

~~TOP SECRET//SI//ORCON/NOFORN~~

QUARTERLY REPORT TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT
CONCERNING COMPLIANCE MATTERS UNDER SECTION 702 OF THE
FOREIGN INTELLIGENCE SURVEILLANCE ACT

March 2014

~~TOP SECRET//SI//ORCON/NOFORN~~

Classified by: Tashina Gauhar, Deputy Assistant Attorney General,
National Security Division, U.S. Department of Justice

Reason: 1.4(e)

Declassify on: 21 March 2039

~~TOP SECRET//SI//ORCON//NOFORN~~

QUARTERLY REPORT TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT
CONCERNING COMPLIANCE MATTERS UNDER SECTION 702 OF THE
FOREIGN INTELLIGENCE SURVEILLANCE ACT

March 2014

TABLE OF CONTENTS

(U) INTRODUCTION	1
(U) NEW INCIDENTS OF NONCOMPLIANCE.....	2
I. (S) Incidents of Noncompliance with the NSA Targeting and Minimization Procedures	2
II. (S//NF) Incidents of Noncompliance with the CIA Minimization Procedures	63
III. (S) Incidents of Noncompliance with the FBI Targeting and Minimization Procedures	63
IV. (U) Incidents of Noncompliance by an Electronic Communication Service Provider	69
(U) UPDATES ON INCIDENTS OF NONCOMPLIANCE REPORTED IN PREVIOUS REPORTS	70

~~TOP SECRET//SI//ORCON//NOFORN~~

(U) **INTRODUCTION**

~~(S)~~ This report¹ is submitted pursuant to Rule 13(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court (hereinafter, “the Court”) and in compliance with the Court’s August 25, 2009, instructions regarding providing timely and effective notification to the Court of compliance issues involving the Government’s implementation of its authorities under Section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA). As described in a February 4, 2010, letter to the Court, the Department of Justice’s National Security Division (NSD) files prompt notices to the Court regarding compliance matters in several categories of particular concern. This report provides the Court with further information regarding those incidents and notifies the Court of other compliance incidents that did not fall within the specified categories.

~~(TS//SI//OC/NF)~~ This quarterly report covers incidents reported to NSD and the Office of the Director of National Intelligence (ODNI) from December 1, 2013, through February 28, 2014. To provide some context to the scope of the Government’s collection during this period, the National Security Agency (NSA) reports that, on average, approximately [REDACTED] individual facilities² were under task at any given time between December 1, 2013, and February 28, 2014. These facilities include those initially tasked under the NSA’s Section 702 targeting procedures during this reporting period, as well as facilities that had been tasked prior to this reporting period, either pursuant to the NSA Section 702 targeting procedures or under the authority of several certifications made by the Attorney General and Director of National Intelligence (DNI) pursuant to the Protect America Act of 2007, Pub. L. No. 110-55, 121 Stat. 552 (Aug. 5, 2007) (hereinafter, “Protect America Act” or “the PAA”). Additionally, ^{(b)(7)(E)} [REDACTED]

~~(S//NF)~~ NSD and ODNI conduct oversight of NSA’s, the Central Intelligence Agency’s (CIA), and FBI’s use of Section 702 authorities. This oversight occurs in two principal manners. First, the vast majority of the incidents discussed below were initially reported by the reviewed agencies themselves. NSD and ODNI inquired about and, where appropriate, investigated the compliance matters discussed herein. Second, NSD and ODNI conducted targeting and minimization reviews at each of these agencies to ensure compliance with the procedures.⁴

¹ (U) Given recent events concerning the public disclosure of information concerning the Government’s implementation of Section 702 authorities, NSD and ODNI are reviewing the classifications associated with certain parts of this report. While the overall classification of the report will remain the same, it is possible that certain portion markings within individual paragraphs will be re-classified.

² ~~(S)~~ ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

³ ~~(S)~~ ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

⁴ ~~(S)~~ Minimization procedures also govern the National Counterterrorism Center’s (NCTC) review of previously minimized Section 702-acquired information in limited situations. Specifically, NCTC is not currently authorized to receive unminimized Section 702 data. However, NCTC does have access to FBI systems which contain minimized

~~TOP SECRET//SI//ORCON/NOFORN~~

Targeting reviews included an offsite review by NSD of facilities tasked by NSA, with a subsequent onsite review by NSD and ODNI at NSA and (when appropriate) CIA or FBI to answer any questions raised during the initial offsite review. For FBI, [REDACTED]

[REDACTED] NSD and ODNI also conducted onsite minimization reviews at NSA, CIA, and FBI, with a particular focus on these agencies' dissemination of United States person information. Compliance incidents discovered during any of these targeting and minimization reviews are described in more detail below.

(U) For ease of reference to the Court, this report contains the text, modified only for internal consistency, of the latest Rule 13(b) notice regarding each compliance matter previously reported. Any additional information obtained since the filing of the latest Rule 13(b) notice is clearly delineated.

(U) NEW INCIDENTS OF NONCOMPLIANCE

I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and Minimization Procedures

~~(S)~~ Below are descriptions of incidents involving noncompliance with the NSA targeting and minimization procedures. There have been four primary categories of incidents of noncompliance with the NSA targeting procedures during this reporting period. The first category involves incidents where noncompliance with the targeting procedures resulted in an error in the initial tasking of the facility. The second category involves incidents in which the facility was properly tasked in accordance with the targeting procedures, but errors in the detasking of the facility caused noncompliance with the targeting procedures. The third category involves incidents in which a facility was properly tasked and (when necessary) detasked in accordance with the targeting procedures, but a notification requirement contained in the targeting procedures was not satisfied. The fourth category involves incidents where the determination to target a facility was not properly documented as required by the targeting procedures. In addition, [REDACTED] incidents involving NSA's minimization procedures and [REDACTED] other incidents are reported below. In some instances, an incident involved more than one type of noncompliance. Such incidents are discussed below only once, although each type of noncompliance has been noted where appropriate.

~~(TS//SI//NF)~~ *Regarding Purges Discussed in this Report.* Many of the compliance incidents in this report required NSA to purge Section 702-acquired data from appropriate systems. As the Court is aware, NSA revised its purging process in 2010 in response to

Section 702 information. Because NCTC is not a law enforcement agency, it may not receive disseminations of Section 702 information that is evidence of a crime, but which has no foreign intelligence value. NCTC's minimization procedures are very limited in scope, and are primarily designed to require purging in situations in which NCTC personnel discover purely law enforcement information in the course of reviewing Section 702-acquired information either in FBI systems or in NCTC systems which have directly ingested the information. No incidents of noncompliance with the NCTC minimization procedures were identified during this reporting period.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

prior deficiencies in its purging practices. NSA has identified and applied a certification process to systems that handle Section 702-acquired data. To the extent that NSA has officially certified a system, the Government believes that the system is compliant with the purge requirements of the NSA Section 702 targeting and minimization procedures, and thus will be able to properly execute purging actions. NSA has also developed a Master Purge List (MPL)⁵ to be used to document and assist in the application of its purge practices.⁶

~~(TS//SI//NF)~~ The relevant purge dates in this report for NSA reflect not the date on which NSA removed the data from its systems, but rather the date on which the unique identifiers of the objects⁷ to be purged were added to the MPL.⁸

~~[REDACTED]~~ once an object is on the MPL it may not be used to source FISA applications or NSA product reporting absent a waiver or other legal process.

~~[REDACTED]~~ occur as part of a separate

⁵ ~~(TS//SI//NF)~~ As stated in the Director of NSA's affidavit filed on [REDACTED] 2010, in docket number [REDACTED] (hereinafter "DIRNSA affidavit"), "NSA has used its existing records of past purge actions across all SIGINT authorities to create [the MPL]. This list includes the identifiers of unique items purged from select NSA systems." DIRNSA affidavit at 4.

⁶ ~~(TS//SI//OC/NF)~~ ~~[REDACTED]~~

⁷ ~~(S)~~ ~~[REDACTED]~~

⁸ ~~(S)~~ ~~[REDACTED]~~

⁹ ~~(TS//SI//NF)~~ ~~[REDACTED]~~

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

action, but in all cases adding the communications to the MPL prevents their use in NSA reporting and FISA applications.

~~(TS//SI//NF)~~ For each incident requiring a purge, NSA also has a process to identify and, as appropriate, revise or recall reporting based on the purged collection. [REDACTED]

[REDACTED] This quarterly report indicates (for every incident requiring a purge) whether NSA's above-described process has identified any disseminated reports based upon the purged objects at issue and, if so, the disposition of those reports.

~~(S//NF)~~ CIA and FBI receive unminimized data from many Section 702-tasked facilities, and at times are thus required to conduct similar purges.¹⁰ For each incident requiring the purging of data, NSD has confirmed with CIA and FBI that either: (1) CIA and FBI received no data from NSA that required purging; or (2) CIA and/or FBI have completed the required purge. When a CIA or FBI purge was required, its occurrence is noted in this report. When a required purge for any of the agencies has not been completed, this is also noted.



¹⁰ ~~(S//SI//NF)~~ (b)(1); (b)(3); (b)(7)(E)

~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

~~(S//NF)~~ With respect to FBI's purge process, raw Section 702-acquired data [REDACTED]

[REDACTED] Like CIA, FBI's purge protocol begins ^{(b)(1); (b)(3); (b)(7)(E)}
(E) [REDACTED]

[REDACTED] If so, FBI immediately sequesters the data in ^{(b)(1); (b)(3); (b)(7)(E)} and then conducts a purge of this system. If any FBI personnel had accessed the now-purged ^{(b)(1); (b)(3); (b)(7)(E)} records, FBI contacts these individuals to determine whether the data has been disseminated or otherwise migrated to any other FBI systems. If so, the migrated data is purged and the disseminated data is recalled. ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

~~(S//NF)~~ Section 702-acquired data in ^{(b)(1); (b)(3); (b)(7)(E)} is ^{(b)(1); (b)(3); (b)(7)(E)}, and any purges that occur in ^{(b)(1); (b)(3); (b)(7)(E)} are automatically reflected in ^{(b)(1); (b)(3); (b)(7)(E)} as a result of this ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

~~(S//NF)~~ Like the other agencies, FBI similarly reports that its purge process generally does not extend to temporary archives utilized for backup purposes.¹³ These archives are only accessible to FBI technical personnel. FBI reports that these archives have limited capacity, [REDACTED]

~~(S)~~ **(A) Tasking Errors.** The following [REDACTED] incidents involved noncompliance with the NSA targeting procedures that resulted in an error in the initial tasking of the facility:

¹¹ ~~(S//NF)~~ In a notice filed on October 1, 2013, the Government advised the Court that there were multiple instances in ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

[REDACTED]. On November 14, 2013, the Attorney General and Director of National Intelligence approved amended certifications which include amended minimization procedures for FBI that permit FBI to process and retain raw Section 702-acquired information, subject to certain conditions and restrictions, in ad hoc FBI databases (such as the stand-alone or other limited systems discussed above) in order to conduct additional analysis of the Section 702-acquired information. The Court approved these minimization procedures on December 13, 2013.

¹² ~~(S)~~ FBI advises that ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

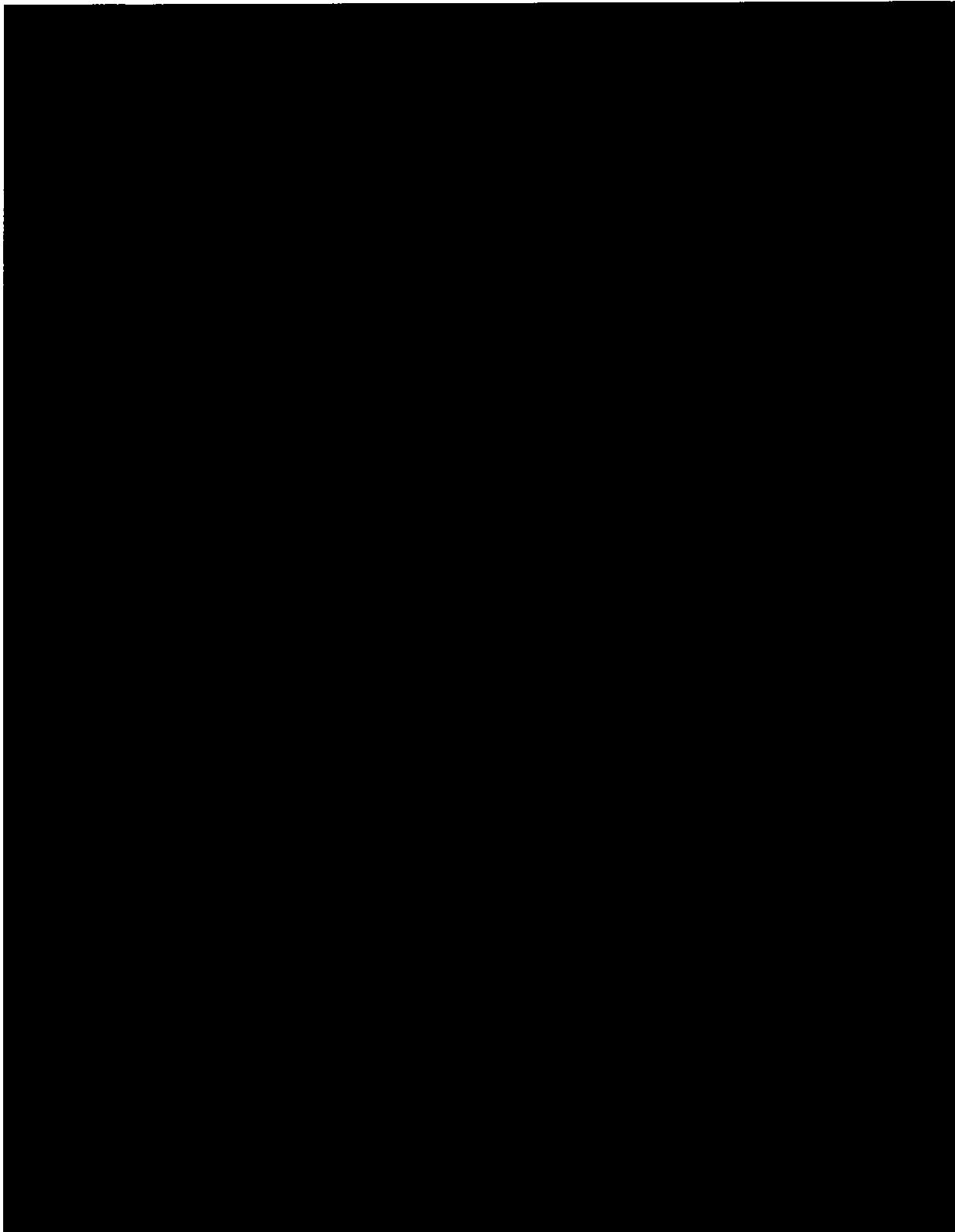
¹³ ~~(S//NF)~~ FBI advises that as an added precaution, FBI conducts purges of one temporary backup archive ^{(b)(1); (b)(3); (b)(7)(E)} [REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted.

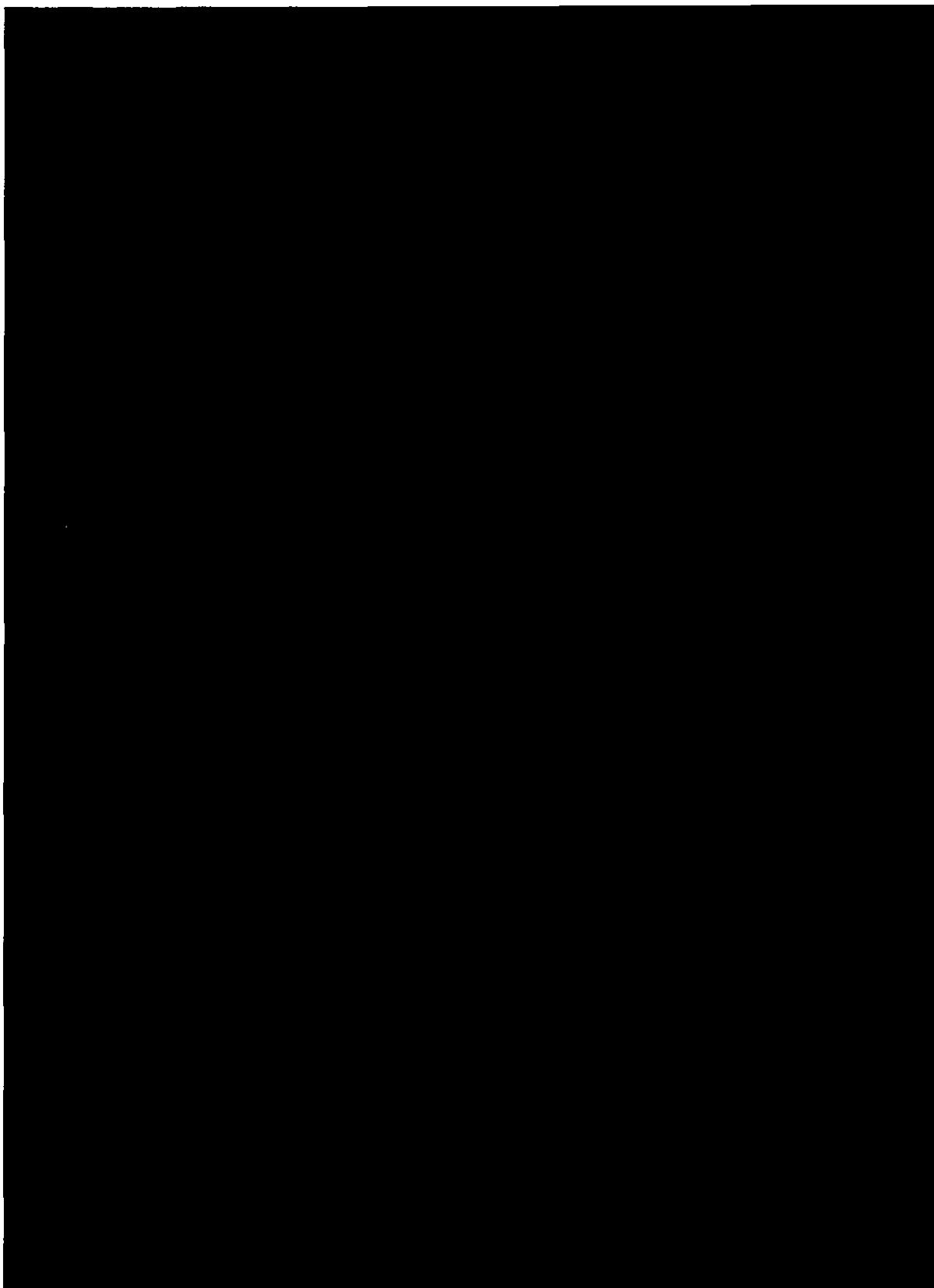
Approved for Public Release

~~TOP SECRET//SI//ORCON//NOFORN~~



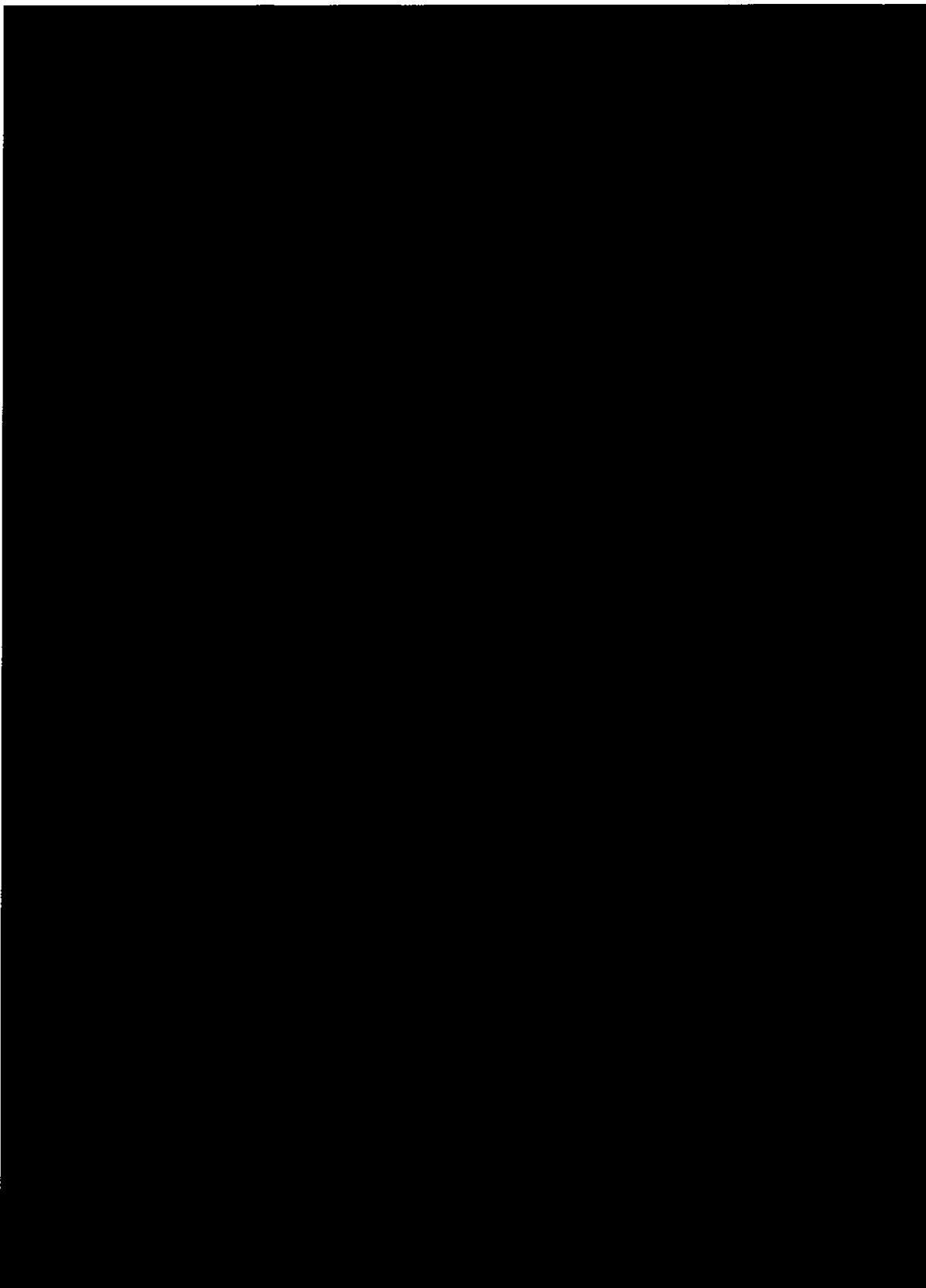
~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



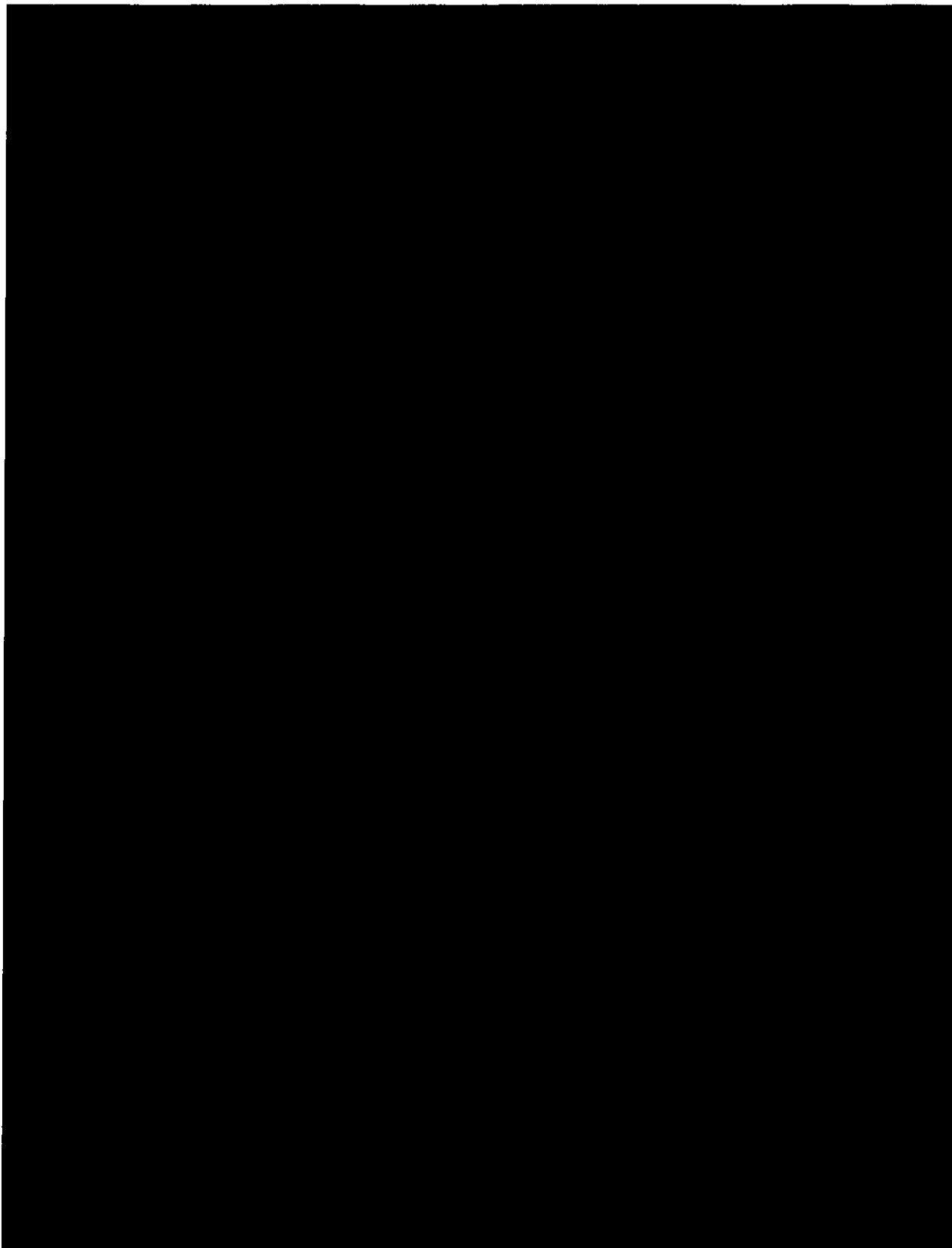
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



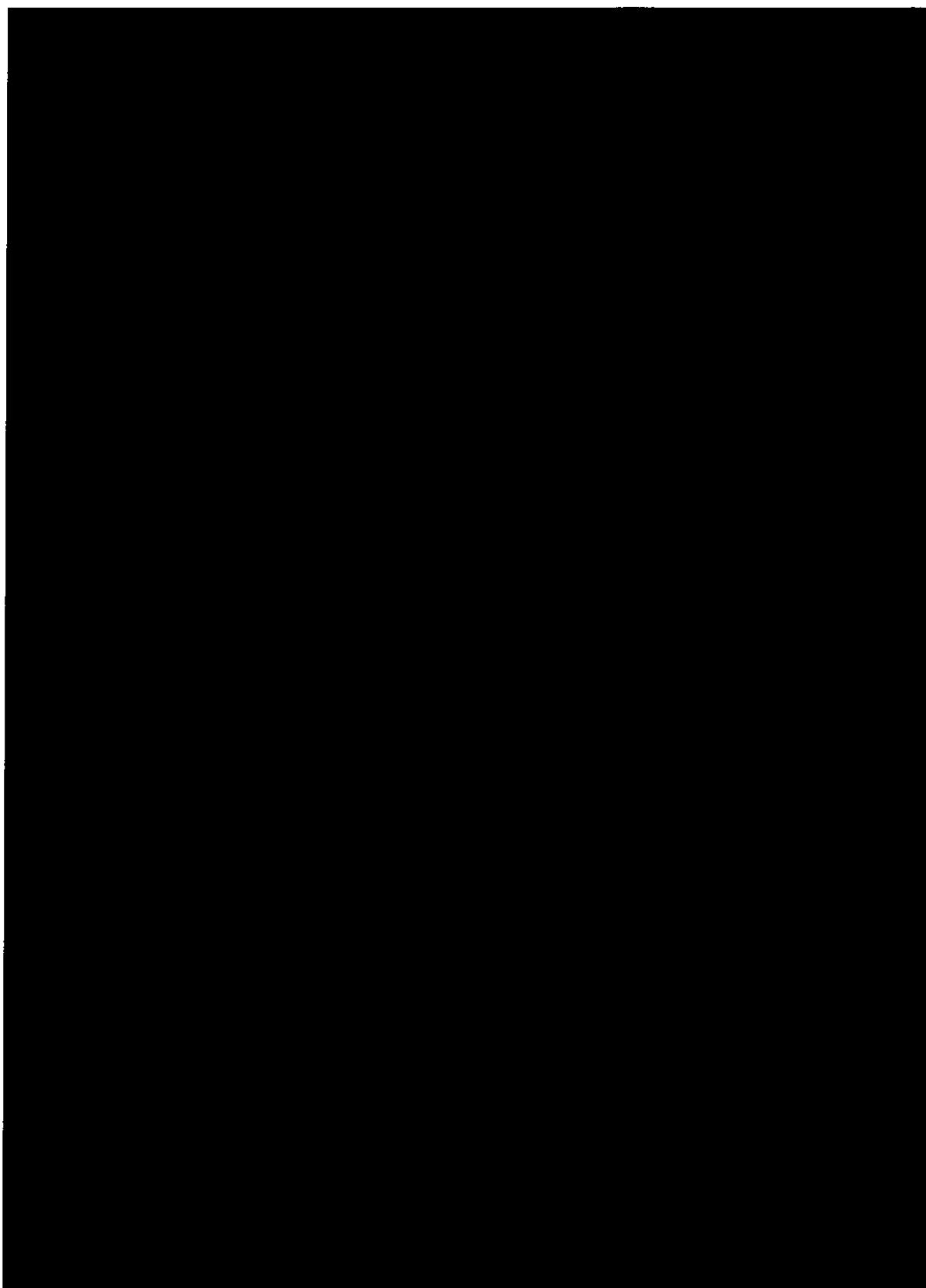
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



