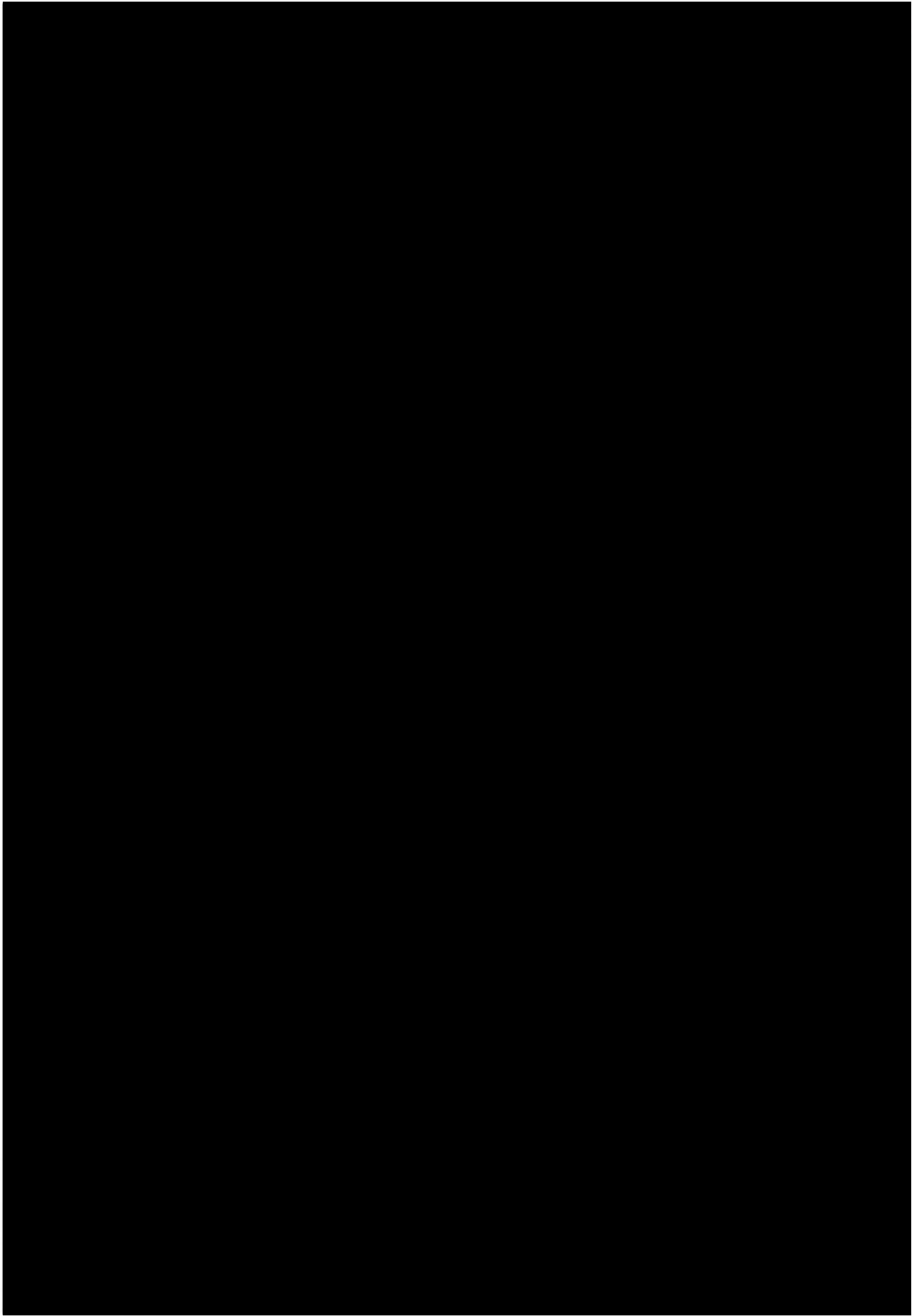


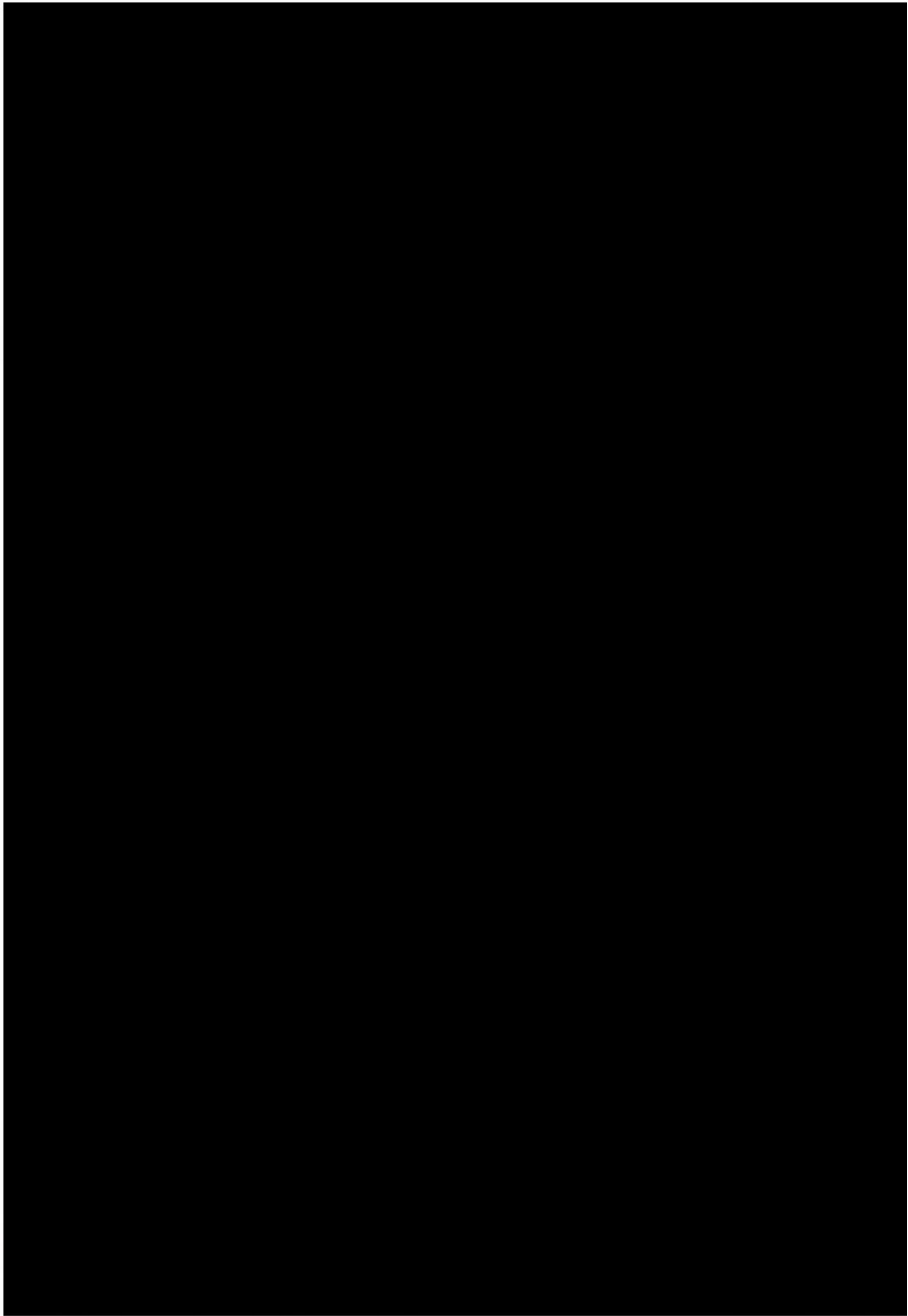


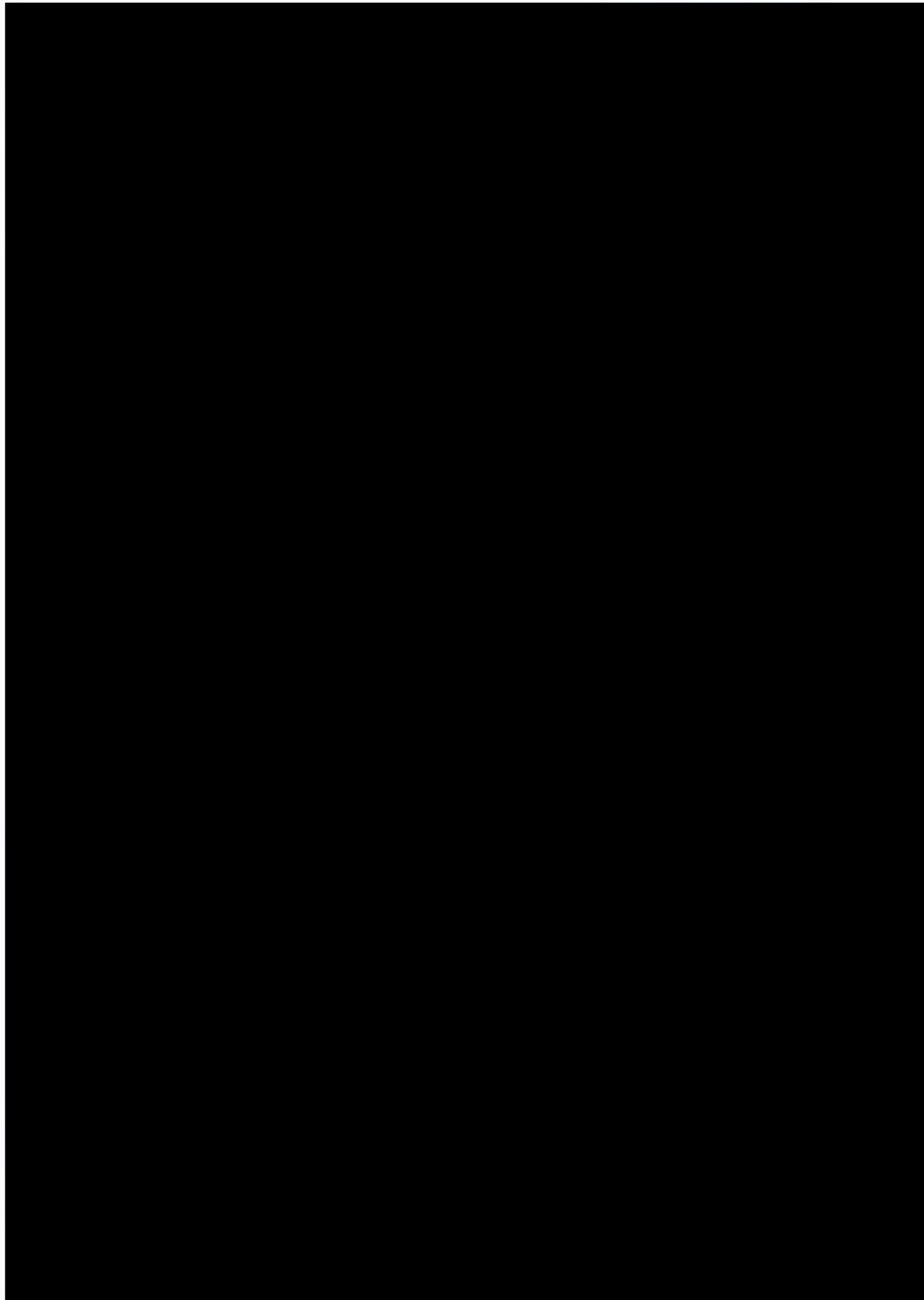


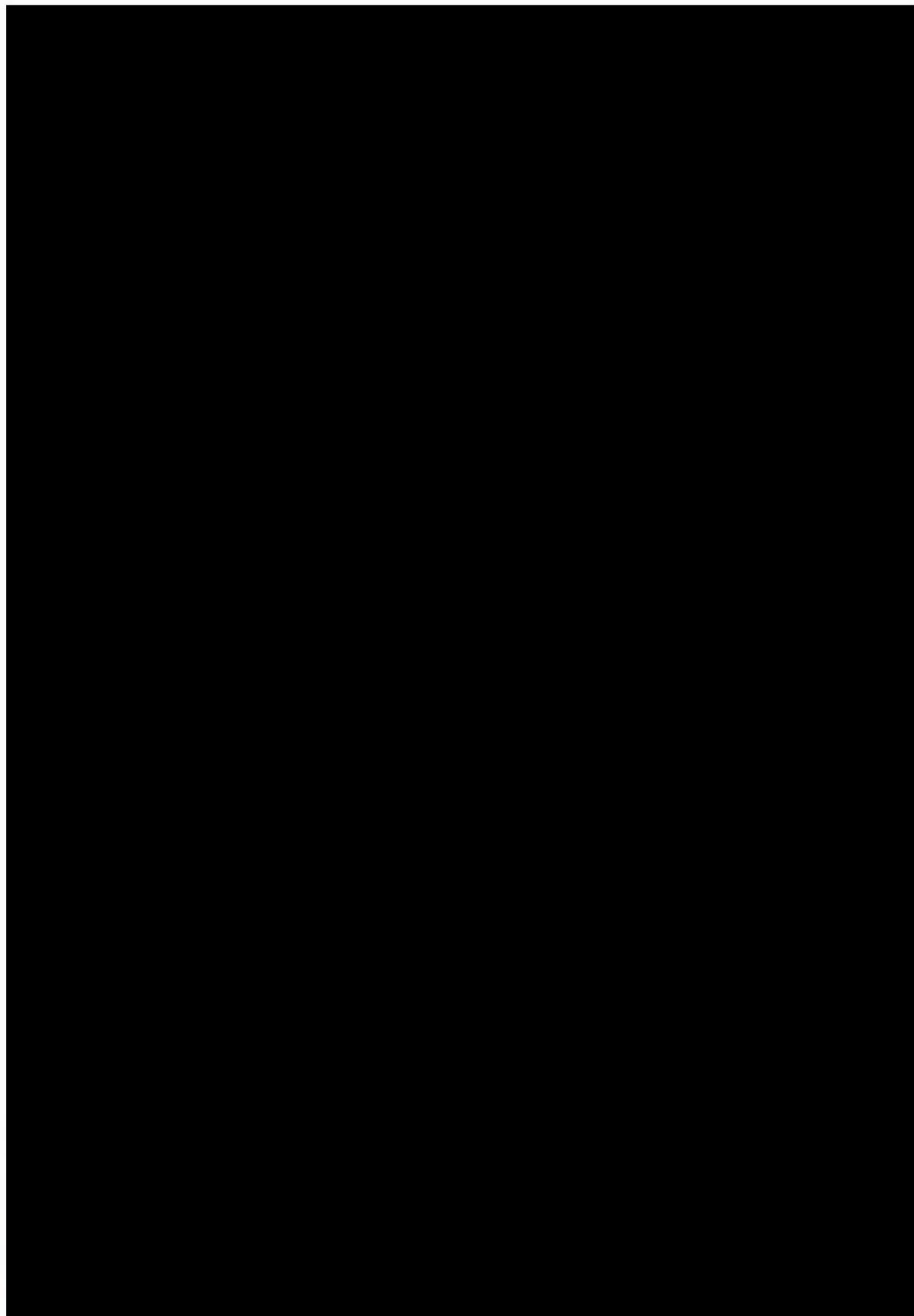










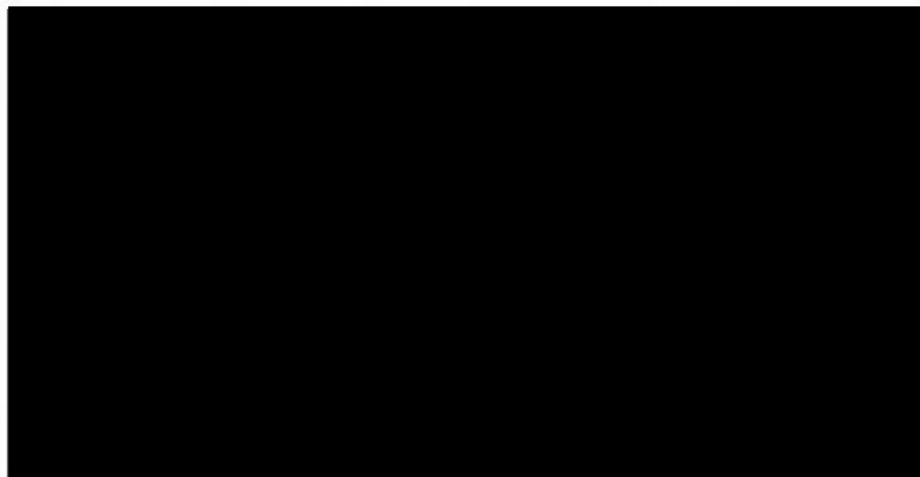


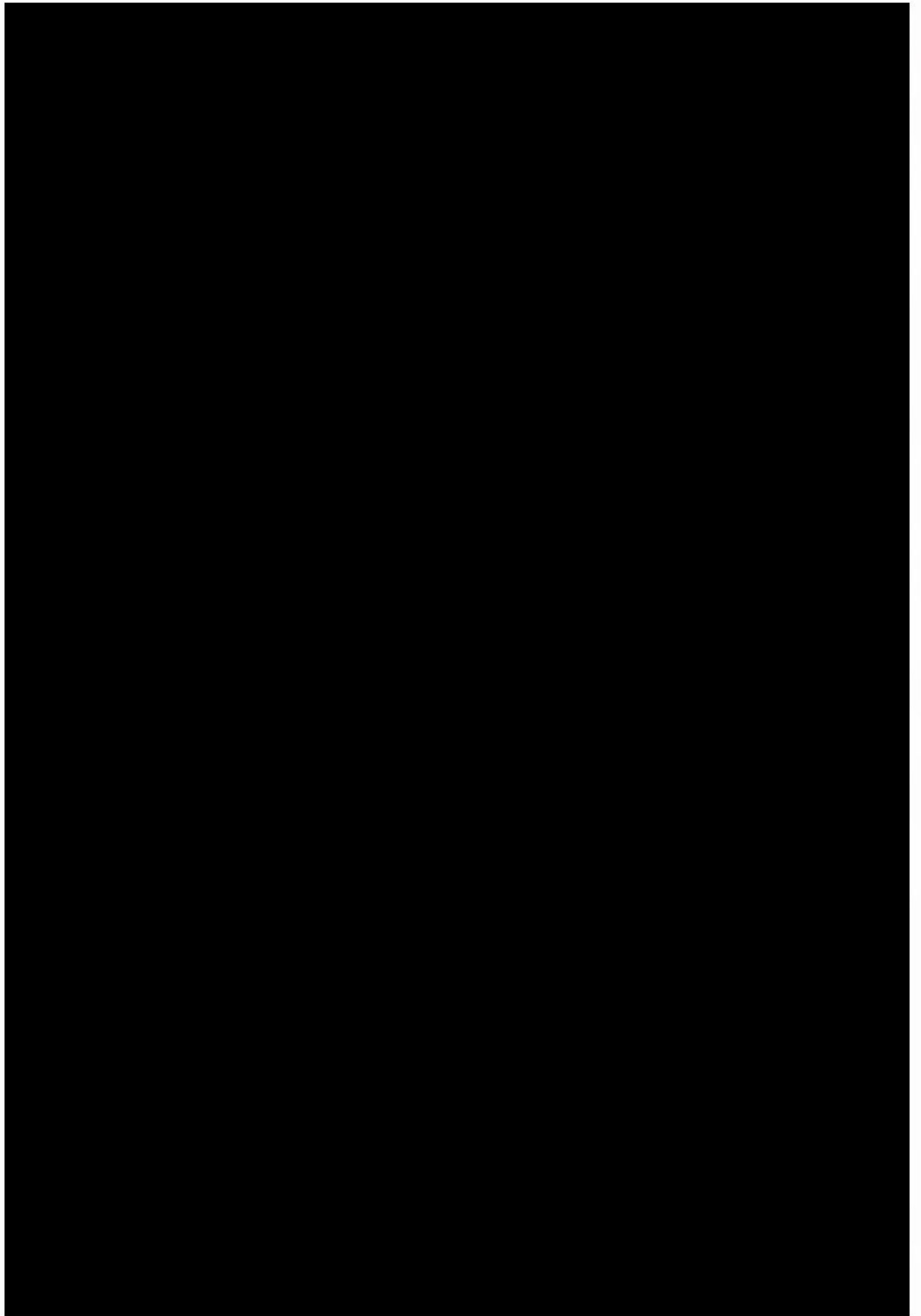


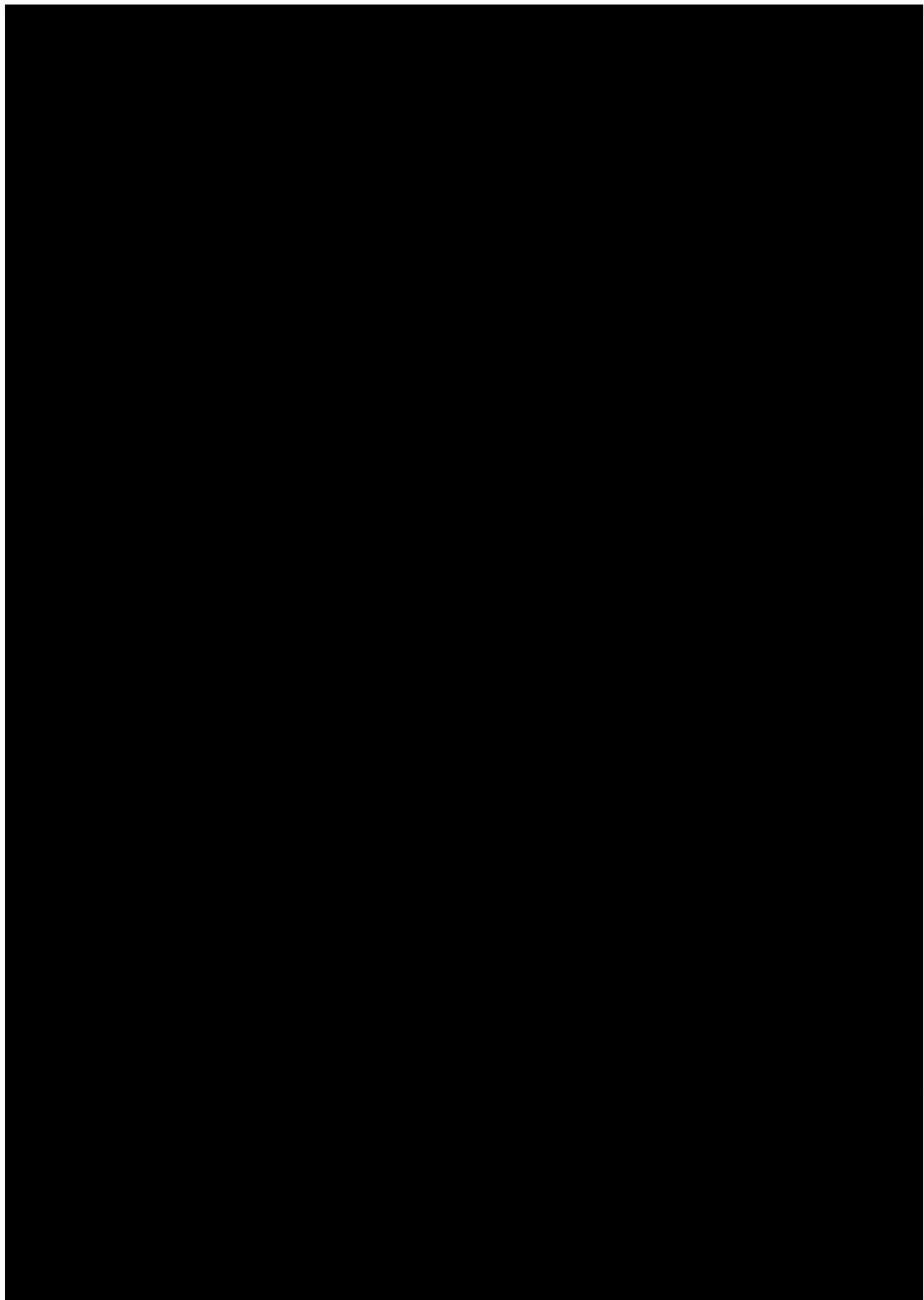
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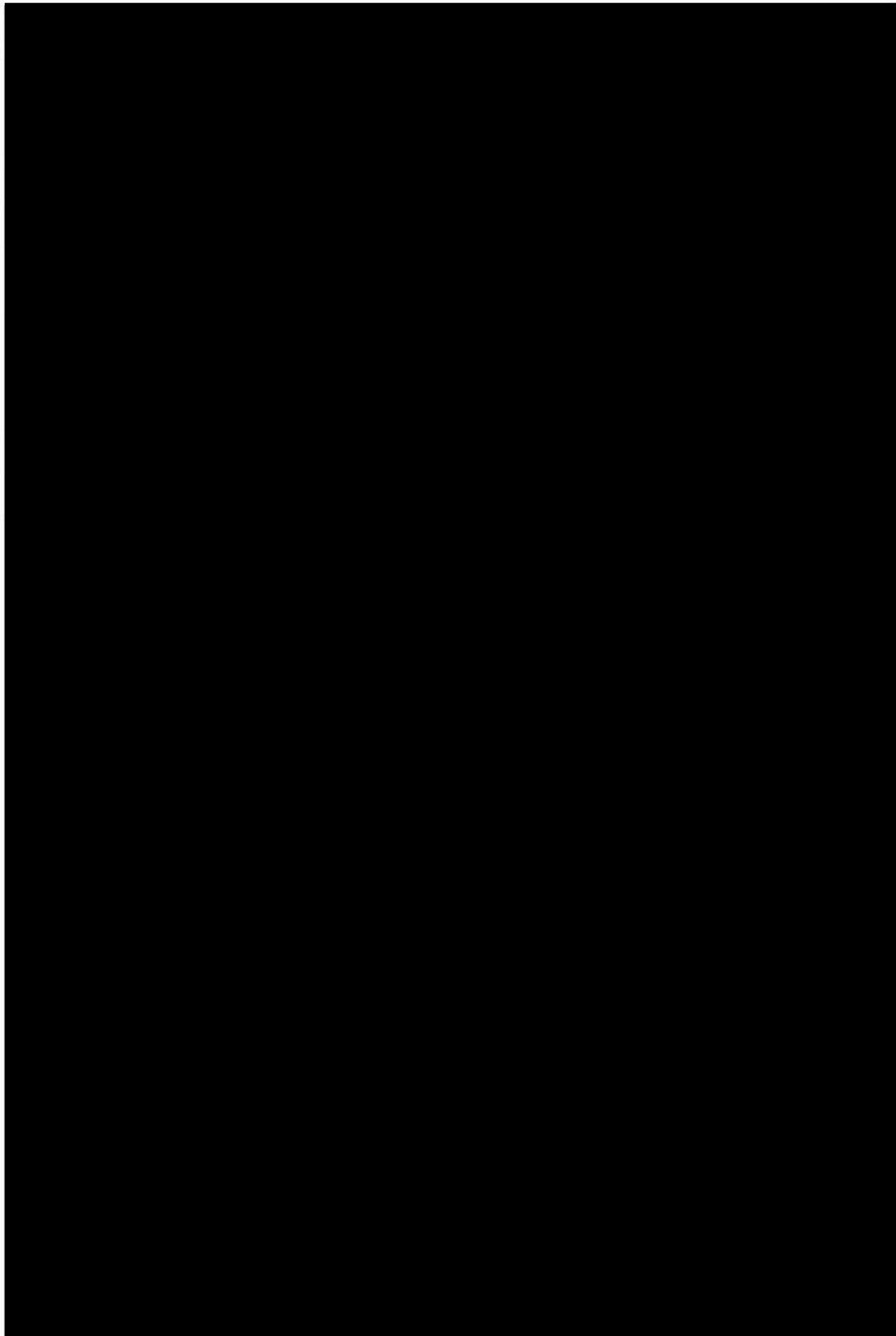
