



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatal Incident in
Carroll County on June 4, 2023

September 21, 2023

**Report of the Independent Investigations Division of the Maryland Office
of the Attorney General Concerning the Officer-Involved Death of Jack
Cimino on June 4, 2023**

Pursuant to Md. Code, State Gov't § 6-602, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Carroll County State's Attorney Haven Shoemaker regarding the officer-involved death of Jack Cimino on June 4, 2023, in Sykesville, Maryland.

The IID is charged with "investigat[ing] all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian" and "[w]ithin 15 days after completing an investigation ... transmit[ing] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-602(c)(1), (e)(1). The IID completed its investigation on September 12, 2023. This report is being provided to State's Attorney Shoemaker on September 21, 2023.

I. Introduction

On Saturday, June 3, 2023, at approximately 9:00 p.m., Maryland State Police ("MSP") troopers responded to a report of a suicidal man at 1200 block of Liberty Road in Sykesville. A call from the Mental Health Association of Frederick County Crisis Hotline told the troopers that an adult male, later identified as Jack Cimino, called into the hotline threatening to commit suicide with a gun and shoot responding police. The caller also said he was under the influence of an unknown substance but did not indicate which type of substance he had taken. Troopers arrived on the scene and attempted to contact Mr. Cimino. MSP declared a barricade and the Special Tactical Assault Team Element ("S.T.A.T.E."), and the Crisis Negotiation Team ("CNT") responded to the scene.

During the barricade, which continued throughout the night, troopers used a public address ("PA") speaker and a cell phone to communicate with Mr. Cimino, requesting Mr. Cimino leave his home and be admitted to the hospital. At approximately 7:00 a.m. on Sunday, June 4—ten hours into the barricade and negotiations— Mr. Cimino came to the door with a gun and pointed it towards the troopers. MSP Sgt. Jesse Hartsock fired his gun once, striking Mr. Cimino. Mr. Cimino was taken to Carroll Hospital, where he was pronounced dead. A gun was found near Mr. Cimino at the scene.

This report details the IID's investigative findings and includes an analysis of Maryland criminal offenses that could be relevant in a case of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Carroll County State's Attorney's Office—not the Attorney General's Office—retains prosecution

authority in this case¹, this report does not make recommendations as to whether any individuals should or should not be charged.

The IID’s investigation focused exclusively on potential criminal culpability relating to Sgt. Hartsock’s conduct. The IID’s analysis does not consider issues of civil liability or the department’s administrative review of Sgt. Hartsock’s conduct. Certain information—specifically, compelled statements by subject officers—may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been considered in the IID’s investigation.

II. Factual Findings

The following findings are based on a forensic examination of the shooting scene as well as a review of body-worn camera video, private cell phone video, radio transmissions, ballistic analysis, the autopsy report, and interviews with civilian and law enforcement witnesses. This event took place over a period of ten hours, and troopers had their body-worn cameras activated for portions of that time. Approximately 36 hours of body-worn cameras were recorded. Because police were stationed in a position of distance and cover, there was limited audio and video of Mr. Cimino during the barricade. The private cell phone video was filmed from the opposite side of Liberty Road and does not contain audio of Mr. Cimino. All materials reviewed in this investigation are being provided to the Carroll County State’s Attorney’s Office with this report and are listed in Appendix A.

A. Initial Response

Unless otherwise specified, the facts below were captured on officers’ body-worn camera footage and dispatch recordings. The events described below started during the night and continued into daylight hours. The weather conditions throughout the entire event were clear.

On Saturday, June 3, 2023, at 8:23 p.m., Jack Cimino called the Crisis Hotline at Mental Health Association of Frederick County and “dared” the call taker to send the police to his house because he had a gun to his head. According to records obtained from the crisis hotline, [REDACTED]

[REDACTED] After an immediate, unsuccessful attempt to call Mr. Cimino back, Crisis Hotline personnel called 911 at approximately 8:30 p.m. While speaking with 911 operators, Crisis Hotline personnel simultaneously made several more attempts to contact Mr. Cimino, eventually succeeding and obtaining further information from him. [REDACTED]

[REDACTED]
Per the 911 call records, Crisis Hotline personnel relayed this information to the dispatcher. Mr. Cimino continued talking on the Crisis Hotline until police were outside of his home.

¹ Effective October 1, 2023, the IID will have the sole authority, where appropriate, to prosecute police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual. For incidents occurring before that date, the local State’s Attorney retains sole prosecution authority.

At approximately 9:00 p.m., MSP troopers, along with Sykesville Police Department (“SPD”) officers and Carroll County Sheriff’s Office (“CCSO”) deputies² arrived at 1200 block of Liberty Road. After identifying Mr. Cimino’s house, the officers established a perimeter around it and used a PA speaker to try to contact Mr. Cimino. Most of the responding officers said they observed Mr. Cimino come out of the front door once, yelling and waving his arms before going back into his house.

Multiple specialized teams responded to the scene. The MSP Crisis Negotiation Team (“CNT”) are assigned to serve as negotiators in barricade and hostage situations. The MSP S.T.A.T.E team is a special unit within MSP that is tasked with responding to incidents that pose an elevated risk to law enforcement and/or the general public. The Behavioral Health Team consults with county law enforcement to aid their interaction individuals suffering from a behavioral health crisis. While they initially responded to the scene at the request of CCSO, they did not remain on scene because CNT and MSP took control of the incident. Medics responded to the opposite side of Liberty Road at approximately 9:50 p.m.

MSP CNT F/Sgt. Vinson Smith arrived at approximately 9:15 p.m. and attempted to talk to Mr. Cimino. MSP Lt. Rebecca Bosley said that she responded to Liberty Road and took control of the scene by setting up command posts. Lt. Bosley said that she instructed MTPR. John Fair to prepare the paperwork to obtain an Extreme Risk Protective Order (“ERPO”).³ MTPR. Fair said that he left the scene to obtain the ERPO before 10:00 p.m. and returned with a signed order between 1:00 a.m. and 2:00 a.m. Lt. Bosley said that she and MSP Capt. Steven Decerbo—S.T.A.T.E. team commander—worked together to coordinate the S.T.A.T.E team’s response.

According to dispatch records, the S.T.A.T.E. team arrived with a Ballistic Engineered Armored Response Counter Attack Truck (“BEARCAT”)⁴ at approximately 11:50 p.m., then set up a command post on the opposite side of Liberty Road. According to body-worn camera footage, the BEARCAT remained at that location until it pulled in front of Mr. Cimino’s house at approximately 1:40 a.m. Lt. Bosley recalled that when the BEARCAT arrived, she saw Mr. Cimino open the front door and yell at troopers to shoot him and heard F/Sgt. Smith tell Mr. Cimino that they were there to help him. Next, several members of the S.T.A.T.E team established a perimeter around Mr. Cimino’s house, while other team members remained with the BEARCAT. F/Sgt. Smith remained on scene to lead the negotiations.

² Carroll County Sheriff’s Office deputies were not equipped with body-worn cameras.

³ An Extreme Risk Protective Order is a court order requiring an individual in psychiatric distress to surrender firearms and ammunition to law enforcement.

⁴ The BEARCAT is an armored vehicle that is used to transport the S.T.A.T.E. team to high-risk incidents. It is also used to protect law enforcement from active threats.



Image 1: An aerial view of the 1200 block of Liberty Road and the surrounding area. Mr. Cimino's residence is circled in red. The blue arrow is pointing to where the BEARCAT was positioned.



Image 2: Photograph of the BEARCAT in front of Mr. Cimino's house on June 4, 2023, after the shooting. Mr. Cimino's house is on the driver's side of the BEARCAT, not pictured.

At approximately 1:37 a.m. on June 4, Mr. Cimino was outside of his house holding a flashlight. While Mr. Cimino is heard yelling on the body-worn camera, his words are not entirely audible, and he cannot be seen in the footage. F/Sgt. Smith is heard asking others what was in Mr. Cimino's hand. Several troopers responded that it was a flashlight. Mr. Cimino is heard saying "Just fucking shoot me," along with other things that are not audible. F/Sgt. Smith responded, "Come on, Jack, I just want to talk to you, bud." Mr. Cimino yelled something else, and F/Sgt. Smith asked, "Jack, why do you want us to shoot you, bud." F/Sgt. Smith told IID investigators that Mr. Cimino was yelling, "just fucking kill me, just fucking kill me. Shoot me." F/Sgt. Smith said that in response, he told Mr. Cimino, "We're not here to kill you, we're here to help you."

During the next few hours, Mr. Cimino came out of his house several times and spoke on the phone with F/Sgt. Smith in the interim. F/Sgt. Smith reported that his first phone call with Mr. Cimino lasted for 52 minutes, during which Mr. Cimino said that he did not want to be committed to the hospital and was also concerned about having his guns taken away. F/Sgt. Smith said that at approximately 2:30 a.m., Mr. Cimino said that he would come out of the house and go to the hospital [REDACTED] was brought to the house and accompanied him. In response, F/Sgt. Smith asked troopers to arrange for [REDACTED] to come to the scene.

About four minutes later, F/Sgt. Smith can be heard on body-worn camera saying, "there is no reason for you to come outside with your gun in your hand." Seconds later, F/Sgt. Smith told other troopers that Mr. Cimino had said over the phone, "I'm coming out with an AR, you're going to have to shoot me." And though [REDACTED] arrived on scene at approximately 3:00 a.m., Mr. Cimino still would not leave his house.

During interviews with the IID, several troopers stationed at the BEARCAT recalled that around forty-five minutes later, they saw Mr. Cimino come out of his house holding a knife in each hand. Next, they saw Mr. Cimino hold a knife to his neck and stab the railing of the deck several times. On body-worn camera footage, Sgt. Stoops said, "he pointed the knife towards the BEARCAT," and, "I don't see him bleeding, he is looking to stab himself or something."

Additional body-worn camera footage and statements from S.T.A.T.E. team troopers reveal that similar interactions between Mr. Cimino and the troopers continued to occur throughout the early morning hours of June 4.

B. The Shooting

At approximately 5:45 a.m., Tfc. Robert Pettis arrived at the scene to take over negotiations for F/Sgt. Smith from inside the BEARCAT. S.T.A.T.E. Team Sgt. Hartsock was positioned near the BEARCAT, along with other team members—Sgts. Roy Preau, Brian Schweers, Brett Stoops, David Miranda, and Cpl. Christopher Karolenko. Laser measurements that were conducted after the shooting revealed that the BEARCAT was stationed 71 feet from Mr. Cimino's front door. Other troopers maintained a perimeter either at the rear of Mr. Cimino's house or its side parking lot. Tfc. Pettis used a PA speaker to attempt to contact Mr. Cimino several times, but Mr. Cimino did not respond. At 6:15 a.m., Tfc. Pettis began repeatedly

asking Mr. Cimino to put down the gun and come outside. After about three minutes Mr. Cimino is heard on body-worn camera yelling, "I'm getting the AR motherfuckers out there, and I got fucking 50 fucking clips, so I hope you all got some of them fires ready." Mr. Cimino cannot be seen on the body-worn camera video.

For the next several minutes, Tfc. Pettis used the PA speaker once every 15-30 seconds to try to contact Mr. Cimino. During that time, body-worn camera footage shows Tfc. Pettis saying: "Jack, we're worried about you, come back to the door so we can talk;" "Jack, we're concerned about you, no one wants to hurt you, come back to the door;" and "Jack, put the gun down so that we can talk." At approximately 6:21 a.m., audio from the body-worn camera footage revealed that Tfc. Pettis said, "Jack, it is hard for me to talk to you when you're pointing the gun at me. Put the gun down and we can help you." In response, Mr. Cimino can be heard yelling, "Fucking shoot me, Fucking shoot me." After a few moments, Mr. Cimino went back into his house and Tfc. Pettis continued using the PA speaker to talk to Mr. Cimino.

At around 6:36 a.m., Sgt. Hartsock and Sgt. Miranda began discussing whether they should fire rounds from a less-lethal 40mm launcher⁵ at Mr. Cimino if he came back outside. During their conversation, Sgt. Miranda opined, "I don't know that a 40 is going to serve its purpose when there is a lethal threat," moments later saying, "lethal on lethal." About ten minutes later, audio from body-worn camera footage revealed several troopers repeatedly yelling, "drop the gun," for a couple of seconds. After another twelve minutes, Mr. Cimino is heard on the body-worn camera yelling, "I want you to fucking shoot me, you better get back, I'm coming for you," to which Tfc. Pettis responded, "Jack, we are not here to shoot you, we're here to help you." Video from a private cell phone filming from the opposite side of Liberty Road captured the front door opening and Mr. Cimino's arm extended from inside the doorway, but it is too far away to capture Mr. Cimino's voice. The door abruptly shut after approximately 10 seconds.

At approximately 6:56 a.m., the private cell phone video showed Mr. Cimino come out on the front porch and bend over. He then stood back up and pointed his arm toward the BEARCAT three times before going back through the doorway. The door remained open. Four seconds later, one gunshot is heard in the video. Sgt. Hartsock's body-worn camera footage, which is partially obstructed by the rear of the BEARCAT and his rifle, captured Mr. Cimino with a black object in his right hand. He moved the object from his right hand to his left hand, then back to his right, and raised his right arm toward the BEARCAT. Sgt. Hartsock fired his rifle once and struck Mr. Cimino in the chest; Mr. Cimino then fell back into the house. The troopers who witnessed the shooting and were later interviewed by IID and MSP investigators said that the black object in Mr. Cimino's hand was a gun. Sgt. Hartsock immediately radioed "shots fired" and informed other troopers that "he fell backwards into the house."

⁵ A less-lethal 40mm launcher is a tactical weapon that fires a high speed sponge projectile. It is used to temporarily incapacitate an individual.



Image 3: Still photograph from Sgt. Hartsock's body-worn camera footage of Mr. Cimino immediately before the shooting. Mr. Cimino is circled in red and can be seen holding a black object.

Next, Sgt. Hartsock instructed the team to prepare a “bunker”—a ballistic shield—and a robot so that the officers could safely clear the house. The team followed Sgt. Hartsock’s orders, sending a robot with a live-stream camera into the house before they entered to determine whether Mr. Cimino was still a threat. After viewing footage from the robot, approximately eight minutes after the shooting, Sgt. Miranda ordered S.T.A.T.E. team members to form an entry team and enter the house. The entry team found Mr. Cimino lying on a couch to the right of the front door suffering from a gunshot wound. They quickly determined that Mr. Cimino did not have a pulse and began chest compressions. Mr. Cimino was then transported to Carroll Hospital where he was pronounced dead at 7:35 p.m.

During a subsequent search of Mr. Cimino’s house, police recovered a handgun on the floor inside the front doorway, a bullet that was consistent with the caliber of ammunition fired from Sgt. Hartsock’s rifle, that had been fired into a bathroom wall, and two knives that were embedded in a railing on the front deck.



Image 4: Image from Sgt. Jansen's body-worn camera footage captured the gun that was recovered from Mr. Cimino's house. The image was taken while troopers were rendering aid to Mr. Cimino.

C. Medical Examination

Mr. Cimino's autopsy was conducted by Dr. Pamela Ferreira of the Maryland Office of the Chief Medical Examiner on June 5, 2023. According to Dr. Ferreira, Mr. Cimino suffered a gunshot wound to the mid-upper chest injuring the arch of the aorta and lung and causing fractures to Mr. Cimino's right clavicle and ribs. The bullet traveled front to back, left to right, and upward. The report noted a lacerated exit wound to Mr. Cimino's right upper back. Dr. Ferreira opined that Mr. Cimino died of a gunshot wound to the chest and the manner of death was ruled a homicide.⁶

A toxicology exam was performed and determined that Mr. Cimino's blood-alcohol content was 0.19% in the blood heart. The exam also confirmed 0.043mg/L of Alprazolam (Xanax) in the blood heart.