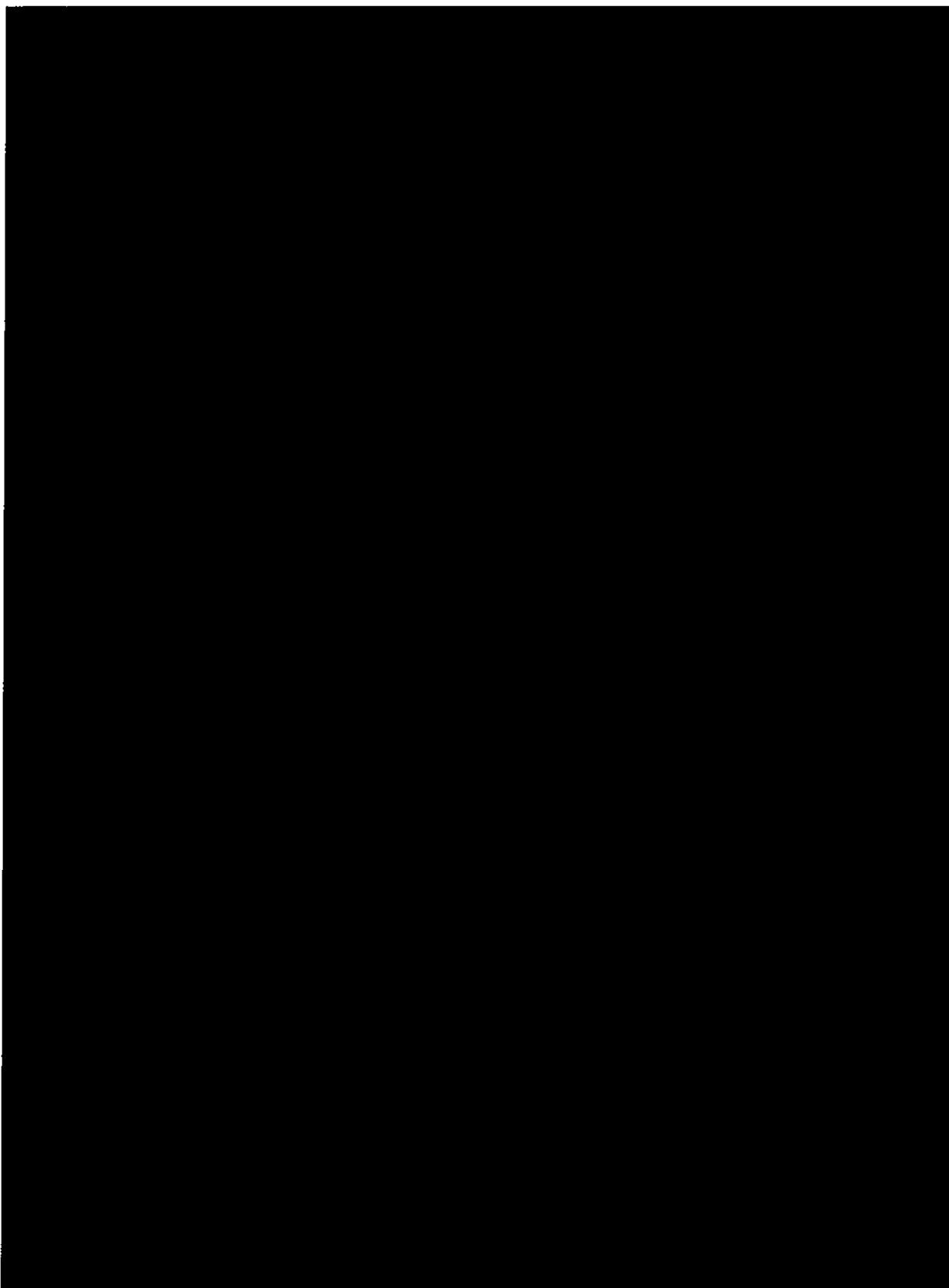
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



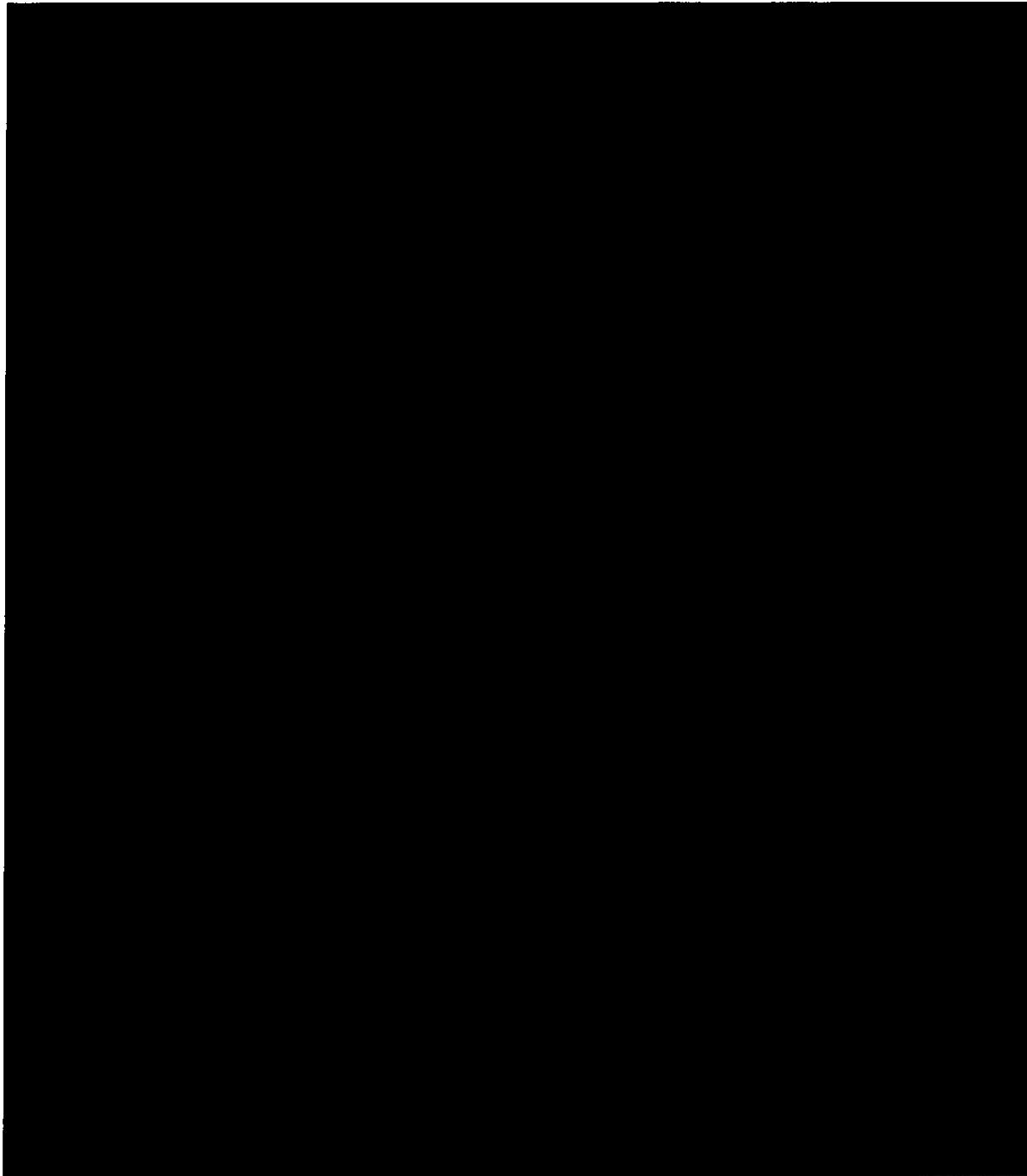
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

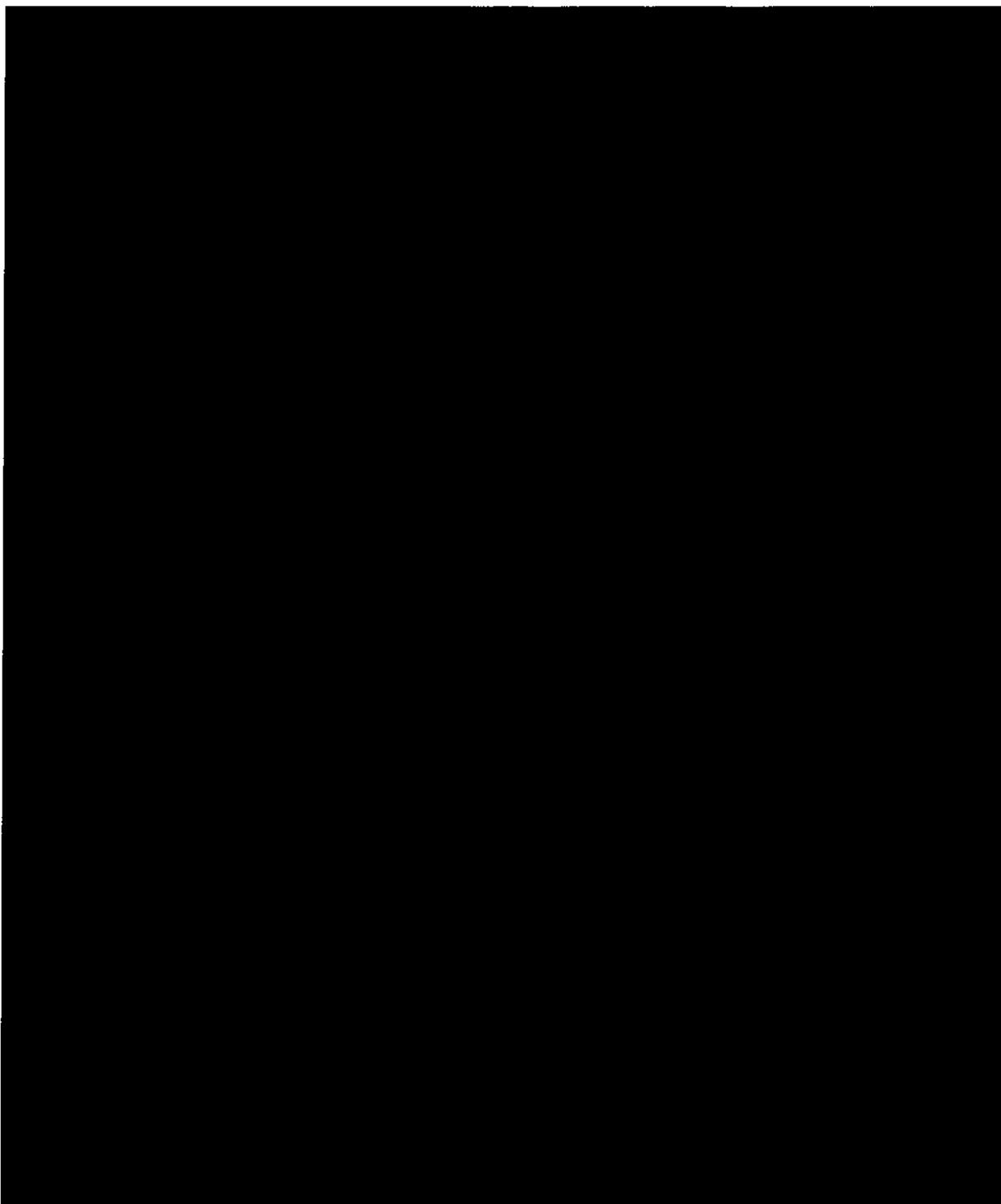


¹⁴ (S/NP)



~~TOP SECRET//SI//ORCON/NOFORN~~

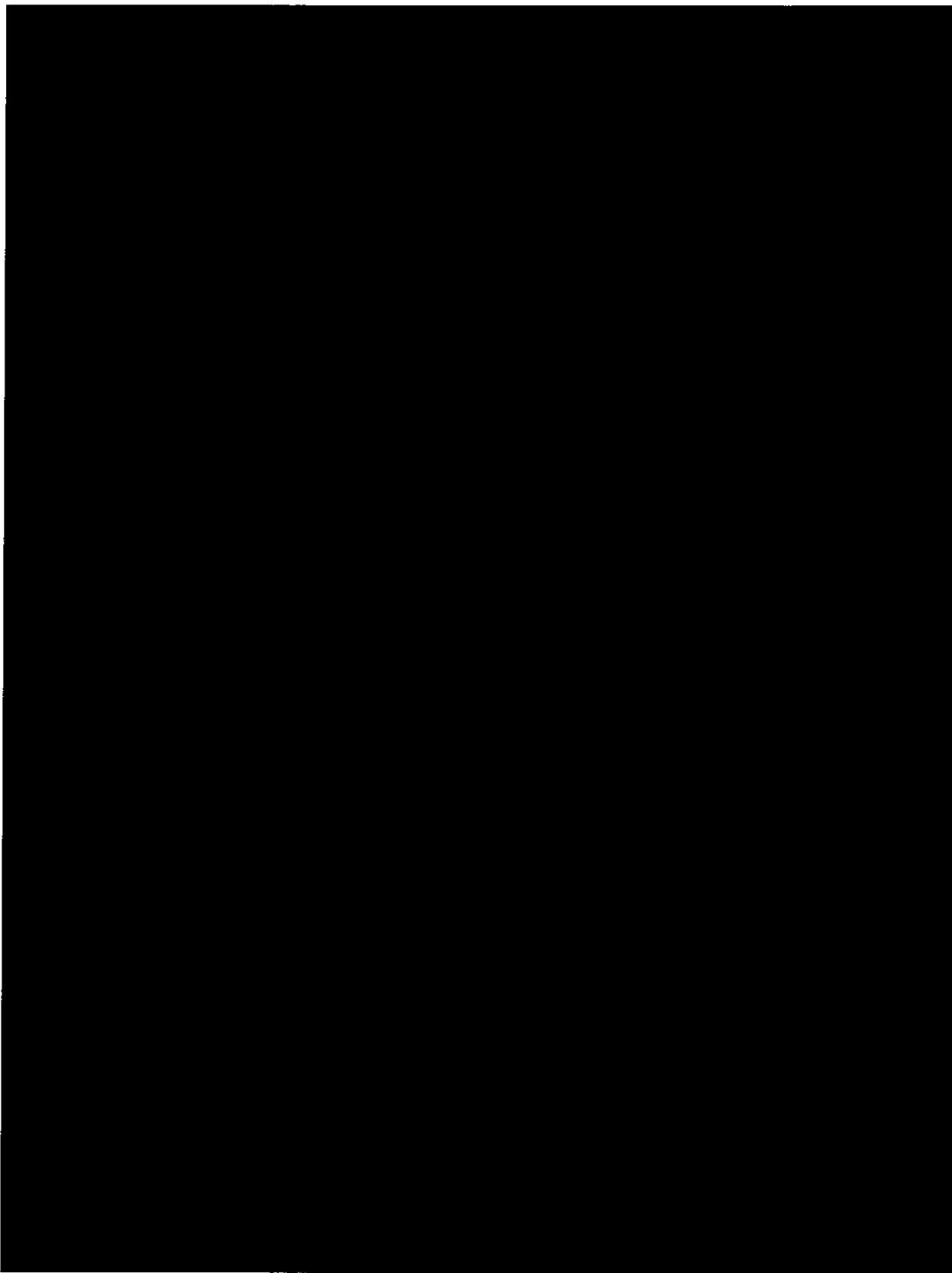
~~TOP SECRET//SI//ORCON/NOFORN~~



¹⁵ (S/NF)

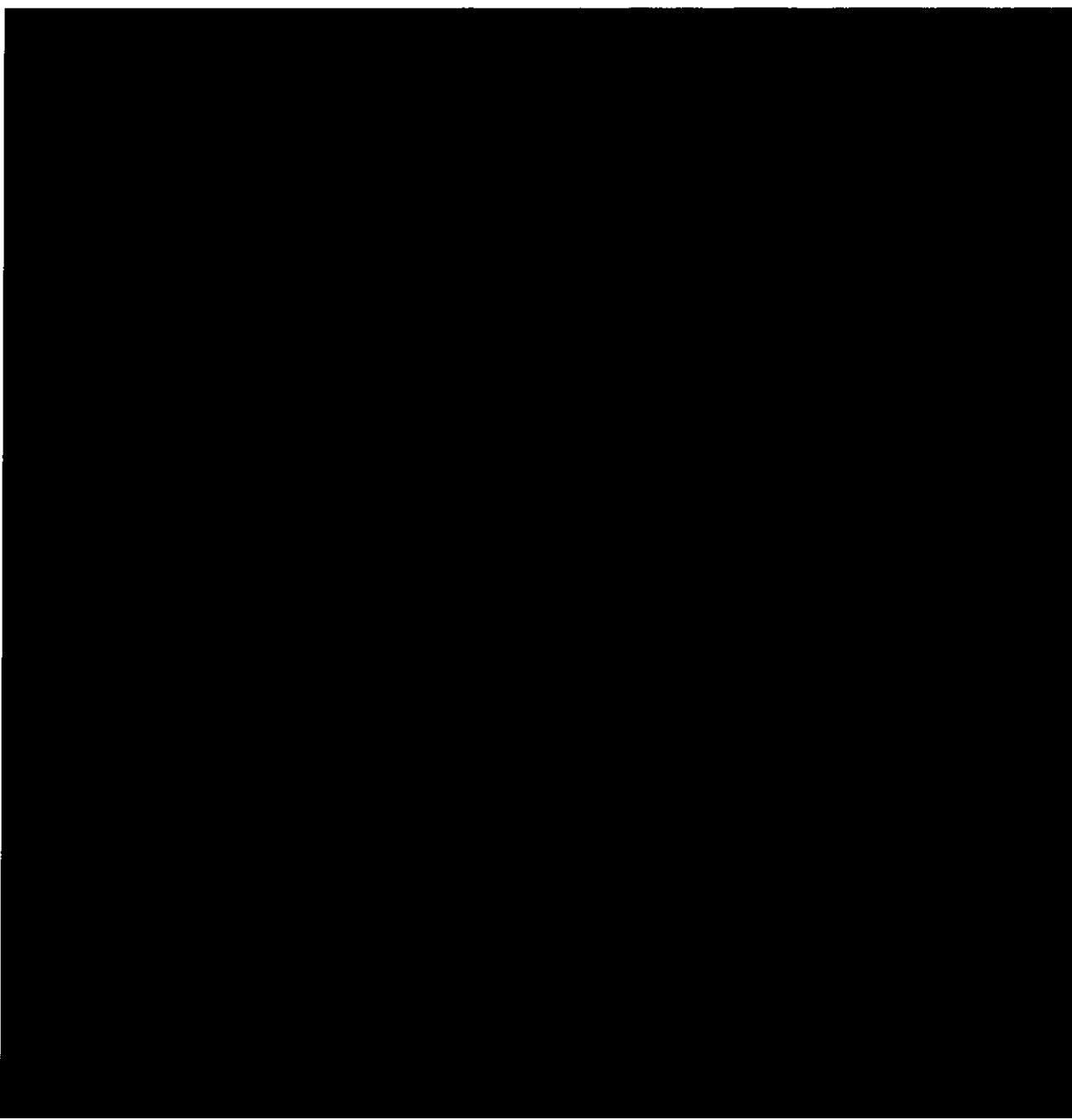
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

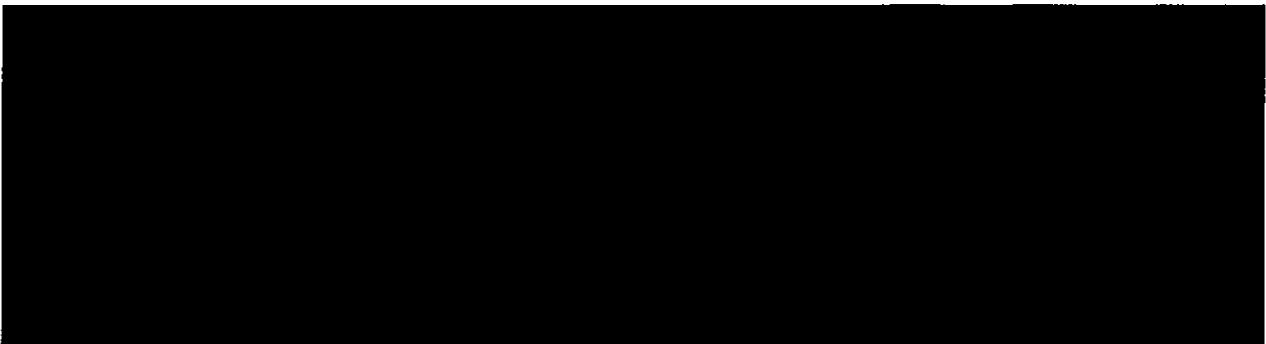


¹⁶ (TS//SI//NF) [REDACTED]

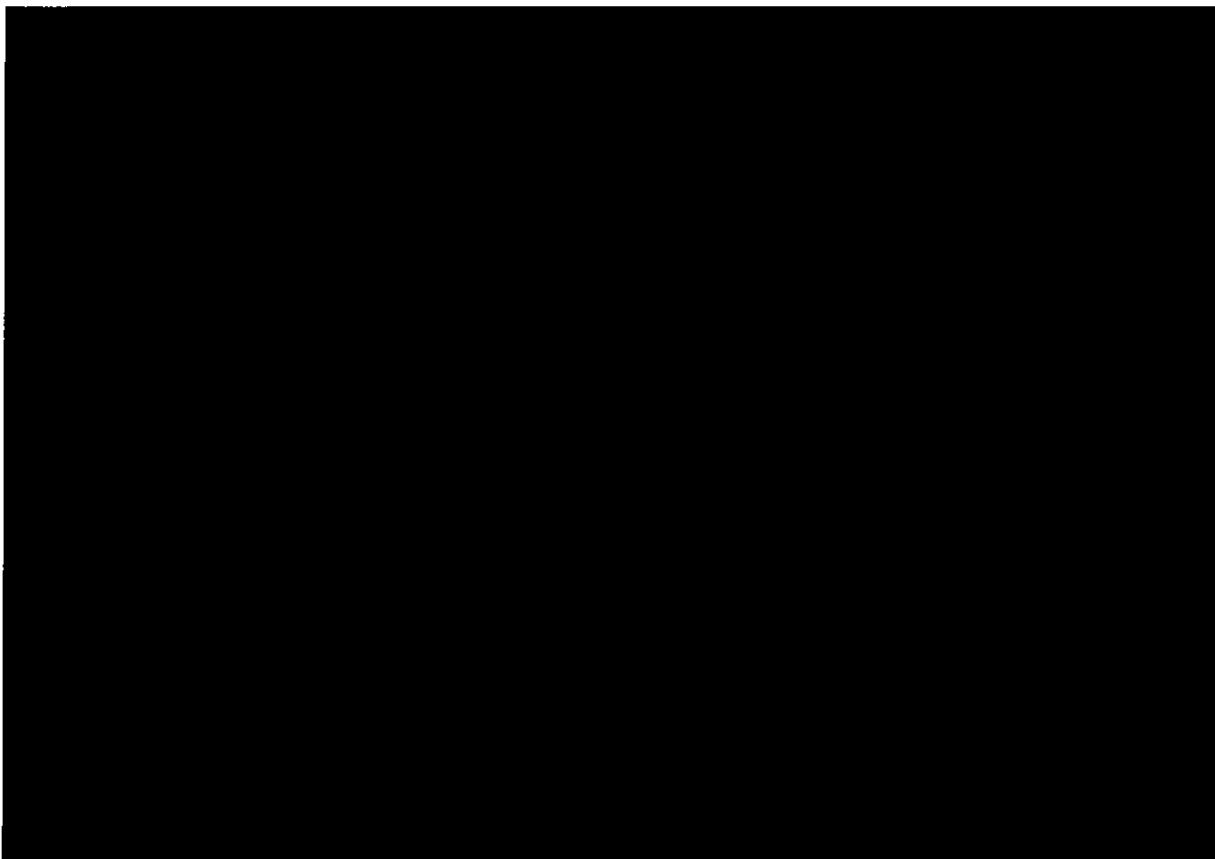
¹⁷ (S//NF) [REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~(S)~~ (B) **Detasking Errors.** The following [redacted] incidents involved facilities that were tasked by NSA in accordance with the NSA targeting procedures.¹⁹ In each case, however, errors in the detasking of these facilities resulted in noncompliance with the NSA targeting procedures:

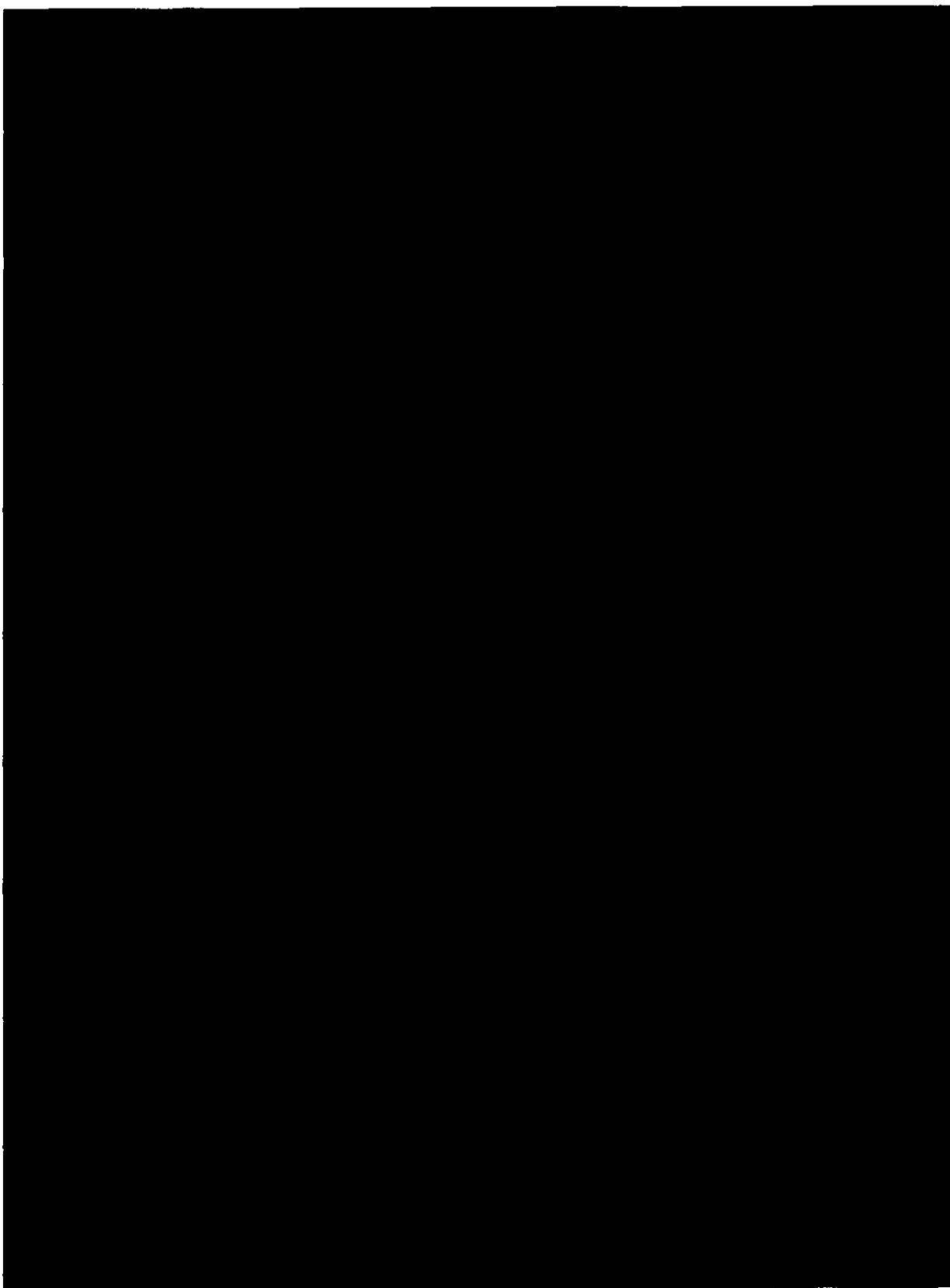


¹⁸ (S) [redacted]

¹⁹ (U) The Government is continuing to investigate a possible additional incident.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

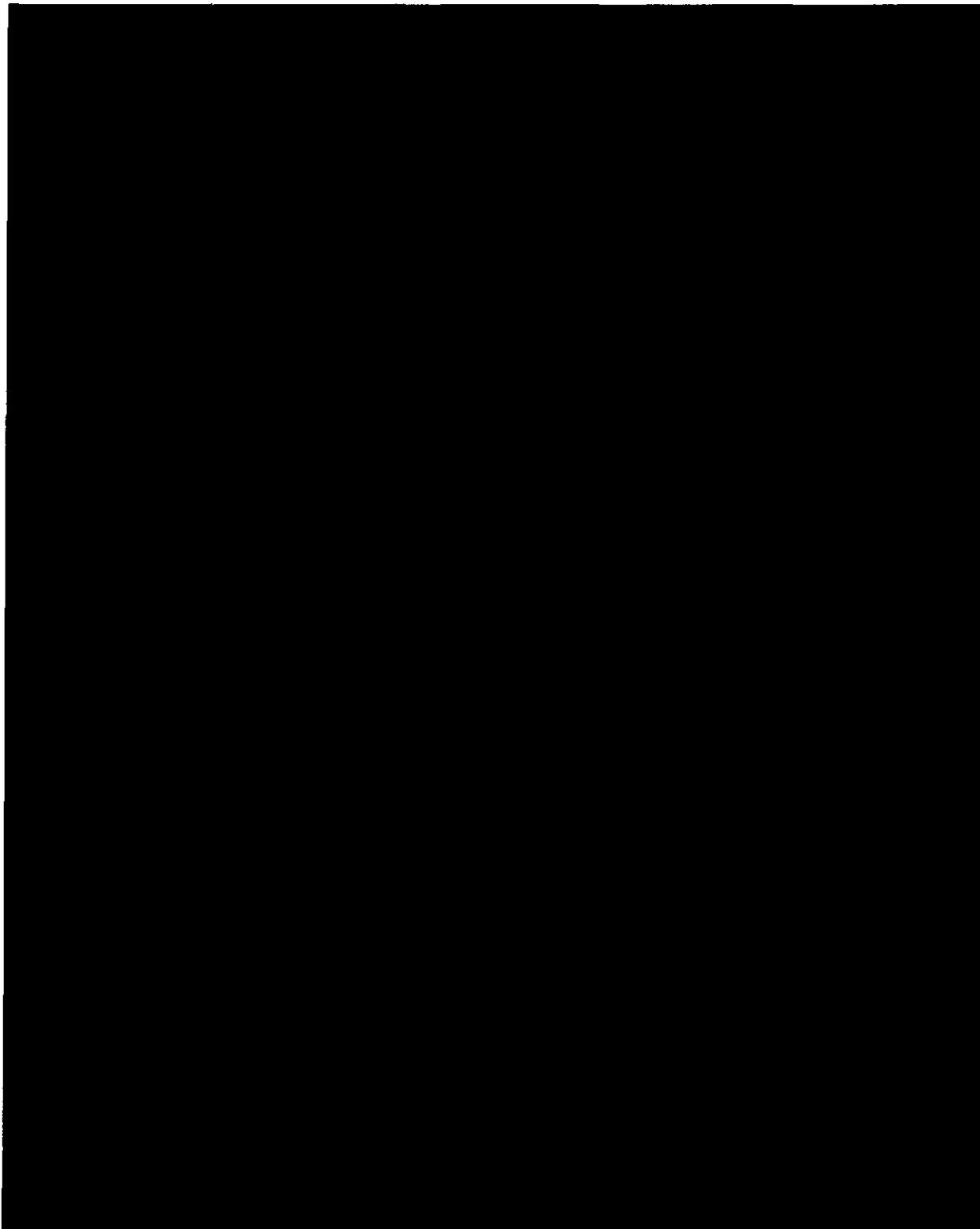


~~TOP SECRET//SI//ORCON/NOFORN~~

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted.