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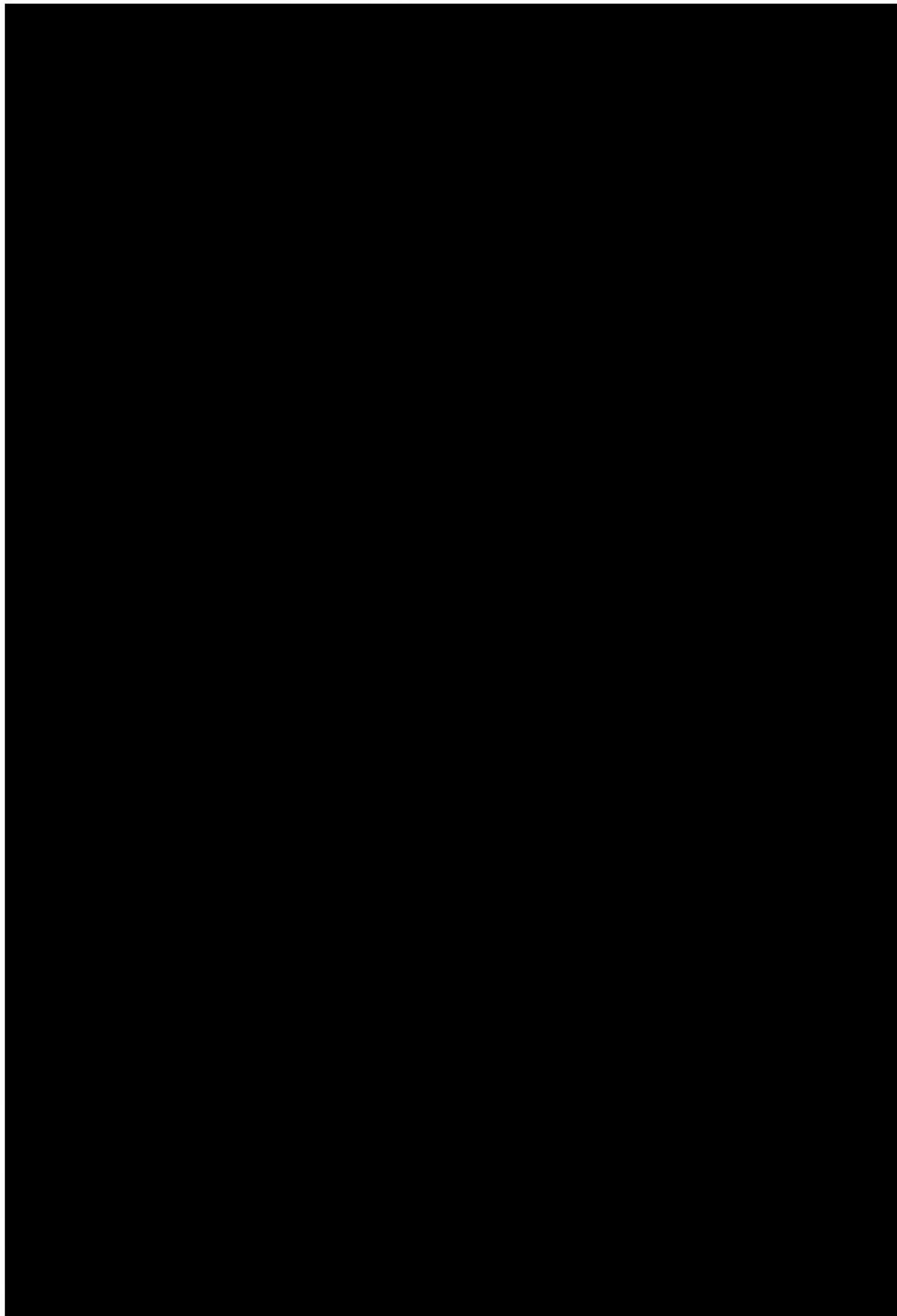
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the 'information' and 'communication' fields. The 'information' field is defined as:

...the study of the processes of information production, distribution, access, use and evaluation, and the study of the social, cultural, economic and political contexts in which these processes take place. (p. 10)