⁶ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Office of the Chief Medical Examiner uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. "Homicide" applies when death results from a volitional act committed by another person to cause fear, harm, or death. These terms are not considered a legal determination, rather they are largely used to assist with public health statistics. "A Guide for Manner of Death Classification," First Edition, National Association of Medical Examiners, February 2002.

D. Ballistic Analysis

Alicia Quinn, a forensic scientist with the MSP Forensic Sciences Division, conducted a microscopic examination and analysis on the firearms evidence that was submitted from this case. The evidence included Sgt. Hartsock's department-issued service rifle, one fired cartridge casing, and one fired bullet recovered in the bathroom wall. It also included the semiautomatic pistol and ammunition recovered from inside Mr. Cimino's house.

Ms. Quinn determined that Sgt. Hartsock's service rifle was functional. The examination identified the cartridge casing as having been fired from Sgt. Hartsock's service rifle. Because of damage to the fired bullet, the examiner was unable to conclude whether it was fired from Sgt. Hartsock's rifle. An examination of the semiautomatic pistol found in Mr. Cimino's house concluded that it was a functional gun.

E. Civilian Witness Statements

1. [REDACTED]

[REDACTED] are the daughters of Mr. Cimino and were both interviewed by IID investigators and MSP on June 5, 2023. [REDACTED] told investigators that Mr. Cimino had been involved in a similar barricade incident in Florida several years ago; there, Mr. Cimino went onto his balcony and told the police to kill him. Both daughters also told investigators that Mr. Cimino has struggled with alcohol addiction for many years. They said that in the days leading up to the shooting, there were disputes between them and Mr. Cimino that were triggered by Mr. Cimino's abuse of alcohol.

Both daughters also reported receiving text messages from Mr. Cimino at the beginning of the incident when the S.T.A.T.E. team arrived. Mr. Cimino texted [REDACTED] "you wanted me to get help, the swat team is here, Love you goodbye." He texted [REDACTED] "SWAT team is here."

2. [REDACTED]

[REDACTED] was a childhood friend of Mr. Cimino and was interviewed by IID investigators and MSP on June 7, 2023. [REDACTED] said that on June 3, he heard a call go out on the radio that Mr. Cimino was involved in a barricade situation with MSP. He said that he attempted to call Mr. Cimino several times before going to Mr. Cimino's Liberty Road address. When [REDACTED] arrived on scene, he said that he was able to speak with Mr. Cimino from the BEARCAT. [REDACTED] said, "the person I was talking to was not the person I know." [REDACTED] said he observed Mr. Cimino come out with a knife and hold it to his neck. He heard Mr. Cimino say, "he was going to get his AR-15 and come out and shoot everyone."

F. Law Enforcement Officers' Statements

1. Sergeant Jesse Hartsock

Under Maryland law effective July 1, 2022, a police officer must “fully document all use of force incidents that the officer observed or was involved in.” Public Safety § 3-524(e)(4). The statute does not define what “fully document” means and does not state what constitutes a use of force incident. MSP’s Reporting Requirements for Use of Force/Civilian Injury Incidents policy, which is attached in Appendix B of this report, also requires both involved officers and witness officers to document the force used.

All subjects of criminal investigations—including police officers—have a right under the Fifth Amendment not to make any statement. That right also applies to written statements. Thus, if a statement is ordered, the result of threat, or otherwise compelled (*i.e.*, not voluntary), it cannot be used against an officer in a criminal investigation and should not be considered by criminal investigators. *Garrity v. State of N.J.*, 385 U.S. 493 (1967) (holding that officers’ statements made under threat of termination were involuntary); *Department of Public Safety and Correctional Services v. Shockley*, 142 Md. App. 312, 325 (2002) (“the dispositive issue is whether [the supervisor] **demand**ed that the appellee answer the questions”) (emphasis in original). Here, Sgt. Hartsock did not choose to make a voluntary statement to IID or MSP investigators. He did, however, provide a Firearms Discharge Report, per MSP policy to MSP Internal Affairs. Since this was a compelled statement, the IID did not review this report, nor did it receive a copy.

2. Initial Responding Officers

MSP Troopers. Andrew Iman, Christopher Loudin, and John Fair, along with SPD Ofc. Andrew Jacob, and CCSO Cpl. Douglas Reese and Deps. Nicholas Gange, Peter Knorr, Nicholas Bowers, Maxwell Chassagne, Jacob Street, and Benjamin Craft were all interviewed by IID investigators and MSP. Their statements are consistent with one another and with the body-worn camera footage; the recordings and summaries have been provided to the State’s Attorney’s Office along with this report.

These officers all went to 1200 block of Liberty Road in response to a suicidal man who was armed and under the influence of an unknown substance. Once they confirmed which house was Mr. Cimino’s, they established a perimeter around it. However, none of these officers had any contact with Mr. Cimino and only observed him coming out of the house one or two times. They maintained the perimeter until the S.T.A.T.E. team, who initially arrived at 11:50 p.m., took over their posts at approximately 1:00 a.m.

3. Captain Steven Decerbo

Capt. Steven Decerbo—the S.T.A.T.E. team commander and the person responsible for coordinating the team’s response to the barricade—was interviewed by IID and MSP on June 27, 2023. Capt. Decerbo told investigators that Sgt. Miranda called him at 10:00 p.m. on June 3 and

reported that troopers from the Westminster barracks were involved in a barricade situation with a suicidal suspect who stated that he would kill any police officers who came to the house.

Capt. Decerbo said that he received updates from Lt. Bosley and Sgt. Miranda regarding the progress of the incident and crisis negotiations prior to arriving at the Liberty Road command post at 4:00 a.m. on June 4. About an hour after he arrived, Capt. Decerbo remembered watching Mr. Cimino's house, then seeing Mr. Cimino come outside with a handgun and pointing it toward the troopers. Capt. Decerbo recalled that he could not hear what Mr. Cimino was saying, but he heard someone at the BEARCAT asking Mr. Cimino to drop the gun and surrender peacefully.

Capt. Decerbo said that he saw a repeat of this series of events about a half hour later and a third time after that. During the third encounter, Capt. Decerbo saw Mr. Cimino come outside with a handgun and point it toward the troopers while also "walking aggressively towards the BEARCAT." Capt. Decerbo reported that he did not observe the shooting, but he did hear a single gunshot, and he later found out that Sgt. Hartsock had fired his rifle.

Capt. Decerbo told investigators that although they had obtained an ERPO and authorization to go inside the house, he felt that there was no sense of urgency to enter the house and that they should stay positioned outside. When speaking about less lethal options available, he believed that the 40mm launcher was not a feasible option because, at the distance the team was positioned, Mr. Cimino would have time to go back into the house before troopers could get to him and detain him. Capt. Decerbo also said a taser would be ineffective because of the distance the team was from Mr. Cimino. Capt. Decerbo also told investigators that he was concerned that Mr. Cimino "increased the violence of his rhetoric over time."

4. Crisis Negotiation Team ("CNT") Responders

F/Sgt. Vinson Smith and Cpl. Jeffrey Eyler were the initial negotiators on scene. They were subsequently relieved by Capt. Diane Hansen and Tfc. Pettis about an hour before the shooting. All the negotiators were interviewed by IID investigators and MSP. Their statements are consistent with each other and with the body-worn camera footage.

F/Sgt. Smith and Cpl. Eyler both arrived at 1200 block of Liberty Road at approximately 9:00 p.m. during the initial police response. The S.T.A.T.E. team was not yet on scene. F/Sgt. Smith was the primary negotiator for the incident. His primary role was to communicate with Mr. Cimino and encourage him to peacefully surrender. Cpl. Eyler was the co-negotiator. His objective was to obtain Mr. Cimino's background information and updates from other barricade posts and pass that information to F/Sgt. Smith. Cpl. Eyler said that he updated Capt. Hansen during the incident. Cpl. Eyler said that F/Sgt. Smith used a PA speaker to try contacting Mr. Cimino every two minutes beginning at 10:55 p.m., but Mr. Cimino did not respond to these attempts.

F/Sgt. Smith and Cpl. Eyler continued to reach out to Mr. Cimino until additional negotiators with the S.T.A.T.E. team arrived to relieve them. During that time, they said that Mr. Cimino came outside numerous times and yelled at the police. Cpl. Eyler said generally, when

Mr. Cimino was outside, he had a flashlight in his hand. F/Sgt. Smith said that Mr. Cimino requested [REDACTED] come to the scene. Cpl. Eyler said that he contacted Lt. Bosley to coordinate [REDACTED] arrival. [REDACTED] eventually came to the BEARCAT to talk to Mr. Cimino. Cpl. Eyler said that the last time that he saw Mr. Cimino was at approximately 3:45 a.m., when Mr. Cimino came outside holding a knife to his throat. At that point, Cpl. Eyler felt that the situation was too dangerous for [REDACTED] to stay at the BEARCAT and escorted him to the command post.

Capt. Hansen and Tfc. Pettis are negotiators who work to support the S.T.A.T.E. team and did not take over the negotiations until approximately 5:45 a.m. Capt. Hansen said that F/Sgt. Smith and Cpl. Eyler briefed her and Tfc. Pettis on the events that preceded their arrival. Tfc. Pettis took the primary negotiator role and Capt. Hansen assumed the co-negotiator role.

Capt. Hansen and Tfc. Pettis said that during their time on scene, they observed Mr. Cimino come outside of the house waving a gun and pointing it at the BEARCAT. Capt. Hansen believed at one point, Mr. Cimino pointed the handgun directly at her. Tfc. Pettis said that when the shooting happened, he was sitting in the passenger seat of the BEARCAT. He said that he observed Mr. Cimino standing in the doorway pointing the gun at troopers when he heard one shot. Capt. Hansen said that she did not see the shooting because she was sitting inside the BEARCAT behind the front passenger seat, but she heard one shot.

5. S.T.A.T.E. Team Responders

Sgts. Roy Preau, Brian Schweers, Brett Stoops, David Miranda, and Cpl. Christopher Karolenko were all positioned at the BEARCAT at the time of the shooting. They were interviewed by IID investigators and MSP. Their statements are consistent with each other and with the body-worn camera footage.

These troopers said that they initially arrived near the command post on Liberty Road sometime after 11:00 p.m. At that point, they began preparing to approach the house in the BEARCAT. The BEARCAT arrived in front of Mr. Cimino's house sometime after 1:00 a.m. and the team members relieved the initial responders who had formed a perimeter around the house.

All troopers at the BEARCAT described that during the course of the overnight barricade, Mr. Cimino came out of the house numerous times yelling at police to shoot him and threatening to shoot them with an AR-15. They described that Mr. Cimino became more aggressive as the barricade progressed. Sgt. Miranda recalled that over the course of the night the team was attempting to de-escalate the situation so that Mr. Cimino would leave his house peacefully. Cpl. Karolenko and Sgt. Miranda recalled Mr. Cimino say, "I'm going to shoot you. I can see your feet; I will shoot your feet under the BEARCAT."

Many describe Mr. Cimino coming out of the house holding a knife to his neck and stomach and stabbing the knife into the railing of the deck. Mr. Cimino then went back inside. They said that in response, negotiators repeatedly asked Mr. Cimino to come out of the house in an attempt to resolve the situation peacefully. Sgt. Schweers specifically told investigators they were

attempting to get Mr. Cimino out of the house to get him help and ultimately to a hospital for an emergency evaluation.

The team members who saw the shooting all have similar accounts. Sgt. Schweers said that he had observed Mr. Cimino come out of the house throughout the overnight hours. When he was describing the last time Mr. Cimino exited, Sgt. Schweers said, “this time was different.” He said that when Mr. Cimino came outside, he did not have anything in his hands and “was as cool as a cucumber.” Sgt. Schweers said that he saw Mr. Cimino reach behind his back and draw a gun, and after waving it around, he pointed the gun directly at Sgt. Hartsock. Sgt. Schweers told investigators that at that time he was “extremely in fear for the life of Sgt. Hartsock and all the bystanders” on the opposite side of Liberty Rd. He said, “I had my finger on the trigger because at that point I had totally made up my mind that I was going to be taking a shot.” He said he heard Sgt. Hartsock fire his weapon.

Sgt. Stoops told investigators that the last time Mr. Cimino came out of the house he did not initially have anything in his hands and was yelling. He said that Mr. Cimino pulled a weapon from his lower back and pointed it at the driver’s side of the BEARCAT. He then heard a shot.

Sgt. Miranda told investigators that the last time Mr. Cimino came out, he was concerned about the bystanders who were on the opposite side of Liberty Road if Mr. Cimino fired his gun. Sgt. Miranda recalled that at the time of the shooting, “the male’s demeanor was different” and he was making direct eye contact with the troopers. Mr. Cimino reached behind his back, drew a gun while moving to the left side of the door frame. Sgt. Miranda told investigators that Mr. Cimino moved the gun to his right hand, switched to his left, and then switched again back to his right. At that point, Sgt. Miranda said that he saw Mr. Cimino point his gun at the operator of the BEARCAT. Sgt. Hartsock “took the shot” and Sgt. Miranda saw Mr. Cimino fall back into the doorway.

III. Involved Parties’ Backgrounds

As part of its standard investigative practice, the IID obtained information regarding all involved parties’ criminal histories, departmental internal affairs records, and relevant training of the involved officers. To the extent it exists, any criminal history is being provided to the State’s Attorney’s Office with this report.

In this case, this information did not affect the analysis of potential criminal charges.

A. Jack Cimino

Mr. Cimino was a 52-year-old white man who lived in Sykesville, Maryland.

B. Sargeant Jesse Hartsock

Sgt. Hartsock is a white man who was 36 years old at the time of this shooting. He was hired by MSP on January 14, 2018. The IID has reviewed Sgt. Hartsock’s Internal Affairs file

and did not find anything relevant to this investigation; it has been provided to the State's Attorney's Office for review. [REDACTED]

IV. Applicable Policies

This section discusses MSP policies and training concerning troopers' use of force, including their decisions to use deadly force. It also includes policies on de-escalation and barricade situations. The complete policies are attached as Appendix B.

MSP's Use of Force policy contains the following relevant provisions.

A. OPS 10.03.02 – Policy

Troopers may only use force when “under the totality of the circumstances, the force is reasonable, necessary, and proportional to prevent an imminent threat of physical injury to a person or to accomplish a legitimate law enforcement objective.”

B. OPS 10.03.06(E) – Procedures

The Use of Force Policy specifically addresses the use of deadly force in certain situations by outlining three principles.

- 1) Troopers may use deadly force only when the trooper reasonably believes the action is in defense of any human life in imminent danger of death or serious bodily injury.
- 2) Troopers will not use deadly force unless de-escalation and less-lethal force options have been tried and failed or are not safe based on the totality of circumstances.
- 3) The use of deadly force will always be the last resort.

C. OPS 10.03.06(I) – Less-Lethal Force

The policy further addresses when a trooper may use less-lethal force:

- 1) When reasonable, necessary and proportional, a trooper may use various forms of less-lethal force within the scope of his MSP training and only after he has received:
 - a. Initial training and demonstrated proficiency with the weapon or technique;
 - b. A copy of the policy that addresses the use of the weapon or technique; and
 - c. Training on the policy that addresses the use of the weapon or technique.
- 2) Certain less-lethal weapons (e.g. ECWs are authorized for use by certain units...) and the use of these weapons will be governed by a local Standard Operating Procedure...

D. OPS 10.04.02 – De-Escalation Policy

MSP’s de-escalation policy requires troopers, when feasible, to use tactics to resolve a situation safely. It states that “When time, circumstances, and safety allow, troopers are required to take steps to gain compliance and de-escalate conflict without using physical force. Troopers will attempt de-escalation techniques consistent with their training, before resorting to force...”

