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indefinite detention in military custody. *See Khan v. Bush*, No. 06-1690 (RBW) (D.D.C.). He also filed a petition under the Detainee Treatment Act of 2005 ("DTA") in this Court on August 14, 2007, challenging his "enemy combatant" designation and preserving all other legal claims, including his right to habeas relief. *See Khan v. Gates*, No. 07-1324 (D.C. Cir.). Apart from denying Khan's initial requests for counsel access without prejudice, the District Court has not ruled on any pending motions or scheduled a hearing or status conference in his habeas case. This Court has likewise suspended briefing on the merits of Khan's DTA petition.

3. Although Khan has been imprisoned by U.S. officials for nearly five years, he has never been charged with a crime or appeared before any court. The government has also refused to provide a factual return to Khan's habeas petition, the record on review in his DTA case, or any other evidence to support his indefinite detention. In addition, government officials refused to allow Khan access to his security-cleared counsel for more than a year because they were afraid that he would disclose to us information about what happened to him in CIA custody, where he was held overseas, and who was responsible for his detention and interrogation.

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4. On October 12, 2007, this Court entered a protective order in Khan's DTA case that established counsel access procedures and procedures for the handling of "Top Secret//Sensitive Compartmented Information."

5. On October 15, 2007, the very next business day, I traveled to Guantánamo Bay for about ten days to meet with Khan and several other prisoners represented by CCR. I met with Khan on October 16, 17, 22, and 23, 2007. I was accompanied during my meetings with Khan by CCR attorney Gitanjali S. Gutierrez and/or CCR paralegal Jessica Baen.

6. This declaration was drafted at a secure facility in Washington, DC, based on my recollections and notes of our meetings with Khan.


7. As set forth in the Declaration of Gitanjali S. Gutierrez, executed November 29, 2007 (the "Gutierrez Declaration" or "Gutierrez Decl."), and filed herewith, during our meetings with Khan we learned that he was subjected to an aggressive CIA detention and interrogation program notable for its elaborate planning and ruthless application of torture. The methods inflicted on Khan --

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 As a direct result of this ordeal, Khan has suffered and continues to suffer severe physical and psychological trauma from which he is unlikely ever to recover fully. *See, e.g.,* Gutierrez Decl. ¶¶ 37, 115-16.

8. Khan's torture was decidedly not a mistake, an isolated occurrence, or even the work of "rogue" CIA officials or government contractors operating outside their authority or chain of command. To the contrary, as described below, Khan encountered several other prisoners who were similarly abducted, imprisoned and tortured by U.S. personnel at CIA "black sites" around the world. The collective experiences of these men, who were forcibly disappeared by our government and became "ghost" prisoners, reveal a sophisticated, refined program of torture operating with impunity outside the boundaries of any domestic or international law.

The CIA Torture Program

9. The CIA detention and interrogation program that Khan and the other ghost prisoners were subjected to is called 



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[REDACTED]

The CIA detention and interrogation program described by Khan and other ghost prisoners can only be characterized as state-sanctioned torture.

10. According to a recent news article, on September 17, 2001, President Bush authorized the CIA "to create paramilitary teams to hunt, capture, detain, or kill designated terrorists almost anywhere in the world." Jane Mayer, *The Black Sites*, *The New Yorker*, Aug. 13, 2007, at 5 of 11 ("*The Black Sites*") (attached hereto as Ex. A). The CIA torture program was apparently approved directly and repeatedly by President Bush, and was overseen on a daily basis by CIA Director George Tenet. *See id.* at 4 of 11. The Red Cross has reportedly described the program as "tantamount to torture," possibly resulting in "grave breaches" of the Geneva Conventions and war crimes violations by U.S. personnel. *Id.* at 3 of 11.

11. Indeed, the experiences of Khan and the other ghost prisoners he met in CIA custody leave no doubt as to the illegality of the CIA torture program and the criminal conduct of U.S. personnel who ordered, approved, and carried out that program.

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Detention

12. As set forth in the Gutierrez Declaration, ¶¶ 6-9, Khan was abducted

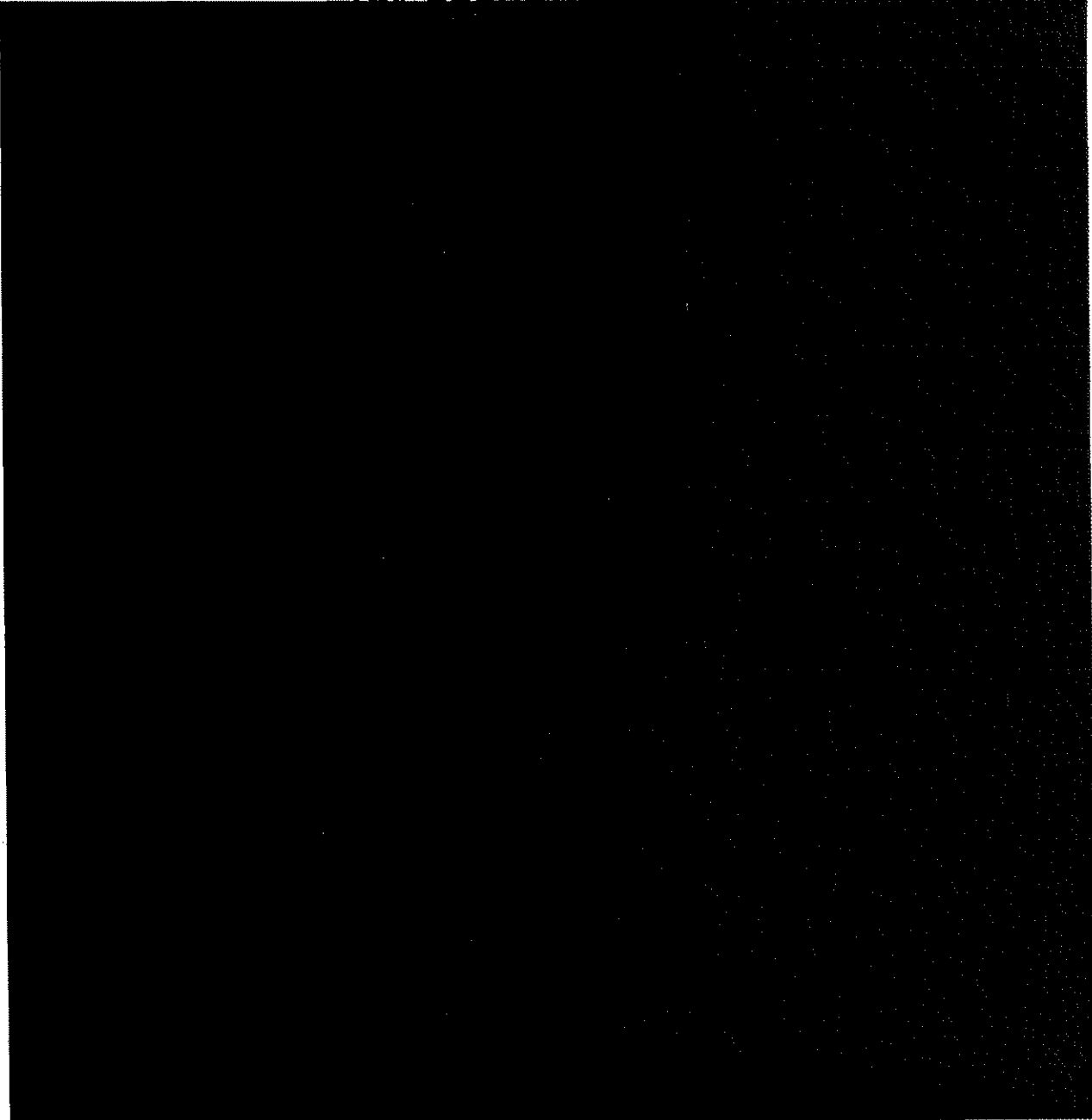
in Karachi, Pakistan, on March 5, 2003.

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17. As reported in one recent news article, the Bush Administration stands accused of "colluding with Islamabad in illegally arresting and detaining scores suspected terrorists since the Sept. 11, 2001. attacks." Jay Solomon & Steve

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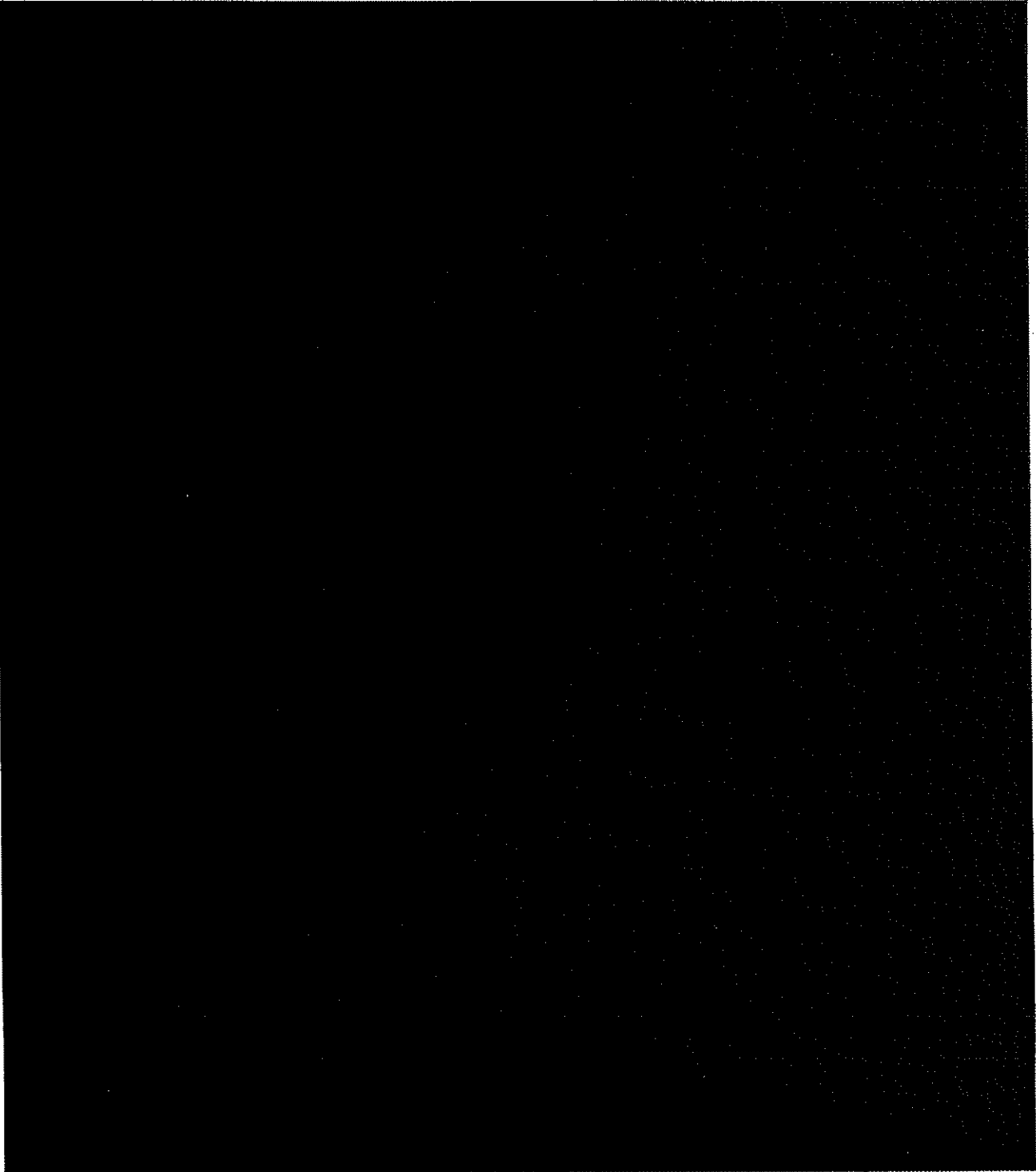
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Levine, *Suspect in Pearl Murder Was Held, Covertly Questioned Before Death*,

Wall St. J., Nov. 12, 2007, at A3; *see also infra* ¶ 46 n.1.