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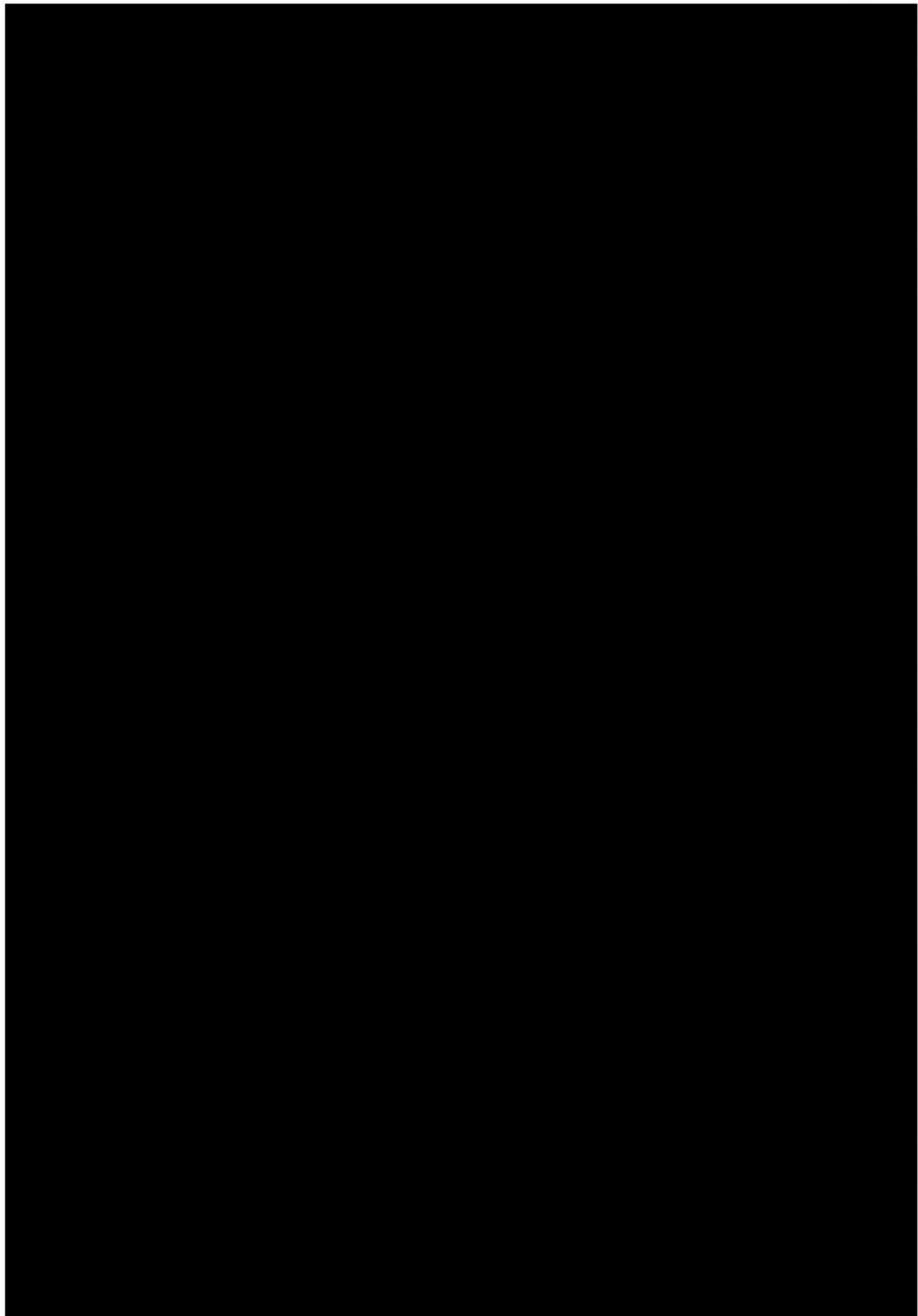
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the 1990s, the number of people in the UK who are employed in the public sector has increased by 1.5 million, from 2.5 million in 1980 to 4 million in 1998. The public sector has also become an important employer of women, with 5.5 million women employed in the public sector in 1998, compared with 4.5 million in 1980. The public sector has also become an important employer of people with disabilities, with 1.5 million people with disabilities employed in the public sector in 1998, compared with 1 million in 1980.

The public sector has also become an important employer of people who are over 50 years of age. In 1998, 1.5 million people over 50 years of age were employed in the public sector, compared with 1 million in 1980. The public sector has also become an important employer of people who are under 25 years of age. In 1998, 1.5 million people under 25 years of age were employed in the public sector, compared with 1 million in 1980.

The public sector has also become an important employer of people who are from ethnic minority groups. In 1998, 1.5 million people from ethnic minority groups were employed in the public sector, compared with 1 million in 1980. The public sector has also become an important employer of people who are from the Caribbean, Indian, Pakistani, Bangladeshi, Chinese, African, and Black British ethnic groups.

The public sector has also become an important employer of people who are from the Irish, Polish, Czech, Slovak, Hungarian, and other European ethnic groups. In 1998, 1.5 million people from these ethnic groups were employed in the public sector, compared with 1 million in 1980. The public sector has also become an important employer of people who are from the Jewish, Muslim, and other religious groups.

The public sector has also become an important employer of people who are from the gay, lesbian, and other sexual orientation groups. In 1998, 1.5 million people from these groups were employed in the public sector, compared with 1 million in 1980. The public sector has also become an important employer of people who are from the transgender and other gender identity groups.

The public sector has also become an important employer of people who are from the disabled, mental health, and other health groups. In 1998, 1.5 million people from these groups were employed in the public sector, compared with 1 million in 1980. The public sector has also become an important employer of people who are from the homeless, homeless, and other social groups.

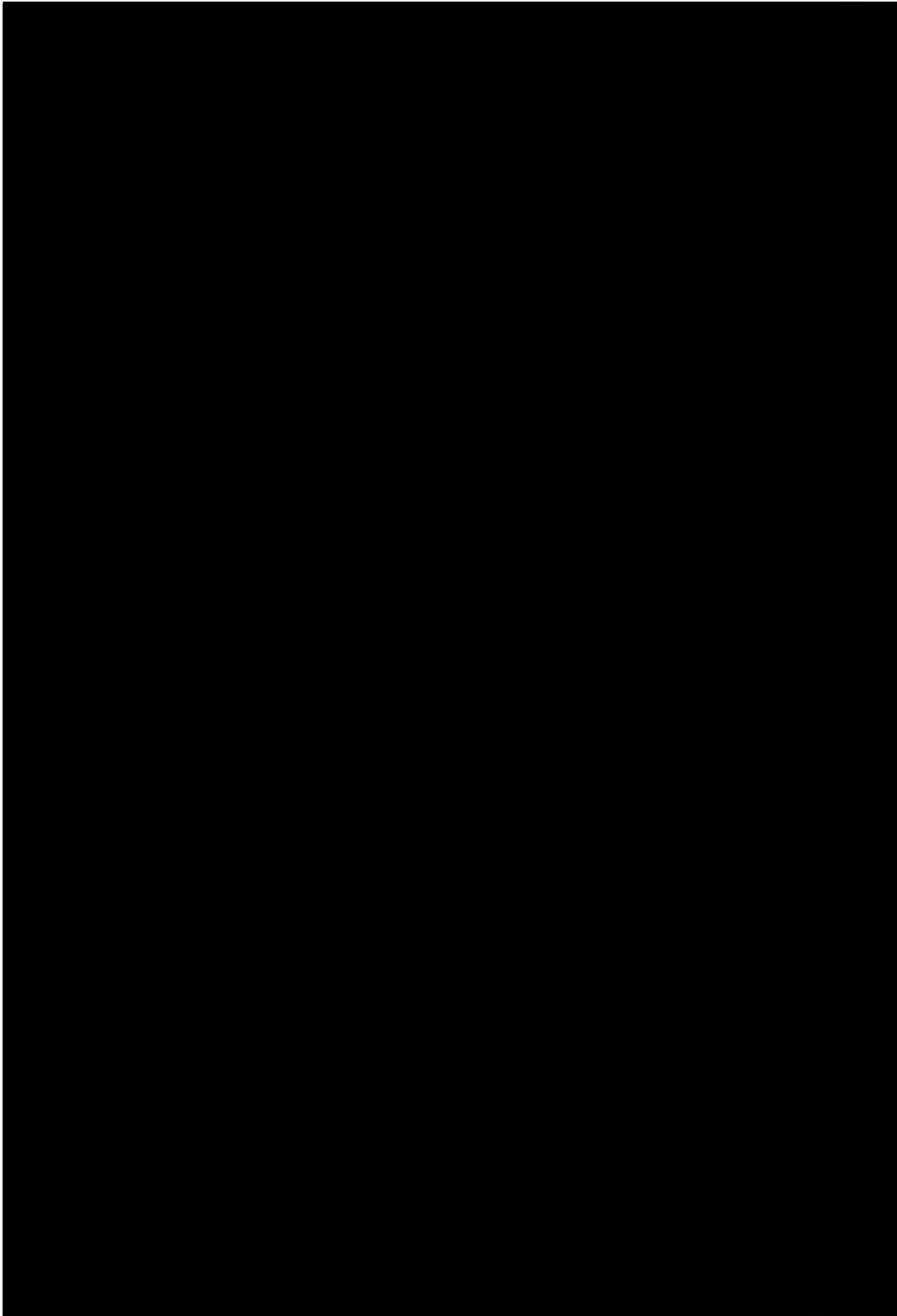
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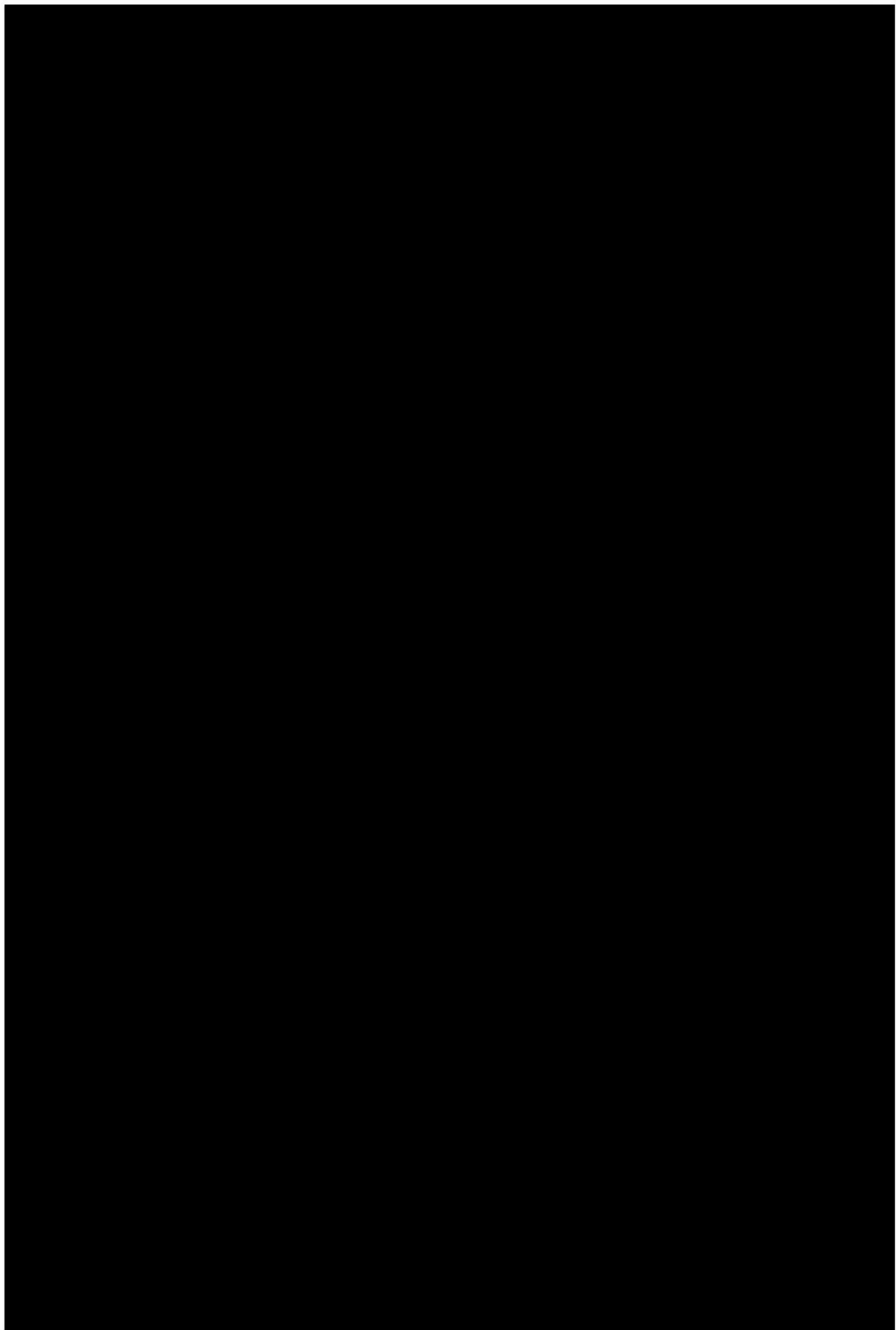
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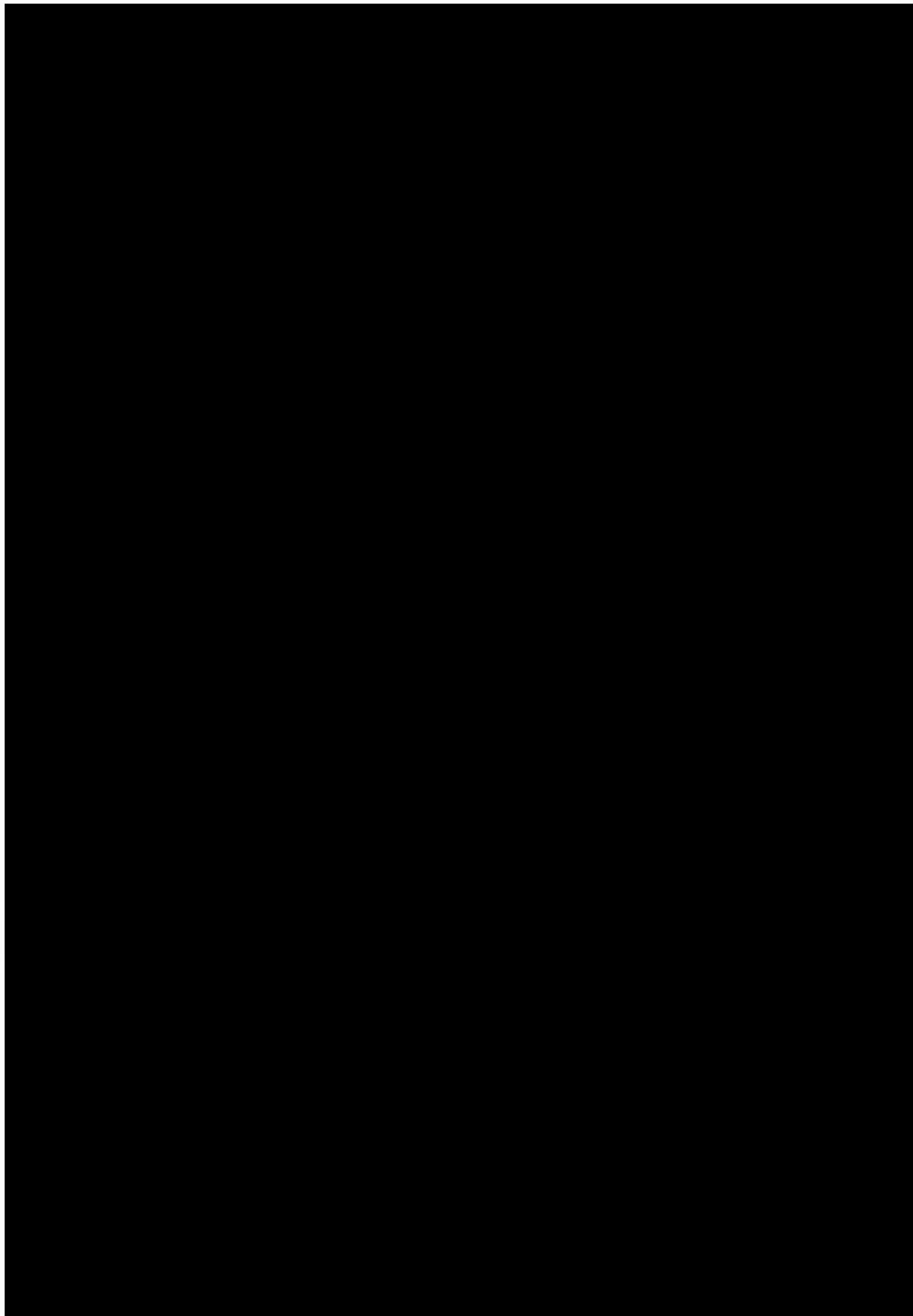
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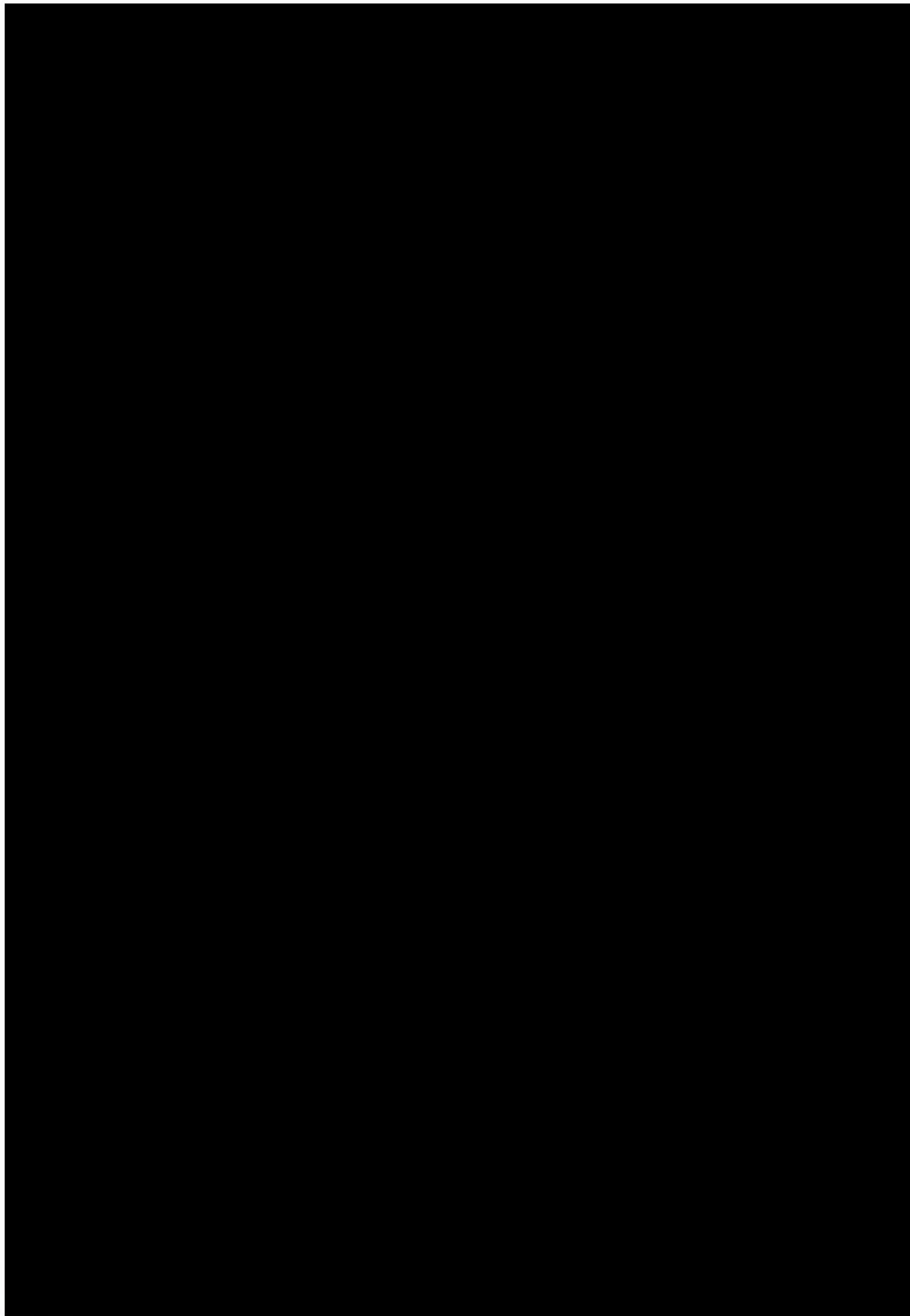
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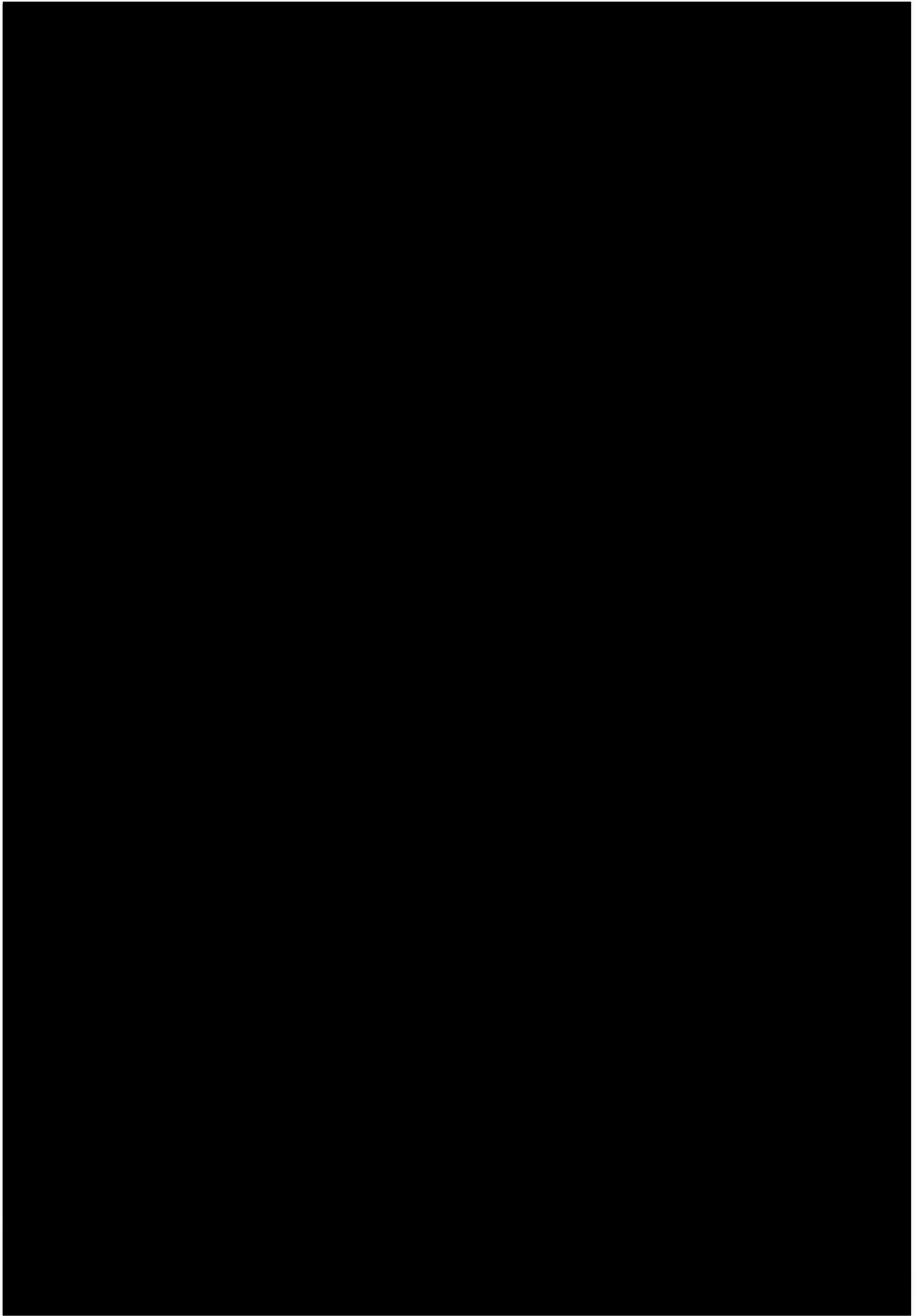
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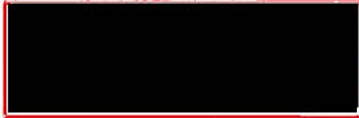
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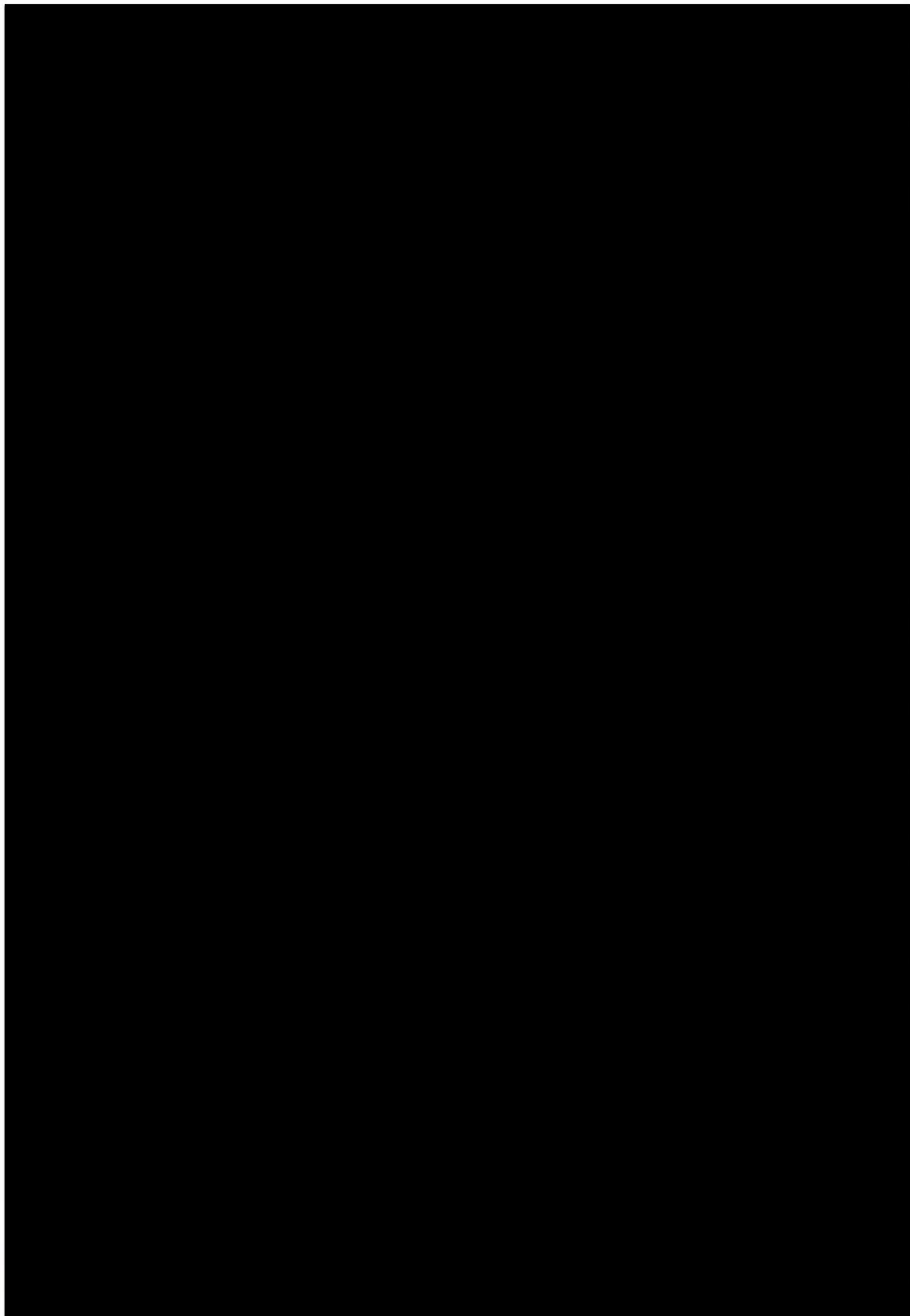