E. OPS 10.04.06(B)(3) – De-Escalation Techniques

De-escalation techniques include communication techniques, limiting exposure to potential threats by seeking cover or slowing down an incident. Specifically, slowing down the pace of the incident includes;

- 1) waiting out the person;
- 2) avoiding immediate physical confrontation;
- 3) calling for extra resources, whenever possible such as:
 - a. additional troopers
 - b. specially trained troopers and/or resources (e.g., negotiators, behavioral health care providers, STATE, bilingual troopers, etc.); or
 - c. troopers equipped with [a] less-lethal weapon; and
 - d. identifying other options and determining the best course of action.

F. SOP.03 – Barricade Subject

MSP’s procedure for barricade incidents provides the S.T.A.T.E team tactics and procedures for safely resolving a barricade incident. A barricaded subject is defined as “an individual in a location that provides a means of spatial separation that assists them in avoiding apprehension from law enforcement.”

G. SOP.05A(2)(b) – Procedures – Staging Areas

According to these procedures, the S.T.A.T.E team is required to set up a primary staging area that is a safe distance from where the incident is occurring. The secondary staging area is “the position for S.T.A.T.E to be close enough to see the target and to approach with surprise and speed if necessary.”

H. SOP.05A(3)(a)(5) – Procedures – Pre-operational procedures

Pre-operational procedures provide tactics for gathering information, containing the threat, evaluation of all elements of the situation and “initiate the plan of action that has been developed to successfully resolve the situation.”

I. SOP.05A(8)(b) – BEARCAT

The procedure further provides for the use of the BEARCAT which is to be positioned in close proximity to the incident and “provide ballistic protection for the negotiation team.”

J. SOP.05B(1) – Deliberate Entry Team

Specifically, with regard to barricaded subjects, a “Deliberate Entry Team” is “used to search for suspects during...barricade operation...” with the following guidance:

- a. Operations are directed by the team leader.
- b. Time favors the team and speed is not critical.
- c. Overall safety of the team and the suspect is paramount.
- d. Depending on the situation, these types of operations may evolve over a period of time and may include the following alternative measures prior to entry:
 1. Crisis Negotiation Team
 2. Less Lethal Impact Munitions
 3. Remote clearing devices
 4. Robots...

K. SOP2 .04A(3) – Less Lethal Impact Munitions

MSP’s policy provides guidance on the use of extended range less-lethal weapons and projectiles, which includes the 40mm launcher, for the S.T.A.T.E. team. “Before deploying to less-lethal ammunition, the S.T.A.T.E. team operator shall consider:”

- a. The level of force being confronted
- b. The proximity/access to subject to S.T.A.T.E. team operators
- c. The department safety priorities

L. OPS 10.04 – Reporting Requirements for Use of Force/Civilian Injury Incidents

The Reporting Requirements for Use of Force/Civilian Injury Incidents contain the following relevant provisions. The policy requires immediate notification to the barrack duty officer of “any police-involved incident that results in death or serious physical injury of a civilian.” It further provides that “troopers will complete and submit a Form 71, Firearms Discharge Report for all firearms discharge, with the exception of practice on a firing range or when using a firearm to kill an injured or dangerous animal.”

V. Applicable Law & Analysis

The IID analyzed Maryland statutes that could be relevant in a death of this nature. This section presents the elements of each possible criminal charge, analyzes these elements, and reviews any potential defenses considering the factual findings discussed above.

A. Excessive Force

Effective July 1, 2022, the Maryland Use of Force Statute makes it a crime for officers to intentionally use force that is not, “under the totality of the circumstances . . . necessary and proportional to: (i) prevent an imminent threat of physical injury to a person; or (ii) effectuate a legitimate law enforcement objective.” Public Safety § 3-524(d)(1). The statute also requires that “when time, circumstances, and safety allow, [officers shall] take steps to gain compliance and de-escalate conflict without using physical force.” Public Safety § 3-524(e)(1).

To prove excessive force, the State must prove: (1) that the defendant was a police officer; (2) that the defendant used force against Mr. Cimino; (3) that the force used was not necessary and proportional to [prevent an imminent threat of physical injury to [the defendant][another person]][to effectuate a legitimate law enforcement objective]; (4) that the defendant intended to use such force; and (5) that the use of force resulted in death to Mr. Cimino. MPJI-Cr 4:36 Unlawful Use of Force by a Police Officer, MPJI-Cr 4:36 (2nd ed. 2022). In determining whether the defendant’s use of force was necessary and proportional, the factfinder should consider all the surrounding circumstances. *Id.*

Before the Use of Force Statute was enacted, Maryland had no specific crime punishing officers’ use of excessive force. Instead, officers could be charged with the same crimes as any civilian, including force-related crimes such as murder, manslaughter, and assault. Officers could not be convicted of these offenses if they had acted reasonably; that is, if they acted as a reasonable officer would given the circumstances. Now, with the Use of Force Statute, officers may still face these traditional charges, but they may also face the specific charge of using excessive force if the force they used was not necessary and proportional given the totality of the circumstances.

The Use of Force Statute’s reference to “the totality of the circumstances” likely encompasses several factors courts have previously considered when evaluating officers’ uses of force, including, but not limited to: the severity of the underlying crime; the existence of an articulable basis to believe the suspect is armed; the threat, if any, the suspect posed; information known to the officer before the use of force; time of day; how the officer approached the suspect; whether the officer issued a warning or threat to the suspect; whether the officer afforded the suspect an opportunity to respond to commands; the suspect’s statements; the suspect’s mental well-being; attempts to evade or resist arrest; aggressive behavior; and the reactions of other officers to the use of force. *See generally, Graham v. Connor*, 490 U.S. 386, 396 (1989); *Koushall v. State*, 249 Md. App. 717, 730 (2021), *aff’d*, 479 Md. 124 (2022); *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23, 25-26 (2020); *Salvato v. Miley*, 790 F.3d 1286, 1293 (11th Cir. 2015); *Deering v. Reich*, 183 F.3d 645, 650-52 (7th Cir. 1999). Also likely factoring into this analysis is the Use of Force Statute’s requirement that “when time, circumstances, and safety allow, [officers shall] take steps to gain compliance and de-escalate conflict without using physical force.” Public Safety § 3-524(e)(1).

The third element of the jury instruction requires the State to prove that the force used by the officers was not necessary and proportional to prevent an imminent threat of physical injury

to officers or other individuals, or to effectuate a legitimate law enforcement objective. Public Safety § 3-524(d)(1). The terms “necessary” and “proportional” are not defined by statute or by Maryland caselaw. However, [an opinion](#) issued by the Office of the Attorney General concluded that the “necessary and proportional” standard “involves three core principles”:

First, the use of force is not “necessary” unless there is no reasonable alternative to using force that, under the circumstances would safely and effectively achieve the same legitimate ends. Second, even when the use of some force is necessary, the degree and amount of force must correspond to, and be appropriate in light of, the objective that the officer aims to achieve. Third, the proportionality requirement further prohibits an officer from using force if the harm likely to result is too severe in relation to the value of the interest that the officer seeks to protect.

107 Md. Op. Att’y Gen. 33, 66 (Feb. 25, 2022) (emphasis added).

The Use of Force Statute provides that necessary and proportional force may be appropriate to “prevent an imminent threat of physical injury to a person” or to “effectuate a legitimate law enforcement objective.” Public Safety § 3-524(d)(1)(i), (ii). “Imminent” is defined as “likely to occur at any moment; impending.” *Howell v. State*, 465 Md. 548, 564 n. 15 (2019).⁷ Officers must have probable cause to believe that an individual poses such an imminent threat. *Estate of Blair*, 469 Md. at 23. Probable cause “means something less than ‘more likely than not.’” *Whittington v. State*, 474 Md. 1, 41 n. 29 (2021) (quoting *Freeman v. State*, 249 Md. App. 269, 301 (2021) (cleaned up)).

The Use of Force Statute does not define “legitimate law enforcement objective,” but other sections of the Public Safety Article provide some guidance. For example, Section 3-701 defines “legitimate law enforcement objective” as “the detection, investigation, deterrence, or prevention of crime, or the apprehension and prosecution of a suspected criminal.” Public Safety § 3-701(a)(7); *see also* Public Safety § 3-509(a)(8) (defining a “legitimate law enforcement purpose” as “the investigation, detection, or analysis of a crime or a violation of the Maryland vehicle laws or the operation of terrorist or missing or endangered person searches or alerts”).

The Use of Force Statute specifically provides that an officer must cease the use of force when either of the above conditions are no longer met, or when the target of the force is under the officer’s control. Physical restraint is not a prerequisite to “control.” *Michigan v. Long*, 463 U.S. 1032, 1051 (1983) (“During any investigative detention [*i.e.*, a *Terry* stop], the suspect is ‘in the control’ of the officers in the sense that he may be briefly detained against his will.”) (cleaned up). An individual who is complying with an officer’s commands without physical restraint is under the officer’s control because the officer has a “directing influence” over them. *See Bryant v. State*, 229 Md. 531, 537 (1962) (citations omitted) (applying dictionary definitions of “control,” *i.e.*, “to exercise restraining or directing influence over”); *cf. Bailey v. State*, 412 Md. 349, 371 (2010) (“Although the display of force often involves placing the individual who is

⁷ “Imminent” differs from “immediate,” which means “occurring or accomplished without lapse of time; instant; of or relating to the present moment.” *Howell*, 465 Md. at 564 n. 15. However, imminence still requires a reasonable degree of proximity and specificity; a threat that may occur “sometime in the future” is not imminent. *Madrid v. State*, 474 Md. 273, 339 (2021).

seized in handcuffs, application of handcuffs is not a necessary element of an arrest.”); *Henderson v. State*, 89 Md. App. 19, 23 (1991) (suspect was not seized where he “was neither under the physical control of the officers, nor was he acquiescing to their authority”).

The fourth element of the jury instruction requires that the officers intended to use force. While it is possible the General Assembly meant only that the officer’s actions must have been intentional, it is more likely the General Assembly meant to require that the officer knew the level of force that would have been permissible and intentionally crossed that threshold. The Office of the Attorney General’s Opinions Division stated in a January 18, 2023, [advice letter](#) to the Prince George’s County State’s Attorney’s Office that this latter interpretation was better supported by the plain language of the statute.⁸ Letter of Assistant Attorney General Rachel A. Simonsen to State’s Attorney Aisha N. Braveboy, Prince George’s County State’s Attorney’s Office (Jan. 18, 2023).

The fifth element of the jury instruction requires that the use of force resulted in serious bodily injury or death to Mr. Cimino. “Serious bodily injury” is not defined in this statute, but a definition for “serious physical injury” is provided. Public Safety § 3-524(b)(4). “Serious physical injury” is injury that “(1) creates a substantial risk of death; or (2) causes permanent and protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ.” Public Safety § 3-201(d).

There is no dispute that Sgt. Hartsock was acting in his law enforcement capacity when he fired his rifle at Mr. Cimino. Nor is there any dispute that when he fired his weapon at Mr. Cimino, the bullet struck him and caused his death. Thus, there would be two potential remaining questions for the factfinder. First, a factfinder must determine whether Sgt. Hartsock’s use of force was necessary and proportional to either counteract an imminent threat of physical injury or to accomplish a legitimate law enforcement objective. If Sgt. Hartsock’s use of force was *not* necessary and proportional, then it would be excessive, and a factfinder would need to determine if the use of force was *intentionally* excessive.

Regarding necessity, the factfinder could consider the totality of the circumstances that the troopers faced that night. Officers and troopers responded to Mr. Cimino’s house because Mr. Cimino contacted the crisis hotline and told them that he intended to commit suicide and had multiple weapons in his house. Upon arriving at approximately 9:00 p.m., officers and troopers immediately began attempts to de-escalate the situation by asking Mr. Cimino to come out of his house. The MSP S.T.A.T.E. team was contacted, responded to, and was present during the overnight hours. Mr. Cimino’s interactions with the troopers escalated. They began with Mr. Cimino coming out of the house with no weapons and threatening officers, then progressed to Mr. Cimino coming out of the house with a flashlight, knife, and, lastly, a gun.

Regarding proportionality, during the last confrontation with the troopers, Mr. Cimino pulled a gun from his back waistband, switched hands, and then pointed it at the troopers,

⁸ The Opinions Division is a unit within the Office of the Attorney General that is responsible for answering significant legal questions involving Maryland law or other law that governs the actions of Maryland public officials. The Division issues both formal opinions and less formal advice letters; neither serves as binding precedent, though they may be used as persuasive authority.

presenting a deadly threat. Per MSP’s policy, the less-lethal 40mm launcher was considered by the team prior to the shooting, however, both Capt. Decerbo and Sgt. Miranda opined that it would be ineffective given the distance the troopers were from Mr. Cimino. Sgt. Miranda also felt that the troopers should confront a lethal threat with lethal force. That position is supported by departmental policy, which states that, “[b]efore deploying to less-lethal ammunition, the S.T.A.T.E. team shall consider...the level of force being confronted.” The use of deadly force could be considered proportional to the deadly threat posed by Mr. Cimino, and Sgt. Hartsock’s interest in protecting the physical safety of himself and other troopers. Regarding his obligation to timely cease using force, Sgt. Hartsock fired one round at Mr. Cimino.

B. Homicide Charges

In addition to the new excessive force charge, officers may still be charged with traditional statutory and common law offenses. There are two charges related specifically to officers killing Mr. Cimino that could be relevant given the facts of this incident: intentional second-degree murder and voluntary manslaughter.⁹

Criminal Law § 2-204 states: “A murder that is not in the first degree under § 2-201 of this subtitle is in the second degree.” Intentional second-degree murder differs from first-degree murder in that it is not “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Self-Defense and Perfect/Imperfect Defense of Habitation), MPJI-Cr 4:17.2 (2d ed. 2021). It is, however, a killing conducted with “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” *Id.*

To prove intentional second-degree murder, the State must establish: “(1) that the defendant caused the death of Mr. Cimino; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no mitigating circumstances.” *Id.* Second-degree murder and voluntary manslaughter require the State prove a specific intent to kill. *Chisum v. State*, 227 Md. App. 118, 135-36 (2016). But, “[i]f a man voluntarily and will[1]fully does an act, the natural consequences of which is to cause another’s death, an intent to kill may be inferred from the doing of the act.” *Lindsay v. State*, 8 Md. App. 100, 105 (1969); *see also Chisum*, 227 Md. App. at 133, 136.

Intentional second-degree murder may be reduced to voluntary manslaughter if a defendant acted pursuant to a partial self-defense, partial defense of others, or law enforcement justification. Manslaughter is a common law crime in Maryland. *Bowers v. State*, 227 Md. App. 310, 314 (2016). To prove voluntary manslaughter, the State must prove that the defendant: (1) caused the death of the decedent; and (2) intended to kill the decedent. MPJI-Cr 4:17.2; MPJI-Cr 4:17.3.

⁹ First-degree murder is not analyzed because there is no evidence that officers’ killing of Mr. Cimino was premeditated. Unintentional (“depraved heart”) second-degree murder and involuntary manslaughter are not analyzed because there is no dispute that officers intended to fire at Mr. Cimino.

Complete self-defense (*i.e.*, the use of deadly force was completely justified) is one possible defense that an accused person could raise against the homicide charges listed above. In addition to proving its case, the State must disprove an assertion of complete self-defense in order to secure a conviction under those charges. Complete self-defense exists where: (1) the accused was not the aggressor; (2) the accused actually believed that [he was] in immediate or imminent danger of death or serious bodily harm; (3) the accused's belief was reasonable; and (4) the accused used no more force than was reasonably necessary to defend [himself] in light of the threatened or actual force. MPJI-Cr 4:17.2; *see also Porter v. State*, 455 Md. 220, 234-36 (2017). If the accused acted in complete self-defense, no charge is appropriate. MPJI-Cr 4:17.2.

