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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

26 June 2014

IV-13-0085

Misuse of Government Resources

(U) This report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Inspector General Chief of Staff before releasing or posting all or part of this report.

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Approved for Release by NSA on 11-30-2018, FOIA Case # 79204 (litigation)

Release: 2018-12
NSA: 05762

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(U) OFFICE OF THE INSPECTOR GENERAL

(U) Chartered by the NSA Director and by statute, the Office of the Inspector General conducts audits, investigations, inspections, and special studies. Its mission is to ensure the integrity, efficiency, and effectiveness of NSA operations, provide intelligence oversight, protect against fraud, waste, and mismanagement of resources by the Agency and its affiliates, and ensure that NSA activities comply with the law. The OIG also serves as an ombudsman, assisting NSA/CSS employees, civilian and military.

(U) AUDITS

(U) The audit function provides independent assessments of programs and organizations. Performance audits evaluate the effectiveness and efficiency of entities and programs and their internal controls. Financial audits determine the accuracy of the Agency's financial statements. All audits are conducted in accordance with standards established by the Comptroller General of the United States.

(U) INVESTIGATIONS

(U) The OIG administers a system for receiving complaints (including anonymous tips) about fraud, waste, and mismanagement. Investigations may be undertaken in response to those complaints, at the request of management, as the result of irregularities that surface during inspections and audits, or at the initiative of the Inspector General.

(U) INTELLIGENCE OVERSIGHT

(U) Intelligence oversight is designed to insure that Agency intelligence functions comply with federal law, executive orders, and DoD and NSA policies. The IO mission is grounded in Executive Order 12333, which establishes broad principles under which IC components must accomplish their missions.

(U) FIELD INSPECTIONS

(U) Inspections are organizational reviews that assess the effectiveness and efficiency of Agency components. The Field Inspections Division also partners with Inspectors General of the Service Cryptologic Elements and other IC entities to jointly inspect consolidated cryptologic facilities.

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(b) (3) - P.L. 86-36
(b) (6)**I. (U) SUMMARY**

(U//~~FOUO~~) On 12 April 2013 the Inspector General (IG) received a referral from the NSA/CSS Information Systems Incident Response Team (NISIRT) identifying potential computer misuse by an NSA/CSS civilian [REDACTED]. On 21 August 2013 the IG initiated an investigation of [REDACTED] use of NSA/CSS Information Systems (ISs).

(U//~~FOUO~~) In 2005 and 2008, the OIG substantiated misuse of Government resources cases against [REDACTED]. In 2005, [REDACTED] was interviewed by Associate Directorate for Security and Counterintelligence (ADS&CI) and counseled for his actions. In 2008, [REDACTED] was issued a written reprimand by Employee Relations (ER) for his misuse.

(U//~~FOUO~~) We obtained sworn testimony from [REDACTED]. We also obtained NISIRT records relating to his use of Government resources. During the investigation, the OIG identified the individual [REDACTED] was conversing with [REDACTED]. This case was documented in a separate OIG investigation (IV-13-0086).

(U//~~FOUO~~) The preponderance of the evidence collected during the investigation substantiates that [REDACTED] misused his classified NSA/CSS IS. [REDACTED] used Government resources to type sexually explicit emails in violation of 5 CFR §2635.101 and §2635.704; and the JER 5500.7-R.

(U//~~FOUO~~) A copy of this report of investigation will be provided to Employee Relations. A summary memorandum will be provided to the Special Actions, ADS&CI and the Office of General Counsel (D23) for review and appropriate action.

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II. (U) BACKGROUND

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(U) Introduction

(U//~~FOUO~~) [redacted] employee ID [redacted] is a [redacted] civilian employee assigned to the [redacted]

(U//~~FOUO~~) The NISIRT reviewed [redacted] classified U.S. Government account for the period from 5 to 12 April 2013. The NISIRT provided their activity report to the Office of the Inspector General on 12 April 2013.

(U) Prior OIG cases of [redacted] computer misuse

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(U//~~FOUO~~) In 2005, [redacted] was the subject of an OIG inquiry related to sending inappropriate emails on the classified NSA/CSS IS. These emails included jokes, cartoon, TV commercials, patriotic based presentations and text message jokes. This incident was referred to ADS&CI Compromise and Computer Forensics office to investigate how this information was introduced to the classified network and for action they deemed appropriate. ADS&CI reported that in March 2006, [redacted] was interviewed and counseled for his actions. [redacted] claimed he was "sorry" and that "it would never happen again."

(U//~~FOUO~~) In 2008, the OIG substantiated a misuse of Government resources case against [redacted]. After receiving an anonymous hotline complaint, the OIG determined [redacted] forwarded an obscene email on the classified network. [redacted] was issued a written reprimand by ER for this incident. See appendix A for a copy of the summary report and the ER decision memorandum.

(U) Applicable Authorities

(U//~~FOUO~~) 5 CFR 2635, Standards of Ethical Conduct for the Executive Branch, Section 101 - Basic obligation of public service and Section 704 Use of Government property

(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R, Subpart 2-301: Use of Federal Government Resources.

(U) See Appendix B for the full text of the applicable authorities.

III. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] an NSA/CSS civilian, misuse his classified NSA/CSS IS to type sexually explicit emails?

(U//~~FOUO~~) **CONCLUSION: Substantiated.** The preponderance of the evidence supports the conclusion that [redacted] misused his classified NSA/CSS IS. [redacted] typed sexually explicit emails in violation of 5 CFR §2635.101 and 5 CFR §2635.704; and the JER 5500.7-R.

(U) Documentary Evidence

(U) NISIRT Report

(U//~~FOUO~~) The NISIRT provided the OIG with an analysis of [redacted] activities on the classified NSA/CSS IS. [redacted] was detected engaging in sexually explicit conversations with [redacted]. The NISIRT estimated [redacted] averaged 3.76 hours of inappropriate conversations over 8 days; 5 to 12 April 2013. A sample of [redacted] email activity can be found at Appendix C.

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(U) Testimonial Evidence

(U//~~FOUO~~) On 10 February 2014, [redacted] was interviewed and provided the following sworn testimony:

(U) When asked what was [redacted] understanding of the Agency policies regarding the use of Government resources, he did not answer the question and instead merely responded, "I know better"... "I made a gross mistake"... "I let it get out of hand." [redacted] then admitted to sending sexually explicit emails to [redacted] an NSA civilian. "I should have not started it." [redacted] admitted that the email conversations had been going on for a couple months, intermittently throughout the day. When confronted with evidence that the sexually explicit emails and conversations had been first detected in April 2013, [redacted] admitted that they had been occurring longer than he realized. [redacted] admitted that the content of the sexually explicit emails were his storytelling on "stuff out of my imagination." [redacted] stated there is no sexual relationship between the two parties and claimed they have been friends for over 30 years.