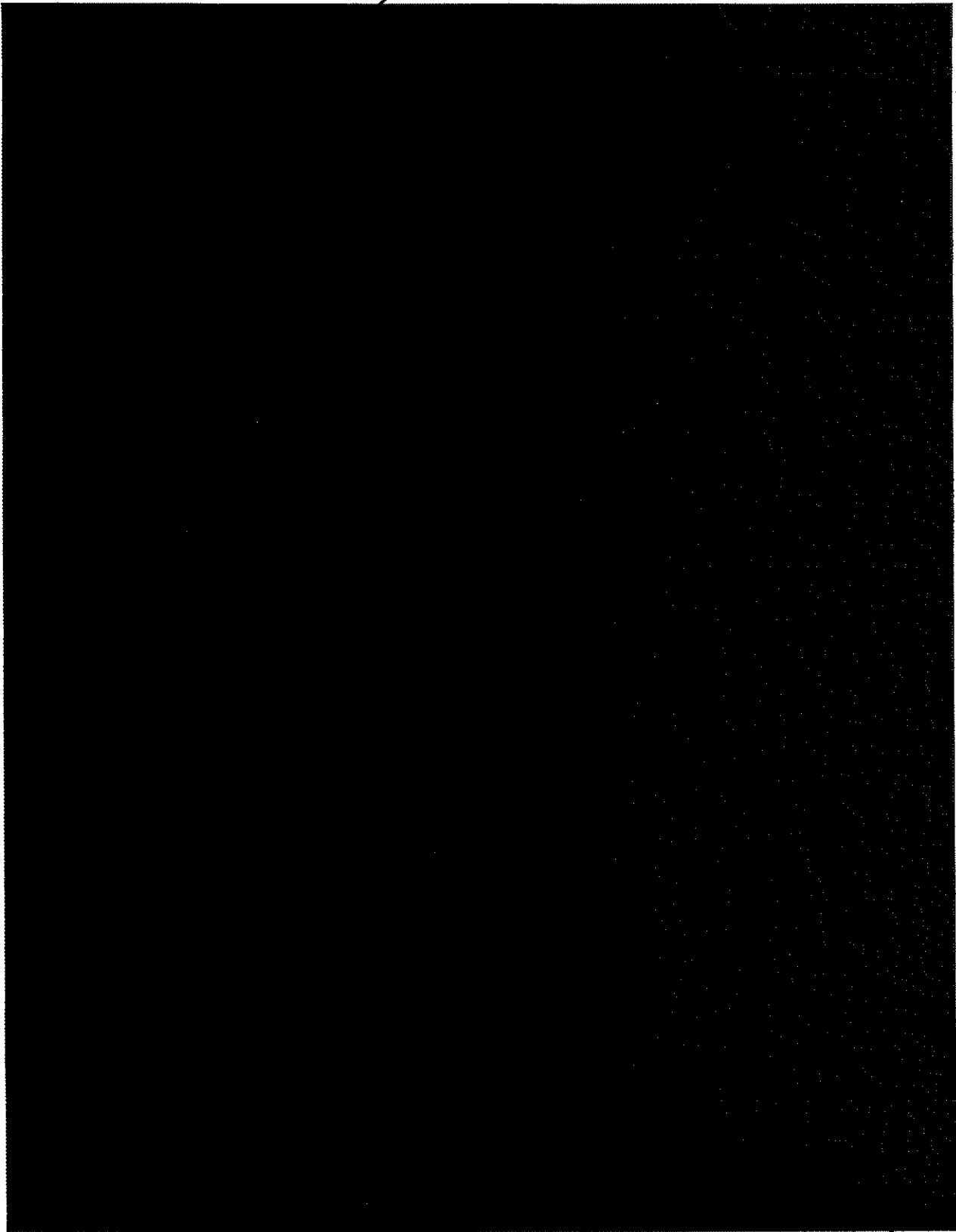


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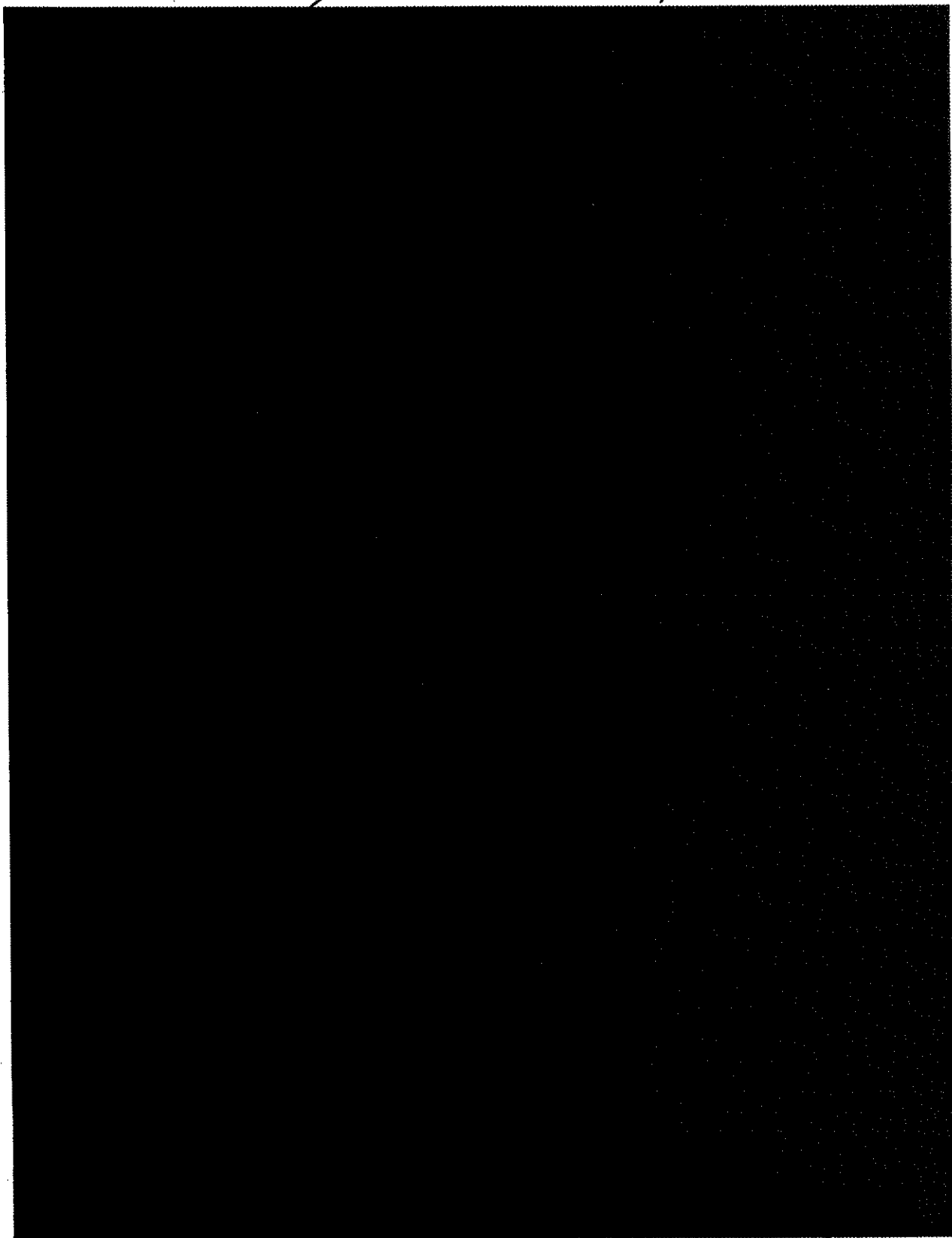


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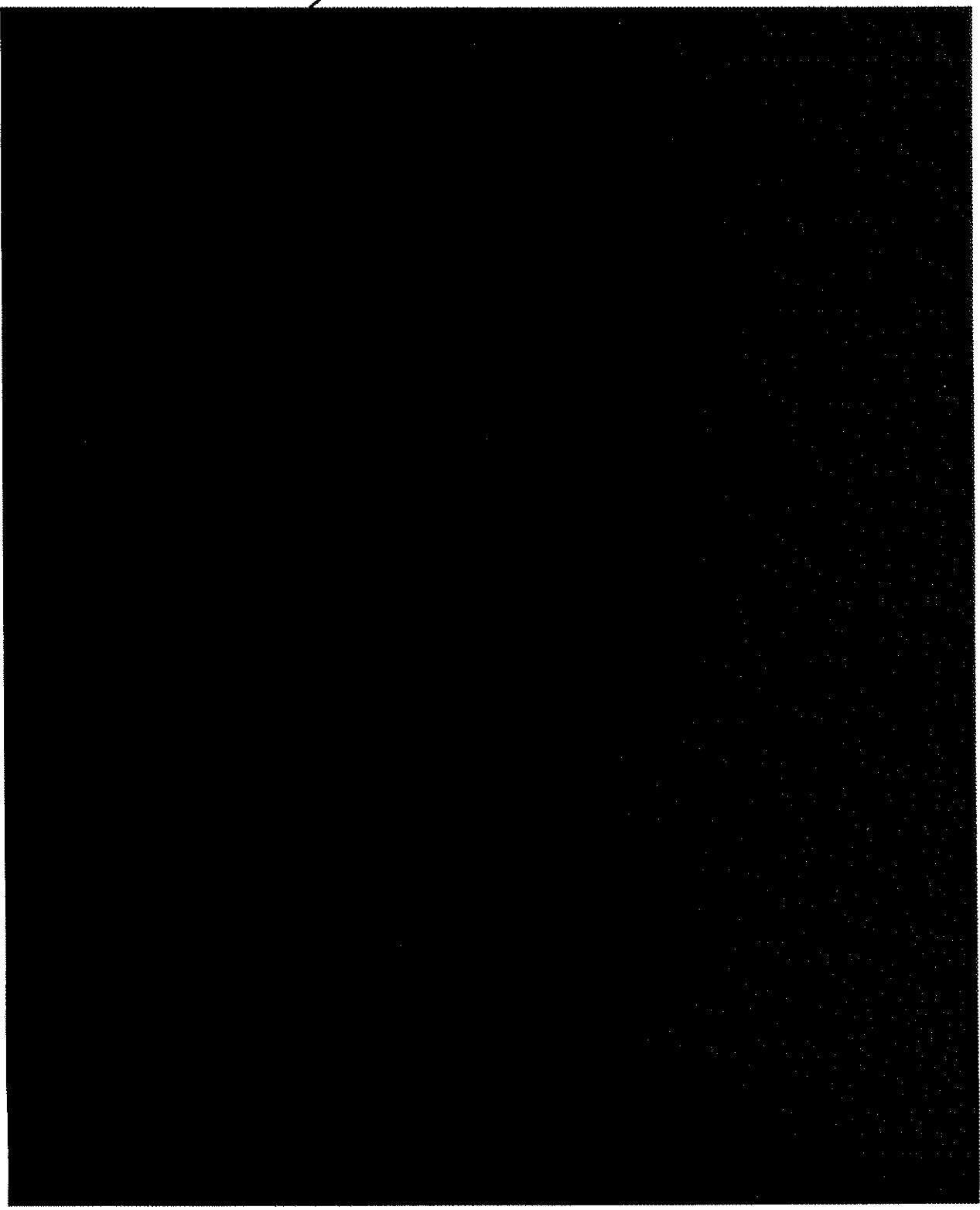


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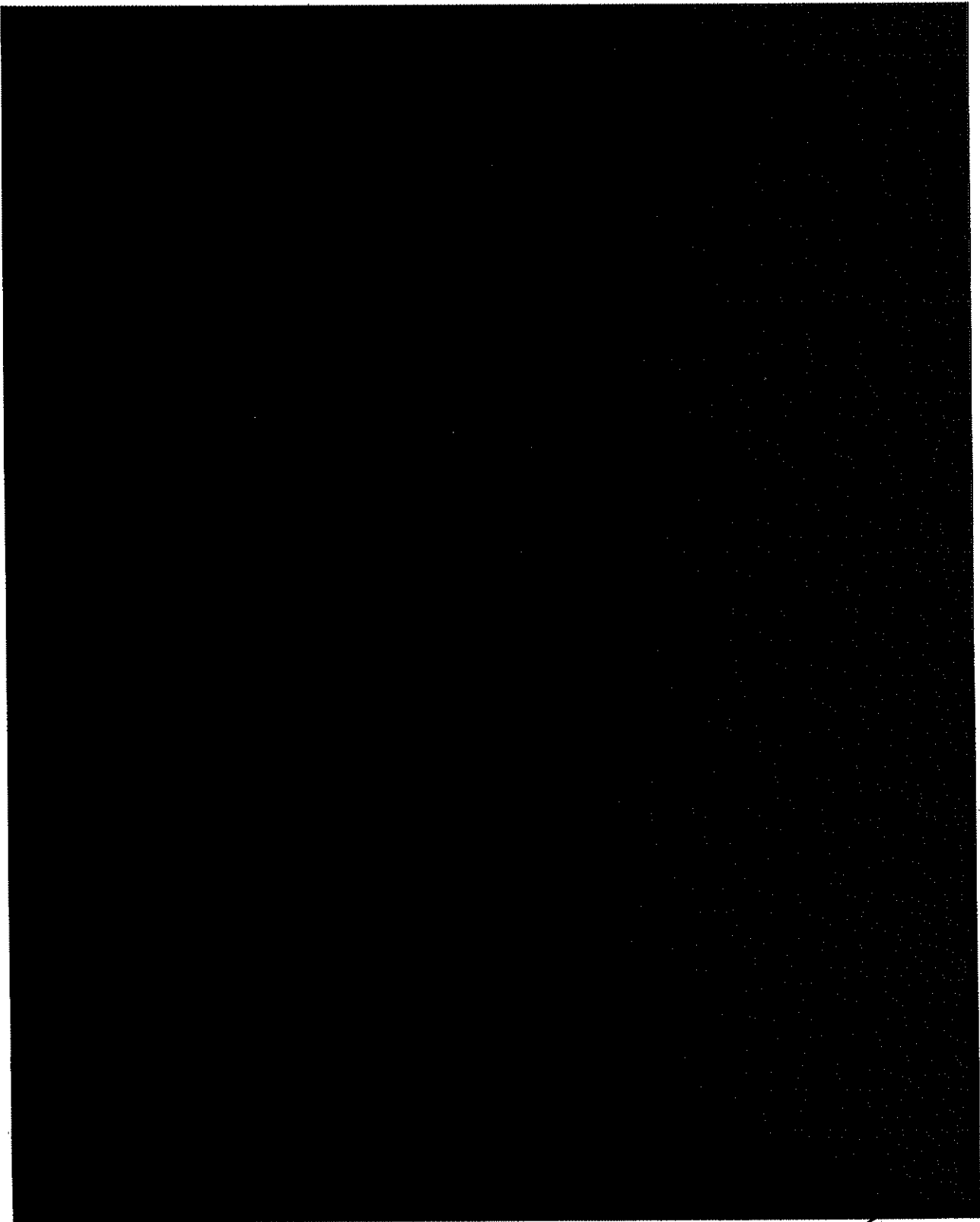


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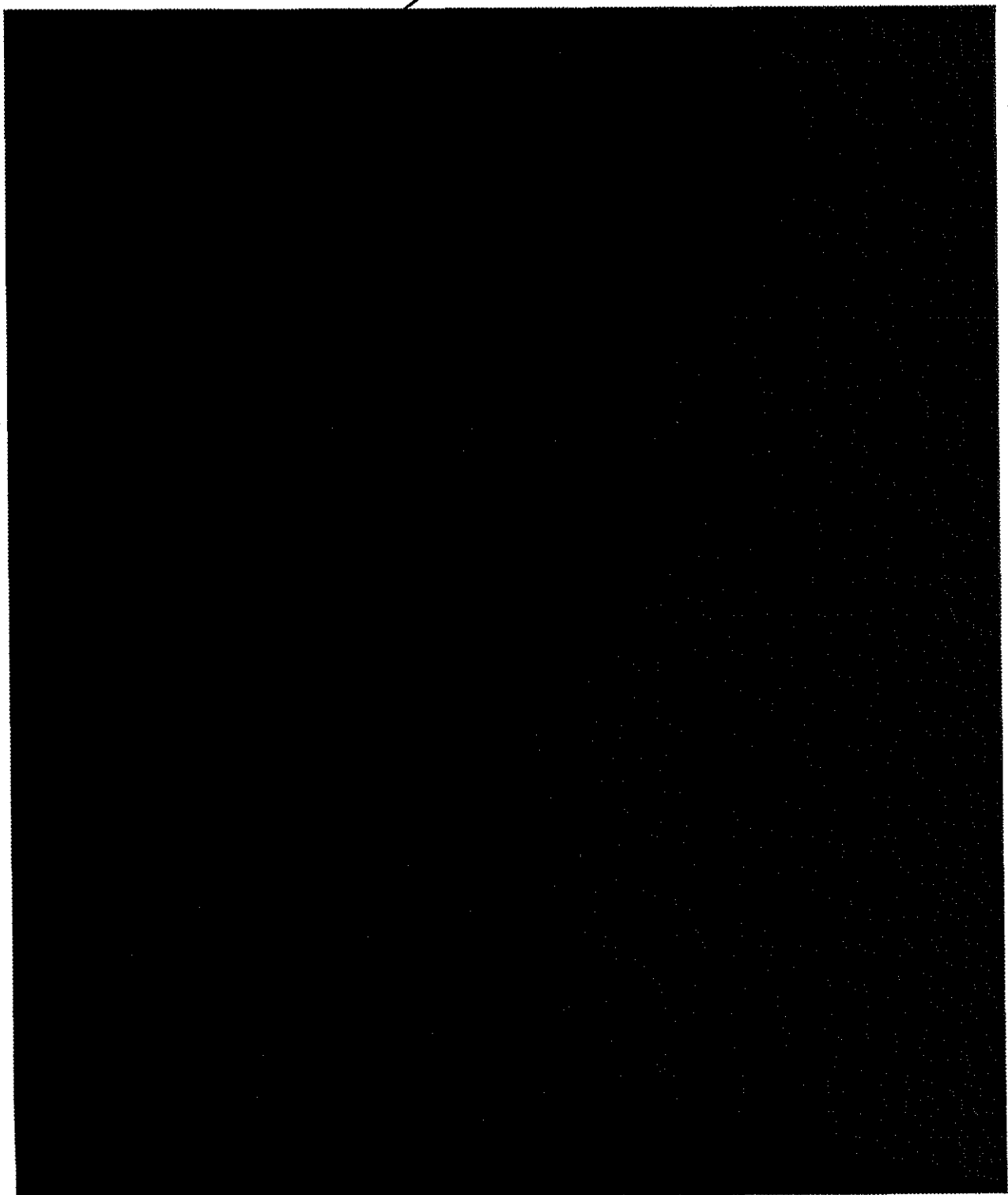