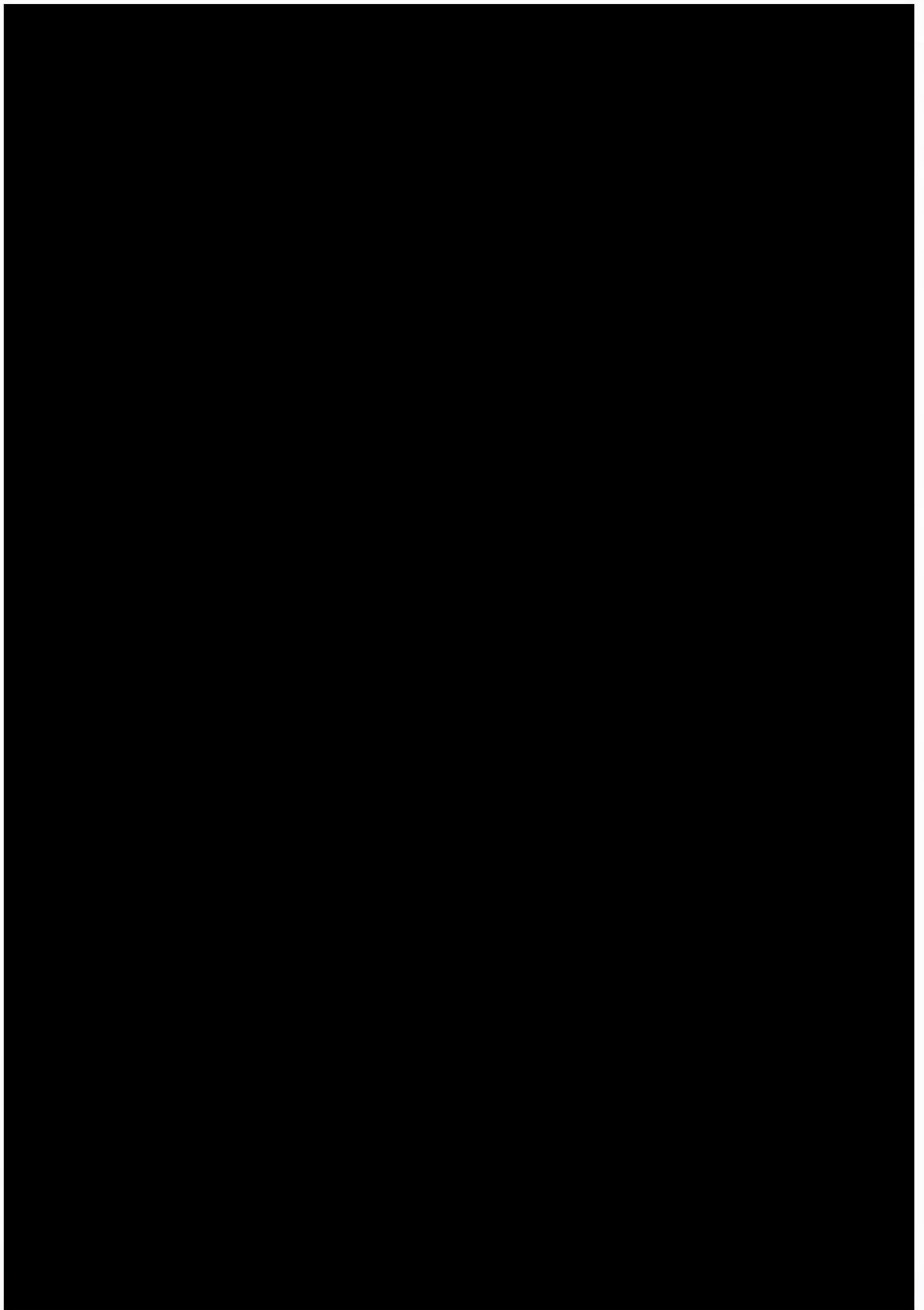
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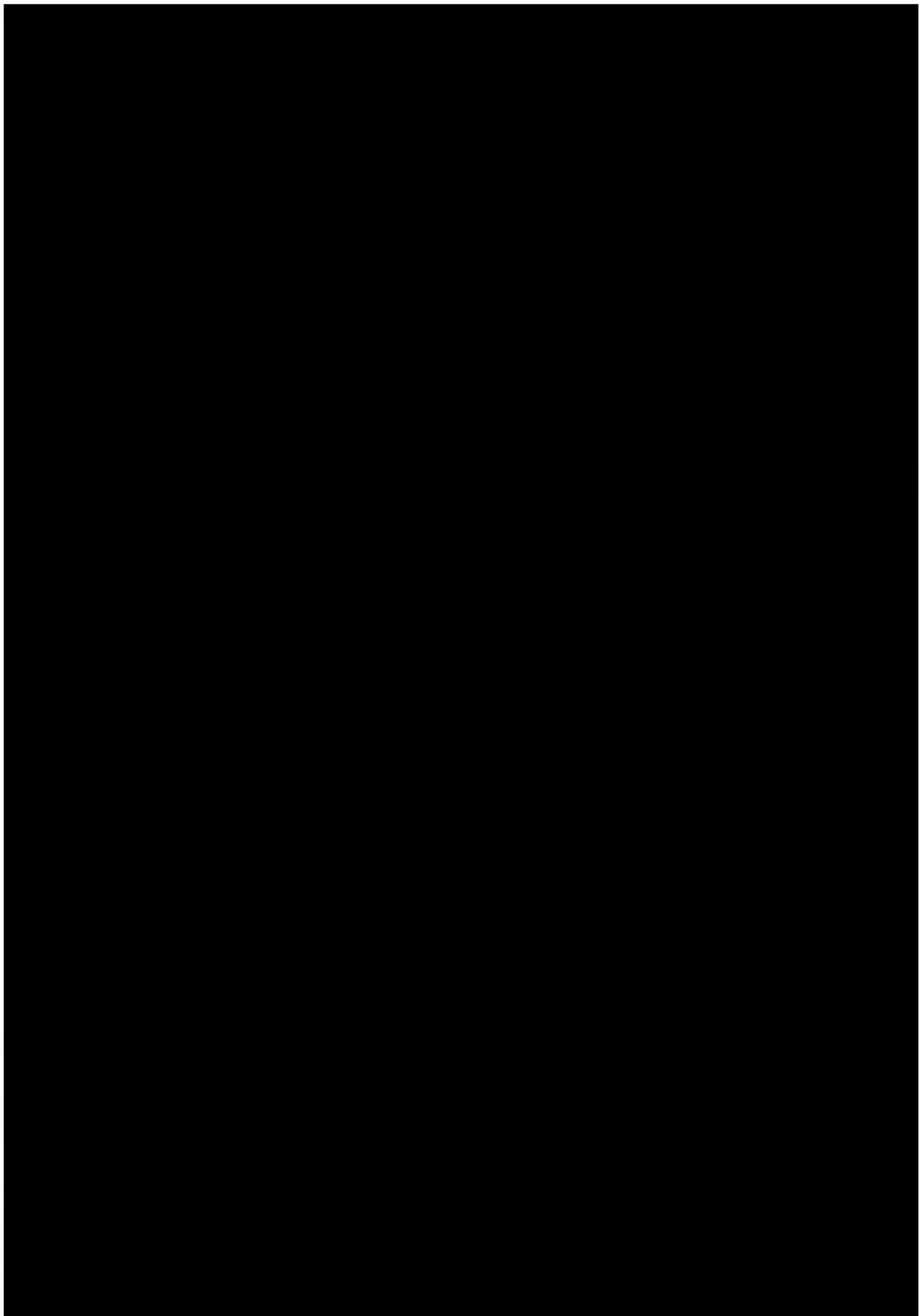
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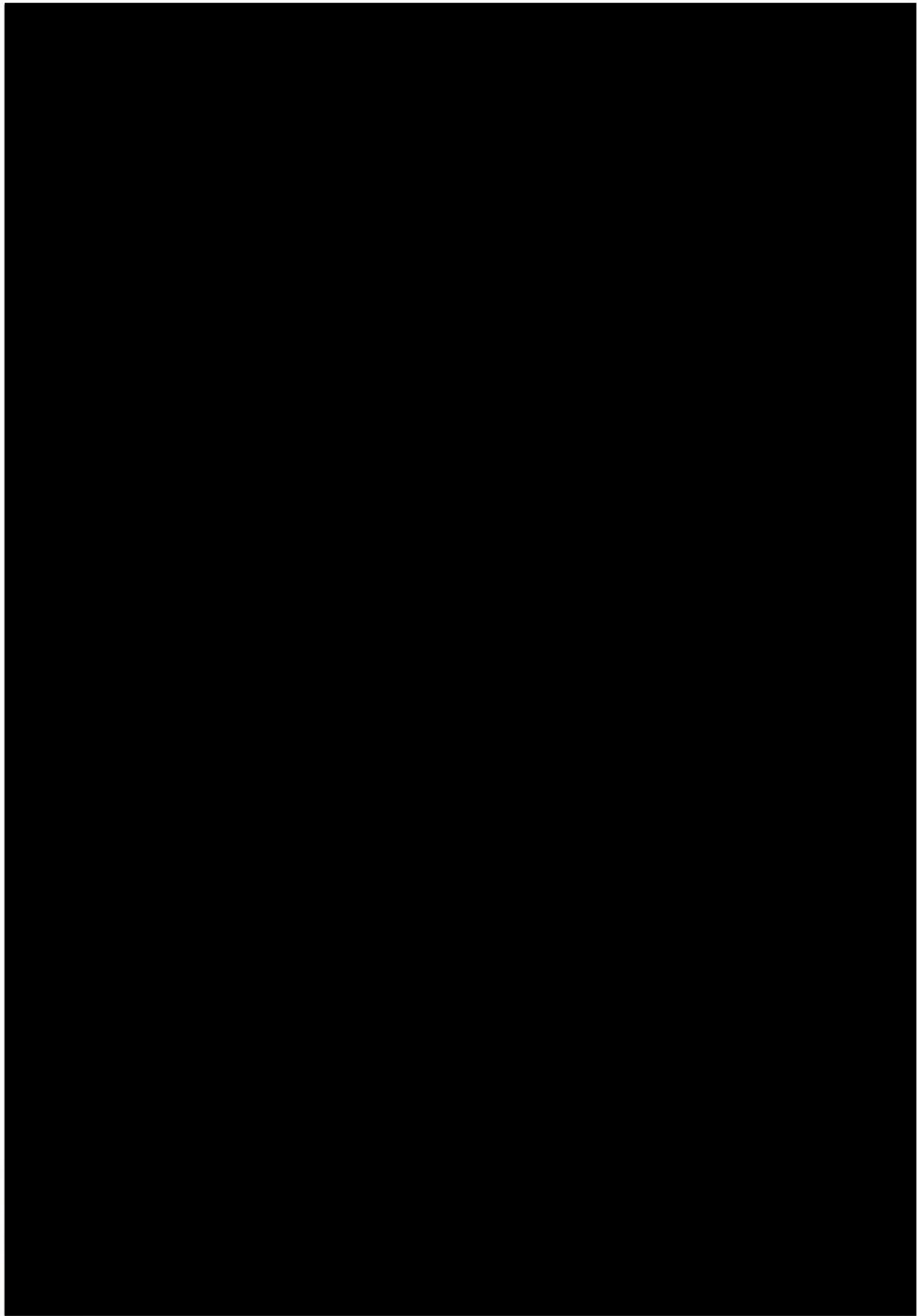
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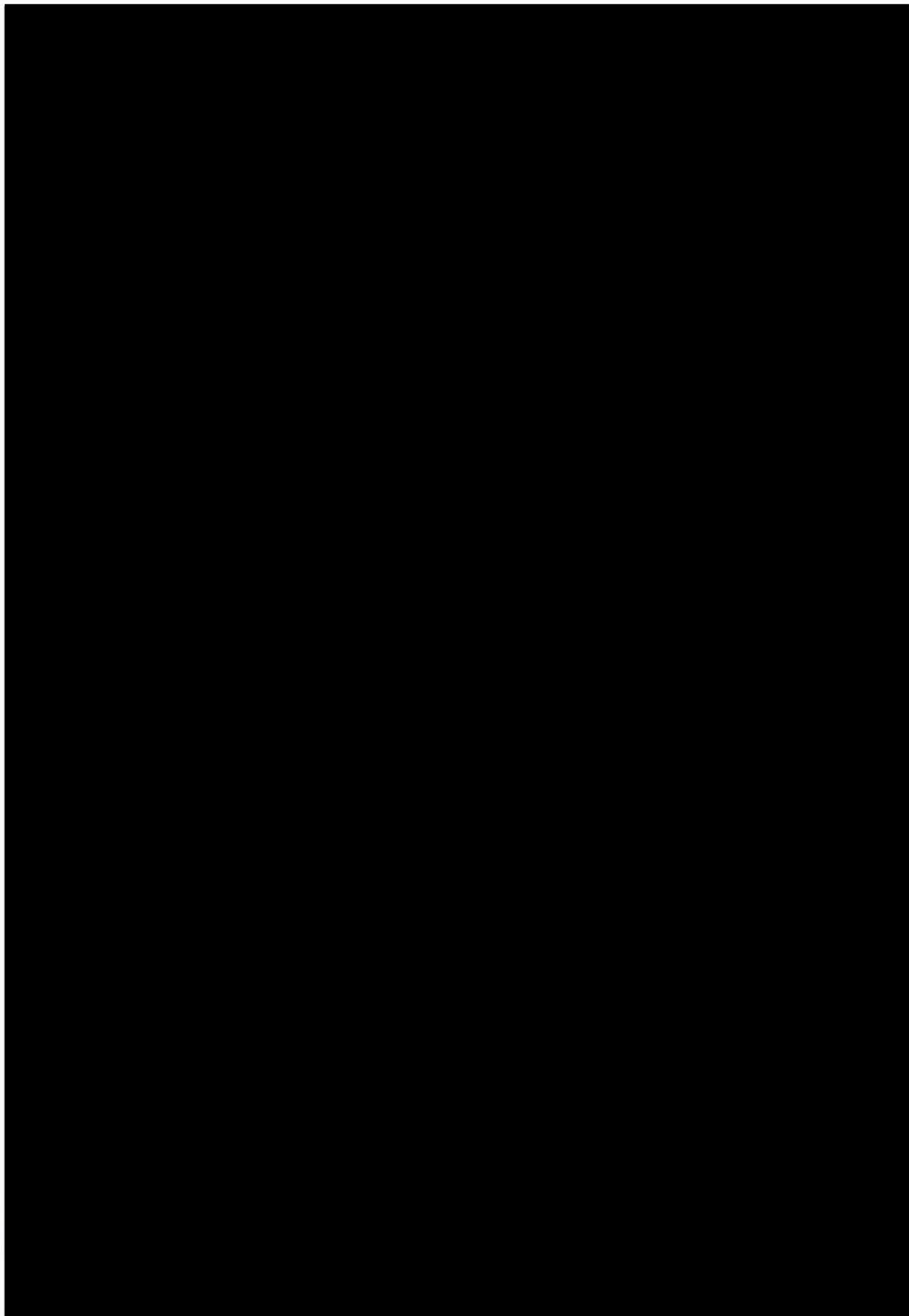