Another possible defense is law-enforcement justification. This defense provides that an officer may use "that force necessary to discharge his official duties" and "[i]n so doing, he is not liable civilly or criminally for the assault or battery that may result, including, if necessary, the use of deadly force." *Wilson v. State*, 87 Md. App. 512, 519-20 (1991). The rationale for this justification is that officers' duties are "markedly different" from those of ordinary citizens, requiring that officers "threaten deadly force on a regular basis." *Koushall v. State*, 249 Md. App. 717, 728-29 (2021), *aff'd*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022).

For either of these defenses—self-defense or law-enforcement justification—the reasonableness of the officers' actions "must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated." *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider "the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham v. Connor*, 490 U.S. 386, 397 (1989)). To reasonably use deadly force, an officer must have "probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others." *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)). If an officer used more force than was reasonably necessary, "the privilege is lost." *French v. Hines*, 182 Md. App. 201, 265-66 (2008).

When analyzing the reasonableness of an officer's actions, the United State Supreme Court and Maryland appellate courts have looked to the surrounding circumstances. "Determining whether the [level of] force used to effect a particular seizure is 'reasonable' under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake." *Randall v. Peaco*, 175 Md.App. 320, 331 (2010) (citing *Graham*, 490 U.S. at 396). "The test of reasonableness under the Fourth Amendment [...] requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Id.* However, "an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm." *Estate of Blair by Blair*, 469 Md. at 24 (emphasis in original). Violations of departmental policy are one "factor to be considered in determining the reasonableness of police conduct." *Pagotto*, 361 Md. at 557 (citations omitted).

There has not yet been any judicial analysis of how the Maryland Use of Force Statute, discussed above, affects the applicability of this common law reasonableness analysis as it pertains to these defenses. The Use of Force Statute, as detailed above, provides that officers may only use necessary and proportional force. It is possible that the new “necessary and proportional” standard supplants reasonableness as the benchmark against which officers’ conduct should be measured. But it is also possible that the new standard applies only to the new excessive force offense created by the Maryland Use of Force Statute, leaving reasonableness as the appropriate standard for other offenses. The Office of the Attorney General’s Opinions Division concluded that this latter interpretation is more likely for several reasons, including the fact that the General Assembly did not express an intent to supersede the existing reasonableness standard for offenses other than the newly created excessive force crime. [Letter](#) of Assistant Attorney General Rachel A. Simonsen to State’s Attorney Aisha N. Braveboy, Prince George’s County State’s Attorney’s Office (Jan. 18, 2023).

The Opinions Division noted, however, that necessity and proportionality may still be salient factors in the reasonableness determination because the new standard has now been incorporated into law enforcement policies and training statewide. *Id.* The advice letter states: “Maryland’s appellate courts have often considered an officer’s compliance with police department policies or training guidelines when assessing the reasonableness of the officer’s use of force.” *Id.* (citing *Koushall*, 479 Md. at 152, 156 & n.11 (non-compliance with departmental policy “highlight[ed] the [officer’s] unreasonable use of force under the circumstances”); *Albrecht*, 336 Md. at 477-78, 487, 502-03 (noting that “the record [was] replete with evidence . . . that [the officer] did not comply with . . . departmental guidelines, procedures or practices” and, thus, did not act as “act as a reasonable police officer under the circumstances” but, rather acted “in a grossly negligent and reckless manner”); *Pagotto*, 361 Md. at 550-53 (considering three departmental guidelines about how to approach a suspect when analyzing convictions for involuntary manslaughter or reckless endangerment)).

In this case, a factfinder would need to determine whether Sgt. Hartsock had a claim of complete self-defense, defense of others or law enforcement justification. In making this determination, a factfinder would likely consider the same facts applied in the Excessive Force analysis above. Most notably, Mr. Cimino aimed his gun at troopers when Sgt. Hartsock shot. The factfinder could also consider additional actions that took place throughout the night. Mr. Cimino was becoming more aggressive and less cooperative. Mr. Cimino also verbally threatened officers. While the S.T.A.T.E team discussed less lethal options, through those discussions, they determined that it was not an effective or safe method of force. Capt. Decerbo and Sgt. Miranda felt because of the distance from the BEARCAT to where Mr. Cimino was located, the 40mm launcher and taser would not have the desired effect. Sgt. Miranda felt that the lethal threat that Mr. Cimino posed was most safely met with a lethal response. The factfinder would need to consider the threat that Mr. Cimino posed to troopers when he aimed his gun at them in order to find that Sgt. Hartsock was not legally justified when he used deadly force.

C. Other Charges

There are several other charges for which full analysis was not warranted given the facts of this incident. Those charges are addressed briefly here.

The crime of use of a firearm in the commission of a crime of violence requires that the State prove the defendant used a firearm and that they did so while committing “a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony.” Criminal Law § 4-204(b). Second-degree murder and voluntary manslaughter are both crimes of violence. Public Safety § 5-101(c). Second-degree murder, voluntary manslaughter, and involuntary manslaughter are all felonies. Crim. Law §§ 2-204, 2-207. The State could not pursue a charge for the use of a firearm in the commission of a crime of violence unless it could prove one of the predicate offenses.

The crime of misconduct in office requires that the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). It is unlikely the State could pursue a charge for misconduct in office unless it could establish that Sgt. Hartsock acted unreasonably or used an unreasonable amount of force. *See Riley v. State*, 227 Md. App. 249, 264 (2016) (finding that corrupt intent may be inferred from the doing of a wrongful act).

This report has presented factual findings and legal analysis relevant to the fatal shooting that occurred on June 4, 2023, in Sykesville, Maryland. Please feel free to contact the IID if you would like us to supplement this report with any further investigation or analysis.

Appendices

Appendix A – Materials Reviewed

911 Calls (1 recording)
Body Worn Camera Video (42 videos provided via external hard drive, audit logs, table of contents, and transcripts provided via file share)
CAD Reports (3 items)
Civilian Witness Statements (5 recordings)
Dash Cam Video (1 recording)
Departmental Policies (6 items)
IA History and Training Records (15 items)
Lab Reports (1 item)
Medical Records (3 items)
MSP Reports (14 items)
OAG Reports (31 reports)
OCME (1 autopsy report with cover letter, 1 request)
Officer Witness Statements (24 recordings)
Photographs (190 photos)
Police Reports (3 items)
Search Warrants (1 item)
Subpoenas (8 items)

All materials listed above have been shared with the Carroll County State's Attorney's Office via a secure filesharing service.

Appendix B – Relevant Maryland State Police Departmental Policy

See attached.

Appendix B
Relevant Maryland State Police
Departmental Policies



MARYLAND STATE POLICE OPERATIONS DIRECTIVE



Use of Force

Distribution: All Troopers	Index: OPS 10.03
DLI Reference: N/A	Rescinds: CHAPTER 22, SEC. V (A) - (D)
Issued: 06/15/2014	Revised: 12/30/2022

.01 Purpose

To outline when troopers may use force, and to establish duties before, during and after the use of force.

.02 Policy

Troopers may not use force against a person unless, under the totality of the circumstances, the force is reasonable, necessary and proportional to prevent an imminent threat of physical injury to a person or to accomplish a legitimate law enforcement objective. The decision to use force requires careful attention and continual assessment of the situation, threats, options, and risks, with the goal of resolving the encounter peacefully. Troopers who use force that is not reasonable, necessary, and proportional will be subject to corrective action and possible discipline, possible criminal prosecution, and/or civil liability.

.03 Definitions

CHOKEHOLD: a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. Chokeholds are prohibited unless the use of deadly force is justified.

DEADLY FORCE: force which is intended to cause death or serious physical injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury.

DE-ESCALATION TECHNIQUES: taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include, but is not limited to: the use of techniques, such as command presence, advisements, warnings, verbal persuasion and tactical repositioning.

IMMINENT THREAT: a person presents an imminent threat when the person has the means and ability to harm themselves or another person, and the trooper reasonably believes the person intends to deliver that harm.

LESS-LETHAL FORCE: force that, when employed as designed, intended, and consistent with policy and training, is not likely to cause death or serious physical injury. Devices may include, but are not limited to: batons, O.C. spray and electronic control weapons (ECWs).

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REASONABLE, NECESSARY, AND PROPORTIONAL: the review of every use of force will be to determine whether the force used was reasonable, necessary, and proportional in light of the totality of the circumstances that were known, or should have been known, to the trooper and in light of MSP policy.

1. REASONABLE: a trooper uses reasonable force when he uses no more force than is required to perform a lawful purpose.
2. NECESSARY: force is necessary only when no reasonably effective alternative exists. When force is necessary, troopers will use force in a manner that avoids unnecessary injury or risk of injury.
3. PROPORTIONAL: proportionality measures whether the force used by the trooper is rationally related to the level of resistance or aggression confronting the trooper, or the law enforcement objective.

SERIOUS PHYSICAL INJURY: physical injury that creates a substantial risk of death, or causes permanent or protracted serious disfigurement, or loss or impairment of the function of any bodily member or organ.

TOTALITY OF THE CIRCUMSTANCES: consists of all facts and circumstances surrounding any event that are known or reasonably should have been known at the time. The facts and circumstances may include, but are not limited to: whether an offense has occurred; the nature of the offense; the seriousness of the offense; the size and strength of the subject; the number of subjects; the availability of weapons; whether the subject is exhibiting signs of mental illness or is experiencing a behavioral health crisis; whether the person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier; other force options; availability of non-force options including tactical repositioning, moving to cover, or other de-escalation techniques; environmental factors such as backdrop; and the availability of backup and specialized units.

USE OF FORCE: any physical strike or contact with an instrument of a person; any intentional attempted physical strike or instrumental contact that does not take effect; any significant physical contact or action that restricts the movement of a person other than that normally required to handcuff a suspect; intentional K-9 bites; and the ramming of a suspect's vehicle. The term includes: discharge of a firearm, use of chemical agents, use of impact weapons, use of an ECW, use of a violent prisoner restraining device, taking a subject to the ground, and any physical contact that includes control techniques. The term does not include a trooper's mere presence, verbal commands, escorting, or handcuffing a person with minimal or no resistance.

.04 CALEA Standards

LE:	1.2.10	4.1.1	4.1.2	TA:	N/A	CM:	N/A
	4.1.3	4.1.4	4.1.5				
	4.1.6	4.1.7	4.2.1				
	4.3.1	4.3.2	4.3.3				
	4.3.4	4.1.6					

.05 References

[MD. CODE ANN., CRIM. LAW §3-201](#)

[MD. CODE ANN., PUB. SAFETY §3-524](#)

.06 Procedures

A. Core Principles

1. **ASSESSMENT:** troopers will continuously assess each situation and change their response as circumstances change. Troopers may be justified in using force in one instance, but not justified in using force later in the same incident. The actions of the suspect and the trooper will be assessed throughout the entire encounter, not simply the moment the trooper used force.
2. **DE-ESCALATION TECHNIQUES:** when time, circumstances, and safety allow, troopers will take steps to gain compliance and de-escalate conflict without using physical force in accordance with [OPS 10.05](#).
3. **PEACEFUL RESOLUTIONS:** troopers will avoid the use of force unless it is not reasonably possible to do so.
4. **RETALIATORY FORCE:** troopers are prohibited from using force against persons solely to punish persons for fleeing, resisting arrest or assaulting a trooper, or for any other retaliatory reason.
5. **USE OF FORCE (REASONABLE, NECESSARY AND PROPORTIONAL):** troopers will use only the force reasonable, necessary and proportional to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.
6. **VALUE AND DIGNITY OF ALL PEOPLE:** troopers will respect and uphold the value and dignity of all people at all times. Troopers will make every effort to preserve human life in all situations.

B. General Provisions for Use of Force

1. Troopers have the authority to use force that is reasonable, necessary and proportional.
2. When practical, troopers should announce force will be utilized prior to the application of force.
3. Troopers may only use weapons and/or techniques that are authorized by policy and on which the trooper is trained, unless warranted by the totality of circumstances.
4. Troopers will cease the use of force as soon as:
 - a. the person on whom the force is used is under their control or no longer poses an imminent threat of physical injury or death to themselves or to another person; or
 - b. they determine the force will no longer accomplish a legitimate law enforcement objective.

C. Critical Thinking

1. To the extent that time and circumstances allow, prior to using force, troopers will use a critical thinking and decision-making framework to analyze and respond to incidents. This framework will allow troopers to uphold the sanctity of life and protect themselves by slowing down and stabilizing a situation to minimize the likelihood of a use of force incident. Using this framework, troopers will:
 - a. assess the situation, threats and risks;
 - b. gather relevant facts about the incident;
 - c. consider their police powers and the law/MSP policy;
 - d. identify other options and determine the best course of action (the trooper might have to delay or even abandon a law enforcement objective if the only way to accomplish the objective is through using force that, under the circumstances, would likely result in harm that far exceeds the value of the interest the trooper seeks to protect through the use of force); and
 - e. act, review and re-assess the situation.

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D. Restrained Persons

1. Troopers will not use force against those who are handcuffed or otherwise restrained, except when the totality of circumstances makes it reasonable and necessary to prevent injury or escape, to conduct a search incident to arrest, or accomplish another lawful law enforcement objective.
2. Troopers are cautioned that force that may be proportional against an unrestrained person may not be proportional when used on a restrained person. As with any use of force, troopers are required to use de-escalation techniques and critical thinking in order to avoid the use of force.
3. Troopers will not position restrained persons face-down as it may cause positional asphyxia. Additionally, troopers will avoid placing suspects on their backs as it can cause nerve damage to the wrist and forearm area. Restrained persons should be seated or placed on their side.

E. Use of Deadly Force

1. Troopers may use deadly force only when the trooper reasonably believes the action is in defense of any human life in imminent danger of death or serious bodily injury.
2. Troopers will not use deadly force unless de-escalation and less-lethal force options have been tried and failed, or are not safe based on the totality of circumstances.
3. The use of deadly force will always be the last resort.

F. Restrictions on Force

1. Prior to the decision to employ deadly force, troopers will consider environmental conditions such as field of fire, backdrop, bystanders, potential for ricochet, possibility of over penetration, and other risks to life.
2. When safety permits, troopers should identify themselves as law enforcement and state their intention to use deadly force before using a firearm or employing any form of deadly force.
3. Deadly force will not be used to subdue people whose conduct is a threat only to property or against those who are only a threat to themselves.
4. The following actions are prohibited unless the use of deadly force is authorized and no reasonable alternatives exist:
 - a. discharge of a firearm at a person;
 - b. intentional strikes with any hard object, such as a baton, flashlight, radio, weapon stock/handle, etc. to the person's head, neck, sternum, or spine;
 - c. intentional kneeling or kicking a prone person in the head, neck, sternum, or spine;
 - d. intentional strikes of a person's head against a hard, fixed object including, but not limited to, a roadway, concrete floor, wall, or iron bars;
 - e. use of chokeholds or vascular neck restraints;
 - f. discharge of a less-lethal launcher to the chest, neck, or head at close range; and
 - g. the use of any force on a person whose health, age, condition, or circumstances are reasonably known to make it likely that death or serious physical injury will occur.
5. Generally, firing at a suspect in a crowd is prohibited; however, this is not to prevent troopers from taking necessary action during incidents including but not limited to active shooter and hostage-related events.

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6. Troopers will not fire a weapon from or at a moving vehicle, except to counter:
 - a. an immediate threat of death or serious physical injury to the trooper or another person, by a person in the vehicle using means other than the vehicle; or
 - b. a situation where the trooper or another person is on foot in the path of the vehicle and cannot move to safety. Troopers will not intentionally position themselves in the path of a moving vehicle where they have no option but to use deadly force.

G. Required Actions

1. Duty to Intervene

- a. All troopers have a duty to intervene to prevent or stop the use of force by another law enforcement officer beyond what is authorized by law, if they have a reasonable opportunity and ability for intervention.
- b. Troopers will immediately report such incidents to a supervisor.

