



DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
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WASHINGTON DC 20310-1700

US ARMY INSPECTOR GENERAL AGENCY
REPORT OF INVESTIGATION (ROI)
(DCATS 20180928-053994-CASE-01)
(Case 18-00044)

NAME / POSITION: Command Sergeant Major (CSM) John W. Troxell, Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff (SEAC), Pentagon, Washington DC

ALLEGATION / FINDING #1: The allegation that CSM Troxell misused uniformed personnel to conduct non-official duties in violation of Title 5 Code of Federal Regulations (CFR) Section 2635.705 (b) and Joint Ethics Regulation (JER) 3-303 (b) was substantiated.

ALLEGATION / FINDING #2: The allegation that CSM Troxell improperly endorsed Non-Federal Entities (NFEs) in violation of Department of Defense Directive (DODD) 5500.07-R (JER) was substantiated.

(b)(6),(b)(7)(C)

BACKGROUND:

1. The SEAC is a military position within the United States Department of Defense (DOD) and is the most senior noncommissioned or petty officer overall in the United States Armed Forces. The SEAC is appointed by the Chairman of the Joint Chiefs of Staff to serve as a spokesperson to address the issues of enlisted personnel to the highest positions in the DOD. As such, the SEAC is the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff, and serves at the pleasure of the Secretary of

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Defense. CSM Troxell was appointed as SEAC on 11 December 2015 and is the third service member (SM) to hold that position.

2. On 26 September 2018, the Department of the Army Inspector General Agency (DAIG) received a request from the Director of the Joint Staff, United States Marine Corps (USMC) Lieutenant General (LtGen) Kenneth F. McKenzie, Jr., to accept an investigation from the Joint Staff Inspector General (IG) into allegations against the CSM Troxell.

3. The complainant, (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

alleged CSM Troxell improperly used his staff, created a hostile working environment, abused travel for himself and (b)(6);(b)(7)(C) and violated ethics standards.

4. On 27 September 2018, The Inspector General directed an investigation by DAIG.

SCOPE:

1. We interviewed CSM Troxell (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) witnesses comprised of current and former supporting staff members in the OSEAC. The witnesses included (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

We reviewed official email messages, memorandums, and travel records relating to travel to Ft. Bliss, TX, Ft. Bragg, NC, Hampton Roads, VA, and the 6-12 June 2018 trip to the United Kingdom (UK). DAIG further reviewed CSM Troxell's calendars related to specific named activities, the SEAC's official Facebook page, and other relevant documents and standards.

[Investigating Officer (IO) Note: The term SEAC in this report refers to CSM Troxell unless otherwise noted. Witnesses more often than not used the positional term SEAC when referring to CSM Troxell.]

2. This investigation reviewed every element presented in the initial complaint and identified during the investigation. This report did not include the following items for the reasons stated below:

a. CSM Troxell's use of support staff to make medical appointments for him was not addressed in this ROI other than where they appear as part of witness testimony.

(b)(6);(b)(7)(C)

stated that a principal, in this case CSM Troxell, may use their support staff to make medical appointments for them as there is a nexus to official duties. In such

instances the member of the staff is assisting the principal in maintaining their medical readiness. He opined however that use of support staff to pick up the principal's prescriptions at the pharmacy had no nexus to official duty and is addressed in this ROI.

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

ALLEGATION #1: CSM Troxell misused uniformed personnel to conduct non-official duties in violation of 5 CFR 2635.705 (b) and JER 3-303 (b). The complainant alleged that CSM Troxell used uniformed members of his subordinate staff to conduct activities outside the scope of official duties. Such activities included making personal appointments, shopping, driving him after regular duty hours, and supporting Mrs. Troxell when she travelled with him.

STANDARDS:

1. 5 CFR 2635.705 b (January 2002) states: An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.
2. DODD 5500.07-R JER 3-303 b (Change 7, 17 November 2011), states: Because of the potential for significant cost to the Federal Government, and the potential for abuse, DOD employees, such as secretaries, clerks, and military aides, may not be used to

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support the unofficial activity of another DOD employee in support of non-Federal entities, nor for any other non-Federal purposes, except as provided in subsections 3-211 and 3-300.b. of this Regulation.

DOCUMENTS / TESTIMONY:

1. [REDACTED] testified:

[REDACTED]

b. CSM Troxell regularly asked or required his subordinate staff to perform activities outside of their official duties which included making runs to the store for him for food and drinks, driving him to various locations in and around the National Capital Region (NCR) outside of official functions, driving him to dinner while TDY and requiring subordinates to dine and drink with him, pick up and transport his spouse to various locations when she travelled with him outside of any official duties she may have had, to travel with her, to make personal appointments for him, and to get his medication from the pharmacy at the DiLorenzo Health Clinic in the Pentagon.

c. Subordinate staff complained about the situation [REDACTED] [REDACTED] had asked [REDACTED] to address the issue as part of the OSEAC annual ethics training held 2 November 2017. He provided the sign in roster indicating that CSM Troxell was present. He also stated that he had discussed appropriate use of subordinate staff with CSM Troxell on numerous occasions, but had largely been rebuffed. At least one of these discussions related to having staff members drive him in a GOV from his domicile to the airport during a weekend. He stated that the SEAC hated to drive.

d. Subordinates told him that they were required to drive the SEAC to dinner when travelling, and were expected to eat and drink with him. He specified that [REDACTED] [REDACTED] to the SEAC, felt obliged to drink with the SEAC upon the SEAC's offer to buy him a beer. SEAC told him if he did not drink it, CSM Troxell would never buy him another. He also stated that he had heard that while travelling to the UK, SEAC sent [REDACTED] to find [REDACTED] a SEAC travel coordinator, who had retired for the evening, to return with him to join SEAC at an after duty gathering which involved drinking.

2. (b)(6);(b)(7)(C) testified:

(b)(6);(b)(7)(C)

b. He provided an annual ethics training class to the OSEAC on 2 November 2017 and CSM Troxell was present. The base reference document used for preparing the class was the Joint Staff Executive Assistant's Quick Reference Guide, October 2017.

(b)(6);(b)(7)(C) asked him on short notice to provide specific instruction on inappropriate use of subordinate staff for personal and unofficial duties, such as scheduling appointments or going to the store.

c. It is okay to have uniformed personnel assist the principal by making medical appointments as there is a nexus to official duties in terms assisting the principal in maintaining medical readiness. He did not feel that having uniformed SMs stand in line at the pharmacy was related to official duty.

d. He stated that it was okay for support staff to pick up a meal for the principal in the official mess and bring it back to the principal's office for them to ensure the efficient performance of the duties of the principal, but principals should not send subordinates to pick up drinks and snacks at the CVS [drugstore located in the Pentagon]. He stated that it was improper for a superior to obligate or order personnel to eat dinner with them as it caused persons to expend their own money. He also said that it was improper to require or suggest that a subordinate leave post to pick up Mrs. Troxell when she travelled with the SEAC if there was no official reason to do so. He stated that such activity runs contrary to regulation.

e. (b)(6);(b)(7)(C) opined via a follow-up email that "there are no circumstances under which the SEAC is entitled to DTD transportation," and that he had said as much to members of the SEAC staff. He related that he overheard a member of the SEAC's team saying they were going to pick-up the SEAC at the chapel on Fort Myer, at which point he informed the individual that GOVs could not be used to transport the SEAC from his quarters to the Pentagon, that the SEAC could not walk from his quarters to use a GOV parked at another place on Fort Myer, and that the SEAC was responsible for driving himself to work at the Pentagon. He had verbally opined to the OSEAC staff that a GOV could not be used to drive the SEAC from his quarters to Andrews and that the SEAC was required to drive himself to the Pentagon if he wanted to use a GOV to travel to Andrews.

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f. [REDACTED] was unaware and shocked that a previous legal opinion existed on the matter which allowed for SEAC DTD transportation in a GOV when accompanying the Chairman. He stated that no legal basis existed for such an opinion.

3. [REDACTED] testified:

a. [REDACTED]

b. He was not aware of any time, either first- or second-hand, when the SEAC used uniformed personnel in an inappropriate manner. He never saw nor heard of instances that the SEAC used his staff to conduct personal errands such as shopping at the CVS, picking up his laundry, or scheduling personal appointments. He stated that any questions the SEAC asked of him regarding auto mechanics, places to eat, or other inquiries related to off duty activities were requests for information due to his familiarity with the area. He only ever provided information and never scheduled any personal appointments for the SEAC.

c. On several occasions the SEAC did not want to leave his personally owned vehicle (POV) at the airport when going TDY. In those cases, SEAC rode with one of his subordinate staff members, then gave the SM gas money, "just like an Uber."

4. [REDACTED] testified:

[REDACTED]

b. The SEAC never asked [REDACTED] to run personal errands for him. There were multiple times when people offered to pick up stuff for the SEAC, and the rest of the office, when they were already going to the CVS. He kept a small refrigerator in his office. He would occasionally hand her \$20 and ask her to re-stock his fridge the next time she went to the CVS. She did not consider this outside of the scope of her duties because she was usually re-stocking the office supplies. She never made separate trips to CVS specifically for the SEAC.

c. She drove him from his residence on Ft. Myer to Andrews Air Force Base (AFB) for official travel. On one occasion the SEAC asked her to find the hours for the tax service on Ft. Myer and schedule an appointment. She put the SEAC on the phone to verify personal information and then she booked the appointment. On one occasion,

the SEAC asked (b)(6);(b)(7)(C) to schedule civilian passport appointments for himself and Mrs. Troxell. (b)(6);(b)(7)(C) told (b)(6);(b)(7)(C) she thought this was outside of her duty description, and (b)(6);(b)(7)(C) told the SEAC that he (SEAC) must schedule his own appointment. (b)(6);(b)(7)(C) never heard anything else about this topic, and she never felt the SEAC held that against her.

5. (b)(6);(b)(7)(C) testified:

(b)(6);(b)(7)(C)

b. The CSM never lets anyone pick up his bags when he travels. The CSM does not want the perception of personal servitude. When he traveled with CSM Troxell he would volunteer to help the travel coordinator drive and he would also volunteer to scout out a run route. CSM Troxell never forced him or anyone else to do PT with him when they were TDY. He was not aware of any expectations or requests by the CSM that fell outside of normal duties. The CSM never made him eat dinner with him when they were TDY. Most of the time the CSM would ask to stop by the PX to pick up meals to take back to his room. People were never made to hang out and drink beer with the CSM after duty hours when they were TDY. The CSM would always make sure they knew they did not have to go if they did not want to.

c. He recalled a time they were at a wine bar. (b)(6);(b)(7)(C) was not there initially, but he met (b)(6);(b)(7)(C) at the top of the stairs and brought him down to where CSM Troxell was. (b)(6);(b)(7)(C) met him; he had not been told to go get him to the best of his knowledge.

6. (b)(6);(b)(7)(C) OSEAC, testified:

(b)(6);(b)(7)(C)

b. With regard to servitude, he offered to get things from the store and would ask CSM Troxell if he needed anything. He never thought that being asked by CSM Troxell to get something from the store was a problem and that he was likely going to get something for himself anyway. He never felt he was asked to do something that was

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not appropriate. He mentioned that he provided CSM Troxell information about where to get a car battery but this was a question from CSM Troxell to the staff and was not a request or demand to find a place.

c. When they travelled to Ft. Bragg, he had dinner with CSM Troxell and (b)(6);(b)(7)(C) and one of CSM Troxell's old platoon buddies. It seemed like an implied task to eat dinner with CSM Troxell, but the only time that he felt he had to do it was when he drove for him. He never questioned it and considered it as part of his duties, although undefined as such. The only time he had been asked to drive in the local area was for official events in the local area. The CSM usually drove himself to Reagan International. Andrews AFB was different, and CSM Troxell would have people drive him there.