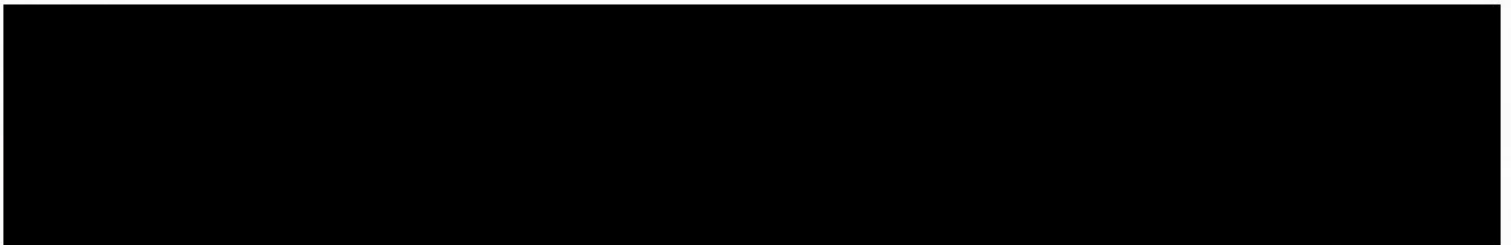














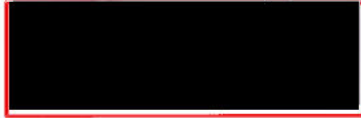
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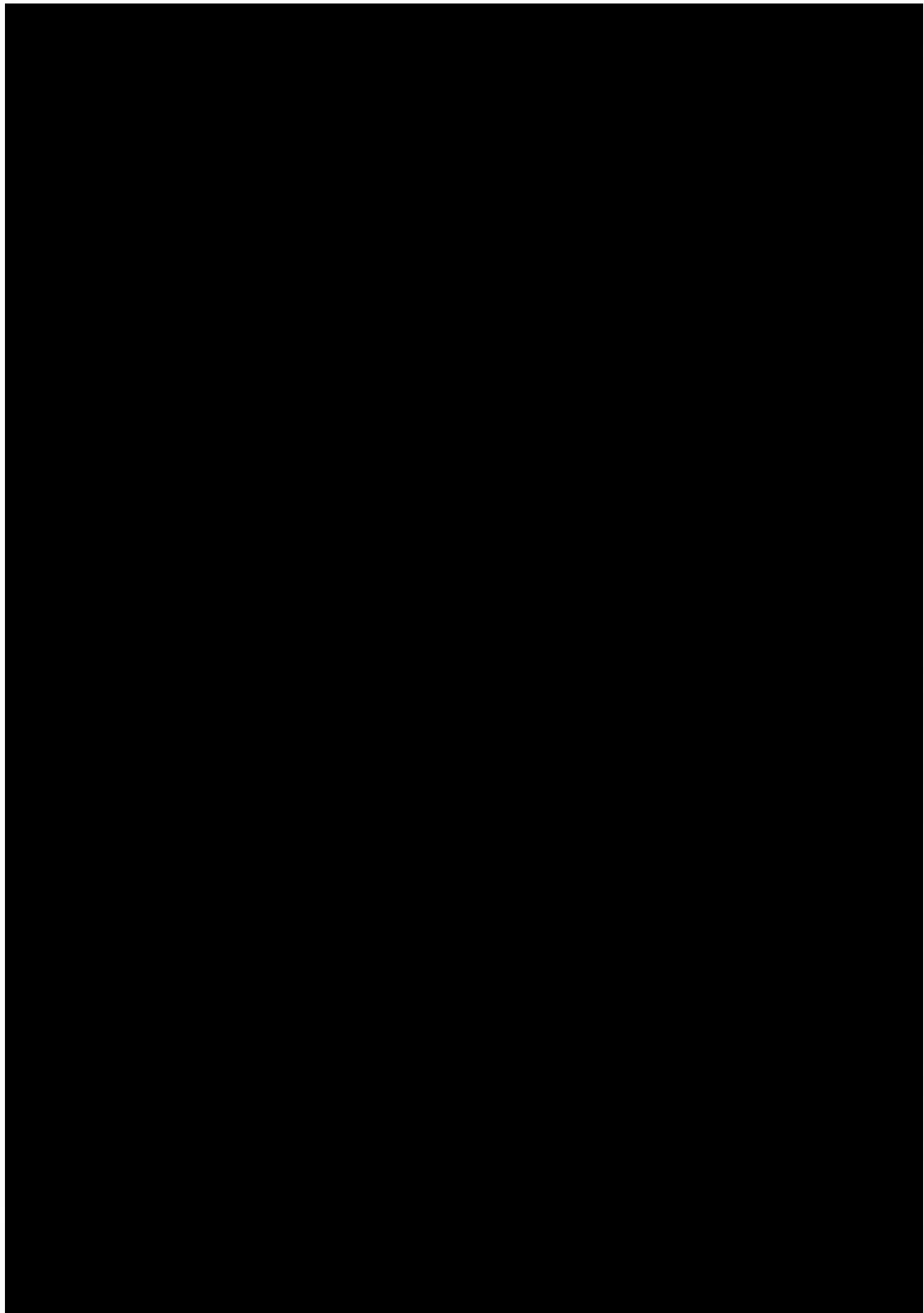
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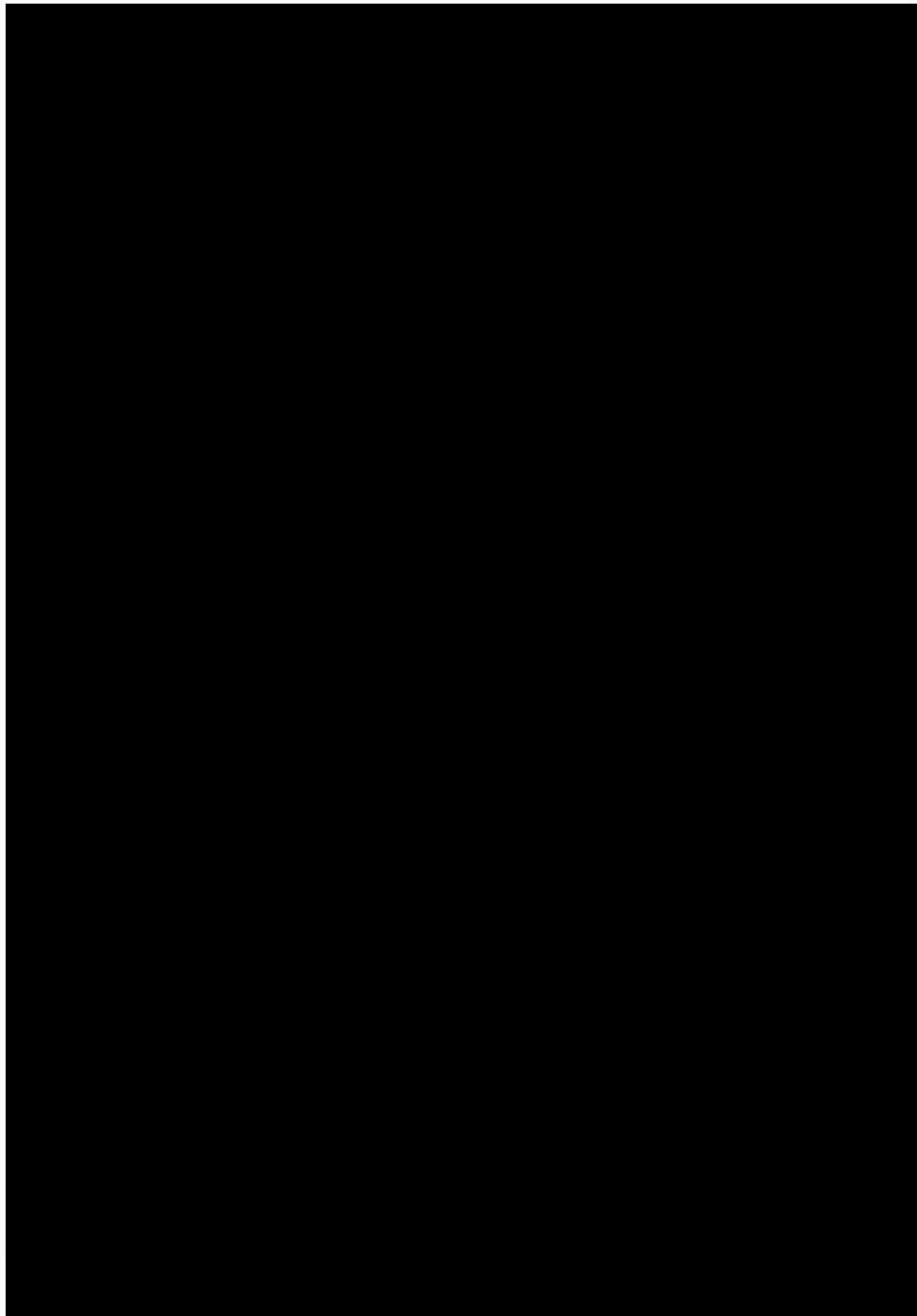