(U) [redacted] admitted that his personal use of the classified NSA/CSS IS to engage in sexually explicit conversations varied depending on his assigned workload. During the slow times in the office when [redacted] were minimal, [redacted] admitted

that his personal use of the classified NSA/CSS IS could have amounted to more than an hour on per day but the majority of the time, his activity was restricted to less than an hour per day. Finally, [redacted] stated "All I can tell you is that I'm truly sorry and I know better."

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(U) Analysis and Conclusions

(U//FOUO) The NISIRT report detailed [redacted] sexually explicit conversations with [redacted] [redacted] has been involved in prior cases of computer misuse; and has been counseled on multiple occasions on the policies regarding the use of Government resources. [redacted] admitted to typing sexually explicit emails on his classified NSA/CSS IS.

(U//FOUO) JER 5500.7-R defines authorized uses of the Government communication systems and equipment to include "brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives)." Authorized uses must also be of "reasonable duration and frequency, ... [s]erve a legitimate public interest (such as keeping DoD employees at their desks rather than requiring the use of commercial systems; educating the DoD employee on the use of the communications system; improving the morale of DoD employees stationed for extended periods away from home; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing); ... and [do not] reflect adversely on DoD or the DoD Component." [redacted] sexually explicit emails, which at times consumed more than an hour of a workday, served no legitimate public interest, reflected poorly on NSA, were not communications that reasonably should have been made while at work, were not of reasonable duration and frequency and were not authorized uses of government resources. As a result, [redacted] activities violated 5 CFR §2635.101, 5 CFR §2635.704, and the JER 5500.7-R.

(U) Documentary evidence, combined with [redacted] own testimony, supports the conclusion that he misused his classified NSA/CSS IS by typing sexually explicit emails.

IV. (U) RESPONSE TO TENTATIVE CONCLUSION(S)

(U//~~FOUO~~) [redacted] was provided the tentative conclusions on 10 April 2014. Later that day, [redacted] responded to the tentative conclusion stating:

I agree with your conclusion as we had discussed during my interview with you. The only explanation is that it was uncalled for and should never have happened. Thanks for all your time in this matter.

(U//~~FOUO~~) The conclusion of this investigation remains unchanged.

[redacted]
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V. (U) CONCLUSION

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] misused his classified NSA/CSS IS. [redacted] used Government resources to type sexually explicit emails in violation of 5 CFR §2635.101 and 5 CFR §2635.704, and the JER 5500.7-R.

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VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A copy of this report of investigation will be provided to Employee Relations. A summary memorandum will be provided to the Special Actions, ADS&CI and the Office of General Counsel (D23) for review and appropriate action.

[Redacted Signature Box]

Senior Investigator

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Concurred by:

[Redacted Signature Box]

Deputy Assistant Inspector General
For Investigations

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APPENDIX A

(U) OIG summary report and ER decision memorandum

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OFFICE OF THE INSPECTOR GENERAL
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE

21 July 2008
IV-08-0038

REPLY TO
ATTN OF: AIG (Investigations & Special Inquiries), D14

SUBJECT: [redacted] (Misuse of Government Resources) -
(U) ACTION MEMORANDUM

(b) (3) - P.L. 86-36
(b) (6)

TO: M09ER, Employee Relations

1. (U//~~FOUO~~) In response to an anonymous complaint, NSA Office of Inspector General (OIG) conducted an investigation to determine whether [redacted] misused Government resources on the classified network by forwarding an inappropriate email with the subject line [redacted].
2. (U//~~FOUO~~) Our investigation revealed that in December 2007, [redacted] received and then forwarded an inappropriate email, entitled [redacted], to approximately 10 Agency affiliates on the classified network. The first line of this particular email states [redacted] as it contained inappropriate, adult-oriented material. During an OIG interview, [redacted] admitted to "swapping emails" containing inappropriate material on the classified network for the last several years.
3. (U//~~FOUO~~) In October 2005, [redacted] was involved in a previous OIG inquiry related to receiving and sending inappropriate emails on the classified network. These emails included jokes, cartoon, TV commercials, patriotic based presentations and text message jokes. This information was referred to the Associate Directorate for Security and Counterintelligence (ADS&CI), Compromise and Computer Forensics for possible action. ADS&CI reported to the OIG that, in March 2006, as a result of the OIG referral, [redacted] was interviewed by ADS&CI and was counseled for his actions. [redacted] claimed he was sorry, and that it would never happen again.
4. (U//~~FOUO~~) In May 2008, the OIG found no indications that [redacted] continued to forward inappropriate material on the classified network after December 2007.
5. (U//~~FOUO~~) [redacted] actions violated the following authorities:

**(U//~~FOUO~~) 5 CFR 2635, Standards of Ethical Conduct for the Executive Branch,
Section 101 - Basic obligation of public service**

...

(b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

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...

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

...

(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R, Section 2-301 - Use of Federal Government Resources

a. Communication Systems. Federal Government communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized purposes only.

...

(2) Authorized purposes include brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives) when the Agency Designee permits categories of communications, determining that such communications:

...

(d) Do not put Federal Government communications systems to uses that would reflect adversely on DoD or the DoD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service)....

(U//~~FOUO~~) PMM Chapter 366, Section 3, Standards of Conduct, 3-1. Use of Government Resources.

(U//~~FOUO~~) Government resources may only be used for official use or authorized purposes subject to some statutes that restrict certain resources for official use only....

(B) Government Computer Equipment - All Government-owned or leased computers, whether on or off Agency premises, are for official use or authorized purposes only...

- 6. (U//~~FOUO~~) [redacted] was asked to respond to the OIG's tentative conclusion that he misused Government resources by sending inappropriate emails on the classified network over the last several years, even after he was counseled by ADS&CI. [redacted] was given two weeks to respond and a follow-up email was sent. [redacted] did not respond to the OIG emails; therefore, the report is being issued without his comments.

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7. (U//~~FOUO~~) The OIG is referring this matter to you for any action you deem appropriate. Please notify Assistant Inspector General [redacted] 963-0924(s), of any action taken.

