

EXHIBIT 59
FILED UNDER SEAL

FDNS Officer Basic Training

Identification of a NS Concern



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DESCRIPTION

- Provide an explanation of the term, “National Security Concern,” as defined by USCIS policy. Review statutory grounds of immigration law relating to national security. Provide a brief overview of the security checks conducted by USCIS and the results which may be indicators of a NS concern. Provide an understanding of how to identify a Known or Suspected Terrorist (KST) and a non-KST NS concern.



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ENABLING PERFORMANCE OBJECTIVE (EPO)

- EPO #1: Discuss KST NS Concerns.
- EPO # 2: Discuss Non-KST NS Concerns.
 - Identify indicators
 - Statutory
 - Non-statutory
 - Security checks



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National Security Concern Defined

NS concern exists when:

- an individual or organization has
- an articulable link to prior, current or planned
- involvement in, or association with, an activity, individual or organization
- described in 212(a)(3)(A), (B), or (F), 237(a)(4)(A) or (B)
- May be identified at any stage of the adjudication process
- “Guidance for Identifying National Security Concerns”



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EPO #1 -KST NS Concerns

Known or Suspected Terrorist (KST)

- Has been nominated and accepted for placement in the Terrorist Screening Database (TSDB)
- Remains on the Terrorist Watch List until a nomination for removal has been approved



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HSPD-6

- Homeland Security Presidential Directive-6 (HSPD-6)
- September 6, 2003
- Creation of Terrorist Screening Center (TSC)
- Consolidation of various watch lists
- Directs federal agencies to provide appropriate terrorist information to the NCTC, which in turn provides the TSC access to all appropriate terrorist information or intelligence.



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Terrorist Identities Datamart Environment (TIDE)

- US Government's central repository of information on international terrorist identities
- Supports the USG's various terrorist screening systems or "watchlists" and the US Intelligence Community's overall counterterrorism mission
- Includes, to the extent permitted by law, all information the U.S. government possesses related to the identities of individuals known or appropriately suspected to be or have been involved in activities constituting, in preparation for, in aid of, or related to terrorism, with the exception of Purely Domestic Terrorism information.



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KST Hits

- TECS/IBIS Record
 - Beginning with [REDACTED] **LE** [REDACTED] AND
 - Ending in **LE** [REDACTED]
 - Lists status
 - “Suspected Terrorist”
 - “Known Terrorist”
- [REDACTED] **LE** [REDACTED]
 - Call the Terrorist Screening Center (TSC).



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KST Hits

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- Do NOT alert USCIS individual that they are on the watchlist.



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Terrorist Screening Center (TSC)

- Designated Officers contact the Terrorist Screening Center to confirm whether a KST hit is a match to a USCIS subject.
- TSC is only contacted by designated officers when a KST hit **LE** exists
- In other words, do not contact TSC unless there is **LE** **LE**
- Do **NOT** contact Richard Kopel, Deputy Director at the TSC.



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Terrorist Screening Center (TSC)

- TSC personnel
 - Confirm the match
 - If there is a match, forwards the information to the Terrorist Screening Operations Unit (TSOU). TSOU reaches out to the case agent and/or originating agency.
- USCIS may or may not receive a call from the TSC, TSOU or case agent.



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EPO # 2- Non-KST NS Concerns

All of the remaining NS concerns

- Associates of KST(s),
- Unindicted co-conspirators,
- Persons involved with providing material support to terrorists or terrorist organizations,
- Agents of foreign governments



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Non-KST NS Concerns

Non-KST ≠ Not Dangerous

KST + Non-KST = Terrorist Cell



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Identifying an Non-KST NS Concern

- Security Check Results
- Review of the petition or application, supporting documents, the A-file, or related files;
- Testimony elicited during an interview;
- Leads from other US Government agencies or foreign governments;
- Other sources, including open source research.
- “Guidance for Identifying National Security Concerns”
 - Use as a Reference Tool
 - Also known as Attachment A



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Non-KST NS Concerns

****Officers must look at the whole picture and consider the facts of each individual case.*****

- Statutory Indicators
 - 212(a)(3)(A), (B), or (F)
 - 237(a)(4)(A) or (B)
 - Other
- Non-Statutory Indicators
 - Employment, Training, Government Affiliations
 - Other Suspicious Activities
 - Family Members or Close Associates
- Security Check Results



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Statutory Indicators



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Consider ACTIVITIES, INDIVIDUALS, & ORGANIZATIONS described in these sections....it does not limit USCIS to the grounds themselves!

NS Grounds of Inadmissibility - 212(a)(3)

- (3)(A) – espionage, sabotage, illegal transfer of goods/tech/info
- (3)(B) – terrorist activities
- (3)(F) – association with terrorist organizations (Sec State/AG determination)



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Consider ACTIVITIES, INDIVIDUALS, & ORGANIZATIONS described in these sections....it does not limit USCIS to the grounds themselves!

NS Grounds of Removability - 237(a)(4)

- (4)(A) - espionage, sabotage, illegal transfer of goods/tech/info, other criminal activity that endangers NS
- (4)(B) – terrorist activities



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Counterintelligence vs. Foreign Intelligence

Counterintelligence

- Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

Foreign intelligence

- Information relating to capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence, except for information on international terrorist activities.



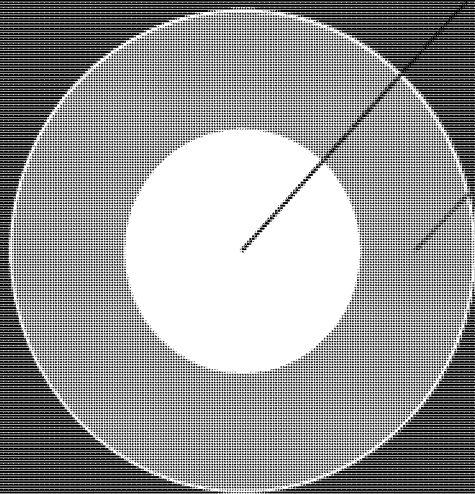
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Terrorism Provisions - General

Terrorism under other laws
& as generally understood
Terrorist Activity under
the INA



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Other Sections of the INA

Ineligibility for Asylum	208(b)(2)(A)
Designation of Foreign Terrorist Organizations	219
Removal of Aliens Inadmissible	235 (c)
Mandatory Detention of Suspected Terrorists	236A
Grounds of Deportability –Misc. Crimes	237(a)(2)(D)
Inadmissible Aliens – Money Laundering	212(a)(2)(I)
Issuance of visas- Revocation of visas/other docs	221(i)



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Terrorist Activity Defined

- Terrorist Activity
 - Defined 212(a)(3)(B)(iii)
- Engaging in Terrorist Activity
 - Defined 212(a)(3)(B)(iv)
- Terrorist Organization
 - Defined 212(a)(3)(B)(vi)
 - www.state.gov/s/ct/list/ for lists of Tier I and Tier II
 - Department of Treasury listing of Specially Designated Global Terrorist Entities pursuant to Executive Order 13224 for some organizations likely to meet the Tier III undesignated terrorist organization definition.
 - <http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml>



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Material Support Defined

- Defined in 212(a)(3)(B)(iv)(VI) of the INA includes the following to be used to support terrorist activity or organization:
- Safe house
- Transportation
- Communications
- Funds, transfer of funds, other material financial benefit
- False documentation or identification
- Weapons (including chemical, biological, or radiological weapons), explosives, or training)
- Food, housing, and money (war tax, ransom, extortion, donations) would also be considered material support



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Material Support Exceptions

- 212(a)(3)(B)(iv)(VI)(dd)
 - Clear and convincing evidence that individual did not know or should not have reasonably known that the organization was a terrorist organization (for Tier III organizations)
- 212(d)(3)(B)(i)
 - Sec of State/Attorney General/Secretary of DHS after sole unreviewable discretion may determine that inadmissibility ground for material support shall not apply in specific circumstances



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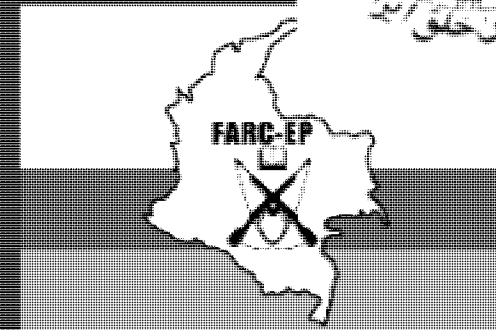
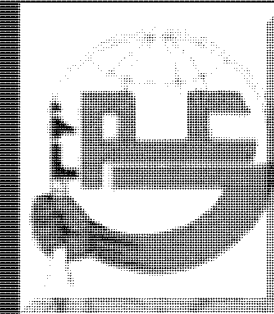
Foreign Terrorist Organizations (FTO)

Tier I

Over 40 designated organizations

- Abu Sayyaf
- Al-Qa'ida
- Basque Fatherland and Liberty (ETA)
- Continuity Irish Republican Army
- HAMAS
- Hizballah
- Jemaah Islamiya Organization
- Mujahedin-e Khalq Organization
- Palestine Islamic Jihad
- Revolutionary Armed Forces Colombia (FARC)

See www.state.gov for full listing.