7. (b)(6);(b)(7)(C) testified:

(b)(6);(b)(7)(C)

b. He had no knowledge that CSM Troxell asked subordinates to do unofficial duties. If he himself went to CVS he asked if anyone needed anything, but CSM Troxell never asked him to go to the store for him. CSM Troxell did not expect them to go to dinner or drink with him and would invite them to go, but never directed that they had to.

8. (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

OSEAC, testified:

(b)(6);(b)(7)(C)

b. On a trip to San Antonio, TX with the SEAC, he and another NCO went to eat with CSM Troxell and his extended family. (b)(6);(b)(7)(C) stated that it was a waste of his time to sit and wait for two hours while CSM ate with his family. It would have been a better use of his time to recon locations for PT the next day. He felt he was obligated to go to PT and dinner with the CSM. It is what the NCO before him had done.

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c. Some staff members had been asked to run errands for CSM Troxell such as "here is some money, go get me some Gatorade or water." He witnessed (b)(6);(b)(7)(C) receiving money from CSM Troxell to get drinks and pick up medication. Before (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) had run errands for CSM Troxell which included picking up medication for his wife.

9. (b)(6);(b)(7)(C) testified:

(b)(6);(b)(7)(C)

b. He did not know if SEAC had sent him on errands that were considered inappropriate. He scheduled medical appointments for SEAC and had picked up CSM Troxell's prescriptions. (b)(6);(b)(7)(C) had told him that he should not have picked up prescriptions or scheduled the medical appointments, but there was no SOP that specifically told him what he could or could not do. Earlier this year, he scheduled a tax appointment on Ft. Myer for CSM Troxell and drove him to the appointment. However, he was pretty sure the appointment coincided with an official trip to Ft. Myer.

c. CSM Troxell sent him to CVS to pick up personal items, but always gave \$20.00 when the cost was only about \$10.00. He tried to give CSM Troxell his change and the SEAC said, "No, dude, you are not an indentured servant." While on TDY to Cape May, New Jersey, CSM Troxell gave him money to go to a store and get him a banana, muscle milk, and coffee creamer. He forgot the coffee creamer, so after PT the next morning CSM Troxell reminded him to pick up the coffee creamer before the morning meetings.

[IO Note: SEAC long range calendar indicated CSM Troxell travelled to the United States Coast Guard Training Center, Cape May New Jersey from 1-2 August 2018, accompanied by (b)(6);(b)(7)(C)]

d. Mrs. Troxell travelled with CSM Troxell while on a trip to Hampton Roads, VA, 18-21 September 2018. During the trip he left a meeting he was at with the SEAC and departed the installation to pick up Mrs. Troxell from her hotel off post (a 25 minute one way trip) so that she and the SEAC could eat lunch together. He then transported her back to the hotel after lunch as CSM Troxell had a classified briefing to attend. CSM Troxell had not instructed him to pick up Mrs. Troxell, but he anticipated that the SEAC would ask about her around lunch time. He stated that CSM Troxell gave him a thumbs up when he told him he was going to pick up Mrs. Troxell for lunch.

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10. [REDACTED] OSEAC, testified:

[REDACTED]

b. She was never asked to do anything outside of what she considered normal official duties: no trips to CVS; to pick up dry cleaning; or schedule personal appointments for the SEAC. However, she had general concerns about the SEAC's use of GOVs and drivers within the NCR and while on TDY. SEAC did not drive himself anywhere in the NCR or while on TDY.

c. She heard that while on TDY to Virginia Beach, [REDACTED] was required to pick up Mrs. Troxell from the hotel and bring her on-post for lunch. Mrs. Troxell was not on official travel when [REDACTED] transported her to and from the hotel for lunch.

d. While planning an official travel event for Mrs. Troxell in conjunction with travel with the SEAC to Ft. Bliss, she was directed to be prepared to accompany Mrs. Troxell back to the NCR while the SEAC and [REDACTED] would continue on official travel to Alabama. [REDACTED] disapproved of the action since uniformed personnel cannot provide support outside of official duties to civilians. She thought the directive to accompany Mrs. Troxell back to the NCR was a waste of government funds. She was also told while planning the trip to Ft. Bliss that she should be prepared to interact with the SEAC's family after hours, because the SEAC would spend time with family but would not drive himself to the rendezvous point.

[IO Note: This trip did not occur due to SEAC being suspended at the initiation of the investigation.]

e. She had "feelings" that some of the SEAC travel requests were "not right." She believed that a legitimate request for travel should easily pass a legal review and, based on her basic USMC ethics training, the requirement for her to search for the appropriate verbiage to pass a legal review was odd.

11. CSM Troxell testified:

a. He did not require his staff to eat with him and never once forced anybody to go to dinner with him. He stated that he and his team are very close and that he thought of them as family. He did not think any of his subordinates felt obliged to eat with him.

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b. He did not require his subordinates to conduct Physical Training (PT) with him, but expected them to do PT every day. (b)(6);(b)(7)(C) always did PT with him and volunteered to recon PT locations. He never asked him to do it, he only asked, "Where can we do PT at?" or, "I'm going to Naval Support Activity, see if they got a place to train."

c. He never asked subordinates to shop specifically for him at the CVS while in the Pentagon or a shoppette while travelling stateside. He asked his subordinates on two or three occasions to pick up drinks for all the members of the OSEAC. The drinks were for the entire office and also used to entertain his visiting counterparts as needed. He paid for the purchases, and allowed the person who ran the errand to keep the change as he did not want anyone to think he used his personnel for personal acts of servitude. If people were already headed to go get something he might ask them to pick something up for him, give them money for the purchase and insist they keep the change.

d. On one occasion he asked (b)(6);(b)(7)(C) whether the tax center made appointments and she took it upon herself to make an appointment for him, but it was not his intent that she did. He stated that he periodically inquired with his staff about where to get an automobile inspection, but that there was no desire to create a personal act of servitude.

e. He understood that a personal act of servitude was to ask someone to do something that caused them to spend money or deviate from their normal duties.

f. He asked (b)(6);(b)(7)(C) if the process for obtaining civilian passports for himself and Mrs. Troxell was the same as for military ones. He stated that (b)(6);(b)(7)(C) discussed the matter with (b)(6);(b)(7)(C) who informed him that it was something he needed to do on his own. He told (b)(6);(b)(7)(C) "Roger, that. We'll do it," and that was the end of the conversation.

g. Mrs. Troxell was not picked up from the hotel during the trip to Hampton Road for the sole purpose of having lunch with him. They lunched with (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) and (b)(6);(b)(7) after which (b)(6);(b)(7)(C) remained on post, to engage with (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

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h. There was never any intention to have (b)(6);(b)(7)(C) fly to NCOLCOE at Ft. Bliss and accompany (b)(6);(b)(7)(C) home while CSM Troxell continued travelling to Alabama. The trip to NCOLCOE was a stand-alone trip without any further travel. He was slated to speak at the Africa Command Senior Enlisted Leader (AFRICOM SEL) Conference and that he and his party were to fly to Ft. Bliss, execute the required official business, and return as a group to Washington, D.C.

ANALYSIS / DISCUSSION:

1. (b)(6);(b)(7)(C) alleged that CSM Troxell used uniformed members of his subordinate staff to conduct activities outside the scope of official duties. 5 CFR §2635.705b states that an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties. JER 3-303b (Change 7), states that DOD employees, such as secretaries, clerks, and military aides, may not be used to support the unofficial activity of another DOD employee...for any other non-Federal purposes. All personnel in the OSEAC, with the exception of (b)(6);(b)(7)(C) received training from the Joint Staff's ethics attorney.

2. The evidence indicated that CSM Troxell asked uniformed personnel to perform activities outside of their official duties. Several witnesses reported performing personal tasks for CSM Troxell or knew of someone else in the office that performed a service outside of their official duties for the SEAC. CSM Troxell asserted that he never asked his subordinates to run personal errands on his behalf or perform duties with the sole purpose of taking care of his wife; however, the evidence did not support these assertions.

a. The evidence indicated that there were instances when subordinates planned to go to CVS for drinks and asked SEAC if he wanted anything. The evidence also indicated that there were instances in which the SEAC asked his subordinates to go to the store for him. (b)(6);(b)(7)(C) stated that SEAC gave her \$20 and asked her to restock his fridge the next time she went to CVS. (b)(6);(b)(7)(C) testified that he knew of some staff members being asked to run errand for CSM Troxell. (b)(6);(b)(7)(C) further testified that he witnessed (b)(6);(b)(7)(C) receiving money from CSM Troxell to get drinks and pick up medication. (b)(6);(b)(7)(C) testified that he had picked up CSM Troxell's prescriptions. He also testified that CSM Troxell sent him to CVS to pick up personal items, but always gave \$20.00 when the cost was only about \$10.00. When he tried to return change, SEAC stated, "No, dude, you are not an indentured servant." (b)(6);(b)(7)(C) also testified that he was asked to go to the store and get him a banana, muscle milk, and coffee creamer. (b)(6);(b)(7)(C) witnesses testified that they had gone to the store for CSM Troxell. (b)(6);(b)(7)(C) witnesses stated CSM Troxell gave them extra money and told them to keep the change. CSM Troxell confirmed he overpaid those that went to the store for

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him. That CSM Troxell compensated the SMs that went to the store for him does not change the fact that on more than one occasion CSM Troxell asked subordinates to go to CVS or the shoppette specifically to shop for him. (b)(6);(b)(7)(C) also testified that he made a tax appointment for CSM Troxell and then transported him to it.

b. Several SMs noted that CSM Troxell did not drive himself while TDY. This resulted in the SMs serving as drivers for him after completion of their planned daily activities when he travelled. (b)(6);(b)(7)(C) testified that [once] they travelled to Ft. Bragg, he had dinner with CSM Troxell, his wife and SEAC's old platoon buddy. He had dinner with them but felt like it was an implied task; however, the only time he felt he had to dine with them was when he drove for him. (b)(6);(b)(7)(C) testified that on a trip to San Antonio, he and another NCO joined SEAC and his extended family for dinner. He testified that he felt he was obligated to go to dinner with the CSM. CSM Troxell testified he did not require his staff to eat with him, or drive him around after duty. Although, the SEAC did not direct the SMs' to dine or drive with him, two of the SMs' felt obligated to do so as illustrated in (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) testimonies.

c. Evidence also shows (b)(6);(b)(7)(C) transported Mrs. Troxell for unofficial business. (b)(6);(b)(7)(C) testified that while on trip to Hampton Roads, VA, he had left a meeting with the SEAC to pick up Mrs. Troxell from her hotel, off post, so she and SEAC can eat lunch together. He then transported her back to the hotel. Each way took approximately 25minutes. (b)(6);(b)(7)(C) indicated that although SSM Troxell had not instructed him to pick up Mrs. Troxell, he anticipated that the SEAC would ask. He also stated that CSM Troxell gave him a thumbs up when he told him he was going to pick up Mrs. Troxell for lunch. The preponderance of credible evidence indicated that (b)(6);(b)(7)(C) transported Mrs. Troxell to and from her hotel while she was at Hampton Roads in an unofficial capacity. This transportation task took up to one hour of (b)(6);(b)(7)(C) official time. While CSM Troxell did not direct (b)(6);(b)(7)(C) to pick up and return Mrs. Troxell, he gave tacit approval when he acknowledged (b)(6);(b)(7)(C) plan to get Mrs. Troxell for lunch. There was no evidence presented to indicate that Mrs. Troxell was there in an official capacity, therefore any extraordinary service provided to her violated the standard.

d. (b)(6);(b)(7)(C) testified that while planning an official travel event for Mrs. Troxell in conjunction with travel with the SEAC to Ft. Bliss, she was directed to be prepared to accompany Mrs. Troxell back to the NCR while SEAC continued on his TDY mission to Alabama. CSM Troxell's approval and use of subordinate staff for personal convenience continues to demonstrate use of a subordinates to perform activities other than those required in the performance of official duties. While the trip did not occur, it demonstrated a specific instance of CSM Troxell's mindset on the use of subordinates, as there was advanced planning and logistical concerns that needed to be addressed.