[redacted] (b) (3) - P.L. 86-36

[redacted]

Assistant Inspector General
for
Investigations and Special Inquiries

CC [redacted]
General Counsel, Admin Law

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Security Classification

**NATIONAL SECURITY AGENCY/
CENTRAL SECURITY SERVICE
MEMORANDUM**

DATE: 20081118

REPLY TO
ATTN OF: MR/Employee Relations (ER)

SUBJECT: OIG Report of Investigation (IV-08-0038) - INFORMATION MEMORANDUM

TO: AIG (Investigations & Special Inquiries), D14

(b) (3) - P.L. 86-36
(b) (6)

1. Reference OIG Report of Investigation (ROI) IV-08-0038, dated 21 July 2008, that you forwarded to ER for possible administrative action. The ROI concluded that [redacted] misused Government resources by sending inappropriate emails on the classified network over the last several years, even after he was counseled by ADS&CI.
2. Based on a review of all the information regarding this case, ER determined a reprimand to be the appropriate action. On 18 November 2008, ER Representative, [redacted] issued a Letter of Reprimand to [redacted] for misusing Government resources.
3. This completes ER's action in this matter. If you have any questions or require additional information, please contact [redacted] on 968-5378s or [redacted]

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Chief
Employee Relations

FORM A6796A JUN 2000 (Supersedes Optional Form (OF) 10 which was cancelled by GSA 10/99)

Derived From: _____
Dated: _____
Declassify On: _____

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Security Classification

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APPENDIX B

(U) Applicable Authorities

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(U//~~FOUO~~) 5 CFR 2635, Standards of Ethical Conduct for the Executive Branch

§2635.101 Basic obligation of public service

...

(b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

...

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

...

§2635.704 Use of Government property.

(a) Standard. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

(b) Definitions. For purposes of this section:

(1) Government property includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the Government mails, automated data processing capabilities, printing and reproduction facilities, Government records, and Government vehicles.

(2) Authorized purposes are those purposes for which Government property is made available to members of the public or those purposes authorized in accordance with law or regulation.

....

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(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R, Subpart 2-301: Use of Federal Government Resources.

a. Communication Systems. [...] Federal Government communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized purposes only.

[...]

(2) Authorized purposes include brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives) when the Agency Designee permits categories of communications, determining that such communications:

(a) Do not adversely affect the performance of official duties by the DoD employee or the DoD employee's organization;

(b) Are of reasonable duration and frequency, and whenever possible, made during the DoD employee's personal time such as after duty hours or lunch periods;

(c) Serve a legitimate public interest (such as keeping DoD employees at their desks rather than requiring the use of commercial systems; educating the DoD employee on the use of the communications system; improving the morale of DoD employees stationed for extended periods away from home; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing);

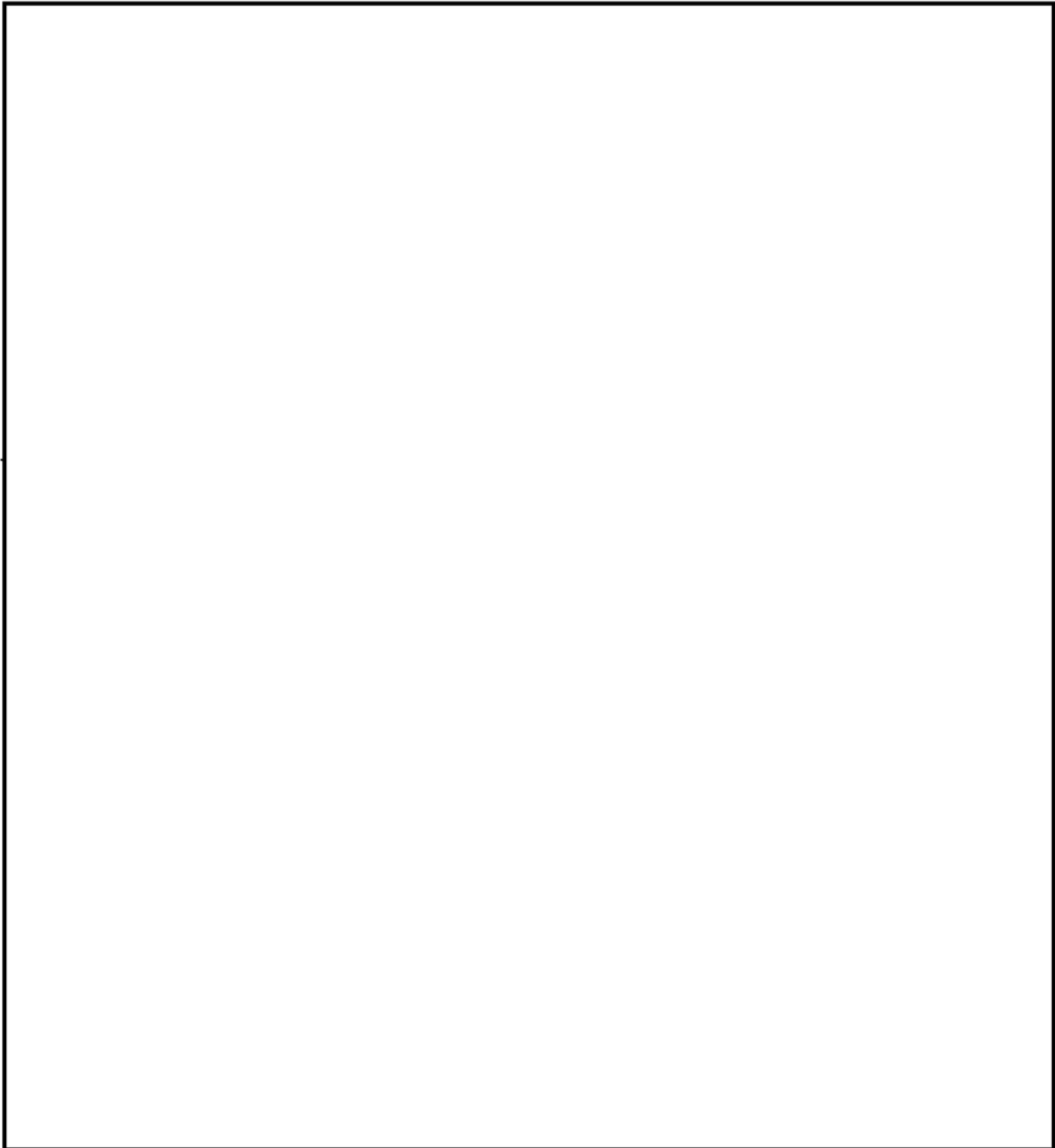
(d) Do not put Federal Government communications systems to uses that would reflect adversely on DoD or the DoD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service)....

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APPENDIX C
(U) NISIRT Report

The NISIRT Report

Edits were made by the OIG for readability purposes.