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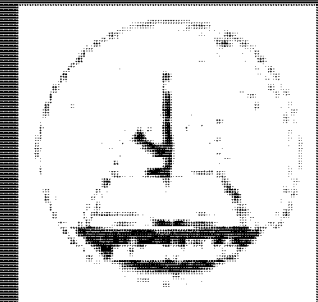
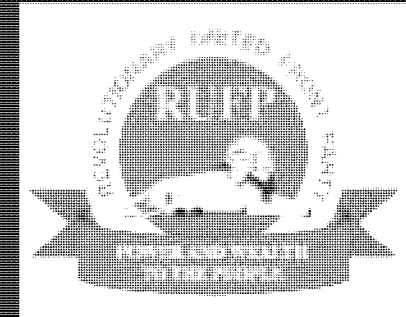
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Terrorist Exclusion List (TEL)- Tier II

Over 60 designated organizations and companies

- Asbat al-Ansar
- Babbar Khalsa International
- Japanese Red Army
- Lashkar-e-Tayyiba (Army of the Righteous)
- Eastern Turkistan Islamic Movement
- Libyan Islamic Fighting Group
- Revolutionary United Front



See www.state.gov for full listing.



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Terrorist Organizations – Tier III

- Undesignated organizations
- Two or more individuals engaged in or planning to engage in terrorist activity
- For handling of individuals involved in or having supported Tier III organizations, see
 - USCIS Memorandum dated, July 28, 2008, from Acting Deputy Director Michael L. Aytes, entitled, *“Implementation of Section 691 of Division J of the Consolidated Appropriations Act, 2008, and Updated Processing Requirements for Discretionary Exemption to Terrorist Activity Inadmissibility Grounds”*

No Official List



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Executive Order 13224 Terrorist Financing List

On September 23, 2001, the President issued Executive Order 13224, which provides the means to disrupt terrorist support networks. Under this order, the US Government may block the assets of individuals and entities providing support—financial and otherwise—to designated terrorists and terrorist organizations. This authority has been used on numerous occasions to target individuals actively engaging in terrorist-related activities, including providing false documentation to illegal aliens to facilitate travel.



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Non- Statutory Indicators



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- Activities/involvement does not need to satisfy the legal standard for admissibility or removability in determining existence of NS concern
- Be alert for indicators of NS concern
- Presence of an indicator does not necessarily mean NS concern exists



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- Consider the totality of circumstances in the determination process
 - Results of all required security checks
 - Evidence in file
 - Testimony of individual
 - Credibility



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BE ALERT

- Training or employment by a foreign government to engage in espionage or intelligence gathering
- Served as an official or diplomat in a foreign government who is hostile to the U.S.



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State Sponsors of Terrorism

Country

Designation Date

Cuba

March 1, 1982

Iran

January 19, 1984

North Korea

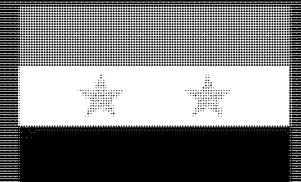
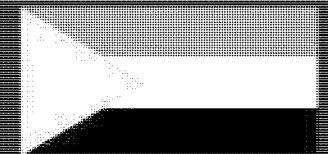
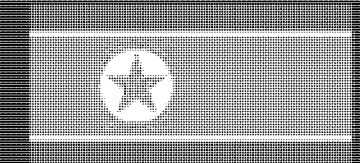
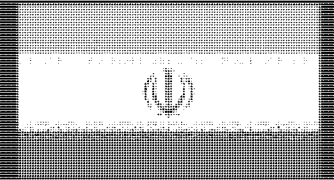
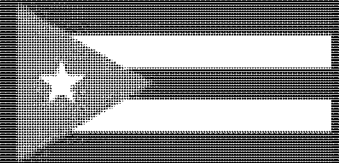
January 20, 1988

Sudan

August 12, 1993

Syria

December 29, 1979



www.state.gov

For more details about State Sponsors of Terrorism, see "Overview of State Sponsored Terrorism" in [Country Reports on Terrorism](#).

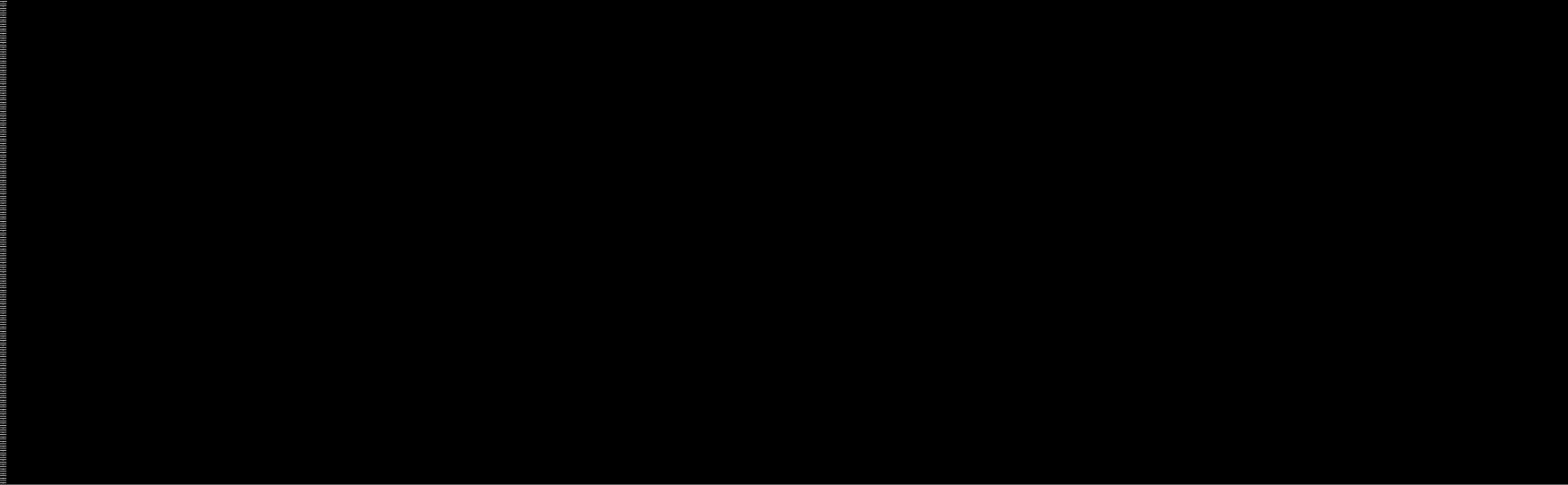


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BE ALERT



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BE ALERT

- Unusual travel patterns and travel through or residence in areas of known terrorist activities
- Criminal activities such as fraudulent document manufacture, trafficking or smuggling of persons, drugs or funds or money laundering
- Membership or participation in organizations are described in, or that engage in, activities outlined in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the Act.

