

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EVERYTOWN FOR GUN SAFETY SUPPORT )  
FUND, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BUREAU OF ALCOHOL, TOBACCO, )  
FIREARMS, AND EXPLOSIVES, )  
 )  
Defendant. )  
 )

Case No. 18-CV-2296 (AJN)

**SUPPLEMENTAL DECLARATION OF ALLA LEFKOWITZ  
IN SUPPORT OF PLAINTIFF’S MEMORANDUM OF LAW IN FURTHER  
SUPPORT OF ITS CROSS-MOTION FOR SUMMARY JUDGMENT**

I, ALLA LEFKOWITZ, of full age, declare:

1. I am an attorney of record for plaintiff Everytown for Gun Safety Support Fund. I am a member in good standing of the New York State Bar, and am admitted to practice before this Court. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

2. I am the Deputy Director for Affirmative Litigation at Everytown for Gun Safety Support Fund, an independent, non-partisan 501(c)(3) gun violence prevention organization headquartered in New York, NY.

3. Attached hereto to as Exhibit A is a document compiling true and correct excerpts from federal appropriations acts, containing the various versions of the Tiahrt Rider:

- Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, 117 Stat. 11 (2003)
- Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3 (2004)
- Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809 (2004)

- Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-108, 119 Stat. 2290 (2006)
- Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844 (2007)
- Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, 123 Stat. 524, 575–76 (2009)
- Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034, 3128–29 (2009)
- Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-10 (2011)

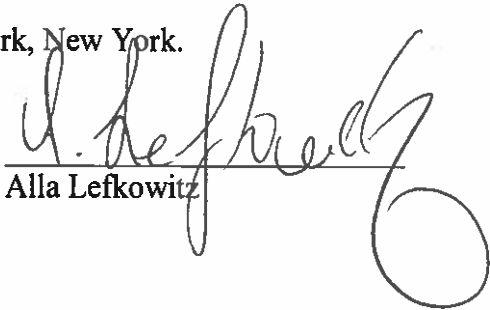
4. Attached hereto as Exhibit B is a true and correct copy of the Defendant's Notice of Motion and Motion for Summary Judgment; Memorandum of Points and Authorities in Support Thereof; Proposed Order, *Center for Investigative Reporting, v. United States Department of Justice*, Case No. 17-cv-6557-JSC (N.D. Cal. Apr. 26, 2018).

5. Attached hereto as Exhibit C is a true and correct copy of the Defendant's Reply in Support of its Motion for Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment, *Center for Investigative Reporting, v. United States Department of Justice*, Case No. 17-cv-6557-JSC (N.D. Cal. June 6, 2018).

6. Attached hereto as Exhibit D is a true and correct copy of an excerpt from the administrative record (Bates Number: ATF AR 0391-0446) filed in *Ron Peterson Firearms, LLC v. Jones*, Case No. 11-cv-00678 (D.N.M Feb. 27, 2012). The exhibit also includes the notice of administrative record.

I declare under penalty of perjury of the laws of the State of New York that the foregoing is true and correct to the best of my knowledge and belief.

Executed on November 30, 2018 in New York, New York.

  
Alla Lefkowitz

# **EXHIBIT A**

**Text of Tiahrt Riders—2003 to 2012**

**2003 Tiahrt Rider**

**Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, 117 Stat. 11 (2003)**

SEC. 644. No funds appropriated under this Act or any other Act with respect to any fiscal year shall be available to take any action based upon any provision of 5 U.S.C. 552 with respect to records collected or maintained pursuant to 18 U.S.C. 846(b), 923(g)(3) or 923(g)(7), or provided by Federal, State, local, or foreign law enforcement agencies in connection with arson or explosives incidents or the tracing of a firearm, except that such records may continue to be disclosed to the extent and in the manner that records so collected, maintained, or obtained have been disclosed under 5 U.S.C. 552 prior to the date of the enactment of this Act.

**2004 Tiahrt Rider**

**Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3 (2004)**

*Provided further,* That no funds appropriated under this or any other Act may be used to disclose to the public the contents or any portion thereof of any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of section 923(g) of title 18, United States Code, except that this provision shall apply to any request for information made by any person or entity after January 1, 1998

**2005 Tiahrt Rider**

**Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809 (2004)**

*Provided further,* That no funds appropriated under this or any other Act with respect to any fiscal year may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms, and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), to anyone other than a Federal, State, or local law enforcement agency or a prosecutor solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure and not for use in any civil action or proceeding other than an action or proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or a review of such an action or proceeding, to enforce the provisions of chapter 44 of such title, and all such data shall be immune from legal process and shall not be subject to subpoena or other discovery in any civil action in a State or Federal court or in any administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the provisions of that chapter, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title)

**2006 Tiahrt Rider**

**Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-108, 119 Stat. 2290 (2006)**

*Provided further*, That no funds appropriated under this or any other Act with respect to any fiscal year may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), to anyone other than a Federal, State, or local law enforcement agency or a prosecutor solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure and not for use in any civil action or proceeding other than an action or proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives, or a review of such an action or proceeding, to enforce the provisions of chapter 44 of such title, and all such data shall be immune from legal process and shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based upon such data, in any civil action pending on or filed after the effective date of this Act in any State (including the District of Columbia) or Federal court or in any administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of that chapter, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title)

**2007 Tiahrt Rider**

**Revised Continuing Appropriations Resolution, 2007, Pub. L. No. 110-5, 121 Stat. 8 (2007)**

*The 2007 appropriation was a year-end continuing resolution that incorporated by reference the appropriations bill containing the 2006 Tiahrt Rider.*

**2008 Tiahrt Rider**

**Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844 (2007)**

*Provided further*, That, beginning in fiscal year 2008 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor, solely in connection with and for use in a criminal investigation or prosecution; or (2) a Federal agency for a national security or intelligence purpose; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the

data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(1)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations

### **2009 Tiahrt Rider**

#### **Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, 123 Stat. 524, 575–76 (2009)**

*Provided further,* That, beginning in fiscal year 2009 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor, solely in connection with and for use in a criminal investigation or prosecution; or (2) a Federal agency for a national security or intelligence purpose; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations

**2010 Tiahrt Rider**

**Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034, 3128–29 (2009)**

*Provided further*, That, beginning in fiscal year 2010 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations

**2011 Tiahrt Rider**

**Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10, 125 Stat. 38, 102–03 (2011)**

*The 2011 appropriation was a year-end continuing resolution that incorporated by reference the appropriations bill containing the 2010 Tiahrt Rider.*



**2012 Tiahrt Rider**

**Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-10 (2011)**

*Provided further*, That, during the current fiscal year and in each fiscal year thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section, except to: (1) a Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations

# **EXHIBIT B**

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9 NORTHERN DISTRICT OF CALIFORNIA  
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12 CENTER FOR INVESTIGATIVE )  
REPORTING, )  
13 Plaintiff, )  
14 v. )  
15 UNITED STATES DEPARTMENT OF )  
JUSTICE, )  
16 Defendant. )

) Case No. 3:17-cv-06557-JSC  
)  
) **DEFENDANT’S NOTICE OF MOTION AND**  
) **MOTION FOR SUMMARY JUDGMENT;**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN SUPPORT THEREOF;**  
) **PROPOSED ORDER**  
)  
) Date and time: June 28, 2018, 9 a.m.  
) Courtroom: F, 15<sup>th</sup> Floor  
) U.S. District Courthouse  
) 450 Golden Gate Avenue  
) San Francisco, California  
)  
) Hon. Jacqueline Scott Corley

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

TABLE OF AUTHORITIES ..... ii

NOTICE OF MOTION AND MOTION ..... 1

RELIEF SOUGHT BY DEFENDANT ..... 1

ISSUES TO BE DETERMINED..... 1

MEMORANDUM OF POINTS AND AUTHORITIES ..... 1

I. INTRODUCTION ..... 1

II. BACKGROUND ..... 2

    A. The Bureau of Alcohol, Tobacco, Firearms, and Explosives ..... 2

    B. The ATF’s Firearm Trace System Database..... 2

    C. The Freedom of Information Act..... 5

    D. Plaintiff’s FOIA Request ..... 5

III. ARGUMENT ..... 6

    A. Responding to plaintiff’s request would require ATF to produce a new statistical report, which cannot be compelled under FOIA..... 6

    B. The requested trace data was properly withheld, because ATF is specifically prohibited from disclosing that data. .... 8

CONCLUSION..... 13

PROPOSED ORDER ..... 14

**TABLE OF AUTHORITIES**

**Cases**

1

2

3 *Abdeljabbar v. Bureau of Alcohol, Tobacco, Firearms and Explosives,*  
4 74 F.Supp.3d 158 (D.D.C. 2014) ..... 10, 11

5 *American Small Business League v. U.S. Small Business Administration,*  
6 No. C 08-00829-MHP, 2008 WL 3977780 (N.D. Cal. Aug. 26, 2008)..... 7

7 *Animal Legal Defense Fund v. U.S. Food & Drug Administration,*  
8 836 F.3d 987 (9th Cir. 2016) ..... 5

9 *City of Chicago v. U.S. Dept. of Treasury, Bureau of Alcohol, Tobacco, and Firearms,*  
10 423 F. 3d 777 (7th Cir. 2005) ..... 5, 9, 12

11 *Fowlkes v. Bureau of Alcohol, Tobacco, Firearms and Explosives,*  
12 139 F.Supp.3d 287 (D.D.C. 2015) ..... 10

13 *FTC v. Grolier Inc.,*  
14 462 U.S. 19 (1983)..... 5

15 *Higgins v. U.S. Dep’t of Justice,*  
16 919 F.Supp.2d 131 (D.D.C. 2013) ..... 10

17 *Hudgins v. IRS,*  
18 620 F.Supp. 19 (D.D.C. 1985)..... 8, 9

19 *John Doe Agency v. John Doe Corp.,*  
20 493 U.S. 146 (1989)..... 5

21 *Kissinger v. Reporters Comm. for the Freedom of the Press,*  
22 445 U.S. 136 (1980)..... 7

23 *Larouche v. U.S. Securities and Exchange Commission,*  
24 289 Fed.Appx. 231 (9th Cir. 2008)..... 7

25 *National Labor Relations Bd. v. Sears, Roebuck & Co.,*  
26 421 U.S. 132 (1975)..... 1, 6

27 *P.W. Arms, Inc. v. United States,*  
28 No. C15-1990-JCC, 2017 WL 319250 (W.D. Wash. Jan. 23, 2017) ..... 10

*Reep v. U.S. Department of Justice,*  
No. 16-cv-1275-RCL, 2018 WL 1461902 (D.D.C. March 23, 2018) ..... passim

*Rodriguez v. United States,*  
480 U.S. 522 (1987)..... 11

*Smith v. ATF,*  
No. 13–13079, 2014 WL 3565634 (E.D. Mich. July 18, 2014) ..... 10, 11

*Snyder v. Department of Defense,*  
No. 14-cv-01746-KAW, 2015 WL 9258102 (N.D. Cal. Dec. 18, 2015)..... 6

1 *United States Dep’t of Justice v. Reporters Committee for Freedom of the Press*,  
 489 U.S. 749 (1989)..... 5

2

3 *United States v. Fausto*,  
 484 U.S. 439 (1988)..... 11, 12

4 *Weinberger v. Catholic Action*,  
 454 U.S. 139 (1981)..... 5

5

6 *Yonemoto v. Dep’t of Veterans Affairs*,  
 686 F.3d 681 (9th Cir. 2012) ..... 5

7 *Zemansky v. U.S. E.P.A.*,  
 767 F.2d 569 (9th Cir. 1985) ..... 6

8

9 **Statutes**

10 5 U.S.C. § 552..... passim

11 Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213 ..... 2

12 Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809..... 4, 9

13 Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844..... 4, 9

14 Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034..... 4, 9

15 Consolidated Appropriations Act, 2012, Pub. L. No. 112-155, 125 Stat. 552..... 4, 8

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**NOTICE OF MOTION AND MOTION**

TO PLAINTIFF CENTER FOR INVESTIGATIVE REPORTING:

PLEASE TAKE NOTICE that on June 28, 2018, at 9 a.m., or as soon thereafter as the matter may be heard in Courtroom F, 15th Floor, of the U.S. District Courthouse, 450 Golden Gate Avenue, San Francisco, California, the Honorable Jacqueline Scott Corley presiding, defendant U.S. Department of Justice, will appear and move the Court for an order granting summary judgment in defendant’s favor pursuant to Rule 56 of the Federal Rules of Civil Procedure. Defendant’s motion is made on the grounds that plaintiff’s request pursuant to the Freedom of Information Act (“FOIA”) would require the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) to create an annualized statistical report, which is not required by FOIA, *see, e.g., National Labor Relations Bd. v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975); and the firearm trace data requested by plaintiff is exempt from disclosure pursuant to FOIA exemption 3, 5 U.S.C. § 552(b)(3), because Congress has expressly and repeatedly prohibited such disclosure. *See, e.g., Reep v. U.S. Department of Justice*, No. 16-cv-1275-RCL, 2018 WL 1461902, at \*4-5 (D.D.C. March 23, 2018).