2. Duty to Provide Medical Assistance

- a. Whenever there is a visible injury, complaint of injury, signs of medical distress, or when medical attention is requested by any person, troopers will render basic first aid consistent with their training and will promptly request medical assistance through communications personnel.
- b. If a person has been subjected to impact by any type of less-lethal force including ECWs or O.C. spray, he will be provided medical treatment. If the person refuses medical treatment or leaves the location (e.g., an unlawful gathering dispersed by less-lethal force that voluntarily leaves without aid), troopers must document the actions taken to identify and render aid to the person.

3. Children, Youth and/or Persons Experiencing Behavioral Health Disorders or a Crisis

- a. During encounters with children, youth, and/or persons experiencing behavioral health disorders or a crisis, troopers will employ developmentally-appropriate, trauma-informed tactics including, but not limited to, using a calm and natural demeanor, and avoiding threatening language.
- b. Troopers should account for any fear-based reactions that children, youth, and/or persons experiencing a behavioral health disorder or a crisis may experience during an encounter with law enforcement.
- c. If attempts to de-escalate an encounter with a child, youth, or person experiencing a behavioral health disorder or a crisis are unsuccessful to resolve the incident, and the use of force is reasonable, necessary, and proportional, troopers should consider personalized factors of the individual, including: apparent age; body size; strength of the member relative to the individual; and the risk posed by the individual.
- d. In the case of injury resulting from a use of force, in addition to the other requirements outlined in this policy, the trooper will ensure the child or young person's parent, guardian, or other responsible adult, is promptly notified.

H. Reporting

1. Following a use of force incident, troopers will notify a supervisor immediately.
2. In addition, any trooper with knowledge that another trooper used force, must also immediately report the incident to a supervisor.

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3. Troopers will fully document all use of force and show of force incidents that they were involved in or observed in accordance with [OPS 10.04](#).

I. Less-Lethal Force

1. When reasonable, necessary and proportional, a trooper may use various forms of less-lethal force within the scope of his MSP training and only after he has received:
 - a. initial training and demonstrated proficiency with the weapon or technique;
 - b. a copy of the policy that addresses the use of the weapon or technique; and
 - c. training on the policy that addresses the use of the weapon or technique.
2. Certain less-lethal weapons (e.g. ECWs) are authorized for use by certain units (e.g., STATE) and the use of these weapons will be governed by a local Standard Operating Procedure approved by the Planning and Research Division.

J. Training

1. All troopers will:
 - a. undergo training on when a law enforcement officer may or may not draw a firearm or point a firearm at a person and on enforcement options that are less likely to cause death or serious physical injury, including scenario-based training, de-escalation tactics and techniques, and reasonable alternatives to decrease physical injury; and
 - b. sign a training completion document stating the trooper understands and will comply with the Maryland Use of Force statute.
2. All troopers will receive initial and annual training on the law and the Department's Use of Force policy and will demonstrate proficiency with all approved lethal weapons and electronic controlled weapons that they are authorized to use. Training for all other less lethal weapons and weaponless control techniques will be provided initially and at a minimum, biennially.
 - a. All proficiency training will be monitored by a certified instructor.
 - b. All training and proficiency will be documented.
 - c. Remedial training will be completed and documented in accordance with the procedures established by the Education and Training Division for those who are unable to qualify with an authorized weapon prior to resuming their duties.

Approved:

Colonel Woodrow W. Jones III
Superintendent 12/30/2022



MARYLAND STATE POLICE STANDARD OPERATING PROCEDURE



BARRICADE INCIDENTS

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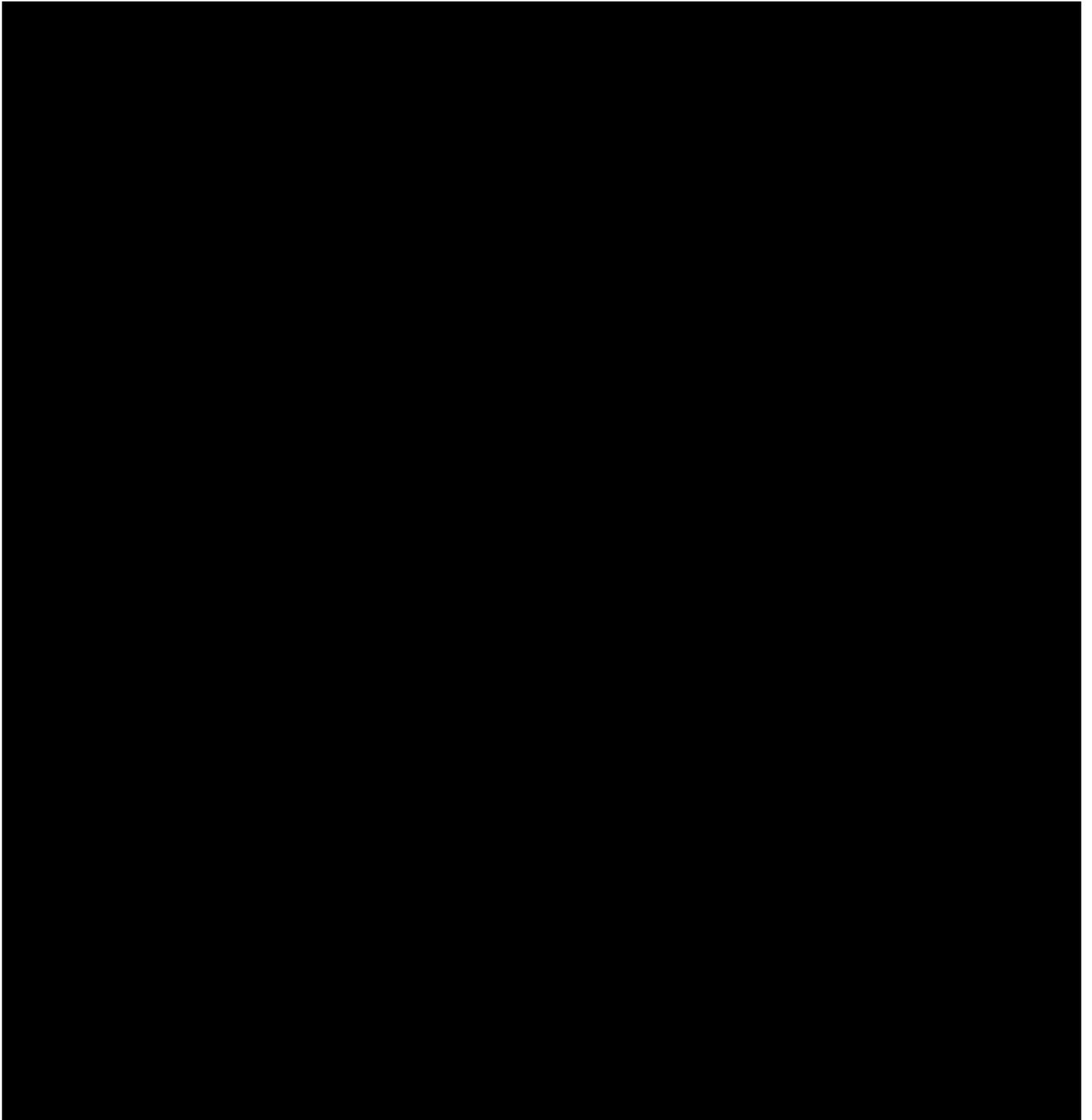
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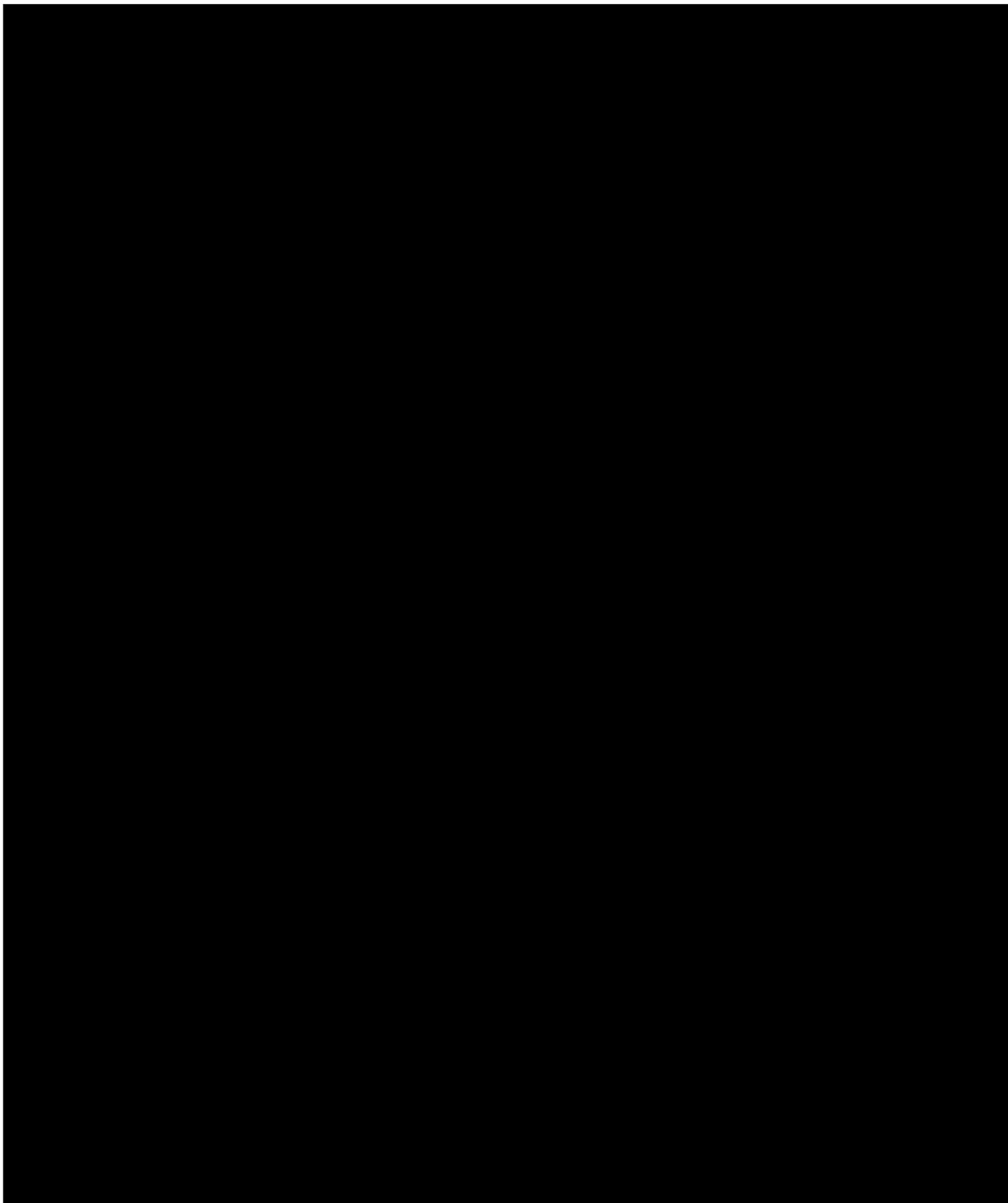
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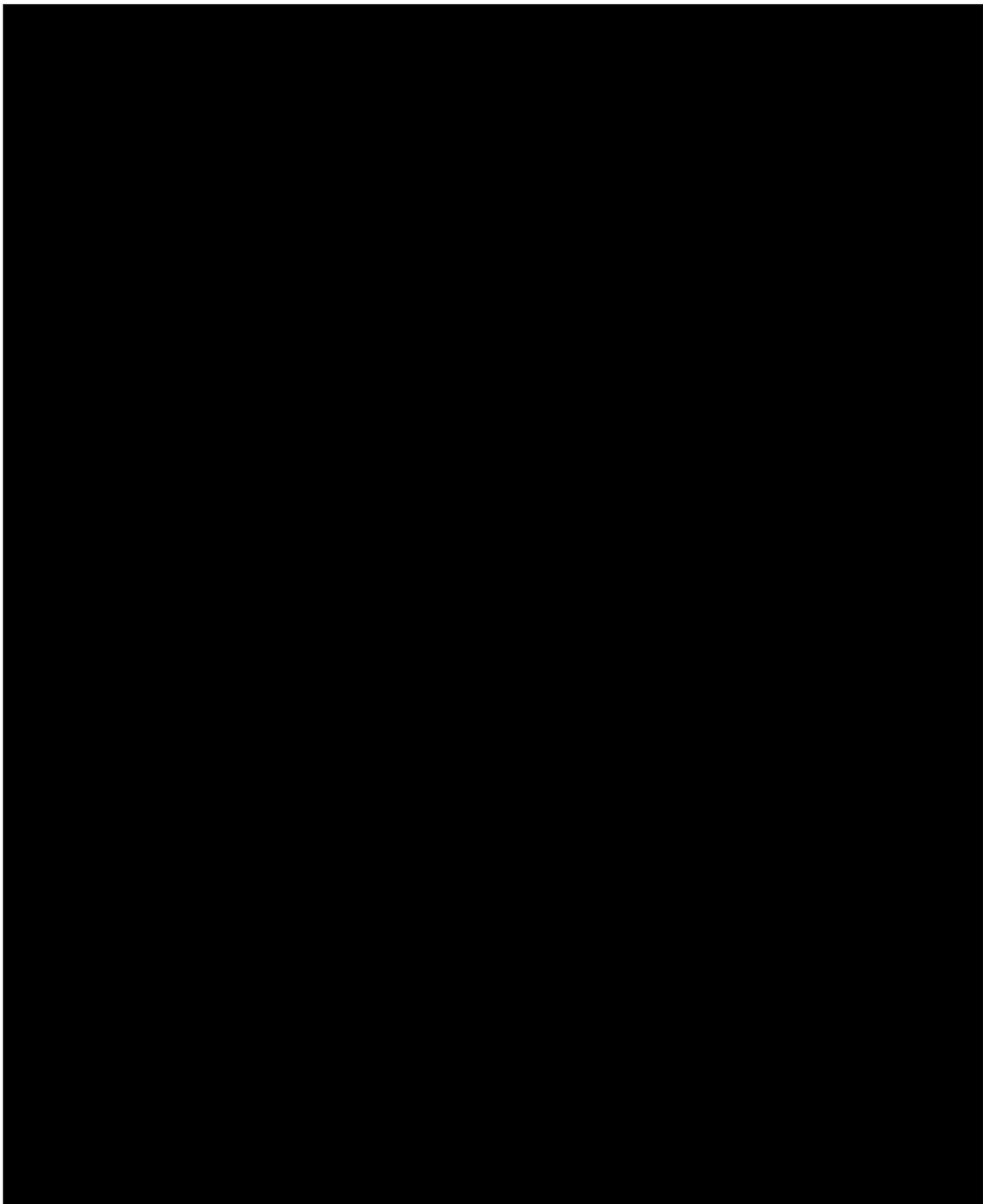
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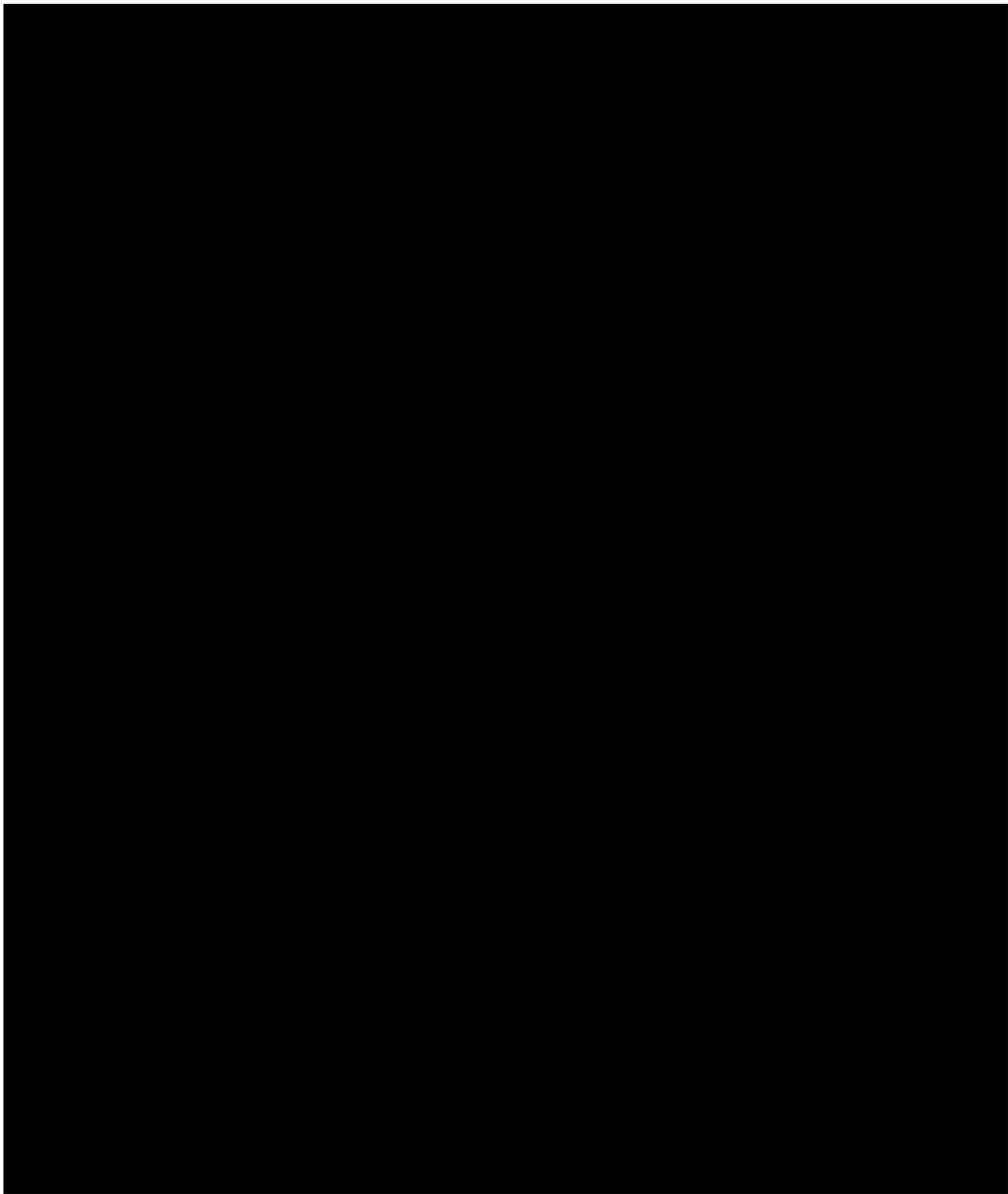
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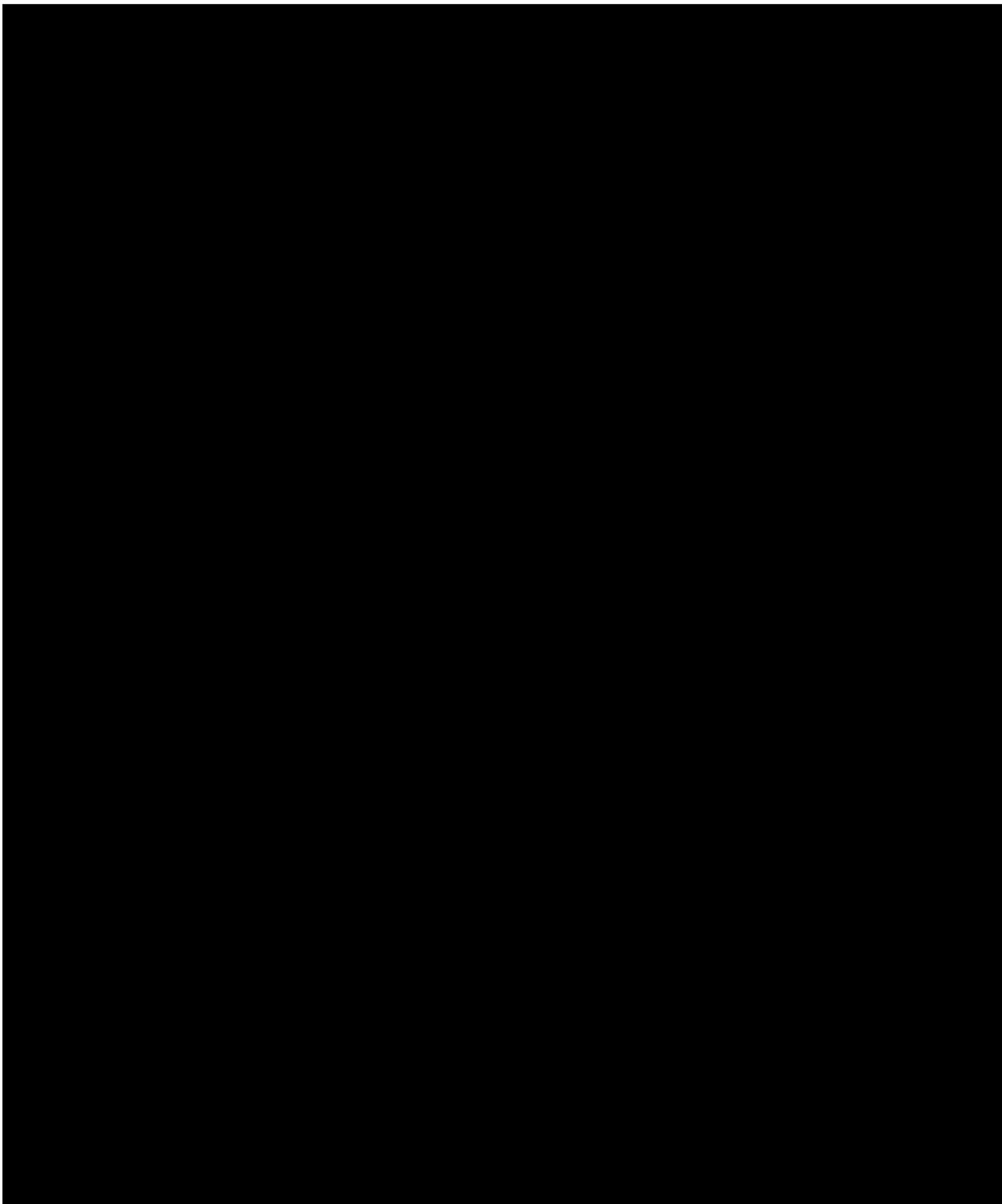
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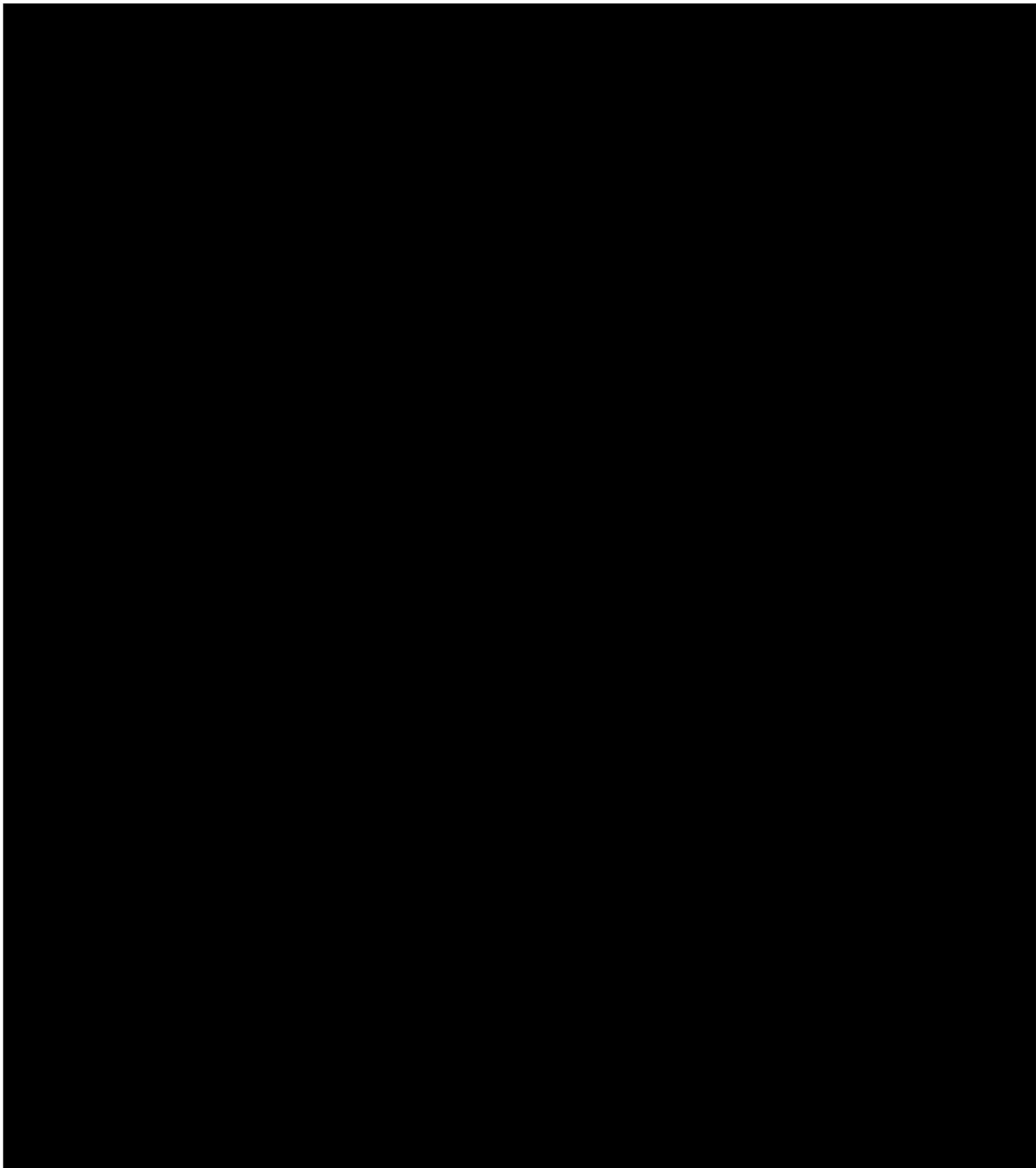
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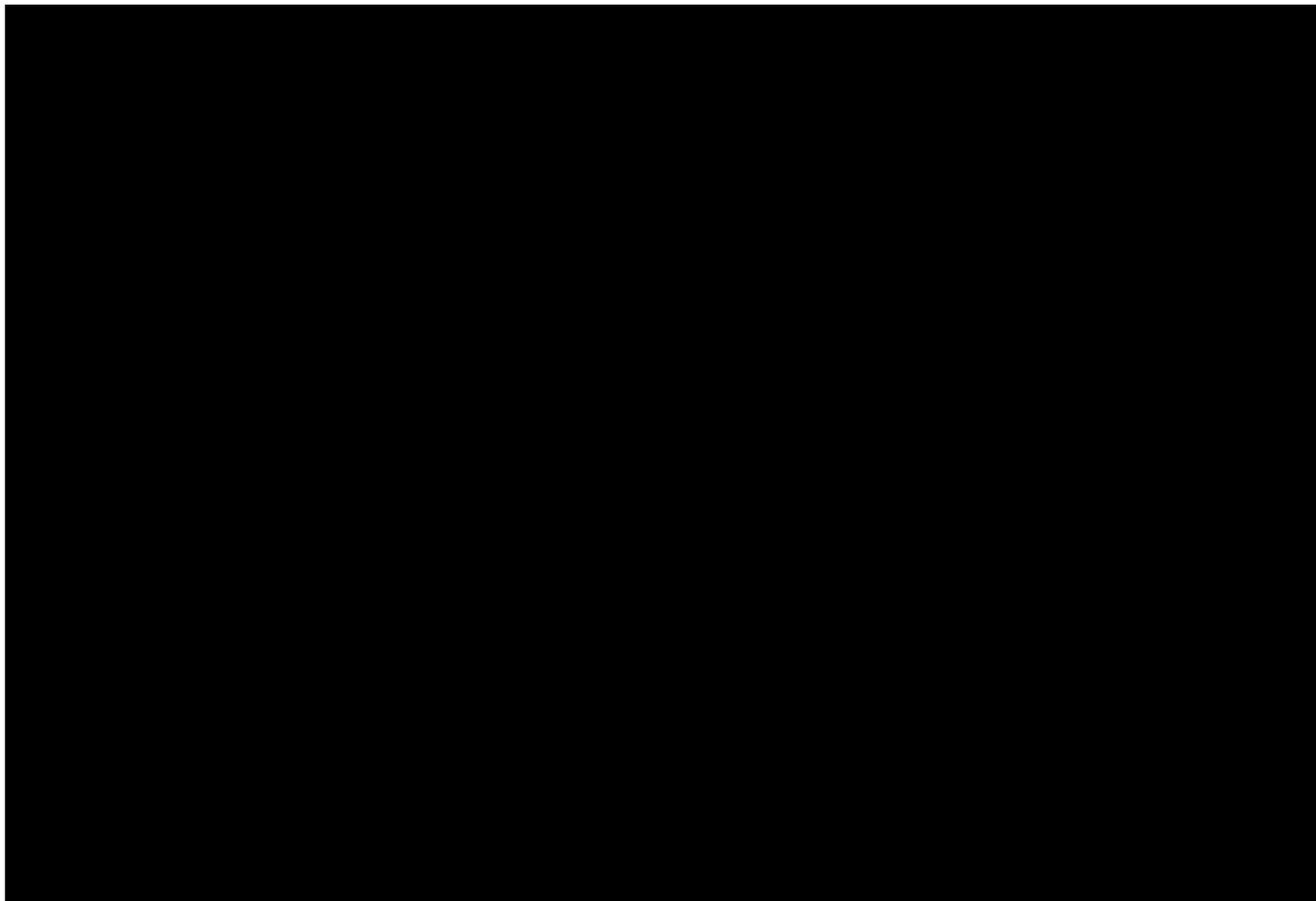
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Barricade Incidents