Approved for Public Release

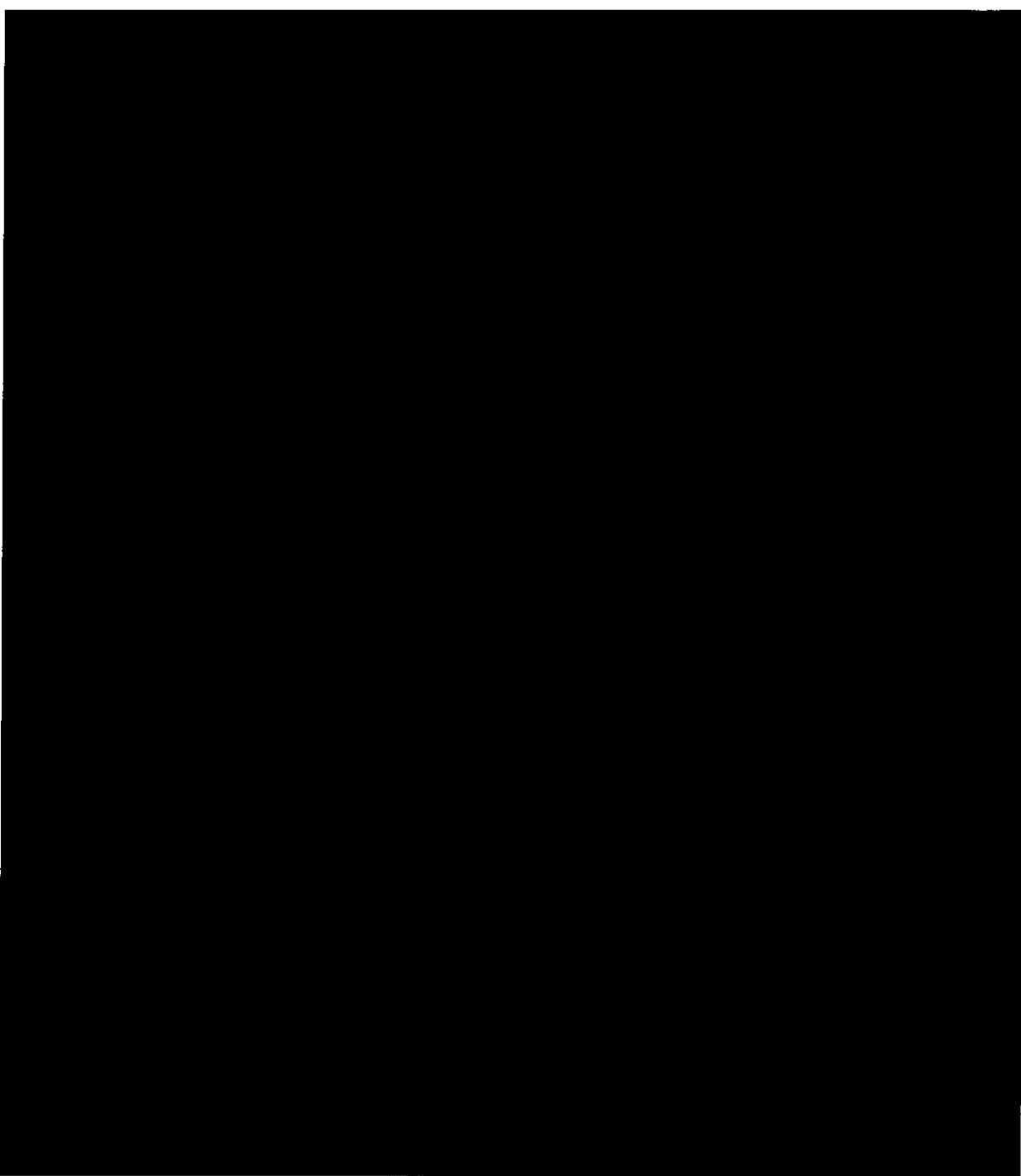
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁰ (U)

~~TOP SECRET//SI//ORCON/NOFORN~~

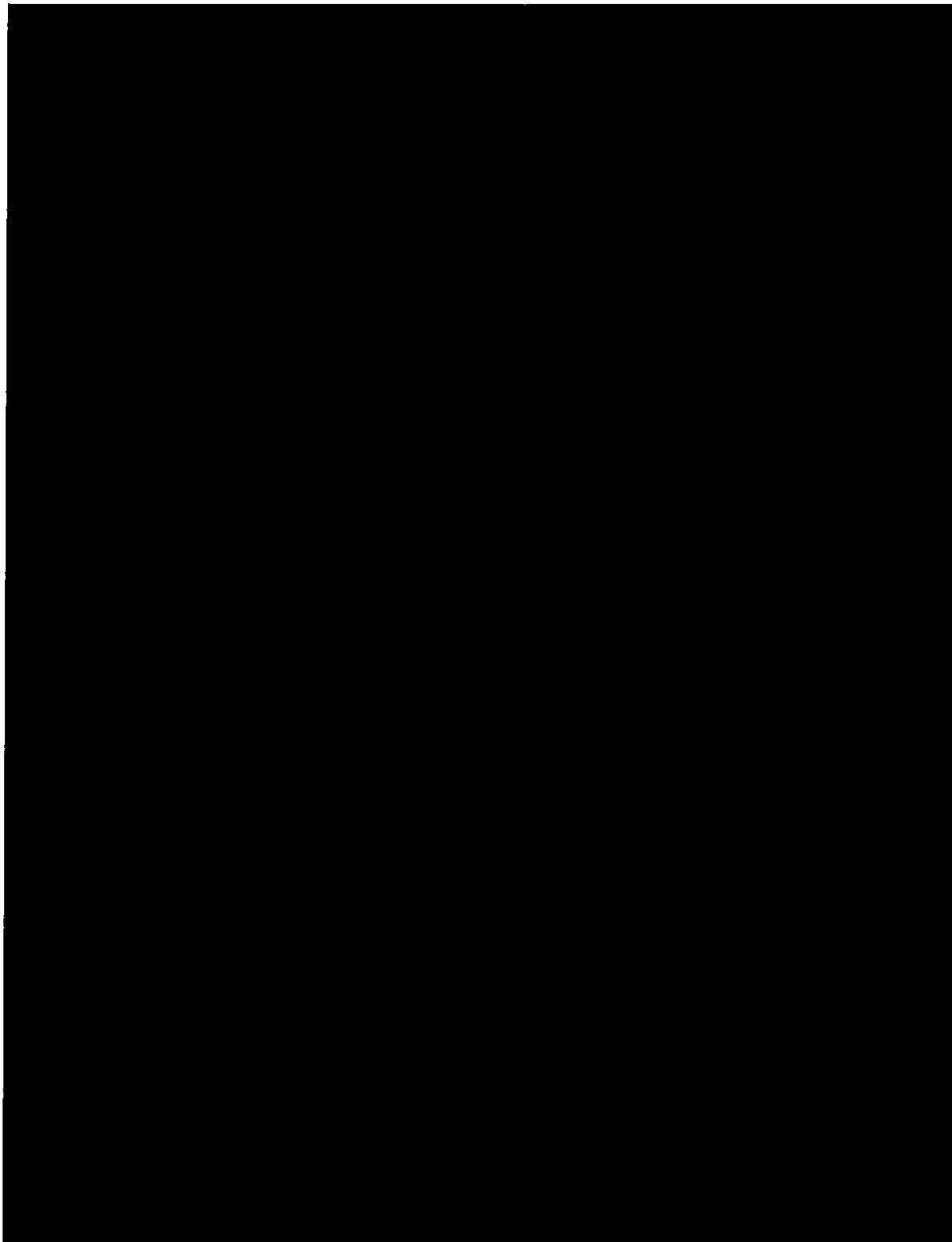
~~TOP SECRET//SI//ORCON/NOFORN~~



²¹ (S/NF)

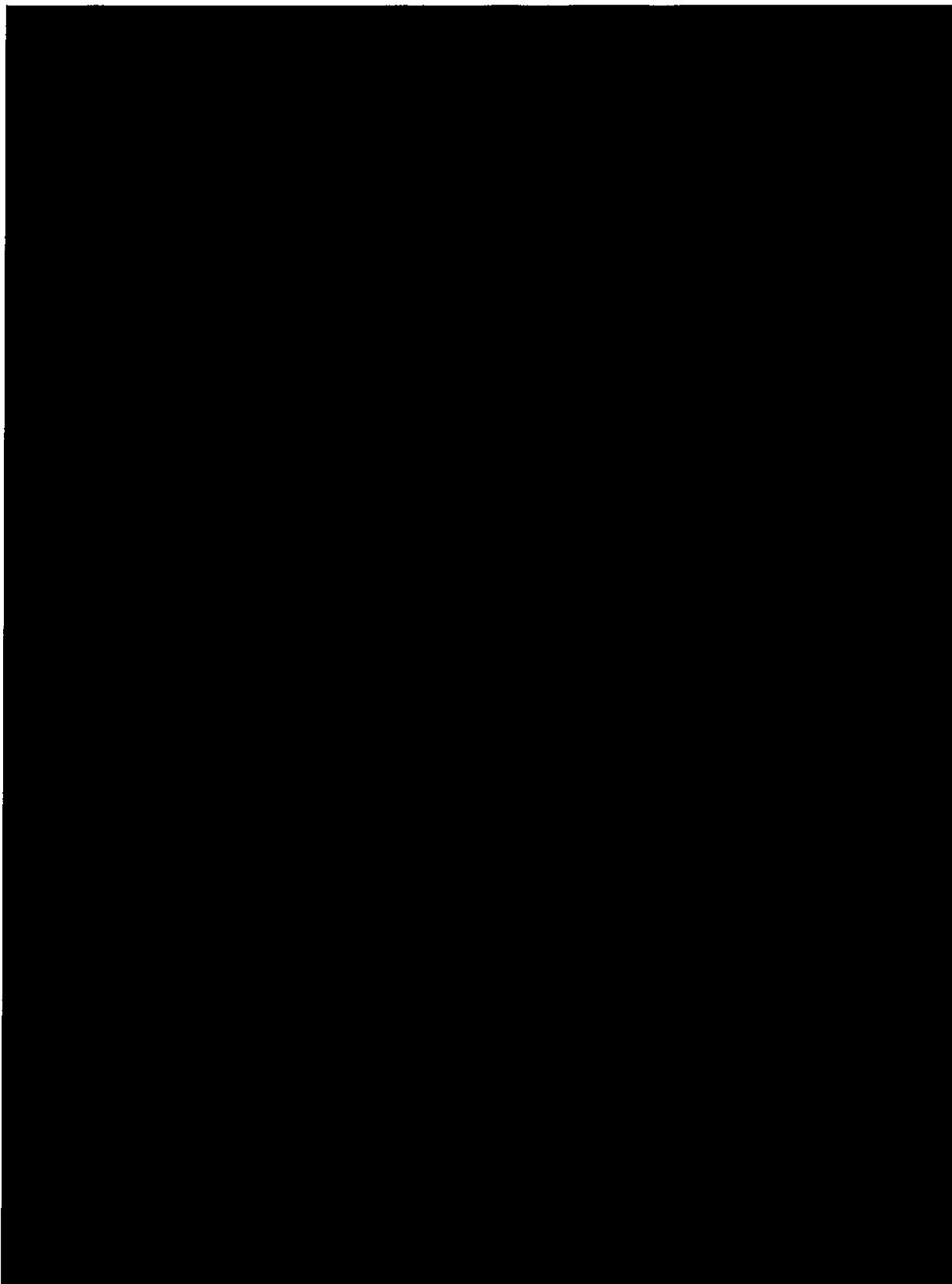
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~



~~TOP SECRET//SI//ORCON//NOFORN~~

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted.

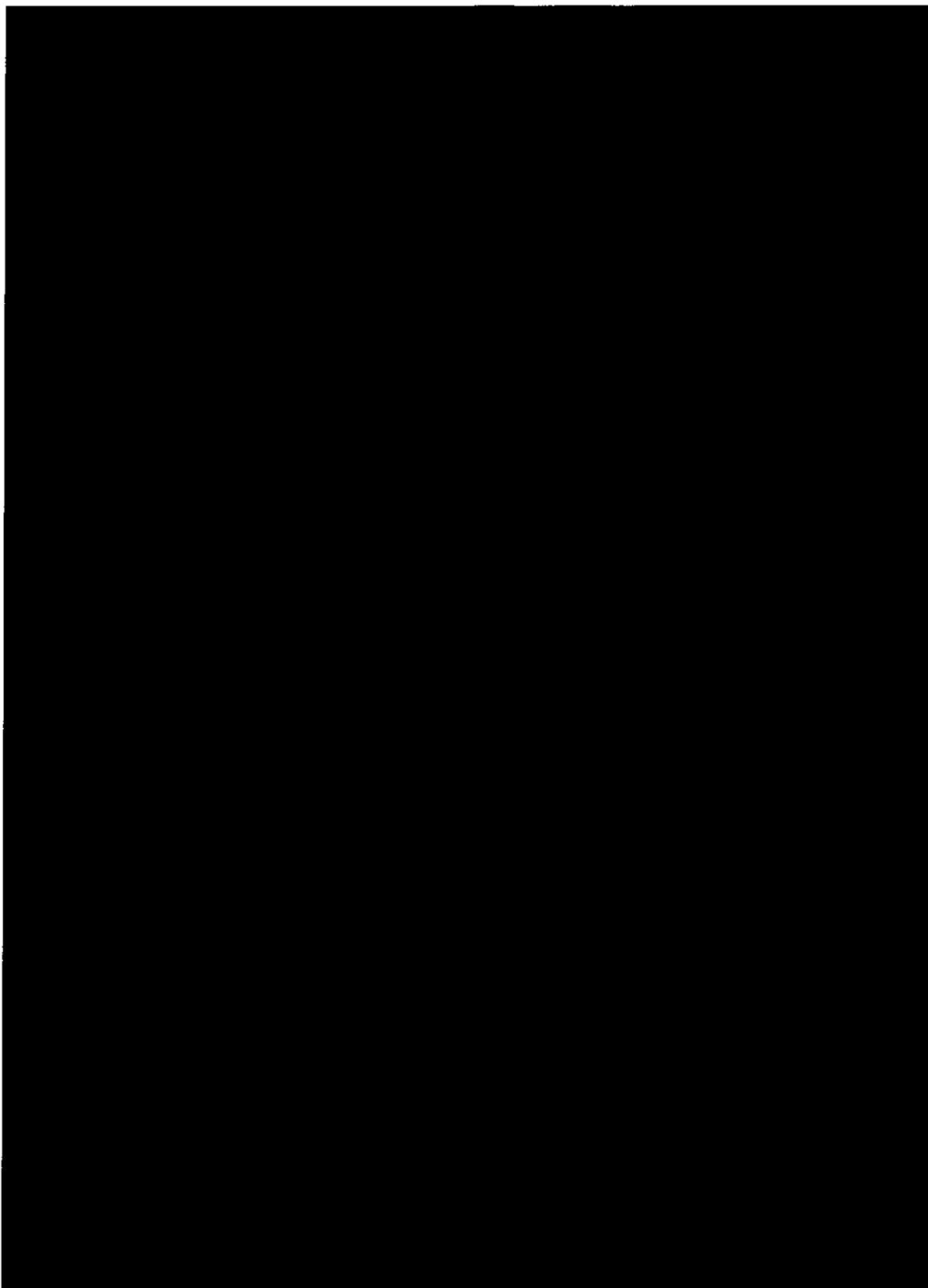
~~TOP SECRET//SI//ORCON/NOFORN~~

Approved for Public Release



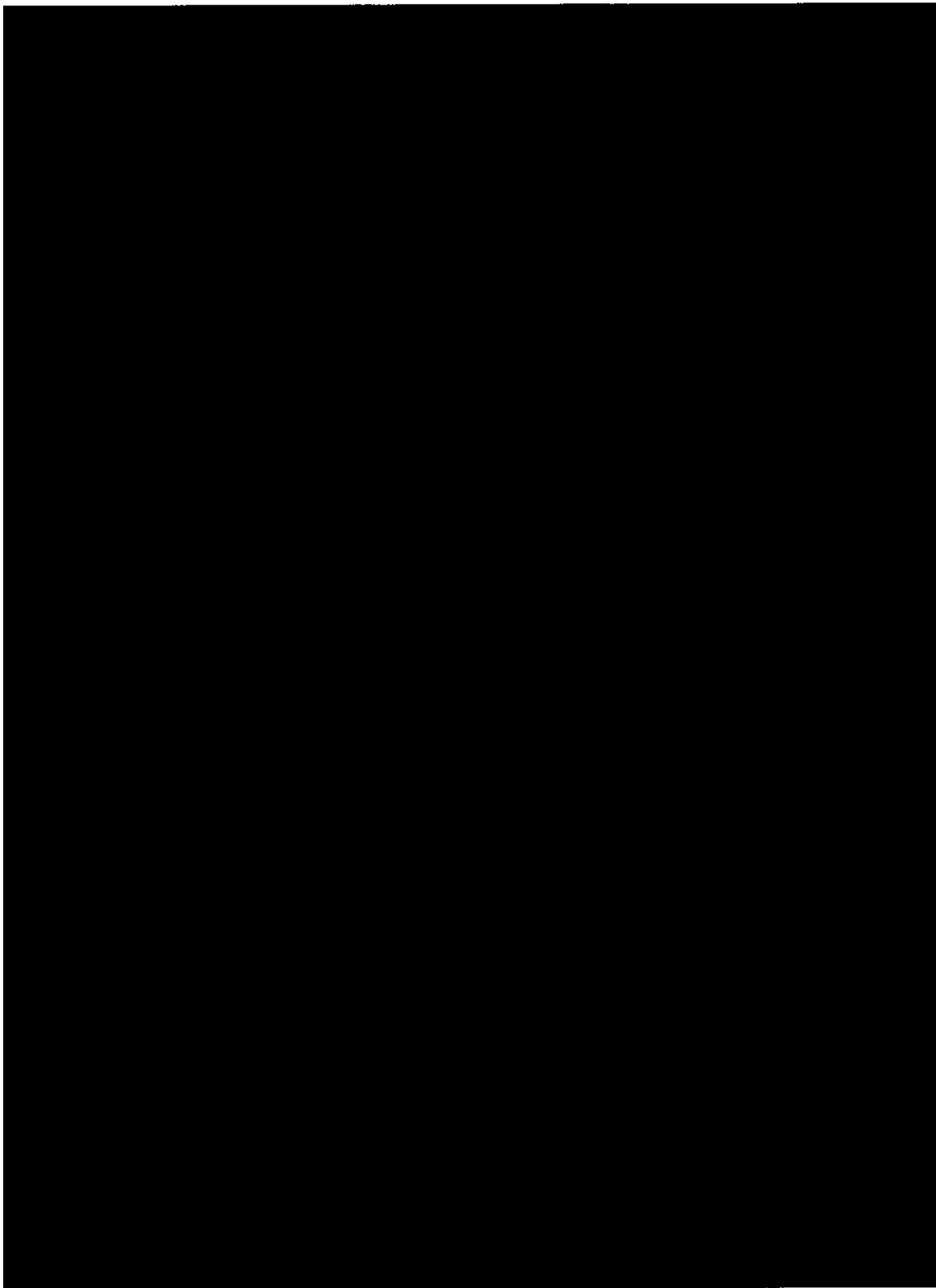
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



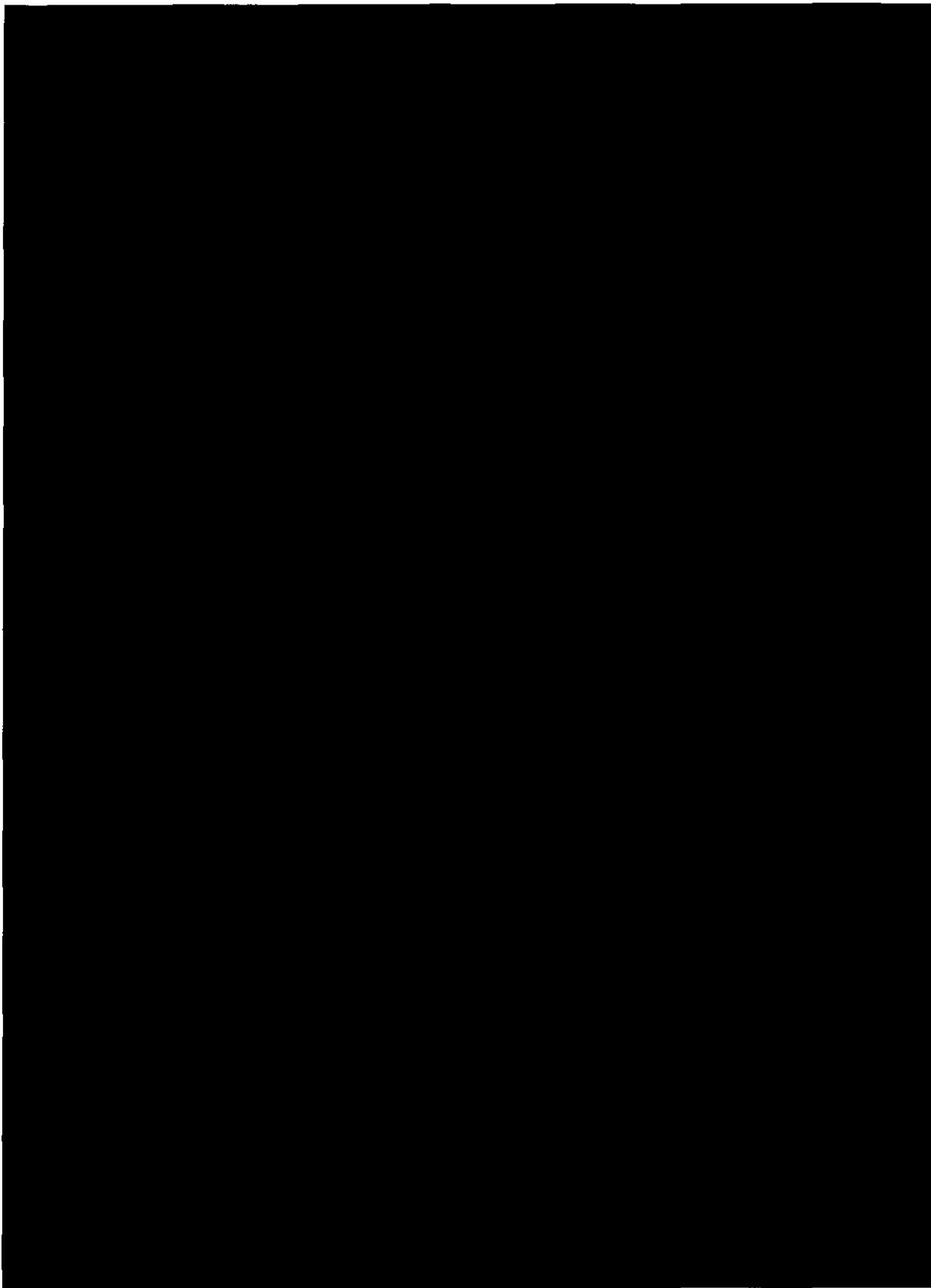
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



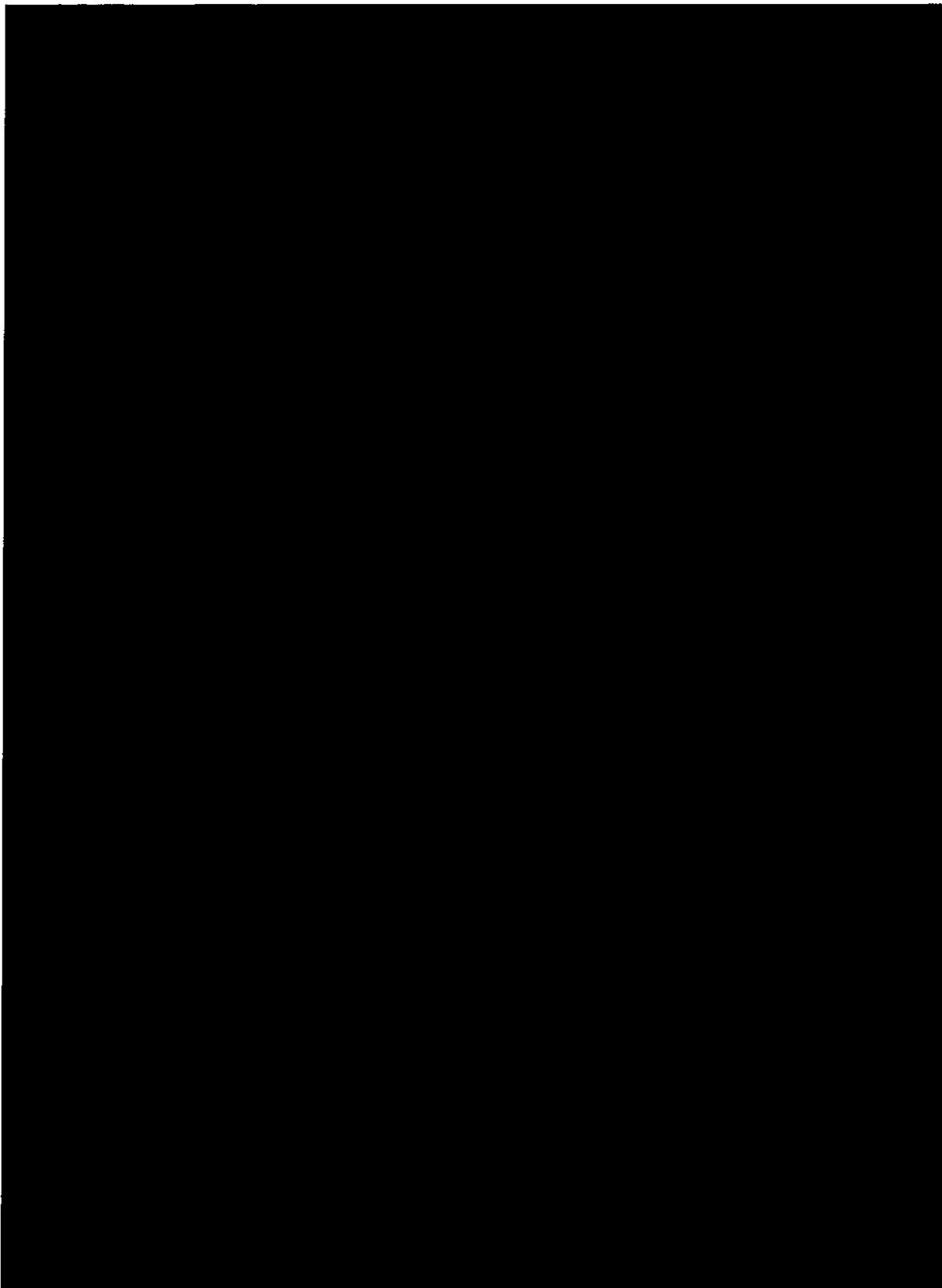
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