Defendant’s motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the declaration submitted herewith, the pleadings and other papers on file in this action, and on such oral argument and additional evidence as the Court may permit.

**RELIEF SOUGHT BY DEFENDANT**

Defendant seeks an order summarily adjudicating plaintiff’s FOIA claims in the agency’s favor.

**ISSUES TO BE DETERMINED**

Whether defendant is entitled to summary adjudication of plaintiff’s FOIA claims in its favor.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant has worked to respond to plaintiff’s March 23, 2017, FOIA request, and released records to plaintiff on January 31, February 2, and—completing its production—on March 23, 2018. Only one issue remains for the Court’s determination: whether ATF can be compelled to create a statistical report or produce data from ATF’s Firearm Trace System database identifying the “[t]otal number of weapons traced back to former law enforcement ownership, annually from 2006 to the

1 present,” or whether that data is exempt from disclosure. FOIA does not require federal agencies to  
2 create records; and ATF is prohibited from disclosing trace data from its database. In a series of  
3 appropriations bills from 2005 to 2012, Congress has prohibited ATF from disclosing any such data, and  
4 the courts have repeatedly upheld that prohibition against claims brought by FOIA requesters. *See, e.g.,*  
5 *Reep v. U.S. Department of Justice*, No. 16-cv-1275-RCL, 2018 WL 1461902, at \*4-5 (D.D.C. March  
6 23, 2018). For these reasons, ATF cannot be compelled to produce the firearm trace data plaintiff seeks,  
7 and judgment should be granted in favor of defendant.

## 8 **II. BACKGROUND**

### 9 **A. The Bureau of Alcohol, Tobacco, Firearms, and Explosives**

10 The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) is a law enforcement  
11 agency within the U.S. Department of Justice. ATF is responsible for enforcement of federal firearms  
12 laws, including the Gun Control Act of 1968 (GCA), Pub. L. No. 90-618, 82 Stat. 1213 (codified as  
13 amended at 18 U.S.C. 921-930). *See* Declaration of Charles J. Houser (“Houser Decl.”) ¶¶ 5-6.

### 14 **B. The ATF’s Firearm Trace System Database**

15 Pursuant to the GCA, the U.S. Attorney General is authorized to administer firearms tracing.  
16 The Attorney General has delegated ATF the sole federal agency authorized to trace firearms. Houser  
17 Decl. ¶ 7.

18 To carry out its firearms tracing functions, ATF maintains the Firearm Trace System database,  
19 which is a massive electronic database that serves to support criminal investigations by federal, state,  
20 local, and foreign law enforcement agencies. *Id.* at ¶ 8. The database is maintained at the National  
21 Tracing Center (“NTC”). *Id.* In response to requests from law enforcement, the NTC provides ATF  
22 special agents and other law enforcement agencies with Firearms Trace Result Reports commonly  
23 referred to as “trace data” as well as investigative leads obtained from the traced firearm. *Id.* Plaintiff  
24 has requested data from the Firearm Trace System database showing the number of firearm traces  
25 involving prior law enforcement ownership from 2006 to the present. *See* ECF 1, 1-1.

26 “Tracing” a firearm is the systematic tracking of a recovered firearm from its manufacturer or  
27 importer, through its subsequent introduction into the distribution chain, in order to identify a purchaser.  
28 Houser Decl. ¶ 9. A firearm trace begins when the NTC receives a request from a federal, state, local, or



1 foreign law enforcement agency that has recovered a firearm or suspects a certain firearm has been used  
2 in a crime. *Id.* The ATF also requests traces in connection with the investigations that the agency  
3 conducts itself. *Id.* Firearms for which traces are requested typically have been recovered at the scene  
4 of a crime or from the possession of a suspect, felon, or other person who is prohibited from owning the  
5 firearm, or may have been purchased by law enforcement in an undercover capacity. *Id.*

6 To conduct a trace, the requesting agency must provide the NTC with information about the  
7 firearm, including what kind of gun (*e.g.*, pistol, revolver, shotgun), the manufacturer, the caliber, and  
8 the serial number. *Id.* at ¶ 10. In a typical case, after receiving a trace request, NTC personnel contact  
9 the manufacturer or importer to determine when and to whom the firearm in question was sold. *Id.*  
10 When the NTC contacts a Federal Firearm Licensee (“FFL”) requesting information, ATF informs the  
11 licensee only about the firearm involved in the trace; the FFL is not informed of any circumstances  
12 relating to the alleged criminal conduct nor the identity of the law enforcement agency that recovered  
13 the firearm. *Id.*

14 In most instances, the manufacturer or importer has sold the firearm to an FFL wholesaler. *Id.* at  
15 ¶ 11. NTC personnel then contact the wholesaler to determine when and to whom the firearm in  
16 question was sold, usually to an FFL retailer. *Id.* The tracing process continues as long as records allow  
17 and is considered successful when ATF can identify the first retail purchaser (a non-FFL). *Id.* ATF’s  
18 tracing process generally stops at the first retail purchase because any subsequent disposition of the  
19 firearm by a non-FFL is not subject to GCA record-keeping or reporting requirements. *Id.*

20 When a firearm is traced to domestic law enforcement or a U.S. government agency, the NTC  
21 has the ability to continue to trace the firearm through the law enforcement or government agency to  
22 determine the firearm’s subsequent disposition (if such exists). *Id.* at ¶ 12. For example, it is NTC  
23 policy to close routine priority traces with the “S5” close-out code in the Firearm Trace System  
24 database, indicating “THIS FIREARM WAS TRACED TO A GOVERNMENT AND/OR LAW  
25 ENFORCEMENT AGENCY.” *Id.* After receiving an S5 result, the trace requestor may ask the NTC to  
26 reopen and continue the trace by contacting the law enforcement or government agency that the firearm  
27 was traced to in order to obtain additional information. *Id.* There are three additional close-out codes in  
28 the Firearm Trace System database (S6, SH, DN) that indicate a firearm was traced to a law enforcement

1 or government agency. *Id.*

2 The Firearm Trace System database contains information associated with each of the hundreds of  
3 thousands of firearm traces conducted by ATF each year for more than 23,000 law enforcement  
4 agencies. *See* Houser Decl. ¶ 16. As of April 25, 2018, the database contained data associated with  
5 6,876,808 traces. *Id.* The trace database contains a large number of data elements for each trace  
6 request—the database contains over 75 tables with a combined total of 800 columns/fields. *Id.* at ¶ 24.  
7 Those data elements include information provided to ATF by the agency that requests the trace, as well  
8 as information that ATF acquires during the tracing process.

9 Since 2003, Congress has expressly prohibited ATF from disclosing firearm trace information.  
10 *See id.* ¶ 27. The statutory provision prohibiting the disclosure of trace information is often referred to  
11 as the Tiahrt Amendment after its sponsor, former U.S. Representative Todd Tiahrt (R-Kan.).

12 The most recent iteration of the Tiahrt Amendment, which prohibits ATF disclosure of trace  
13 data, is found in the Consolidated Appropriations Act of 2012, Pub. L. No. 112–155, 125 Stat. 552  
14 (2011) (“2012 Appropriations Act”); *see also* Houser Decl. ¶ 27. The 2012 Appropriations Act  
15 provides:

16 That, during the current fiscal year and in each fiscal year thereafter, no  
17 funds appropriated under this or any other Act may be used to disclose  
18 part or all of the contents of the Firearms Trace System database  
19 maintained by the National Trace Center of the Bureau of Alcohol,  
20 Tobacco, Firearms and Explosives ...; and all such data shall be immune  
21 from legal process, shall not be subject to subpoena or other discovery,  
22 shall be inadmissible in evidence, and shall not be used, relied on, or  
disclosed in any manner, nor shall testimony or other evidence be  
permitted based on the data, in a civil action in any State (including the  
District of Columbia) or Federal court or in an administrative proceeding  
other than a proceeding commenced by the Bureau of Alcohol, Tobacco,  
Firearms and Explosives to enforce the provisions of chapter 44 of such  
title, or a review of such an action or proceeding;

23 125 Stat. 552, 609-610. This same prohibition on disclosure has appeared in annual appropriations since  
24 2005. *See, e.g.*, Consolidated Appropriations Act, 2010, Pub. L. No. 111–117, 123 Stat. 3034, 3128-29  
25 (“2010 Appropriations Act”); Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, 121 Stat.  
26 1844, 1903-04 (“2008 Appropriations Act”); Consolidated Appropriations Act, 2005, Pub. L. No. 108–  
27 447, 118 Stat. 2809, 2859–60 (“2005 Appropriations Act”).

1           **C.     The Freedom of Information Act**

2           The Freedom of Information Act (FOIA), 5 U.S.C. § 552, generally mandates disclosure upon  
 3 request of records held by an agency of the federal government. “At the same time, the FOIA  
 4 contemplates that some information can legitimately be kept from the public through the invocation of  
 5 nine ‘exemptions’ to disclosure.” *Yonemoto v. Dep’t of Veterans Affairs*, 686 F.3d 681, 687 (9th Cir.  
 6 2012) (citing 5 U.S.C. § 552(b)(1)-(9)), *overruled in part on other grounds, Animal Legal Defense Fund*  
 7 *v. U.S. Food & Drug Administration*, 836 F.3d 987 (9th Cir. 2016). Section 552(b) identifies categories  
 8 of records that are exempt from compelled disclosure. FOIA thus reflects Congress’s determination “to  
 9 balance the public’s need for access to official information with the Government’s need for  
 10 confidentiality.” *Weinberger v. Catholic Action*, 454 U.S. 139, 144 (1981).

11           In interpreting FOIA, the U.S. Supreme Court “has recognized that the statutory exemptions are  
 12 intended to have meaningful reach and application.” *John Doe Agency v. John Doe Corp.*, 493 U.S.  
 13 146, 152 (1989). The Court has also emphasized the need for a “practical approach” to the  
 14 interpretation of FOIA. *Id.* at 157; *see also FTC v. Grolier Inc.*, 462 U.S. 19, 28 (1983) (noting the  
 15 importance of “workable rules” governing the implementation of the FOIA); *United States Dep’t of*  
 16 *Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 779 (1989) (quoting *Grolier*).

17           FOIA Exemption 3, 5 U.S.C. § 552(b)(3), authorizes an agency to withhold records that have  
 18 been “specifically exempted from disclosure by statute.” Courts have repeatedly held that the iterations  
 19 of the Tiahrt Amendment since 2005 exempt data in the Firearms Trace System database from  
 20 disclosure pursuant to FOIA. *See., e.g., City of Chicago v. U.S. Dept. of Treasury, Bureau of Alcohol,*  
 21 *Tobacco, and Firearms*, 423 F. 3d 777, 781-82 (7th Cir. 2005) (“[T]he 2005 [Appropriations] Act  
 22 amounts to a change in substantive FOIA law in that it exempts from disclosure [trace] data previously  
 23 available to the public under FOIA.”) (citations omitted); *Reep*, 2018 WL 1461902, at \*4-5 (“The  
 24 appropriations bill leaves the ATF with no discretion. And courts have previously held that Exemption 3  
 25 protects ATF firearms trace data.”) (citations omitted).

26           **D.     Plaintiff’s FOIA Request**

27           Plaintiff submitted its FOIA request on March 23, 2017. That request sought five categories of  
 28 information:

1 [1] The National Tracing Center’s internal completion codes for law  
enforcement weapons, current or former.

2 [2] Any and all memos, communications, reports, and other to documents  
3 related to E-Trace matches of current or former law enforcement weapons,  
4 from 2006 to the present.

5 [3] Total number of weapons traced back to former law enforcement  
ownership, annually from 2006 to the present.

6 [4] Copies of any and all communications notifying law enforcement  
7 agencies when their current or former weapons have entered or been  
involved in an E-Trace.

8 [5] Copies of policies and guidance dictating how the agency handles law  
enforcement weapons in E-Trace.

9 ECF 1-1 at 1. On November 13, 2017, plaintiff filed this lawsuit to compel a response to its request.

10 ECF 1.

11 Defendant provided interim responses to plaintiff’s FOIA request on January 31 and February 2,  
12 2018. Houser Decl. ¶ 21. Defendant provided a third and final response on March 23, 2018. *See id.*  
13 Due to the statutory prohibition on release of trace data, defendant was unable to release information  
14 from the Firearm Trace System database in response to the third category; although defendant was able  
15 to produce existing records outside of the database that reflect traces to prior law enforcement  
16 ownership. *See id.* ¶¶ 22-27. Defendant understands that plaintiff maintains that ATF can produce the  
17 information requested in the third category. By stipulation dated March 29, 2018, the parties agreed to  
18 submit their dispute regarding this issue to the Court for resolution. ECF 24.