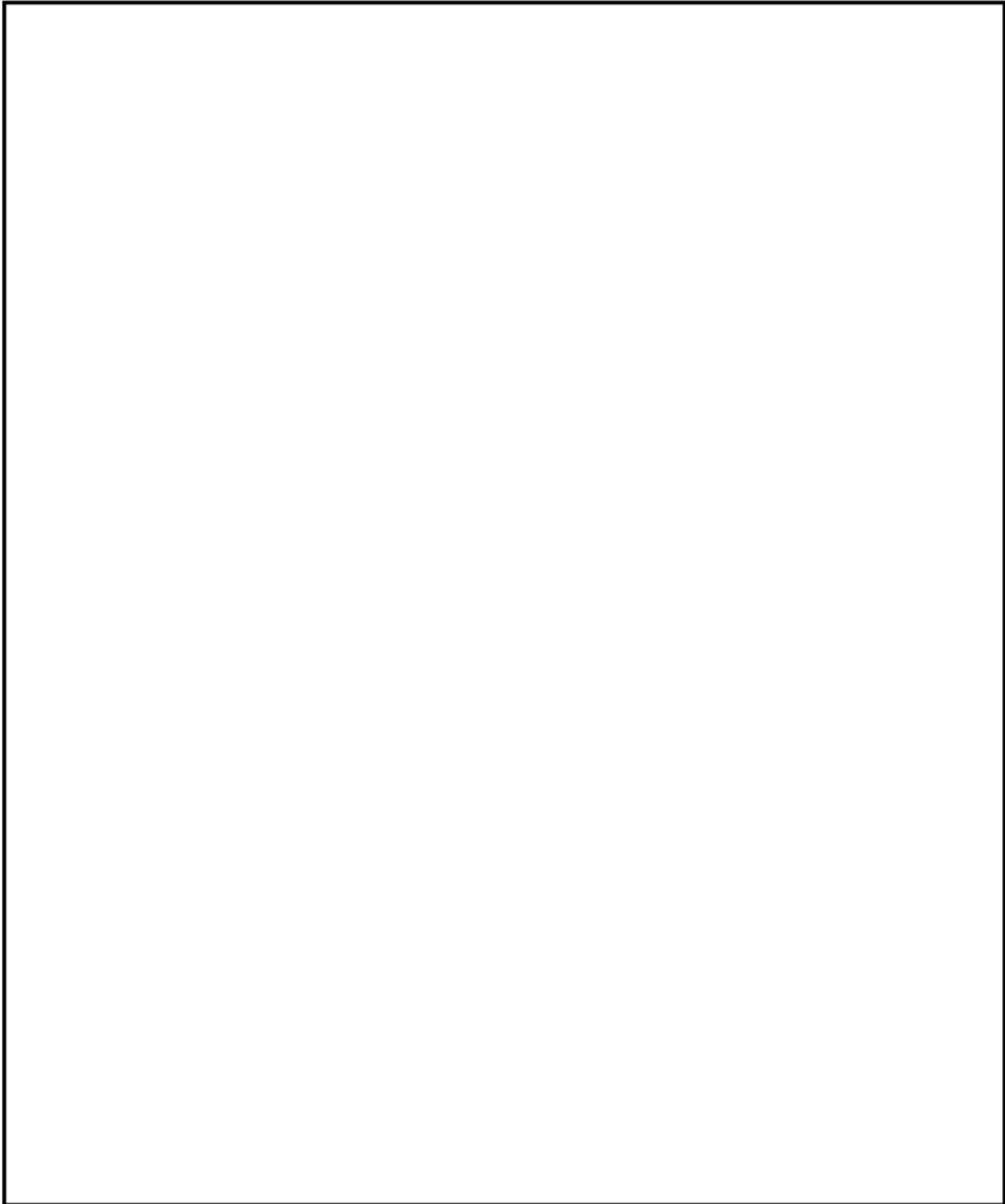


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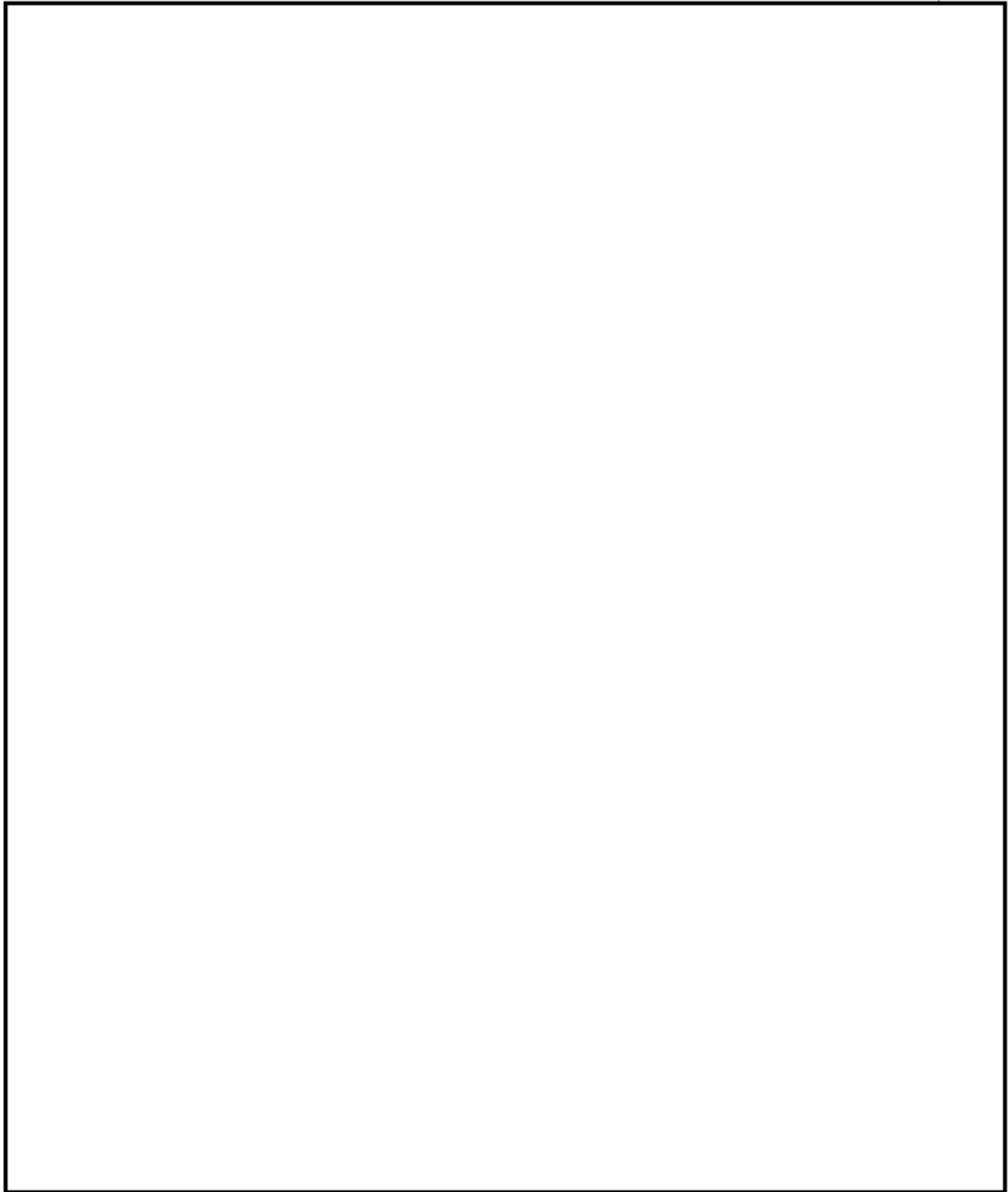