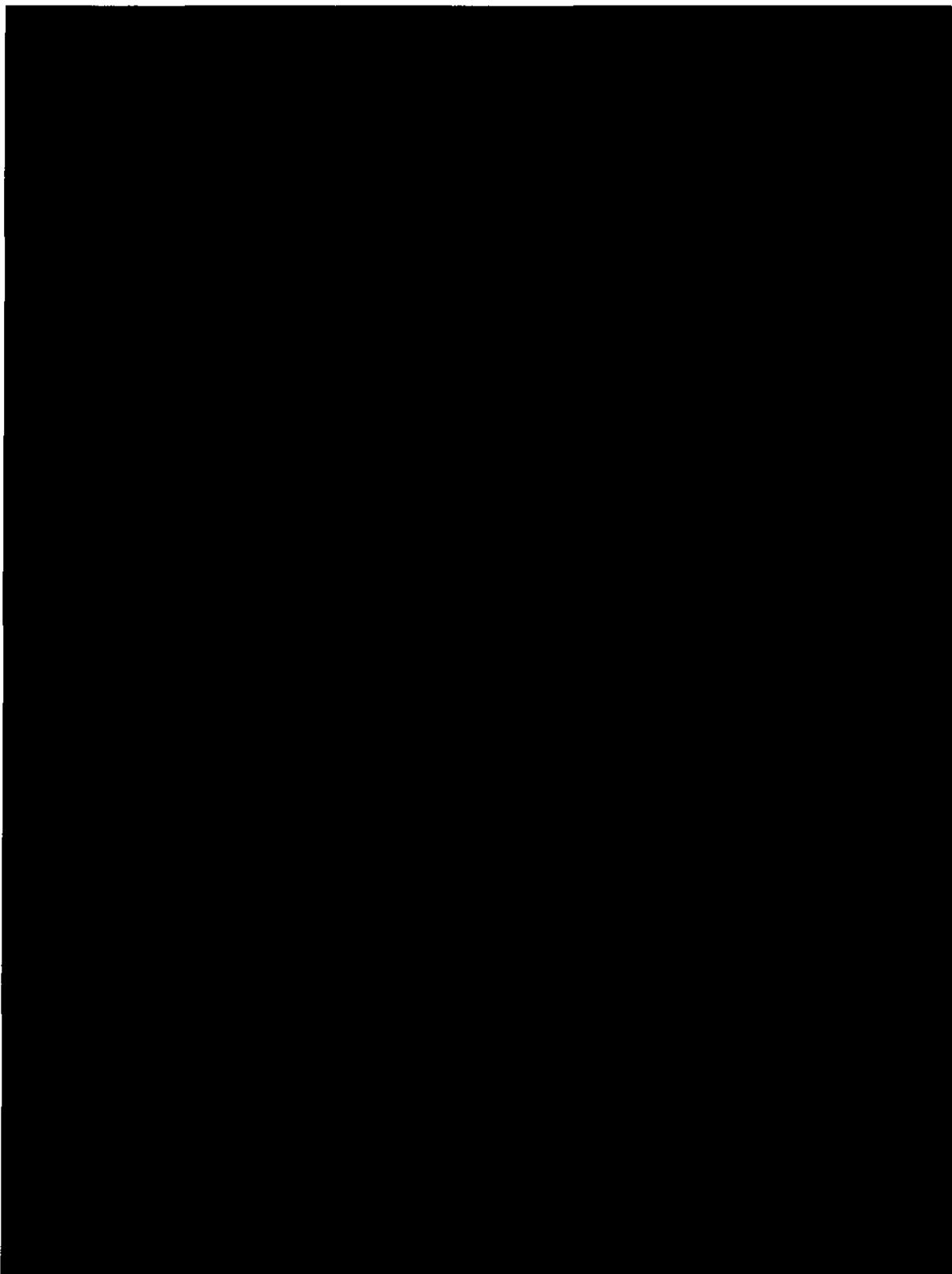
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



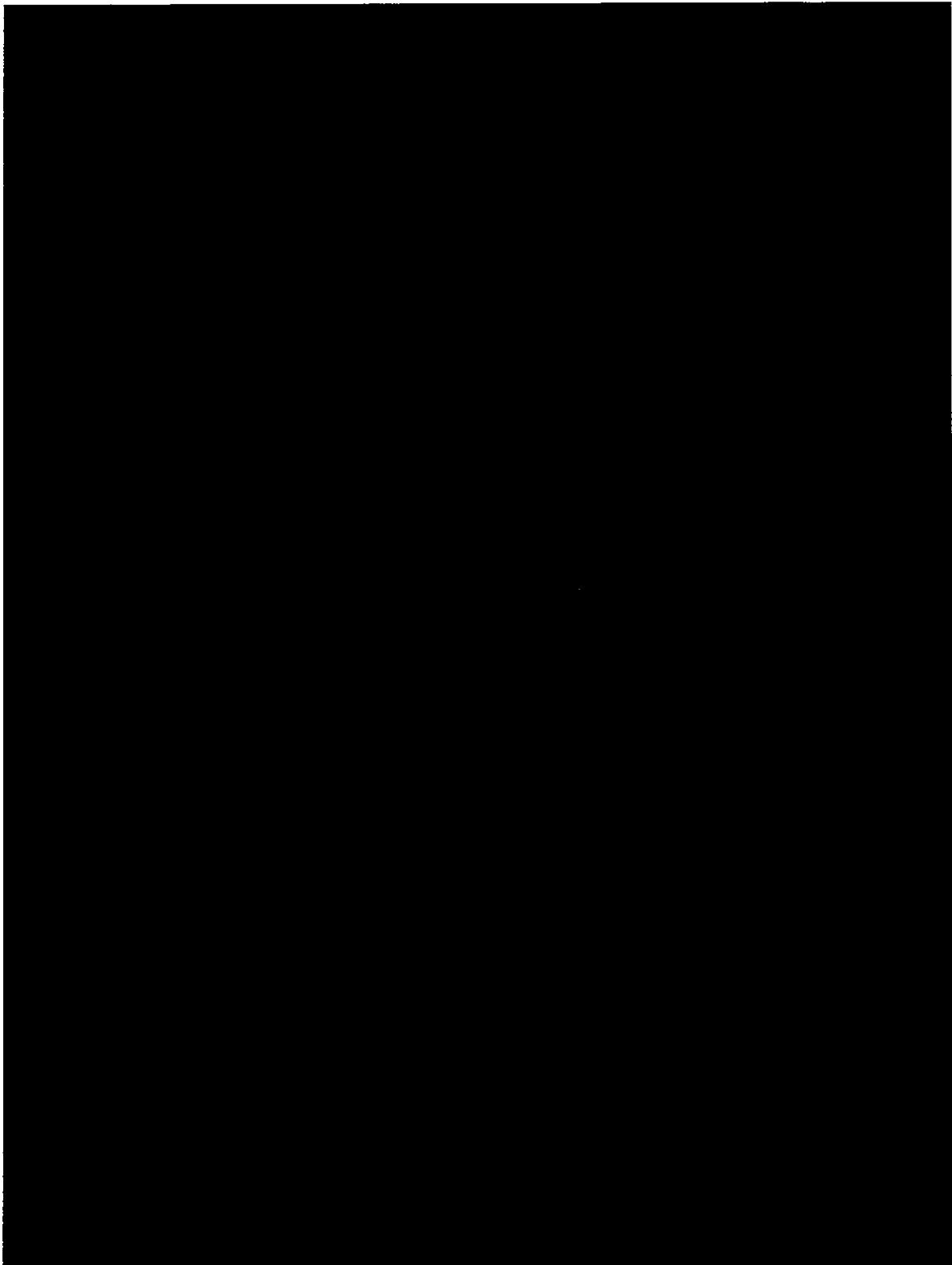
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



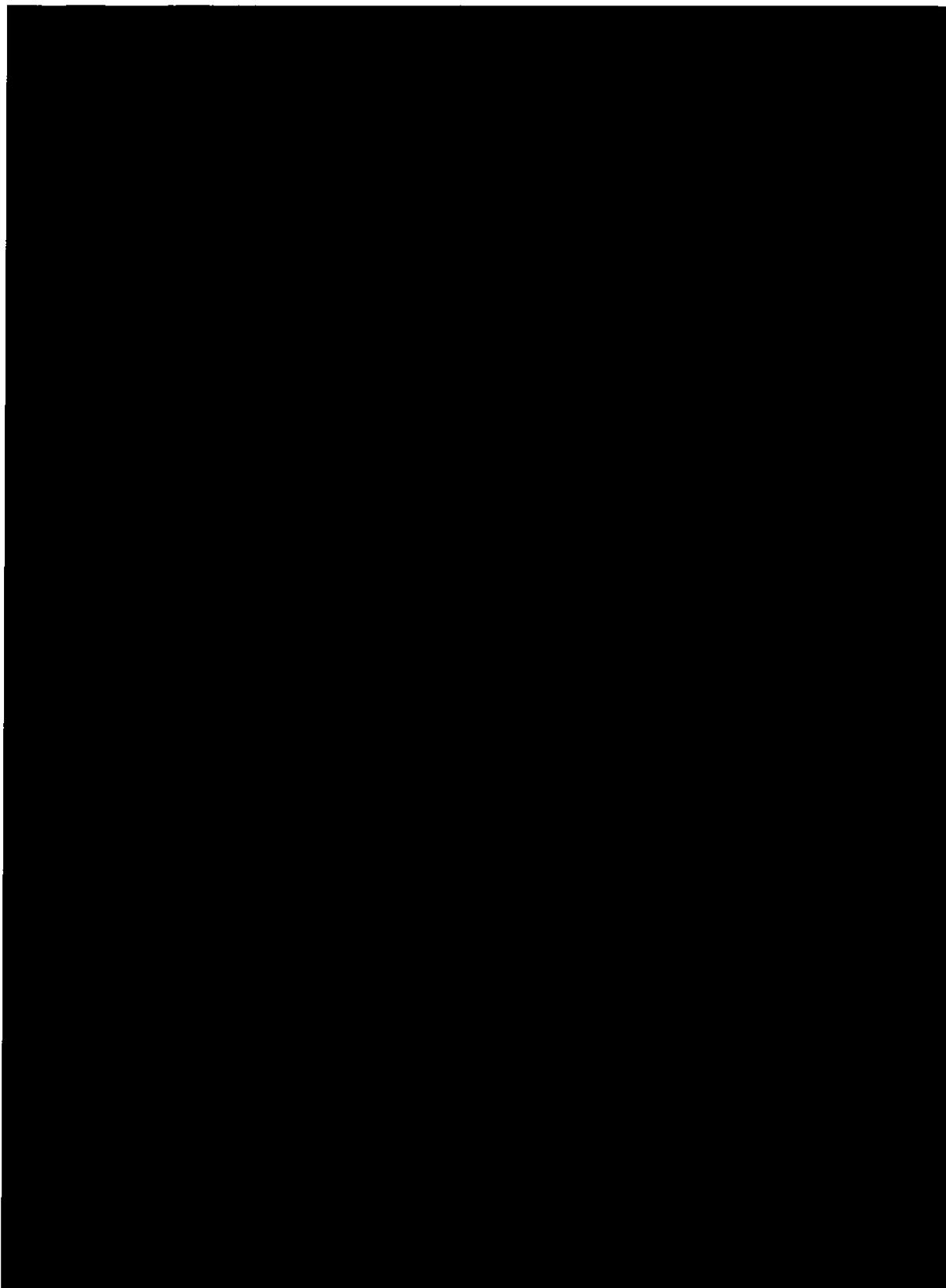
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



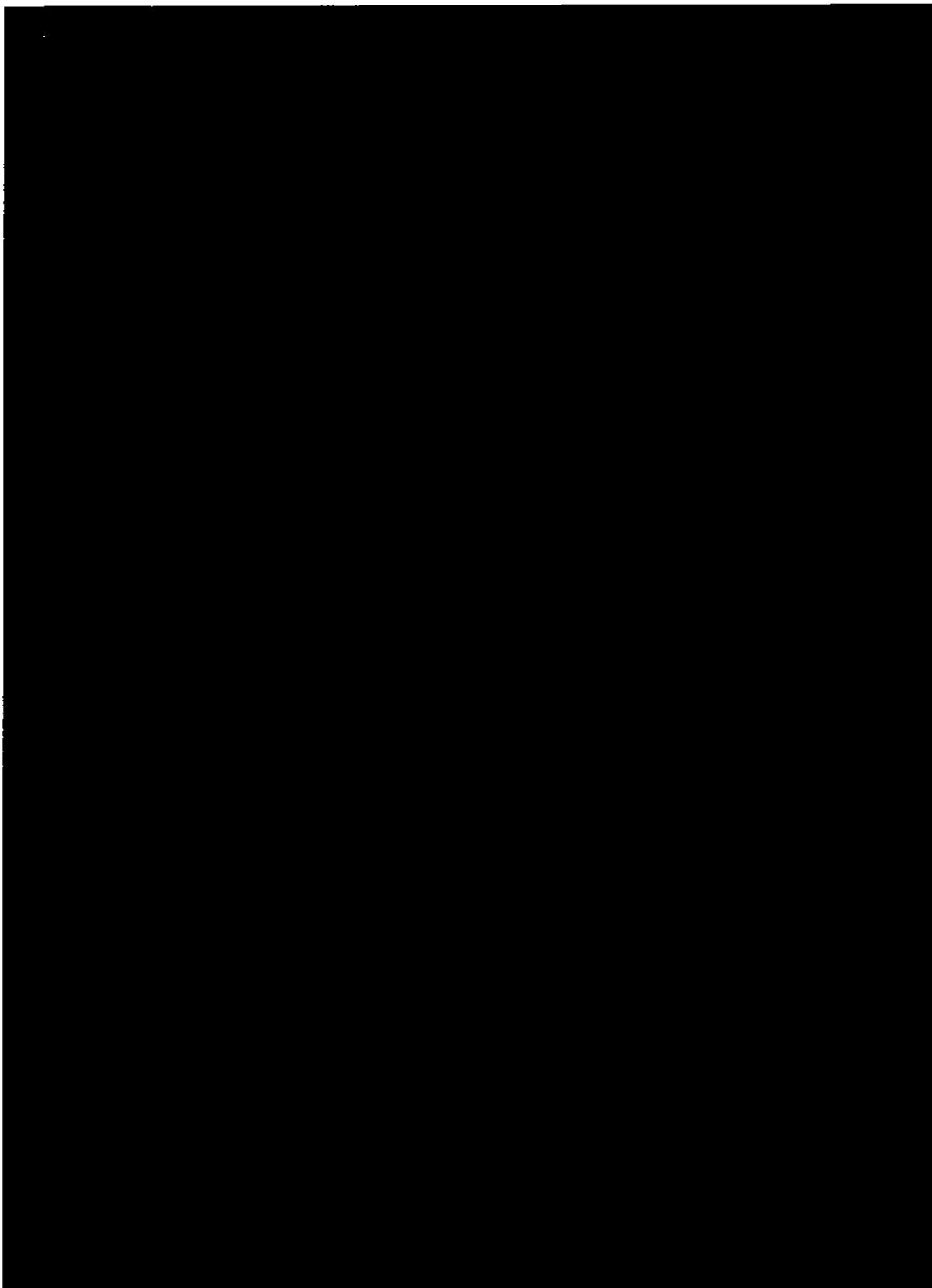
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



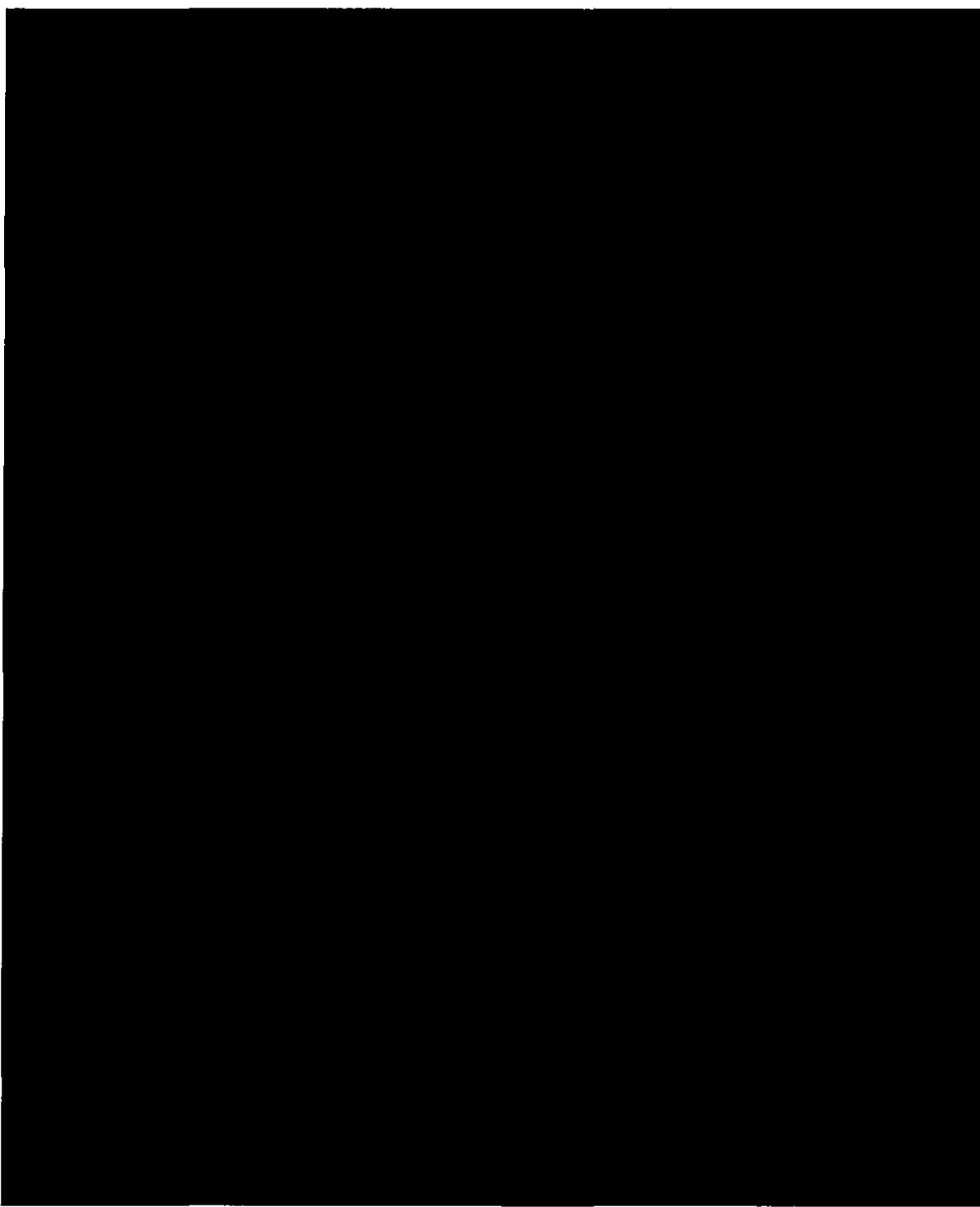
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

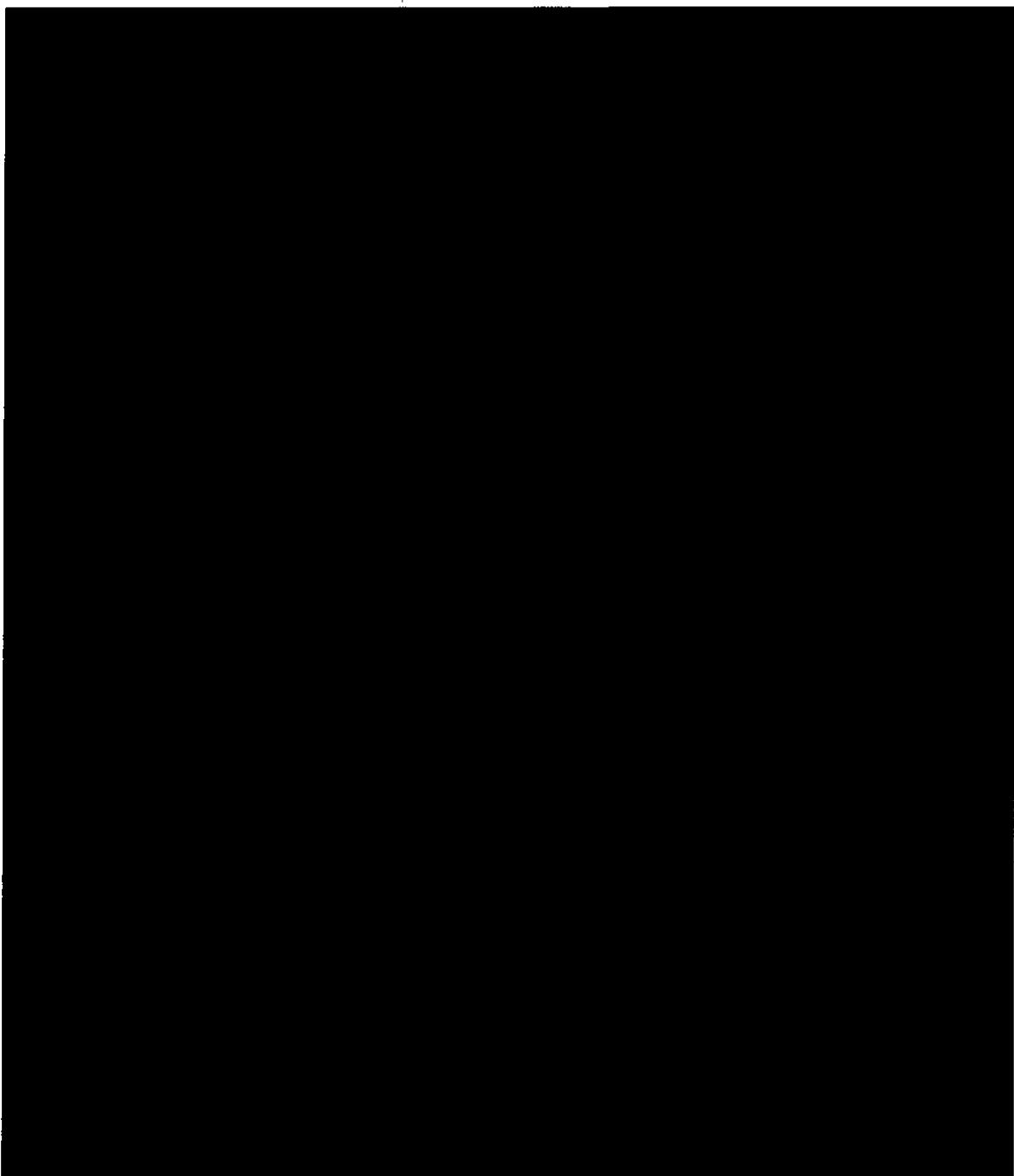


²² (S//NF) [REDACTED]

²³ (TS//SI//NF) [REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

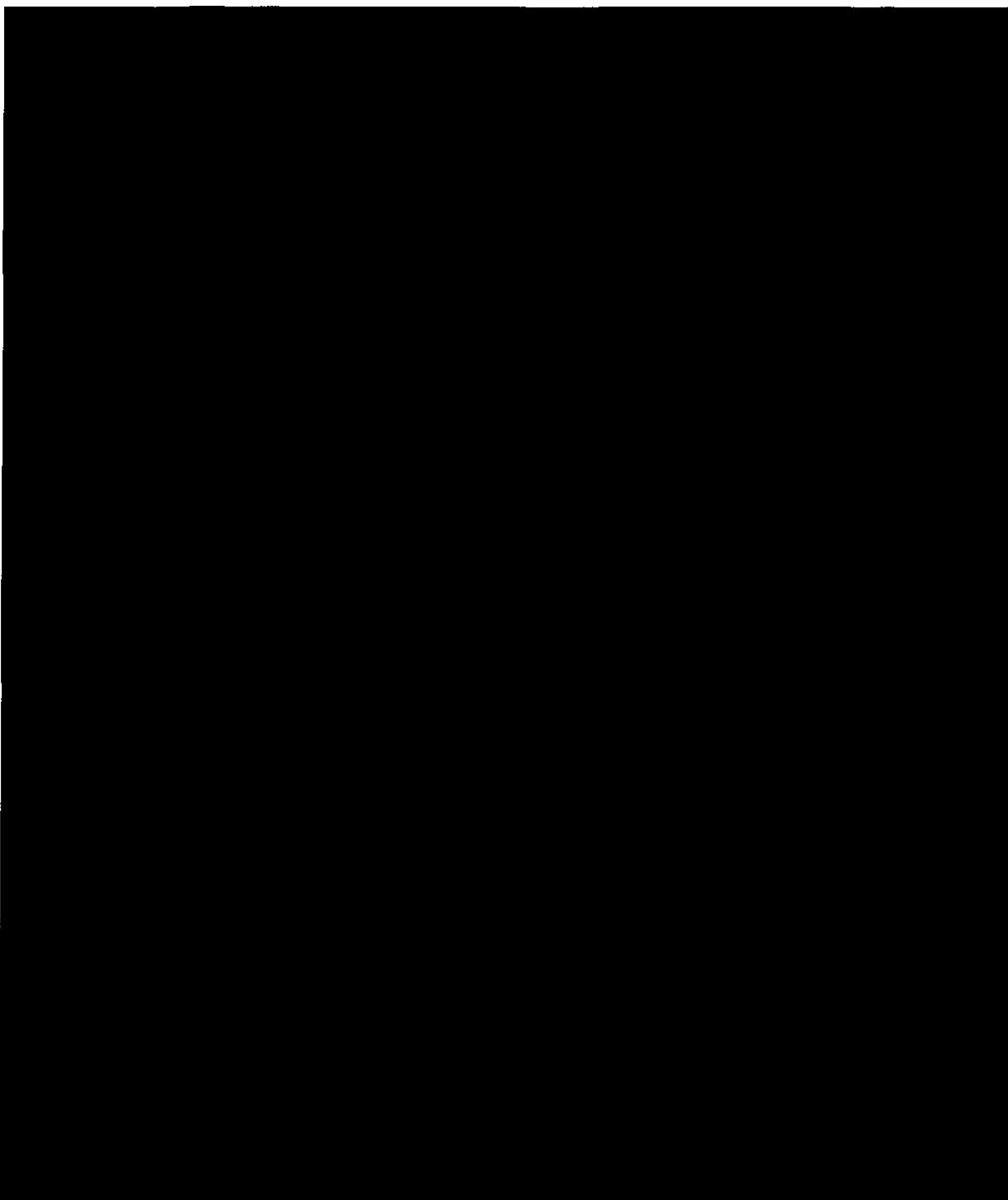
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁴ (S)