19 **III. ARGUMENT**

20 **A. Responding to plaintiff’s request would require ATF to produce a new statistical**  
21 **report, which cannot be compelled under FOIA.**

22 FOIA does not require an agency to create a document in response to a request. *National Labor*  
23 *Relations Bd. v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975); *see also Zemansky v. U.S. E.P.A.*,  
24 767 F.2d 569, 573-74 (9th Cir. 1985); *Snyder v. Department of Defense*, No. 14-cv-01746-KAW, 2015  
25 WL 9258102, at \*7 (N.D. Cal. Dec. 18, 2015). Plaintiff’s request, however, for the “[t]otal number of  
26 weapons traced back to former law enforcement ownership, annually from 2006 to the present,” would  
27 require ATF to do exactly that and create a new annualized statistical report based on data in the  
28 Firearms Trace System database. Because FOIA cannot be used to compel ATF to create a new

1 statistical report, plaintiff’s claim should be dismissed. “[A]n agency is not required to create new  
2 documents in order to satisfy a FOIA request.” *Larouche v. U.S. Securities and Exchange Commission*,  
3 289 Fed.Appx. 231, 231-32 (9th Cir. 2008) (unpublished) (citing *Kissinger v. Reporters Comm. for the*  
4 *Freedom of the Press*, 445 U.S. 136, 151-52 (1980)).

5 ATF prepares a number of statistical reports every year, but, to date, ATF has not prepared an  
6 annualized report detailing the number of firearms traced back to “former law enforcement ownership,”  
7 as plaintiff has requested. Houser Decl. ¶ 25. The statistical reports that ATF prepares each year are  
8 available on the agency’s website. *See generally* “ATF—Data & Statistics,” available at  
9 <https://www.atf.gov/resource-center/data-statistics>; *see also* Houser Decl. ¶ 19. These reports do not  
10 include the data sought by plaintiff; nor was ATF able to identify any responsive internal record  
11 including all of the requested data in connection with the agency’s search in response to plaintiff’s FOIA  
12 request. *See* Houser Decl. ¶ 25. ATF was able to produce an internal spreadsheet tracking a number of  
13 firearms traces involving prior law enforcement ownership, but that spreadsheet does not include data  
14 prior to October 2013 and likely does not include every trace record in the Firearms Trace System  
15 database for the years covered by the spreadsheet (2013-2017). *See id.* at ¶¶ 22, 25.

16 In order to provide a report detailing annual traces involving firearms that at some point had been  
17 in the possession of law enforcement, ATF would need to run one or more searches on the Firearms  
18 Trace System database, compile those searches, identify the requested data, and format that data into an  
19 annualized presentation as requested by plaintiff. *See id.* Decl. at ¶¶ 20, 25. FOIA does not require ATF  
20 to create documents or reports like this. This is not simply a request that ATF search the Firearms Trace  
21 System database to identify relevant records and turn those records over (*i.e.*, the records of every trace  
22 including former law enforcement ownership). *See American Small Business League v. U.S. Small*  
23 *Business Administration*, No. C 08-00829-MHP, 2008 WL 3977780, at \*4 (N.D. Cal. Aug. 26, 2008)  
24 (finding that the “application of codes or some form of programming to retrieve” information found in  
25 computer records constitutes a “search” for existing records). Rather, plaintiff attempts to use FOIA to  
26 compel ATF to compile a new statistical report with annualized data of interest to plaintiff. While  
27 plaintiff obviously would like to know how many firearms were traced back to “former law enforcement  
28 ownership” in each year from 2006 to today, the agency is not required to “answer questions disguised

1 as a FOIA request.” *Hudgins v. IRS*, 620 F.Supp. 19, 21 (D.D.C. 1985).

2 Even if plaintiff’s request could be construed as a one for existing records, compelling ATF to  
 3 run searches on the Firearms Trace System database in order to produce the aggregate statistical data  
 4 sought by this and every future FOIA requestor would impose a significant and undue burden on the  
 5 agency. *See* Houser Decl. ¶ 26. FOIA requires agencies to “make reasonable efforts to search for the  
 6 records in electronic form or format, except when such efforts would significantly interfere with the  
 7 operation of the agency’s automated information system.” 5 U.S.C. § 552(a)(3)(C). The Firearms Trace  
 8 System database contains records of over 6.8 million traces with hundreds of data elements. *See* Houser  
 9 Decl. at ¶ 24. There are an almost limitless number of requests for “aggregate statistical data” that FOIA  
 10 requestors could make regarding the data, including searches on different elements, over different  
 11 timeframes, and broken out in different ways (*e.g.*, annually, monthly, by location, by type of prior  
 12 ownership, by type of purchaser, by type of firearm). Composing an appropriate search or searches,  
 13 compiling the results of those searches, deriving the requested “statistical” data, and presenting that in a  
 14 report would require significant resources that ATF does not have. *See id.* at ¶¶ 20, 26. Allowing FOIA  
 15 requestors to determine what statistical data ATF prepares and discloses to the public would likely divert  
 16 resources and interfere with ATF’s ability to prepare and provide the reports of statistical data that the  
 17 agency currently makes publicly available. *See id.* Accordingly, Section 522(a)(3)(C) should foreclose  
 18 plaintiff’s request.

19 **B. The requested trace data was properly withheld, because ATF is specifically**  
 20 **prohibited from disclosing that data.**

21 FOIA Exemption (b)(3) exempts from disclosure records when they are:

22 specifically exempted from disclosure by statute ... if that statute (A)(i)  
 23 requires that the matter be withheld from the public in such a manner as to  
 24 leave no discretion on the issue; or (A)(ii) establishes particular criteria  
 from withholding or refers to particular types of matters to be withheld;  
 and (B) if enacted after the date of enactment of the Open FOIA Act of  
 2009, specifically cites to this paragraph.

25 5 U.S.C. § 552(b)(3). Since 2003, Congress has expressly prohibited ATF from disclosing firearm trace  
 26 information.

27 The most recent prohibition on ATF disclosure of trace data is found in the Consolidated  
 28 Appropriations Act of 2012, Pub. L. No. 112–155, 125 Stat. 552 (2011) (“2012 Appropriations Act”).

1 The statute provides:

2 That, during the current fiscal year and in each fiscal year thereafter, no  
3 funds appropriated under this or any other Act may be used to disclose  
4 part or all of the contents of the Firearms Trace System database  
5 maintained by the National Trace Center of the Bureau of Alcohol,  
6 Tobacco, Firearms and Explosives ...; and all such data shall be immune  
7 from legal process, shall not be subject to subpoena or other discovery,  
8 shall be inadmissible in evidence, and shall not be used, relied on, or  
disclosed in any manner, nor shall testimony or other evidence be  
permitted based on the data, in a civil action in any State (including the  
District of Columbia) or Federal court or in an administrative proceeding  
other than a proceeding commenced by the Bureau of Alcohol, Tobacco,  
Firearms and Explosives to enforce the provisions of chapter 44 of such  
title, or a review of such an action or proceeding;

9 2012 Appropriations Act, 125 Stat. 552, 609-610. This same prohibition on disclosure has appeared in  
10 annual appropriations since 2005. *See, e.g.*, Consolidated Appropriations Act, 2010, Pub. L. No. 111-  
11 117, 123 Stat. 3034, 3128-29 (“2010 Appropriations Act”); Consolidated Appropriations Act, 2008,  
12 Pub. L. No. 110-161, 121 Stat. 1844, 1903-04 (“2008 Appropriations Act”); Consolidated  
13 Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 2859-60 (“2005 Appropriations Act”).

14 Pursuant to the 2012 Appropriations Act and the prior appropriations acts, the ATF is prohibited  
15 from using federal funds “to disclose part or all of the contents of the Firearms Trace System database  
16 maintained by the National Trace Center of the [ATF].” 125 Stat. at 609-610. That prohibition is  
17 ongoing and pursuant to the act applies “during the current fiscal year and in each fiscal year thereafter.”  
18 *Id.*; *see also* 2005 Appropriations Act, 118 Stat. 2809, 2859-60 (“That no funds appropriated under this  
19 or any other Act *with respect to any fiscal year* may be used to disclose part or all of the contents of the  
20 Firearms Trace System database ... .”) (emphasis added). The 2012 and earlier Appropriations Acts  
21 further provide that “all such [trace] data shall be immune from legal process, [and] shall not be subject  
22 to subpoena or other discovery.” 125 Stat. at 609-610. Of course, responding to plaintiff’s request  
23 would require disclosure of part of the contents of the Firearms Trace System database maintained by  
24 ATF. *See* Houser Decl. at ¶¶ 23, 25. Because ATF may not use federal funds to respond to the request  
25 and the requested data is immune from legal process, plaintiff’s request to compel disclosure should be  
26 denied and judgment entered in defendant’s favor. *See, e.g., City of Chicago v. U.S. Dept. of Treasury,*  
27 *Bureau of Alcohol, Tobacco, and Firearms*, 423 F. 3d 777, 781-82 (7th Cir. 2005).

28 The appropriations bills passed since 2005 leave the ATF with no discretion. Courts have

1 previously and consistently held that Exemption 3 protects ATF firearms trace data from disclosure  
 2 under FOIA. *See, e.g., Reep v. U.S. Department of Justice*, No. 16-cv-1275-RCL, 2018 WL 1461902,  
 3 at \*5 (D.D.C. March 23, 2018); *P.W. Arms, Inc. v. United States*, No. C15-1990-JCC, 2017 WL 319250,  
 4 at \*4 (W.D. Wash. Jan. 23, 2017) (“[T]he Court ... adopts the holding of the vast majority of cases  
 5 addressing this issue: ‘disclosure prohibitions set forth by Congress in the 2005 and 2008 appropriations  
 6 bills are still effective prospectively and beyond those fiscal years as a permanent prohibition, until such  
 7 time as Congress expresses the intent to repeal or modify them.’”) (citation omitted); *Fowlkes v. Bureau*  
 8 *of Alcohol, Tobacco, Firearms and Explosives*, 139 F.Supp.3d 287, 291-92 (D.D.C. 2015) (finding  
 9 ATF’s decision to withhold trace information pursuant to Exemption 3 to be “proper”); *Abdeljabbar v.*  
 10 *Bureau of Alcohol, Tobacco, Firearms and Explosives*, 74 F.Supp.3d 158, 174-75 (D.D.C. 2014);  
 11 *Higgins v. U.S. Dep’t of Justice*, 919 F.Supp.2d 131, 145 (D.D.C. 2013) (finding the withholding of  
 12 trace information pursuant to Exemption (b)(3) proper because “[t]he appropriations legislation on  
 13 which [the ATF] relies explicitly bars disclosure of information ‘maintained by the National Trace  
 14 Center ... .’”) (citation omitted).

15 While admittedly, the versions of the Tiahrt amendment passed in 2010 and 2012 were “enacted  
 16 after the date of enactment of the Open FOIA Act of 2009,” and do not “specifically cite[] to” 5 U.S.C.  
 17 § 552(b)(3) as currently required by Exemption 3, the courts that have looked at this issue have  
 18 concluded that the issue did not “‘need [to] be addressed ... as the Consolidated Appropriations Act of  
 19 2008 does satisfy that subsection and ... provides a *permanent prohibition* against disclosure that is not  
 20 limited to the fiscal year of the appropriated funds granted therein.’” *Abdeljabbar*, 74 F.Supp.3d at 174-  
 21 75 (quoting *Smith v. ATF*, No. 13–13079, 2014 WL 3565634, at \*5 n. 2 (E.D. Mich. July 18, 2014)  
 22 (emphasis added)). As the district court in *Smith* explained:

23 Congress could not have been more specific about what types of records  
 24 should be withheld. The [2008 Appropriations Act] obviously states the  
 25 criteria for withholding records, satisfying [FOIA] Exemption 3 ... .  
 26 [T]he application of the Act to Exemption 3 is reasonable and consistent  
 27 with the applicable law because the [2008 Appropriations Act] is a  
 28 permanent law that does not merely apply to a single fiscal year.  
 Although it is an appropriations bill for the fiscal year of 2008, the  
 pertinent paragraph begins by stating “[t]hat, beginning in fiscal year 2008  
 and thereafter, no funds appropriated under this or any other Act may be  
 used to disclose part or all of the contents of the Firearms Trace System  
 database.” The Act’s prohibition on disclosure continues beyond fiscal  
 year 2008 (“and thereafter”), and it also extends to all other laws (“any



1 other Act”). The prohibition on the expenditure of appropriated funds to  
 2 disclose records from the Firearms Trace System, therefore, extends  
 3 laterally to other existing laws, but also prospectively and beyond fiscal  
 4 year 2008.

5 *Smith*, 2014 WL 3565634, at \*6 (internal citations and footnotes omitted).