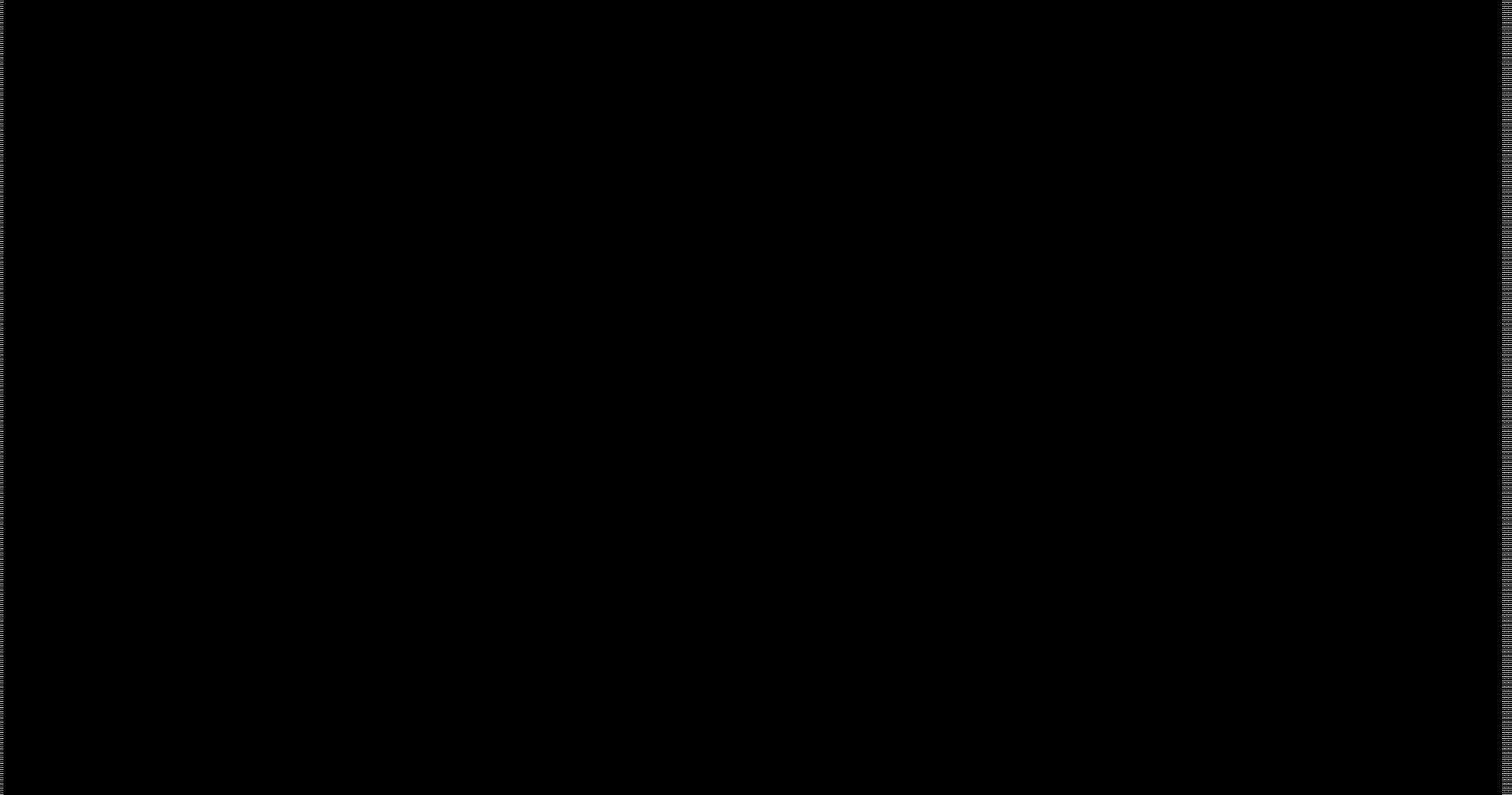


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Suspicious Activities

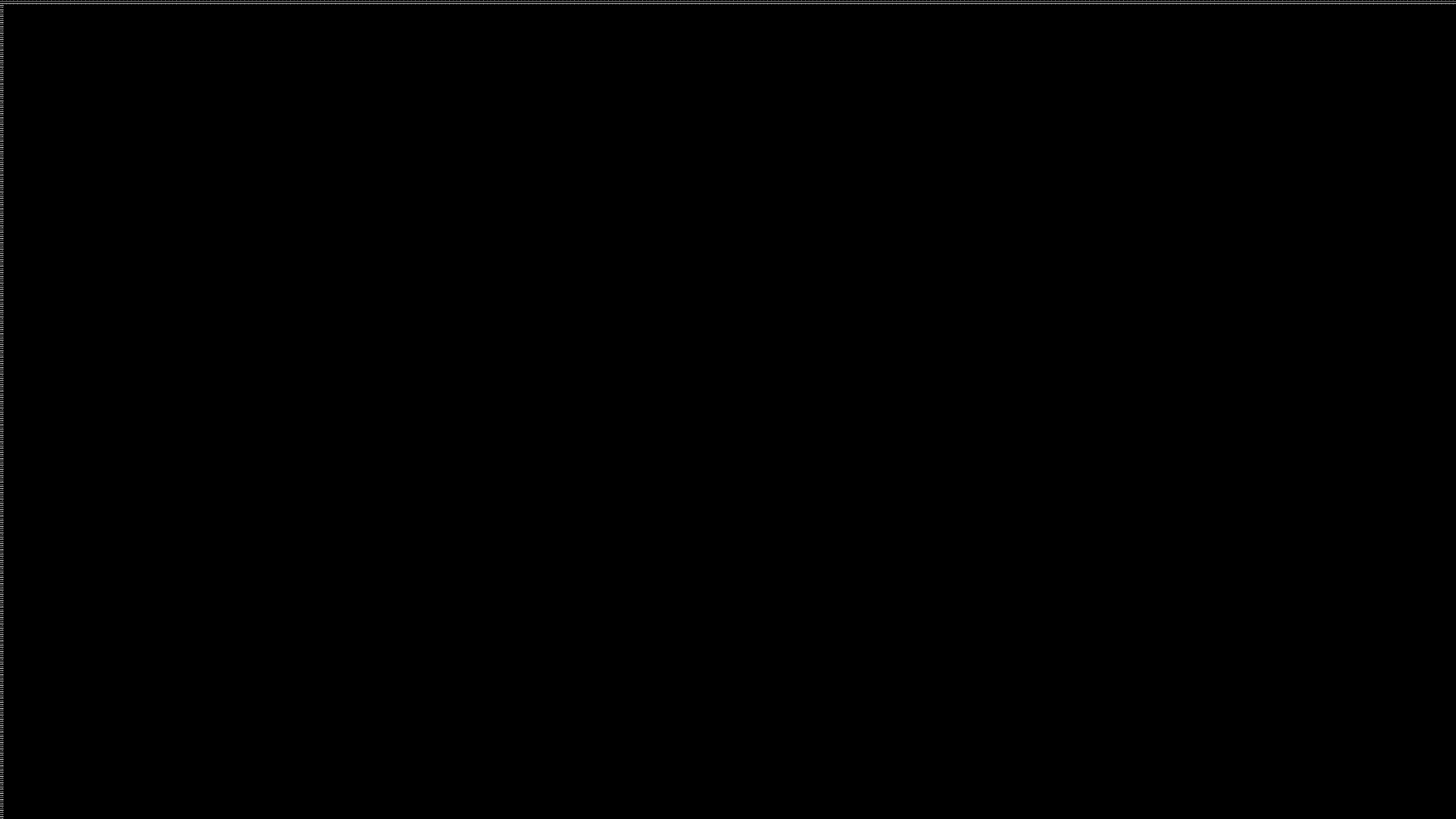


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Suspicious Financial Activities



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Suspicious Financial Activities



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Hawala

- Alternative remittance system from India/South Asia
- Means “trust”, “reference”, or “exchange”
- Allows for
 - No paper trail
 - Anonymity
 - Currency conversion is easy
 - Quick
 - No physical movement of currency
- Transactions are through codes and secret messages
- Requires registration in US as Money Service Business (MSB)
- Unknown to what extent Hawala is used by terrorists

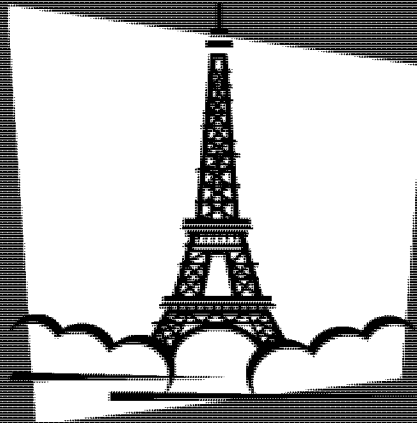
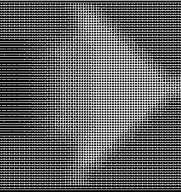
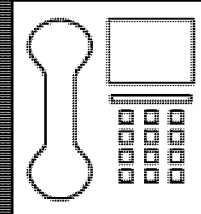
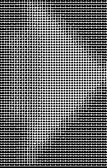
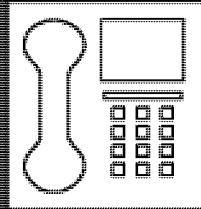


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How Hawala Works



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Hawala – White vs. Black

White

- Legal source of income
- Wage earners
- Business income
- Gifts



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Black

- Illegal sources
- Weapons Trafficking
- Drug Trafficking
- Tax Evaders
- Corrupt Officials



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Money Service Business

- Must register with FinCEN or with the state of domicile (if required)
- Failure to register is a felony violation
- Includes agent, agency, branch or office in the U.S. of any person doing business in one or more of the following capacities
 - Currency dealer or exchanger
 - Check casher
 - Issuer, seller or redeemer of traveler's checks, money orders or stored value
 - Money transmitter



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Security Check Indicators



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Security Check Results

- FBI Name Check
- FBI Fingerprint Check
- TECS/IBIS
- Consular Lookout Automated Support System (CLASS)
- Department of State Security Advisory Opinion (SAO)
- United States Visitor and Immigrant Status Indicator Technology/Automated Biometric Identification System (US-VISIT/IDENT)



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FBI Name Check

NNCP conducts manual and electronic searches of the FBI's Central Records System (CRS) Universal Index (UNI)

- Centralized records of FBI Headquarters, field offices, and Legal Attache offices
- Contains all FBI investigative, administrative, personnel, and general files

LE

<http://www.fbi.gov/hq/nationalnamecheck.htm>



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FBI Name Check

- Results
 - No Record
 - Positive Response
 - Unknown Response
 - Pending
- Validity
 - Definitive response valid indefinitely for application
 - For other applications, valid for 15 months
- See 12/21/2006 Name Check Memorandum



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FBI Name Check - Positive Response

- Indicates a positive match in the FBI's system for pertinent and/or derogatory information on the applicant

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- Must receive and resolve any concerns that affect eligibility or admissibility prior to granting a benefit
 - Exception if pending over 180 days and no other issues: See 2/4/08 memo.