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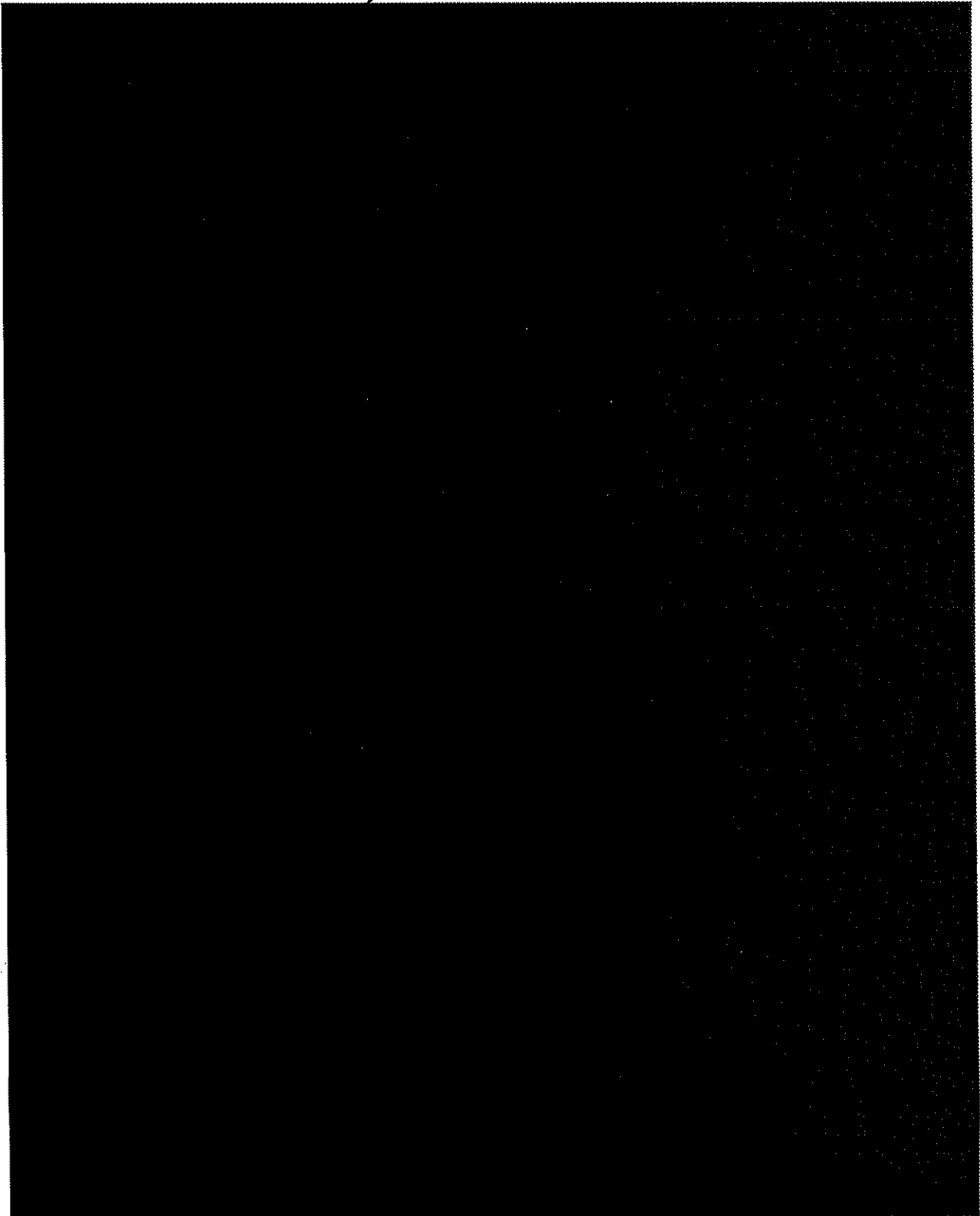


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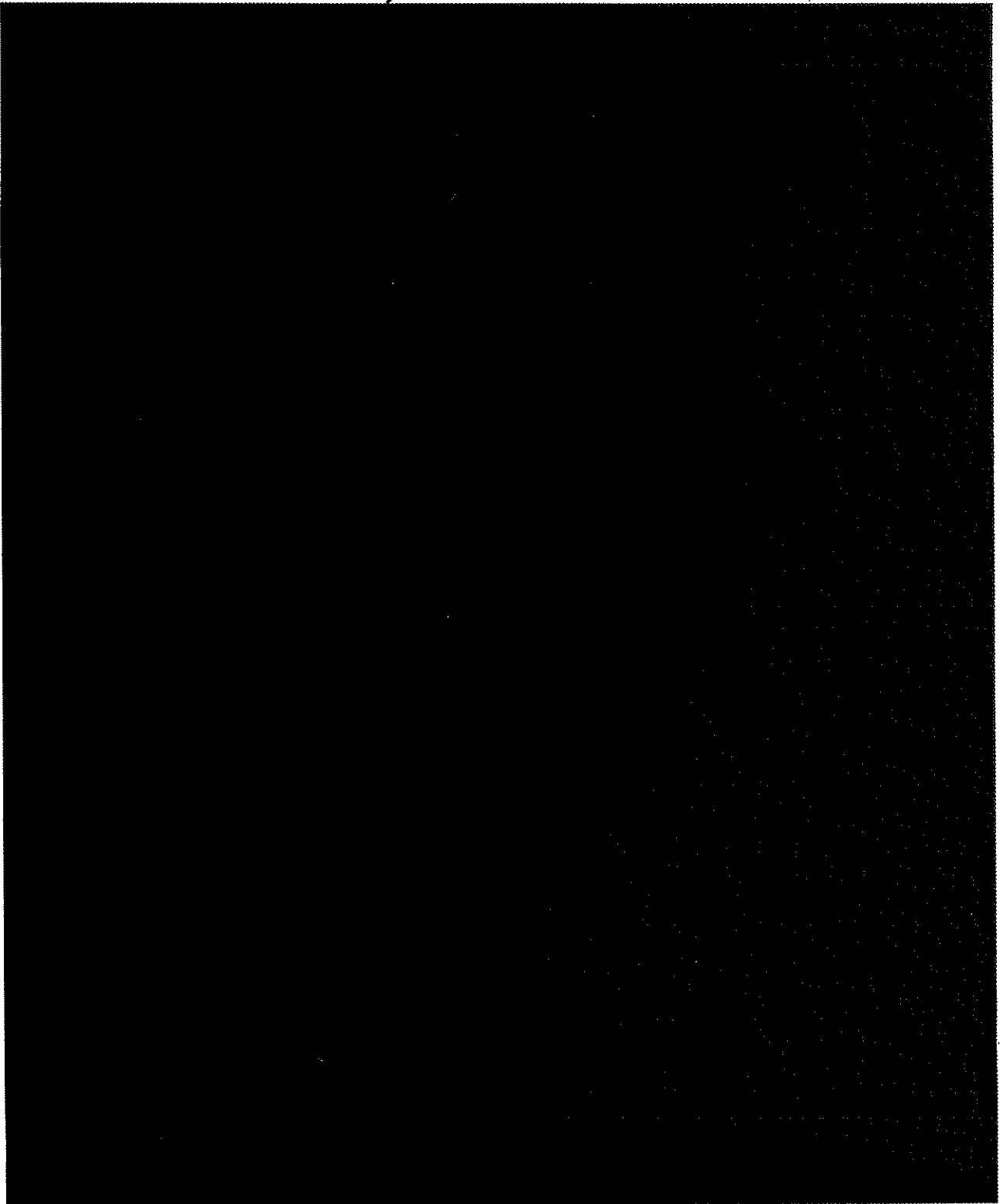


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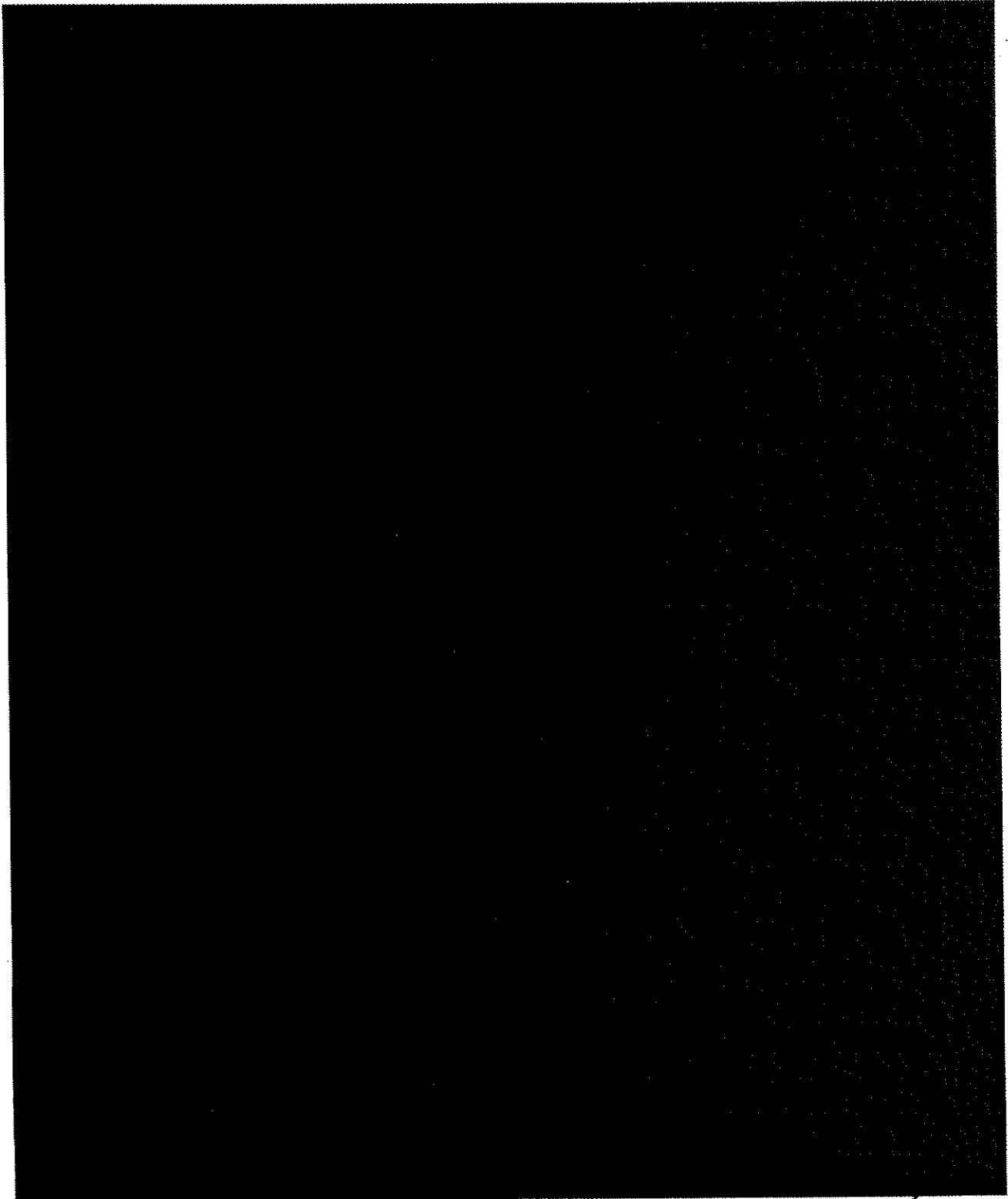


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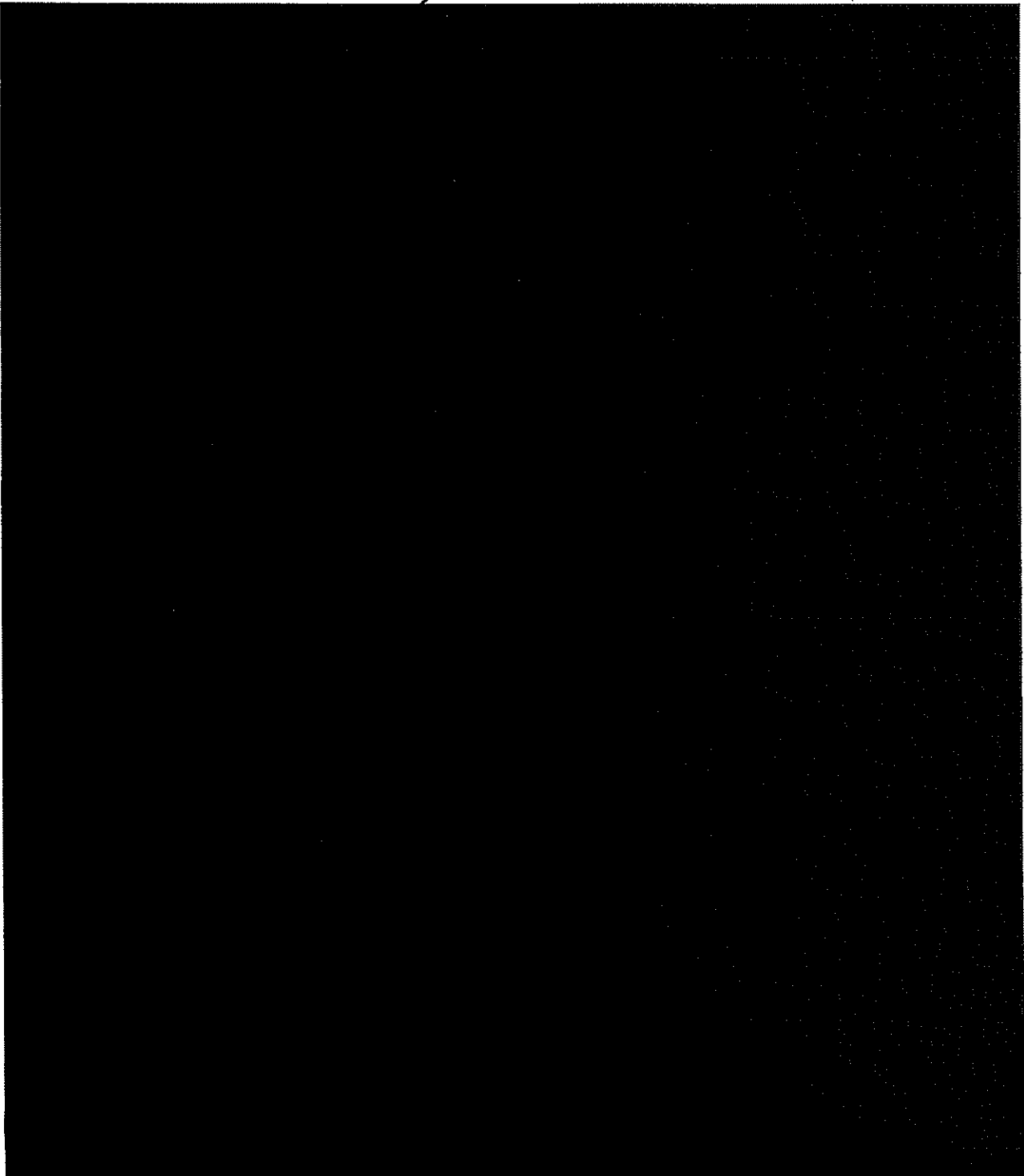