6 The earlier 2005 Appropriation Act includes similar language—“no funds appropriated under  
 7 this or any other Act with respect to any fiscal year may be used to disclose part or all of the contents of  
 8 the Firearms Trace System database”—and for this reason, the district court in *Abdeljabbar* found that  
 9 “the disclosure prohibitions set forth by Congress in the 2005 and 2008 appropriations bills are still  
 10 effective prospectively and beyond those fiscal years as a permanent prohibition, until such time as  
 11 Congress expresses the intent to repeal or modify them.” 74 F.Supp.3d at 175.

12 The *Abdeljabbar* court also rejected the notion that the 2010 and 2012 Appropriation Acts  
 13 “effectively repealed the language found in the 2005 and 2008 Acts.” *Id.* “[R]epeals by implication are  
 14 not favored ... and will not be found unless an intent to repeal is ‘clear and manifest.’” *Rodriguez v.*  
 15 *United States*, 480 U.S. 522, 524 (1987) (citations omitted). Thus, “a later statute will not be held to  
 16 have implicitly repealed an earlier one unless there is a clear repugnancy between the two.” *United*  
 17 *States v. Fausto*, 484 U.S. 439, 453 (1988) (citation omitted). As the *Abdeljabbar* court concluded:

18 Congress’s decision to incorporate similar language into appropriations  
 19 bills after 2009 demonstrates its intent to continue the disclosure  
 20 prohibition; to find otherwise would require this Court to reach the  
 21 implausible conclusion that Congress intended to repeal by implication a  
 22 disclosure prohibition, at least with respect to FOIA, by reiterating that  
 23 very prohibition in subsequent legislation. And such a conclusion would  
 24 contravene the strong presumption “that Congress will specifically address  
 25 language on the statute books that it wishes to change.”

26 ...

27 Given the plethora of decisions from this Court holding that the  
 28 appropriations language in question is an appropriate statutory predicate  
 for withholding information pursuant to Exemption (b)(3), Congress’s  
 uninterrupted use of this language in appropriations bills after 2009  
 supports the conclusion that Congress did not intend for the judiciary to  
 depart from this long-standing position

74 F.Supp.3d at 175-76 (citation omitted). In sum, the court concluded that “the 2005 and 2008  
 appropriations language continues to satisfy the requirements of FOIA’s Exemption (b)(3), and may be  
 invoked by the ATF to withhold the trace information.” *Id.* at 176.

Finally, the exception to the Tiahrt Amendment included in the 2008 Appropriations Act does

1 not alter this analysis. That exception provides that:

2 [T]his proviso shall not be construed to prevent: (A) the disclosure of  
3 statistical information concerning total production, importation, and  
4 exportation by each licensed importer (as defined in section 921(a)(9) of  
5 such title) and licensed manufacturer (as defined in section 921(1)(10) of  
6 such title); (B) the sharing or exchange of such information among and  
7 between Federal, State, local, or foreign law enforcement agencies,  
8 Federal, State, or local prosecutors, and Federal national security,  
9 intelligence, or counterterrorism officials; or (C) the publication of annual  
10 statistical reports on products regulated by the Bureau of Alcohol,  
11 Tobacco, Firearms and Explosives, including total production,  
12 importation, and exportation by each licensed importer (as so defined) and  
13 licensed manufacturer (as so defined), or statistical aggregate data  
14 regarding firearms traffickers and trafficking channels, or firearms misuse,  
15 felons, and trafficking investigations

16 2008 Appropriations Act, 121 Stat. at 1904; *see also* 2012 Appropriations Act, 125 Stat. 552, 609-610;  
17 2010 Appropriations Act, 123 Stat. 3034, 3128-29. This exception, which also appears in subsequent  
18 appropriations language, permits ATF to publish its annual Firearms Manufacturers And Export Reports  
19 (subpart A) and state-by-state and international reports utilizing trace data (subpart C). *See generally*  
20 ATF—Data & Statistics, <https://www.atf.gov/resource-center/data-statistics>. Significantly, subpart (C)  
21 permits the “publication of annual statistical reports ... or statistical aggregate data” by ATF. The  
22 provision’s language does not permit or even contemplate the release of trace data in response to FOIA  
23 requests. Subpart (C) certainly does not confer on FOIA requesters the authority to determine what  
24 statistical data ATF prepares and publishes in its annual reports.

25 There is no “clear and manifest” intent expressed in the 2008 appropriations language to open up  
26 the trace database to FOIA requests and undo the “change in substantive FOIA law” effected by the  
27 2005 Appropriations Act. *See City of Chicago*, 423 F.3d at 781. Indeed, the exemption from disclosure  
28 of “data previously available to the public under FOIA” effected by the 2005 Appropriations Act (*see*  
*id.*) has been repeatedly affirmed by Congress. Thus, the 2008 language that permits ATF to publish  
certain statistical reports should not be read as an implicit amendment of the exemption from release  
pursuant to FOIA. *See Fausto*, 484 U.S. at 453.

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**CONCLUSION**

For the foregoing reasons, defendant respectfully requests that the Court grant judgment in defendant’s favor on plaintiff’s claim to compel the production of trace data related to prior law enforcement ownership.

Dated: April 26, 2018

Respectfully submitted,  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 CENTER FOR INVESTIGATIVE ) Case No. 3:17-cv-06557-JSC  
14 REPORTING, )  
15 Plaintiff, ) **PROPOSED ORDER**  
16 v. )  
17 UNITED STATES DEPARTMENT OF )  
18 JUSTICE, )  
19 Defendant. )

20 **PROPOSED ORDER**

21 Having considered defendant’s motion for summary judgment, plaintiff’s opposition, and the  
22 pleadings and other papers on file in this action, and having heard from the parties at oral argument, the  
23 Court finds that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) appropriately  
24 withheld data from the agency’s Firearm Trace System database in response to plaintiff’s March 23,  
25 2017, Freedom of Information Act (“FOIA”) request.

26 As an initial matter, in order to respond to plaintiff’s request for the “[t]otal number of weapons  
27 traced back to former law enforcement ownership, annually from 2006 to the present,” ATF would need  
28 to create a new annualized statistical report, because there are no existing records at the agency that have  
compiled the requested data. Declaration of Charles J. Houser (“Houser Decl.”) ¶¶ 22-23, 25. FOIA,

1 however, does not require federal agencies to create new documents. *See, e.g., National Labor*  
 2 *Relations Bd. v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975); *Larouche v. U.S. Securities and*  
 3 *Exchange Commission*, 289 Fed.Appx. 231, 231-32 (9th Cir. 2008) (unpublished).

4 The firearm trace data requested by plaintiff is also exempt from disclosure pursuant to FOIA  
 5 exemption 3, 5 U.S.C. § 552(b)(3), because Congress has expressly and repeatedly prohibited such  
 6 disclosure. *See, e.g., Reep v. U.S. Department of Justice*, No. 16-cv-1275-RCL, 2018 WL 1461902,  
 7 at \*4-5 (D.D.C. March 23, 2018). Responding to plaintiff’s request would require the ATF to run  
 8 searches on and disclose information from the Firearm Trace System database. *See* Houser Decl. ¶¶ 22-  
 9 23, 25. In a series of appropriations bills from 2005 to 2012, Congress has prohibited ATF from using  
 10 federal funds “to disclose part or all of the contents of the Firearms Trace System database maintained  
 11 by the National Trace Center of the [ATF].” Consolidated Appropriations Act, 2012, Pub. L. No. 112-  
 12 155, 125 Stat. 552, 609-610. This appropriations language “amounts to a change in substantive FOIA  
 13 law in that it exempts from disclosure [trace] data previously available to the public under FOIA.” *City*  
 14 *of Chicago v. U.S. Dept. of Treasury, Bureau of Alcohol, Tobacco, and Firearms*, 423 F. 3d 777, 781-82  
 15 (7th Cir. 2005) (citations omitted). Courts have previously and consistently held that Exemption 3  
 16 protects ATF firearms trace data from disclosure under FOIA. *See, e.g., Reep*, 2018 WL 1461902, at \*5;  
 17 *P.W. Arms, Inc. v. United States*, No. C15-1990-JCC, 2017 WL 319250, at \*4 (W.D. Wash. Jan. 23,  
 18 2017); *Fowlkes v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 139 F.Supp.3d 287, 291-92  
 19 (D.D.C. 2015); *Abdeljabbar v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 74 F.Supp.3d  
 20 158, 174-75 (D.D.C. 2014); *Higgins v. U.S. Dep’t of Justice*, 919 F.Supp.2d 131, 145 (D.D.C. 2013).  
 21 Accordingly, ATF is prohibited from disclosing trace data from its database in this case; and such data  
 22 was appropriately withheld pursuant to FOIA exemption 3.

23 For these reasons, ATF’s response to plaintiff’s FOIA request was appropriate and judgment is  
 24 entered in favor of the defendant on plaintiff’s claim to compel the production of firearm trace data.

25 IT IS SO ORDERED.

26  
 27 Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
 HON. JACQUELINE SCOTT CORLEY  
 UNITED STATES MAGISTRATE JUDGE

# **EXHIBIT C**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CENTER FOR INVESTIGATIVE  
REPORTING,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE,

Defendant.

) Case No. 3:17-cv-06557-JSC

) **DEFENDANT’S REPLY IN SUPPORT OF ITS**  
) **MOTION FOR SUMMARY JUDGMENT AND**  
) **OPPOSITION TO PLAINTIFF’S CROSS-**  
) **MOTION FOR SUMMARY JUDGMENT**

) Date and time: June 28, 2018, 9 a.m.  
) Courtroom: F, 15<sup>th</sup> Floor  
) U.S. District Courthouse  
) 450 Golden Gate Avenue  
) San Francisco, California

) Hon. Jacqueline Scott Corley

TABLE OF CONTENTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

INTRODUCTION ..... 1

ARGUMENT ..... 2

I. Plaintiff’s FOIA request requires ATF to prepare and produce a new statistical report, which cannot be compelled under FOIA ..... 2

II. ATF did not violate FOIA in its response to plaintiff’s March 23, 2017, request..... 5

    A. The Tiahrt Amendment prohibits ATF from disclosing the contents of the Firearms Trace System database..... 5

        1. The legislative record does not support plaintiff’s interpretation of the Tiahrt Amendment. .... 9

    B. ATF did not fail to conduct a reasonable search for the records sought by plaintiff..... 11

    C. ATF has not previously produced the contents of the Firearms Trace System database to plaintiff..... 13

CONCLUSION..... 14



**TABLE OF AUTHORITIES**

**Cases**

1

2

3

4 *Abdeljabbar v. Bureau of Alcohol, Tobacco, Firearms and Explosives*,  
74 F. Supp. 3d 158 (D.D.C. 2014)..... 1, 7, 8

5 *American Civil Liberties Union Foundation of Arizona v. U.S. Dep 't of Homeland Sec.*,  
No. CV-14-02052, 2017 U.S. Dist. LEXIS 11610 (D. Ariz. Jan. 27, 2017) ..... 5

6

7 *Bothwell v. CIA*,  
No. 13-cv-05439-JSC, 2014 WL 5077186 (N.D. Cal. Oct. 9, 2014) ..... 5

8 *City of Chicago v. U.S. Dept. of Treasury, Bureau of Alcohol, Tobacco, and Firearms*,  
423 F.3d 777 (7th Cir. 2005) ..... 5, 6, 10

9

10 *Electronic Frontier Foundation v. National Security Agency*,  
No. 14-cv-03010-RS, 2016 WL 1059389 (N.D. Cal. Mar. 17, 2016) ..... 13

11 *Fitzgibbon v. C.I.A.*,  
911 F.2d 755 (D.C. Cir. 1990)..... 13

12

13 *Henry v. Department of Justice*,  
No. C-13-05924-DMR, 2015 WL 5138265 (N.D. Cal. Sept. 1, 2015) ..... 5

14 *Hudgins v. IRS*,  
620 F.Supp. 19 (D.D.C. 1985)..... 4

15

16 *Larouche v. U.S. Securities and Exchange Commission*,  
289 Fed. Appx. 231 (9th Cir. 2008)..... 1, 2

17 *Long v. U.S. Dep't of Justice*,  
450 F. Supp. 2d 42 (D.D.C. 2006)..... 4

18

19 *Muhammad v. US. Dep't of Justice*,  
No. 2:09-1255, 2007 WL 433552 (S.D. Ala. Feb. 6, 2007) ..... 10

20 *National Labor Relations Bd. v. Sears, Roebuck & Co.*,  
421 U.S. 132 (1975)..... 2

21

22 *National Security Counselors v. CIA*,  
898 F. Supp. 2d 233 (D.D.C. 2012)..... 2, 3

23 *National Shooting Sports Foundation v. Jones*,  
840 F. Supp. 2d 310 (D.D.C. 2012)..... 8

24

25 *Reep v. U.S. Department of Justice*,  
No. 16-cv-1275-RCL, 2018 WL 1461902 (D.D.C. March 23, 2018) ..... 5, 7

26 *Ring Precision, Inc. v. Jones*,  
No. SA-11-CA-663, 2012 WL 12883131 (W.D. Tex. July 2, 2012)..... 8