***Do not assume that the information resulting from the positive response relates to your applicant.



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FBI Name Check - Unknown Response

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Unknown Response

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Document obtained from INTELWIRE.com

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NS Indicators - FBI Name Check

Classification of Investigations

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FBI Fingerprint Check

- Results
 - Non- IDENT
 - IDENT yields RAP sheet
 - Unclassifiable
- Validity
 - 15 months



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NS Indicators -Fingerprint Check

RAP sheet indicates that the subject:

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NS Indicators -Fingerprint Check

“Terroristic threats”

- Does not necessarily indicate a NS concern
- Oftentimes a charge for domestic violence crime
- Terrorist activity
 - use of explosives, firearms, or other weapons or danger devices
 - for other than mere personal gain
 - with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property



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TECS/IBIS

- Results [REDACTED]

- [REDACTED]
- [REDACTED] **LE** [REDACTED]

- Validity
 - 180 days



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NS Indicators - TECS/IBIS

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Examples

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NS Indicators- TECS/IBIS

Not considered NS unless there is a specific DOS record or sub-record that identifies a NS concern

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NS Indicators- TECS/IBIS

Not considered NS **unless** there is a specific DOS record or sub-record that identifies a NS concern

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HQ has determined that even though certain IBIS hits reference NS concerns, a NS referral is not required unless there is additional NS information that has not been resolved.

Possible NS Indicators- TECS/IBIS

Evaluate to determine if link:

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Possible NS Indicators- TECS/IBIS

Evaluate to determine if link:

-
-
-

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US-VISIT/IDENT

- Used primarily by Asylum Branch
- Used by [REDACTED] **LE**
- Loads biographical and biometric information
 - Two Prints vs Ten Prints

- [REDACTED] **LE**



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US-VISIT/IDENT

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Closed Investigation?????

Case was closed administratively

-
-
-
-

LE



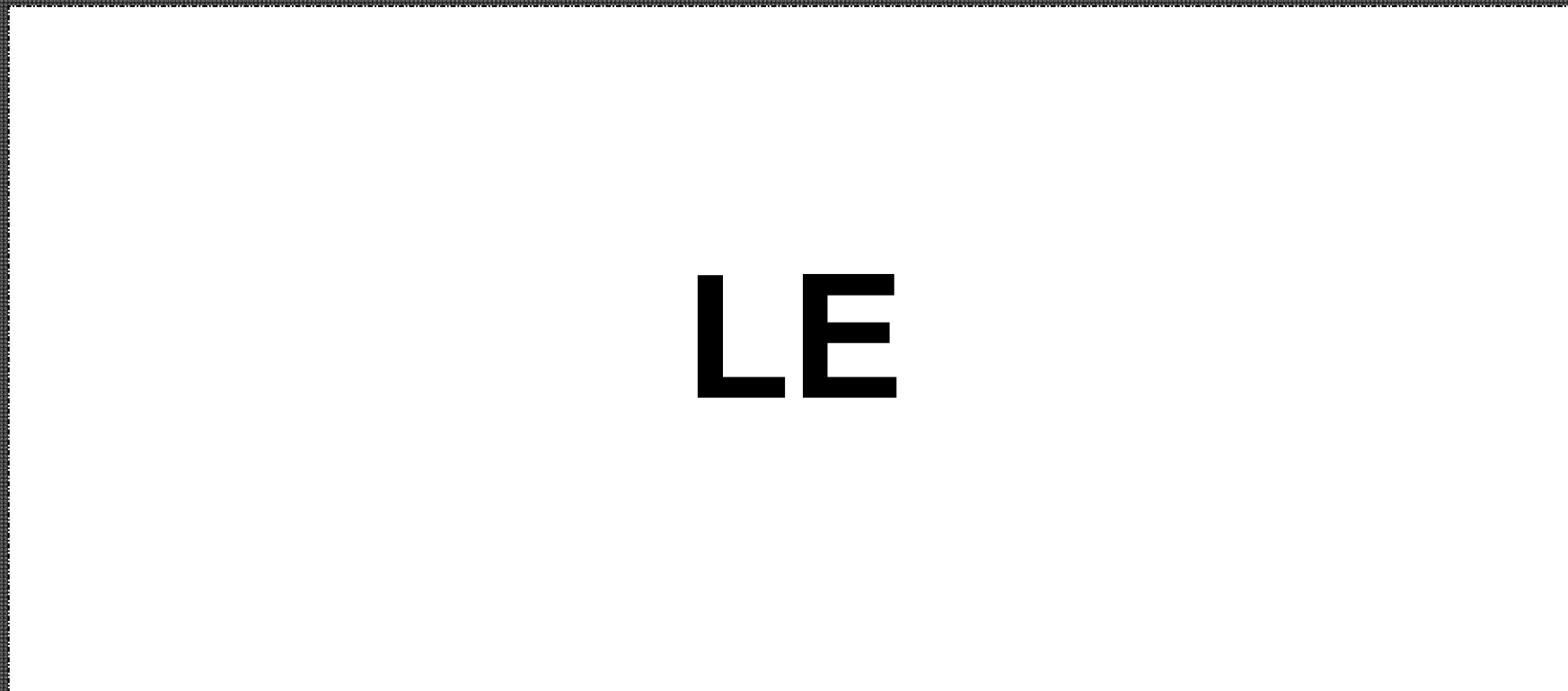
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Closed Investigation?????

Examples of Letterhead Memoranda (LHM)



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Practical Exercises: Identifying NS Concerns



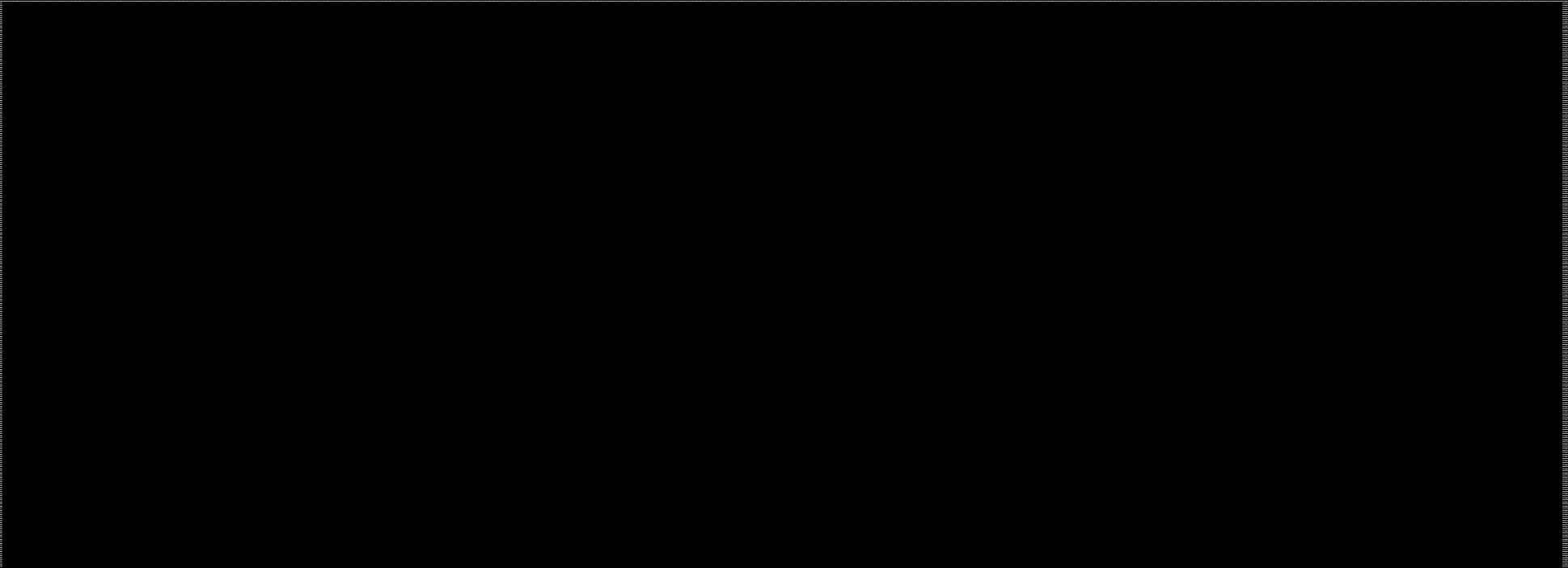
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Practical Exercises