~~TOP SECRET//SI//ORCON/NOFORN~~

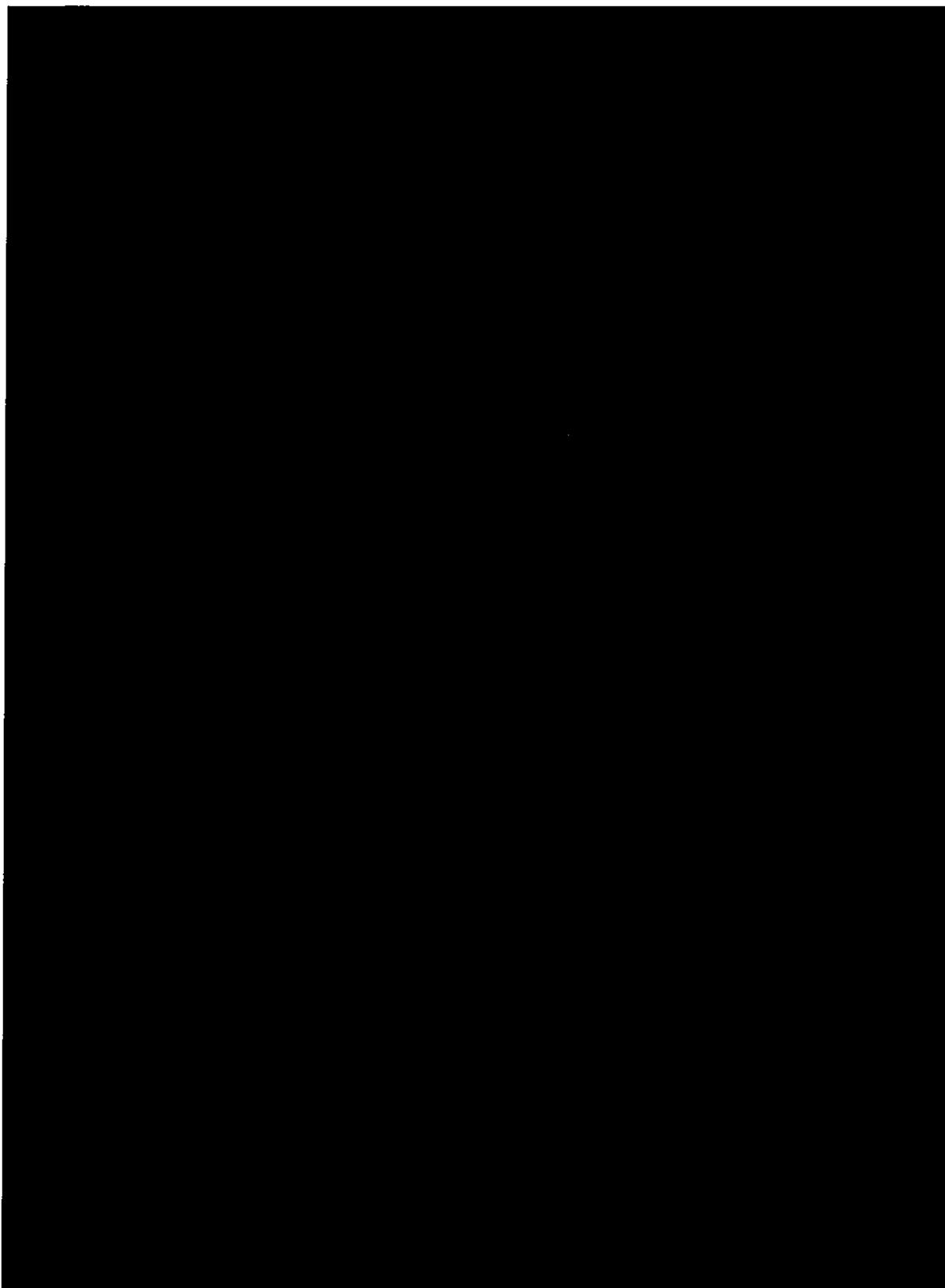
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁵ (S) [REDACTED]

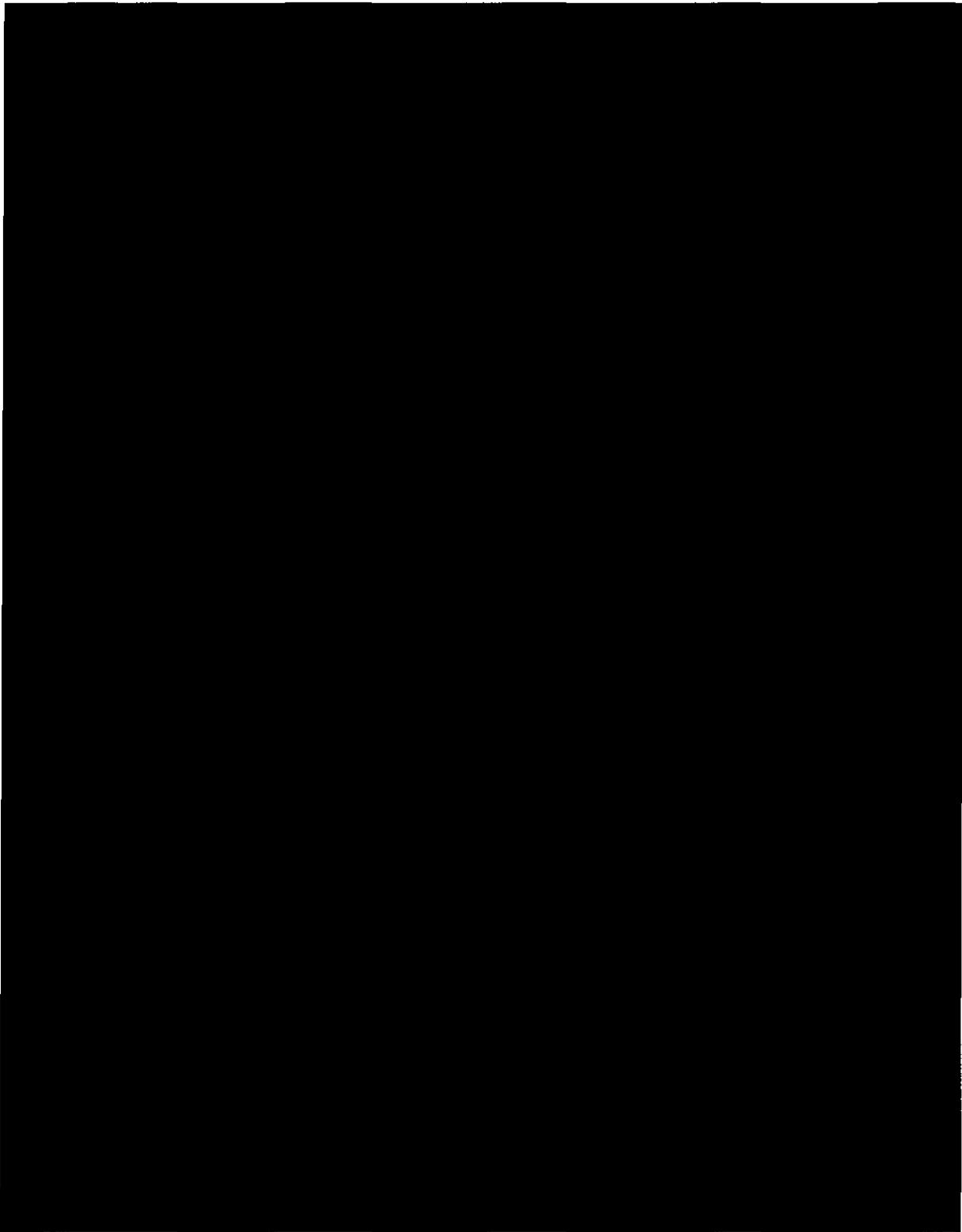
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

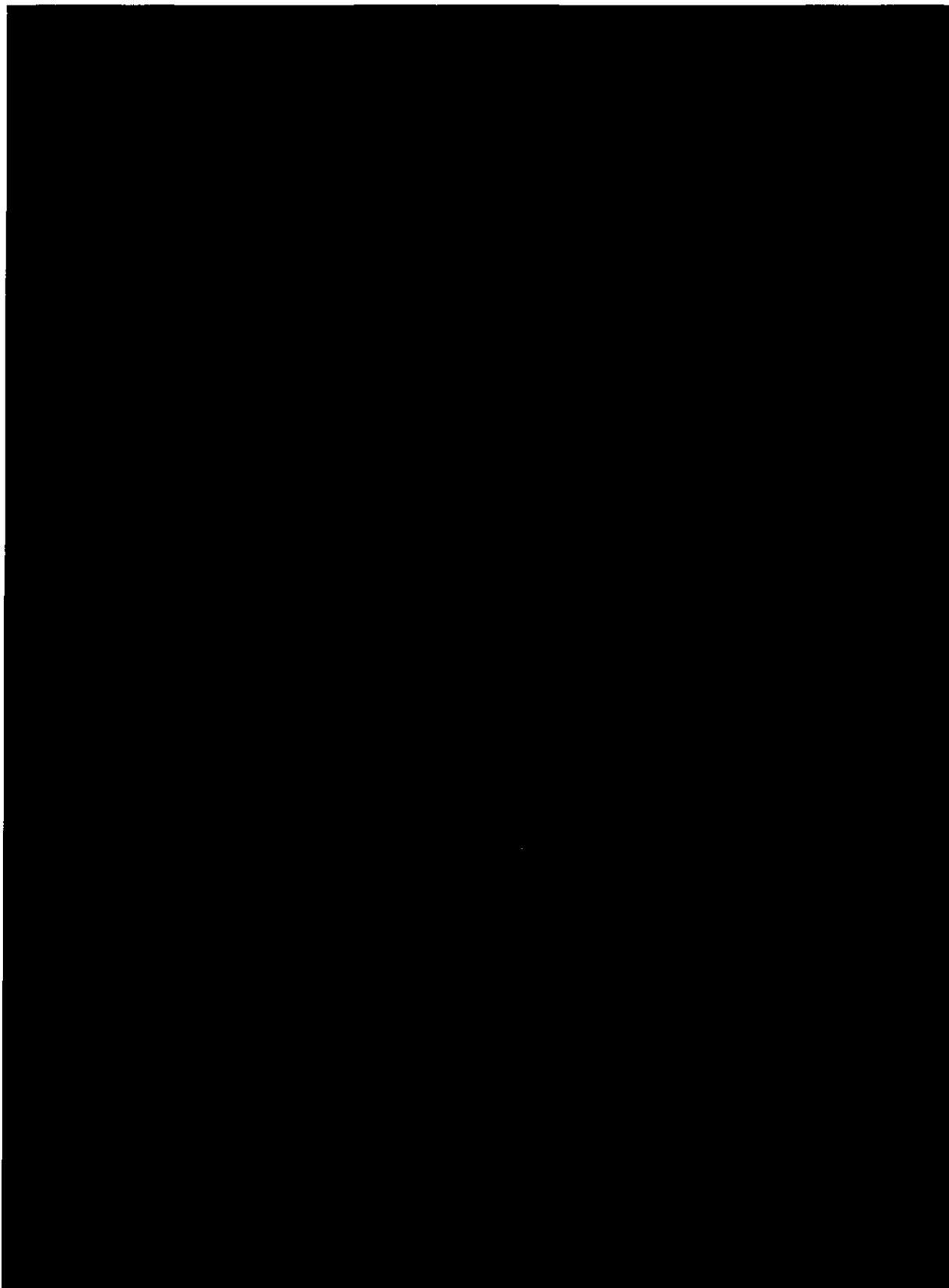
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁶ (S)

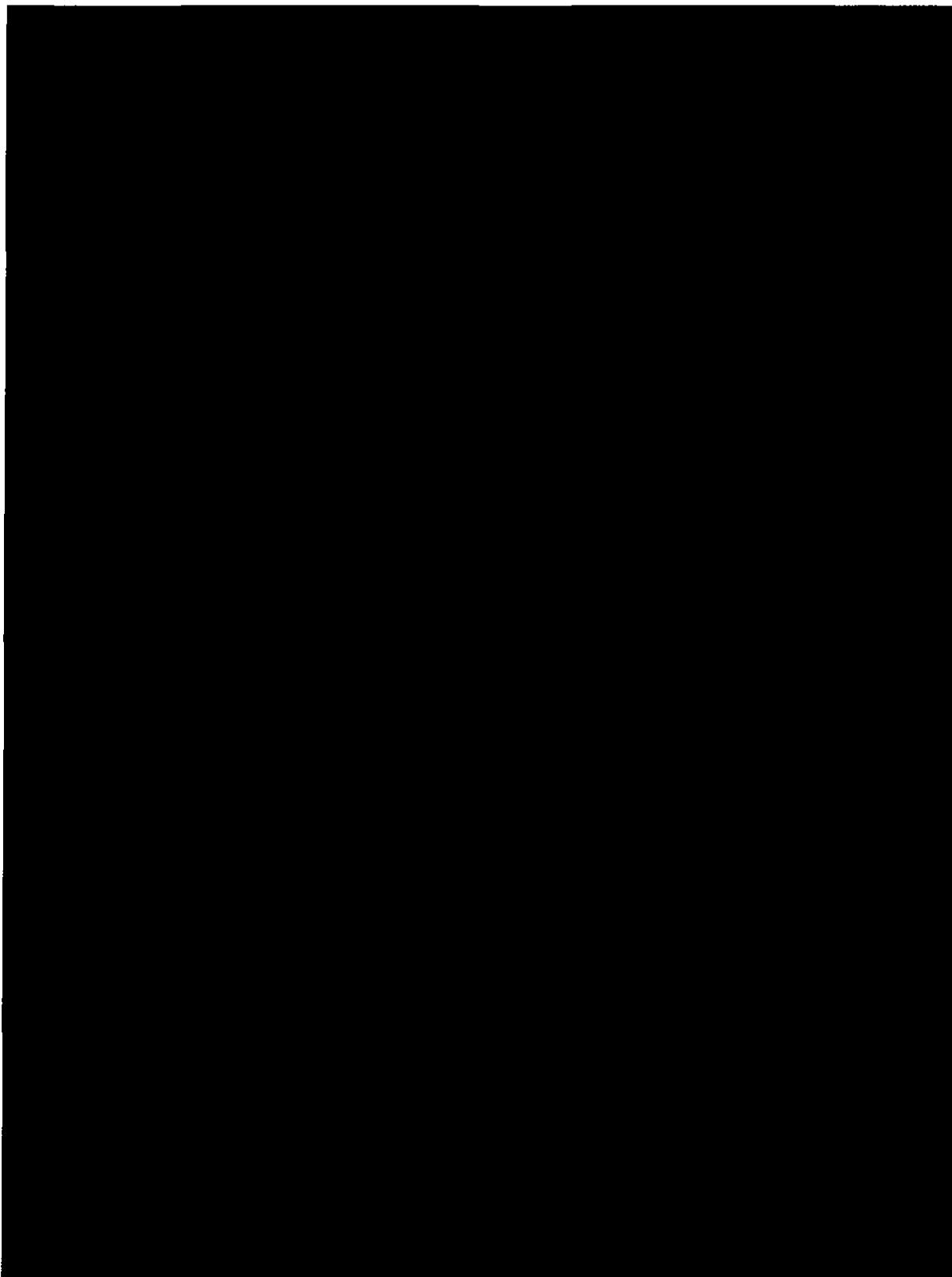
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



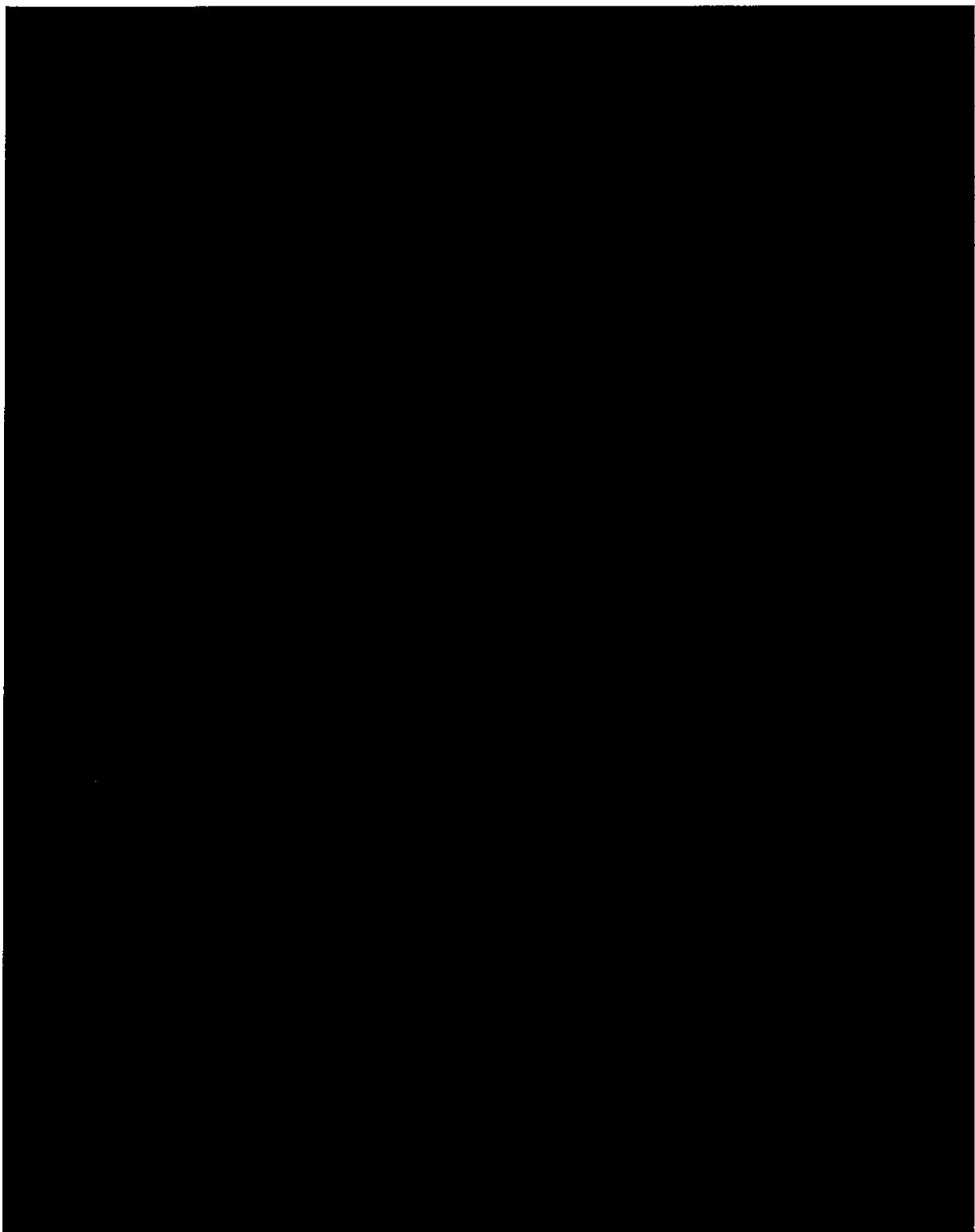
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

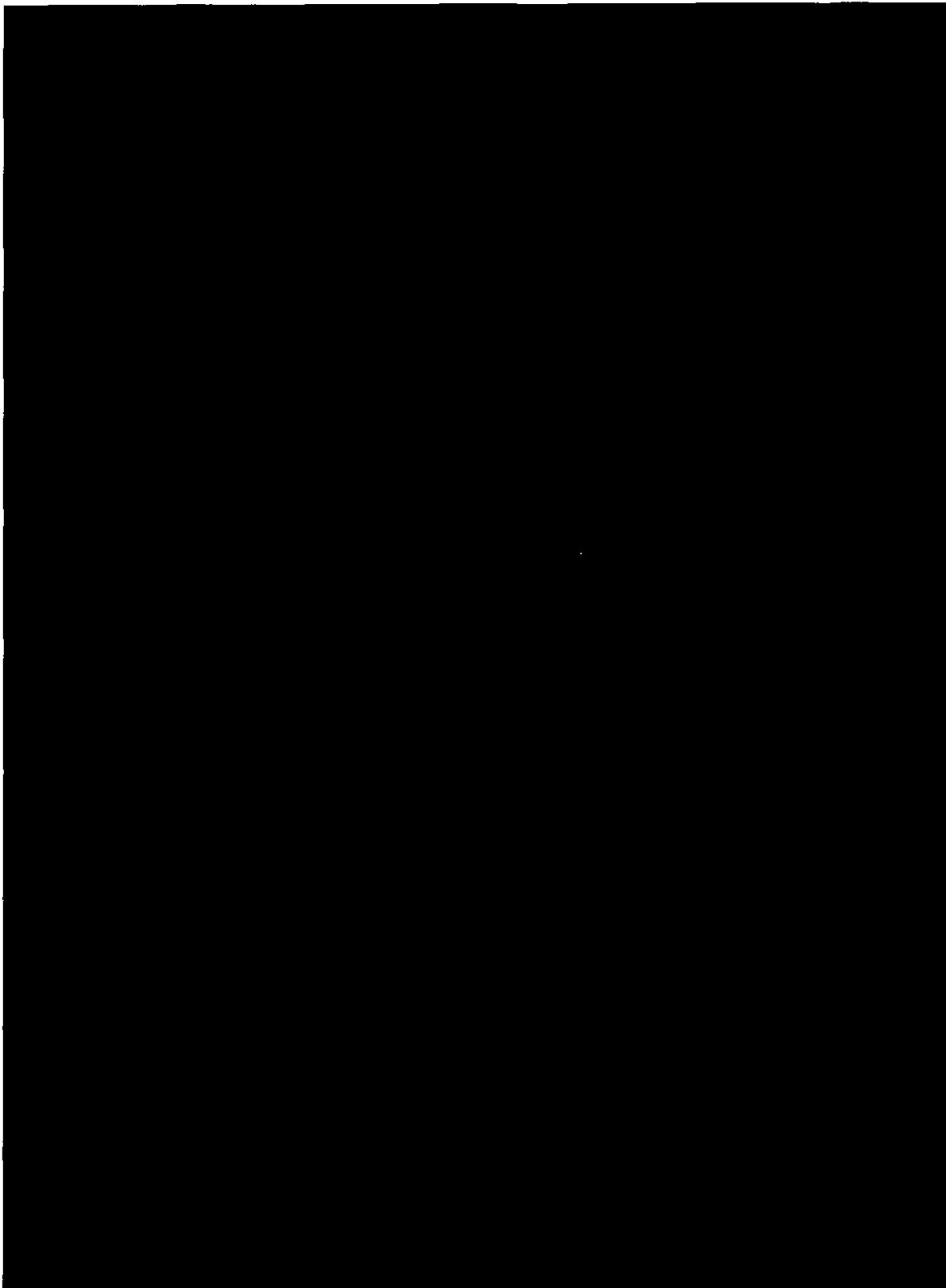
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁷ (S/NF) [REDACTED]

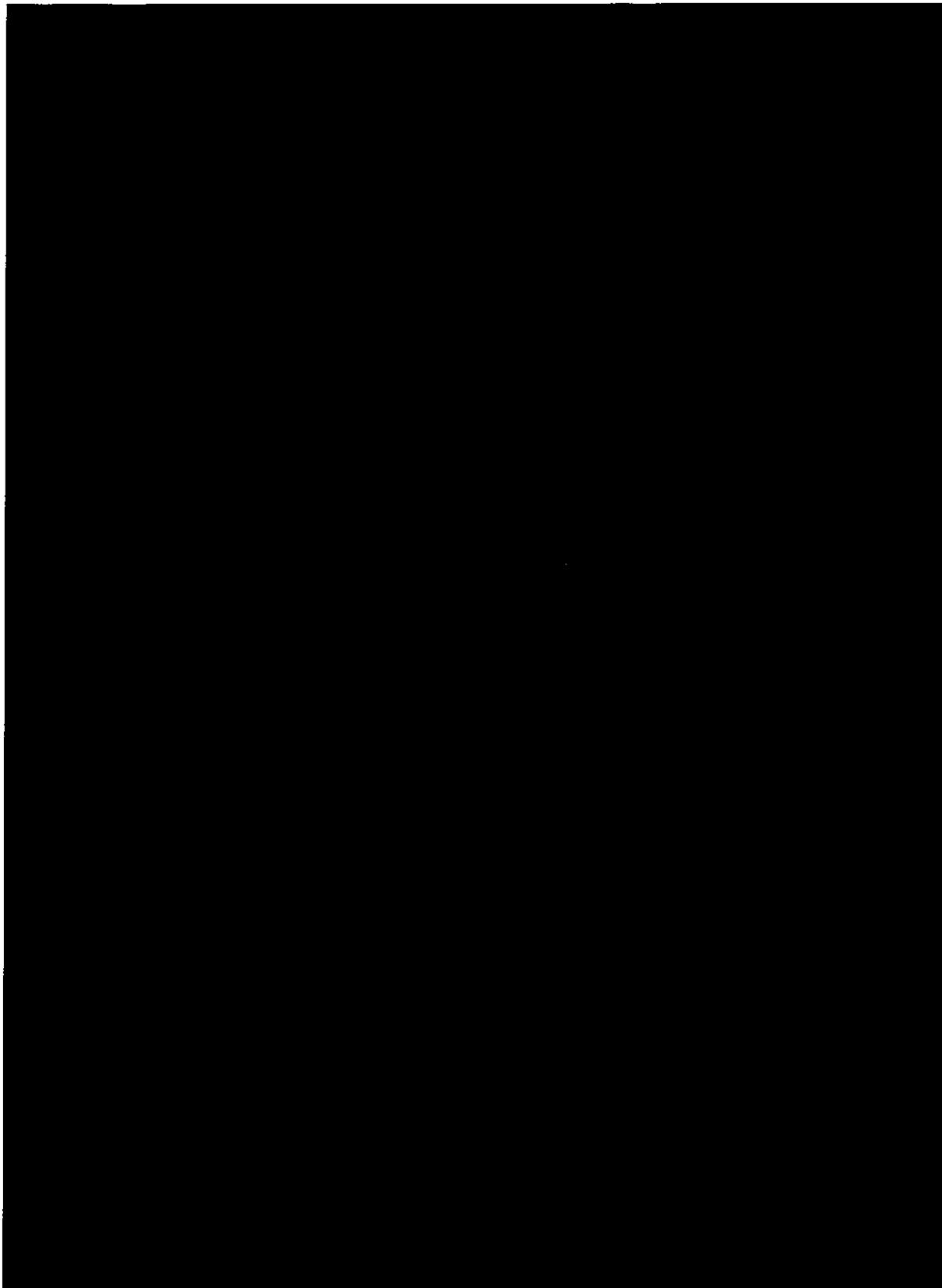
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~



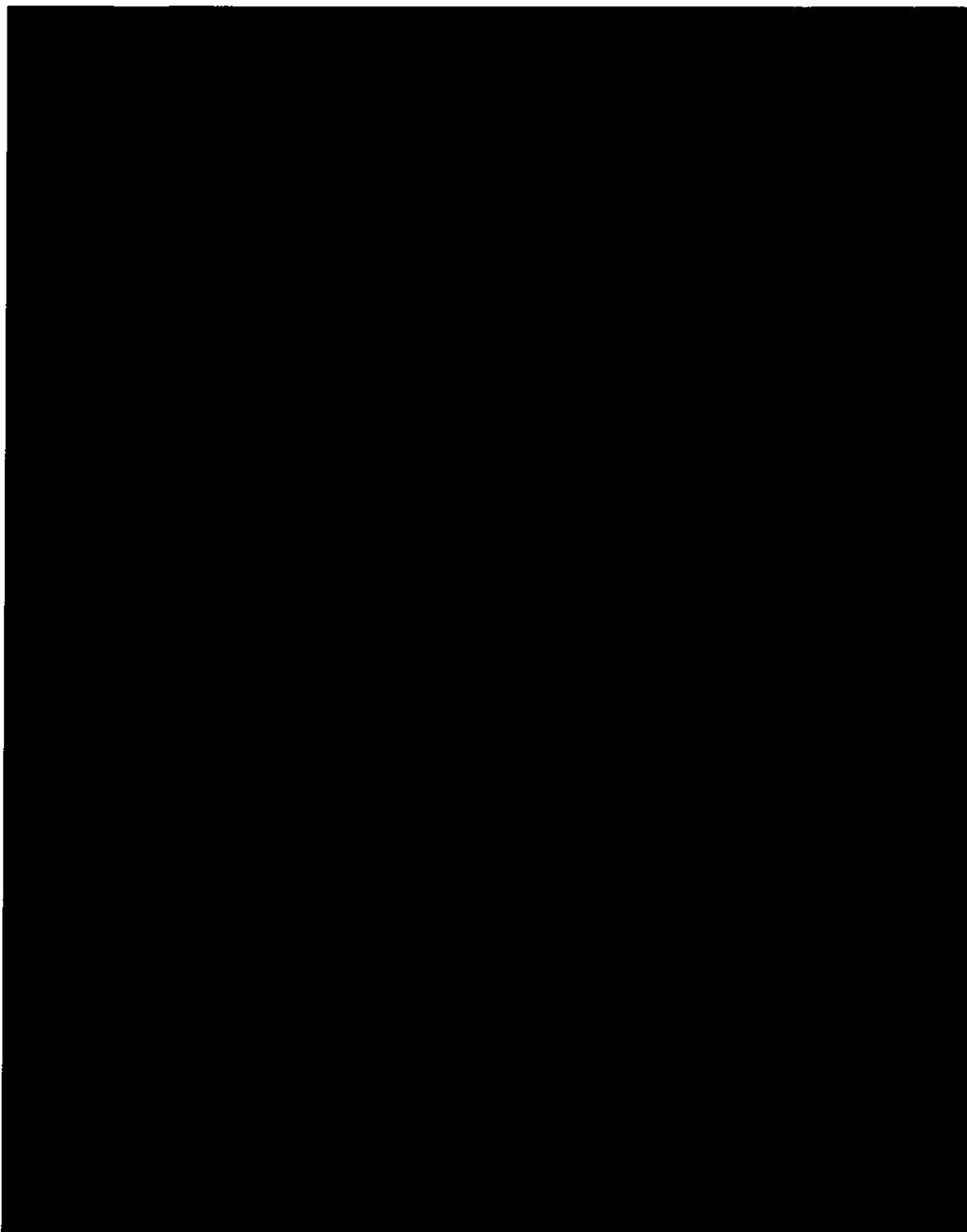
~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

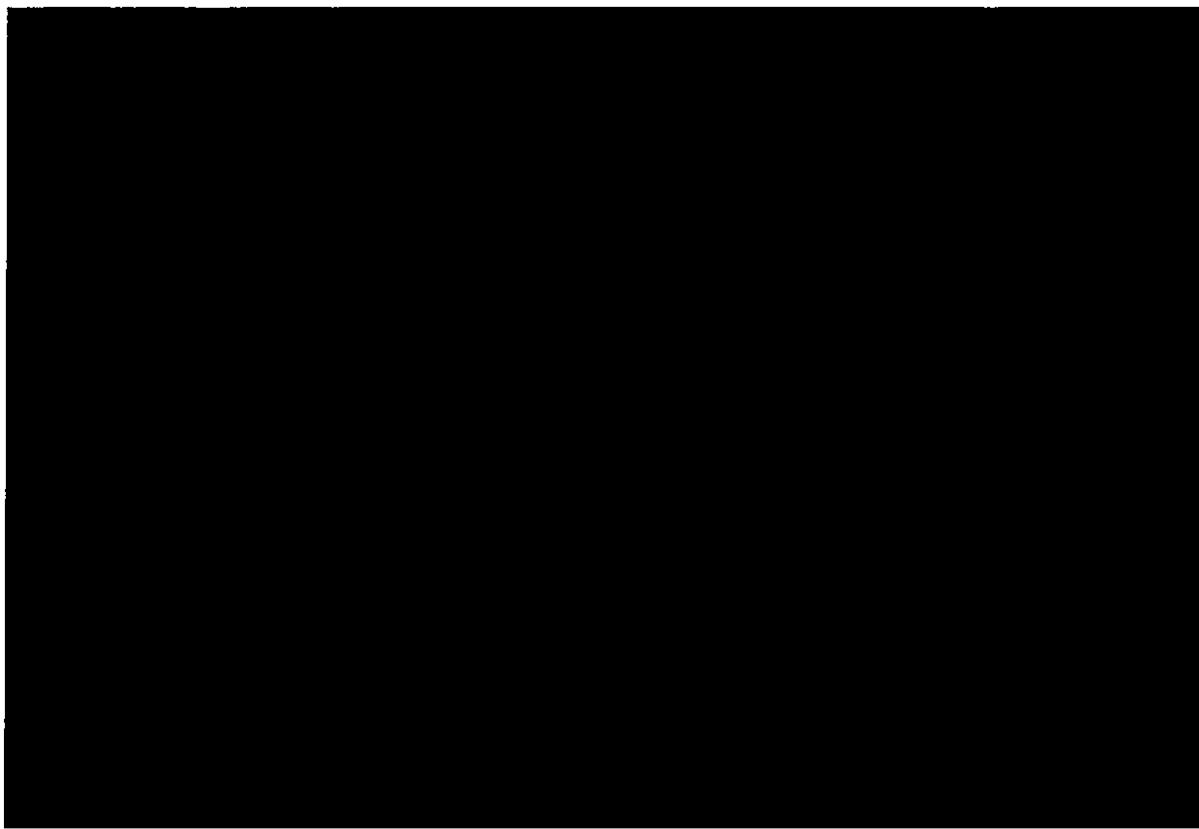
~~TOP SECRET//SI//ORCON/NOFORN~~



²⁸(S)

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



-(S) (C) Noncompliance with a Notification Requirement.