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CSM Troxell's plan to take two travel coordinators was wasteful. It was reasonable to conclude that CSM Troxell's intent in adding (b)(6),(b)(7)(C) to the Fort Bliss trip was for (b)(6),(b)(7)(C) to accompany Mrs. Troxell back to the NCR while he continued his trip with (b)(6),(b)(7)(C)

3. CSM Troxell demonstrated a pattern of using his subordinate staff to perform services for his personal convenience. CSM Troxell did not directly encourage, direct, coerce, or request any subordinates to act outside their official duties. The subordinates identified and responded to CSM Troxell's implied tasks and clearly felt obligated to provide him unofficial support. They recognized they were working for the highest ranking NCO in the DOD, they respected him, and wanted to do their best to help CSM Troxell succeed. Although, there appears to be a lack of understanding of what constituted official duties in the OSEAC and there was no Standard Operating Procedures (SOPs) in place to clarify their duties, 5CFR§2635.705b and JER 3-303(b) clearly indicates limitations of subordinate's time for unofficial duties . CSM Troxell had a responsibility to not use subordinates for unofficial duties, and he failed to do so.

4. The preponderance of credible evidence indicated that CSM Troxell encouraged, directed or requested subordinate to use official time to perform activities other than those required in the performance of official duties. These unofficial duties included the subordinates going to CVS for him, driving after hours during TDY to unofficial events, dining with them, and provided unnecessary support to him and his wife.

CONCLUSION: The allegation that CSM Troxell misused uniformed personnel to conduct non-official duties in violation of 5 CFR sec. 2635.705 (b) and JER 3-303(b) was substantiated.

ALLEGATION #2: CSM Troxell improperly endorsed a product in violation of DODD 5500.07-R (JER). The complainant alleged that CSM Troxell violated standards of ethics by appearing to endorse TRX in a video on CSM Troxell's official SEAC Facebook page.

[IO Note: TRX is a company that produces and provides fitness equipment to the DOD and civilian community. One of its products is the TRX suspension system, a set of handled straps, NSN 7830-01-597-4939, that can be used to perform a variety of exercises.]

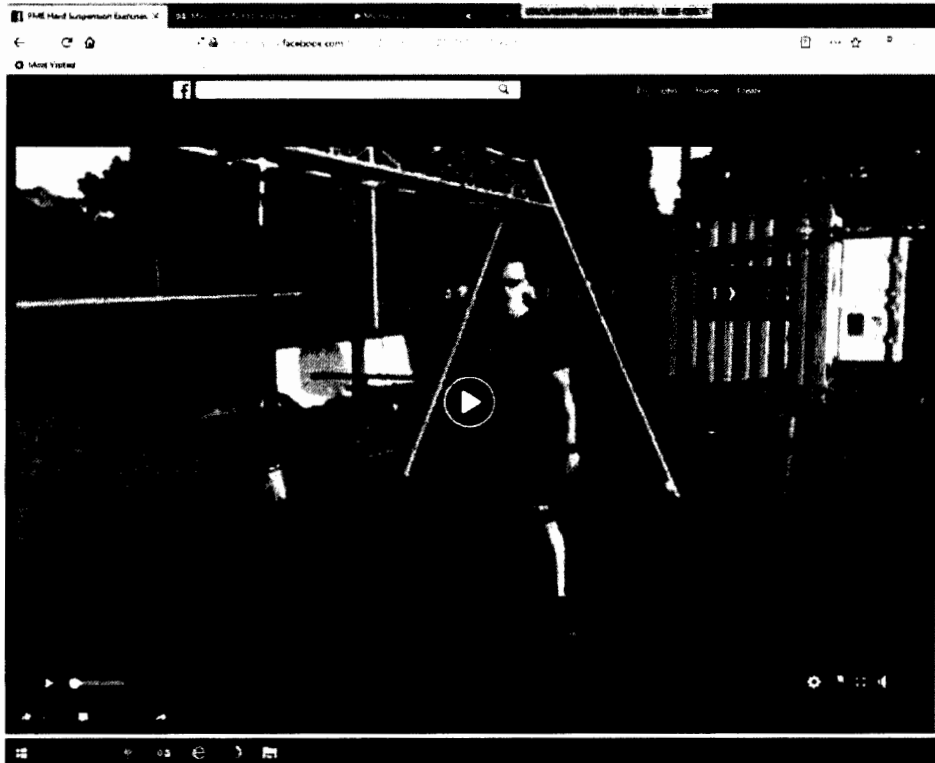
STANDARD: DODD 5500.07-R JER 3-209 (Change 7), 17 November 2011, states: DOD or DOD employees in their official capacities may not state or imply endorsement of a non-Federal entity, event, product, service, or enterprise. They may not permit

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titles, positions, or organizational names to suggest official endorsement or preferential treatment of any non-Federal entity except those listed in JER subsection 3-210.

DOCUMENTS / TESTIMONY:

1. Depicted below is a screenshot taken from the SEAC's official Facebook page showing the video referenced by the complainant.



The video showed CSM Troxell explaining exercises as (b)(6);(b)(7)(C) demonstrated exercises using a suspension strap system. CSM Troxell never used the term TRX in his description of the exercises.

[IO Note: The Milvan or Connex seen in the background bearing the TRX logo is also referred to as a HIIT locker, HIIT standing for High Intensity Interval Training. These lockers contain various types of exercise equipment.]

2. DAIG discovered a second video on the official SEAC Facebook page, in which CSM Troxell appeared to endorse another product. Depicted below is a screen shot taken from the video. The video taken while CSM Troxell was TDY to the UK showed

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CSM Troxell with celebrity chef Mr. Robert Irvine at the start point of the Cateran Yomp. In the video, Mr. Irvine wished CSM Troxell good luck and CSM Troxell responded, "We've fueled up on some Robert Irvine Fit Crunch and are ready to get after it."

[IO Note: The Cateran Yomp is a privately organized hiking competition in Scotland that raises funds for wounded warriors. Mr. Irvine is a well-known supporter of wounded warriors through the Robert Irvine Foundation, and also supports several United Service Organization (USO) events in support of members of the DOD. Fit Crunch is a line of food and fitness supplements created and endorsed by Mr. Irvine.]



3. (b)(6);(b)(7)(C) testified:

a. He was aware of a video on the SEAC's official Facebook page in which CSM Troxell wore TRX branded shorts and t-shirt, in front of a shipping container bearing the TRX Logo and adjacent to an apparatus containing two sets of TRX suspension straps. (b)(6);(b)(7)(C) maintained the SEAC's Facebook page. When he saw the video he was alarmed and mentioned to CSM Troxell to be careful about the "swag" he was wearing and cautioned him to be careful "what product you're pushing." CSM Troxell became upset with him, and treated him as if "he weren't in the room."

b. CSM Troxell knew the owner of TRX, and got free clothing from TRX. He was not aware of any business relationship between CSM Troxell and TRX, but he knew CSM Troxell had gone to the TRX Headquarters in San Francisco to work out and came back with two bags of gear.

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c. CSM Troxell invited TRX and other health and fitness vendors to the DOD Readiness and Resiliency Workshop he organized at the National Defense University (NDU) 17-19 April 2018. (b)(6);(b)(7)(C) had some questions regarding the process SEAC used to choose the vendors that were invited.

4. (b)(6);(b)(7)(C) testified:

a. His initial impression when he saw the video was that it appeared to be an endorsement promoting TRX.

b. He did not remember conducting a legal review of the DOD Readiness and Resilience Workshop, but remembered that CSM Troxell asked to meet with him on 17 July 2018 to discuss a potential resiliency roundtable with the Deputy Secretary of Defense (DEPSECDEF). The DEPSECDEF had expressed an interest in how private fitness companies could help improve DOD readiness and fitness. CSM Troxell saw this as an opportunity to highlight how private fitness contractors were already helping DOD at the installation level. CSM Troxell wanted to invite six to eight contractors to the roundtable. He was concerned with how the contractors were chosen, but his fears were mitigated based on CSM Troxell's statement that he had chosen contractors he knew that already had existing relationships with DOD. He found CSM Troxell's choices to be based on objective criteria and defended CSM Troxell's choices to the DOD Standards of Conduct Office when they reviewed the issue.

5. (b)(6);(b)(7)(C) testified that he never witnessed the SEAC endorse or appear to endorse any NFE. He noted that all Army posts use the TRX suspension straps and the SEAC used them because the Army used them. He said that he was not aware, and did not suspect, the SEAC had any personal connection with TRX, and that the SEAC was an ethical person who would not knowingly violate any rules.

6. (b)(6);(b)(7)(C) testified that she did not believe the SEAC ever endorsed any entity. The office worked very hard to ensure the SEAC was not put in a position to inadvertently endorse or appear to endorse anything, especially when they took pictures. She felt the SEAC was aware the staff tried to keep him out of trouble.

7. (b)(6);(b)(7)(C) testified:

a. CSM Troxell always talked about physical fitness; it was one of his talking points. CSM Troxell wanted to build irreversible momentum in his position as SEAC in order to ensure the position lasted. CSM Troxell had always been about the mission in order to show the validity of the SEAC office.

b. He posted the video on the SEAC's FB page that showed CSM Troxell wearing TRX gear doing a suspension strap workout and CSM Troxell normally wore "any kind of PT gear that you can imagine" when he worked out. He talked to CSM Troxell about the potential of an implied endorsement of TRX. He believed that he mitigated the implied endorsement after he advised CSM Troxell to call it suspension strap training and not TRX. He believed the video was appropriate because the military had been using TRX for years. Both he and CSM Troxell had been trained on implied endorsements.

8. (b)(6);(b)(7)(C) testified that CSM Troxell was a fan of the TRX suspension system. He had never seen him intentionally endorse a product, but believed that his video might come off as an endorsement, arguing however that such a perception would be "in the eye of the beholder." His opinion was that he did not think the SEAC would ever endorse a product and perhaps there was a miscalculation on the part of CSM Troxell and his PAO in posting the video.

9. (b)(6);(b)(7)(C) testified that he was aware of the video with CSM Troxell wearing TRX t-shirt and shorts while standing in front of a TRX connex. He understood how this could seem like an endorsement, but felt that, "when you listen to the video you can see it is not." He did not understand why the PAO posted the video because it created a bad perception. (b)(6);(b)(7)(C) would have had the video taken down, but (b)(6);(b)(7)(C) was not the same type of person.

10. (b)(6);(b)(7)(C) testified that he and CSM Troxell were friends on Facebook and he received Facebook feeds from him. That was how he learned of the TRX video that was posted on Facebook. He did not see anything wrong with the TRX video until (b)(6);(b)(7)(C) questioned (b)(6);(b)(7)(C) about the video. (b)(6);(b)(7)(C) asked, "Is he getting ready for his outside job?"