Subject #1



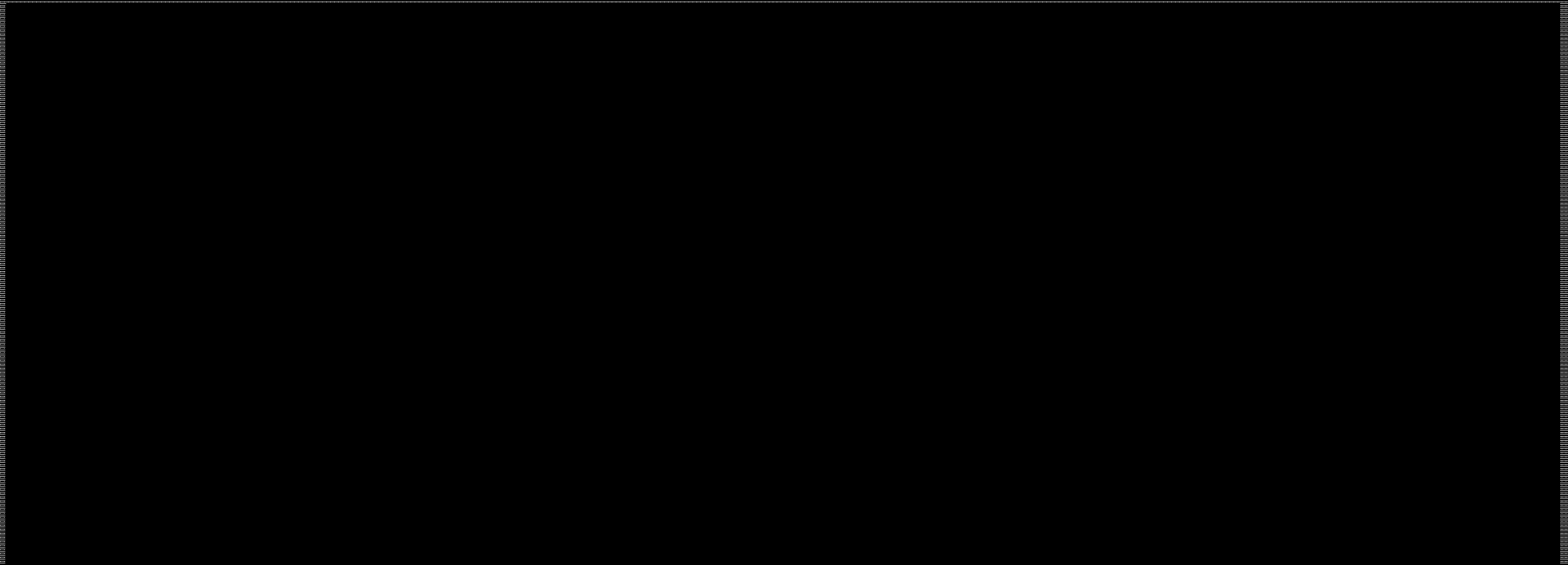
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Subject #2



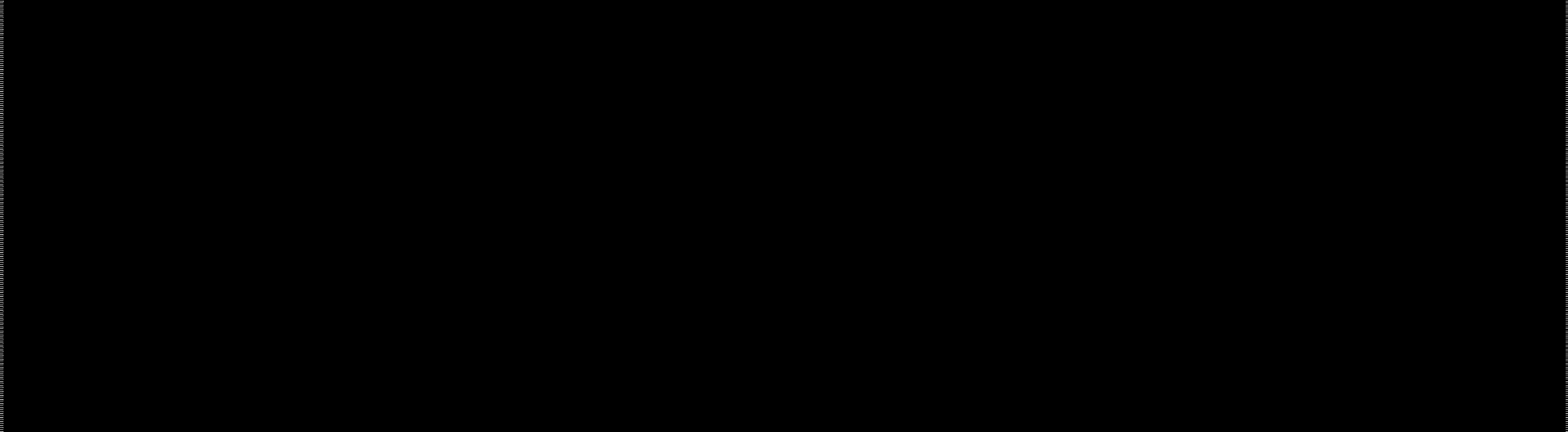
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Subject #3



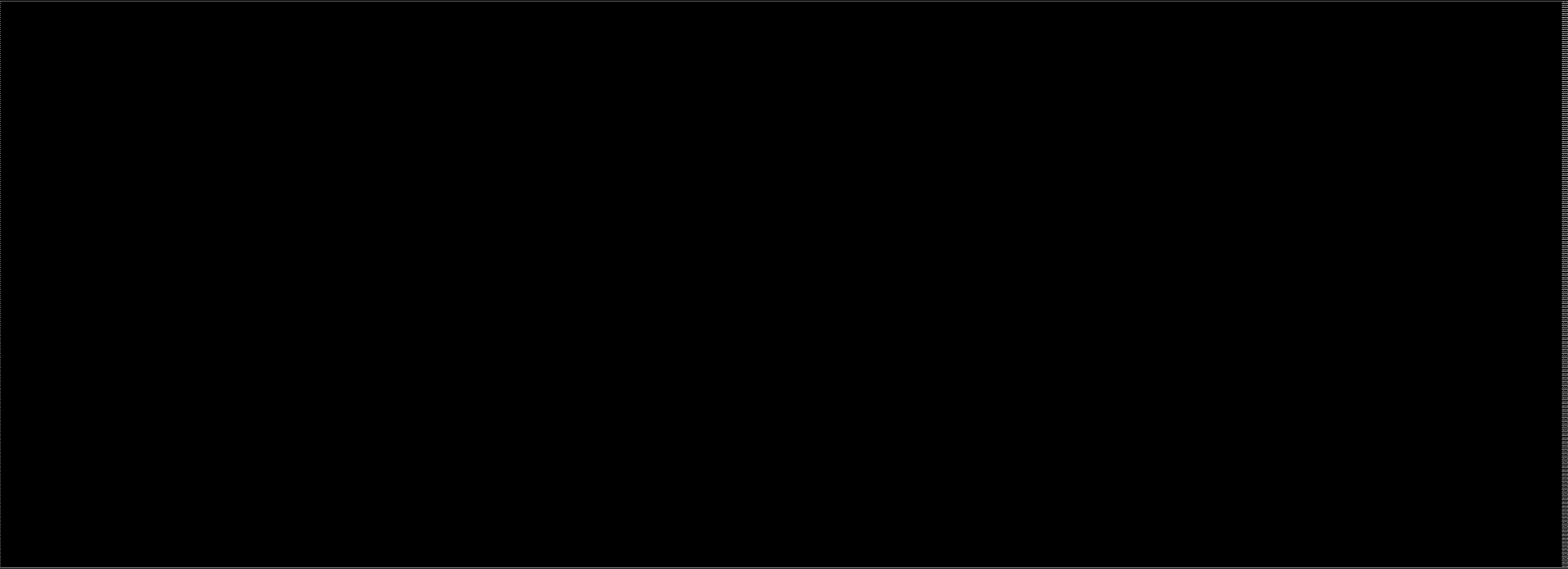
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Subject #4