-(S) NSA's targeting procedures require NSA to report certain incidents to NSD and ODNI even if these incidents do not involve noncompliance with the targeting procedures. Specifically, NSA is required to terminate acquisition and notify NSD and ODNI if "NSA concludes that a person is reasonably believed to be located outside the United States and after targeting this person learns that the person is inside the United States, or if NSA concludes that a person who at the time of targeting was believed to be a non-United States person was in fact a United States person." NSA Targeting Procedures at 8-9. This notification must occur within five business days.

-(S)- In addition to other notification issues noted in incident descriptions above, during the period covered by this report, there have been [] incidents involving circumstances in which NSA did not notify NSD and ODNI within the required five business days.

-(S) In [] of the [] incidents,

In the remaining [] incidents, a facility NSA reasonably believed to be used by a non-United

²⁹-(S)

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

States person was found to be used by a United States person. Reporting delays ranged from one to 409 business days, with a median delay of two business days and an average delay of approximately 11 business days.³⁰

(S) For [] of the [] incidents, NSA advised that the [] related to the use of the facility by a United States person or to a user within the United States have been placed on the MPL []. NSA advised that it has identified no reporting [] for all [] of these incidents. []

[] Additionally and separately, for the remaining [] incidents, no collection occurred while the user was in the United States.

(S//NF) CIA advised that it was [] Section 702 data for [] incidents. For [] incidents, CIA advised that it had completed all necessary purges. For the remaining incident, CIA is considering obtaining a waiver to retain communications pursuant to its minimization procedures. (b)(1): (b)(3): (b)(7)(E) []

(S) (D) Noncompliance with Documentation Requirements.

(S) The fourth category of incidents involved noncompliance with the documentation requirements of the NSA targeting procedures. The NSA targeting procedures approved for use in each certification require that NSA's documentation concerning each tasked facility contain a citation to the source of information upon which the determination was made that the user of that facility was reasonably believed to be located outside the United States (the "foreignness determination") and identify the foreign power or foreign territory about which NSA expects to obtain foreign intelligence information pursuant to the tasking. According to the procedures, the purpose of the citation is to "enable those responsible for conducting oversight to locate and review the information that led NSA analysts to conclude that a target is reasonably believed to be outside the United States."

(S) According to requirements set forth in the NSA targeting procedures, NSD and ODNI conducted regular Section 702 oversight reviews in order to evaluate NSA's implementation of its targeting procedures. Two such reviews occurred during this reporting period. During these reviews, NSD and ODNI identified isolated instances in which NSA may not have complied with the documentation requirements in the targeting procedures. Of the [] taskings assessed during the reporting period of reviews, NSD and ODNI have, to date, identified [] instances in which NSA may have failed to cite sources that NSD and ODNI assessed were adequate to demonstrate a reasonable basis for believing that the user of the account was located outside the United States. NSA also reported an additional [] documentation issues. Additionally, NSD and ODNI have identified [] instances in the course of these bimonthly reviews regarding which NSD and ODNI are still attempting to determine whether NSA cited sources that NSD and ODNI assess

³⁰ (S) There was one instance in which the respective delay was 409 business days. This was due to an internal tracking mistake at NSA. There were only [] instances in which the delay was more than two business days.

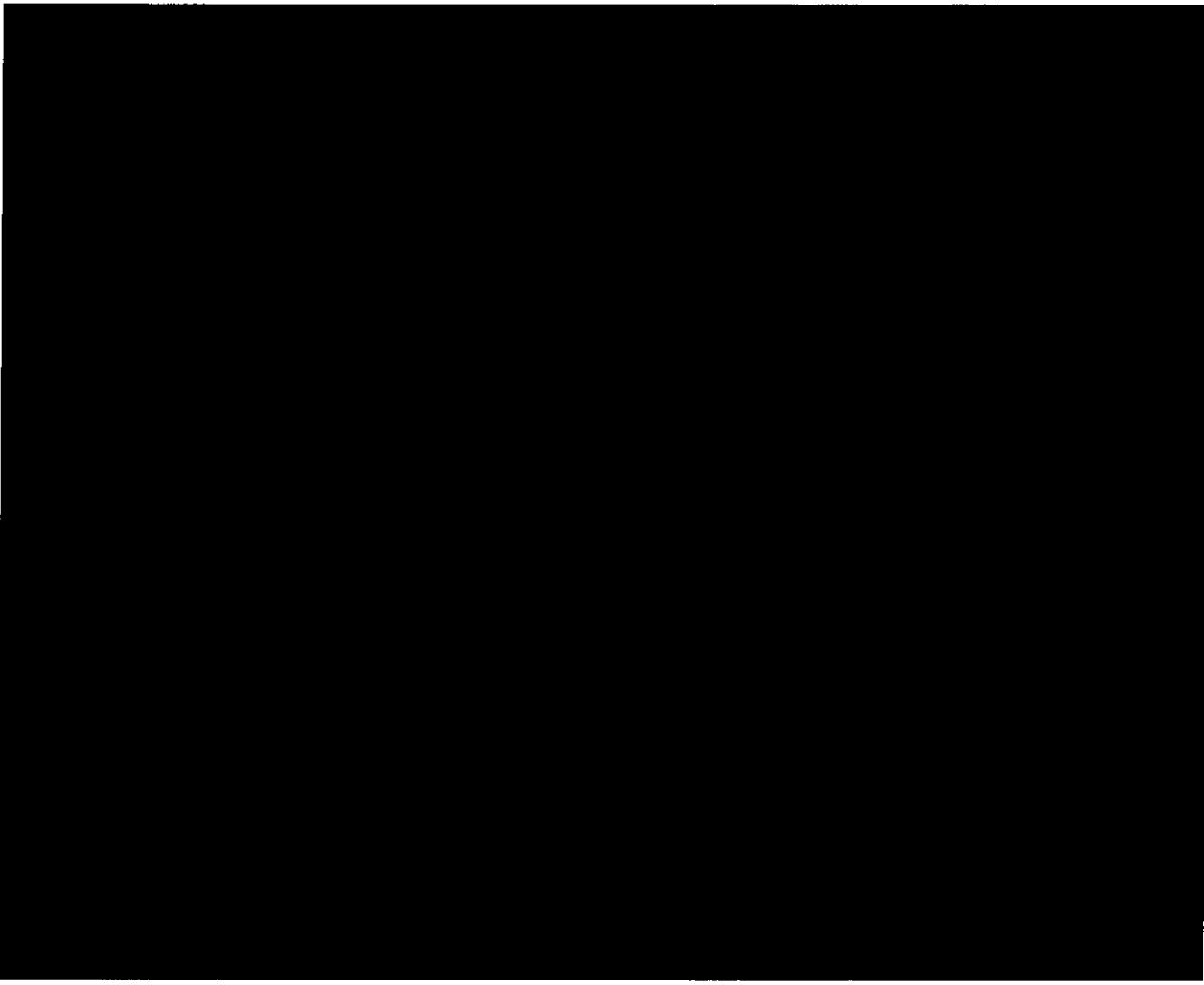
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

are adequate to demonstrate a reasonable basis for believing the user of the account was located outside the United States.

-(S)- Finally, NSA reported [REDACTED] incidents in which the documentation indicated that NSA intended to task a facility to a different DNI/AG Section 702(g) certification than the certification under which the facility was actually tasked. NSA has reported that it either detasked the facilities in question or promptly corrected the documentation to ensure that the facilities were tasked to the appropriate certification.

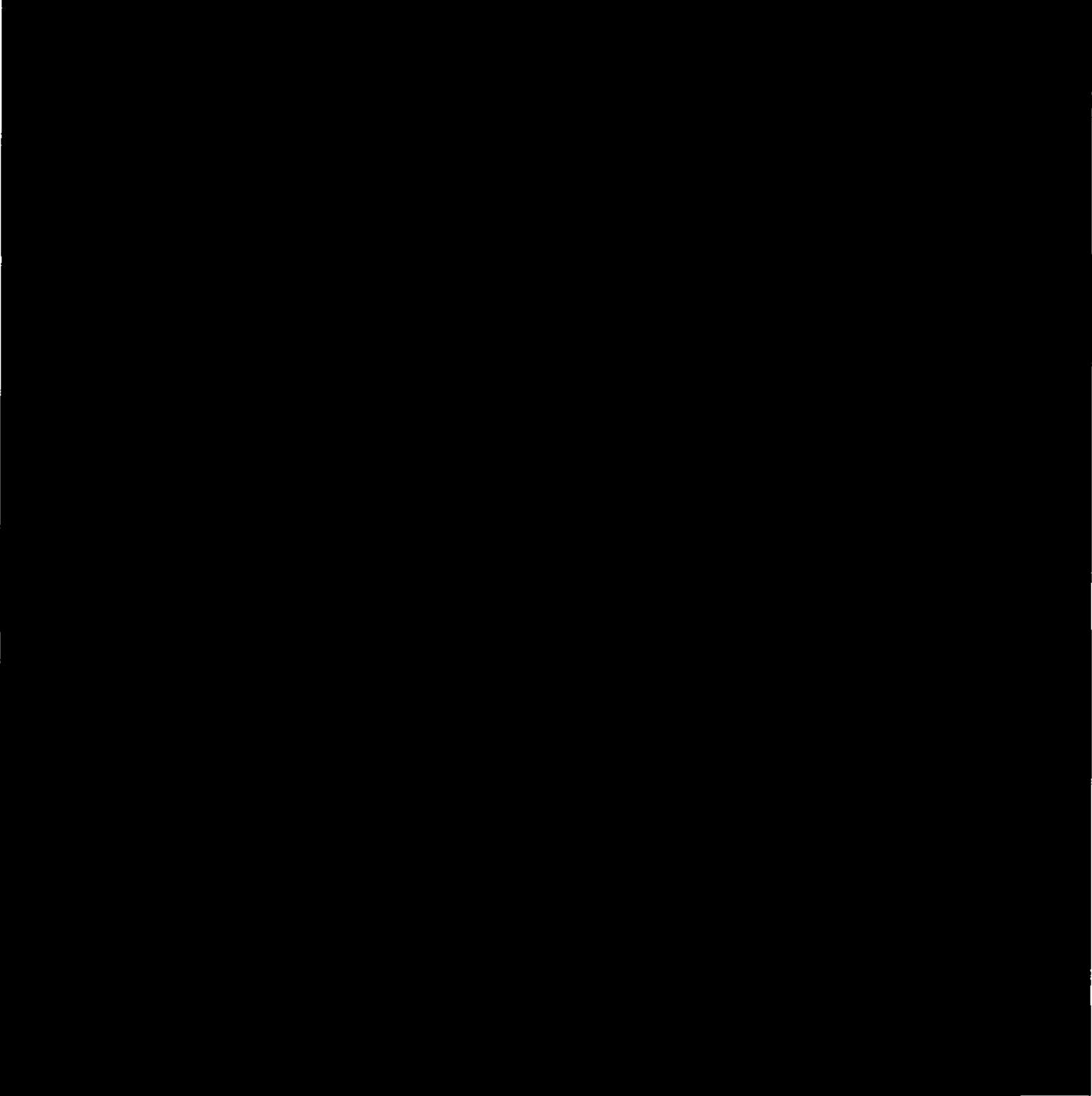
~~(S)~~ (E) Minimization Incidents



³¹ (U) Section 1806(b) provides that “[n]o information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.”

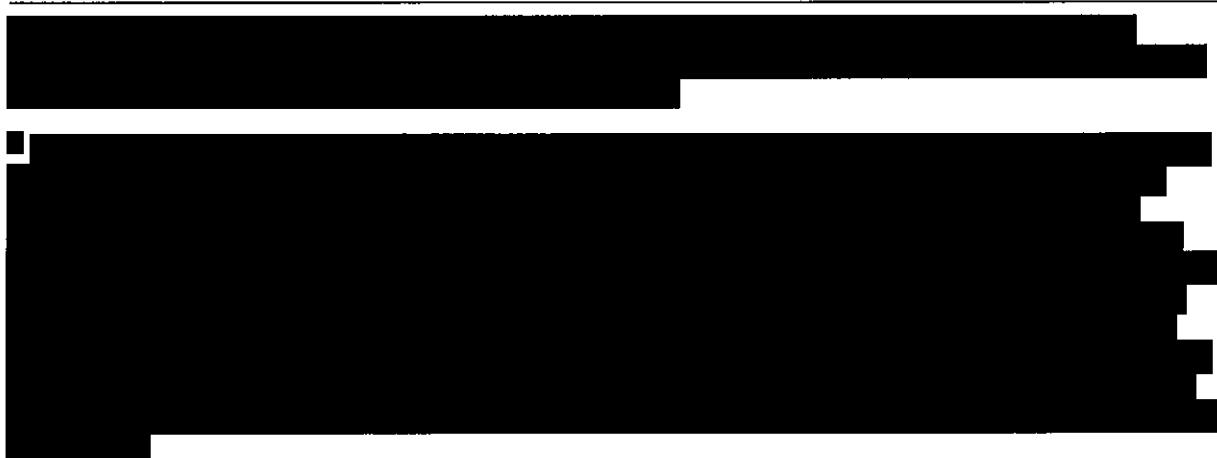
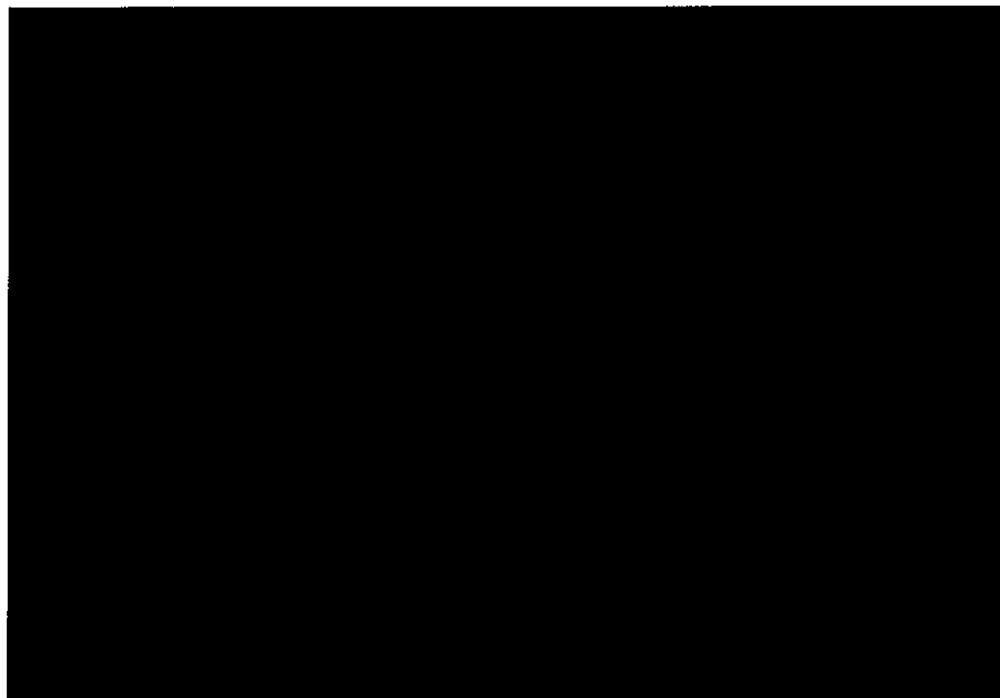
~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



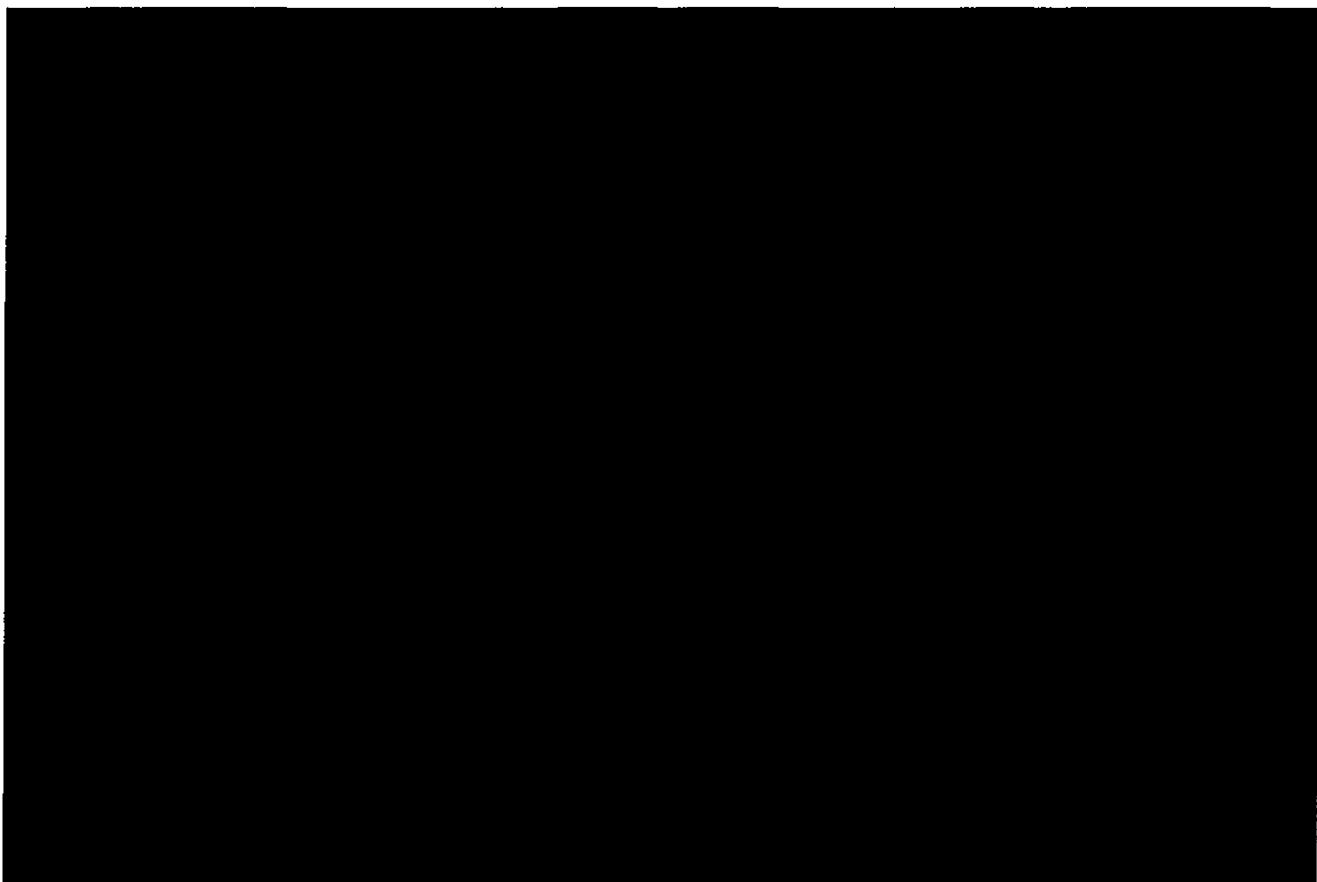
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~(S)~~ **(2) Queries Using United States Person Identifiers**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. NSA reported that on [REDACTED] 2013, an NSA analyst conducted queries, against non-upstream data, using a United States person's facilities. Although the United States person was a target pursuant to Section 704 of FISA, NSA had not approved the facilities to be queried against Section 702-acquired data. The error occurred because the analyst inadvertently included Section 702-acquired data as part of the searches. On [REDACTED] 2013, an NSA auditor discovered the error and the results were deleted that same day. NSA advises that the analyst has been reminded of the requirements when using United States person identifiers as query terms.

~~(S)~~ NSA informed NSD and ODNI of this incident on [REDACTED] 2013.

~~(S)~~ **(3) Queries Using United States Person Identifiers**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that an NSA analyst conducted [REDACTED] queries against multiple authorities, including Section 702 upstream data, using a facility [REDACTED]

[REDACTED]
[REDACTED]
The error occurred because the analyst inadvertently forgot to delete the [REDACTED] query after NSA detasked [REDACTED]. The analyst discovered the error on [REDACTED] 2013, and deleted the single result.

(S) NSA informed NSD and ODNI of this incident on [REDACTED] 2013.

(S) (4) Overly-Broad Queries

(TS//SI//NF) According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [REDACTED], 2013, an analyst executed [REDACTED] separate queries in rapid succession as part of a single analytic investigation without employing appropriate limits on the query to exclude extraneous potentially United States person information. On [REDACTED] the analyst [REDACTED] the query results and halted [REDACTED] of the queries when the number of records returned exceeded a reasonable threshold. The remaining overly-broad queries executed by this analyst were not discovered until a routine query audit was conducted on [REDACTED] 2013. NSA advises that the query results were deleted.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2013.

(S) (5) United States Person Query

(TS//SI//NF) This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED] 2013.³⁶ Section 3(b)(5) of NSA's Section 702 minimization procedures state that, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information. Identifiers of an identifiable U.S. person may not be used as terms to identify and select for analysis any Internet communication acquired through NSA's upstream collection techniques. Any use of United States person identifiers as terms to identify and select communications must first be approved in accordance with NSA procedures." As detailed in the [REDACTED] notice,

³⁶ (TS//SI//NF) The [REDACTED] notice also detailed Title I and Section 704 of FISA aspects of this compliance incident. In keeping with the subject matter of this quarterly report, this incident report only describes the Section 702 aspects of this incident.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

NSA reported that on or about [REDACTED] 2013, an NSA analyst improperly queried information acquired pursuant to Section 702. The query had not been approved in accordance with NSA's Section 702 minimization procedures³⁷. Specifically, an NSA analyst used [REDACTED] identifiers associated with a United States person who was formerly the target of surveillance pursuant to Section 704 of FISA, [REDACTED] to query this collection.

The analyst, however, forgot that the authority had expired prior to conducting this query. Upon recognizing the error on [REDACTED] 2013, the analyst deleted the query along with the [REDACTED] results it returned, and notified NSA's O&C section.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2013.

(S) (6) Overly Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [REDACTED], 2013, a newly-assigned NSA analyst conducted an overly broad query against data acquired from several authorities, including Section 702-acquired data. Specifically, the analyst conducted the overly-broad query while trying to familiarize herself with the query programs she had seen as part of NSA's training program. On [REDACTED], 2013, an NSA auditor discovered the inappropriate queries. NSA advises that the queries and the corresponding results were deleted. NSA further advises that the analyst and other team members have received additional training regarding the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2013.

(S) (7) Query Using a Presumed United States Person Identifier

~~(S//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that an NSA analyst conducted [REDACTED] queries against data acquired pursuant to Executive Order 12333 and Section 702 [REDACTED]

[REDACTED] The error occurred because the analyst [REDACTED]

³⁷ ~~(TS//SI//NF)~~ The analyst did not, however, use the United States person identifiers to query NSA's upstream acquisition of Internet transactions, which is also prohibited by the Section 702 minimization procedures.

~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

inadvertently forgot to delete the [REDACTED] query after NSA detasked the e-mail account. The [REDACTED] queries were terminated on [REDACTED], 2013, and NSA advises that no results were returned. The analyst has been reminded of the relevant Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2014.

(S) (8) United States Person Query

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that between [REDACTED], 2014, an NSA analyst unintentionally conducted an [REDACTED] query against multiple authorities, including Section 702 upstream data, using United States person telephony numbers of a United States person subject to Court-authorized targeting pursuant to Section 704. Although this target was the subject of Section 704 collection, his telephone numbers had not been authorized for queries of Section 702-acquired data pursuant to NSA's internal procedures. In addition, querying of Section 702-acquired upstream collection is barred by the minimization procedures in any case. The error occurred because the analyst mistakenly chose the wrong data sets, including Section 702-acquired data, when designing the query. This error was identified by an NSA auditor on [REDACTED] 2014. The query was terminated on [REDACTED], 2014, and the query results were deleted that same day. The analyst has been reminded to take greater care in selecting data sets to query.

~~(S)~~ NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

(S) (9) United States Person Query

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. On [REDACTED] 2014, an NSA analyst ran a query using a foreign phone number against Section 702-acquired data, to include upstream collection, in order to [REDACTED]

[REDACTED] NSA advises that the query results were not saved in the system that was queried. [REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

(S) NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

(S)-(10) Overly Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, “[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information.” NSA reported that on [REDACTED] 2014, an NSA analyst unintentionally conducted an overly broad query against Section 702-acquired data. Specifically, the analyst [REDACTED]

[REDACTED] The analyst realized their error upon receiving the results of their query. NSA advises that the query and the corresponding results were deleted. NSA further advises that the analyst has been instructed and tested on how to properly query in this tool.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2014.

(S) (11) Overly Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, “[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information.” NSA reported that on [REDACTED] 2014, an NSA analyst unintentionally conducted an overly broad query against Section 702-acquired data. Specifically, the analyst [REDACTED]

[REDACTED] The analyst realized the error upon receiving the results of the query. NSA advises that the query and the corresponding results were deleted. NSA further advises that the analyst has been instructed to [REDACTED] prior to conducting such queries of acquired data.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

(S) (12) Overly Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, “[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information.” NSA reported that on [REDACTED] 2014, an NSA analyst unintentionally conducted an overly broad query against Section 702-acquired data. Specifically, the analyst forgot to [REDACTED]

[REDACTED] which was the key limiting term in conducting this query. The analyst realized the error upon receiving the results of the

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

query. NSA advises that the query and the corresponding results were deleted. NSA further advises that the analyst has been reminded to ensure that his/her queries are properly constructed to meet the Section 3(b)(5) requirements.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2014.

-(S) (13) Overly Broad Queries

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [REDACTED] 2014, an NSA analyst unintentionally conducted [REDACTED] overly broad queries against Section 702-acquired data. Specifically, the analyst forgot to [REDACTED] that would have limited their queries in such a way to have been reasonably designed to return foreign intelligence information. This error was identified as a result of NSA's auditing of query terms. NSA advises that the query and the corresponding results were deleted. NSA further reports that the analyst has been reminded to ensure that his/her queries are properly constructed to meet the Section 3(b)(5) requirements.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2014.

-(S) (14) Improper Dissemination of Information Concerning United States Persons

~~(TS//SI)~~ This incident involves the dissemination of United States person information in a manner that was contrary to the requirements of Section 6(b) of NSA's Section 702 Minimization Procedures. Specifically, on [REDACTED], 2014, NSA issued a report which included the identities of [REDACTED] United States persons located outside the United States that were not foreign intelligence information. On [REDACTED] 2014, an NSA analyst recognized the error and recalled the report. The report was not reissued.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

-(S) (15) Access to Test Database

~~(S)~~ NSA's targeting procedures require that unminimized Section 702-acquired data only be accessible by those who have been trained with handling such data. On [REDACTED] 2014, an NSA analyst assigned to test the functionality of a test database determined that they could view unminimized Section 702-acquired data in the database. This analyst did not have the required training for handling Section 702-acquired communications. The analyst viewed [REDACTED] pieces of Section 702-acquired data and did not disseminate this information. Subsequent investigation revealed that some data within the test database did not have the correct access control markings which would have prevented untrained individuals from viewing the data. NSA removed access to the test database, which had previously been accessible only to approximately [REDACTED] NSA personnel in a testing

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

environment. Seven of these [redacted] employees did not have Section 702 training; all [redacted] employees were NSA technical personnel who do not engage in intelligence dissemination.