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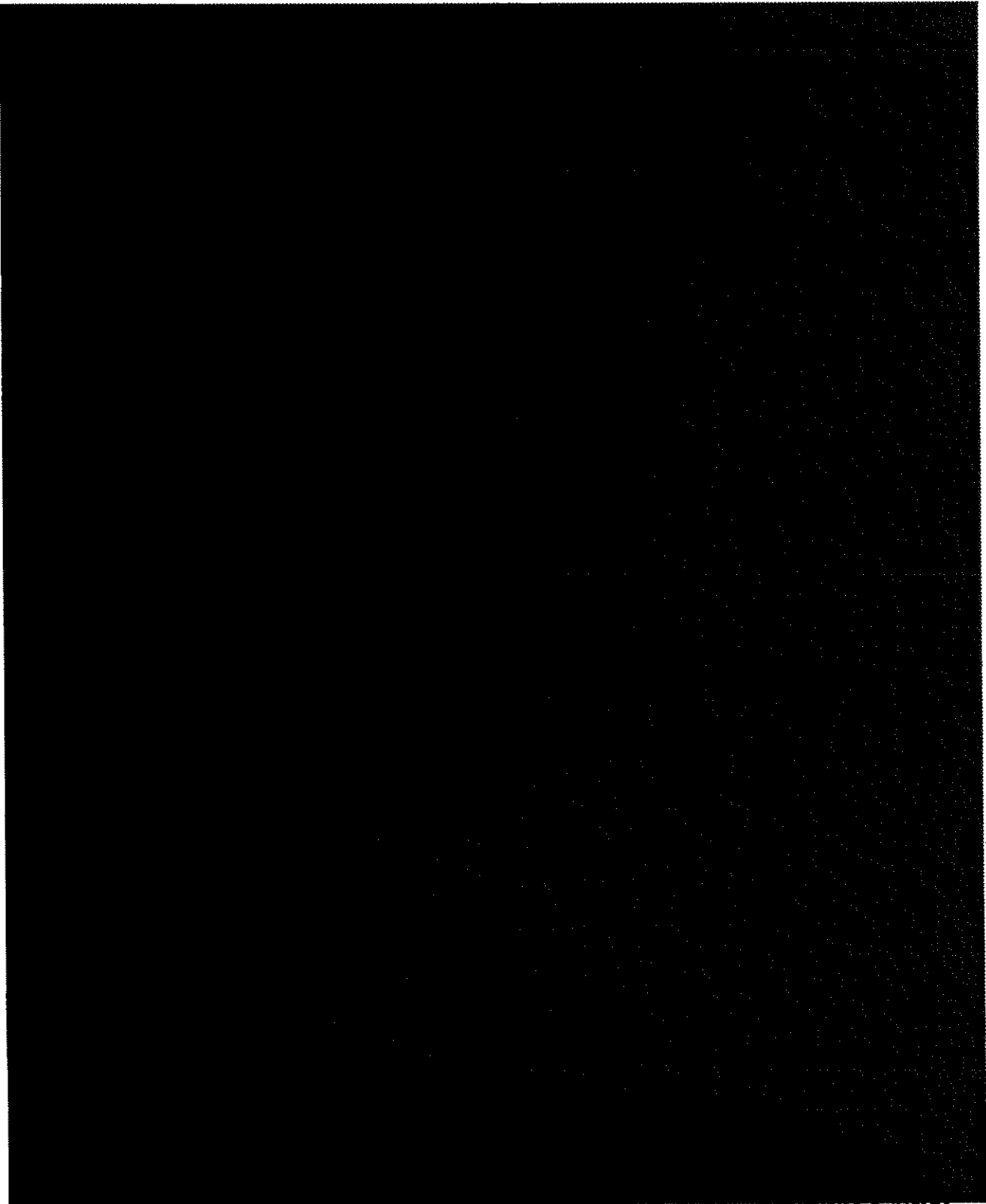
¹ The proxy detention and transfer to CIA custody of one former ghost prisoner, Marwan Jabour, has already been well publicized. See Human Rights Watch, *Ghost Prisoner: Two Years in Secret CIA Detention* (Feb. 2007) (attached hereto as Ex. C).

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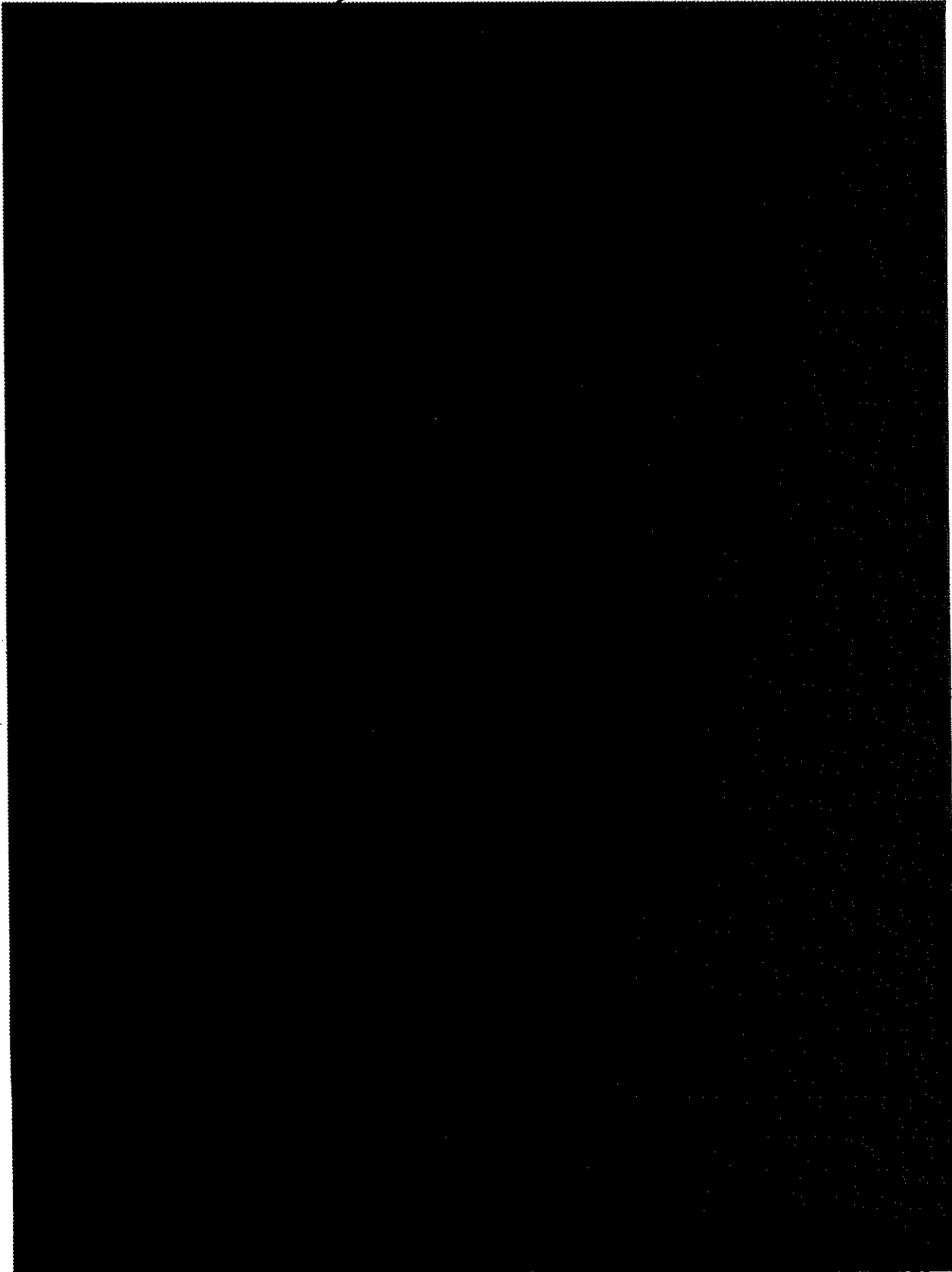


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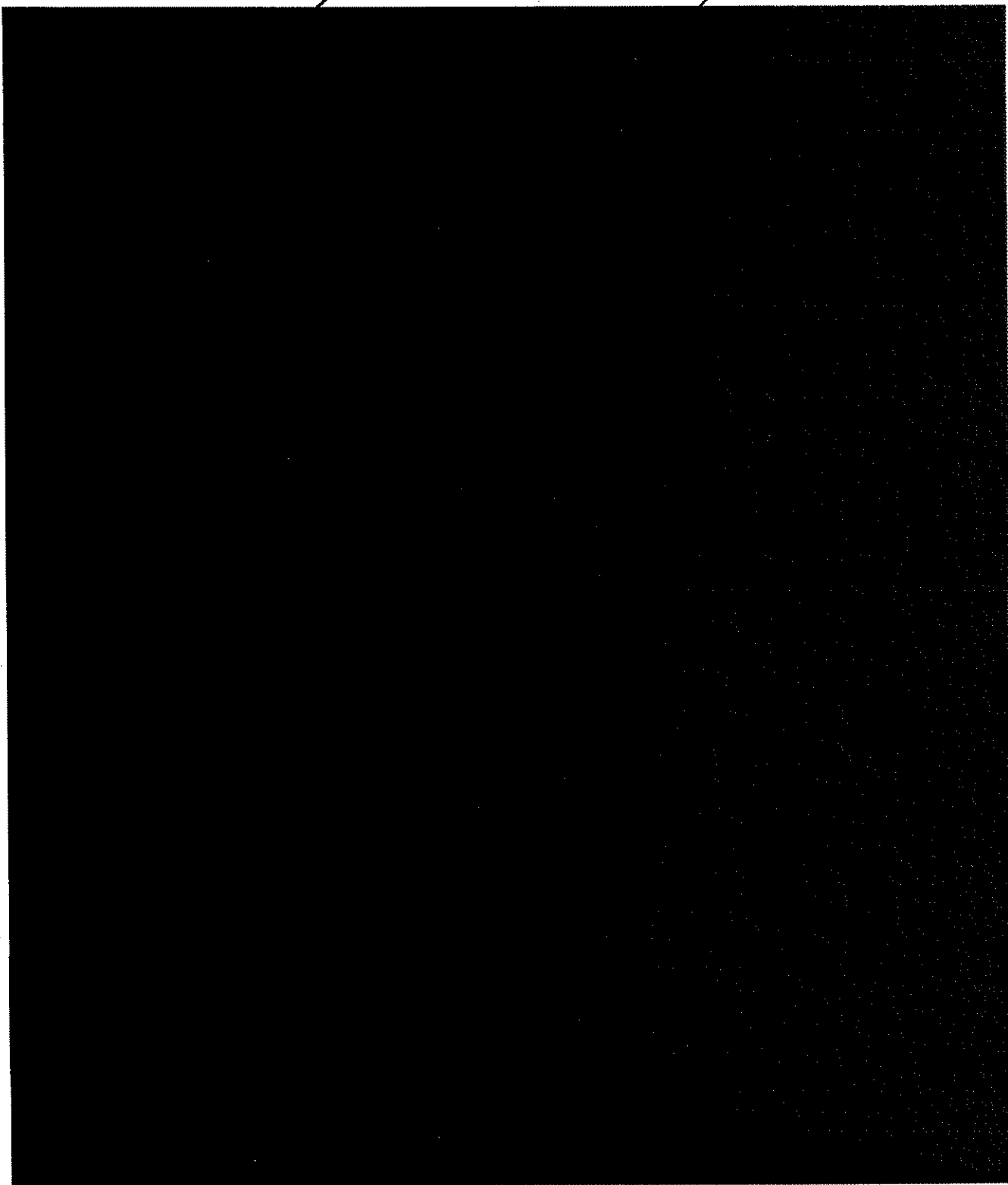


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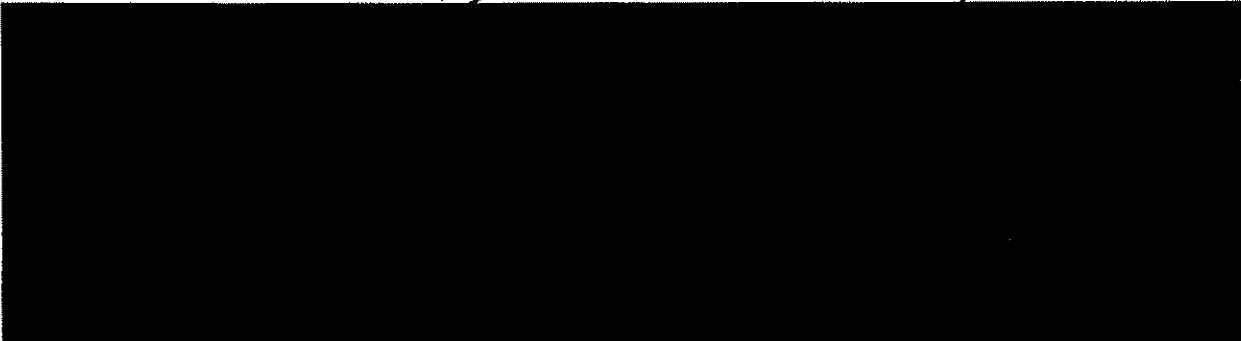


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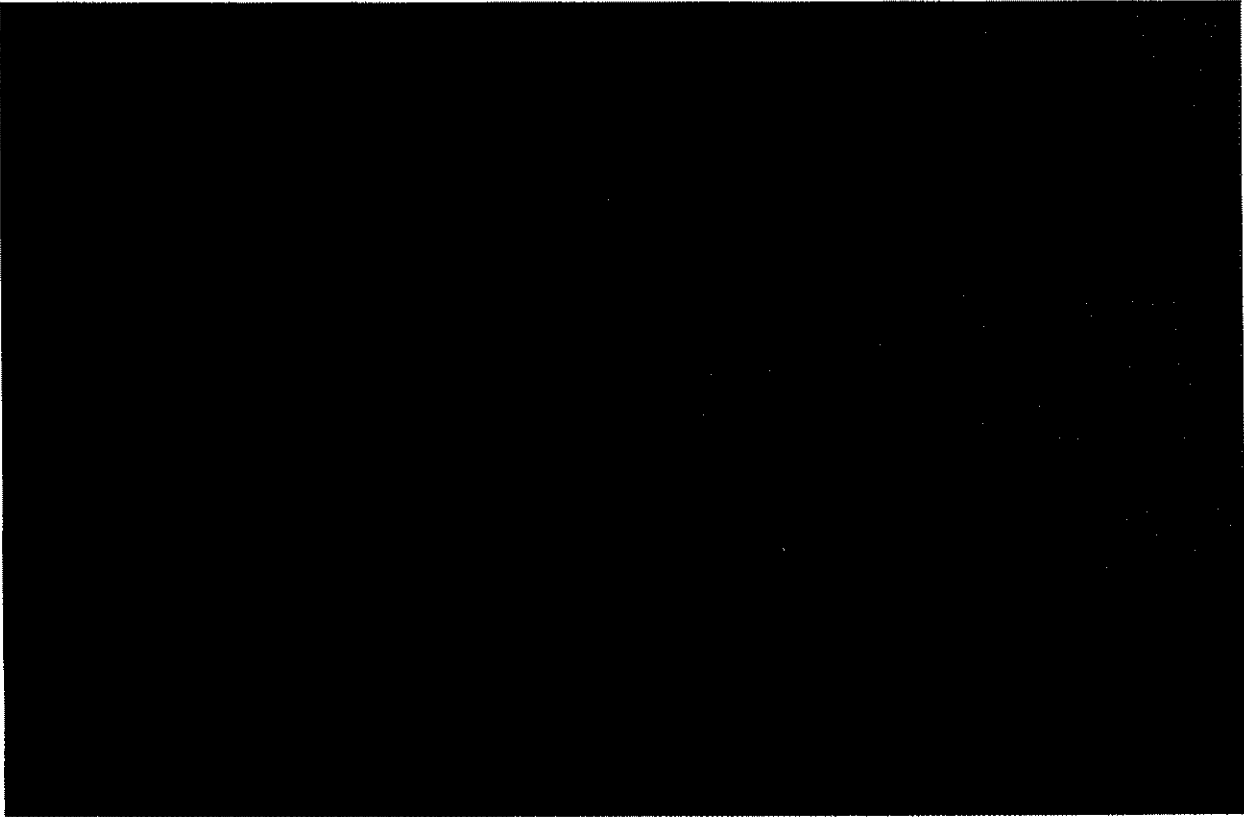
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(former CIA prisoner

Khaled El-Masri tearfully describing a "Tanzanian" prisoner in the Salt Pit who had been locked in a foul-smelling suitcase for long periods of time, making him vomit; the man was "psychologically at the end . . . ramming his head against the wall in despair") (attached hereto as Ex. A).