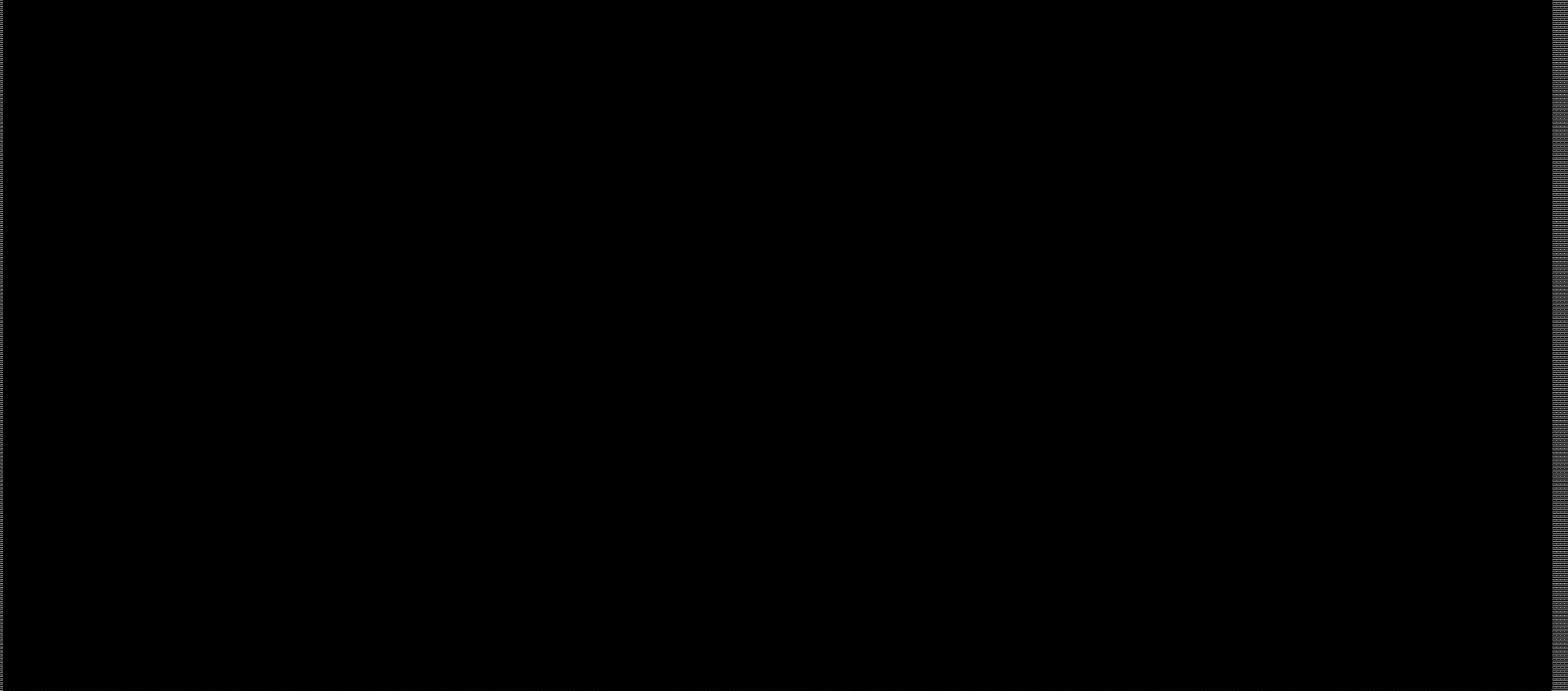
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Subject #5



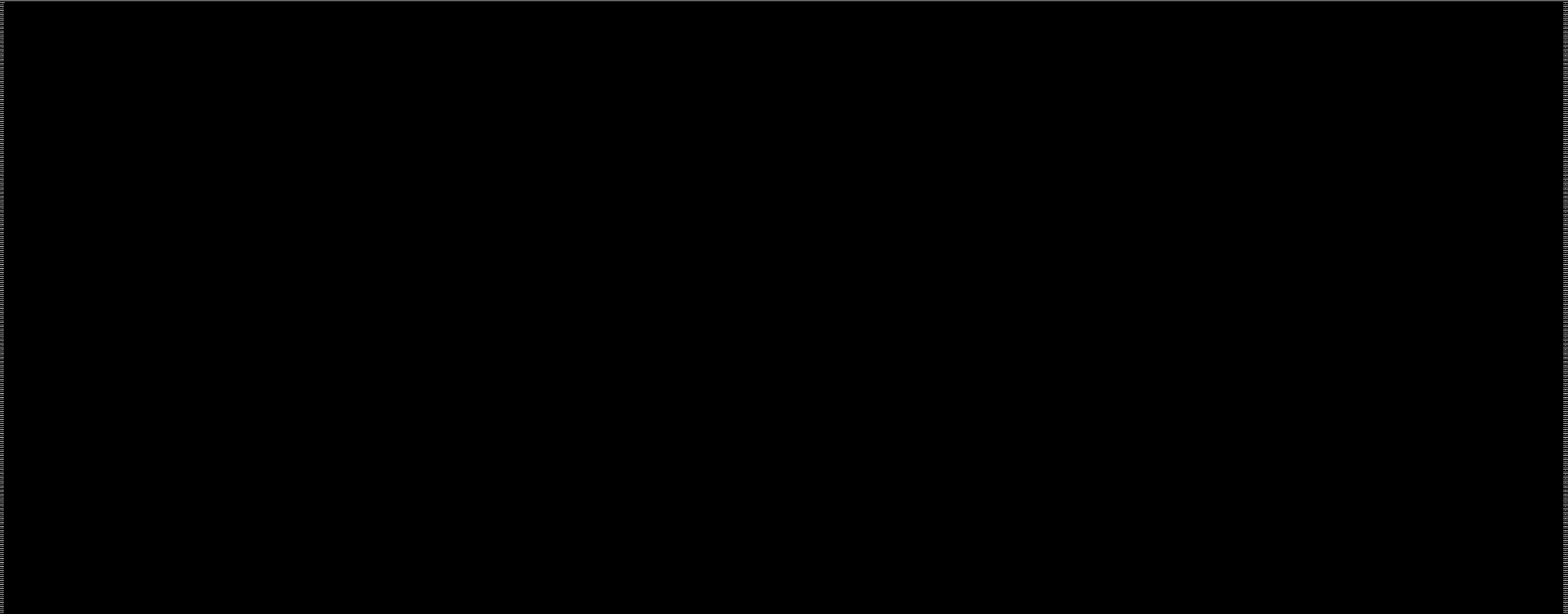
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Subject #6



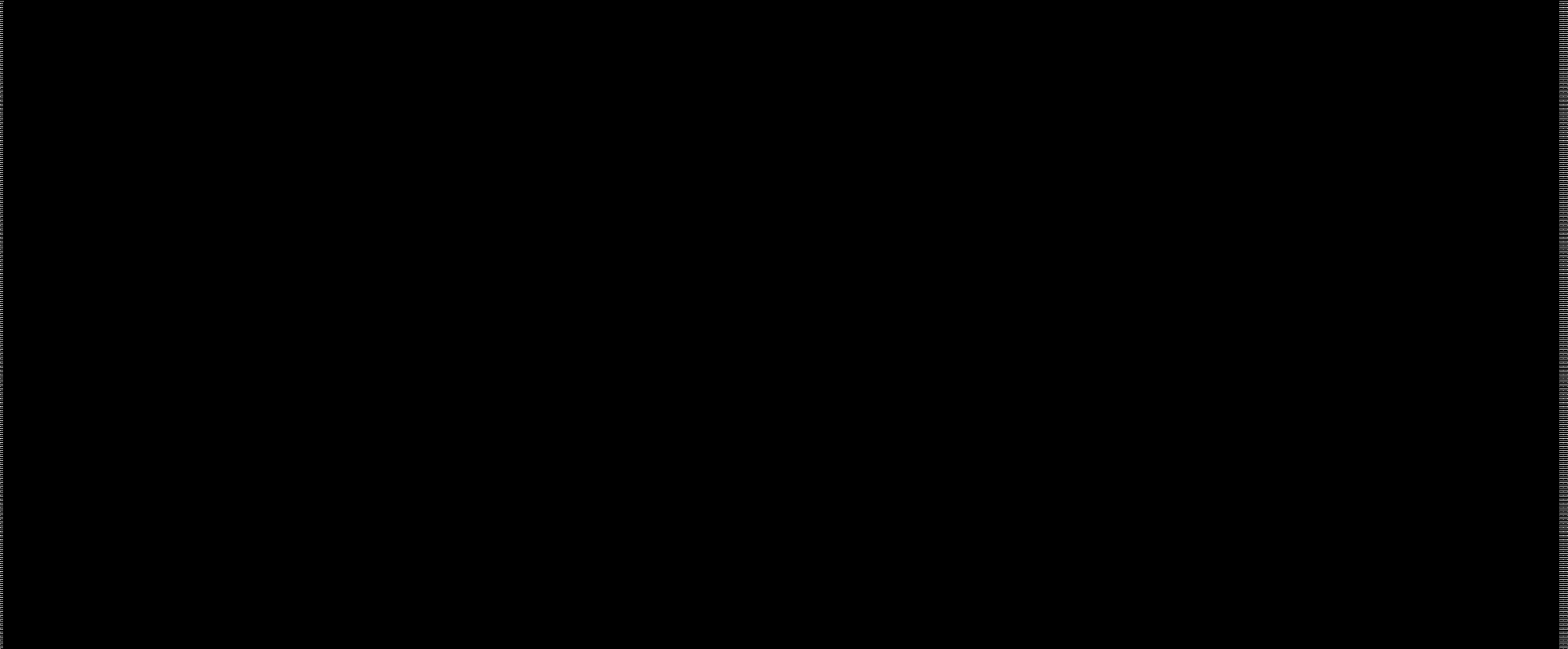
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Subject #7