Barricade Incidents



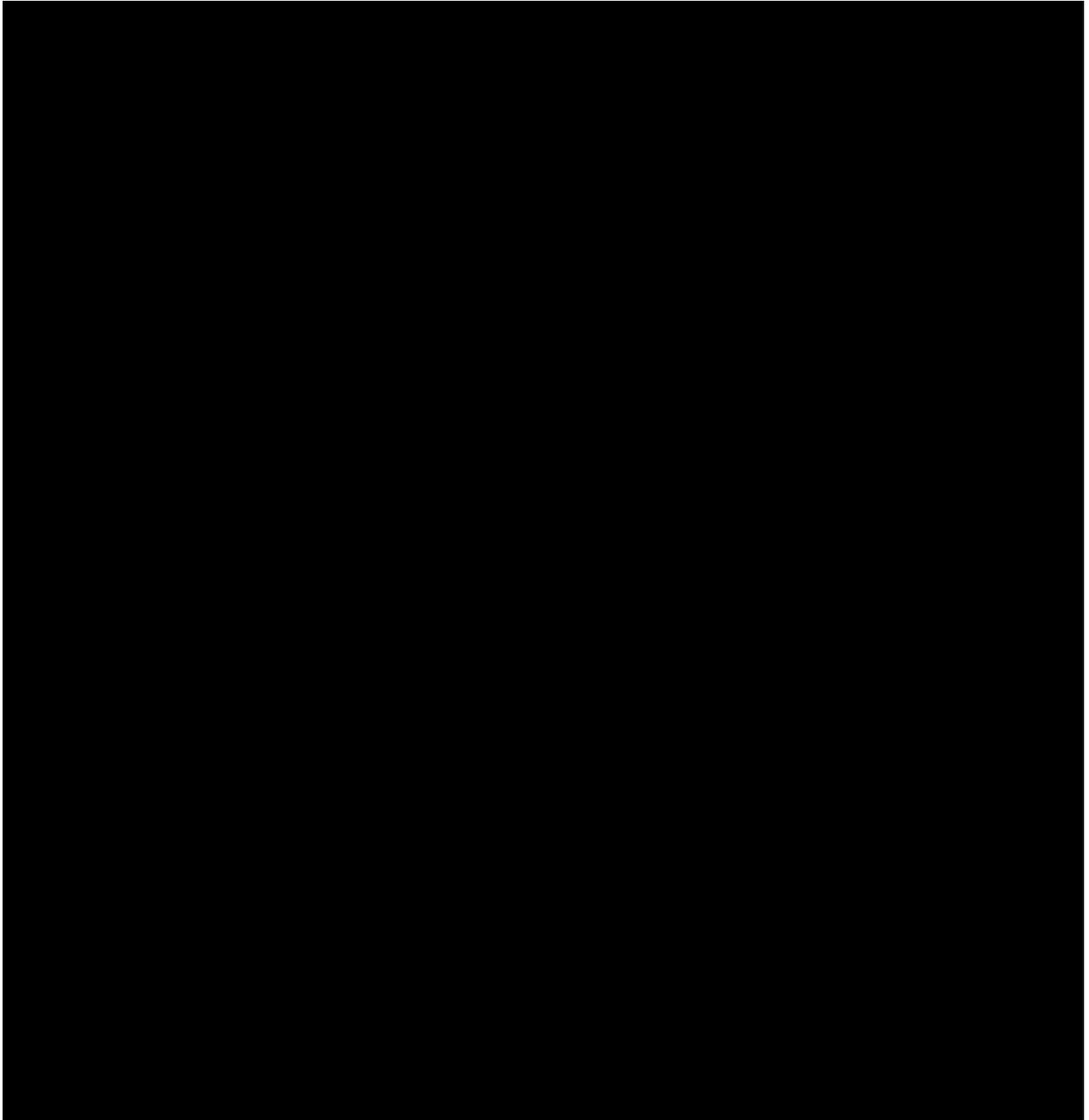


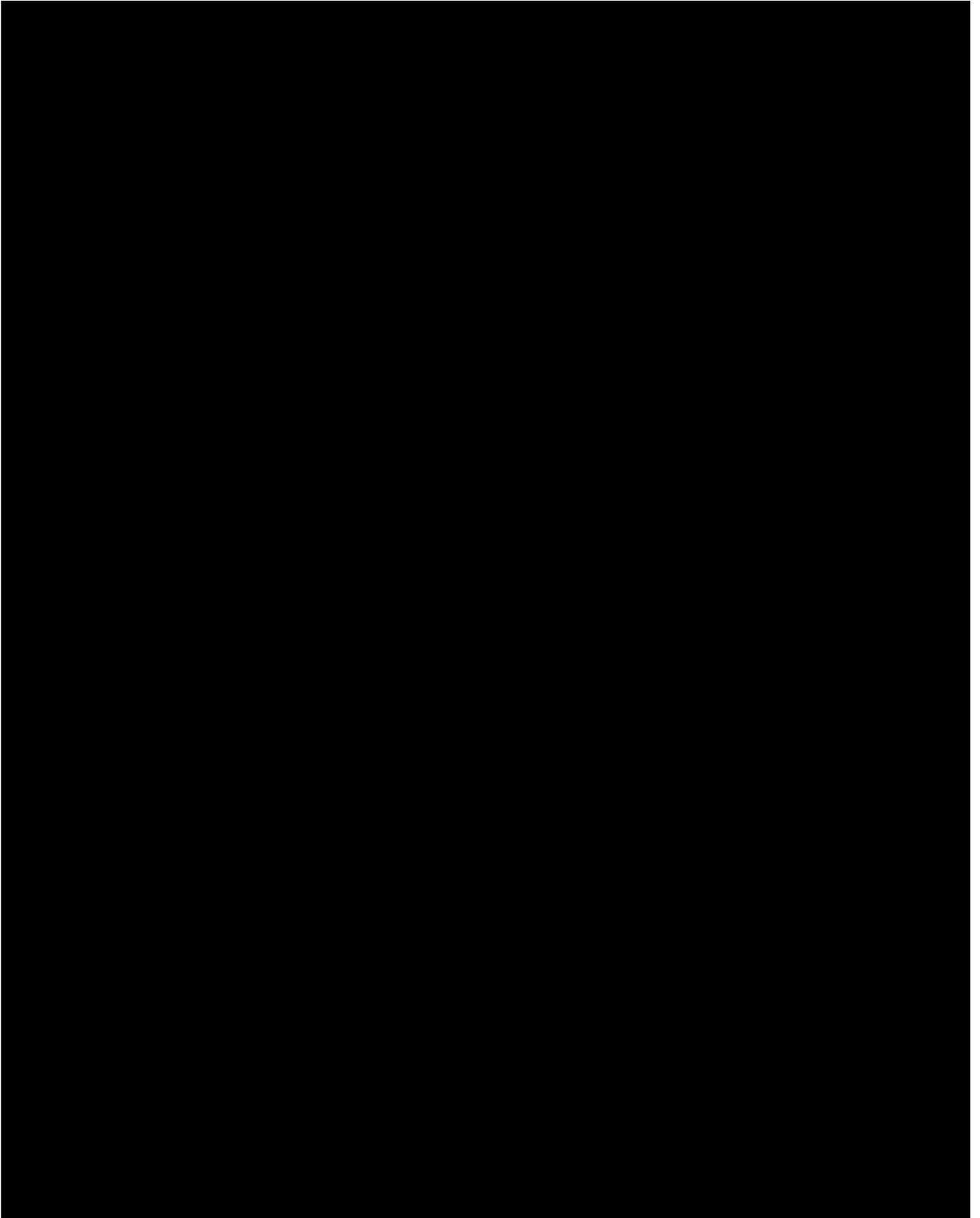
MARYLAND STATE POLICE STANDARD OPERATING PROCEDURE