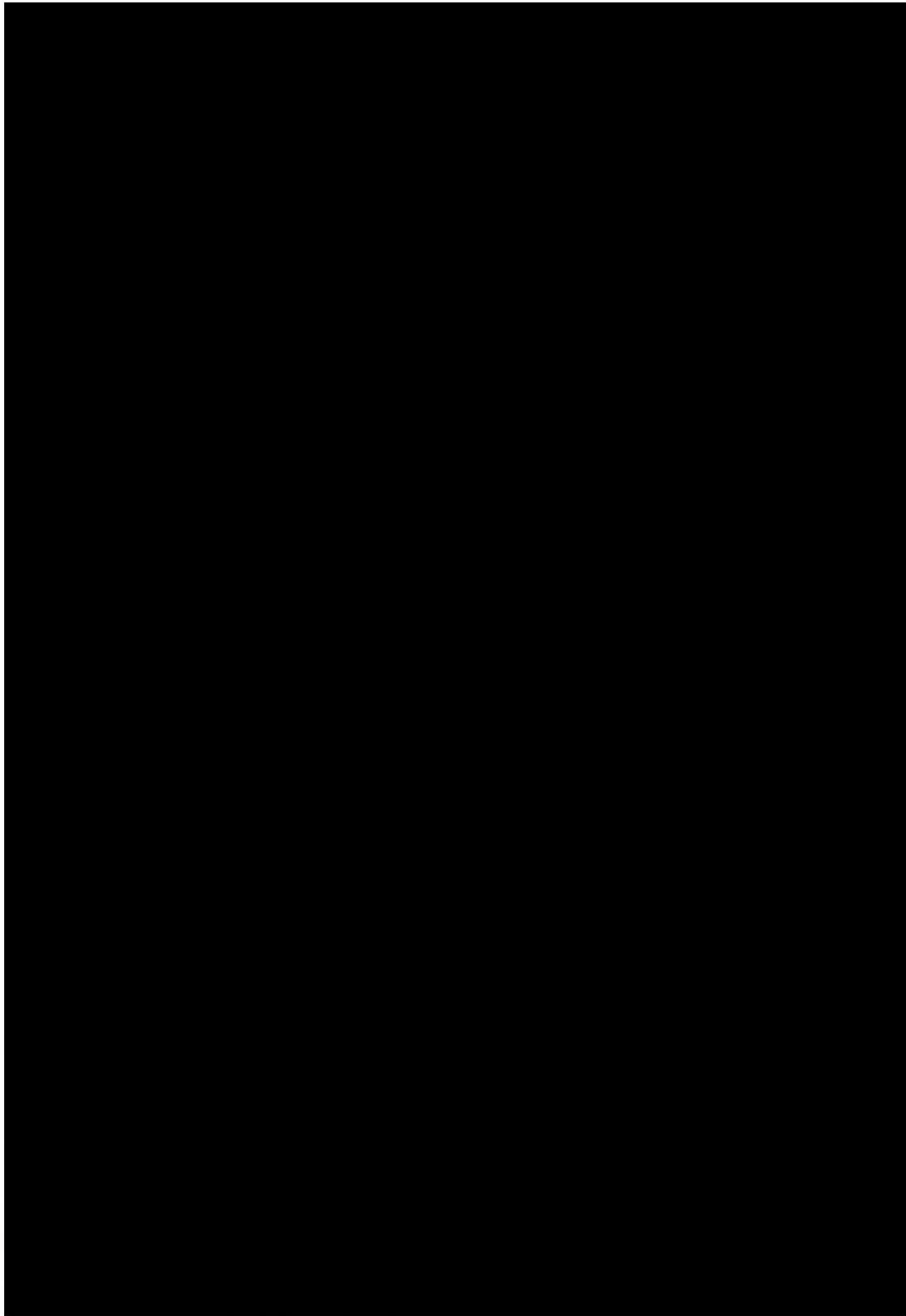
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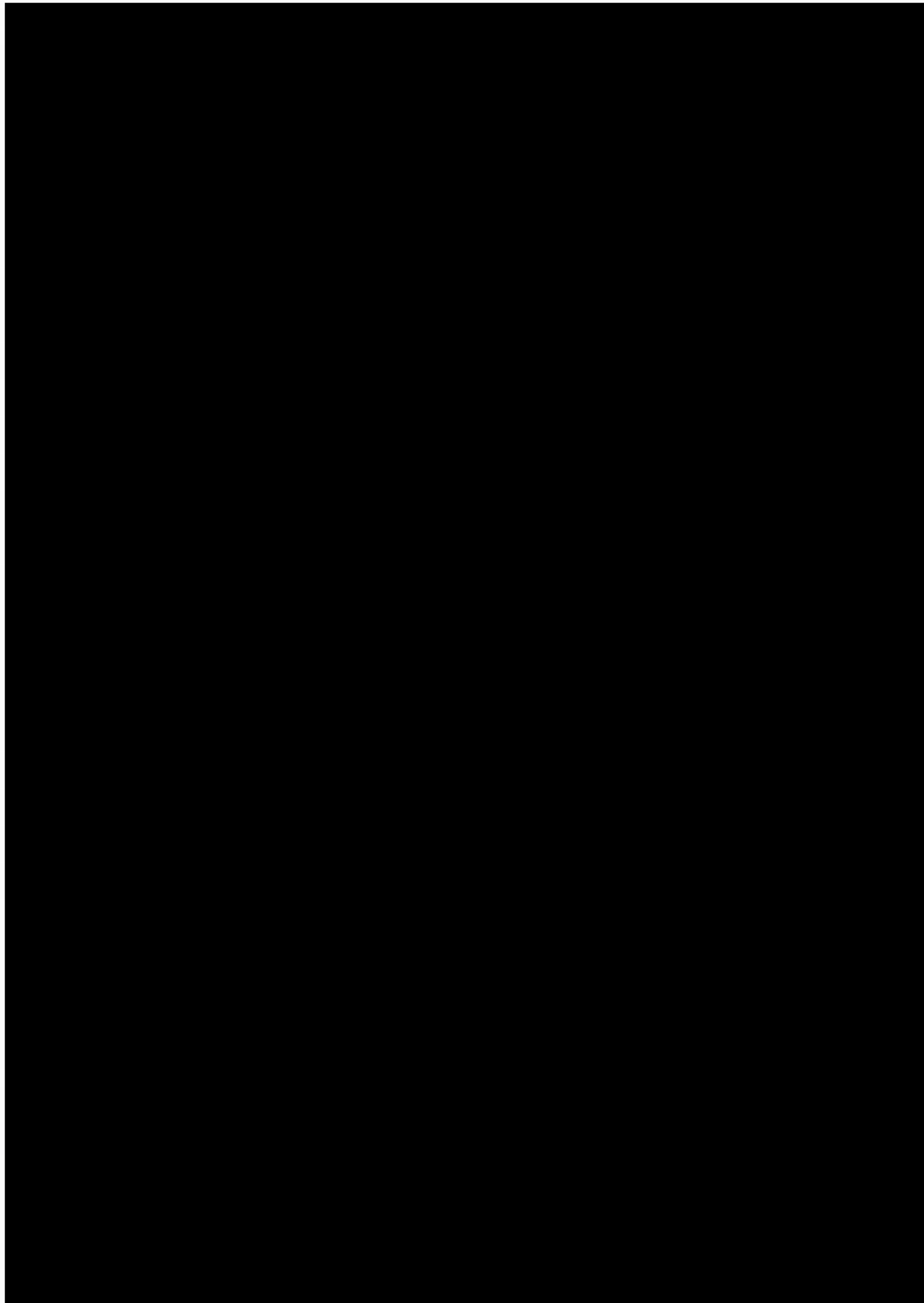
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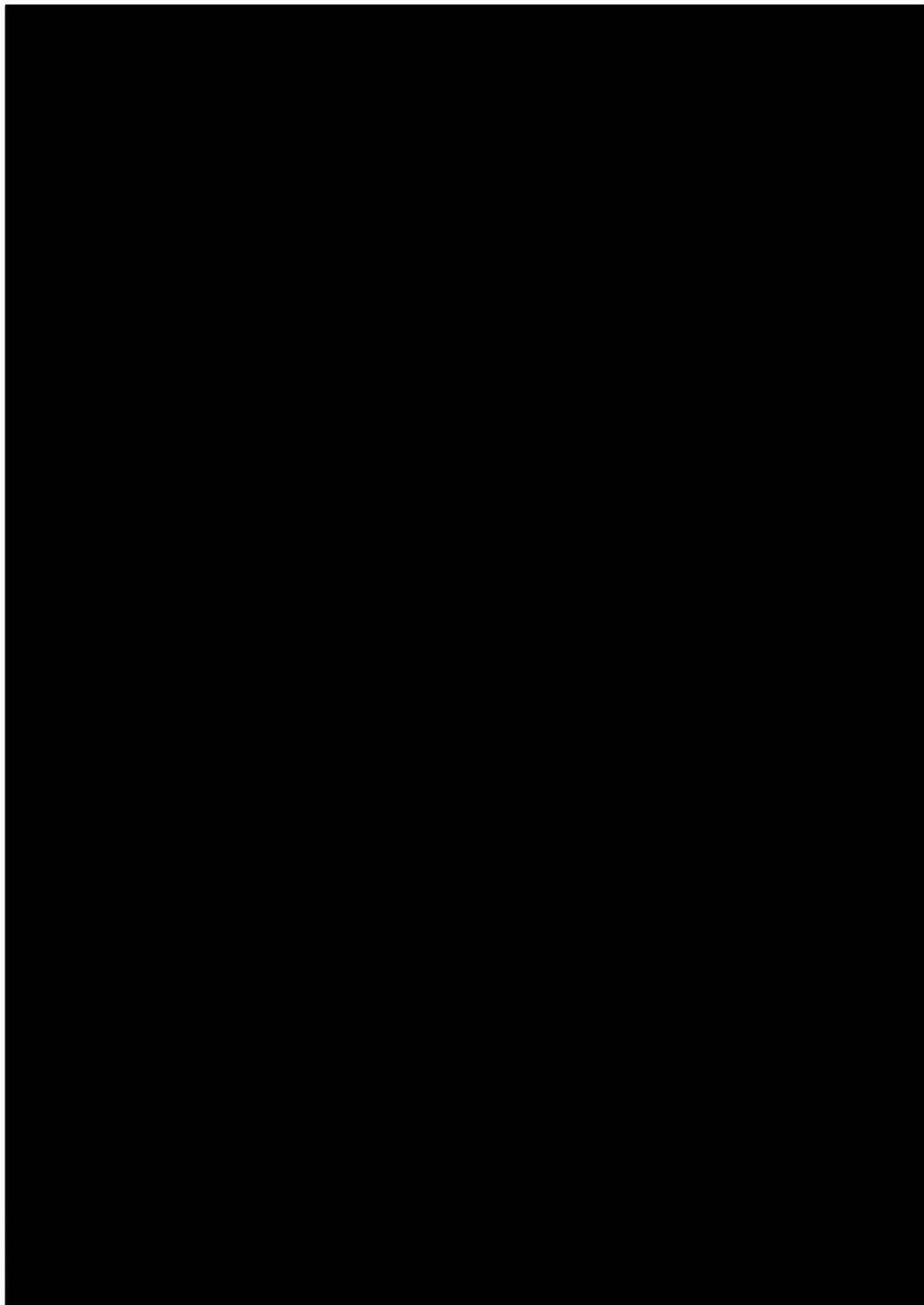














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Operations Manual

Part 3: Matter Practices (MP)
Section 20: **Criminal Proceeds
Confiscation**

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MP20 – Criminal proceeds confiscation

1. Purpose

The purpose of this policy and procedure is to outline the requirements for criminal proceeds confiscation (confiscation) investigations pursuant to Chapter 2 and Chapter 2A of the *Criminal Proceeds Confiscation Act 2002* (CPCA).

2. Application

This policy and procedure applies to all Commission officers.

3. Policy

The Commission policy and standards for the confiscation of criminal proceeds is set out in Part 4, clause 4.8.6 of the Operational Framework.

4. Procedure

4.1 General principles

There are four key stages in the life cycle of a confiscation matter:

- Assessment
- Feasibility
- Delivery
- Post-delivery

4.1.1 Assessment

The assessment of confiscation matters identifies whether the matter is appropriate for investigation under one of the following schemes contained within the CPCA:¹

- Confiscation without conviction²
- Serious drug offender confiscation order (SDOCO).³

The assessment process also identifies the value of the property⁴ held by the person and sets out the most viable recovery strategy. For more information on assessment of confiscation matters, refer to IM03 – Assessment of matters.

Once a confiscation matter has been assessed as either viable or no further action, an Investigation Proposal (Assessment) (MM01 – A01) is completed and forwarded to the Director

¹ Other conviction based schemes contained within the CPCA are administered by the ODPP and are not covered by this policy

² Chapter 2, CPCA, also referred to as the civil recovery scheme

³ Chapter 2A, CPCA

⁴ CPCA definition of property is any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes things in action



Proceeds of Crime for approval. Once a viable matter is approved for investigation, it is assigned to a Case Officer to action as per the recovery strategy outlined in the Investigation Proposal (Assessment).

4.1.2 Feasibility

Once a matter has been approved by the Director Proceeds of Crime as a confiscation investigation it will transition to the Feasibility stage and investigation powers may be used to progress the matter.

If more information is required to support decision making or the actions undertaken during the confiscation investigation, additional evidence may be sought using the following methods:

- requesting information from specific sources (refer to [MP06 – General collections](#) and [MP07 – Authorised collections](#))
- the execution of search warrants (refer to [MP08 – Search warrants](#))
- the access and use of information gathered through the execution of telecommunications interception warrants (refer to [MP16 – Telecommunications interception and access](#))
- the use of the CCC's powers to compel the production of documents (refer to [MP09 – Notices, orders and additional powers](#))
- the use of evidence provided through CCC Hearings (refer to [MP03 – Hearings \(closed and public\)](#))
- the use of evidence obtained from Foreign Jurisdictions (refer to [MP11 – Mutual assistance](#))
- the use of evidence obtained from digital platforms (refer to [MP10 – Electronic evidence](#)).

The feasibility stage of the confiscation investigation ultimately culminates in a key decision whether to proceed to the delivery stage or to finalise the matter with no further action to be taken. A recommendation to transition to the delivery stage of an investigation is a key decision and requires completion of a Feasibility Report – Confiscation Investigation (MP20-F01). The Director, Proceeds of Crime approves the decision to finalise the matter with no further action to be taken without further advice or reference to the Executive Leadership Team (ELT). Approval to proceed to the delivery stage is recommended by the Crime Pre Assessment Committee (CPAC) and approved by the ELT. Approval to proceed to the delivery stage or to finalise the matter with no further action to be taken, is undertaken in the case management system (CMS).