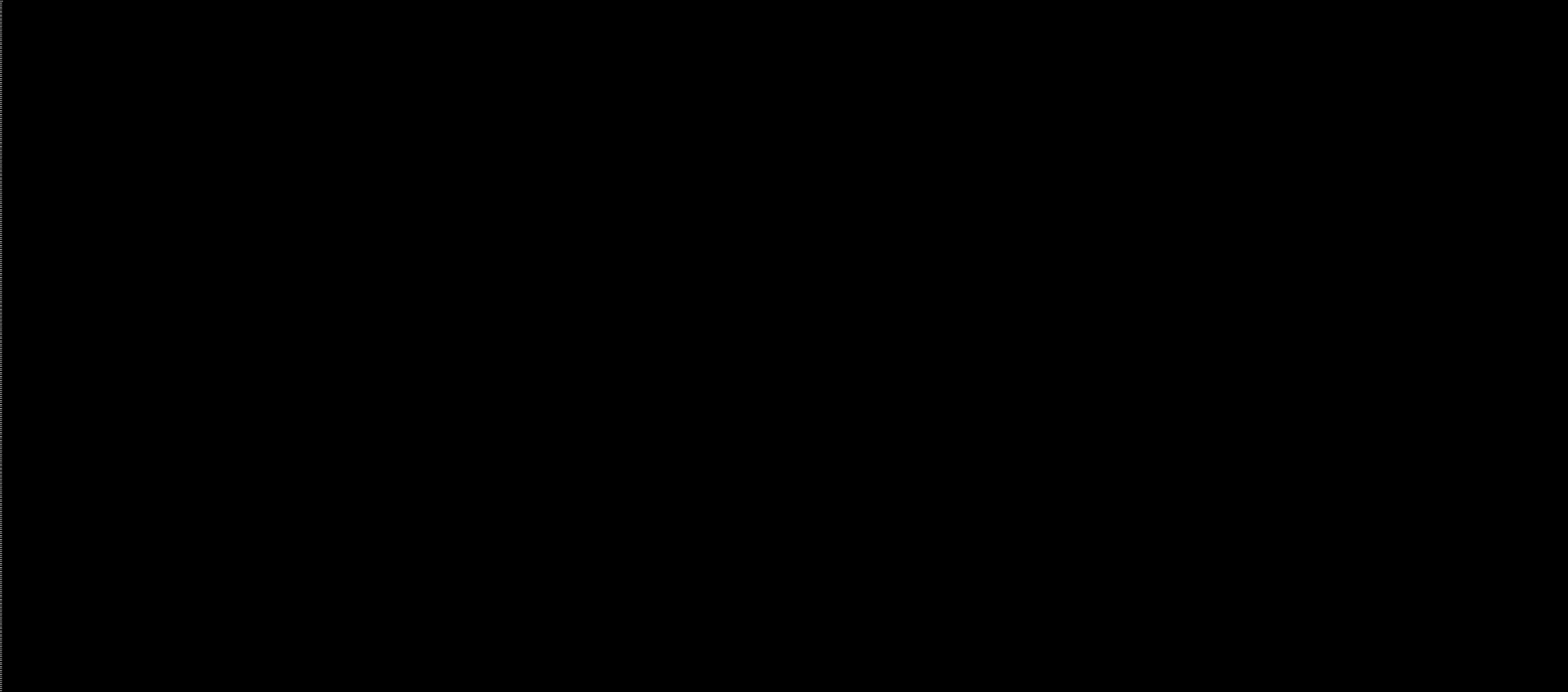
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Subject #8



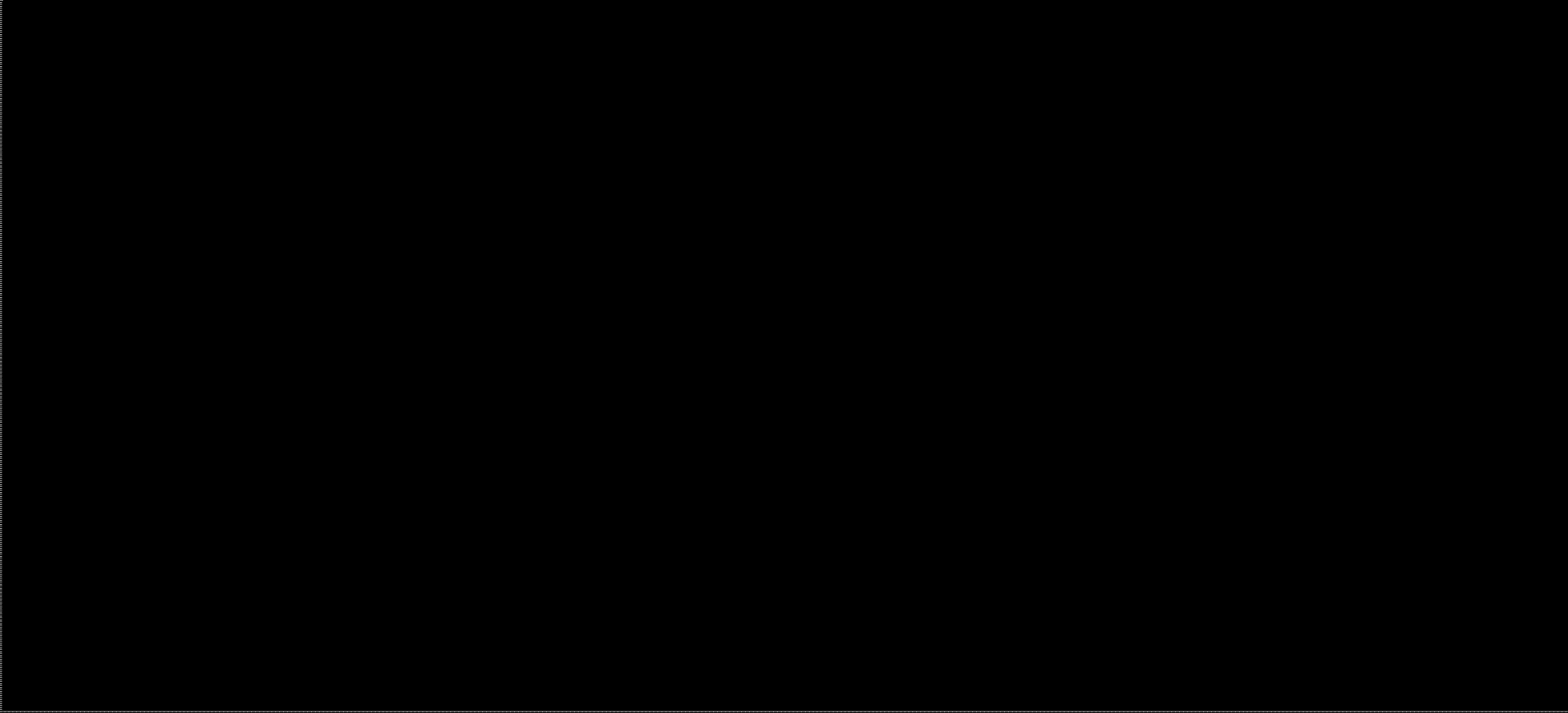
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Subject #9



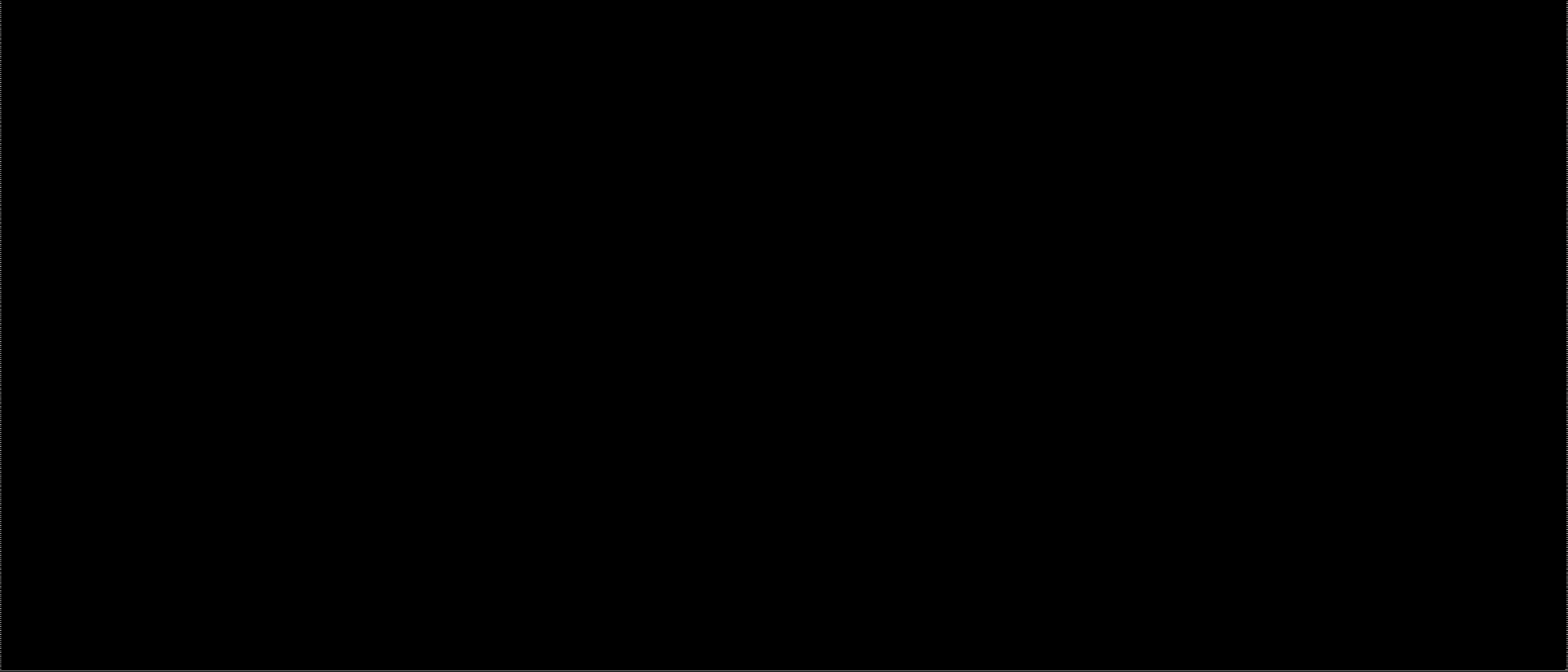
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Subject #10