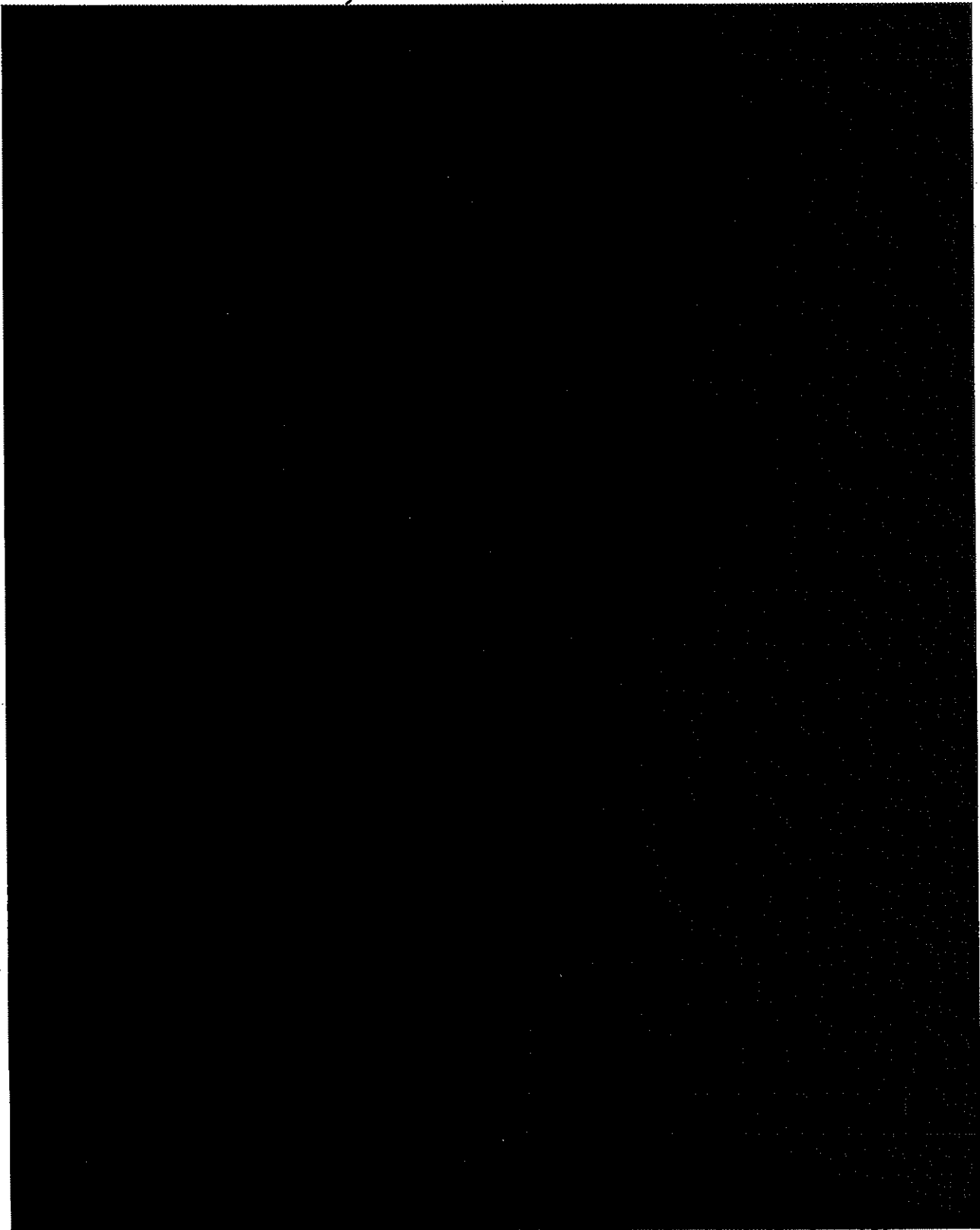


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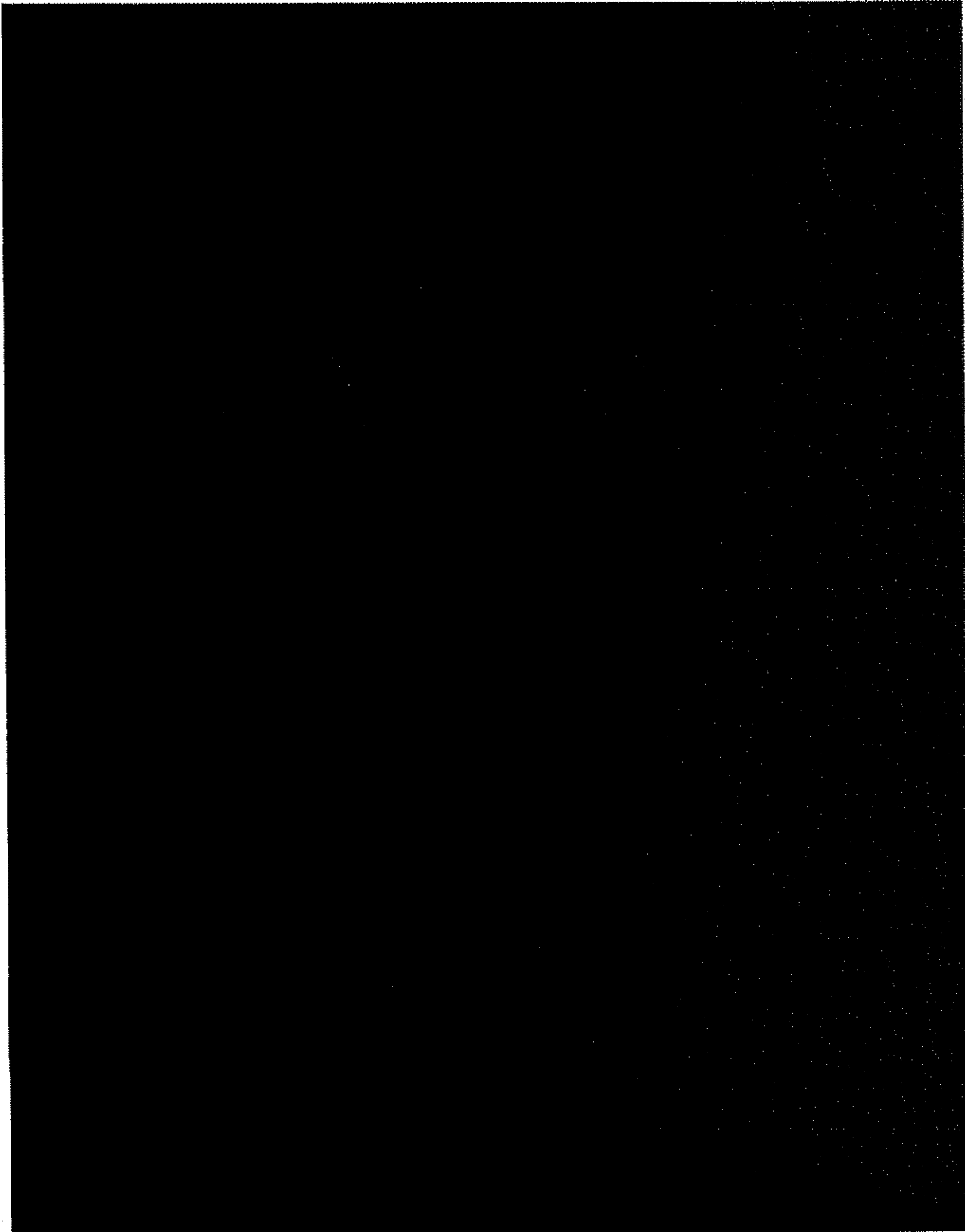


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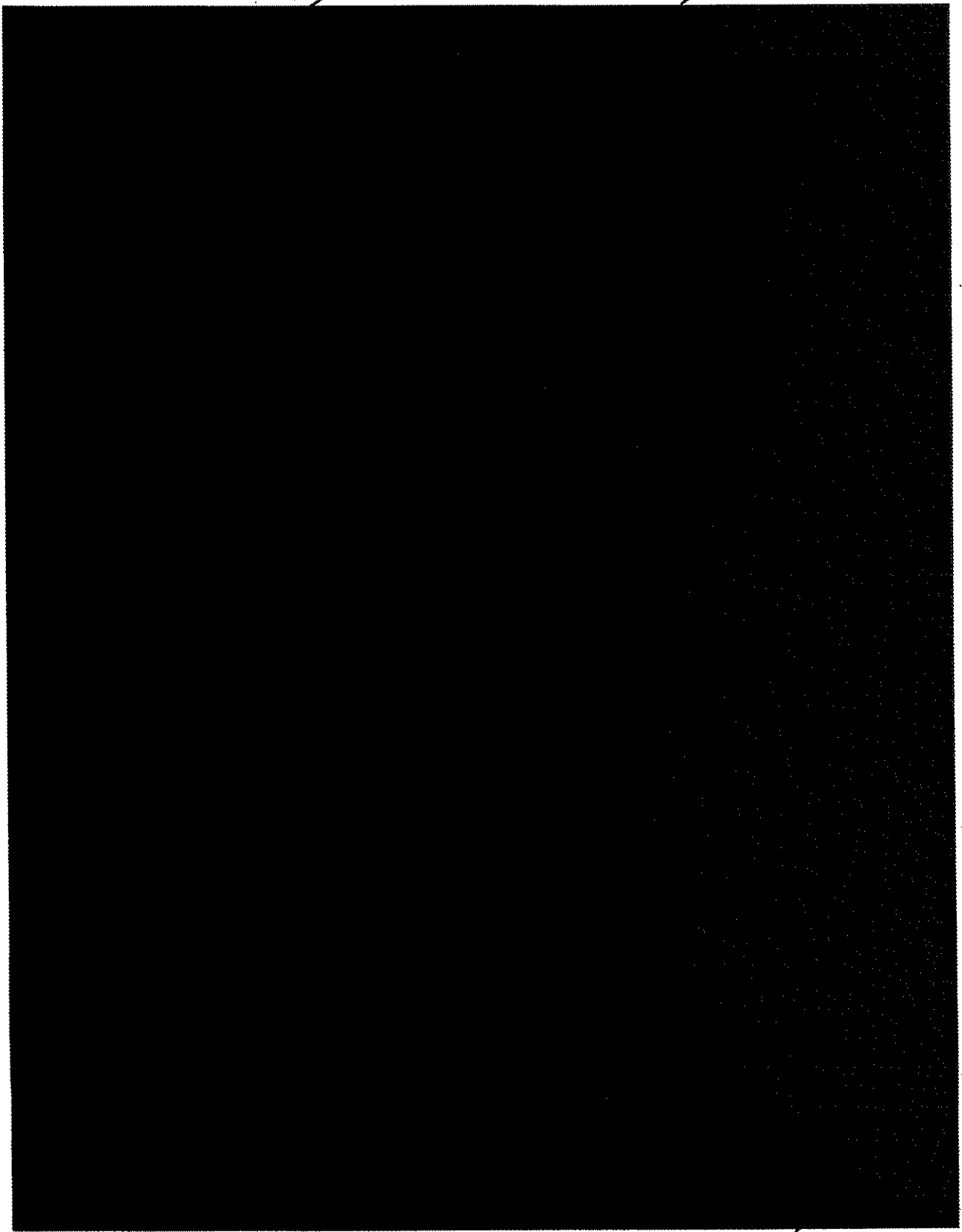


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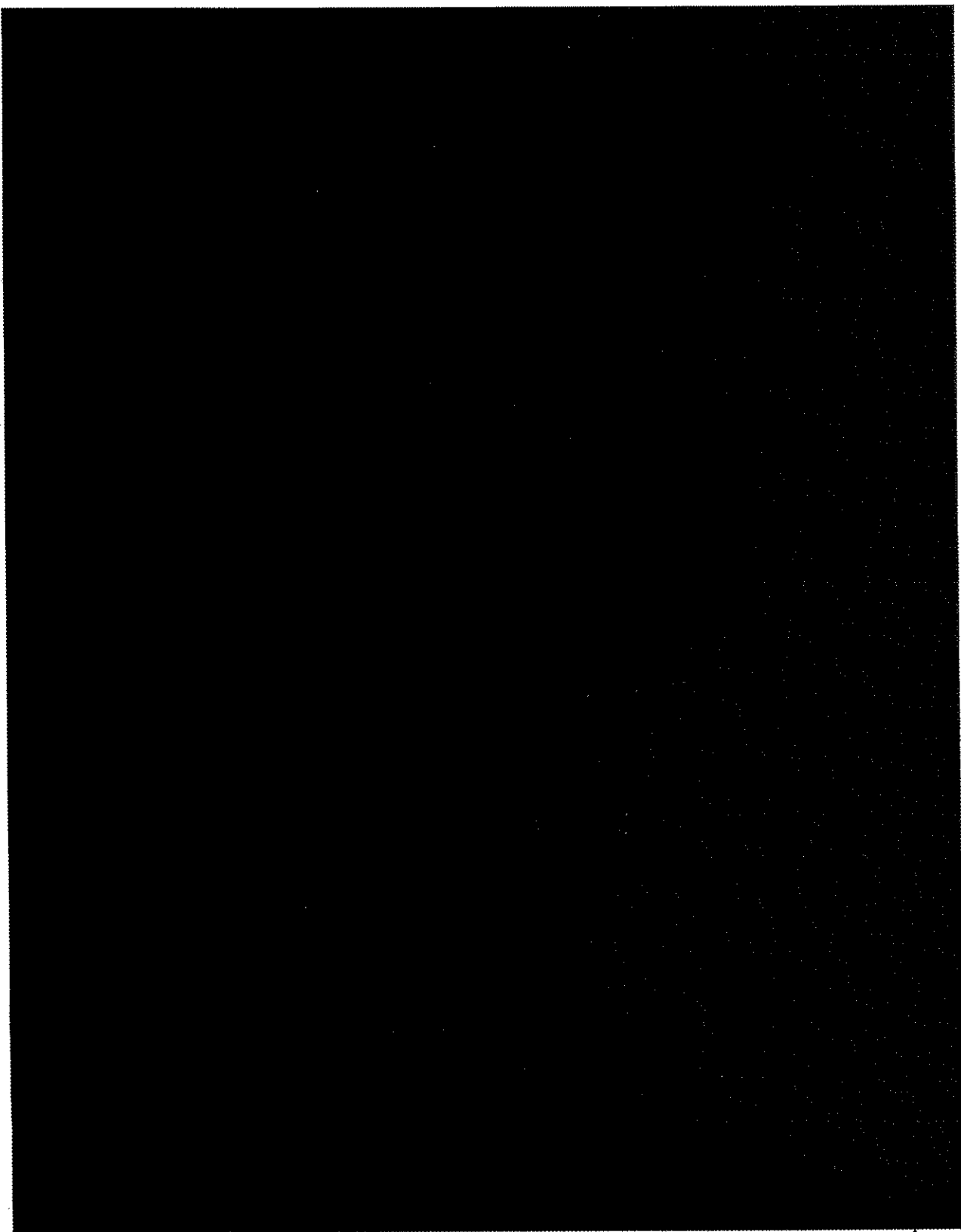