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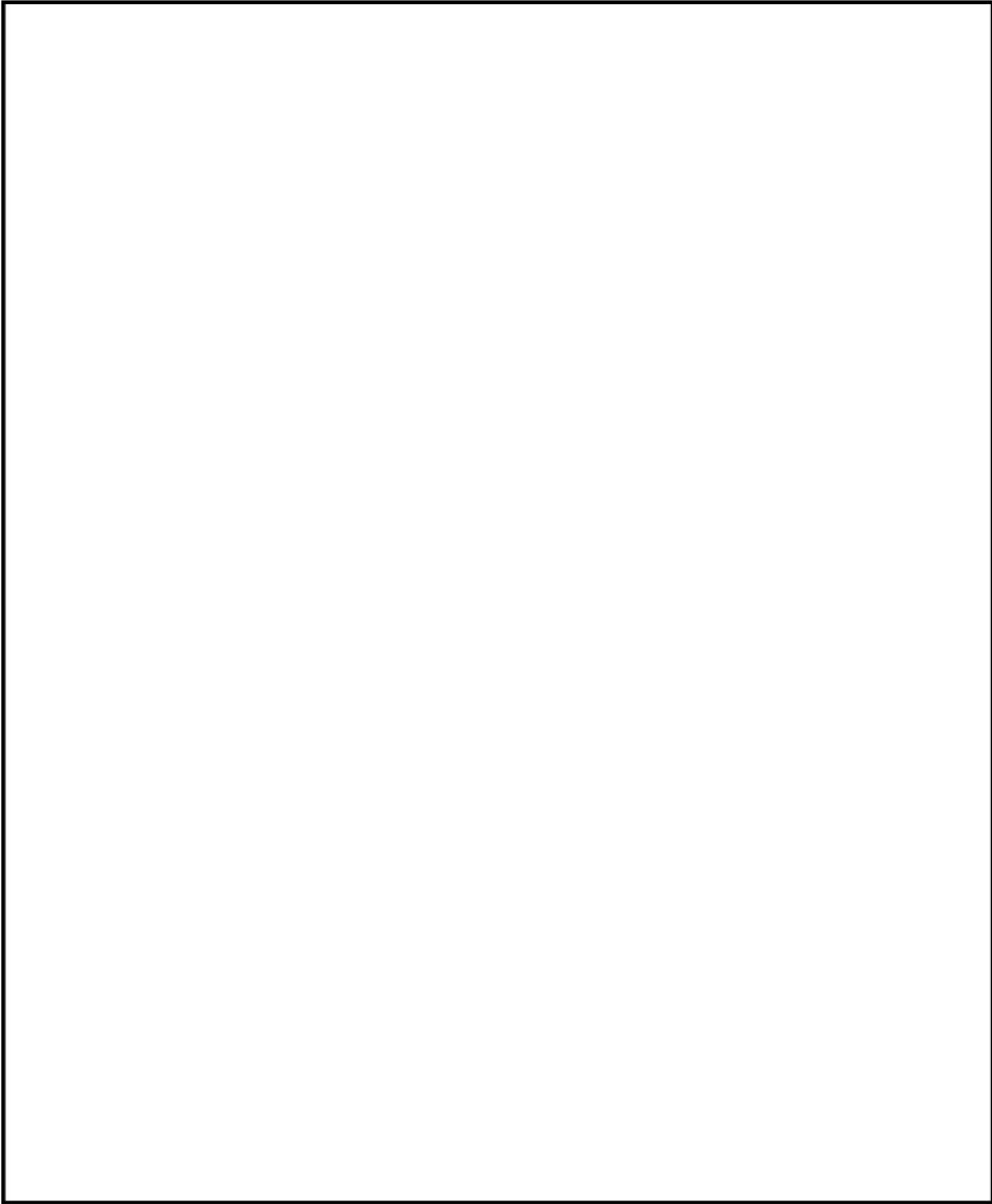
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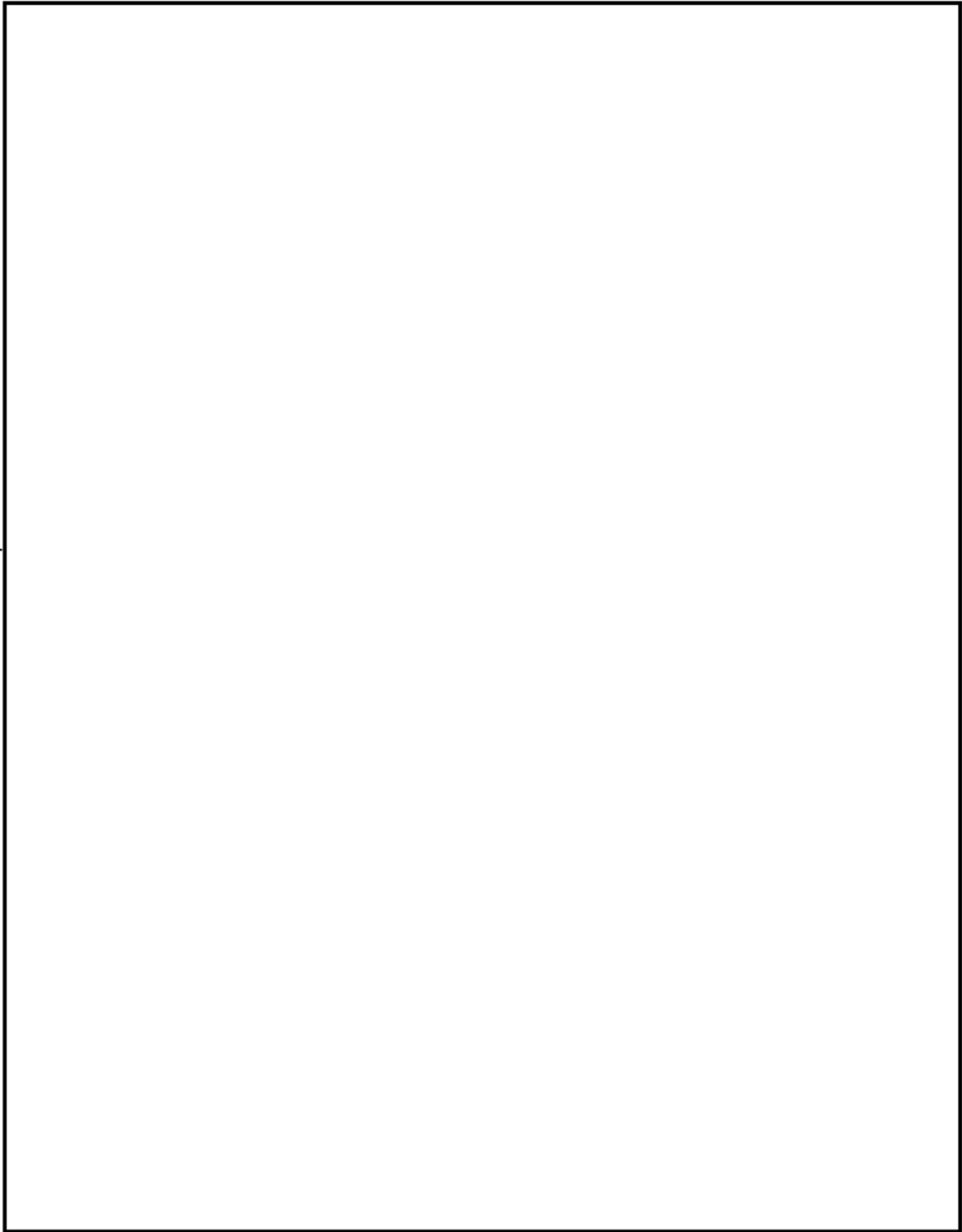