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Subject #11

IBIS indicates:



LE



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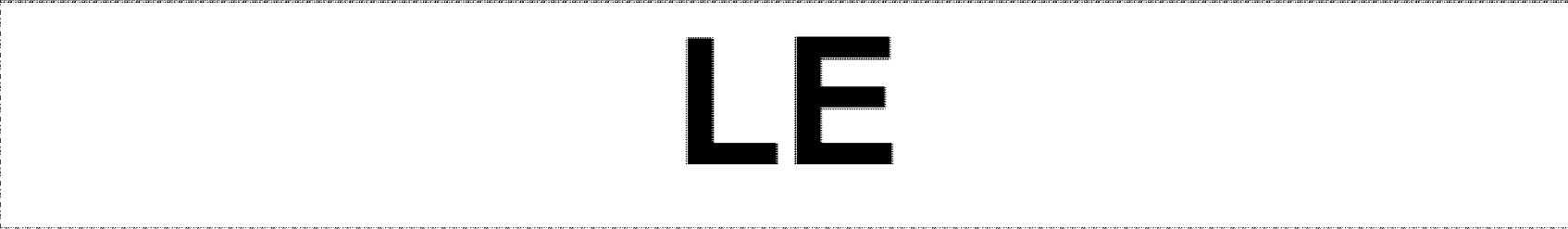
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Subject #12

LHM indicates:

-  **LE**

- All efforts to locate the file have been exhausted.
- No additional information is available.



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Subject #13

IBIS indicates:



LE



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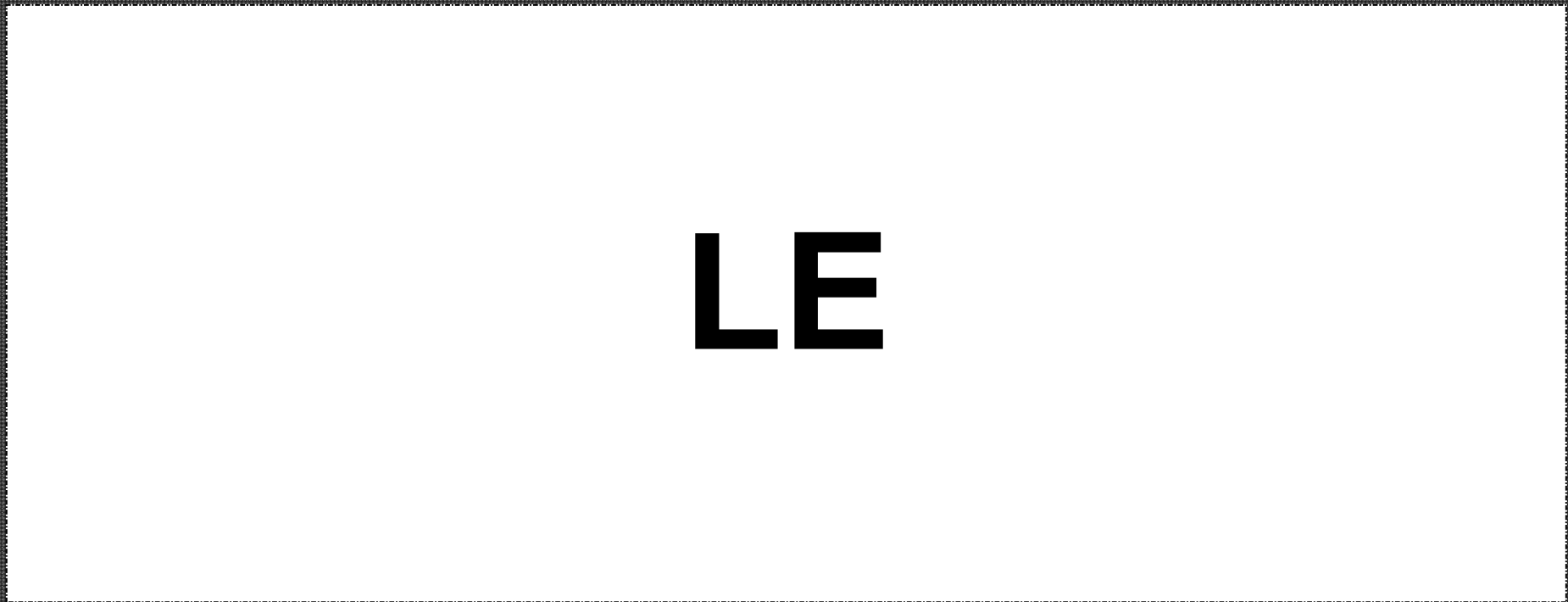
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Subject #14

LHM indicates:



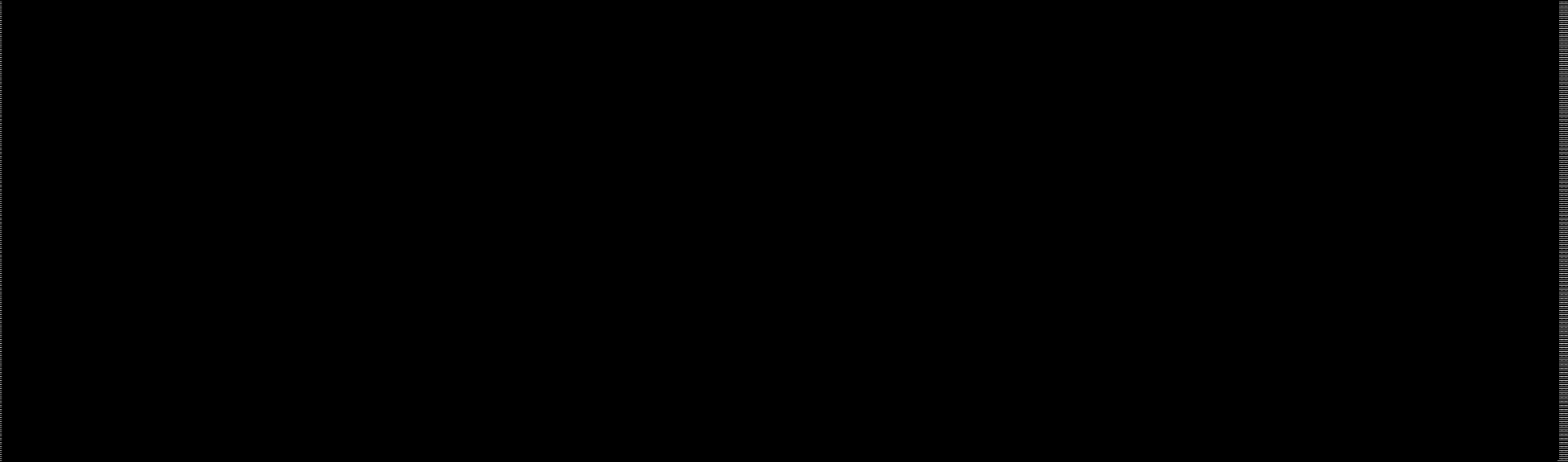
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Subject #15



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Initiating an NS Referral

- Consult with your local management for local procedures on referring and documenting the referral of an NS concern.
- Asylum Office -to the FDNS Immigration Officer
- Field Office – to the FDNS Immigration Officer
- Service Center – to the Background Check Unit (BCU)
- Overseas Office – see operational guidance
- Refugee Corps –see operational guidance



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Documenting the NS Concern

- Document in FDNS-DS
- Outlines a set of facts that can be used to determine whether a NS concern exists
 - Existed at one time but is no longer present
 - Has not yet been eliminated to the satisfaction of the investigating agency
- Reflect the status and results of systems and security checks
- Provide information relevant to USCIS' determination
 - Eligibility or admissibility



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TECS Record Creation

- Based on USCIS information
 - Anonymous tip in file
 - Self-reported information (remember disclosure provisions e.g. asylum, VAWA)
 - Material support and no exemption
 - Petitions (see ops guidance)
- TECS record is meant to be an alert for USCIS officers only
- “For Adjudicators Only:”
- DO NOT put Third Agency or classified information into a TECS record.
- Not an investigative/inspections lookout.
- Update or remove as appropriate.



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