11. (b)(6);(b)(7)(C) testified that he never saw CSM Troxell endorse anything, but he understood how the Facebook video could be perceived as an endorsement. CSM Troxell was annoyed by the fact that there were TRX lockers on every post/camp/station, but they were never used. He thought the SEAC's purpose in making the video was to inform SMs of the availability of the equipment and how to use it. CSM Troxell was a big fan of TRX equipment. He also liked moisture-wicking material like the TRX t-shirt, and he often wore shirts that said TRX on them. This video was the first time he recalled CSM Troxell wearing TRX shorts.

12. (b)(6);(b)(7)(C) testified that she did not believe CSM Troxell's intention was to endorse TRX in the Facebook video, but in her opinion, it looked like an endorsement.

She believed junior SMs may feel compelled to purchase the TRX system based on the video.

13. CSM Troxell testified:

a. He made a few fitness videos in an effort to promote the DOD Fit Force Initiative. He wanted to lead by example and show himself exercising. He often wore civilian fitness clothing when he worked out after a JS attorney cautioned him that wearing the Army Physical Training Uniform while he used the TRX system could be viewed as an endorsement. He generally wore civilian fitness clothing during his travels as he often stayed and exercised off post. He has had threats made against his life after he called out ISIS in February 2018 and saw the practice as a protective measure.

b. He did not intend to endorse or appear to endorse TRX in the Hampton Roads video. The fact that he wore TRX clothing on the day of the video was simply an unfortunate coincidence. This occurred on the third day of his TDY, and he was on his last set of clean workout clothes. He saw the HIIT locker on the installation the night before and told his team he thought it would be a good place to train. (b)(6);(b)(7)(C) had the idea to shoot the video. He was concerned the video would be perceived as an endorsement and spoke to (b)(6);(b)(7)(C) about it. (b)(6);(b)(7)(C) told him that it might have been bad timing, but thought they should post the video and monitor the responses. He noted that he did not mention TRX by name in the video and that the video had been viewed 1,500 times without any comments that alleged endorsement.

c. He had no personal business relationship with TRX, but had known (b)(6);(b)(7)(C) for over ten years when TRX came to Fort Lewis, WA to train his brigade on how to use the TRX systems they were issued. He visited the TRX headquarters in 2016, to participate in a public workout session with (b)(6);(b)(7)(C) and the (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) He paid \$15.00 for the workout and TRX gave away a few small items afterward. He took a shaker cup valued at \$10.00 and a small cinch bag

[IO Note: LinkedIn lists (b)(6);(b)(7)(C) as the Director of Programming at Fitness Anywhere, Inc. the producer of the TRX Suspension Strap training system. CSM Troxell brought the cinch bag to his interview. It was of nondescript material and about 12 inches square in size.]

d. He was not sponsored or compensated by Mr. Irvine and, he pointed out, was not in uniform when he made the video in which he stated "We've fueled up on some Robert Irvine Fit Crunch and are ready to get after it." Mr. Irvine had passed out protein bars to all participants of the Cateran Yomp. He was grateful for the gesture and made

the statement spontaneously out of personal gratitude; it was not an attempt to imply DOD endorsement of Fit Crunch. He accepted responsibility for everything the OSEAC did, but noted that he did not personally select this video for posting, (b)(6),(b)(7)(C) did. He did not think (b)(6),(b)(7)(C) did anything wrong when he posted the video and stated "you won't find a better (b)(6),(b)(7)(C) in DOD."

ANALYSIS / DISCUSSION:

1. (b)(6),(b)(7)(C) alleged that CSM Troxell violated standards of ethics when he appeared to endorse a product in two videos on CSM Troxell's official SEAC Facebook page. DODD 5500.07-R JER 3-209 (Change 7), 17 November 2011, states that DOD employees in their official capacities may not state or imply endorsement of a non-Federal entity, event, product, service, or enterprise. They may not permit titles, positions, or organizational names to suggest official endorsement or preferential treatment of any non-Federal entity except those listed in JER subsection 3-210.
2. The evidence indicated that CSM Troxell appeared to endorse TRX in his capacity as SEAC when he appeared in a video dressed in TRX shirt and shorts, performing exercises on TRX equipment in front of a connex container with a large TRX logo. The video portrayed CSM Troxell in his official capacity and he identified himself as SEAC. The video was posted to the SEAC's official Facebook page. While CSM Troxell never mentioned TRX by name, the unmistakable presence of TRX material in the video, the apparel worn by CSM Troxell, the signage, and the equipment used present an unmistakable focus on the TRX brand, and implied an endorsement.
3. CSM Troxell explained that he chose vendors for the DOD Readiness and Resiliency Workshop because they already worked for DOD. The same criteria was used for selecting vendors for the DEPSECDEF Readiness and Resiliency Roundtable, a process found to be legally sufficient by (b)(6),(b)(7)(C) DAIG found this reasonable and that it did not indicate favoritism towards TRX.
4. The DAIG also considered CSM Troxell's responses to concerns that the TRX workout video implied endorsement. CSM Troxell's assertion that he was concerned with the TRX video, but chose to monitor comments before he decided if the video should be taken down was unwise. His assertion that a lack of Facebook comments alleging endorsement carried any weight was flawed. A lack of comments did not mean that a viewer did not see the obvious TRX branding, it only meant that they did not comment on it. In the case of TRX, CSM Troxell noted that he was concerned; however, instead of consulting with his legal support team he unwisely chose to wait and see if allegations were made.

5. The second video was additional evidence of product endorsement. In it CSM Troxell stated "We've fueled up on some Robert Irvine Fit Crunch and are ready to get after it." CSM Troxell was about to participate in a rigorous physical activity and he mentioned Mr. Irvine's fitness bars by name right before the start of the event. CSM Troxell's assertion that he was not in uniform in the video was irrelevant as the video appeared on the official SEAC Facebook page and therefore in his official capacity as SEAC. His statement implied that Mr. Irvine's product had provided him the "fuel" he needed to complete the event and was an endorsement that Fit Crunch made it possible for him to compete in the Yomp. The implied endorsement of the product by name violated the JER.

6. The DAIG found no evidence to suggest that CSM Troxell had a business relationship with TRX, Fitness Anywhere, Inc., or Mr. Irvine. The DAIG found no evidence that CSM Troxell personally gained from the posting of either videos.

7. Both videos appeared to be produced spontaneously. The evidence indicated that CSM Troxell did not intentionally endorse TRX or Fit Crunch; however, both videos clearly linked a product to the SEAC acting in his official capacity. The DAIG found that a lack of codified processes in the OSEAC contributed to the posting of these videos. While CSM Troxell and many others interviewed had concerns with the TRX video, (b)(6);(b)(7)(C) identified the video as a violation, yet he took no action to remove it from the SEAC Facebook page. The lack of processes in the SEAC office is addressed further in other matters.

8. The preponderance of credible evidence indicated that CSM Troxell implied endorsement of TRX equipment and Fit Crunch energy bars when videos posted on his official Facebook page included visual or verbal references to these products. No evidence indicated that CSM Troxell did this intentionally or received some personal gain; however, the standard provided for no exceptions in this instance and his conduct is a violation of the JER.

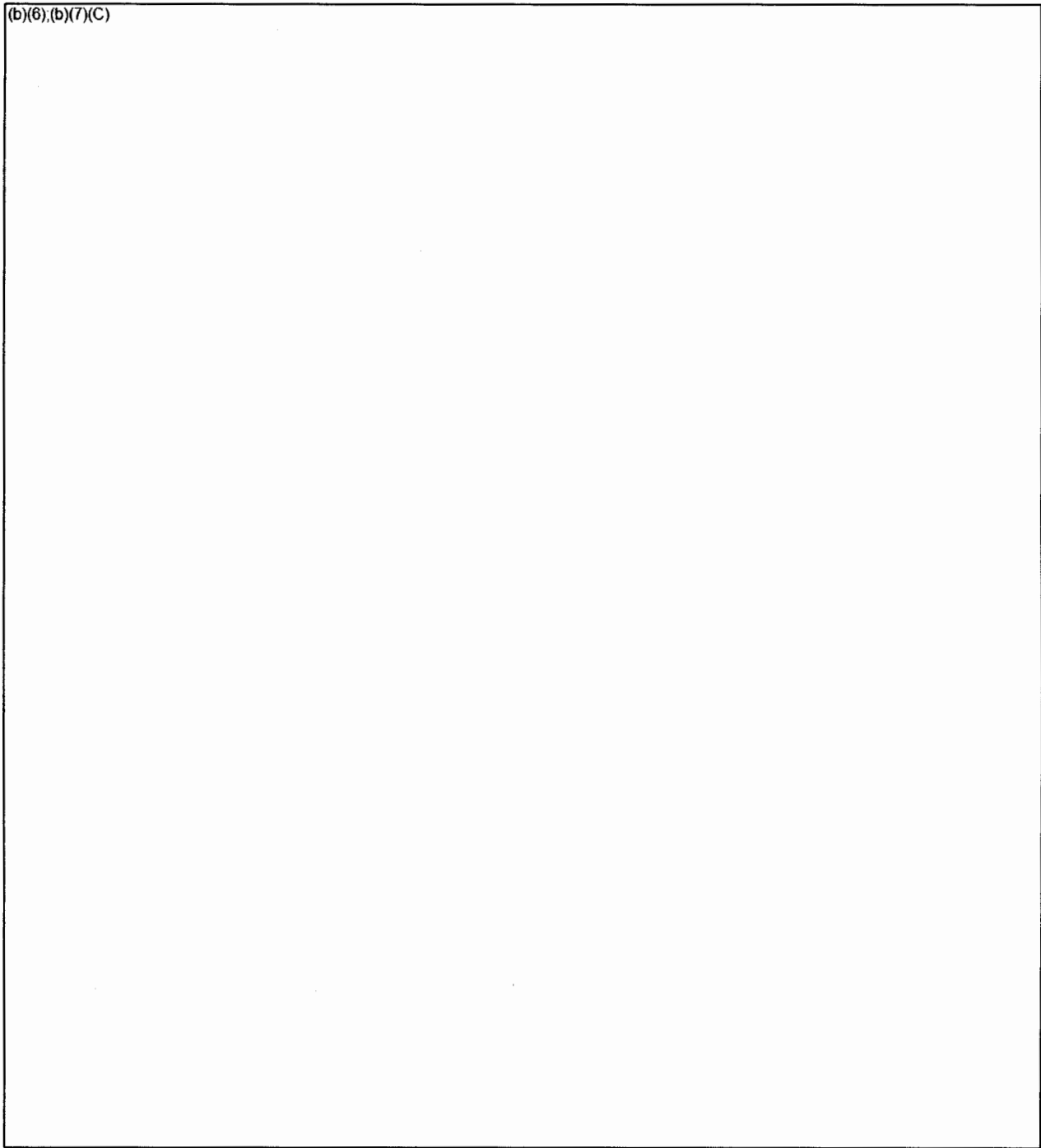
CONCLUSION: The allegation that CSM Troxell improperly endorsed a product in violation of DODD 5500.07-R (JER) was substantiated.