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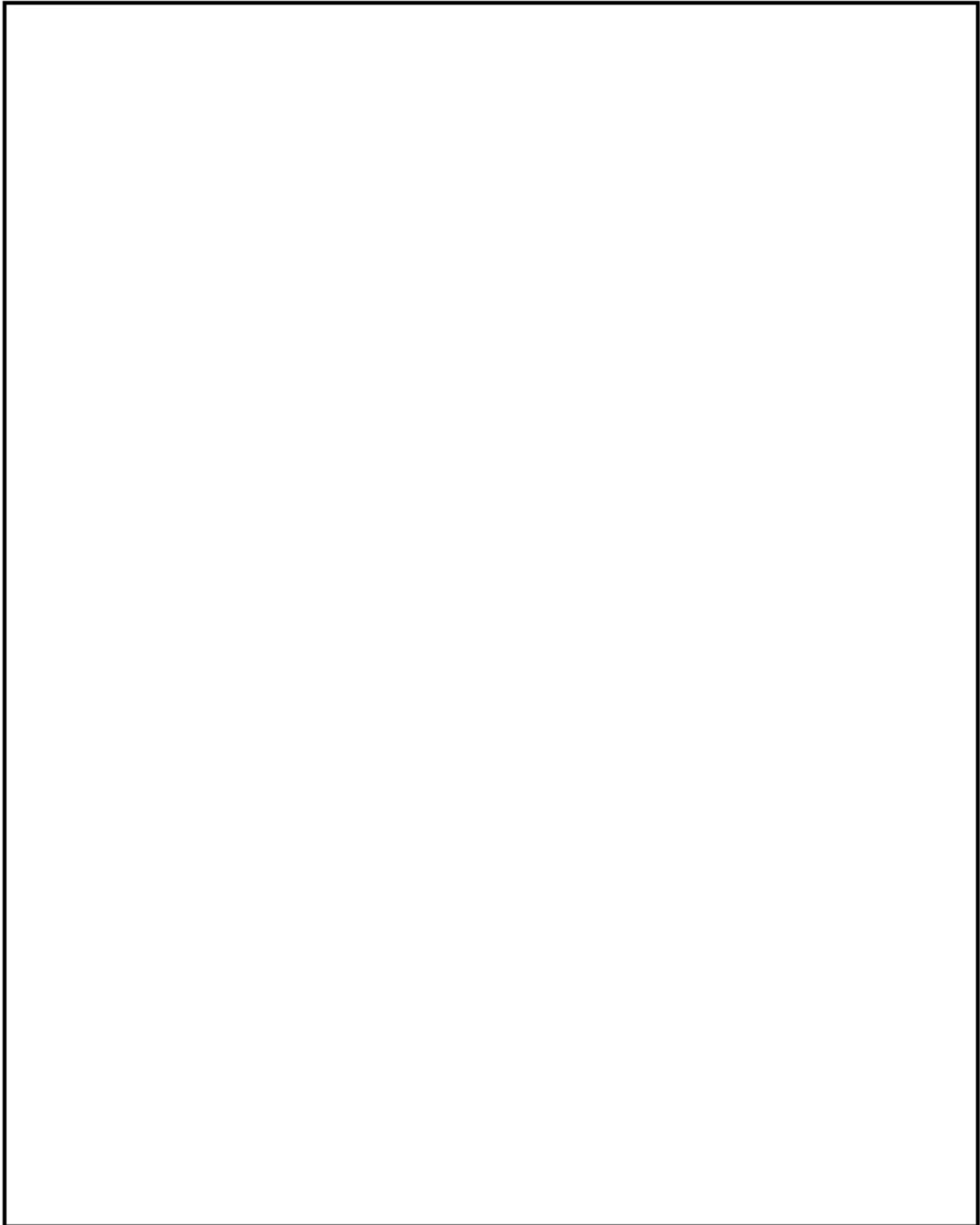
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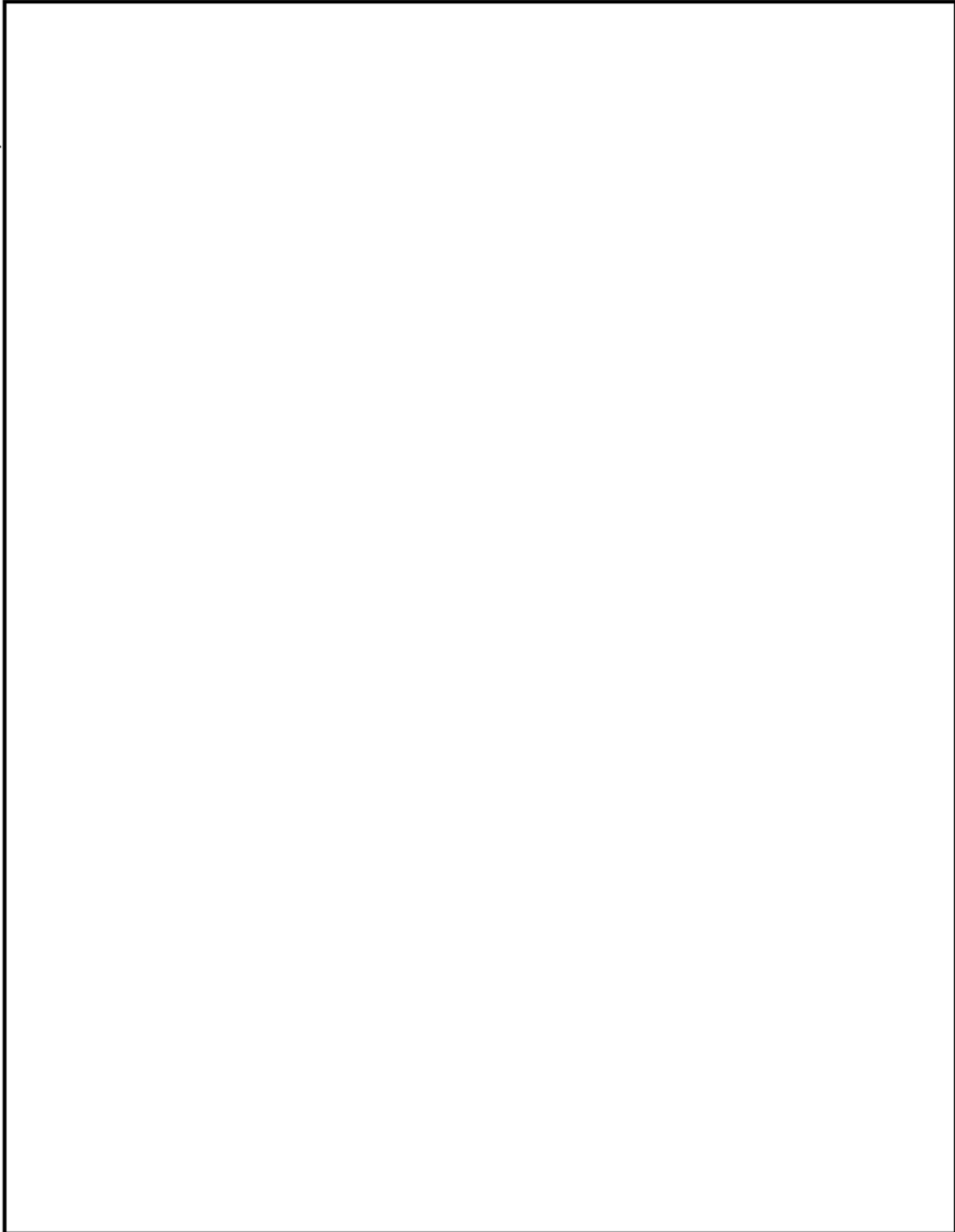