27

28 *Ron Peterson Firearms, LLC v. Jones*,  
No. 11-cv-00678-JEC/LFG, 2013 WL 12085975 (D.N.M. March 27, 2013)..... 8

1 *Smith v. ATF*,  
 No. 13-13079, 2014 WL 3565634 (E.D. Mich. July 18, 2014)..... 7

2

3 *Snyder v. Department of Defense*,  
 No. 14-cv-01746-KAW, 2015 WL 9258102 (N.D. Cal. Dec. 18, 2015)..... 2

4 *United States v. Fausto*,  
 484 U.S. 439 (1988)..... 7

5

6 *Zemansky v. U.S. E.P.A.*,  
 767 F.2d 569 (9th Cir. 1985) ..... 2

7

8 **Statutes**

9 5 U.S.C. § 552..... 1, 5, 12

10 18 U.S.C. § 923..... 8

11 18 U.S.C. §§ 921-931 ..... 8

12 Consolidated Appropriations Act of 2005, Pub. L. No. 108–447, 118 Stat. 2809 ..... 6, 11

13 Consolidated Appropriations Act of 2008, Pub. L. No. 110–161, 121 Stat. 1844 ..... 6, 11

14 Consolidated Appropriations Act of 2012, Pub. L. No. 112–155, 125 Stat. 552 ..... 6

15 **Other Authorities**

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 available at 2007 WL 2075231 ..... 11

17

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 available at 2004 WL 3044771 ..... 10

## INTRODUCTION

1  
2 This case presents two principal issues: First, does the Freedom of Information Act (“FOIA”) require the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) to conduct a new statistical analysis of the records in its Firearm Trace System database and produce that analysis to plaintiff; and second, do a series of provisions in the Consolidated Appropriations Acts of 2005, 2008, 2010, and 2012—often referred to as the “Tiahrt Amendment”—prohibit ATF from running a new search on the same database to produce firearm trace records responsive to plaintiff’s request for the “[t]otal number of weapons traced back to former law enforcement ownership, annually from 2006 to the present.” The answer to both questions is clear: ATF is not required to prepare and publish new statistical analyses of the Firearm Trace System database in response to FOIA requests; and the Tiahrt Amendment does prohibit ATF from disclosing records in that database. Both answers support summary judgment in favor of ATF. See, e.g., *Larouche v. U.S. Securities and Exchange Commission*, 289 Fed. Appx. 231, 231-32 (9th Cir. 2008) (“[A]n agency is not required to create new documents in order to satisfy a FOIA request.”) (unpublished) (citation omitted); *Abdeljabbar v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 74 F. Supp. 3d 158, 176 (D.D.C. 2014) (“[T]he 2005 and 2008 appropriations language continues to satisfy the requirements of FOIA’s Exemption (b)(3), and may be invoked by the ATF to withhold the trace information.”).

18 The ancillary questions raised by plaintiff—including (a) whether FOIA requires ATF to search the firearm trace database even though it is prohibited from disclosing the records identified in any such search, and (b) whether ATF has previously disclosed the trace records sought here—should also be decided for ATF. FOIA requires responding agencies to make only “reasonable efforts” to search; but it would not be reasonable to require the empty formality of a search of a database where, as here, the responding agency is specifically prohibited from disclosing the contents of that database. See 5 U.S.C. § 552(a)(3)(C). Nor has ATF previously disclosed or “officially acknowledged” the contents of the database that plaintiff seeks. See ECF 26-1 (Declaration of Charles J. Houser) (“Houser Decl.”) at ¶ 25; Second Declaration of Charles J. Houser (“2d Houser Decl.”) at ¶¶ 18-19. In sum, ATF is entitled to summary judgment and respectfully requests that the Court grant judgment for the defendant and deny plaintiff’s cross-motion.

**ARGUMENT**

**I. Plaintiff’s FOIA request requires ATF to prepare and produce a new statistical report, which cannot be compelled under FOIA**

There is no dispute that ATF cannot be compelled to create a new document or record in response to plaintiff’s FOIA request. *See, e.g., National Labor Relations Bd. v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975); *see also Zemansky v. U.S. E.P.A.*, 767 F.2d 569, 573-74 (9th Cir. 1985); *Snyder v. Department of Defense*, No. 14-cv-01746-KAW, 2015 WL 9258102, at \*7 (N.D. Cal. Dec. 18, 2015). The dispute in this case is whether plaintiff’s request for the “[t]otal number of weapons traced back to former law enforcement ownership, annually from 2006 to the present,” would require ATF to do so. Because there is no existing record, report, or publication at ATF that includes the requested statistical data (*see* Houser Decl. at ¶ 25; 2d Houser Decl. at ¶¶ 18-19), ATF would have to analyze the contents of its Firearm Trace Database and prepare a new statistical analysis to provide a responsive record. FOIA cannot be used to compel that disclosure. *See, e.g., Larouche*, 289 Fed. Appx. at 231-32 (unpublished).

Plaintiff argues that FOIA can be used to compel the production of records stored in electronic databases even if retrieving those records “require[s] the application of codes or some form of programming” to retrieve. ECF 27 (Plaintiff’s Opposition and Cross-Motion for Summary Judgment (“Opp.”) at 22-23 (quoting *National Security Counselors v. CIA*, 898 F.Supp.2d 233, 259 (D.D.C. 2012))). That is not the issue here. ATF is not arguing that the firearm trace records (or any other electronic records, including emails) are immune from production under FOIA because they are stored in an electronic database or can only be retrieved by an electronic search of that database. Rather, plaintiff’s FOIA request for statistical data related to weapons “traced back to former law enforcement ownership” is problematic because it is not asking for the trace records themselves, but data about the number and type of those records. The *National Security Counselors* case cited by plaintiff discusses a similar issue. As the district court in that case explained:

Producing a listing or index of records, however, is different than producing particular points of data (*i.e.*, the records themselves). This is because a particular listing or index of the contents of a database would not necessarily have existed prior to a given FOIA request. ... The same would be true of paper, rather than electronic, records. For example, if a FOIA request sought “an inventory of all non-electronic records created in 1962 regarding the Cuban Missile Crisis,” an agency need not create an

1 inventory if one did not already exist, though the agency would need to  
2 release any such non-electronic records themselves if they were requested  
3 and were not exempt from disclosure. Therefore, a FOIA request for a  
4 listing or index of a database's contents that does not seek the contents of  
the database, but instead essentially seeks information about those  
contents, is a request that requires the creation of a new record, insofar as  
the agency has not previously created and retained such a listing or index.

5 898 F. Supp. 2d at 271 (citation omitted). Here, plaintiff is seeking something like a list or index of  
6 certain firearm trace records, or, more precisely, certain statistical data *derived* from such a list or index.  
7 ATF cannot be compelled to conduct this statistical analysis under FOIA. *See id.* at 272 (“[T]he CIA  
8 may not be required to produce an index or database listing in response to a FOIA request . . .”).

9 Thus, plaintiff is incorrect when it argues that “ATF concedes it need only perform a search of its  
10 database using codes that are on hand to retrieve the requested records.” *Opp.* at 23. ATF could search  
11 the Firearm Trace database to identify the trace records involving traces “back to former law  
12 enforcement ownership,” but plaintiff is not asking for those records—the parties agree that ATF is  
13 prohibited from producing them. *See Opp.* at 3 (stating that the Tiahrt “made individual trace data  
14 secret”). Instead, plaintiff is impermissibly using FOIA to seek “information about” the database’s  
15 contents without disclosure of the records themselves. *See National Security Counselors*, 898 F.  
16 Supp.2d at 271. Specifically, plaintiff is asking ATF to disclose how many records involving prior law  
17 enforcement ownership there are in each year going back to 2006. To provide that information, ATF  
18 would need to (1) run searches on the database to identify the trace records themselves; (2) count those  
19 trace records in order to create the requested annualized statistical analysis of the contents of the  
20 database, and (3) then produce that new analysis. (This is a simplified description—the actual process  
21 employed by ATF to prepare similar statistical analyses and ensure their accuracy and fair presentation  
22 is likely more involved. *See Houser Decl.* at ¶ 19-20.) FOIA only requires ATF to go so far as  
23 step (1)—run a reasonable search—and then produce the records located by the searches. What plaintiff  
24 seeks here—moving on to steps (2) and (3)—is not compelled by FOIA.

25 In part, the parties’ dispute regarding this issue is created by plaintiff’s FOIA request, which  
26 seeks “information,” not records. ECF 1-1 at 2 (March 23, 2017 FOIA Request). To the extent that  
27 plaintiff is asking ATF to answer the question “what is the ‘total number of weapons traced back to  
28 former law enforcement ownership, annually from 2006 to the present,’” FOIA does not require a

1 response. *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985) (agency not required to “answer questions  
2 disguised as a FOIA request”). To avoid this issue and try in good faith to respond to plaintiff’s request,  
3 ATF has interpreted plaintiff’s request to seek records reflecting that information—*i.e.*, records  
4 reflecting the “total number of weapons traced back to former law enforcement ownership, annually  
5 from 2006 to the present.” As ATF has explained, at the time of the request there were no records  
6 reflecting that information. *See* Houser Decl. at ¶ 25; 2d Houser Decl. at ¶ 19. ATF does not dispute  
7 that it could formulate and run a number of searches on the Firearm Trace System database, analyze the  
8 results, and compile the information that plaintiff seeks in order to create such a record, but FOIA does  
9 not require the agency to do so (even if the Tiahrt Amendment permitted such disclosures).

10 The cases cited by plaintiff do not establish an entitlement under FOIA to the data analysis and  
11 production requested here. For example, in *Long v. U.S. Dep’t of Justice*, the plaintiff sought records  
12 maintained in or related to “the central case management databases of the Executive Office for United  
13 States Attorneys (the “EOUSA”), a component of the Department of Justice.” 450 F. Supp. 2d 42, 45-  
14 46 (D.D.C. 2006). The district court noted that FOIA required the disclosure of non-exempt portions of  
15 records in the databases to the extent those non-exempt portions were not “inextricably intertwined with  
16 exempt portions.” *Id.* at 53 (citation omitted). The records requested contained a number of “fields” in  
17 the database, with each field labeled according to the information contained in that portion of the record.  
18 Thus, for example, a record might contain fields for “name,” “court name,” and “file name,” which  
19 contained non-exempt information, as well as additional fields containing exempt information. *See id.*  
20 at 71-73. The district court ordered the Department of Justice to disclose the information contained in  
21 the non-exempt fields in certain records. *Id.* at 86. *Long* has no application here, because plaintiff is not  
22 seeking the disclosure of the underlying records or part of those records—*e.g.*, any specific field or  
23 fields in those records—and the Tiahrt Amendment would prohibit such disclosure. Instead, plaintiff is  
24 asking the Court to order ATF to count how many times, for example, the close-out code for traces  
25 involving prior law enforcement ownership appears in the relevant field in the trace records in the  
26 database from 2006 to the present, and then prepare a new statistical report of those numbers. *Long*  
27 provides no basis to compel that statistical analysis and disclosure.

28 The additional cases cited by plaintiff concern requests for records maintained in electronic

1 databases, not statistical information regarding the contents of those databases. For example, in *Henry*  
 2 *v. Department of Justice*, the plaintiffs sought FBI records related to themselves, such as “emails,  
 3 Complaint Forms, Memorandums of Investigation, Reports of Investigation, Field Operation  
 4 Worksheets, Arrest Reports, Agents’ notes, arrest evaluations, and investigation,” in order to investigate  
 5 the alleged “surveillance of social justice advocates.” No. C-13-05924-DMR, 2015 WL 5138265, at \*1  
 6 (N.D. Cal. Sept. 1, 2015). In *Bothwell v. CIA*, the plaintiff sought records in the possession of the CIA  
 7 related to “individuals purportedly connected to the assassinations of President John F. Kennedy and  
 8 Senator Robert F. Kennedy.” No. 13-cv-05439-JSC, 2014 WL 5077186, at \*1 (N.D. Cal. Oct. 9, 2014).  
 9 In *American Civil Liberties Union Foundation of Arizona v. U.S. Dep’t of Homeland Sec.*, the plaintiffs  
 10 sought records regarding border patrol operations. No. CV-14-02052, 2017 U.S. Dist. LEXIS 11610, at  
 11 \*1 (D. Ariz. Jan. 27, 2017). In all three cases, the plaintiffs sought the records themselves, not statistical  
 12 data related to any existing records; accordingly, they do not support plaintiff’s FOIA request here.