4.1.3 Delivery

The delivery stage for a matter commences once a key decision is made by the appropriate delegate or authority to transition the matter to that stage.

In relation to criminal proceeds confiscation matters, the delivery stage commences once the matter has been approved by the ELT as suitable to commence confiscation proceedings in the Supreme Court of Queensland.

4.1.4 Post-delivery

A confiscation matter is finalised when a court makes a final order or the matter is discontinued.

A confiscation matter is closed when all court orders have been complied with and the full amount of the recovery order has been realised and all administrative processes have been completed.



This may be achieved through the receipt of the final report from the Public Trustee Queensland (PTQ). A closure report for confiscation matters is completed in the CMS.

For more information on finalising an investigation, refer to MM01 – Matter management, planning and conduct.

4.2 Proceedings

The CCC's civil confiscation role is set out in Chapter 2 (confiscation without conviction) and Chapter 2A (Serious Drug Offender Confiscation Order Scheme) of the Criminal Proceeds Confiscation Act 2002 (CPCA). The Office of the Director of Public Prosecutions (ODPP) is the solicitor on the record for these proceedings (section 12(3) CPCA). All proceedings must be taken under the title "State of Queensland" (section 12(2) CPCA).

The ODPP may advise the CCC where the engagement of Counsel is considered appropriate for aspects of proceedings and the appropriate Counsel for a particular matter based on their experience and professional judgement.

Proceeds of Crime unit officers consider that advice and if accepted seek authority from the Director, Proceeds of Crime to engage external Counsel. The Director, Proceeds of Crime records their determination in writing which is saved in the matter file. Counsel may be required for matters including representation at interlocutory hearings and trials as well as the provision of advice on evidence. The ODPP also advise where it is believed appropriate to engage Counsel on retainer.

Counsel engaged by the ODPP on behalf of the CCC forward their tax invoices to the ODPP for payment. The ODPP verify the tax invoice is appropriate for payment and pay the Counsel. Reimbursement is then sought by the ODPP from the CCC by the issue of a tax invoice and a copy of the Counsel's tax invoice including ODPP payment certification. The CCC processes the ODPP tax invoices according to normal expenditure processes.

4.3 Property restraint (Delivery stage)

4.3.1 Restraint of property

The delivery stage of the confiscation investigation seeks restraint of the property identified during the feasibility stage. A restraining order effectively 'freezes' the property and prevents the property from being sold or disposed of while further investigation is undertaken or the recovery strategy is pursued.

Applications for a restraining order are made to the Supreme Court of Queensland (Court) by the ODPP on the CCC's behalf.

If additional property is identified through the course of the confiscation investigation, the restraining order may be varied to restrain this property. Further affidavits will be required to be prepared and filed with court.



Other orders applied for at the restraint stage

Investigation⁵ orders may be applied for at the same time as the application for the restraining order. These orders may also be applied for at other stages of the confiscation investigation.

Property particulars order

A property particulars order is an investigation order directing the person to provide a sworn statement as to any property over a certain amount (usually set at \$5000) that they currently hold, or have held within the previous six years, whether or not the property that has been restrained.

It is an offence⁶ if the person, without reasonable excuse, contravenes the direction contained within the property particulars order or if they make a statement that is false or misleading in a material particular.

If a person gives a statement under a property particulars order, the statement is not admissible against the person in any criminal proceeding other than a proceeding about the false or misleading nature of the statement.⁷

Property particulars orders assist the confiscation investigation by providing further details on the financial particulars of the respondent. Based on its contents, additional actions may be undertaken by the CCC in regards to the restraint of property or investigative actions.

The CCC will instruct the ODPP to apply for a property particulars order at the same time as the restraining order for matters where it can be demonstrated that a property particulars order would be beneficial to the progress of the matter. Approval must be sought from the Director Proceeds of Crime to apply for a property particulars order. Approval of the application for a property particulars order is undertaken in the CMS.

Examination order

An examination order is an investigation order requiring a person whose property is restrained under the restraining order, or another stated person, to attend the Court for examination on oath before the Court or a court officer about:

- the affairs of any person whose property is subject to a restraining order
- the nature and location of any property of a person whose property is subject to a restraining order
- the nature and location of any property restrained under the restraining order that the applicant for the order reasonably suspects is serious crime derived property.

A person who is required to attend an examination under an examination order commits an offence⁸ if without reasonable excuse they fail to attend, fail to take an oath, fail to answer a question or make a statement that is false or misleading in a material particular.

Approval to apply for examination orders are made by the Director, Proceeds of Crime. Approval of an application for an examination order is undertaken in the case management system (CMS).

⁵ s.38, CPCA

⁶ s.42A, CPCA

⁷ s.42, CPCA

⁸ s.41 CPCA



Property seizure order

If property restrained under a restraining order is viewed to be at risk of being sold or otherwise disposed of if it were to remain in the possession of the person or a third party, it may be physically secured using a property seizure order.

The Court may make a property seizure order directed to either a CCC officer⁹ or a police officer.¹⁰ A property seizure order authorises:

- a CCC officer to exercise search warrant powers under the *Crime and Corruption Act 2001* (CC Act)
- a police officer to exercise search warrant powers under the *Police Powers and Responsibilities Act 2000* for the purpose of seizing property which has been restrained under the restraining order.

Approval to apply for a property seizure order is made by the Director, Proceeds of Crime. Approval of an application for a property seizure order is undertaken in the case management system (CMS).

As the CPCA provides the authority for the exercise of these powers, a separate application for a search warrant is not required.

Seizure of physical property under a property seizure order is undertaken in line with the CCC's Search warrants policy and procedure, with the exception of requirements under CC Act in regards to the retention of property beyond 30 days. The ability for the CCC to retain the property is already covered by the restraining order.

Refer to [MP08 – Search warrants](#) for more information.

4.3.2 Application for a restraining order

To apply for a restraining order, the application must be supported by an affidavit of an authorised commission officer or a police officer. The following documentation is prepared by the CCC:

- an affidavit under the hand of an authorised commission officer¹¹ detailing the property to be restrained and the reason they hold a suspicion that the person has engaged in serious crime related activity or property is serious crime derived property, and
- an affidavit from the relevant Queensland Police Service (QPS) officer(s) or relevant investigator detailing the serious crime related activity of the person.

Application for an order without notice

Before making a restraining order, the Court will usually require that the person has received reasonable notice of the restraining order application. However, in some circumstances applications may be applied for without notice (i.e. on an ex-parte basis).

If the order is applied for on an ex-parte basis, this must be referenced in the application and justification given for the request.

⁹ s. 43 CPCA

¹⁰ s. 44 CPCA

¹¹ See Instrument of Authorisation – s28 and s93H of the CPCA



Referral to ODPP

The Case Officer will draft a referral letter to the ODPP which will include the CCC's instructions in relation to the progress of the confiscation matter. The instructions will include:

- Whether a Chapter 2 or 2A restraining order is to be sought
- Type of application, on notice or ex-parte
- Property to be restrained
- Proposed hearing date
- Administration and investigation orders to be sought at time of restraint
- Type of recovery application to be filed.

Once the restraining order affidavits and the referral letter have been drafted by the Case Officer, the Case Manager reviews the affidavits to ensure that the contents appropriately address the restraining order affidavit requirements¹² and the letter to ensure that all relevant instructions have been included.

The referral letter and attached draft affidavits are then emailed to Manager, Confiscations team at ODPP. The CCC Transfer and Transmission of Information procedure in relation to the communication of classified material must be followed when emailing this material.

Once the letter and draft affidavits have been emailed to the ODPP, the Case Officer will record the date of referral to ODPP in the CMS.

Once the affidavit material has been settled by the ODPP, the Case Officer will arrange for either swearing or affirmation by the relevant officers.

4.3.3 Filing and serving the application for a restraining order

The original sworn or affirmed affidavits are delivered to the ODPP for filing with the Court registry along with an originating application (prepared by the ODPP). When filing the documentation, the ODPP seeks a date for the hearing of the application.

Once advised by ODPP, the Case Officer will record the restraining order court date in the CMS.

Once the material has been filed and a hearing date is obtained, ODPP will prepare a service pack for each person who holds property which is subject to restraint. The service pack prepared by the ODPP contains:

- Cover letter addressed to the person detailing the date and place of the hearing
- Copies of the material filed with the Court to support the restraining order application.

The ODPP will email a copy of the service pack(s) to the Case Officer who will arrange for the service of these documents on the person(s).

The person(s) must be personally served at least 3 business days¹³ before the date of the hearing of the restraining order application. Reasonable notice should be allowed to provide sufficient time for the person to seek legal representation and prevent the possible adjournment of the Court hearing.

¹² S. 29 CPCA

¹³ Rule 27, UCPR – An application must be filed and then served on each respondent at least 3 business days before the day set for hearing the application (the service day and the hearing day are excluded in the reckoning of time)



Once personal service¹⁴ has been effected on the person(s), the Case Officer will ensure that an affidavit of service is drafted under the hand of the officer who effected the service. This affidavit must include:

- Date, time and place of service
- How the officer was able to establish the person's identity.

If the person to be served is a prisoner¹⁵ the Case Officer will arrange for the documents to be served on the officer in charge of the prison in which the person is imprisoned. The proceeds of crime unit has established protocols in relation to this process with a number of the major prisons. If the documentation is served on the officer in charge of a prison, the Case Officer will draft an affidavit under their own hand detailing this service.

A person's legal representative should only be served with the originating application documentation in lieu of the person if:

- Attempts to locate and personally serve the person have been unsuccessful, and
- The legal representative have confirmed that they are acting for the person and would be willing to accept service on their behalf.

The Case Officer must advise ODPP as soon as practical once the person has been served and provide the original affidavit of service to the ODPP as soon as possible prior to the restraining order hearing date.

Ex-parte order

If an order is applied for without notice, the matter proceeds to the Court hearing without notifying the person or providing them with the relevant documentation.

As with the making of any restraining order, the Court may refuse to make the order unless the State gives the undertakings the Court considers appropriate for the payment of damages or costs, or both, in relation to the making and operation of the order.

Approval must be sought from the Director, Proceeds of Crime to provide this undertaking to the court for all ex-parte applications. Approval of an application for the provision of undertakings as to the payment of damages or costs or both is undertaken in the case management system (CMS).

4.3.4 Hearing the restraining order application

At the court hearing, the restraining order application is considered and the person or their legal representative is provided with the opportunity to contest the details of the application.

The Court must make a restraining order in relation to property if after considering the application and the affidavits it is satisfied that:

- there is a reasonable suspicion that the person has engaged in serious crime-related activity punishable by imprisonment for 5 years or more or that a person has been charged with a qualifying drug-related offence under the SDOCO¹⁶
- that the person owns or has effective control over the property to be restrained.

The Court may refuse to make the order if:

- it is satisfied in the particular circumstances it is not in the public interest, or

¹⁴ See Rule 105 UCPR

¹⁵ See Rule 110, UCPR

¹⁶ Refer to Chapter 2A, CPCA



- the State fails to give the court the undertakings the court considers appropriate for the payment of damages or costs, or both, in relation to the making and operation of the order.

Restraining orders have a life of:

- if obtained under the confiscation without conviction provisions, for 28 days after it is made (continues in force if an application for forfeiture order, proceeds assessment order or unexplained wealth order is made to the Court during this period).
- if obtained under the SDOCO provisions, for 12 months after it is made (may be longer if an application is made to the Court to extend it during this period).

Once granted by the Court, the details of the restraining order are recorded in the CMS by the Case Officer.

Hearing of ex-parte order applications

When considering an application for a restraining order on an ex-parte basis, in addition to the matters detailed above, the Court considers the merits of the application being heard and an order being made without the person receiving notice.

The main reason for an application to be heard ex-parte would be the property subject to restraint being at risk of dissipation should the person be given prior notice of the making of the order, e.g. funds in a bank account.

If the Court is not satisfied that there are grounds for the making of a restraining order on an ex-parte basis, the hearing will be adjourned to another date to allow for the person to be served with a copy of the relevant documents.

If the court is satisfied that there are appropriate grounds to proceed on an ex-parte basis, the order is made and the person is served with a copy and the supporting documentation as soon as reasonably practicable after the property has been secured.

4.3.5 Notice of a restraining order

As soon as practicable after the restraining order is made, the ODPP on behalf of the CCC must provide each person whose property is restrained under the order and anyone else who is affected by the order a copy of the order. Other persons or entities affected include any financial institution or third party who have a mortgage or other interest registered against the property.

If the property is real property, the ODPP will register a caveat in favour of the State against the property with the Title's office. If the property is a vehicle, vessel or aircraft, the ODPP will register an interest in favour of the State on the Personal Property Securities Register (PPSR).

If the property is funds in a bank account, the ODPP will arrange with the relevant financial institution to have the funds frozen so that they cannot be accessed.

If the order directs the PTQ to take possession and control of any property, a copy of the order is also provided to PTQ.



4.3.6 Variation to the restraining order

Once a restraining order has been made by the Court, variation may be made through an application for an administration order.¹⁷

Administration orders may be used to vary or impose additional conditions on restraining orders. These are developed on a case by case basis in response to the particular circumstances of the matter and may:

- vary the property restrained under the restraining order
- vary or impose additional conditions on the restraining order
- relate to the performance of an undertaking in relation to the restraining order for the payment of damages or costs
- where PTQ take control of property:
 - regulate how it performs its functions under the restraining order
 - decide any question about the property, including a question affecting the liabilities of the owner of the property or the functions of PTQ.
- require a person whose property is restrained to do anything necessary or convenient to bring the property within the state
- order payment to Legal Aid, from property restrained under the restraining order, of expenses payable by the person whose property is restrained.

Applications for administration orders are prepared by the ODPP at the request of the CCC.

Applications for administration orders are approved by the Director, Proceeds of Crime. Approval of an application for an administrative order is undertaken in the case management system (CMS).

4.4 Property recovery (Delivery stage)

Once a restraining order is made by the Court, the focus of the confiscation investigation shifts to maximising the recovery of the restrained property.

4.4.1 Recovery Strategies

The recovery strategy to be used is usually identified at the assessment stage of the confiscation matter and is outlined in the Investigation Proposal (Assessment) (MM01 – A01). However, the specific strategy or strategies to be pursued may change depending on the evidence identified through the confiscation investigation.

Depending on the nature of the property and the circumstance of the matter, one or a combination of the following recovery strategies may be pursued:

- **Confiscation without conviction scheme:**
 - Forfeiture order
 - Proceeds assessment order
 - Unexplained wealth order
- **SDOCO scheme:**
 - Serious Drug Offender Confiscation order

¹⁷ s.38 CPCA



At the instruction of the CCC, an application for a relevant recovery order(s) (secondary application) is prepared by the ODPP. The secondary application along with any supporting evidence provided by the CCC by way of affidavit, is filed by the ODPP with the Court. **The secondary application must be made before the date the restraining order lapses to ensure that the restraining order will remain in force indefinitely.**

At the time of filing the secondary application with the Court, a date will be set for a 'directions hearing'. The type of secondary application, amount of the application (if relevant) date of filing and date of the directions hearing are recorded in the CMS by the Case Officer.

The purpose of the directions hearing is to progress the matter in the court by setting dates for the filing of any further applications and/or supporting affidavits by both parties.

The ODPP will serve the respondent or their legal representative with a copy of the application and supporting material once it has been filed with the Court.

4.4.2 Confiscation without conviction scheme

There are three types of recovery orders available under the confiscation without conviction scheme.

Forfeiture order

A Forfeiture order seeks to forfeit particular property restrained under a restraining order on the basis that it is not legally acquired property.¹⁸

The Court must make a forfeiture order if it finds it is more probable than not that:

- the person engaged during the limitation period¹⁹ in a serious crime related activity, or
- the property is serious crime derived property because of a serious crime related activity that happened during the limitation period.

The Court may refuse to make a forfeiture order in relation to property restrained under a restraining order if it is satisfied it is not in the public interest to make the order.

The property sought to be forfeited is not required to have a direct association with the serious crime related activity to be subject to the order.

Proceeds assessment order

A proceeds assessment order (PAO) is a money based order that requires a person to pay the State the value of the proceeds derived from their illegal activity that took place within 6 years before the application for the order was made.

The Court must make a PAO against a person if it finds that it is more probable than not that:

- the person engaged in serious crime-related activity at any time within the 6 years before the application was made, and
- there is evidence to support the value of the proceeds derived from the person's illegal activity.

The Court may refuse to make a PAO if it is satisfied it is not in the public interest to make the order.

¹⁸ Property is illegally acquired property if it is all or part of the proceeds of an illegal activity, s.22, CPCA

¹⁹ The period of 6 years before the day the application for the order is made.