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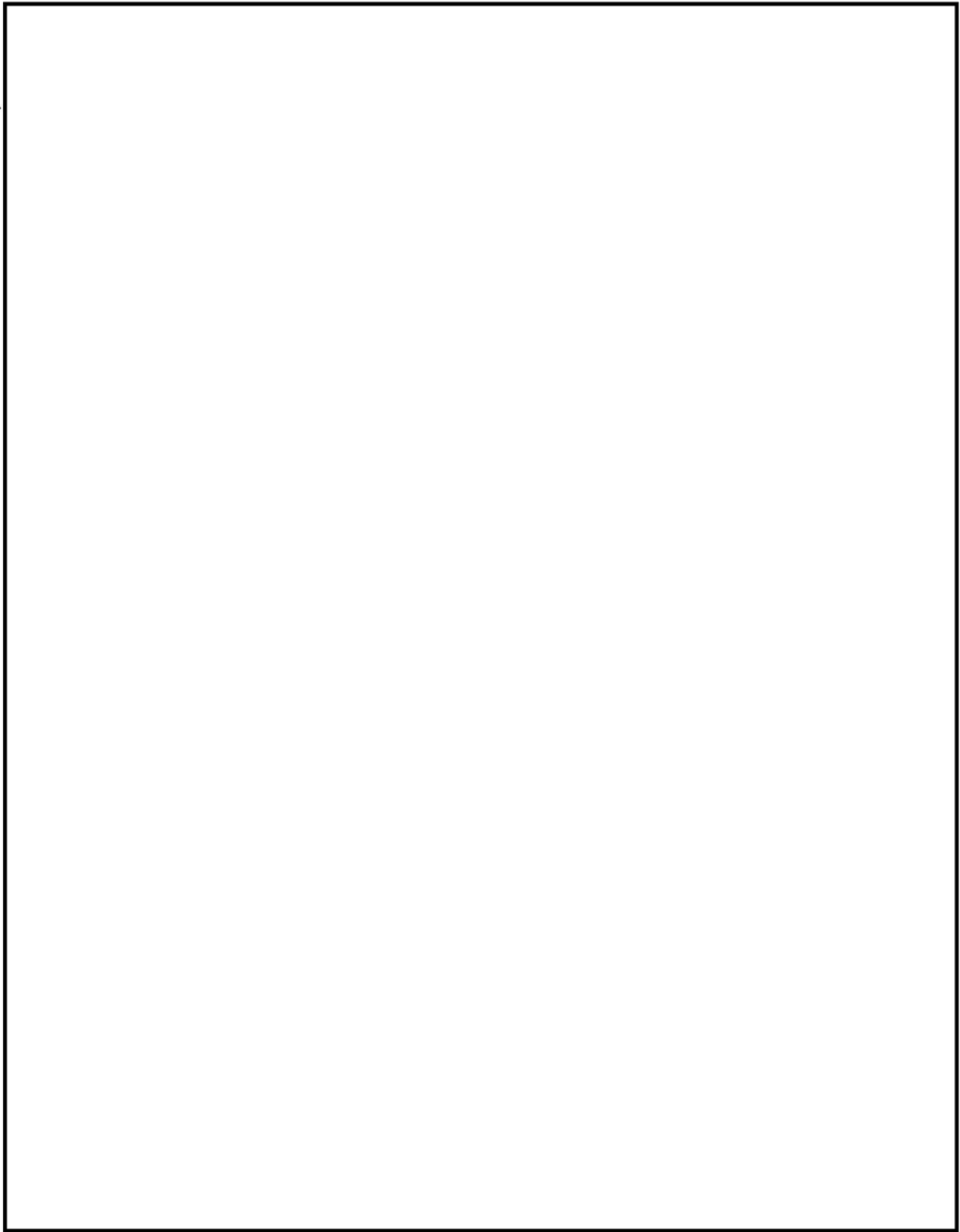
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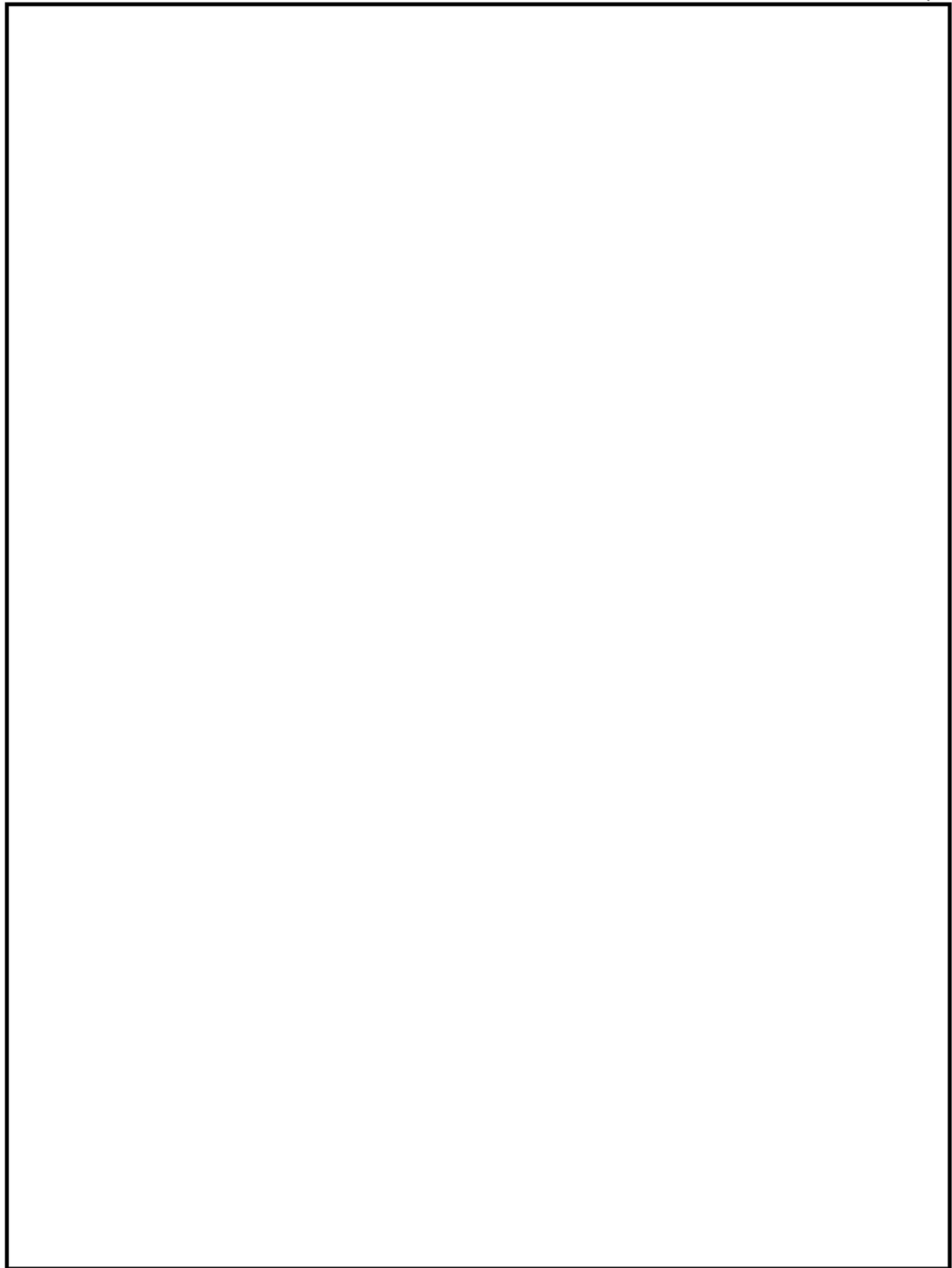