13 **II. ATF did not violate FOIA in its response to plaintiff’s March 23, 2017, request.**

14 **A. The Tiahrt Amendment prohibits ATF from disclosing the contents of the Firearms**  
 15 **Trace System database.**

16 As explained in defendant’s opening brief, FOIA Exemption 3, 5 U.S.C. § 552(b)(3), authorizes  
 17 an agency to withhold records that have been “specifically exempted from disclosure by statute.” Courts  
 18 have repeatedly held that the iterations of the Tiahrt Amendment since 2005 exempt data in the Firearms  
 19 Trace System database from disclosure pursuant to FOIA. *See, e.g., City of Chicago v. U.S. Dept. of*  
 20 *Treasury, Bureau of Alcohol, Tobacco, and Firearms*, 423 F.3d 777, 781-82 (7th Cir. 2005) (“[T]he  
 21 2005 [Appropriations] Act amounts to a change in substantive FOIA law in that it exempts from  
 22 disclosure [trace] data previously available to the public under FOIA.”) (citations omitted); *Reep v. U.S.*  
 23 *Department of Justice*, No. 16-cv-1275-RCL, 2018 WL 1461902, at \*4-5 (D.D.C. March 23, 2018)  
 24 (“The appropriations bill leaves the ATF with no discretion. And courts have previously held that  
 25 Exemption 3 protects ATF firearms trace data.”) (citations omitted).

26 Plaintiff argues that the data requested here—the “[t]otal number of weapons traced back to  
 27 former law enforcement ownership, annually from 2006 to the present”—can be released  
 28 notwithstanding the general prohibition on disclosure. Plaintiff makes a number of arguments in favor

1 of this position.

2 First, plaintiff argues that the 2012 iteration of the Tiahrt Amendment “specifically permits”  
3 “aggregate trace data” to be released pursuant to FOIA and thus Exemption 3 cannot apply. *See* Opp. at  
4 16, 19-22. Contrary to plaintiff’s assertion, the relevant language makes no mention of FOIA or the  
5 “release” of agency records pursuant to FOIA. The 2012 version of the Tiahrt Amendment provides:

6 [T]his proviso shall not be construed to prevent: ... (C) the publication of  
7 annual statistical reports on products regulated by the Bureau of Alcohol,  
8 Tobacco, Firearms and Explosives, including total production,  
9 importation, and exportation by each licensed importer (as so defined) and  
licensed manufacturer (as so defined), or statistical aggregate data  
regarding firearms traffickers and trafficking channels, or firearms misuse,  
felons, and trafficking investigations

10 Consolidated Appropriations Act of 2012, Pub. L. No. 112–155, 125 Stat. 552 (2011) (“2012  
11 Appropriations Act”). The language in the Consolidated Appropriations Act of 2008 (“2008  
12 Appropriations Act”) contains identical language:

13 [T]his proviso shall not be construed to prevent: ... (C) the publication of  
14 annual statistical reports on products regulated by the Bureau of Alcohol,  
15 Tobacco, Firearms and Explosives, including total production,  
16 importation, and exportation by each licensed importer (as so defined) and  
licensed manufacturer (as so defined), or statistical aggregate data  
regarding firearms traffickers and trafficking channels, or firearms misuse,  
felons, and trafficking investigations.

17 Pub. L. No. 110–161, 121 Stat. 1844, 1903-04. Subpart (C) permits the “publication” by ATF of  
18 “annual statistical reports” regarding the firearms industry and specified “statistical aggregate data.”<sup>1</sup>  
19 Subpart (C) does not mention FOIA or use the term “release.” Thus, there is no “clear and manifest”  
20 intent expressed in the 2012 or 2008 appropriations language to open up the trace database to FOIA  
21 requests and undo the “change in substantive FOIA law” effected by the Consolidated Appropriations  
22 Act of 2005, Pub. L. No. 108–447, 118 Stat. 2809 (“2005 Appropriations Act”). *See City of Chicago*,  
23 423 F.3d at 781. Indeed, the exemption from disclosure of “data previously available to the public under  
24 FOIA” effected by the 2005 Appropriations Act (*see id.*) has been repeatedly affirmed by Congress.

25  
26  
27 <sup>1</sup> Plaintiff argues that “The disjunctive ‘or’ in Tiahrt exception (C) distinguishes “statistical data” from  
28 the previous clause about ‘annual statistical reports.’” Opp. at 21. It is not entirely clear what this  
means or why it compels disclosure pursuant to FOIA. The most natural reading of subpart (C) is that it  
concerns “publication” by the ATF of either “annual statistical reports” or “statistical aggregate data” as  
those categories are further defined in the subpart.



1 Thus, the 2008 language that permits ATF to publish certain statistical reports should not be read as an  
2 implicit amendment of the exemption from release pursuant to FOIA. *See United States v. Fausto*, 484  
3 U.S. 439, 453 (1988) (no implicit repeal without “clear repugnancy” between the statutes).

4       Importantly, this is not a case where ATF is withholding a record containing statistical  
5 aggregate data that ATF has prepared and which the agency could itself publish under subpart (C). For  
6 example, assuming ATF had prepared an annualized statistical analysis of firearm traces to prior law  
7 enforcement ownership and tried to withhold that analysis from disclosure pursuant to FOIA, the Court  
8 might be asked to determine whether that record was “statistical aggregate data regarding firearms  
9 traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations” that ATF  
10 could “publish” under subpart (C); and, if so, whether that rendered the record subject to release in  
11 response to a FOIA request. That question is not before the Court, because no such record exists.  
12 Rather, plaintiff is asking the Court to compel ATF to run the searches plaintiff wants on the trace  
13 database, compile and analyze the data plaintiff seeks, and prepare a record for release to plaintiff.  
14 Subpart (C) cannot be read to support such an extension of FOIA. Of course, providing the records in  
15 the Firearm Trace System database that would permit plaintiff to prepare its own statistical analysis is  
16 squarely prohibited by the overarching prohibition in the Tiahrt Amendment against disclosing “part or  
17 all of the contents” of the database. *See Reep*, 2018 WL 1461902, at \*4-5.

18       Second, plaintiff argues that the 2012 Appropriations Act does not qualify as a “withholding  
19 statute under Exemption 3,” because it does not reference that exemption as required since 2009. *See*  
20 *Opp.* at 17-19. ATF dealt with this issue at length in its opening brief. *See* ECF 26 (Def.’s Motion for  
21 Summary Judgment) (“Mem.”) at 10-11. As the cases addressing this issue have explained, the 2008  
22 Appropriations Act satisfied the requirements of Exemption 3 when it was enacted, and the 2008 act  
23 “provides a *permanent prohibition* against disclosure that is not limited to the fiscal year of the  
24 appropriated funds granted therein.” *Abdeljabbar v. Bureau of Alcohol, Tobacco, Firearms and*  
25 *Explosives*, 74 F.Supp.3d 158, 174-75 (D.D.C. 2014) (quoting *Smith v. ATF*, No. 13–13079, 2014 WL  
26 3565634, at \*5 n. 2 (E.D. Mich. July 18, 2014) (emphasis added)). Thus, the failure of the 2012  
27 language to satisfy Exemption 3 is irrelevant because of the pre-existing permanent prohibition.

28       Nonetheless, plaintiff argues that the 2012 version of the Tiahrt Amendment “wholly replaced”

1 the prior statutory language. *See* Opp. at 18. There is no evidence—textual or otherwise—to support  
2 this interpretation. That is, there is no evidence that Congress expressly intended to repeal the language  
3 of the 2008 Appropriations Act by passing almost identical language in 2010 and 2012. As explained by  
4 the district court in *Abdeljabbar*, adopting plaintiff’s argument would require the Court to “to reach the  
5 implausible conclusion that Congress intended to repeal by implication a disclosure prohibition, at least  
6 with respect to FOIA, by reiterating that very prohibition in subsequent legislation.” 74 F. Supp. 3d at  
7 175-76 (citation omitted). With respect to subpart (C) in particular, the language in the 2008 and 2012  
8 Appropriations Acts is identical, preventing any inference that Congress intended to repeal the  
9 prohibition against disclosing the contents of the trace database by way of that language.

10 Plaintiff also argues that the production of statistical data in a number of cases brought under the  
11 Administrative Procedures Act (“APA”) supports the release of the information requested here under  
12 FOIA. *See* Opp. at 21-22. The Tiahrt Amendment expressly permits the disclosure of the contents of  
13 the trace database (and other firearms data) in APA cases:

14 [A]ll such data shall be immune from legal process, shall not be subject to  
15 subpoena or other discovery, shall be inadmissible in evidence, and shall  
16 not be used, relied on, or disclosed in any manner, nor shall testimony or  
17 other evidence be permitted based on the data, in a civil action in any State  
18 (including the District of Columbia) or Federal court or in an  
administrative proceeding *other than a proceeding commenced by the*  
*Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the*  
*provisions of chapter 44 of such title [18 U.S.C. §§ 921-931], or a review*  
*of such an action or proceeding . . . .*

19 2012 Appropriations Act, 125 Stat. 552, 609-610 (emphasis added). The three cases cited by plaintiff all  
20 involve challenges to ATF’s authority under the Gun Control Act of 1968, 18 U.S.C. § 921, *et seq.*, and  
21 thus fall within the scope of this provision. *See, e.g., Ron Peterson Firearms, LLC v. Jones*, No. 11-cv-  
22 00678-JEC/LFG, 2013 WL 12085975 (D.N.M. March 27, 2013) (federal firearms licensees challenged  
23 statutory authority of ATF under, *inter alia*, 18 U.S.C. § 923 to issue demand letter requiring certain  
24 sales reports and decision to target licensees in four border states as “arbitrary and capricious”); *10 Ring*  
25 *Precision, Inc. v. Jones*, No. SA-11-CA-663, 2012 WL 12883131 (W.D. Tex. July 2, 2012) (same);  
26 *National Shooting Sports Foundation v. Jones*, 840 F.Supp.2d 310 (D.D.C. Jan. 13, 2012) (same).  
27 Accordingly, the production of trace data as part of the administrative record was appropriate under the  
28 express terms of the Tiahrt Amendment. There is no similar express authorization for release of data in

1 response to FOIA requests. Moreover, the ATF’s assertion of authority to compile and publish certain  
2 aggregate statistical data pursuant to subpart (C) does not concede or in any way imply that a FOIA  
3 request can compel the agency to undertake a statistical analysis of the trace database at the direction of  
4 a plaintiff or requester.

5 Plaintiff also points to certain information-sharing agreements that ATF enters into with law  
6 enforcement agencies to provide access to and share firearm trace information. *See* Opp. at 5-6. Once  
7 again, the Tiahrt Amendment expressly permits disclosures to law enforcement. *See, e.g.*, 2012  
8 Appropriations Act, 125 Stat. 552, 609-610 (permitting disclosures to “a Federal, State, local, or tribal  
9 law enforcement agency, or a Federal, State, or local prosecutor; or ... a foreign law enforcement  
10 agency solely in connection with or for use in a criminal investigation or prosecution; or ... a Federal  
11 agency for a national security or intelligence purpose ...”). ATF’s firearm tracing program is a law  
12 enforcement function. *See generally* Houser Decl. at ¶¶ 7-15. Traces are initiated at the request of law  
13 enforcement and the results of each trace are provided to the requesting law enforcement agency to  
14 assist in firearm-related criminal investigations. *See id.* The use of agreements by ATF to formalize the  
15 terms and conditions of electronic trace information sharing among law enforcement is not relevant to  
16 whether subpart (C) of the Tiahrt provision was intended to give FOIA requesters access to the trace  
17 database. *See generally* 2d Houser Decl. at ¶¶ 4-8.

18 In sum, neither the text of subpart (C) nor the history and purpose of the Tiahrt Amendment  
19 support plaintiff’s argument that subpart (C) was intended to permit FOIA requestors to compel ATF to  
20 produce statistical analyses based on trace records in the agency’s trace database.

21 **1. The legislative record does not support plaintiff’s interpretation of the Tiahrt**  
22 **Amendment.**

23 Contrary to plaintiff’s argument, the interpretation of the Tiahrt Amendment advanced by  
24 plaintiff and the disclosure plaintiff seeks to compel are not consistent with the congressional purposes  
25 underlying the amendment. Plaintiff identifies what it calls the “two chief concerns over disclosure”  
26 underlying the Tiahrt Amendment: “invasions of privacy stemming from identifiable trace records and  
27 obstruction of law enforcement investigations into crimes.” Opp. at 7 (citations omitted). As the  
28 legislative record reveals, Congress had broader concerns than plaintiff describes. As the House Report

1 concerning the 2005 Appropriations Act states:

2 In the last two fiscal years the Committee [on Appropriations] has  
3 expressed serious concern that, contrary to provisions of the Gun Control  
4 Act, as amended, and Congress' intent, certain sensitive law enforcement  
5 information contained in databases maintained by the ATF have been  
6 subject to release under the Freedom of Information Act and through court  
7 action to the public, including civil litigants, firearm manufacturers and  
8 distributors, public interest groups and governmental entities, for use other  
9 than in bona fide criminal investigations and prosecutions. The Committee  
10 concern is not related to budgetary considerations. The intent has been to  
11 enforce existing Federal law limiting disclosure of this sensitive law  
12 enforcement information solely to law enforcement, and, to the extent  
13 current Federal law does not already so restrict disclosure to so provide  
14 now.