(U) NSA initially advised NSD of this incident on [redacted], 2014, and ODNI was advised of the incident on [redacted] 2014.

(S) (16) Query Using a United States Person Identifier

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. On [redacted] 2013, NSA discovered that [redacted] tasked pursuant to Section 702 were used by a United States person. Although NSA detasked the facilities, an analyst inadvertently forgot to delete the facilities from an [redacted] query tool.³⁸ On [redacted] 2014, NSA discovered the error and removed the facilities from the query tool.

~~(S)~~ NSA advised NSD and ODNI of this incident on [redacted], 2014.

(S) (17) Queries Using United States Person Identifiers

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. On [redacted] 2013, NSA determined that an individual targeted pursuant to Section 702 was a United States person. NSA detasked the facilities known to be used by the United States person and obtained, in [redacted] 2013, authority to target the individual pursuant to Section 705(b). However, the relevant NSA target offices did not remove the selectors from a [redacted] query.³⁹ The [redacted] query was run against several authorities, including Section 702-acquired data, but not against Section 702-acquired upstream data. On [redacted], 2014, NSA discovered the error, and the [redacted] query was deleted. Given the passage of time, NSA is uncertain what specific results were returned. However, at least one analyst ran the query every work day until [redacted], 2014. NSA advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA advised NSD and ODNI of this incident on [redacted], 2014.

(S) (18) Queries Using United States Person Identifiers

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers,

³⁸ ~~(S)~~ [redacted]

³⁹ ~~(S)~~ [redacted]

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

such queries are to first be approved in accordance with NSA internal procedures. NSA reported that in [REDACTED] 2014, an NSA analyst performed queries using identifiers of a United States person which had not been approved for querying Section 702 collection. The error occurred because the target office believed that it was appropriate to use the United States person's identifiers as part of a query [REDACTED] which included non-United States person identifiers. The analyst did not query information acquired pursuant to upstream collection authorities. NSA advises that the queries, and corresponding results, were deleted as of [REDACTED] 2014. NSA further advises that relevant personnel have been reminded of the proper query requirements.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

-(S) (19) Improper Dissemination of Information Concerning a United States Person

~~(TS//SI)~~ This incident involves the dissemination of United States person information in a manner that was contrary to the requirements of Section 6(b) of NSA's Section 702 Minimization Procedures. Specifically, on [REDACTED] 2014, NSA issued a report which [REDACTED]

[REDACTED] On [REDACTED] 2014, an analyst from a different agency identified the United States person information. NSA subsequently confirmed that the dissemination of the United States person information was not foreign intelligence information, and, thus, not in conformity with Section 6(b). On [REDACTED], 2014, the report was recalled and re-released without the United States person's information.

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2013.

-(S) (20) Overly-Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on

[REDACTED] 2014, an NSA analyst mistakenly ran an overly broad query against data acquired from several authorities, including Section 702-acquired data. After the query returned an unexpected number of results, the analyst immediately recognized and reported the error. NSA advises that the query and results were deleted and that the analyst involved has been counseled to ensure queries are reasonably likely to return foreign intelligence information.

(U) NSA advised NSD and ODNI of this incident on [REDACTED] 2014.

-(S) (21) United States Person Query

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers,

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. In 2011, NSA [REDACTED] after discovering it was used by a United States person. On [REDACTED], 2014, an NSA analyst ran a query against multiple authorities, including Section 702 upstream data, using the United States person's e-mail account. The analyst discovered the error on the same day and deleted all results from the query. The analyst has been reminded to take greater care in selecting data sets to query.

(U) NSA informed NSD and ODNI of this incident on [REDACTED], 2014.

~~(S)~~ **(22) Overly-Broad Queries**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that starting on [REDACTED], 2014, an NSA analyst began running an overly broad [REDACTED] query against data acquired from different authorities, including Section 702-acquired upstream data. An NSA auditor subsequently discovered the overly broad queries. NSA advises that the queries and results were deleted and that the analyst involved has been counseled to ensure queries are reasonably likely to return foreign intelligence information.

(U) NSA advised NSD and ODNI of this incident on [REDACTED], 2014.

~~(S)~~ **(23) United States Person Query**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. NSA reports that on [REDACTED] 2014, an NSA analyst conducted a query using [REDACTED] facilities used by a United States person. Those facilities were not approved to query Section 702 collection. The analyst inadvertently included Section 702-acquired data when running the query. The query was not run against Section 702-acquired upstream data. No results were returned.

(U) NSA advised NSD and ODNI of this incident on [REDACTED], 2014.

(U) (F) Other Issues

~~(S)~~ **(1)**

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED] 2013, with supplemental information provided in [REDACTED], 2013,

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

and [REDACTED] 2014, letters. As described in these notices, [REDACTED] is a [REDACTED] analytical tool that NSA has used for various purposes, to include assisting in the pre-tasking determination that a potential Section 702 target is reasonably believed to be located outside the United States. [REDACTED]

(TS//SI//NF) [REDACTED]

(TS//SI//NF) [REDACTED]

The Government assesses that [REDACTED], in combination with the obligation to conduct content review and [REDACTED], would have resulted—and will continue to result—in the identification of targets located in the United States and the purging of the resulting communications.

(S//NF) [REDACTED]

~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

(TS//SI//NF) As noted above, on [REDACTED] 2013, NSA analysts were instructed to [REDACTED]

[REDACTED] NSD's subsequent review of taskings between [REDACTED], 2013, discovered [REDACTED]

NSA has identified no situations in which data indicating recent use from the United States has been missed. NSA has reemphasized with its workforce that [REDACTED]

[REDACTED] to include notices to the workforce, a message displayed on the [REDACTED] homepage, and guidance to NSA's Section 702 leads and adjudicators.

(S) NSA informed NSD and ODNI of this incident on [REDACTED] 2013.

(S) (2) Post-tasking Check Issues Due To Server Crash

(TS//SI//NF) This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED], 2013, with supplemental information provided in a [REDACTED], 2013, letter. As detailed in [REDACTED] notice, on or around midnight of [REDACTED], 2013, an NSA server crashed. This server is integral to [REDACTED] systems used to conduct post-tasking [REDACTED] checks. NSA's post-tasking [REDACTED] checks are intended to identify indications that users of Section 702-tasked facilities may be inside the United States.

(S//NF) As a result of the server failure, NSA identified a temporary delay [REDACTED]

[REDACTED]
Because of the server issue discussed above, there was a delay [REDACTED]. Specifically, facilities tasked for an approximately [REDACTED] on [REDACTED], 2013, would typically have been received [REDACTED] on [REDACTED] 2013. They were instead received on [REDACTED] 2013, following the restoration of the server that crashed.

~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

(S//NF)



(S//NF) As of [REDACTED] 2013, and as noted above, NSA restored the server and [REDACTED] facilities were sent to NSA systems as intended, including [REDACTED]

[REDACTED]
[REDACTED] the results of those checks did not reveal any information indicating that the users of those facilities were located in the United States during the affected time period.⁴¹

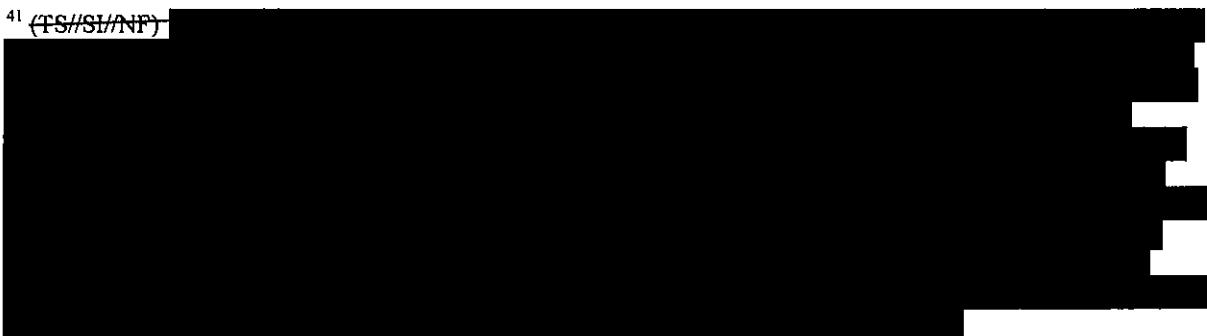
(S) NSA informed NSD and ODNI of this incident on [REDACTED], 2013.

(S) (3) Post Tasking Checks

(TS//SI//NF) This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED] 2014. As detailed in that notice, NSA reported that on or around [REDACTED] 2014, NSA made an upgrade to the system that [REDACTED]
[REDACTED] The upgrade ran into unexpected problems and [REDACTED]

⁴⁰ (S) [REDACTED]

⁴¹ (TS//SI//NF) [REDACTED]



~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

temporarily prevented NSA from initiating its tasked electronic communications accounts

. This post-tasking checks of Section 702-

(S) Subsequent to the filing of the [REDACTED] notice, NSA advised that it had processed all alerts of possible use of Section 702-tasked accounts from within the United States generated after the [REDACTED].

(U) NSA orally informed NSD of this incident on [REDACTED] 2014, and NSA provided NSD and ODNI additional information about this matter on [REDACTED] 2014.

(S) (4) [REDACTED]

-(TS//SI//NF)-

-(TS//SI//NF)-

⁴² (TS//SI//NF)

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

[REDACTED]

~~(TS//SI//NF)~~

[REDACTED]

~~(TS//SI//NF)~~

[REDACTED]

~~(TS//SI//NF)~~

[REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

[REDACTED]

(U) NSA informed NSD and ODNI of this incident on [REDACTED] 2014.

~~(S)~~ **(5) Incomplete Purges**

~~(TS//SI//NF)~~ This issue was initially reported to the Court in a notice filed on March 18, 2014. As detailed in that notice, NSA advised that two studies of NSA's purge practices (in 2011 and 2012, respectively) had identified incompletely purged data.⁴³ The purge studies were conducted to verify and improve NSA's purge protocol, which was extensively briefed to the Court in 2010. The purge studies identified a small percentage of communications that had been added to NSA's MPL, but had not been purged from all relevant NSA systems. The incomplete purges appear to have resulted from mistakes in [REDACTED] aspects of the purge process.

~~(S)~~ In 2011, NSA's Office of the Director of Compliance led a purge verification study by taking a sample of [REDACTED] unique identifiers that had been added to the MPL between June 2010 and June 2011 to identify whether the underlying objects had in fact been purged.

[REDACTED]

SA advised that it cannot confirm when it completed its reexecution of the purges to remove these [REDACTED] objects from its systems, but can confirm that as of [REDACTED] 2014, all objects have been removed from NSA systems.

~~(S)~~ In 2012, NSA's Oversight and Compliance section led a similar purge verification study using a sample of [REDACTED] unique identifiers added to the MPL between August and October 2011. NSA identified [REDACTED] records related to one event that had not been purged from [REDACTED]. While records were purged from other NSA systems related to this event, the records were not purged from [REDACTED] because a notice was inadvertently not sent [REDACTED]. The communications were purged [REDACTED] in May 2012.

~~(S)~~ Although the communications described above were not initially purged from certain NSA systems as intended, [REDACTED] were on NSA's MPL to prevent use in NSA reporting, in FISA applications, or to target pursuant to Section 702.

⁴³ ~~(S)~~ NSA's report of this issue was the result of NSD's follow-up questions in reference to a recommendation made in a March 2013 NSA Office of the Inspector General report regarding [REDACTED] NSA's purge processes.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

(S) NSA has made efforts and continues to make efforts to improve its purge processes. Furthermore, as discussed in the Quarterly Report, in addition to its standard purge discovery process, NSA has implemented several supplemental processes to reverify that data subject to purge has not been ingested or reingested into NSA systems subsequent to purges; any data that is identified is removed from NSA systems upon discovery. See Quarterly Report to the Foreign Intelligence Surveillance Court Concerning Compliance Matters Under Section 702 of the Foreign Intelligence Surveillance Act, December 2013, n. 8; see also Semiannual Report of the Attorney General Concerning Acquisitions Under Section 702 of the Foreign Intelligence Surveillance Act, September 2012, n. 12.

(U) NSA informed NSD and ODNI of this incident on January 16, 2014.

(S)-(6) Incomplete Purges

(S//SI//NF) This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED], 2014. As detailed in that notice, NSA reported that it had discovered a gap in its purge discovery processes that affects purges of information under certain circumstances that have to-date only been found to have occurred with respect to [REDACTED]



[REDACTED] NSD will provide the Court an update regarding the status of NSA's remedial purging action.

(U) NSA advised NSD and ODNI of this incident on [REDACTED] 2014.

⁴⁴ (S//SI//NF) [REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET~~ /SI//ORCON/NOFORN

(S) (H) Reported Incidents that Appear at this Time to Not Be Compliance Incidents.

(S//NF) NSA is required to report to NSD and ODNI incidents other than those it assesses to be compliance matters. The NSA's targeting procedures require that whenever NSA "concludes that a person is reasonably believed to be located outside the United States and after targeting this person learns that the person is inside the United States, or if NSA concludes that a person who at the time of targeting was believed to be a non-United States person was in fact a United States person," NSA must terminate the acquisition without delay and report the incident to NSD and ODNI. NSD reviews each of these incidents and, as necessary, asks questions of NSA or other relevant agencies regarding the initial tasking and the subsequent detasking of facilities used by these targeted individuals to ensure that no compliance incident has in fact occurred. It is also NSD's practice to confirm with each agency that may have received the unminimized acquisitions from a facility involved in one of these incidents that the agency has completed any purges required by the procedures. NSD does not consider a reported incident to be closed until all outstanding questions have been answered and all purges have been confirmed.

(S) This quarterly report includes all incidents reported to NSD and ODNI between December 1, 2013, and February 28, 2014, that NSD has determined to be compliance matters. There are, however, approximately █ incidents for which NSD is awaiting additional information before deciding that these incidents can be closed.

II. (U) Incidents of Noncompliance with the CIA Minimization Procedures

(S) CIA does not task facilities under the Section 702(g) certifications, though it can nominate facilities to be tasked by NSA. CIA does, however, receive raw, unminimized data as a result of NSA's and FBI's acquisition of foreign intelligence information under the certifications. CIA must minimize such information in accordance with CIA's minimization procedures. During the reporting period, NSD and ODNI have conducted two reviews of CIA's application of its minimization procedures. CIA did not report and NSD and ODNI did not identify any incidents of noncompliance with the CIA minimization procedures during this reporting period.

III. (U) Incidents of Noncompliance with the FBI Targeting or Minimization Procedures

(S) (b)(1); (b)(3); (b)(7)(E) NSA must comply with the NSA targeting procedures in tasking the account (b)(1); (b)(3); (b)(7)(E) FBI must then review the NSA's foreignness determination for each facility (b)(1); (b)(3); (b)(7)(E) (b)(1); (b)(3); (b)(7)(E)

45 (b)(1); (b)(3); (b)(7)(E)

~~TOP SECRET~~ /SI//ORCON/NOFORN

~~TOP SECRET//SI//ORCON/NOFORN~~

(b)(1); (b)(3); (b)(7)(E)

NSD and ODNI conducted three joint targeting reviews during the reporting period in order to monitor FBI's targeting practices.

-(S/NF) (b)(1); (b)(3); (b)(7)(E)

(S) (b)(1); (b)(3); (b)(7)(E)

NSD

and ODNI conducted one joint minimization review during the reporting period in order to monitor FBI's minimization practices.

-(S) During the reporting period, the following compliance incidents were identified.

(S) (1) Unauthorized Queries

-(S/NF) This incident was initially reported to the Court in a Rule 13(b) notice filed on (b)(1); (b)(3); (b)(7)(E). As detailed in that notice, the Government reported an issue of non-compliance with FBI's Section 702 Minimization Procedures.⁴⁶ (b)(1); (b)(3); (b)(7)(E)

-(S/NF) Sections III.D of the FBI's Section 702 Minimization Procedures requires:

Users who are authorized to have access to raw FISA-acquired information may query FBI electronic and data storage systems that contain raw FISA-acquired information to find, extract, review, translate, and assess whether such information reasonably appears to be foreign intelligence information, to be necessary to understand foreign intelligence information or assess its importance, or to be evidence of a crime. . . . To the extent reasonably feasible, authorized users with access to raw FISA-acquired information

⁴⁶ (U) Consistent with the subject matter of this quarterly report, this summary focuses on the Section 702 aspect of this incident.

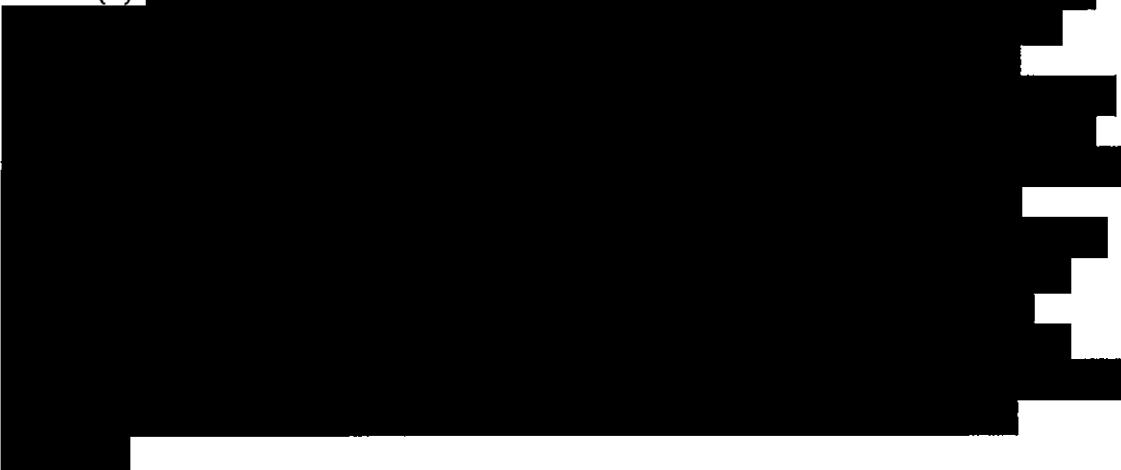
⁴⁷ (S) (b)(1); (b)(3); (b)(7)(E)

~~TOP SECRET//SI//ORCON/NOFORN~~

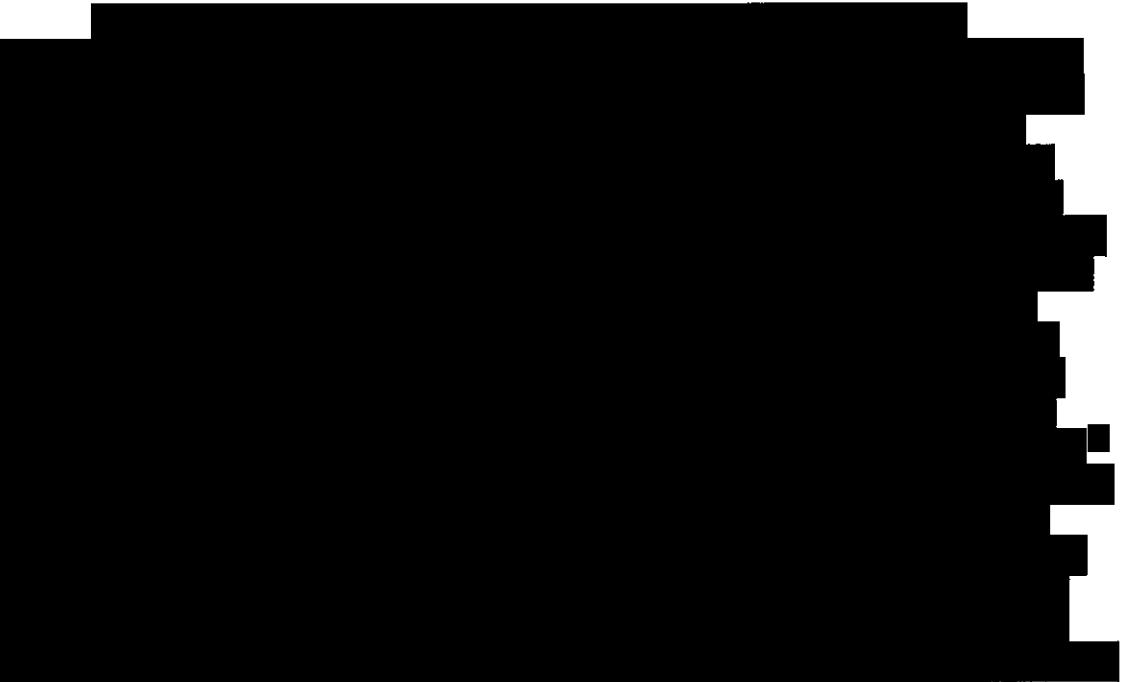
~~TOP SECRET//SI//ORCON//NOFORN~~

must design such queries to find and extract foreign intelligence information or evidence of a crime. . . . For purposes of this section, the term query does not include a user's search or query of an FBI electronic and data storage system that contains raw FISA-acquired information, where the user does not receive the raw FISA-acquired information in response to the search or query or otherwise have access to the raw FISA-acquired information that is searched.

~~(S)~~ (b)(1), (b)(3); (b)(7)(E)



~~(S)~~ (2-3) Improper Disseminations of United States Person Identities





~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET~~ //SI//ORCON//NOFORN

10. The following is a list of statements concerning the use of the Internet by teenagers. Please indicate whether you agree or disagree with each statement.

(S) (4) Improper Dissemination of United States Person Identities

(S/NF) During the [REDACTED] (b)(1); (b)(3); (b)(7)(E), review at [REDACTED] (b)(1); (b)(3); (b)(7)(E) regarding FBI's Section 702 Minimization Procedures, NSD identified the following issues regarding [REDACTED]

the first time in the history of the world, the people of the United States have been called upon to decide whether they will submit to the law of force, or the law of the Constitution. We have now an opportunity unprecedented in the history of the world, to decide whether we will submit to the law of force, or the law of the Constitution. We have now an opportunity unprecedented in the history of the world, to decide whether we will submit to the law of force, or the law of the Constitution. We have now an opportunity unprecedented in the history of the world, to decide whether we will submit to the law of force, or the law of the Constitution.

~~(S)~~ **(5) Improper Dissemination of United States Person Identity**

(S/NF) On [REDACTED] (b)(1); (b)(3); (b)(7)(E) while conducting a review at [REDACTED] (b)(1); (b)(3); (b)(7)(E)

~~(S/NF)~~ On [REDACTED] (b)(1); (b)(3); (b)(7)(E) while conducting a review at [REDACTED] (b)(1); (b)(3); (b)(7)(E)

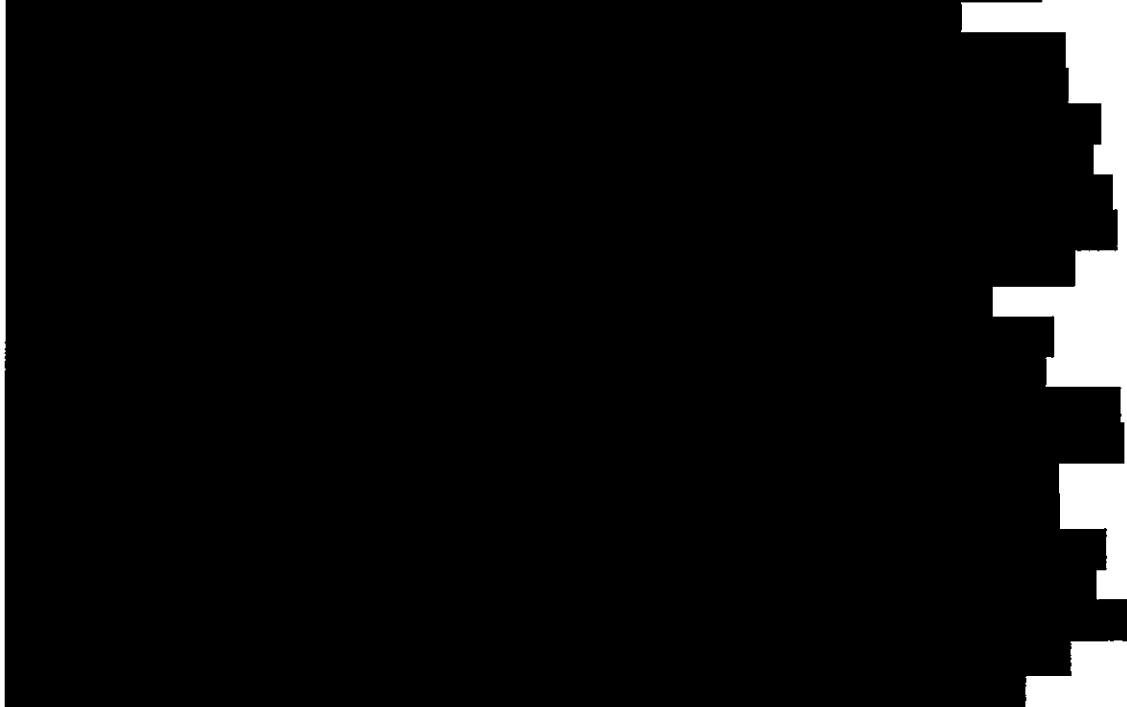
49 ~~(S)~~ (b)(1); (b)(3); (b)(7)(E)

~~TOP SECRET~~/SI/ORCON/NOFORN

~~TOP SECRET//SI//ORCON/NOFORN~~

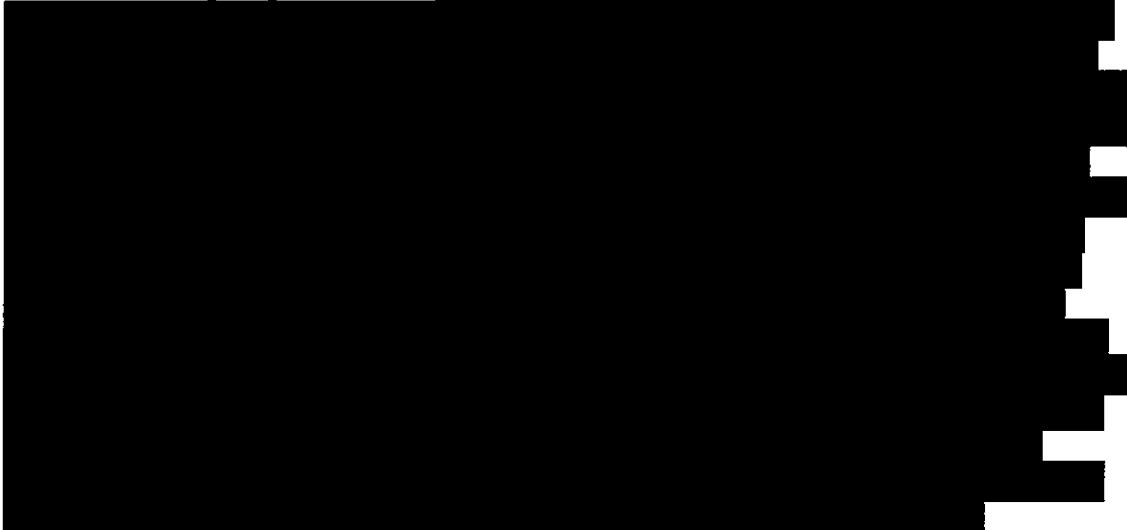
~~(S)~~ **(6) Incomplete** ^{(b)(1); (b)(3); (b)(7)(E)}

~~-(S//NF)~~ During the ^{(b)(1); (b)(3); (b)(7)(E)} review at ^{(b)(1); (b)(3); (b)(7)(E)} regarding FBI's Section 702 Targeting Procedures, NSD discovered the following issue ^{(b)(1); (b)(3); (b)(7)(E)}



~~(S)~~ **(7) Incomplete** ^{(b)(1); (b)(3); (b)(7)(E)}

~~-(S//NF)~~ During the ^{(b)(1); (b)(3); (b)(7)(E)}, review at ^{(b)(1); (b)(3); (b)(7)(E)} regarding FBI's Section 702 Targeting Procedures, ^{(b)(1); (b)(3); (b)(7)(E)}



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

(b)(1); (b)(3); (b)(7)(E)

~~(S)~~ **(8) Marking of Attorney Client Communications**

~~(S/NF)~~ On [REDACTED] (b)(1); (b)(3); (b)(7)(E) while conducting a review at [REDACTED] (b)(1); (b)(3); (b)(7)(E) NSD identified the following issue with respect to [REDACTED]

~~(S)~~ (b)(1); (b)(3); (b)(7)(E)

~~(S/NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [REDACTED] (b)(1); (b)(3); (b)(7)(E) As detailed in that notice, FBI reported that [REDACTED]

~~(S/NF)~~ Section [REDACTED] (b)(1); (b)(3); (b)(7)(E) of the Minimization Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, (b)(1); (b)(3); (b)(7)(E)

(U) FBI informed NSD and ODNI of this incident on February 4, 2014.