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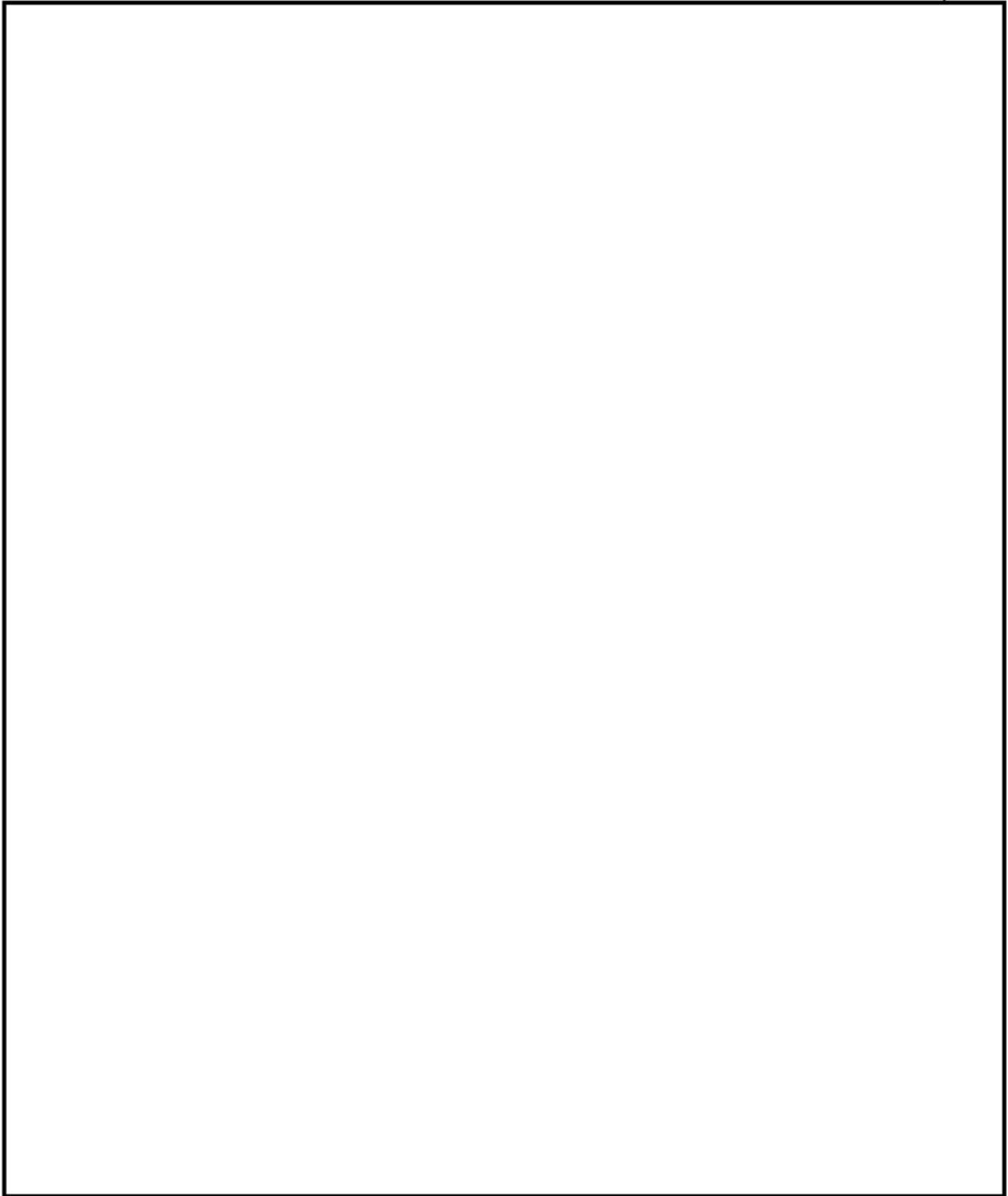
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