9 It is of great concern that releases have occurred, and if repeated, may  
10 result in wide-spread disclosure of this information to the public at large.  
11 This holds the potential of endangering law enforcement officers and  
12 witnesses, jeopardizing on-going criminal investigations and homeland  
13 security. The need to maintain these sensitive law enforcement databases  
14 on a restricted, confidential basis in accordance with the law and ATF  
disclosure practices in place for years derives from the sensitive and long-  
term nature of criminal investigations. In addition, such information, once  
released, might easily be disseminated through the Internet. This would  
endanger law enforcement and homeland security, and violate the privacy  
of innocent citizens and businesses.

15 H.R. Rep. No. 576, 108th Cong., 2d Sess. (2004) (House Report to the 2005 Appropriations Act),  
16 *available at* 2004 WL 3044771.<sup>2</sup> This record makes clear that Congress had specific concerns regarding  
17 disclosure pursuant to FOIA, and that it intended to limit use of the information in the ATF databases  
18 “solely to law enforcement.” As the Seventh Circuit explained in *City of Chicago v. United States*  
19 *Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms*, “Congress’ obvious intention in  
20 adding the ‘immune from legal process’ language to the funding restriction that existed under prior  
21 riders was to cut off access to the databases for any reason not related to law enforcement.” 423 F.3d  
22 777, 780 (7th Cir. 2005). Plaintiff’s proffered interpretation that would compel disclosure under FOIA  
23 is thus in tension with, if not flatly inconsistent with, Congress’ desire to avoid FOIA disclosure and  
24 limit the use of the database to law enforcement.

25  
26  
27 <sup>2</sup> The case cited by plaintiff, *Muhammad v. US. Dep’t of Justice*, No. 2:09-1255, 2007 WL 433552 (S.D.  
28 Ala. Feb. 6, 2007), cites this same 2004 House Report to conclude that “The Consolidated  
Appropriations Act of 2005 clearly demonstrates Congress’ intent to protect the requested information  
from general public disclosure to avoid endangering law enforcement and homeland security and to  
avoid violating the privacy of innocent citizens and business.” 2007 WL 433552, at \*2.

1 The House Report also identifies the purpose of the exception to the disclosure prohibition for  
2 ATF statistical publications; and that purpose has nothing to do with disclosure pursuant to FOIA. As  
3 the House Report states:

4 At the same time, the Committee is concerned that the previous language  
5 has been interpreted to prevent publication of a long-running series of  
6 statistical reports on products regulated by ATF. This was never the  
7 intention of the Committee, and the new language should also make clear  
8 that those reports may continue to be published in their usual form as they  
9 pose none of the concerns associated with law enforcement sensitive  
10 information.

11 H.R. Rep. No. 576, 108th Cong., 2d Sess. (2004). In order to address this issue and permit the  
12 publication of statistical reports by ATF, the 2005 Appropriations Act included the following language:  
13 “except that this proviso shall not be construed to prevent the disclosure of statistical information  
14 concerning total production, importation, and exportation by each licensed importer (as defined in  
15 section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such  
16 title).” That language was further revised in the 2008 Appropriations Act to the version at issue before  
17 the Court today. The House Report concerning this provision in the 2008 Appropriations Act states:

18 At the same time, the Committee is concerned that the previous year’s  
19 language has been interpreted to prevent publication of a long-running  
20 series of statistical reports on products regulated by ATF. This was never  
21 the intention of the Committee, and the fiscal year 2008 language makes  
22 clear that those reports may continue to be published in their usual form as  
23 they pose none of the concerns associated with law enforcement sensitive  
24 information.

25 H.R. Rep. No. 240, 110th Congress, 1st Sess. (2007) (House Report to the 2008 Appropriations Act),  
26 *available at* 2007 WL 2075231. Thus subpart (C) is not directed at public disclosure pursuant to FOIA,  
27 but expressly concerns “publication” of data by ATF as is clear from the text and legislative record.

28 **B. ATF did not fail to conduct a reasonable search for the records sought by plaintiff.**

Plaintiff argues that ATF violated FOIA, because it did not conduct a search of the Firearm  
Trace System database in response to plaintiff’s request for the “[t]otal number of weapons traced back  
to former law enforcement ownership, annually from 2006 to the present.” Opp. at 12-14. Plaintiff is  
incorrect: FOIA does not obligate ATF to conduct a search for records in a database, when ATF is  
prohibited from disclosing “part or all of the contents” of that same database. Conducting a search for  
records in a database that ATF is prohibited from disclosing would be an empty formality. FOIA

1 requires only that ATF “make reasonable efforts to search” for requested records in electronic form. *See*  
2 5 U.S.C. § 552(a)(3)(C). Given the prohibition on disclosure of the contents of the Firearm Trace  
3 System database, it would not have been reasonable to conduct a search of that database—it would have  
4 been a waste of federal employee time and resources.<sup>3</sup> Accordingly, ATF has met its search obligations  
5 under FOIA with respect to searches of the database.<sup>4</sup>

6 ATF did conduct a reasonable search for records reflecting the information plaintiff sought and  
7 produced an internal working list of firearm traces to prior law enforcement ownership. 2d Houser Decl.  
8 at ¶ 18. Additionally, in response to plaintiff’s FOIA request, the ATF personnel who would have  
9 prepared the statistical analysis that plaintiff seeks—if one had been prepared at ATF—confirmed that  
10 the requested analysis did not exist. The Violent Crime Analysis Branch, which analyzes trace data and  
11 prepares statistical reports for the agency, confirmed that the Branch has not produced any reports that  
12 address the total number of firearms recovered and traced back to former law enforcement ownership.  
13 2d Houser Decl. at ¶ 19.

14 Plaintiff has also challenged the adequacy of ATF’s search for the fourth category of documents  
15 requested by plaintiff: “Copies of any and all communications notifying law enforcement agencies  
16 when their current or former weapons have entered or been involved in an E-Trace.” *See* Opp. at 12-14.  
17 ATF was not aware that plaintiff was challenging the adequacy of this search and thus did not provide a  
18 description of the search in its opening papers. ATF was under the impression that there was only one  
19 issue to be addressed on the parties’ cross-motions: whether FOIA required ATF to release the firearm  
20 trace records or data derived therefrom responsive to the third category in plaintiff’s FOIA request. *See*  
21 Mem. at 6. Accordingly, ATF did not provide a description of its search for such communications with

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22 <sup>3</sup> A search of the database is also not necessary to determine whether there are potentially responsive  
23 records at issue. There is no dispute that the Firearm Trace System database contains records of firearm  
24 traces going back to “former law enforcement ownership,” which are the records plaintiff seeks.

25 <sup>4</sup> Plaintiff also asserts that ATF “did not search the ATF database because the process is too laborious.”  
26 Opp. at 13 (citation omitted). That is not correct. Charles J. Houser, Chief of the ATF’s National  
27 Tracing Center Division, explained in his declaration that conducting appropriate searches in order to  
28 conduct the statistical analysis that plaintiff seeks “would not be an automatic process, but would require  
an ATF employee to exercise judgment in selecting the search criteria and further work to refine the  
results.” Houser Decl. at ¶ 25. Mr. Houser further explained that “compelling ATF to run searches on  
the Firearms Trace System database in order to produce aggregate statistical data sought by FOIA  
requestors would impose an additional and significant burden on the agency and would divert resources  
currently used to prepare and publish reports of statistical data.” *Id.* at ¶ 25.

1 its opening brief. Charles J. Houser, Chief of ATF's National Tracing Center ("NTC"), has provided a  
2 supplemental declaration that describes the search conducted by ATF. *See* 2d Houser Decl. at ¶¶ 9-16.  
3 As Mr. Houser explains, he instructed all of NTC's employees, including the Firearms Services Section,  
4 which would have been responsible for communications with law enforcement, to search for responsive  
5 communications. *See id.* at ¶ 14. Mr. Houser also explains that such communications "typically occur  
6 by telephone," which explains why the search did not reveal any responsive documents for release. *Id.*  
7 at ¶ 16. In sum, ATF conducted reasonable searches, and the Court should grant judgment in ATF's  
8 favor on the search claims.

9 **C. ATF has not previously produced the contents of the Firearms Trace System**  
10 **database to plaintiff.**

11 Plaintiff's argument that ATF has "officially acknowledged" the requested data is incorrect. *See*  
12 *Opp.* at 24. "To be officially acknowledged,' ... the information requested must (1) be as specific as the  
13 information previously released, (2) "match" the information previously disclosed, and (3) have been  
14 made public through an official and documented disclosure." *Electronic Frontier Foundation v.*  
15 *National Security Agency*, No. 14-cv-03010-RS, 2016 WL 1059389, at \*2 (N.D. Cal. Mar. 17, 2016)  
16 (citing *Fitzgibbon v. C.I.A.*, 911 F.2d 755, 765 (D.C. Cir. 1990)). ATF has not previously released data  
17 from the Firearm Trace System database identifying the number of weapons traced to prior law  
18 enforcement ownership from 2006 to the date of plaintiff's FOIA request. *See* 2d Houser Decl. at ¶ 18.  
19 Thus, there is no prior disclosure that is as specific as or matches the information sought by plaintiff.  
20 Moreover, the Violent Crime Analysis Branch is responsible for the official disclosures of statistical  
21 reports by ATF, and the Branch has not produced a report on traces involving prior law enforcement  
22 ownership. *See id.* at ¶ 19. Accordingly, there is no official public acknowledgment of the data in  
23 question such that an exemption from disclosure can no longer be claimed. *See Electronic Frontier*  
24 *Foundation*, No. 2016 WL 1059389, at \*2.

25 //

26 //

27 //

28 //

1 **CONCLUSION**

2 For the reasons set forth above and those in defendant's opening papers, defendant respectfully  
3 requests that the Court grant summary judgment in its favor.

4 Dated: June 7, 2018

Respectfully submitted,  
ALEX G. TSE  
Acting United States Attorney

6  
7 /s/ Robin M. Wall  
ROBIN M. WALL  
Assistant United States Attorney  
Attorneys for Defendant  
U.S. Department of Justice



# **EXHIBIT D**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RON PETERSON FIREARMS, LLC,

Plaintiff,

v.

CIVIL NO. 11-678 JC/LFG

B. TODD JONES, ACTING DIRECTOR  
BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS & EXPLOSIVES

Defendant.

**DEFENDANT’S NOTICE OF FILING OF ADMINISTRATIVE RECORD**

Defendant B. Todd Jones, Acting Director, Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), hereby files a certified copy of the Administrative Record in this case. The documents in the Administrative Record are numbered ATF AR 0001 – 0779. Attached hereto are the Certification and Index of the Administrative Record.

Dated: February 27, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 27, 2012, I caused the foregoing document to be served via electronic case filing.

/s/ Lesley Farby  
Lesley Farby

[REDACTED]

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**From:** Houser, Charles J.  
**Sent:** Monday, November 15, 2010 2:08 PM  
**To:** Herbert, Arthur W.  
**Subject:** FFL\_TRACE\_SUMMARY\_nodups.xls  
**Attachments:** FFL\_TRACE\_SUMMARY\_nodups.xls

Sir: Additional information

This spreadsheet has all duplicates removed throughout and in now for the time frame of FY-2008 through FY-2010  
This spreadsheet contains the original queries (w/o dupes)

Now there are additional worksheets

- Just the breakout of FFL for Rifles>22 cal recovered in Mex (no dupes)
- Then we have the same query (FFL for Rifles>22cal recovered in Mex, no dupes) where TTC <= 3 yrs total and by FY
- Then we have the same again where TCC<=1 yr total and by FY