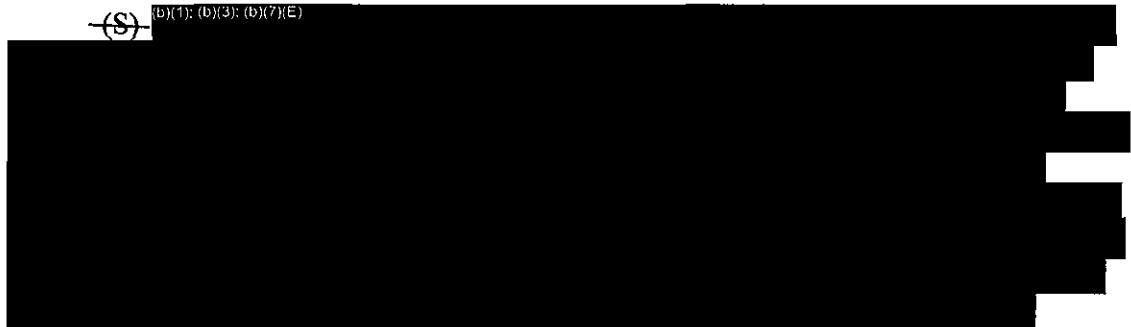
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

(S) (10) (b)(1); (b)(3); (b)(7)(E)



(S) (b)(1); (b)(3); (b)(7)(E)



(U) NSD and ODNI discovered this incident during a review at FBI on [b](1); (b)(3); (b)(7)
[b] This incident was reported in the March 2013 Section 702 Semi-Annual Report to
Congress but inadvertently omitted from the March 2013 Quarterly Report.

IV. (U) Incidents of Noncompliance by an Electronic Communication Service Provider

(S) There were no incidents involving noncompliance by an electronic communication service provider during this reporting period.

50 (S) (b)(1); (b)(3); (b)(7)(E)



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

**(U) UPDATES ON INCIDENTS OF NONCOMPLIANCE
REPORTED IN PREVIOUS REPORTS**

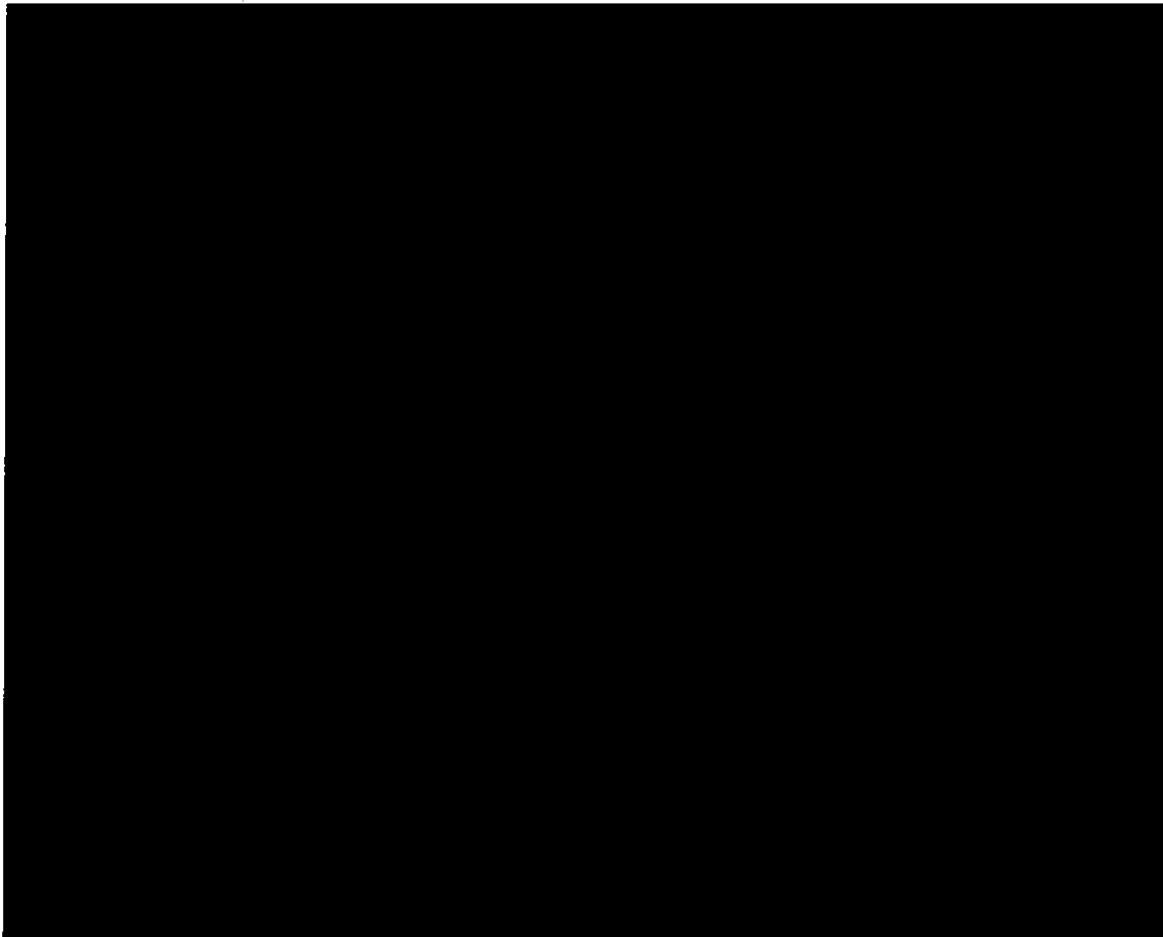
There were a number of matters discussed in previous quarterly reports for which NSD stated that it was continuing to gather information. The following provides relevant updates to the matters that remained outstanding in the previous reports. A substantial majority of these matters were first discussed in the previous quarterly report, covering the period from March 1 through May 31, 2013. For ease of reference, the letters and numbers referencing the incidents below have been retained from that previous report. Gaps in the letter or numbering sequence indicate that no updates from the previous report were necessary. Several incidents first reported in prior quarterly reports for which new information has been gathered are reported at the conclusion of this section.

(S)

~~(S)~~ Updates On Incidents First Reported in the Previous Quarterly Report

**I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and
Minimization Procedures**

~~(S)~~ (A) Tasking Errors

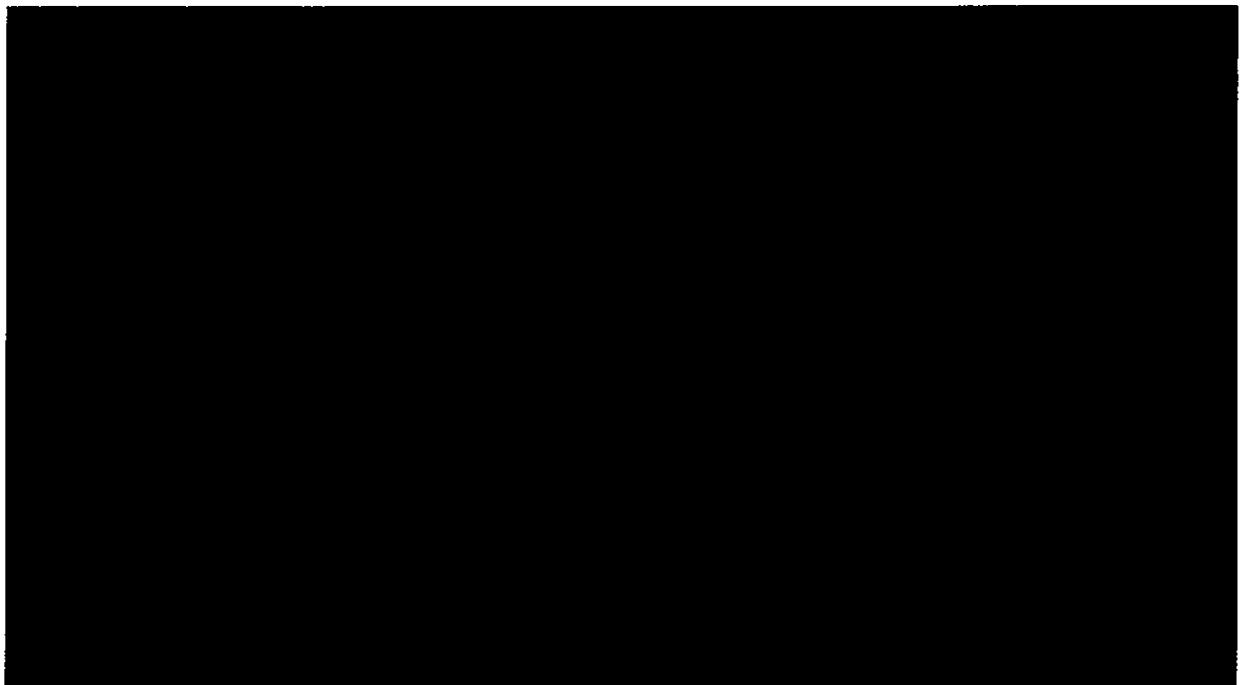


~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

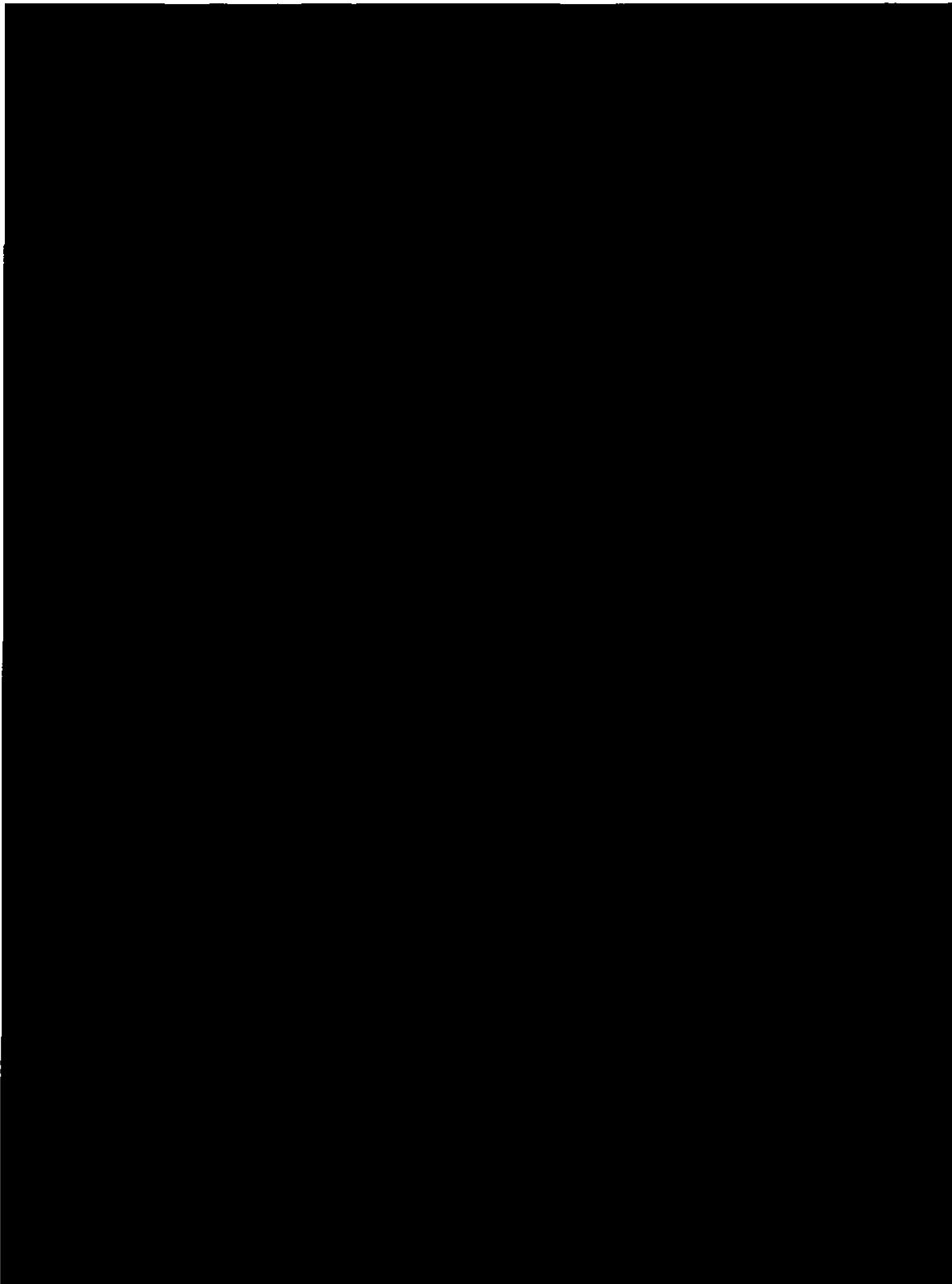


~~(S)~~ (B) Detasking Delays



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

(C) Notification Delays

(S) In the previous quarterly report, NSD advised the FISC that there were [REDACTED] incidents involving circumstances in which NSA did not notify NSD and ODNI within the required five business days. At the time of the previous quarterly report, NSD was awaiting updates from NSA regarding the purging of [REDACTED] facilities, from CIA regarding the purging of [REDACTED] facilities, and (b)(1); (b)(3); (b)(7)(E) [REDACTED]. With respect to the [REDACTED] facilities, NSA now advises that the unique identifiers of the relevant objects were placed on the MPL in purge state as of [REDACTED] 2013. NSA further advises that it has identified no reporting based on collection from [REDACTED] of the [REDACTED] facilities. For the remaining facility, NSA advises that it recalled and revised reports. (b)(1); (b)(3); (b)(7)(E) [REDACTED]

(S) (E) Minimization Incidents

(S) (10) Failure to Age-Off Data

(TS//SI//NF) In the previous quarterly report, the Court was advised of an incident involving the retention of [REDACTED] [REDACTED] data in an NSA analytic system for longer than permitted under NSA's minimization procedures.⁵¹ [REDACTED]

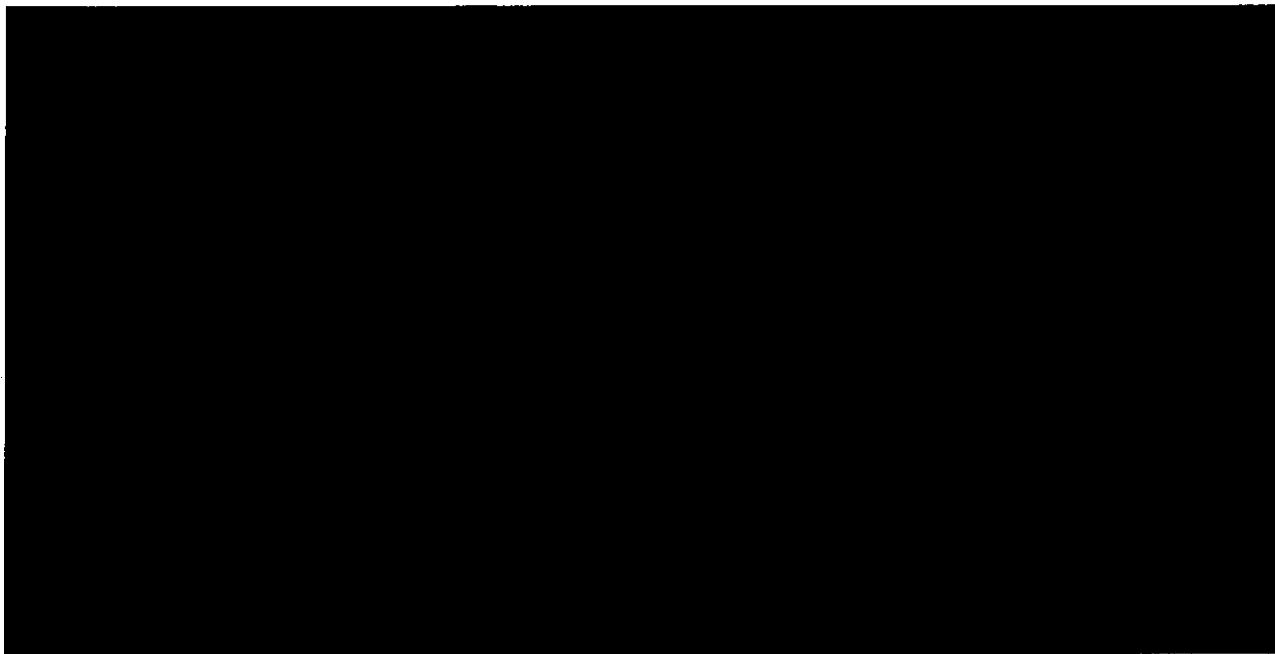
[REDACTED] NSA identified that it would need to implement an age-off capability in [REDACTED] but such a capability was not implemented at that time because the timeframe for the requirement to age-off PAA and Section 702 collection had not yet been reached.

(TS//SI//NF) Access to the data in the analytic system is restricted to only a specified group of users, and because the analytic system is not [REDACTED] reports may not be sourced to data residing within it.

⁵¹(S) Consistent with the subject matter of this Quarterly report, this summary focuses on the Government's investigation regarding identifiers tasked pursuant to Sections 702 and the PAA.

~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~



(S) (H) Reported Incidents that Appear at this Time to Not Be Compliance Incidents

(S) The previous quarterly report included all incidents reported to NSD and ODNI between September 1 and November 30, 2013, that NSD has determined to be compliance matters. There were, however, [] incidents for which NSD was awaiting confirmation that all required purges have been completed. NSA now advises that the [] for [] of the [] incidents were placed on the MPL in purge state. NSD is still confirming the required purges for the remaining [] incidents. NSA further advises that it has identified no reporting based on collection from [] of the [] facilities. In addition, there was one matter that NSD was still investigating to determine whether the tasking of an account was non-compliant with NSA's targeting procedures. NSD has since assessed that the tasking of the facility pursuant to Section 702 was appropriate.

III. (U) FBI Incidents

(S) (1) Storage of Section 702-Acquired Information

(S) In the prior quarterly report, the Court was advised of an incident involving FBI's storage of Section-702-acquired data in repositories that did not have the capabilities and restrictions required by FBI's minimization procedures for electronic and data storage systems. On November 14, 2013, the Attorney General and Director of National Intelligence approved amended certifications which include amended minimization procedures for FBI that permit FBI to process and retain raw Section 702-acquired information, subject to certain conditions and restrictions, in non-primary (also referred to as "ad hoc") FBI databases in order to conduct additional analysis of the Section 702-acquired information. The Court approved these revised minimization procedures on December 13, 2013.

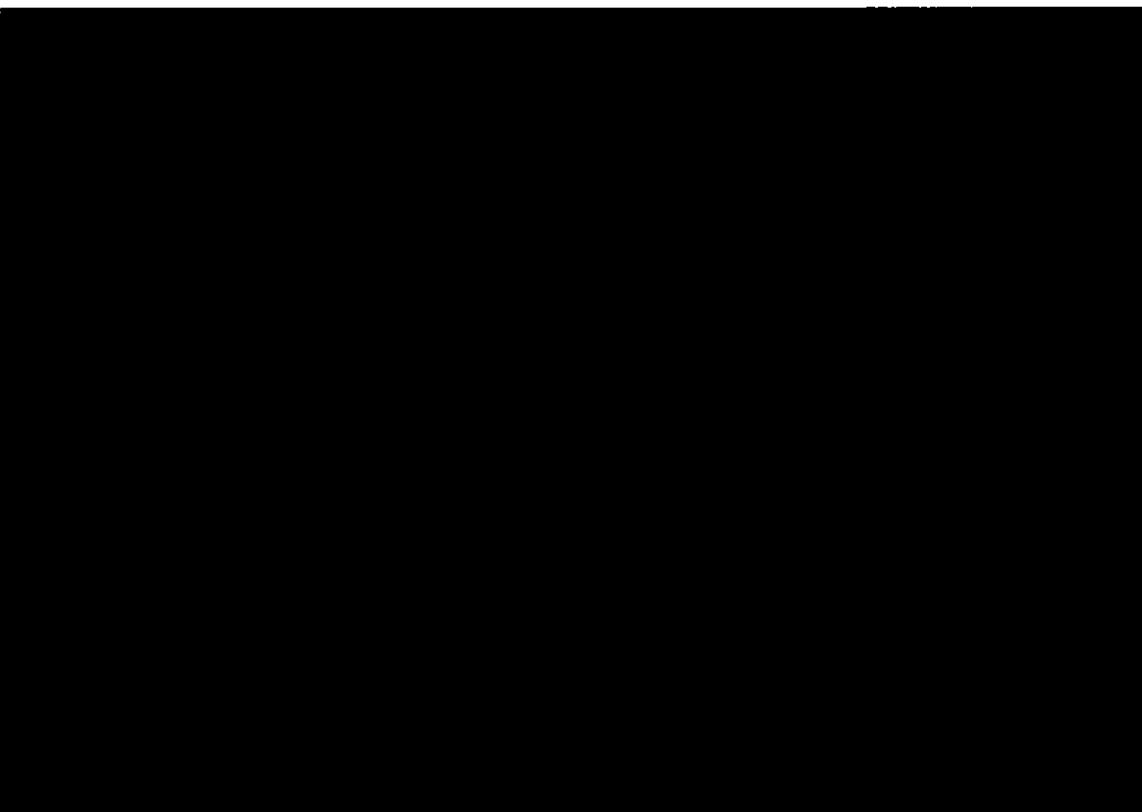
~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

~~(S//NF)~~ ^{(b)(1); (b)(3); (b)(7)(E)}



IV. (U) Incidents of Noncompliance by an Electronic Communication Service Provider



~~TOP SECRET//SI//ORCON/NOFORN~~

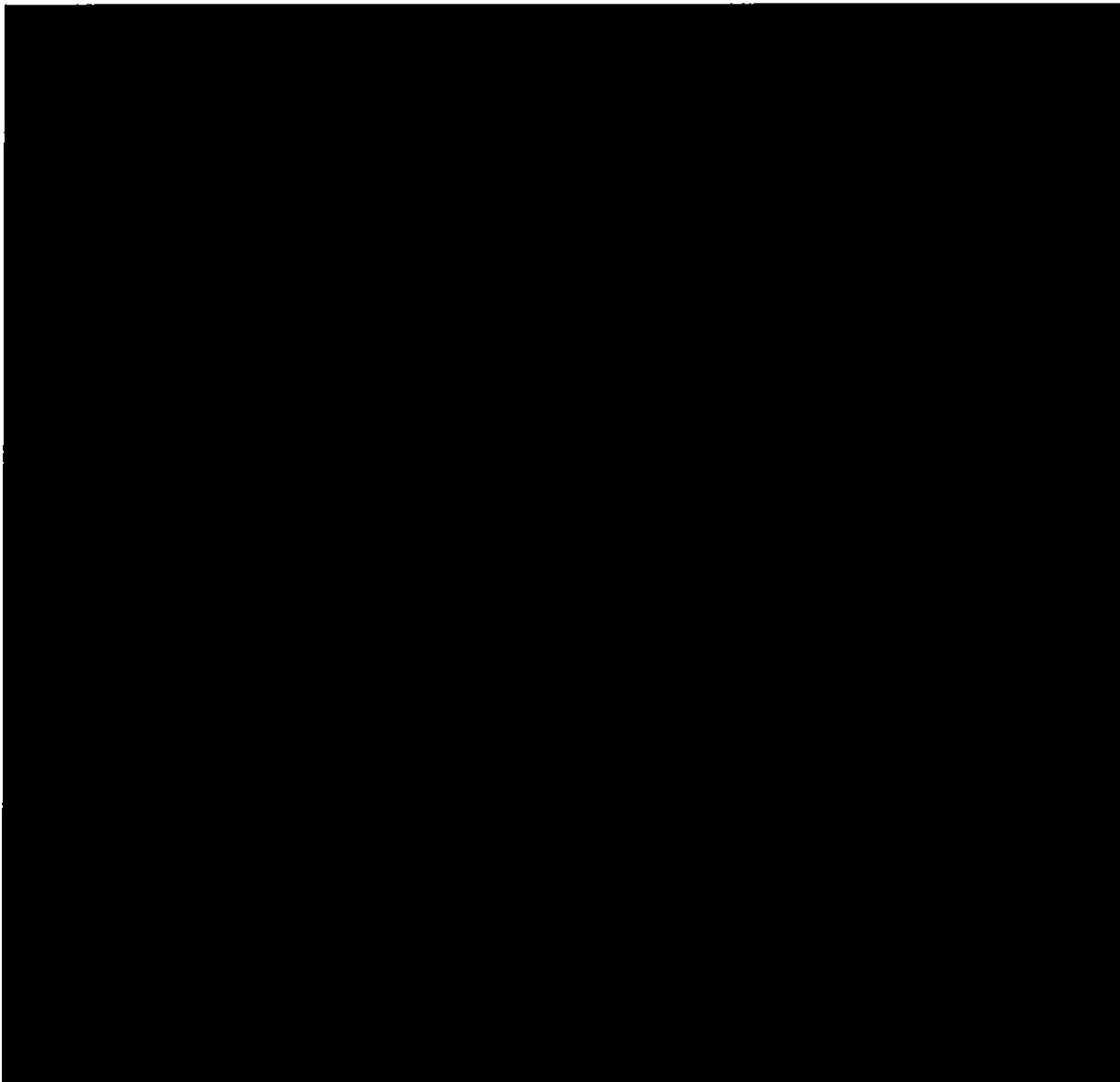
~~TOP SECRET//SI//ORCON/NOFORN~~



**(S) UPDATES ON INCIDENTS OF NONCOMPLIANCE
REPORTED IN PRIOR QUARTERLY REPORTS**

**I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and
Minimization Procedures**

(S) (B) Detasking Errors



~~TOP SECRET//SI//ORCON/NOFORN~~

~~TOP SECRET//SI//ORCON//NOFORN~~

(S) (C) Noncompliance with a Notification Requirement

~~(S)~~ In the previous quarterly reports, NSD advised the FISC that there were incidents involving circumstances in which NSA did not notify NSD and ODNI within the required five business days. At the time of the previous quarterly report, NSD was awaiting final confirmation from NSA regarding the purging of [REDACTED] facilities. NSA now advises that the unique identifiers of the relevant objects for [REDACTED] of the [REDACTED] incidents were placed on the MPL in purge state. NSA further advises that it has identified no reporting based on collection from these [REDACTED] facilities. NSD is still confirming the necessary purges with respect to the remaining [REDACTED] incidents.

(S) (E) Minimization Incidents.

(S) (1) [REDACTED] Database

~~(S//SI//REL TO USA, FVEY)~~ In the previous quarterly report, the Court was updated regarding NSA's efforts to evaluate transcripts stored in a database known as [REDACTED] that may have been retained longer than permitted. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] At this time, however, NSA has not deleted these transcripts as it is determining whether any of the transcripts that are otherwise eligible for deletion are the subject of litigation preservation orders.

(S) (F) Overcollection Incidents.

(S) (1) Overcollection Incident Related to [REDACTED]

~~(TS//SI//NF)~~ In the previous quarterly report, the Court was updated regarding an overcollection incident involving the acquisition of [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

~~TOP SECRET//SI//ORCON//NOFORN~~

~~TOP SECRET//SI//ORCON/NOFORN~~

~~(S)~~ (H) Reported Incidents that Appear at this Time to Not Be Compliance Incidents

~~(S)~~ The previous quarterly reports included all incidents reported to NSD and ODNI that were determined to be compliance matters. There were, however, [] incidents for which NSD was awaiting confirmation that all required purges have been completed. After additional investigation, one of the [] incidents was determined not to be an incident. [] of the remaining [] incidents involved NSA. NSA now advises that the unique identifiers of the relevant objects for [] of the remaining [] NSA incidents were placed on the MPL in purge state. NSA further advises that it has identified no reporting based on collection from these [] facilities. For the remaining [] NSA incidents, NSD is still confirming the necessary purges. ^{(b)(1); (b)(3); (b)(7)(E)}

[REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~



U.S. Department of Justice
FEDERAL BUREAU OF INVESTIGATION
NATIONAL SECURITY DIVISION

2014 MAR 21 PM 5:17

~~SECRET//NOFORN~~

Washington, D.C. 20530 ~~LEANN FLYNN HALL
CLERK OF COURT~~

March 21, 2014

The Honorable Reggie B. Walton
United States Foreign Intelligence Surveillance Court
333 Constitution Avenue, N.W.
Washington, D.C. 20001

(U) Re: Quarterly Report Concerning Compliance Matters Under Section 702 of FISA

Dear Judge Walton:

(S//NF) The attached report is submitted pursuant to Rule 13(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court (hereinafter, "the Court") and in compliance with Judge Hogan's August 25, 2009, instructions regarding providing timely and effective notification to the Court of compliance issues involving the Government's implementation of its authorities under Section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA). As described in a February 4, 2010, letter to the Court, the Department of Justice's National Security Division has filed prompt notices to the Court regarding compliance matters in several categories of particular concern. This report provides the Court with further information regarding those incidents, and notifies the Court of other compliance incidents that did not fall within the specified categories. For ease of reference to the Court, this report contains the text, modified only for internal consistency, of the latest Rule 13(b) notice regarding each compliance matter previously reported. Where additional information has been obtained since the filing of the latest Rule 13(b) notice, this information is clearly delineated. In addition, the attached report updates the Court on incidents included in prior Quarterly Reports that were not fully resolved. Please contact me if you have any questions regarding the compliance matters discussed in the attached report.

Respectfully submitted,
(b)(6); (b)(7)(C)

Kevin J. O'Connor
Chief, Oversight Section
Office of Intelligence, NSD
U.S. Department of Justice

~~SECRET//NOFORN~~

Classified by: Tashina Gauhar, Deputy Assistant
Attorney General, NSD, DOJ

Reason: 1.4(c)

Declassify on: March 21, 2039

ACLU 16-CV-8936 (RMB) 000752