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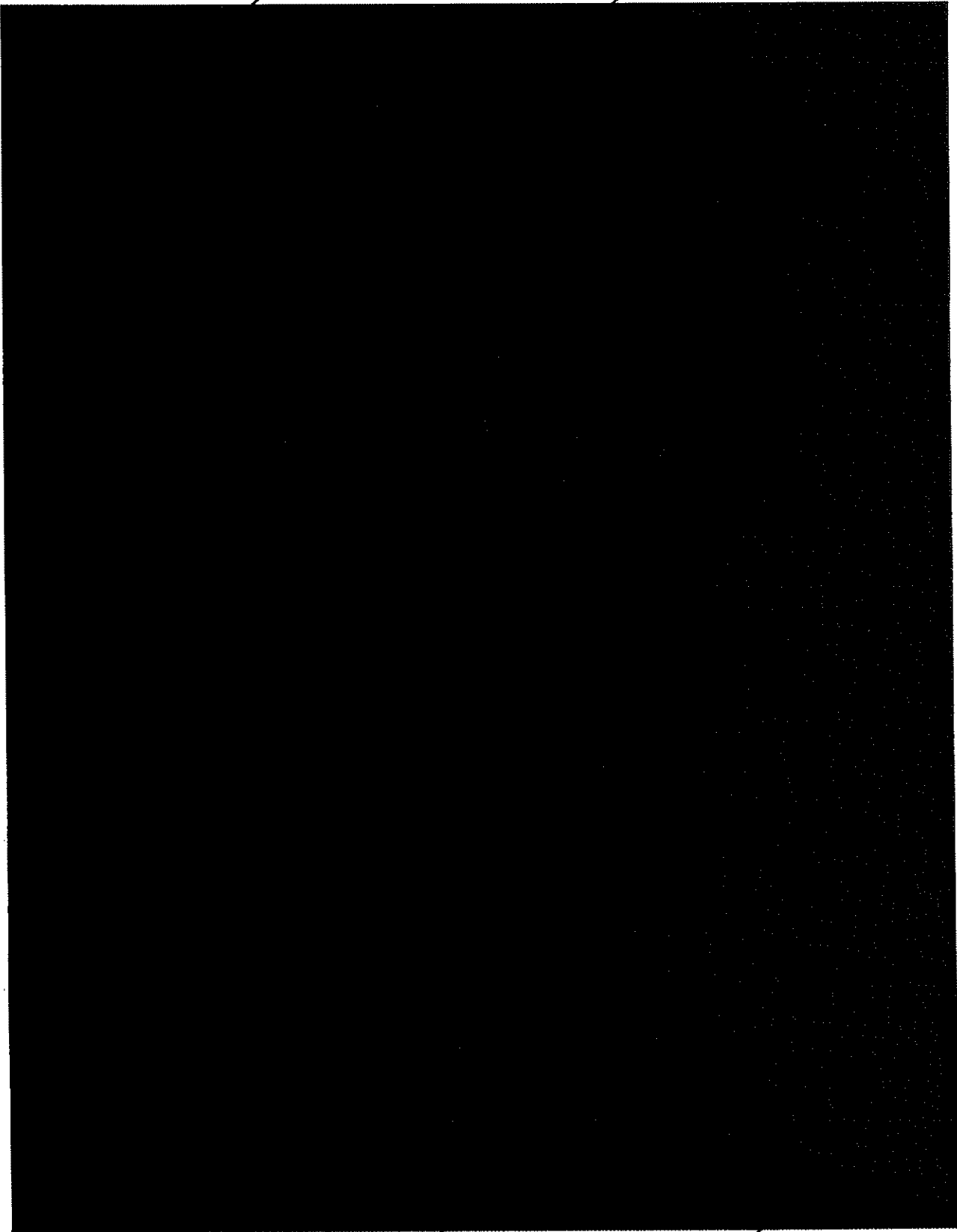


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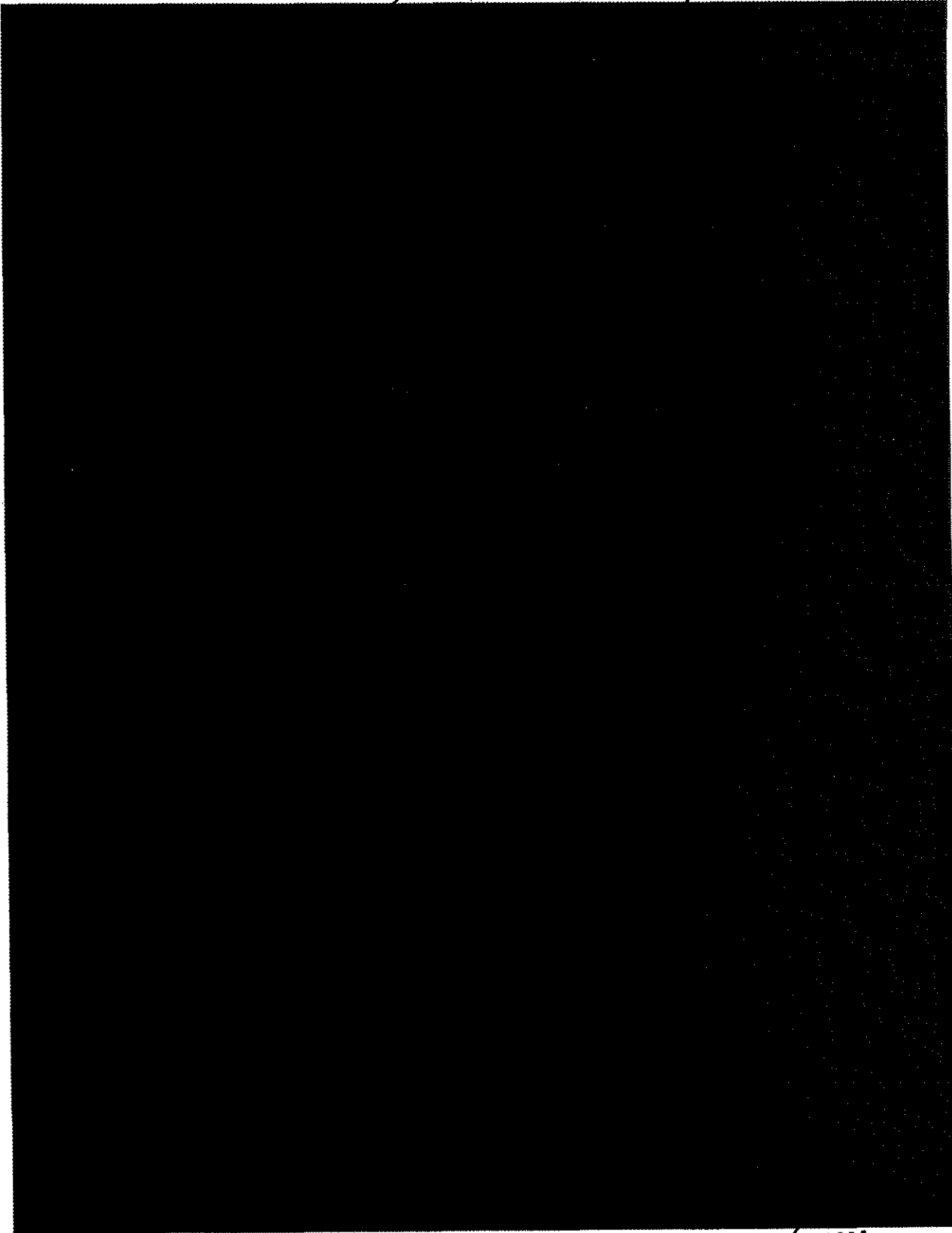


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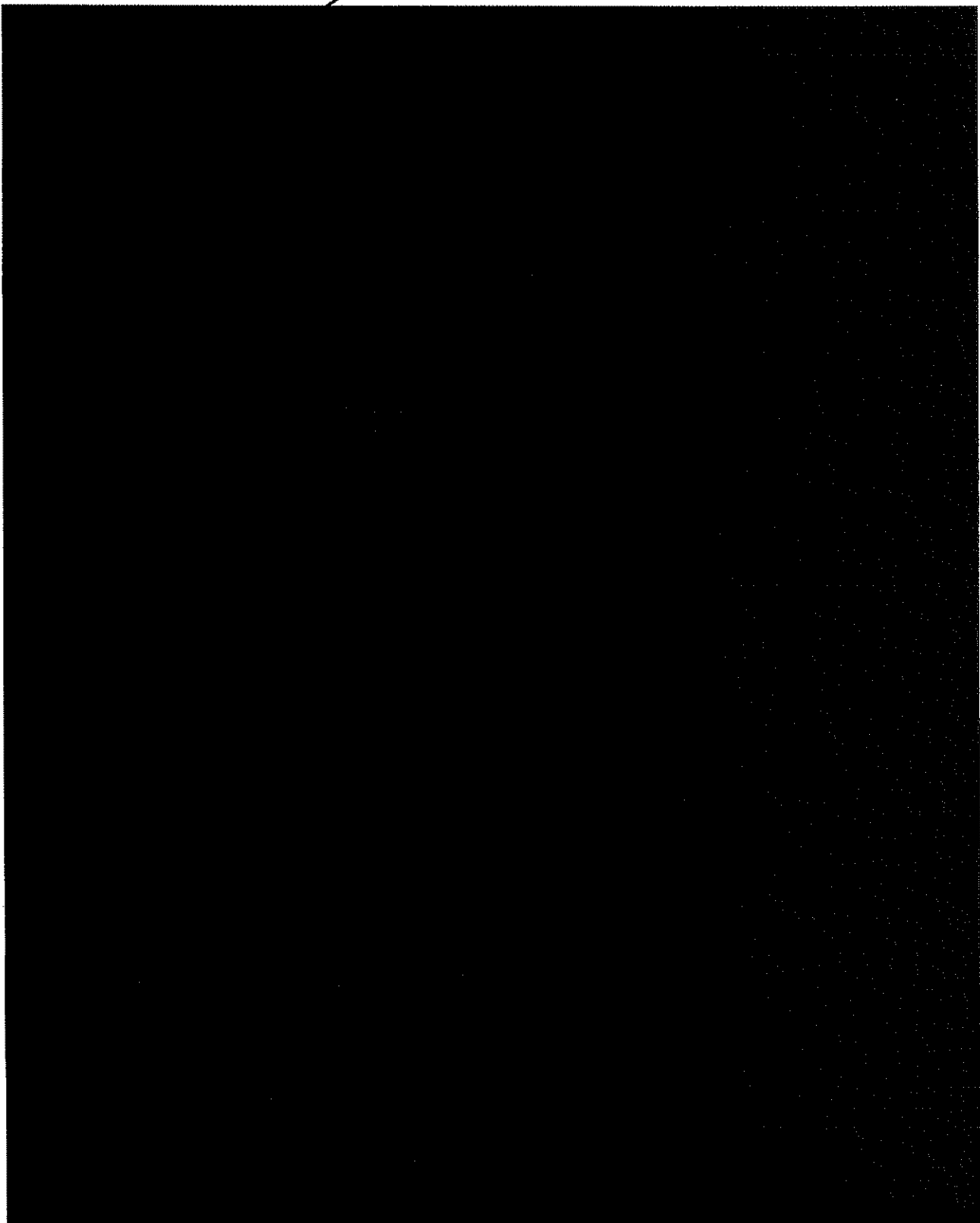


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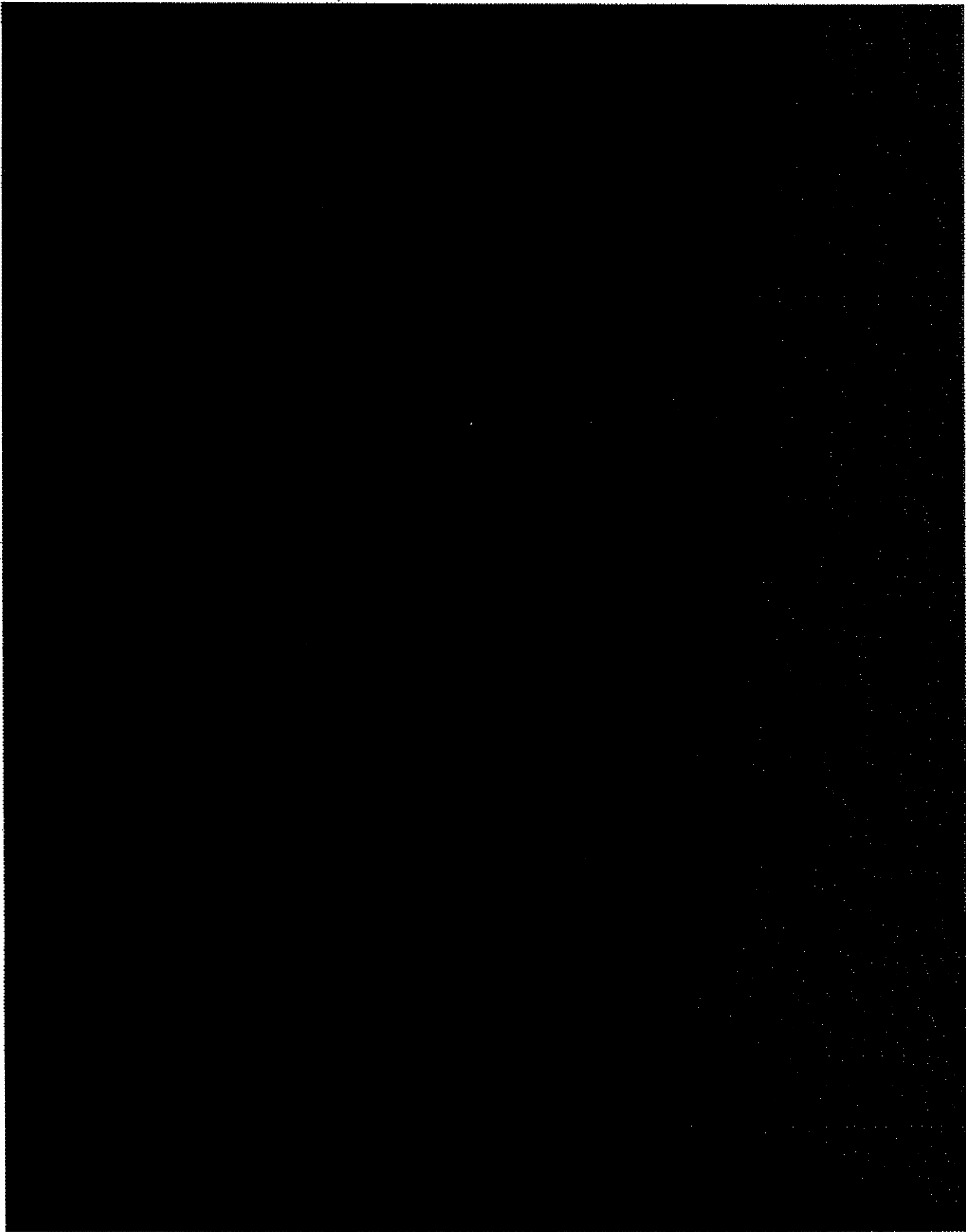