(b)(6);(b)(7)(C)

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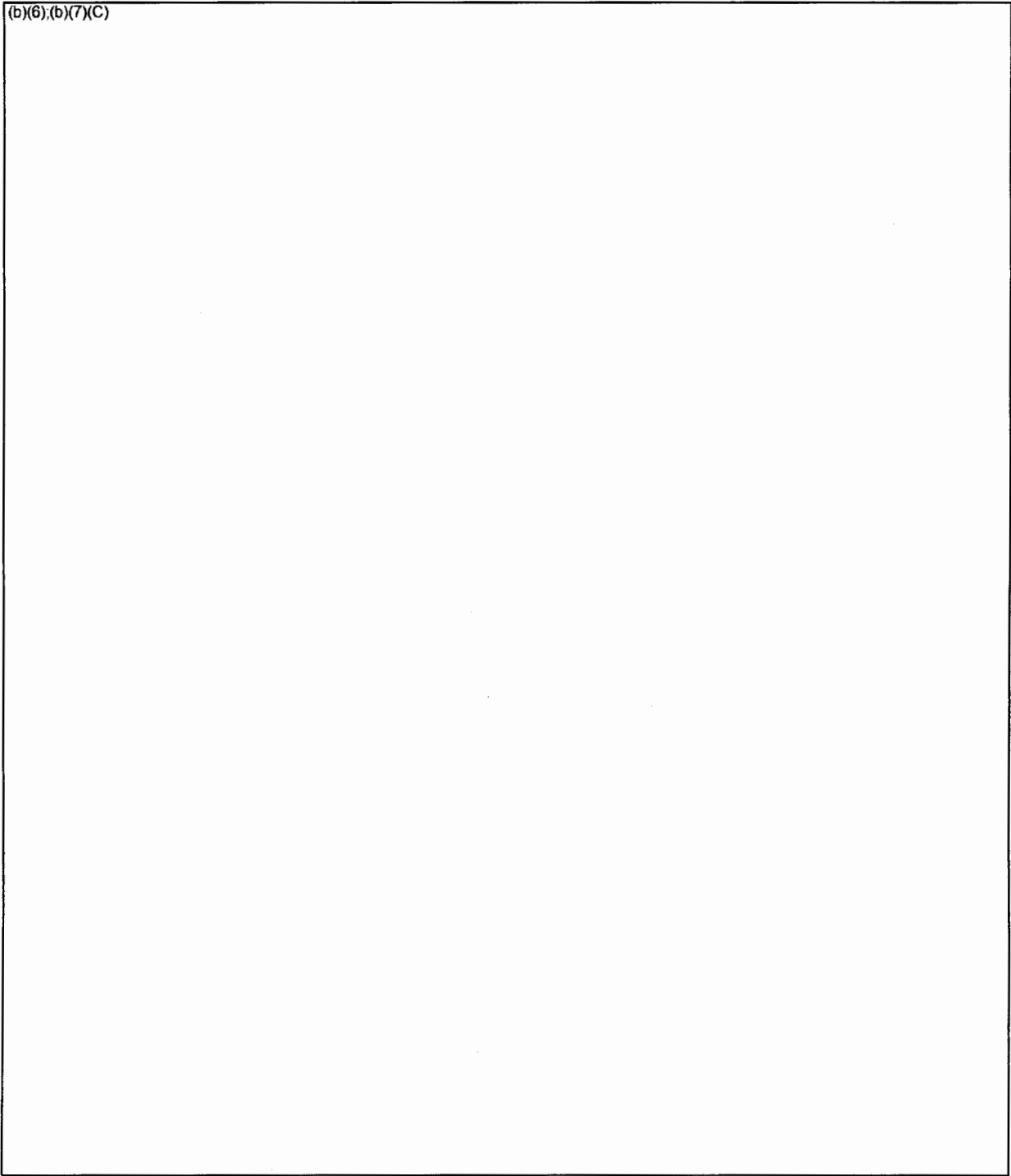
(b)(6),(b)(7)(C)



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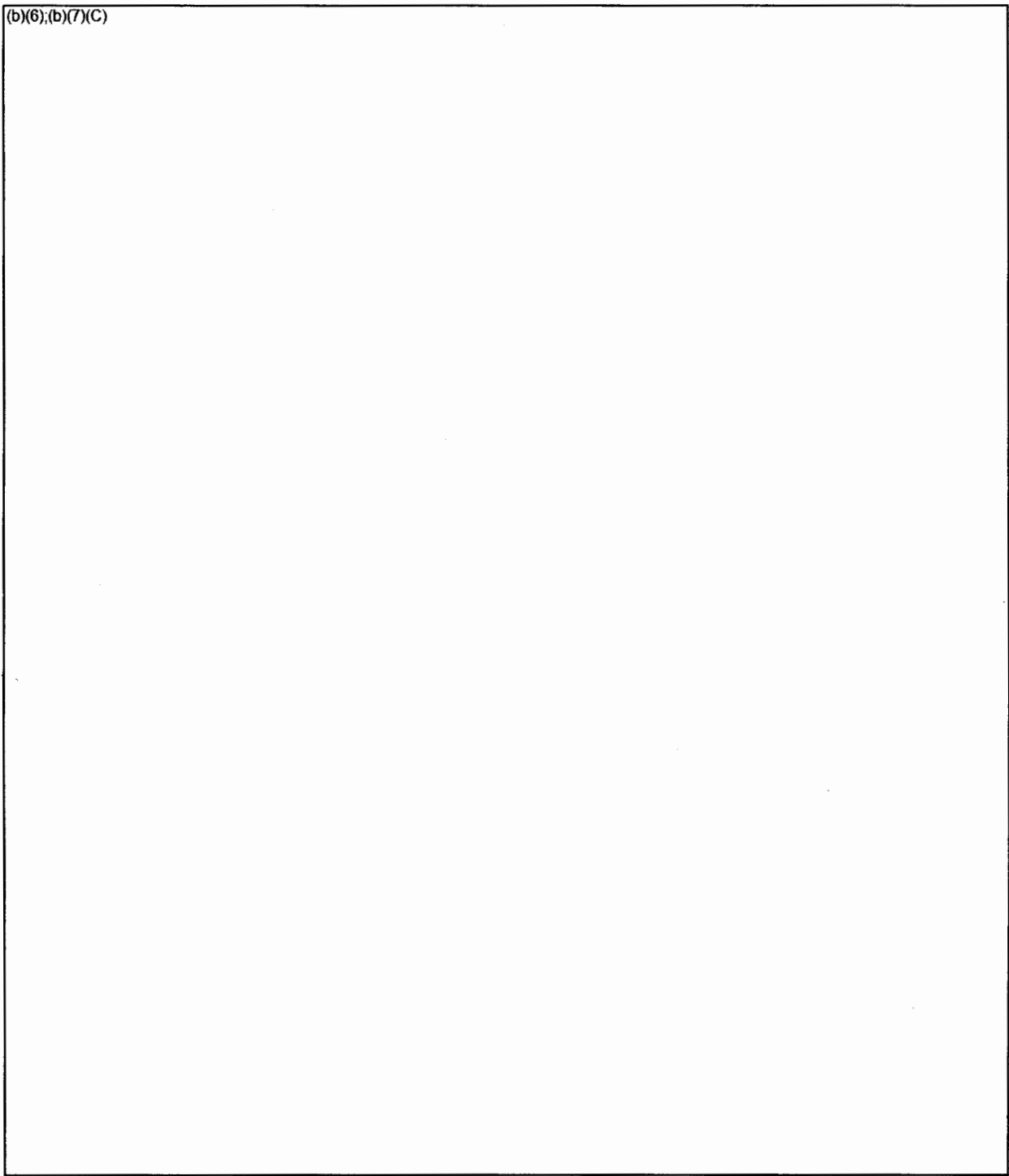
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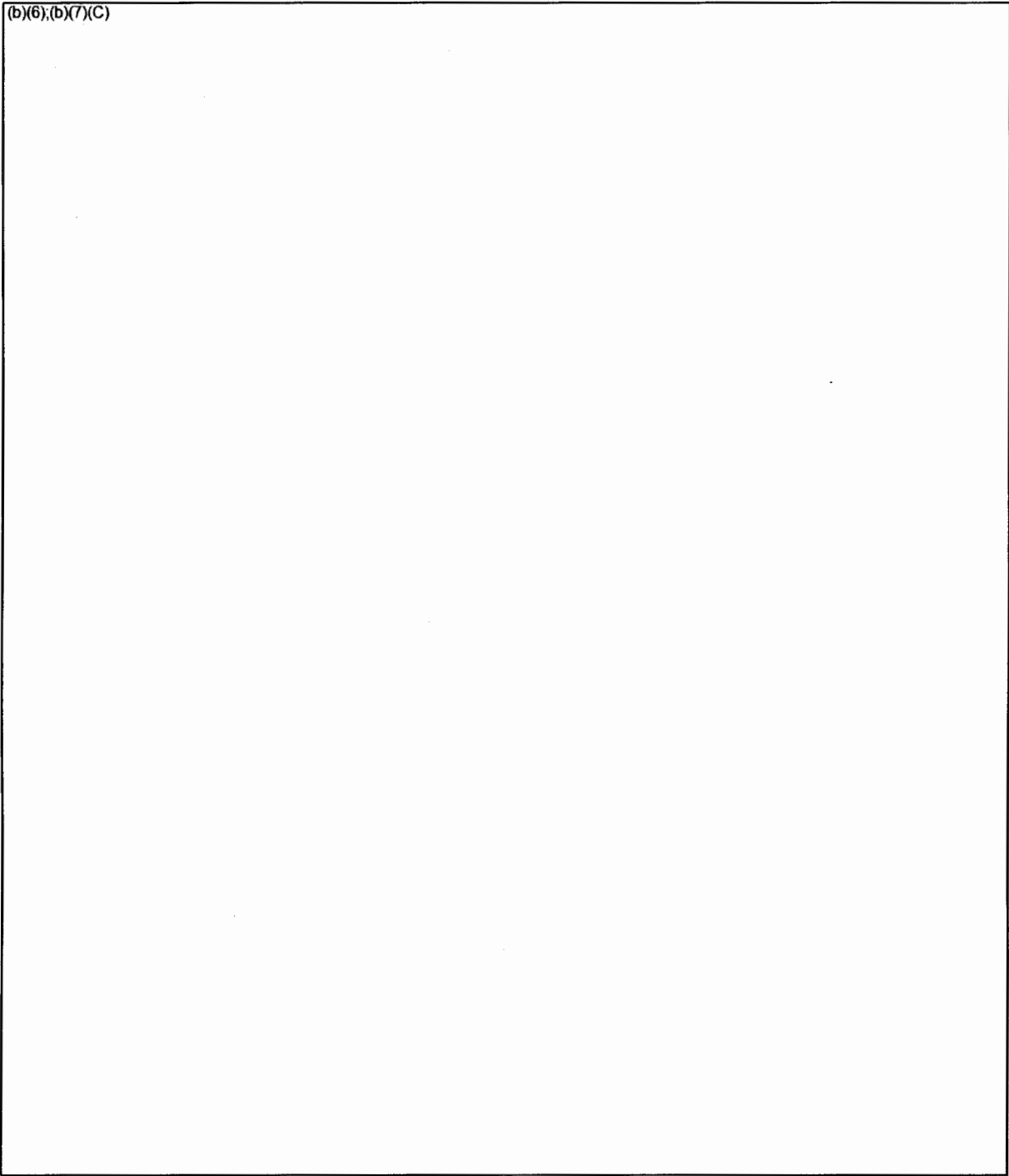
(b)(6);(b)(7)(C)



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(b)(6);(b)(7)(C)



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(b)(6);(b)(7)(C)