Unexplained wealth order

An Unexplained wealth order (UWO) is a money based order that requires a person to pay the State an amount assessed by the court to be the value of their unexplained wealth.

The Court must make a UWO against a person if it is satisfied there is a reasonable suspicion that:

- the person has engaged in serious crime-related activity, or
- the person has acquired without giving sufficient consideration, serious crime derived property from someone else, whether or not the person knew or suspected the property was derived from illegal activity, and
- any of the person's current or previous wealth was acquired unlawfully.

The Court may refuse to make a UWO if it is satisfied it is not in the public interest to make the order.

4.4.3 SDOCO scheme

A SDOC is a conviction-based order that forfeits to the State:

- all property, other than protected²⁰ property of the person, and
- all property that was a gift given by the person to someone else with 6 years before the person was charged with the qualifying offence on which the order is based.

Once a person is convicted of a qualifying offence²¹ and a serious drug offence certificate is issued by the court, the State can apply for a Serious Drug Offender Confiscation order. The application must be made within 6 months after the issue of the serious drug offence certificate for the qualifying offence.

There is no requirement for the property to be directly linked to the specific offence for which the certificate was issued.

The application for a SDOCO must not be set for hearing less than 28 days after the filing of the application.

The Court must make a SDOCO against a person if it is satisfied:

- the person has been convicted of a qualifying offence for which a SDO certificate has been issued and not cancelled, and
- the application for the order was made within 6 months after the issue of the certificate.

The court may refuse to make the SDOCO if it is satisfied it is not in the public interest to make the order.

4.4.4 Relief Orders

There are a number of orders which may offer relief to the person, dependants of the person or other third parties from the operation of either a restraining order or a recovery order(s).

If any relief order applications are filed for a matter, the State will be required to conduct the necessary investigation to establish the legitimacy of the claim and to provide material to respond to the application.

²⁰ Property of the person that if the person became a bankrupt would not be divisible amongst the person's creditor, s.93E, CPCA

²¹ Either drug trafficking or a combination of at least three counts of drug possession, supply or production



Exclusion orders – Confiscation without conviction scheme

The person or a third party may make an application to the Court to exclude particular property from the operation of the restraining order or a forfeiture order.

If an exclusion order application is made by the person, the Court may exclude particular property from a restraining order if:

- it is satisfied it is more probable than not that the property is not illegally acquired property, and
- the property is unlikely to be required to satisfy a PAO or UWO.

If an exclusion order application is made by a third party, the Court may exclude particular property from a restraining order if it is satisfied that the third party acquired the property:

- in good faith for sufficient consideration, and
- without knowing, and in circumstances not likely to arouse reasonable suspicion that the property was illegally acquired property.

If an exclusion order application is made by the person or a third party in relation to particular property after a forfeiture order has been made, the Court must, and may only, make an exclusion order if it is satisfied:

- the applicant has or, apart from the forfeiture, would have, an interest in the property, and
- it is more probable than not that the property to which the application relates is not illegally acquired property.

Unless the Court gives leave:

- the application for an exclusion order must be made within 6 months after the forfeiture order was made
- any person who was given notice of the application for the forfeiture order or who appeared at the forfeiture order hearing cannot apply for an exclusion application.

Exclusion orders – SDOCO scheme

The person or a third party may make an application to the Court to exclude particular property from the operation of a SDOCO restraining order.

If an exclusion order application is made by the person, the Court may exclude particular property from a SDOCO restraining order if it is satisfied it is in the public interest.

If an exclusion order application is made by a third party, the Court may exclude particular property from a SDOCO restraining order if it is satisfied that the property:

- it is not under the effective control of the person, and
- is not a gift that was given to the third party by the person within 6 years before the person was charged with the qualifying offence.

Relief from hardship orders

If the Court is satisfied the operation of a forfeiture order or a SDOCO will cause hardship to a dependant of the person who will forfeit property under the order, the Court may order the State to pay to the dependant out of the proceeds of the sale of the property, the amount the court considers necessary to prevent hardship to the dependant.



If the Court is satisfied the operation of a PAO, UWO or SDOCO will cause hardship to a dependant of the person against who the PAO, UWO or SDOCO was made, the Court may make an order excluding special property²² from the operation of the order.

The Court must not make a relief from hardship order in favour of an adult dependant unless the court is satisfied the dependant had no knowledge of any serious crime related activities of the person.

A dependant of a person is defined to be a spouse or child of the person, or a member of the household of the person, dependent for support on the person.

4.4.5 Sale Orders

Sale Orders allow for the sale of restrained property with the net proceeds being managed until the end of the recovery phase by the PTQ (on behalf of the State). These orders are of benefit if the property is of a type that is likely to diminish in value before the recovery phase has been finalised.

Once property has been restrained under a restraining order and the State has filed a forfeiture order application, the State may apply to the Court for an order directing PTQ to sell all or part of the restrained property.

The Court may make a sale order if it satisfied on evidence of the PTQ or otherwise:

- the property may deteriorate or lose value before the forfeiture application is decided, or
- the cost of controlling the property would be more than the value of the property if it were disposed of after a forfeiture order was made.

Applications for sale order are prepared by the ODPP at the request of the CCC.

Applications for sale orders are approved by the Director, Proceeds of Crime. Approval of an application for a sale order is undertaken in the case management system (CMS).

4.5 Concluding delivery

Once a matter has been approved to transition to the delivery stage by the ELT, it will proceed to one of the following outcomes:

- negotiated settlement (including discontinuance)
- contested litigation
- no further action before restraint.

The Case Officer is to ensure that the finalisation of a confiscation investigation is recorded in the CMS.

²² The last change of ownership was at least 6 years before the serious crime related activity and the property was occupied by the dependant as his or her principal place of residence for a consecutive period of 2 years during the 6 years before the serious crime related activity.



4.5.1 Negotiated Settlement

Negotiated settlement at the earliest possible stage is considered beneficial to all parties as it avoids ongoing legal costs and the expenditure of resources of progressing the matter to contested litigation.

Settlement negotiations may be initiated by either the ODPP (on the instruction of the CCC) or the person and are conducted on a 'without prejudice' basis.

The decision whether to commence settlement negotiations and their conduct is a matter for the Director, Proceeds of Crime.

Settlement negotiations are to be conducted within the express terms of authority from the Director, Proceeds of Crime or the Senior Executive Officer (Crime) depending upon whether the State is making any concessions.

Each matter will be considered on its own merits having regard to the specific circumstances of the case and the following criteria:

- the perception likely to be created among the law enforcement community, the criminal community and the general public
- the scale and nature of the criminality
- the value and nature of property derived by the respondent from illegal activity
- the value and nature of property available to the respondent
- the property likely to be forfeited and/or the amount likely to be recovered if the matter proceeds to trial
- the savings likely to be realised in the event of settlement through avoidance of costs associated with further investigation and legal proceedings
- costs associated with administering repayment plans or other deferred settlement arrangements.

Making settlement offers

A settlement offer by the CCC which seeks to recover 100% of the restrained property, can be approved by the Director, Proceeds of Crime. This approval is through the CMS.

The rejection of a settlement offer made by the person to the State must be approved by the Director, Proceeds of Crime. This approval is through the CMS.

Any settlement offer by the CCC which amounts to a recovery of less than 100% of the restrained property, thereby representing a concession by the State, must be approved by the Senior Executive Officer (Crime) through a memo from the Director, Proceeds of Crime. The memo is approved through the CMS.

Once an offer is approved by either the Director, Proceeds of Crime or Senior Executive Officer (Crime), ODPP is advised of the settlement terms and is instructed to send an offer letter to the person or their legal representative.

If settlement conferences are required, the Director, Proceeds of Crime attends on behalf of the CCC.

To inform the CCC's response to offers by the respondent or their legal representative further investigation activities may be undertaken.

The approval of settlement memos, settlement offers and responses to the offers are recorded in the CMS by the Case Officer.



Outcome of settlement negotiations

Settlement negotiations, may result in one of the following outcomes:

- agreed settlement (including discontinuance)
- no agreement reached - proceed with litigation.

Agreed settlement

The majority of confiscation matters are finalised by way of an agreed settlement.

If settlement negotiations result in an offer which is accepted by both parties, the agreed settlement is formalised by the Court through a Consent recovery order.²³ This order acts as a ratification of the agreement by the Court and formalises the agreement between the CCC and the person.

The State may decide to negotiate to discontinue a matter if at any point in the confiscation investigation:

- evidence verifies or explains the source(s) of funds used to purchase the restrained property or in any other way defeats the grounds on which the recovery order was sought
- the related criminal charges are dropped or are unsuccessful
- the person is deceased or becomes unamenable to justice
- it is deemed not to be in the public interest to continue to pursue the matter.

In all cases of discontinuance, the restrained property is released and the payment of each party's costs is negotiated. In some circumstances, the CCC may be required to pay the person's legal costs.

To discontinue the matter a Notice of discontinuance is prepared by the ODPP, signed by on or behalf of the person and then filed with the Court registry.

The ODPP is responsible for preparing the draft order and filing it with the court for final hearing. The Consent order includes of the terms on which agreement has been made between the parties to settle the confiscation proceedings.

If circumstances require, an agreed settlement can be finalised by way of a deed of agreement between the parties. As this deed is not required to be filed with the court it is a way to formalise a settlement in a confidential manner.

The details of final orders or deeds of agreement are recorded in the CMS by the Case Officer.

Payment of Legal Aid Costs

The CPCA and the *Legal Aid Queensland Act 1997* establish a scheme whereby Legal Aid Queensland (LAQ) may make a grant of legal assistance in relation to a proceeding under the CPCA or a criminal proceeding to a person who would not otherwise be entitled to assistance. The scheme recognises that a person's access to justice can be constrained in whole or part because a person's property is restrained under the CPCA.

In determining the application for a grant of legal assistance, LAQ must disregard any property of the person that is subject to a restraining order under the CPCA.

²³ s.256A CPCA

LAQ may impose conditions on an approval to give legal assistance requiring the person to give a charge over their property as security for payment to LAQ.²⁴

The scheme recognises that in certain cases it will be appropriate to LAQ to recover its costs from the legally assisted person and, in other cases, it will be appropriate for these costs to be recovered from the State.

To ensure that the interaction between the CPCA and *Legal Aid Queensland Act 1997* can be appropriately managed, a protocol has been set up between the CCC and LAQ in relation to the reimbursement of LAQ costs in cases where a LAQ charge has been registered over restrained property. In accordance with the protocol:

- If all restrained property is recovered by the State, the State will reimburse LAQ for the costs incurred in granting the person legal assistance
- If all restrained property is returned to the legally assisted person, LAQ will recover its costs directly from the legally assisted person
- If part of the restrained property is recovered by the State and part is returned to the legally assisted person, the agencies will discuss what (if any) proportion of legal expenses should be recovered from the legally assisted person or reimbursed by the State
- If part of the restrained property is recovered by the State and part is returned, as described below, the State will reimburse LAQ for the costs of providing legal assistance:
 - Paid to a dependant of the legally assisted person under a hardship order or
 - Would not, if the legally assisted person was declared bankrupt, be divisible amongst the person's creditor.

All approvals to reimburse LAQ in accordance with this protocol are made by the Director, Proceeds of Crime. The approval to reimburse LAQ is recorded in the CMS.

4.5.2 Contested Litigation

If a matter cannot be settled through the negotiation process it will proceed to contested litigation by way of a Court trial.

The purpose of the trial is for the Court to come to a decision regarding the State's recovery order application based upon the affidavit evidence filed by the State in relation to the matter.

The trial process is the opportunity for the respondent to challenge the veracity of evidence filed by the State to support the relevant recovery strategy. For the CCC it provides an opportunity to contest any additional evidence filed on behalf of the person, e.g. to support any exclusion or relief from hardship application orders.

The outcome of the Court trial is recorded in the CMS.

Outcome of Court Trial

If the Court finds in favour of the person, and dismisses the recovery order application, this concludes the matter. The CCC is required to pay the legal costs of the person and the property that is subject to the restraining order is released from restraint and returned to the person.

If the Court finds in favour of the State the relevant recovery order is made and the person is also required to pay the legal costs of the CCC. Refer to the Forfeiture and disposal section below for more information.

²⁴ S.229, CPCA



In the case of PAOs or UWOs, the Court may also calculate the time value of money and any interest payable and this is added to the amount determined by the court required to be paid by the person to the State.

4.5.3 No Further Action Before Restraint

If due to a material change in circumstances a matter is no longer considered viable and an application for an originating application has not yet been filed, a decision may be made to take no further action. This decision must be approved by the Senior Executive Officer (Crime).

The approval by the Senior Executive Officer (Crime) to finalise a matter in the delivery stage by taking no further action is recorded in the CMS by the Case Officer.

4.6 Forfeiture and disposal (Post-delivery)

Property is forfeited according to the conditions of the relevant recovery order or settlement agreement.

Physical property that has been forfeited by the operation of a recovery order is sold, or stored subject to sale by PTQ. In some cases, sale of particular property may take time. In such cases, the matter remains open until a sale is made and funds have been recovered by PTQ. PTQ provide a report on the open matters to the CCC each quarter via email.

Once all property is liquidated a final PTQ report is provided to CCC which outlines the final amount recovered and remitted to the Queensland Treasury Consolidated Revenue fund.

If a PAO or UWO amount remains outstanding after all property has been liquidated by PTQ the amount owing is a debt payable to the state and stands for 12 years or until the debt is paid, the order is discharged or the person becomes bankrupt. In cases where there is an outstanding debt the CCC continues to undertake asset searches in regards to the person. Alerts may also be placed on QPRIME or AUSTRAC.

If additional assets are identified a debt recovery demand will be made in writing to the person at their last known address by the ODPP on behalf of the State. If the person does not agree to the demand the State will have to decide whether to commence debt recovery proceedings against the person in the Magistrates Court. Any decision to commence debt recovery proceedings must be approved by the Director, Proceeds of Crime.

Details of the approval are recorded in the CMS.

4.7 Record keeping during an investigation

The details of the confiscation action are recorded using the running sheet in the CMS.

Relevant documentation is saved in the relevant eDRMS folders.



5. Definitions

Term	Meaning
AUSTRAC	Australian Transaction Reports and Analysis Centre
CC Act	<i>Crime and Corruption Act 2001</i>
CMS	Case management system used by the CCC
Court	The Supreme Court of Queensland
CPCA	<i>Criminal Proceeds and Confiscation Act 2002</i>
eDRMS	The CCC's electronic document and records management system
LAQ	Legal Aid Queensland
Legally assisted person	A person who has been granted legal aid
ODPP	Office of the Director of Public Prosecutions, Confiscations Unit.
Property	<p>Under s.19 of the CPCA, property is defined as:</p> <ul style="list-style-type: none"> • an interest the person has in a licence a person must hold to carry on a particular business, and • an interest the person has in the goodwill of a business, and • property of someone else that is under the effective control of the person. <p>It does not include property of the person that is under the effective control of someone else.</p> <p>This provision is in addition to the definition of property given by the <i>Acts Interpretation Act 1954</i> in which property is defined as: any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal Previous property of any description (including money), and includes things in action (refer to schedule 1).</p>
PTQ	<p>Public Trustee of Queensland, this body is responsible for managing particular restrained property and for selling property forfeited to the State as a result of confiscation action.</p> <p>Net funds recovered are remitted to the Queensland Treasury Consolidated Revenue Fund.</p>
QPRIME	Queensland Police Service database
Person	Individual who is the subject of the confiscation investigation, also referred to in the CPCA as the respondent
SDOCO	Serious drug offender confiscation order
UCPR	<i>Uniform Civil Procedure Rules, 1999</i>



6. Forms

Document reference	Document title
MP20-F01	Feasibility report – Confiscation investigation

7. Related policies and procedures

- IM03 – Assessment of matters
- MM01 – Matter management, planning and conduct
- MP03 – Hearings (close and public)
- MP08 – Search Warrants
- MP16 – Telecommunications interception and access
- Transfer and Transmission of Information procedure
- Instrument of Authorisation – s28 and 93H, CPCA

Legislative references

- *Acts Interpretation Act 1954*
- *Crime and Corruption Act 2001*
- *Criminal Proceeds and Confiscation Act 2002*
- *Police Powers and Responsibilities Act 2012*
- *Legal Aid Queensland Act 1997*
- *Uniform Civil Procedure Rules 1999*



8. Administration

Responsible officer:	Director, Proceeds of Crime	Accountable officer:	Senior Executive Officer (Crime)
Date approved:	February 2021	Review date:	February 2023





**Crime and Corruption
Commission**

QUEENSLAND