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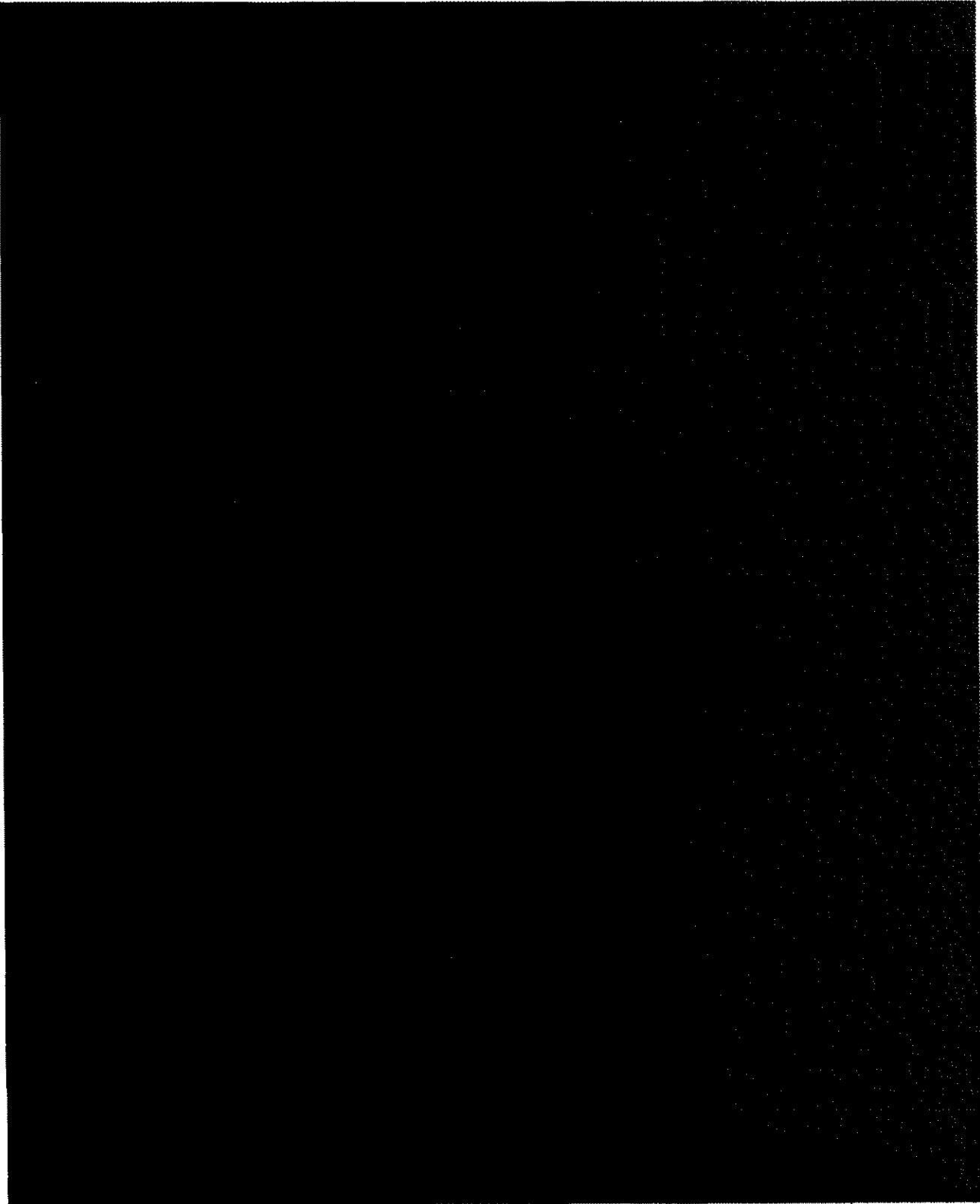


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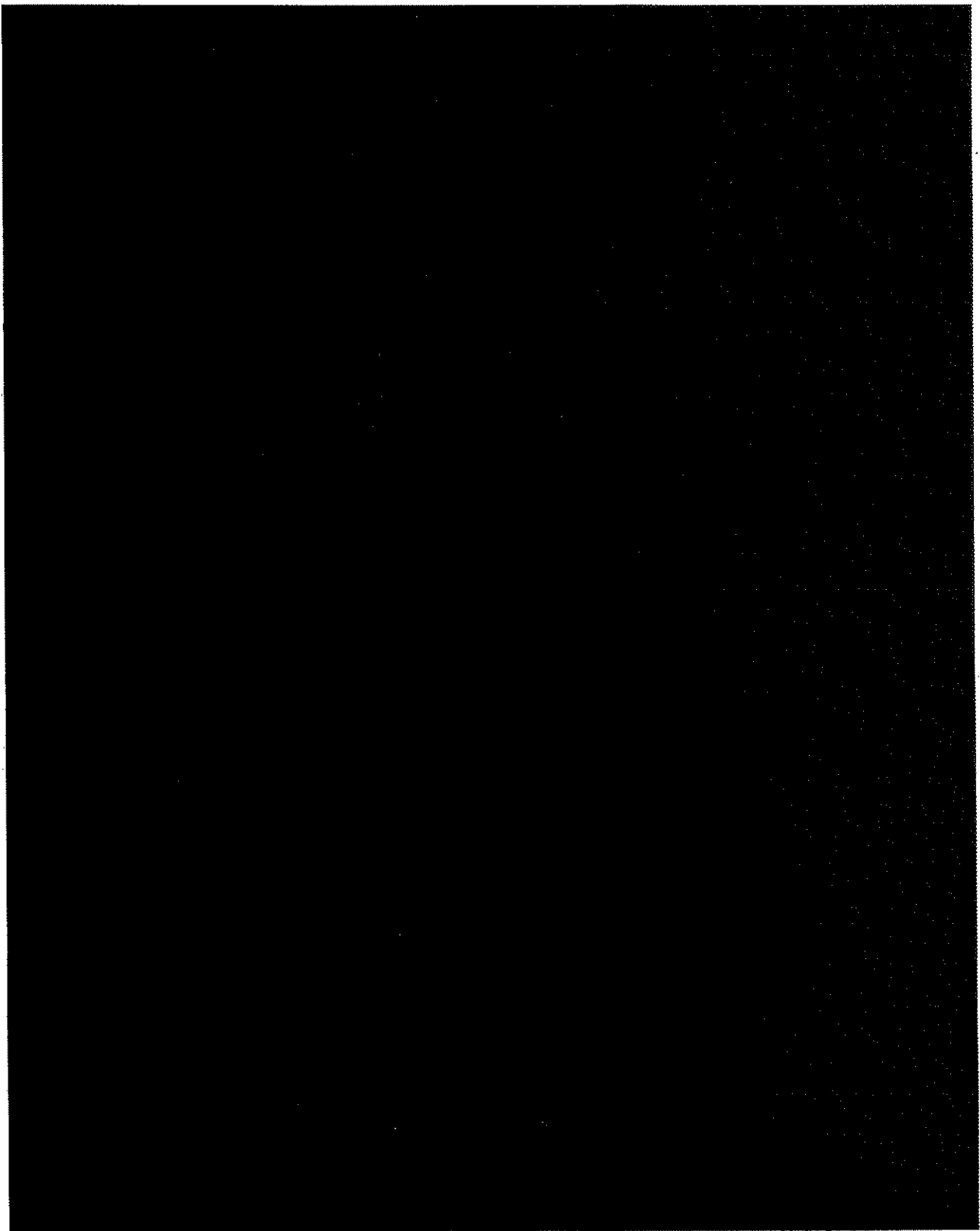


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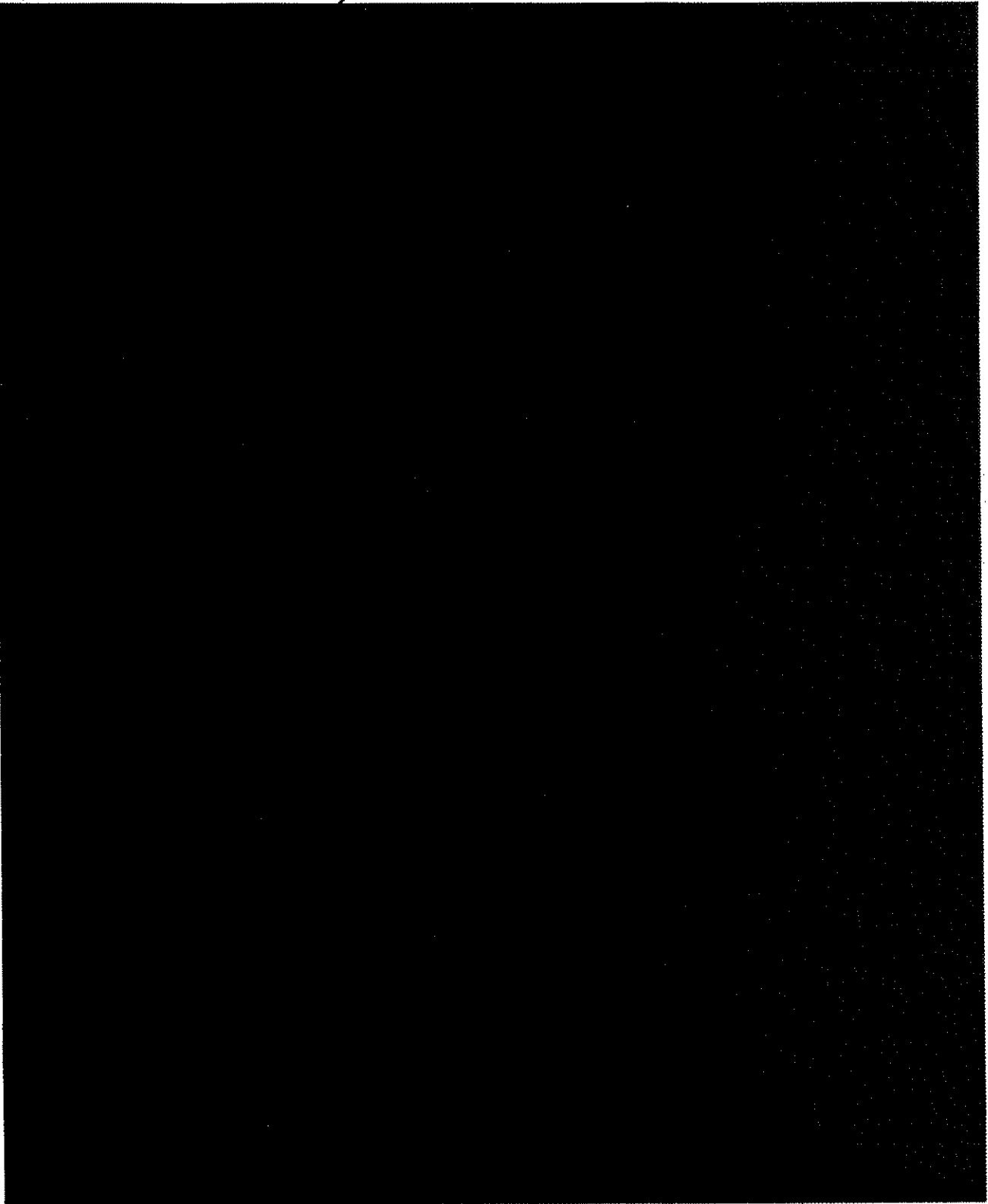


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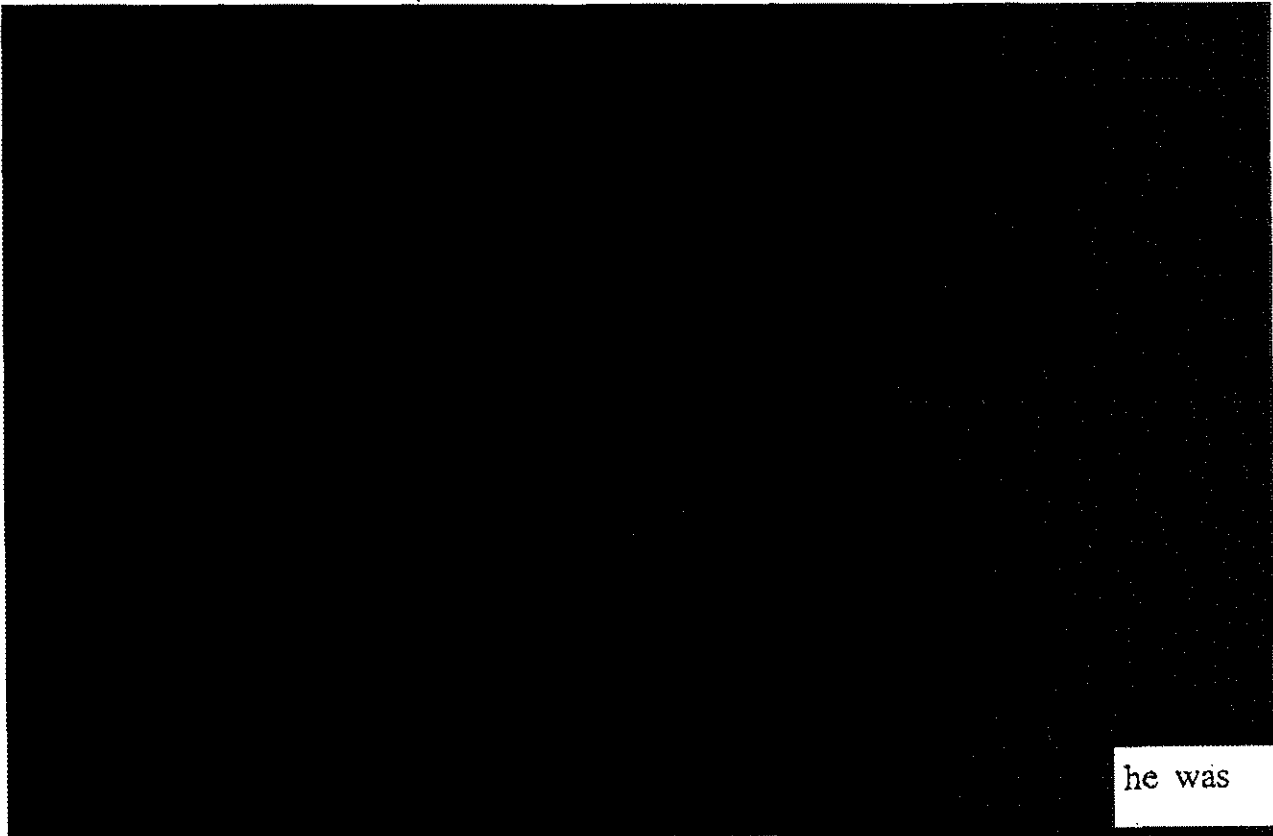


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he was

transferred to Guantánamo on September 6, 2006.