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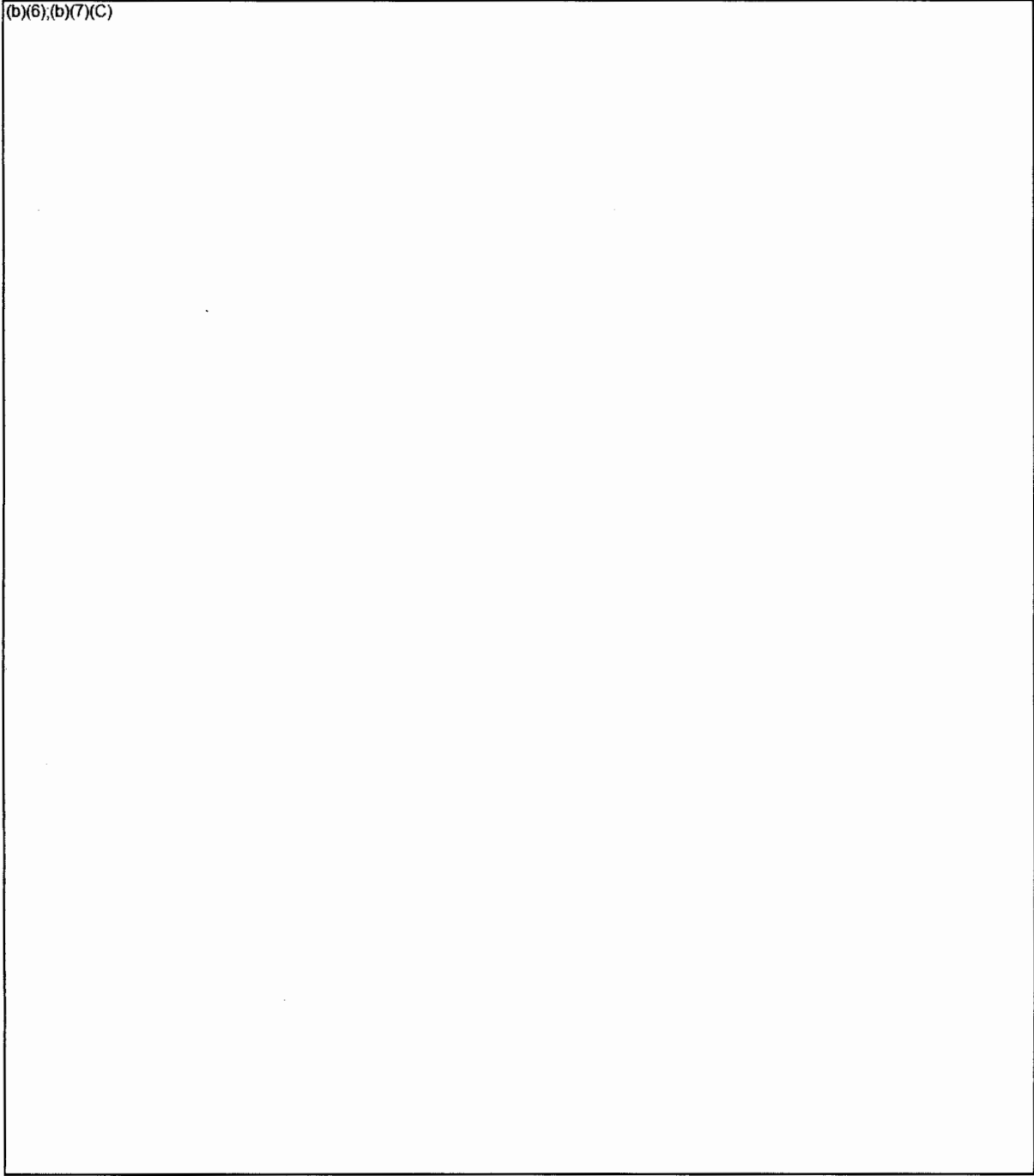
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(b)(6);(b)(7)(C)

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(b)(6),(b)(7)(C)



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(b)(6);(b)(7)(C)

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(b)(6),(b)(7)(C)

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(b)(6);(b)(7)(C)

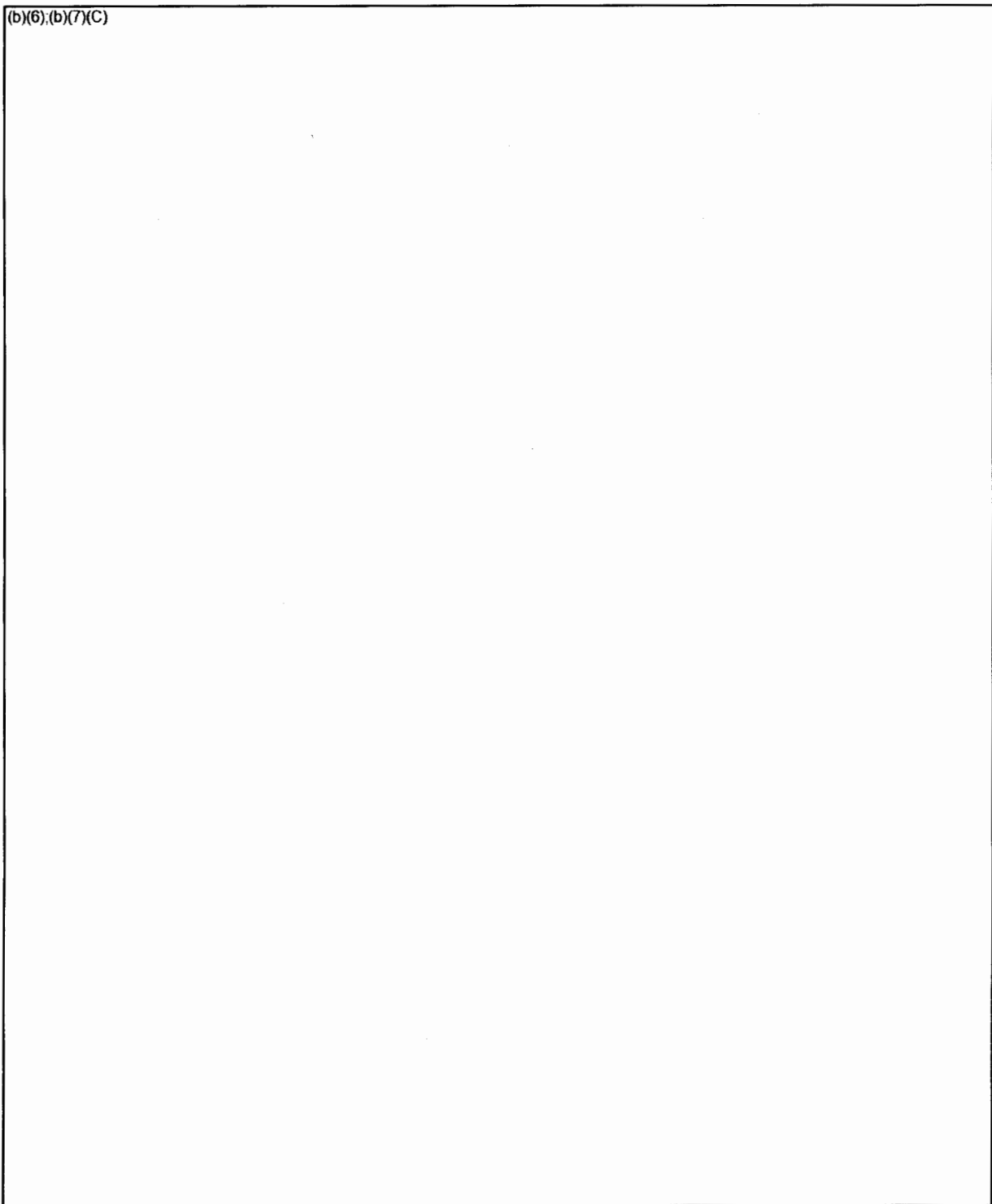
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(b)(6);(b)(7)(C)

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(b)(6);(b)(7)(C)



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(b)(6),(b)(7)(C)

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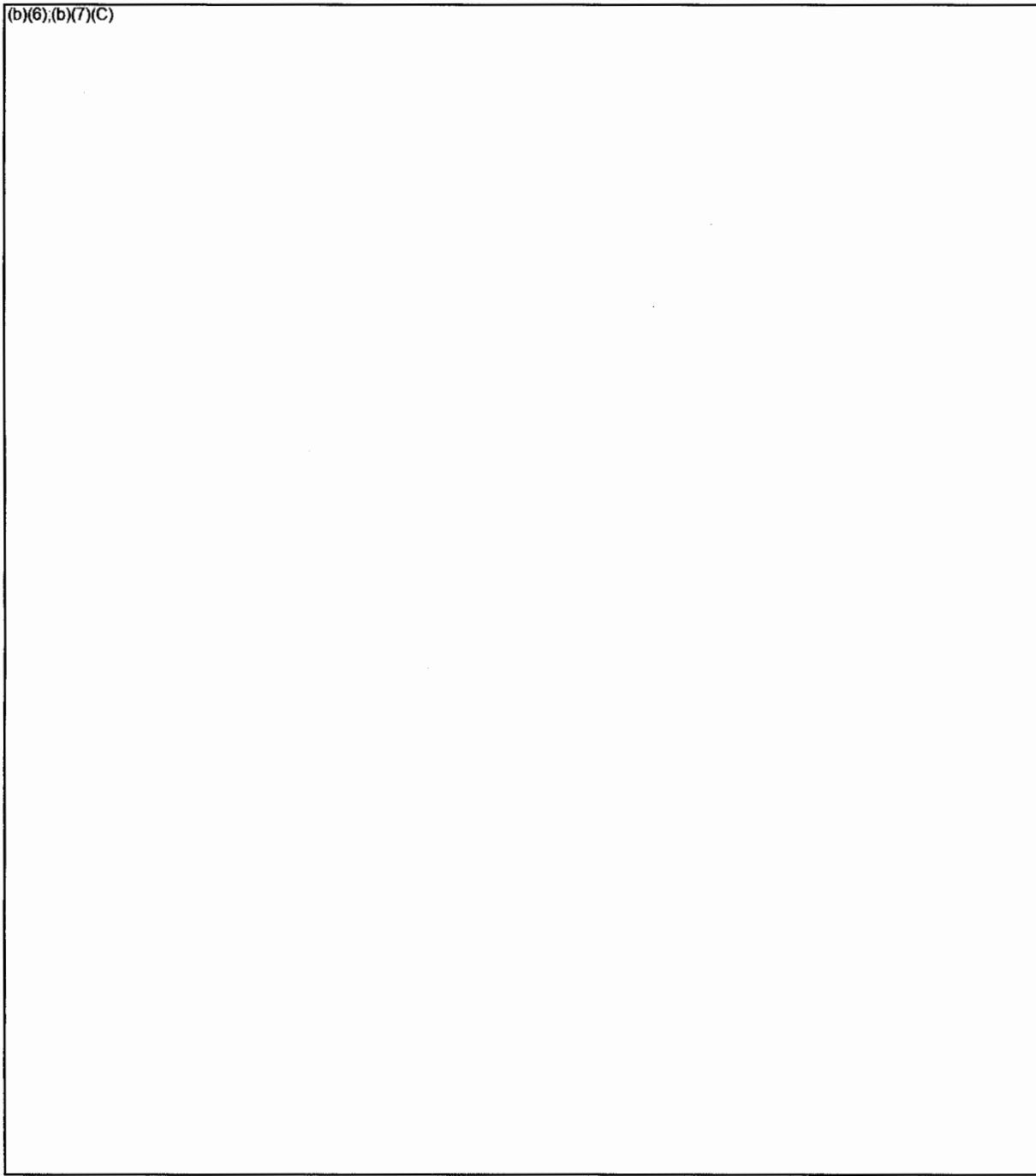
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(b)(6);(b)(7)(C)