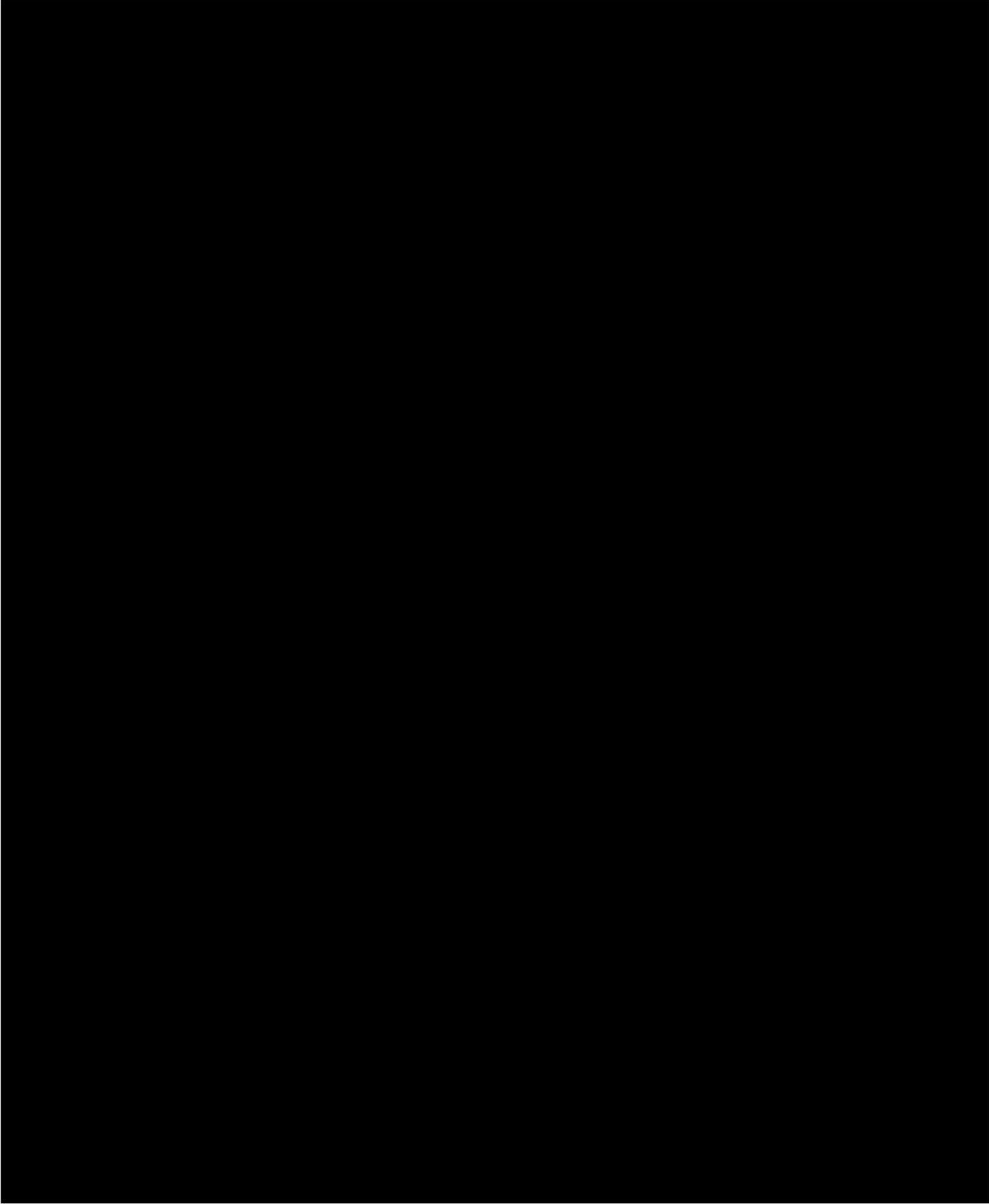


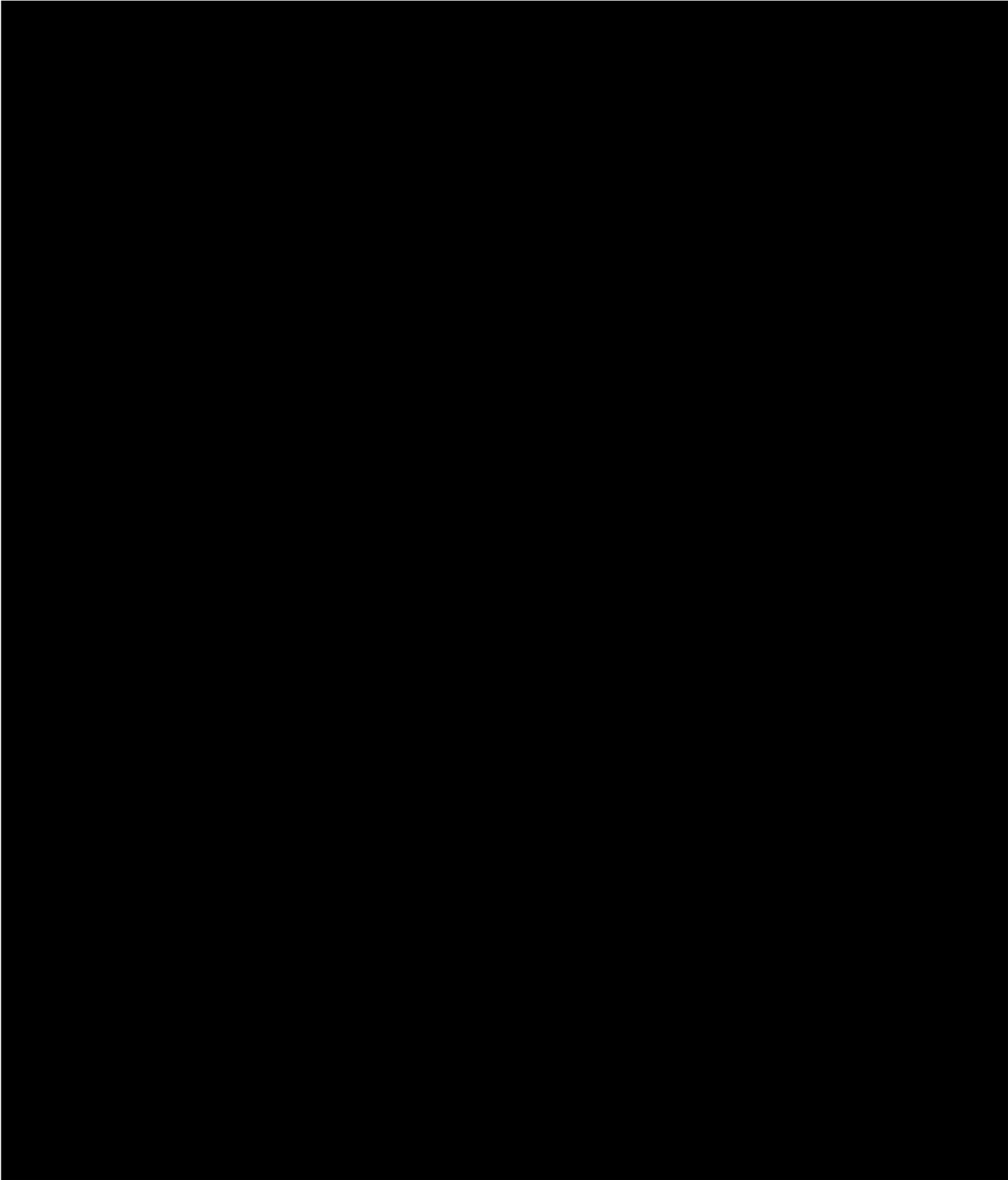
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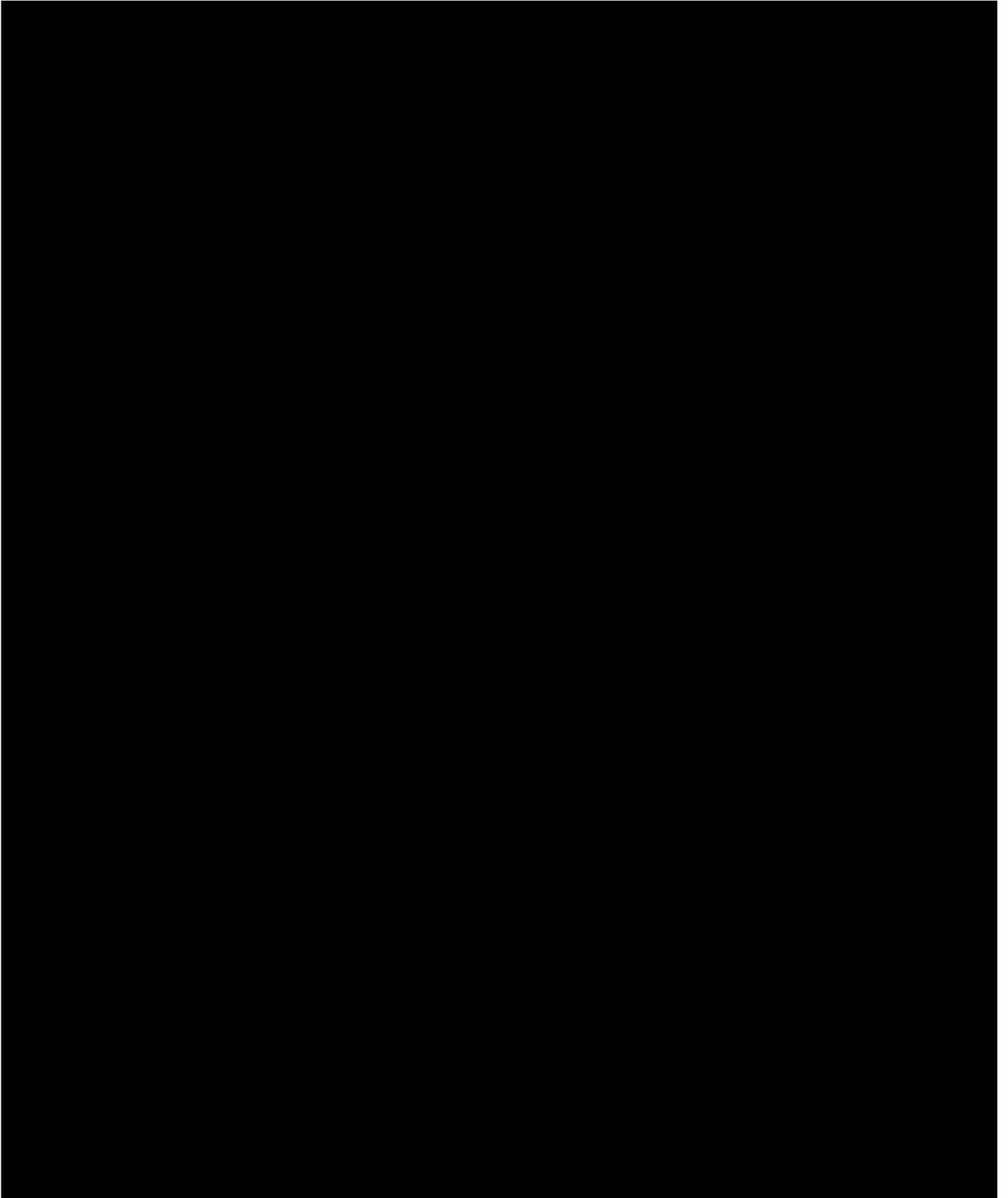
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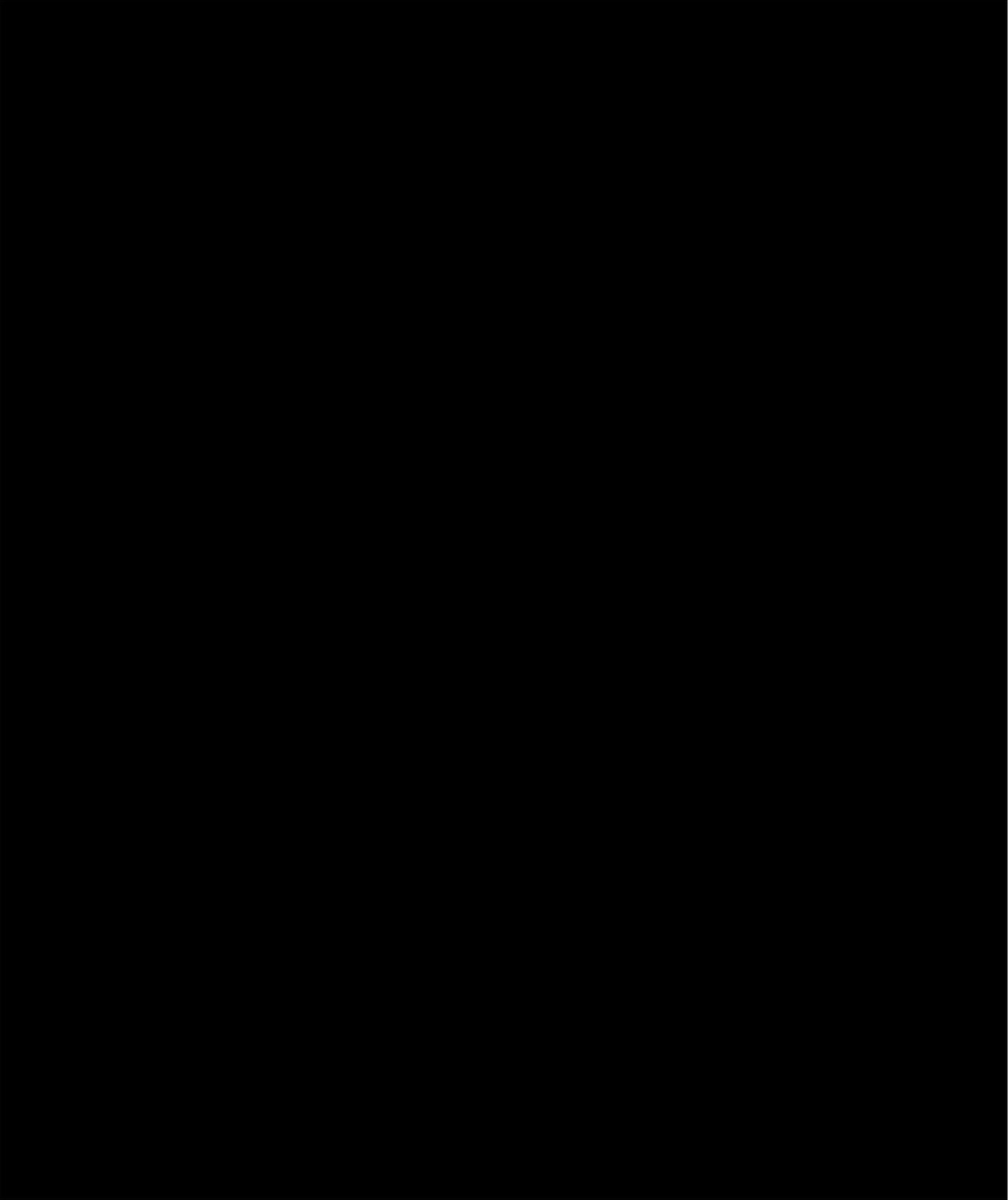
















MARYLAND STATE POLICE OPERATIONS DIRECTIVE



Reporting Requirements for Use of Force/Civilian Injury Incidents

Distribution: All Employees	Index: OPS 10.04
DLI Reference: N/A	Rescinds: Chapter 22, Sec. V (E) - (J)
Issued: 06/15/2014	Revised: 07/01/2022

.01 Purpose

To describe the reporting requirements related to use of force and/or civilian injury incidents.

.02 Policy

Following all use of force and/or civilian injury incidents, troopers will adhere to the procedures and reporting requirements of this directive.

.03 Definitions

BLUETEAM: a web-based application enabling users to document and monitor pre-determined incidents to include, but not limited to: citizen/external complaints, internal complaints, firearm discharges, use of force incidents, show of force incidents, vehicle pursuits and departmental collisions.

DEADLY FORCE: force which is intended to cause death or serious physical injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury.

SERIOUS PHYSICAL INJURY: physical injury that creates a substantial risk of death, or causes permanent or protracted serious disfigurement, or loss or impairment of the function of any bodily member or organ.

SHOW OF FORCE: the pointing of a firearm, electronic control weapon or less-lethal launcher at a person.

USE OF FORCE: any physical strike or contact with an instrument of a person; any intentional attempted physical strike or instrumental contact that does not take effect; any significant physical contact or action that restricts the movement of a person other than that normally required to handcuff a suspect; intentional K-9 bites; and the ramming of a suspect's vehicle. The term includes: discharge of a firearm, use of chemical agents, use of impact weapons, use of an electronic control weapon, use of a violent prisoner restraining device, taking a subject to the ground, and any physical contact that includes control techniques. The term does not include a trooper's mere presence, verbal commands, escorting, or handcuffing a person with minimal or no resistance.

.04 References

[MD. CODE. ANN., PUBLIC SAFETY § 3-514](#)

[MD. CODE ANN., STATE GOV'T, § 6-106.2](#)

[Attorney General Independent Investigations Division \(IID\) Protocols](#)

Reporting Requirements for Use of Force/Civilian Injury Incidents

.05 CALEA Standards

LE:	4.1.5	4.2.1	4.2.2	TA:	N/A	CM:	N/A
	4.2.3	4.2.4	4.2.5				
	11.3.3	11.3.4					

.06 Procedures

A. Notification Procedures for Certain Incidents

1. The following incidents require immediate notification to the barrack duty officer responsible for the area in which the incident occurs:
 - a. all firearm discharges, with the exception of practice on a firing range or when a trooper kills an animal to relieve its suffering;
 - b. all deadly force incidents; and
 - c. any police-involved incident that results in death or serious physical injury of a civilian.
2. Upon being notified, the barrack duty officer will contact the Headquarters Duty Officer, his commander, and, if applicable, the involved trooper's commander.
3. In instances described in section A-1-b & c above, the Headquarters Duty Officer will notify the:
 - a. Homicide Unit;
 - b. Crash Team (if the incident involves a collision);
 - c. Crime Scene Unit (if crime scene processing is requested);
 - d. Internal Affairs Division (IAD); and
 - e. Office of Media Communications.
4. The involved trooper's commander will, through his chain of command, notify his bureau chief who is responsible for notifying the Superintendent.
5. The following will apply if the incident occurs outside of Maryland.
 - a. The involved trooper will immediately notify the Headquarters Duty Officer.
 - b. In addition to the notifications required in section A-3, the Headquarters Duty Officer will notify the involved trooper's commander.
 - c. Any necessary criminal investigation will be conducted by the law enforcement agency having jurisdiction. The IAD will act as liaisons with the investigating agency.

B. Trooper's Rights and Responsibilities

A trooper involved in a deadly force incident or any police-involved incident that results in death or serious physical injury of a civilian:

1. should not discuss the incident with anyone other than the investigators assigned to conduct the criminal and administrative investigation, or his counsel;
2. will be afforded his rights provided by law and MSP policy; and
3. will be permitted legal representation, if requested.

Reporting Requirements for Use of Force/Civilian Injury Incidents

C. Initial Response to Use of Force Incidents

1. A supervisor will respond to the scene of any incident during which a trooper used physical force and caused serious physical injury and will:
 - a. if necessary, ensure emergency medical services have been notified;
 - b. make the notifications required by section A above, if the notifications have not already been made;
 - c. begin to gather the facts surrounding the incident;
 - d. secure the firearm for further investigation when a trooper's firearm is discharged; and
 - e. ensure evidence is gathered and reviewed, to include all known video recordings.
2. The commander of the involved trooper will respond to all deadly force incidents or any police-involved incident resulting in death or serious physical injury of a civilian and will:
 - a. consult with the IAD and the Homicide Unit to determine who will conduct the administrative and/or criminal investigation; and
 - b. arrange for the Quartermaster Division (QMD) to immediately issue a replacement firearm to the trooper when a trooper's firearm is discharged, if appropriate.
3. The Attorney General's IID will lead all investigations for police-involved incidents that result in the death or injuries that are likely to result in the death of a civilian.
 - a. State law and the IID protocols which include provisions for the public information plan and the role of the local state's attorney will be followed.
 - b. The Homicide Unit, in coordination with the Education and Training Division (ETD), will ensure training is provided to all commanders and supervisors on how IID related incidents are managed. In addition, awareness training addressing IID related incidents will be provided to all sworn employees.
4. The procedures outlined in [ADM 08.05](#) will be adhered to following a critical incident.

D. Commander's Order of Limited Duty Status

1. Whenever a trooper is directly involved in a deadly force incident or any police-involved incident that results in the death of a civilian, the trooper's commander will, as soon as practical, provide the trooper with a signed Form 56, Commander's Order of Limited Duty Status and Limitation on Use of Police Powers, placing the trooper in a limited duty status.
2. Until ordered by the Superintendent, the trooper will not take any police action, except while acting in self-defense, or to defend another person from death or serious injury. This restriction applies at all times, to include secondary employment.
3. The trooper may retain and carry his badge and MSP-issued firearm; however, he may not wear an MSP uniform or drive a marked police vehicle.
4. Within 10 calendar days of the incident, the Chief of Staff, the Superintendent's Office will coordinate the issuance of a Form 56A, Superintendent's Order to Perform Administrative Duties and Limitation on Use of Police Powers, which will be provided to the trooper through the chain of command.
5. Once the Superintendent determines the trooper should return to full duty, the Superintendent will complete a Form 56B, Return to Duty Order, which will be provided to the trooper through the chain of command.

Reporting Requirements for Use of Force/Civilian Injury Incidents

6. The Superintendent reserves the right to change the duty status and modify the restrictions at any time should additional information become available.
7. Nothing in this policy will preclude the application of [PER 19.07](#) (Emergency Suspension of Police Powers), if deemed appropriate, by the employee's commander, in consultation with the on-scene investigators.

E. Documentation Requirements

1. Whenever a citizen is injured or alleges he has been injured as a result of a trooper's actions, the supervisor will ensure photographs are taken and uploaded into VeriPic and to the applicable BlueTeam Report.
2. Whenever there is a use of force incident or whenever a person is injured or alleges he has been injured as a result of a trooper's actions, each trooper who used force will submit a Form 179, Use of Force Incident Report, in BlueTeam (firearms discharges are reported in accordance with E-3 below).
3. Troopers will complete and submit a Form 71, Firearms Discharge Report, in BlueTeam for all firearms discharges, with the exception of practice on a firing range or when using their firearm to kill an injured or dangerous animal. (See OPS 11.01 regarding completion of a Form 88, Incident Report, for troopers who discharge a firearm to kill an injured or dangerous animal).
4. Troopers who witness a use of force incident, but do not use force will document their observations on a Form 88 or Form 92, Supplement Report.
5. The primary trooper assigned to an incident will complete a Form 72, Show of Force Report, in BlueTeam to document any show of force during the incident.
 - a. The Form 72 will capture all troopers who pointed a firearm, electronic control weapon or less-lethal launcher at a person. The Form 72 will also document each person on whom force was shown.
 - b. This report will be in addition to the Form 71 and 179, if applicable.
6. The above reports will be submitted by the involved trooper before the end of the tour of duty which the incident occurred unless the trooper is disabled.
 - a. Prior to the end of the tour of duty in which the incident occurred, a supervisor will review the BlueTeam Report, review the mobile video recording (if applicable), document whether the incident was captured by mobile video recording equipment and forward the report to the involved employee's commander.
 - b. As soon as practical, but within five calendar days of the incident, the employee's commander will review the BlueTeam Report and mobile video recording (if applicable), document whether the incident was in conformance with policy and forward the report to the troop/division commander.
 - c. As soon as practical, but within seven calendar days of the incident, the employee's troop commander will review and endorse the BlueTeam Report and forward the report to the IAD who will review the report and promptly forward it to the ETD.
 - d. As soon as practical, but within 10 calendar days of the incident, the ETD Physical Skills Unit supervisor will review the BlueTeam Report and document his recommendation regarding training compliance in the report.

Reporting Requirements for Use of Force/Civilian Injury Incidents

- e. A conformance review will be done by the IAD. The IAD Commander will forward incidents to the Use of Force Committee should there be any question regarding compliance.

F. Use of Force Review Committee

1. The Use of Force Review Committee will be comprised of:
 - a. a commissioned officer selected by the Field Operations Bureau Chief (Chair);
 - b. the IAD Commander;
 - c. the ETD Commander;
 - d. the Planning and Research Division Commander;
 - e. a member of the ETD Physical Skills Unit; and
 - f. an attorney from the Office of Legal Counsel (advisory capacity only).
2. Quarterly, the IAD will send use of force data to the Use of Force Review Committee Chairman.
3. The Committee will conduct a review of use of force incidents, as needed, and anytime there is a question regarding compliance with MSP policy.
4. The Chairman will prepare an annual analysis of all use of force activities, policies and practices and will address the data elements required by CALEA. The Annual Use of Force Analysis will also include a review of assaults on troopers to determine trends or patterns, with recommendations to enhance officer safety, revise policy or address training issues.

Approved: <hr/> Colonel Woodrow W. Jones III Superintendent 07/01/2022
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