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Khan was transferred in
September 2006.

Guantánamo Bay [REDACTED]

105. As set forth in the Gutierrez Declaration, ¶¶ 215-38, since his arrival in Guantánamo the only prisoner Khan has had any direct contact with is Abu Zubaydah. He and Abu Zubaydah [REDACTED] share recreation

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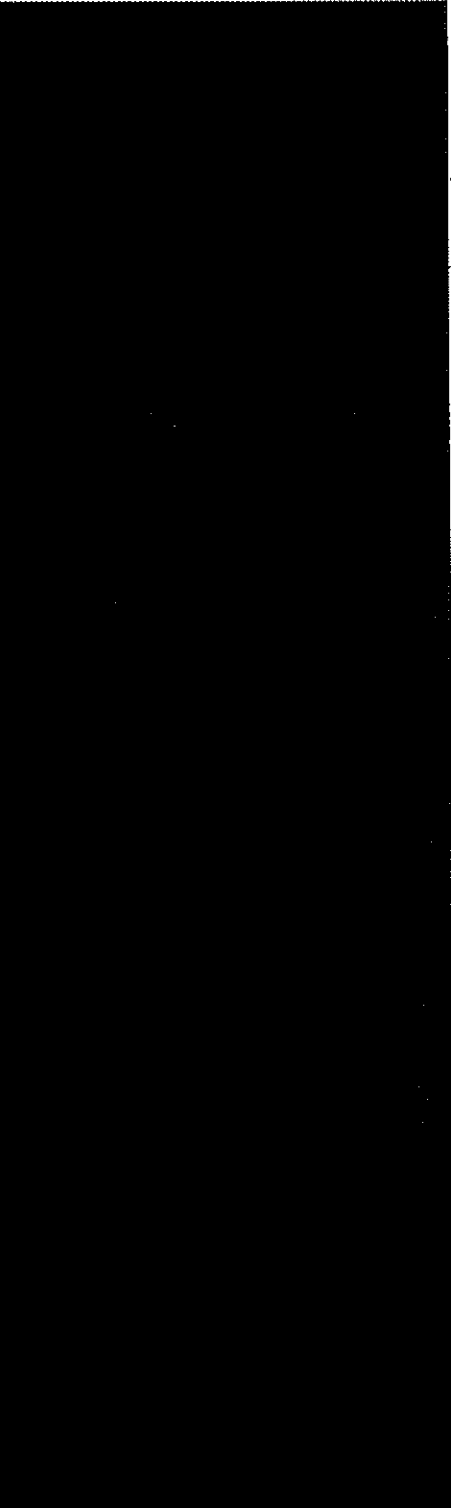
time.



Both men speak

English.

106. Khan is currently guarded in Camp VII

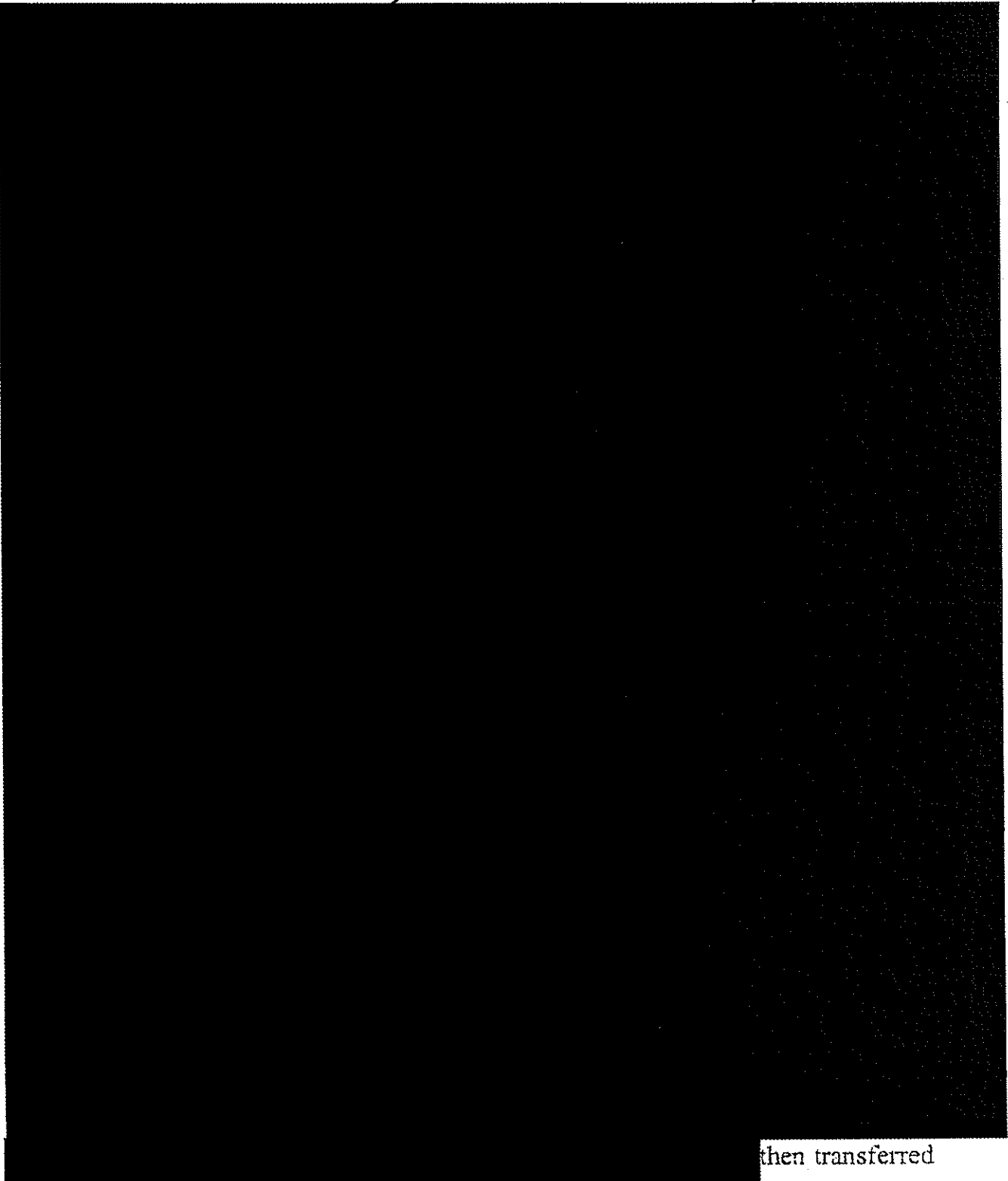


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then transferred

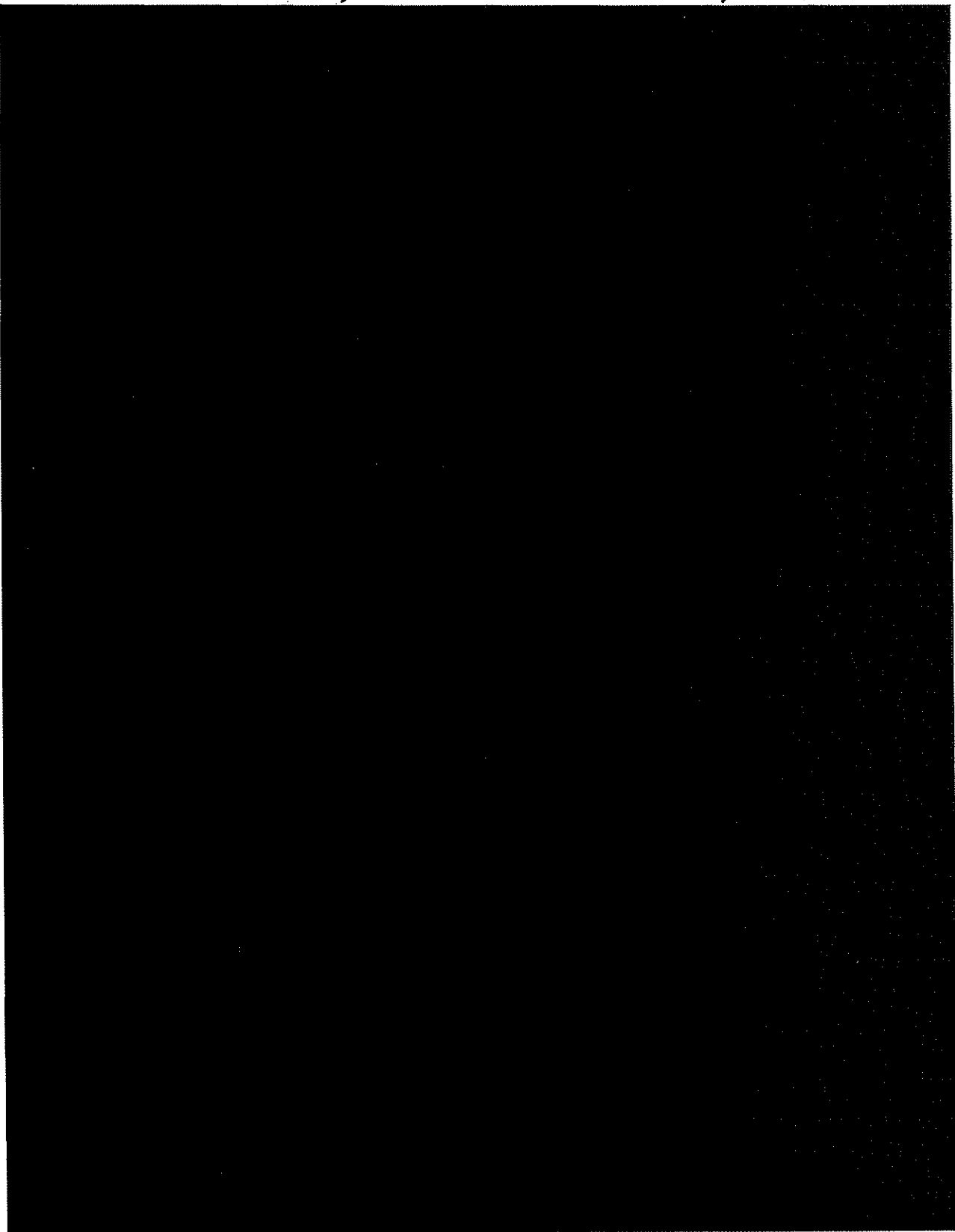
to Guantánamo in September 2006.

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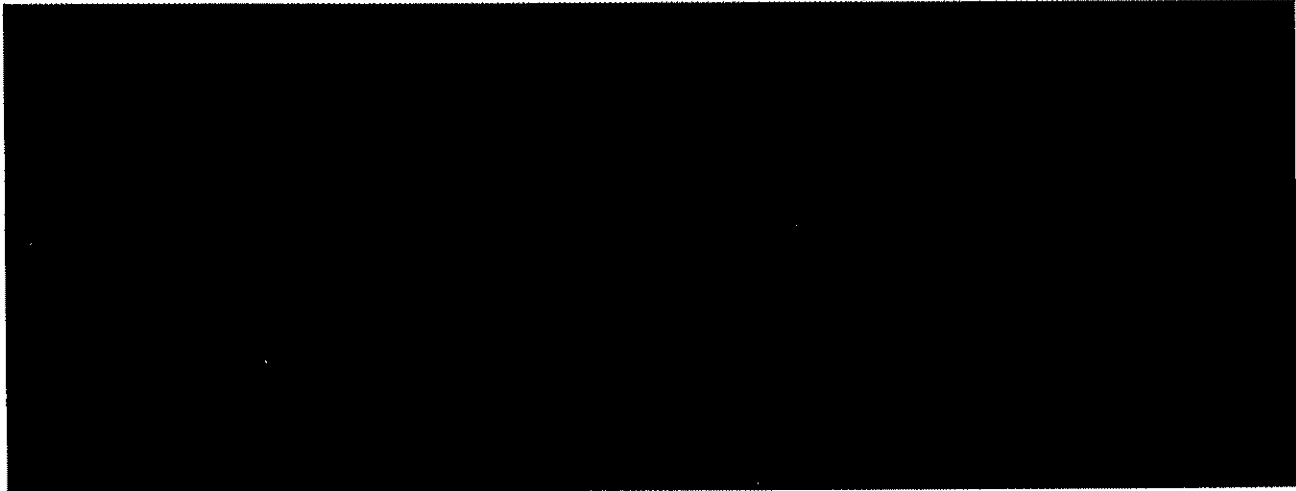



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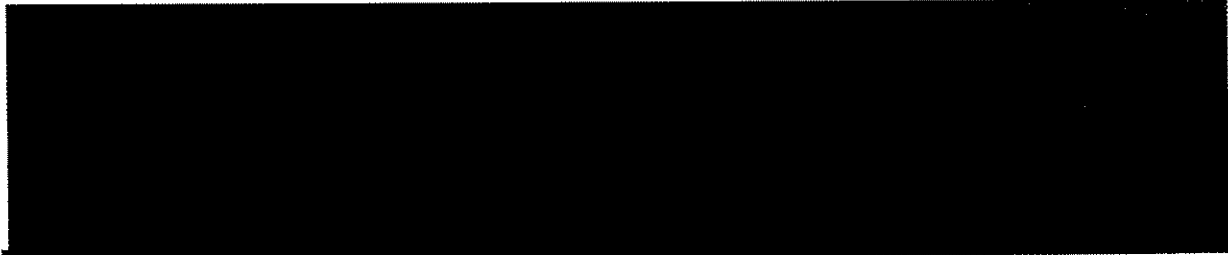
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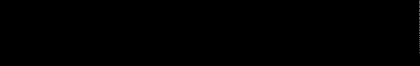
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119. Moreover, Abu Zubaydah was apparently wounded in Afghanistan in 1992, and has two pieces of metal in his head that cause him amnesia. It took a few years for him to recover to the point where he could talk and be active. 

 Abu Zubaydah has had approximately sixty seizures since his arrival in Guantánamo. His medical condition is so poor that at times he forgets how to speak or write.



 Because of his extensive injuries, he often refers to himself as "half a man."

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123. In conclusion, there can be no doubt that what happened to Khan, Abu Zubaydah and the other ghost prisoners Khan encountered in the CIA secret prisons was state-sanctioned torture. The brutality and sadism inflicted on Khan and others was plainly purposeful and systemic, and it was inflicted by U.S. officials [REDACTED]

There is also no doubt that the torture inflicted in the CIA detention and interrogation program was – and likely still is⁴ – so egregious as to rise to the level of “grave breaches” of the Common Article 3 of the Geneva Conventions, and thus war crimes, under any standard of domestic or international law.

⁴ According to our research, there are several ghost prisoners held or believed to be held by the United States whose whereabouts are still unknown. See Amnesty International et al., *Off the Record: U.S. Responsibility for Enforced Disappearances in the “War on Terror”* (2007) (attached hereto as Ex. D).

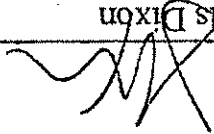
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J. Wehs Dixon



Executed: Washington, DC
November 29, 2007

America that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the United States of

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