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(b)(6),(b)(7)(C)



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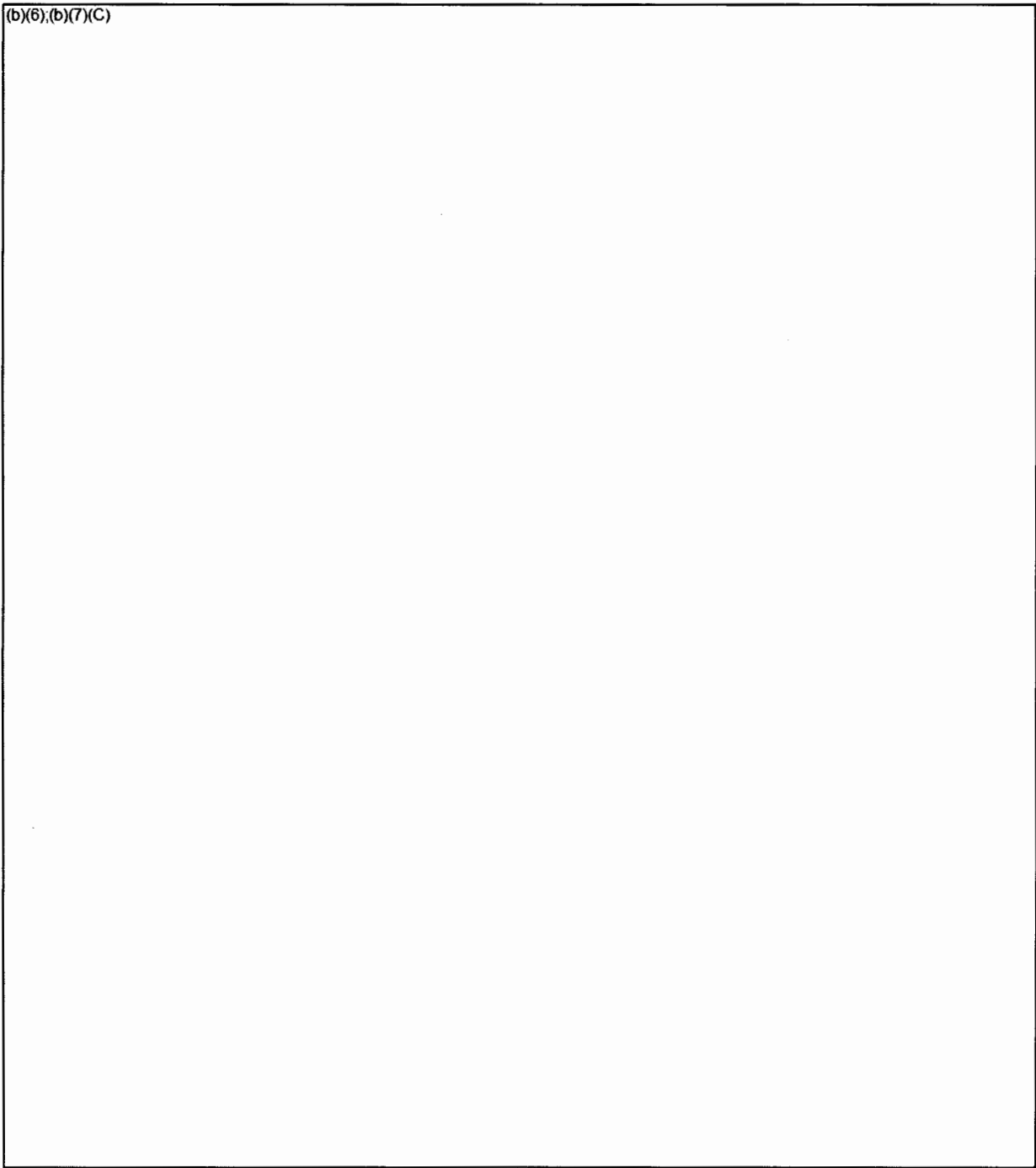
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(b)(6);(b)(7)(C)

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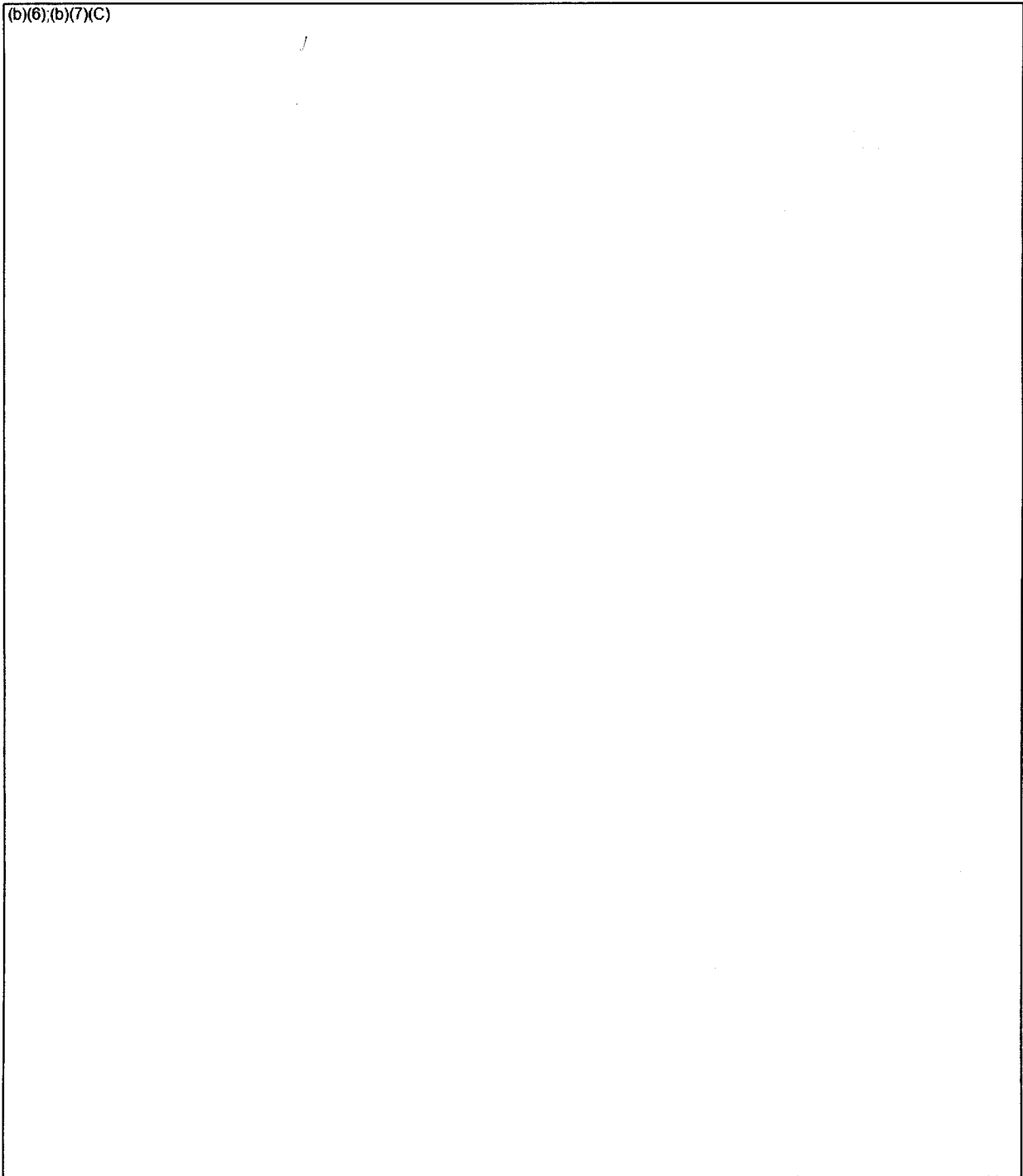
(b)(6);(b)(7)(C)



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(b)(6);(b)(7)(C)



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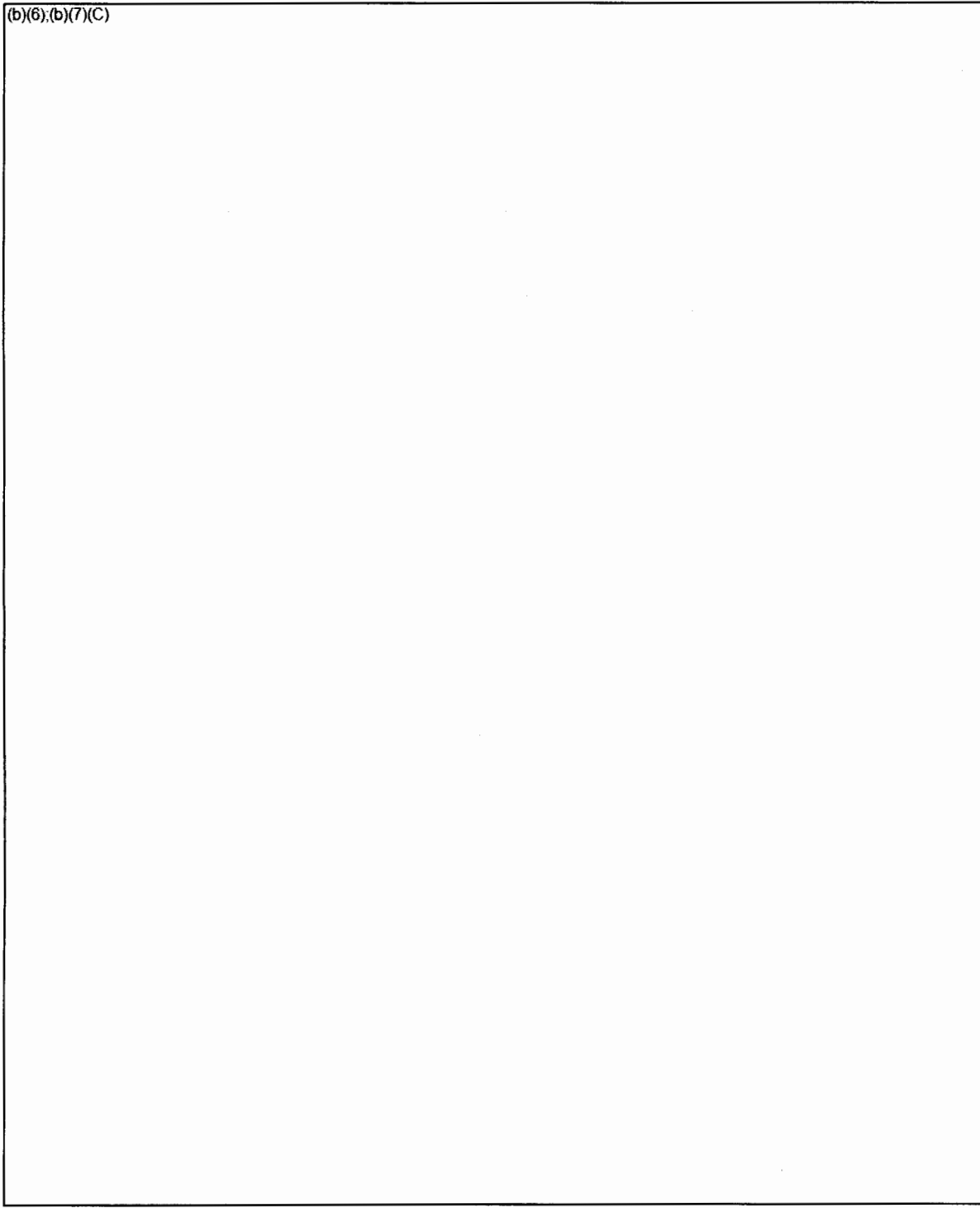
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(b)(6);(b)(7)(C)



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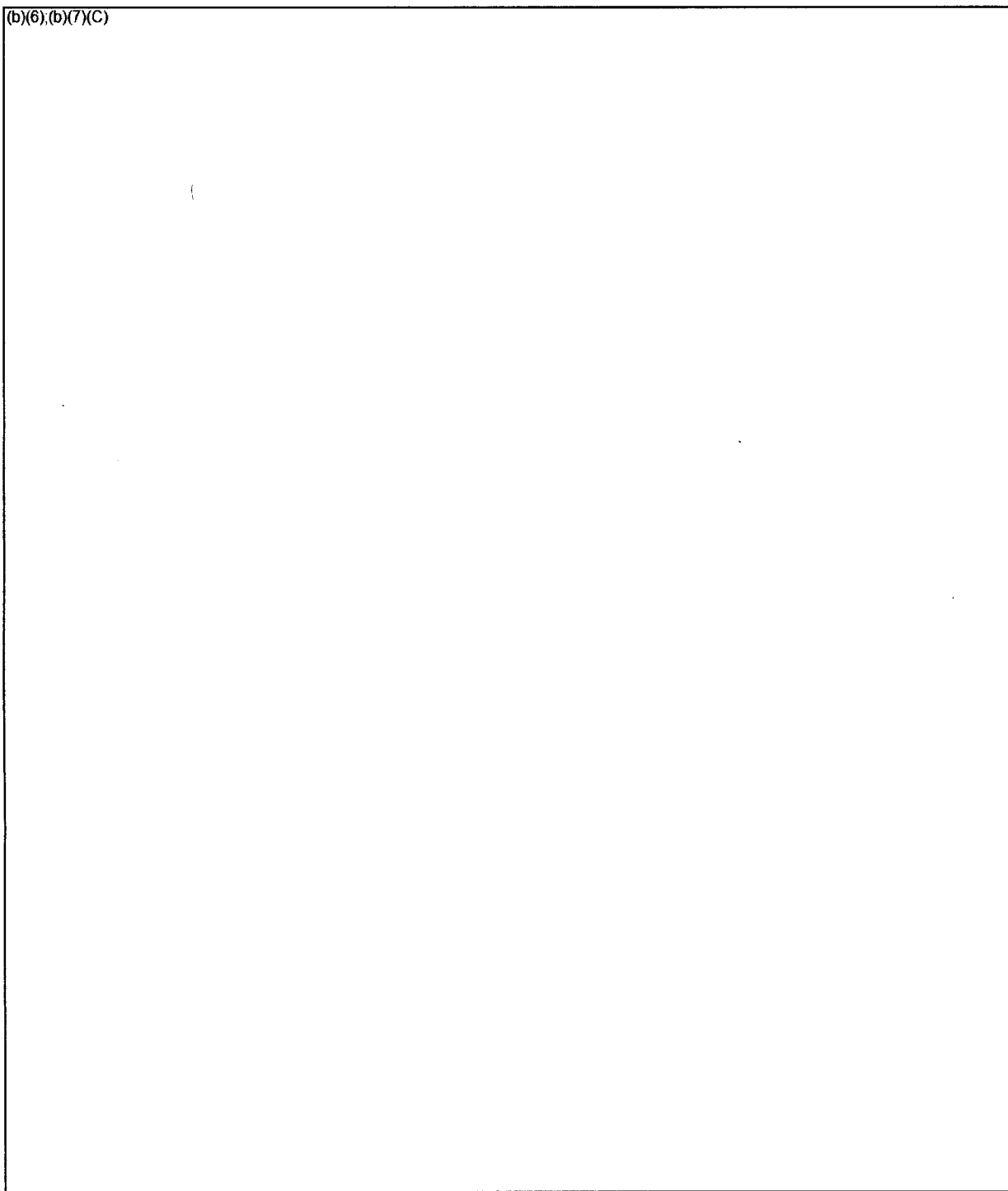
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(b)(6),(b)(7)(C)



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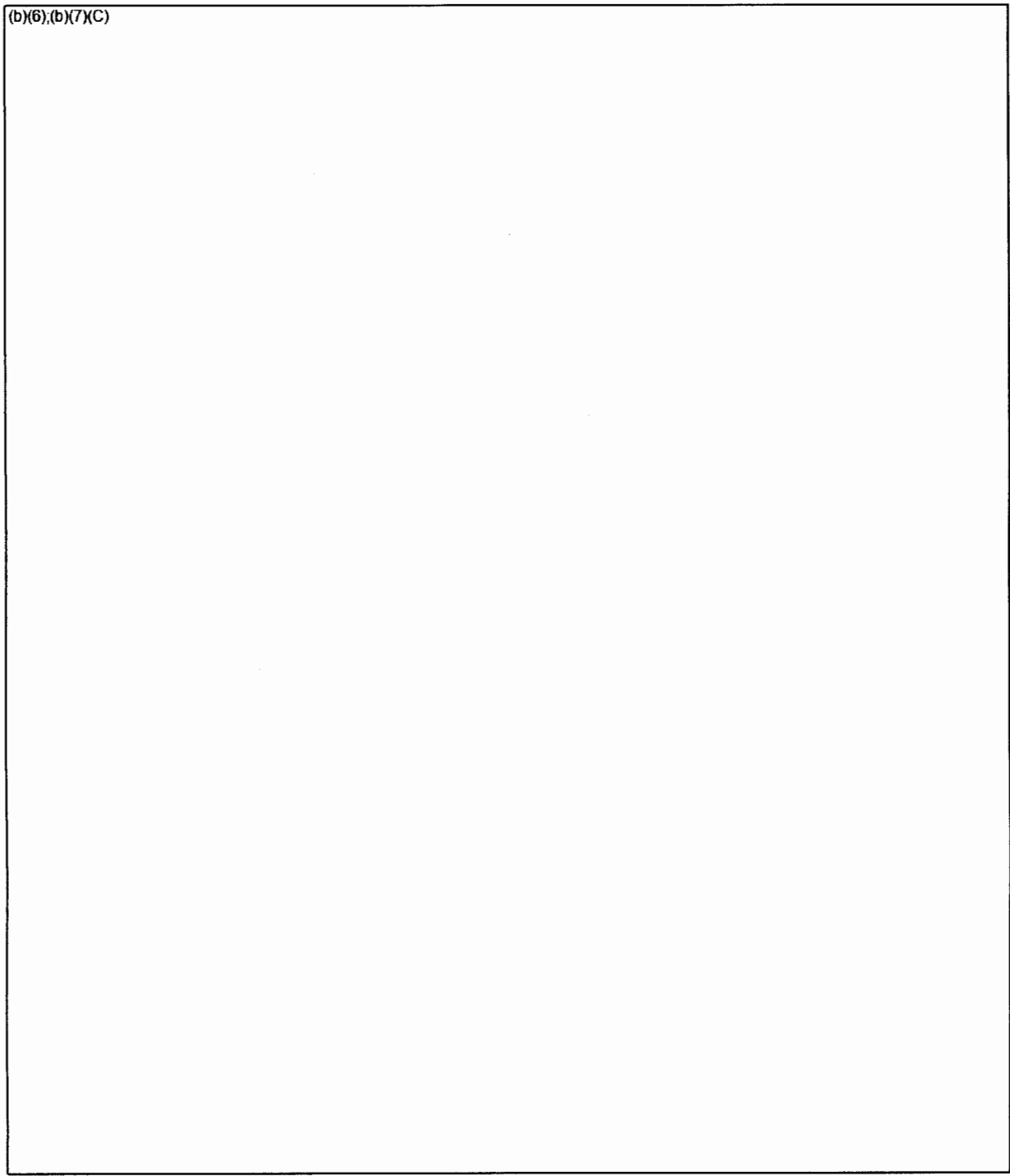
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(b)(6),(b)(7)(C)

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(b)(6);(b)(7)(C)



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(b)(6);(b)(7)(C)

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(b)(6),(b)(7)(C)

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(b)(6);(b)(7)(C)

OTHER MATTERS:

(b)(6);(b)(7)(C)

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(b)(6);(b)(7)(C)

RECOMMENDATIONS:

1. This report be approved and the case closed.
2. Refer this report to the Director, Joint Staff for appropriate action.

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

Investigator

APPROVED:

SMITH, LESLIE, CA Digitally signed by
RLTON (b)(6);(b)(7)(C) SMITH, LESLIE, CARLTON (b)(6);(b)(7)(C)
(b) Date: 2019.02.12 16:59:38 -05'00'

LESLIE C. SMITH
Lieutenant General, USA
The Inspector General

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LIST OF EXHIBITS

EXHIBIT ITEM

A Authority/Complaint

- A-1: Complaint
- A-2: Directive
- A-3: Legal Review

B Standards

- B-1: 5 CFR 2635, January 2002
- B-2: DODD 5500.07-R JER (Change 7), 17 November 2011
- B-3: (b)(6);(b)(7)(C)
- B-4: (b)(6);(b)(7)(C)
- B-5: (b)(6);(b)(7)(C)
- B-6: (b)(6);(b)(7)(C)
- B-7: (b)(6);(b)(7)(C)

C Documents

- C-1: OSEAC Ethics Training Sign in Sheet, 2 November 2017.
- C-2: Email, 30 December 2015, subject: Use of a GOV to transport the SEAC to Military Terminal in the NCR
- C-3: Joint Staff Executive Assistant Quick Reference Guide dated October 2017
- C-4: SEAC Calendar, APR-SEP 2018
- C-5: (b)(6);(b)(7)(C)
- C-5: (b)(6);(b)(7)(C)
- C-7: (b)(6);(b)(7)(C)
- C-8: (b)(6);(b)(7)(C)
- C-8: (b)(6);(b)(7)(C)
- C-9: (b)(6);(b)(7)(C)
- C-10: (b)(6);(b)(7)(C)
- C-11: (b)(6);(b)(7)(C)
- C-11: (b)(6);(b)(7)(C)
- C-12: (b)(6);(b)(7)(C)
- C-13: (b)(6);(b)(7)(C)
- C-13: (b)(6);(b)(7)(C)
- C-14: (b)(6);(b)(7)(C)
- C-14: (b)(6);(b)(7)(C)
- C-15: (b)(6);(b)(7)(C)

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- (b)(6);(
- C-16: (b)(6);(b)(7)(C)
- C-17: (b)(6);(b)(7)(C)
- C-18: (b)(6);(b)(7)(C)
- C-19: (b)(6);(b)(7)(C)
- C-20: Memorandum, the Joint Staff, CJCS Notice 1350, 3 October 2011, Senior Enlisted Advisor to the Chairman Functions and Responsibilities

D

Testimony/Statements

- D-1: (b)(6);(b)(7)(C)
- D-2:
- D-3:
- D-4:
- D-5:
- D-6:
- D-7:
- D-8:
- D-9:
- D-10:
- D-11: CSM John W. Troxell

E

Notifications

- E-1: LtGen Kenneth F. McKenzie
- E-2: CSM John W. Troxell (subject)

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