For FY2008 to FY2010

All duplicates removed

Retail Final Disposition US dealers in FLS

US Recovered		MEXICO RECOVERED TRACES	
COUNT(*)	FCNT	COUNT(*)	FCNT
1 FFLS have	1836 TRACES	1 FFLS have	214 TRACES
1 FFLS have	1767 TRACES	1 FFLS have	211 TRACES
1 FFLS have	1554 TRACES	1 FFLS have	199 TRACES
1 FFLS have	1460 TRACES	1 FFLS have	132 TRACES
1 FFLS have	1301 TRACES	1 FFLS have	119 TRACES
1 FFLS have	1229 TRACES	1 FFLS have	114 TRACES
1 FFLS have	1154 TRACES	1 FFLS have	113 TRACES
1 FFLS have	1132 TRACES	1 FFLS have	97 TRACES
1 FFLS have	1112 TRACES	1 FFLS have	96 TRACES
1 FFLS have	1056 TRACES	1 FFLS have	87 TRACES
1 FFLS have	1017 TRACES	1 FFLS have	77 TRACES
1 FFLS have	981 TRACES	1 FFLS have	74 TRACES
1 FFLS have	952 TRACES	1 FFLS have	71 TRACES
1 FFLS have	914 TRACES	1 FFLS have	66 TRACES
1 FFLS have	869 TRACES	1 FFLS have	64 TRACES
1 FFLS have	856 TRACES	1 FFLS have	61 TRACES
1 FFLS have	805 TRACES	1 FFLS have	59 TRACES
1 FFLS have	797 TRACES	1 FFLS have	57 TRACES
1 FFLS have	786 TRACES	1 FFLS have	55 TRACES
1 FFLS have	785 TRACES	1 FFLS have	52 TRACES
1 FFLS have	693 TRACES	1 FFLS have	51 TRACES
1 FFLS have	692 TRACES	1 FFLS have	49 TRACES
1 FFLS have	685 TRACES	1 FFLS have	47 TRACES
1 FFLS have	681 TRACES	1 FFLS have	46 TRACES
1 FFLS have	673 TRACES	1 FFLS have	40 TRACES
1 FFLS have	632 TRACES	1 FFLS have	38 TRACES
1 FFLS have	629 TRACES	1 FFLS have	37 TRACES
1 FFLS have	607 TRACES	1 FFLS have	36 TRACES
1 FFLS have	598 TRACES	1 FFLS have	29 TRACES
1 FFLS have	593 TRACES	2 FFLS have	62 TRACES
1 FFLS have	539 TRACES	2 FFLS have	56 TRACES
1 FFLS have	534 TRACES	2 FFLS have	54 TRACES
1 FFLS have	531 TRACES	2 FFLS have	53 TRACES
1 FFLS have	530 TRACES	2 FFLS have	45 TRACES
1 FFLS have	527 TRACES	2 FFLS have	41 TRACES
1 FFLS have	525 TRACES	2 FFLS have	32 TRACES
1 FFLS have	500 TRACES	2 FFLS have	24 TRACES
1 FFLS have	497 TRACES	3 FFLS have	68 TRACES
1 FFLS have	490 TRACES	3 FFLS have	44 TRACES
1 FFLS have	475 TRACES	3 FFLS have	42 TRACES
1 FFLS have	471 TRACES	3 FFLS have	27 TRACES
1 FFLS have	465 TRACES	3 FFLS have	25 TRACES
1 FFLS have	461 TRACES	3 FFLS have	23 TRACES
1 FFLS have	456 TRACES	4 FFLS have	39 TRACES
1 FFLS have	455 TRACES	4 FFLS have	31 TRACES
1 FFLS have	453 TRACES	4 FFLS have	28 TRACES
1 FFLS have	446 TRACES	5 FFLS have	35 TRACES

1 FFLS have	444 TRACES	5 FFLS have	33 TRACES
1 FFLS have	440 TRACES	6 FFLS have	30 TRACES
1 FFLS have	439 TRACES	6 FFLS have	17 TRACES
1 FFLS have	434 TRACES	8 FFLS have	26 TRACES
1 FFLS have	432 TRACES	9 FFLS have	21 TRACES
1 FFLS have	430 TRACES	9 FFLS have	18 TRACES
1 FFLS have	428 TRACES	9 FFLS have	16 TRACES
1 FFLS have	423 TRACES	10 FFLS have	22 TRACES
1 FFLS have	420 TRACES	10 FFLS have	20 TRACES
1 FFLS have	418 TRACES	11 FFLS have	19 TRACES
1 FFLS have	414 TRACES	12 FFLS have	12 TRACES
1 FFLS have	409 TRACES	14 FFLS have	14 TRACES
1 FFLS have	406 TRACES	15 FFLS have	13 TRACES
1 FFLS have	400 TRACES	18 FFLS have	15 TRACES
1 FFLS have	396 TRACES	23 FFLS have	11 TRACES
1 FFLS have	390 TRACES	44 FFLS have	10 TRACES
1 FFLS have	389 TRACES	54 FFLS have	9 TRACES
1 FFLS have	386 TRACES	55 FFLS have	8 TRACES
1 FFLS have	385 TRACES	84 FFLS have	7 TRACES
1 FFLS have	381 TRACES	96 FFLS have	6 TRACES
1 FFLS have	380 TRACES	147 FFLS have	5 TRACES
1 FFLS have	373 TRACES	256 FFLS have	4 TRACES
1 FFLS have	367 TRACES	413 FFLS have	3 TRACES
1 FFLS have	366 TRACES	1127 FFLS have	2 TRACES
1 FFLS have	365 TRACES	5322 FFLS have	1 TRACES
1 FFLS have	364 TRACES		3462
1 FFLS have	362 TRACES		
1 FFLS have	355 TRACES		
1 FFLS have	350 TRACES		
1 FFLS have	342 TRACES		
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1 FFLS have	325 TRACES		
1 FFLS have	324 TRACES		
1 FFLS have	313 TRACES		
1 FFLS have	307 TRACES		
1 FFLS have	303 TRACES		
1 FFLS have	296 TRACES		
1 FFLS have	295 TRACES		
1 FFLS have	294 TRACES		
1 FFLS have	288 TRACES		
1 FFLS have	287 TRACES		
1 FFLS have	271 TRACES		
1 FFLS have	264 TRACES		
1 FFLS have	263 TRACES		
1 FFLS have	257 TRACES		
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1 FFLS have	245 TRACES
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1 FFLS have	224 TRACES
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1 FFLS have	162 TRACES
1 FFLS have	160 TRACES
1 FFLS have	153 TRACES
1 FFLS have	148 TRACES
1 FFLS have	141 TRACES
1 FFLS have	137 TRACES
2 FFLS have	619 TRACES
2 FFLS have	437 TRACES
2 FFLS have	424 TRACES
2 FFLS have	379 TRACES
2 FFLS have	378 TRACES
2 FFLS have	377 TRACES
2 FFLS have	376 TRACES
2 FFLS have	328 TRACES
2 FFLS have	320 TRACES
2 FFLS have	318 TRACES
2 FFLS have	317 TRACES
2 FFLS have	315 TRACES
2 FFLS have	305 TRACES
2 FFLS have	284 TRACES
2 FFLS have	274 TRACES
2 FFLS have	270 TRACES
2 FFLS have	268 TRACES
2 FFLS have	262 TRACES
2 FFLS have	258 TRACES
2 FFLS have	255 TRACES

2 FFLS have	247 TRACES
2 FFLS have	238 TRACES
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2 FFLS have	203 TRACES
2 FFLS have	194 TRACES
2 FFLS have	189 TRACES
2 FFLS have	185 TRACES
2 FFLS have	179 TRACES
2 FFLS have	178 TRACES
2 FFLS have	173 TRACES
2 FFLS have	171 TRACES
2 FFLS have	167 TRACES
2 FFLS have	159 TRACES
2 FFLS have	158 TRACES
2 FFLS have	152 TRACES
2 FFLS have	150 TRACES
2 FFLS have	147 TRACES
2 FFLS have	145 TRACES
2 FFLS have	142 TRACES
2 FFLS have	140 TRACES
2 FFLS have	136 TRACES
2 FFLS have	132 TRACES
2 FFLS have	128 TRACES
2 FFLS have	122 TRACES
2 FFLS have	113 TRACES
3 FFLS have	352 TRACES
3 FFLS have	301 TRACES
3 FFLS have	273 TRACES
3 FFLS have	266 TRACES
3 FFLS have	259 TRACES
3 FFLS have	252 TRACES
3 FFLS have	248 TRACES
3 FFLS have	234 TRACES
3 FFLS have	228 TRACES
3 FFLS have	227 TRACES
3 FFLS have	214 TRACES
3 FFLS have	205 TRACES
3 FFLS have	202 TRACES
3 FFLS have	186 TRACES
3 FFLS have	184 TRACES



3 FFLS have	182 TRACES
3 FFLS have	166 TRACES
3 FFLS have	163 TRACES
3 FFLS have	156 TRACES
3 FFLS have	151 TRACES
3 FFLS have	146 TRACES
3 FFLS have	144 TRACES
3 FFLS have	143 TRACES
3 FFLS have	134 TRACES
3 FFLS have	127 TRACES
3 FFLS have	120 TRACES
3 FFLS have	117 TRACES
4 FFLS have	230 TRACES
4 FFLS have	191 TRACES
4 FFLS have	168 TRACES
4 FFLS have	161 TRACES
4 FFLS have	157 TRACES
4 FFLS have	149 TRACES
4 FFLS have	138 TRACES
4 FFLS have	133 TRACES
4 FFLS have	130 TRACES
4 FFLS have	125 TRACES
4 FFLS have	123 TRACES
4 FFLS have	118 TRACES
4 FFLS have	114 TRACES
4 FFLS have	111 TRACES
4 FFLS have	109 TRACES
5 FFLS have	200 TRACES
5 FFLS have	187 TRACES
5 FFLS have	155 TRACES
5 FFLS have	154 TRACES
5 FFLS have	135 TRACES
5 FFLS have	126 TRACES
5 FFLS have	105 TRACES
5 FFLS have	104 TRACES
5 FFLS have	103 TRACES
5 FFLS have	100 TRACES
5 FFLS have	99 TRACES
5 FFLS have	93 TRACES
6 FFLS have	208 TRACES
6 FFLS have	195 TRACES
6 FFLS have	181 TRACES
6 FFLS have	121 TRACES
6 FFLS have	116 TRACES
6 FFLS have	102 TRACES
6 FFLS have	98 TRACES
6 FFLS have	94 TRACES
6 FFLS have	90 TRACES
7 FFLS have	108 TRACES
7 FFLS have	107 TRACES
7 FFLS have	106 TRACES
8 FFLS have	139 TRACES

8 FFLS have	129 TRACES
8 FFLS have	124 TRACES
8 FFLS have	112 TRACES
8 FFLS have	101 TRACES
8 FFLS have	95 TRACES
9 FFLS have	131 TRACES
9 FFLS have	115 TRACES
9 FFLS have	110 TRACES
9 FFLS have	97 TRACES
9 FFLS have	92 TRACES
9 FFLS have	91 TRACES
10 FFLS have	119 TRACES
10 FFLS have	89 TRACES
10 FFLS have	84 TRACES
10 FFLS have	73 TRACES
11 FFLS have	88 TRACES
11 FFLS have	87 TRACES
11 FFLS have	85 TRACES
11 FFLS have	83 TRACES
11 FFLS have	76 TRACES
12 FFLS have	96 TRACES
12 FFLS have	86 TRACES
12 FFLS have	70 TRACES
12 FFLS have	68 TRACES
13 FFLS have	81 TRACES
13 FFLS have	67 TRACES
14 FFLS have	77 TRACES
14 FFLS have	71 TRACES
15 FFLS have	82 TRACES
16 FFLS have	79 TRACES
18 FFLS have	66 TRACES
18 FFLS have	65 TRACES
18 FFLS have	56 TRACES
19 FFLS have	78 TRACES
19 FFLS have	69 TRACES
19 FFLS have	64 TRACES
20 FFLS have	72 TRACES
21 FFLS have	75 TRACES
21 FFLS have	54 TRACES
22 FFLS have	80 TRACES
22 FFLS have	74 TRACES
22 FFLS have	62 TRACES
22 FFLS have	61 TRACES
22 FFLS have	60 TRACES
23 FFLS have	63 TRACES
23 FFLS have	55 TRACES
24 FFLS have	59 TRACES
24 FFLS have	51 TRACES
24 FFLS have	46 TRACES
27 FFLS have	58 TRACES
27 FFLS have	52 TRACES
30 FFLS have	57 TRACES

31 FFLS have	47 TRACES
34 FFLS have	53 TRACES
34 FFLS have	50 TRACES
36 FFLS have	49 TRACES
38 FFLS have	42 TRACES
39 FFLS have	43 TRACES
41 FFLS have	45 TRACES
45 FFLS have	40 TRACES
48 FFLS have	44 TRACES
49 FFLS have	39 TRACES
51 FFLS have	41 TRACES
51 FFLS have	37 TRACES
53 FFLS have	48 TRACES
58 FFLS have	38 TRACES
59 FFLS have	36 TRACES
64 FFLS have	35 TRACES
71 FFLS have	34 TRACES
72 FFLS have	33 TRACES
74 FFLS have	31 TRACES
82 FFLS have	32 TRACES
83 FFLS have	30 TRACES
94 FFLS have	29 TRACES
102 FFLS have	27 TRACES
107 FFLS have	28 TRACES
127 FFLS have	26 TRACES
127 FFLS have	25 TRACES
133 FFLS have	24 TRACES
138 FFLS have	23 TRACES
161 FFLS have	22 TRACES
165 FFLS have	21 TRACES
194 FFLS have	20 TRACES
212 FFLS have	18 TRACES
214 FFLS have	19 TRACES
256 FFLS have	17 TRACES
273 FFLS have	16 TRACES
332 FFLS have	15 TRACES
367 FFLS have	14 TRACES
413 FFLS have	13 TRACES
494 FFLS have	12 TRACES
603 FFLS have	11 TRACES
685 FFLS have	10 TRACES
826 FFLS have	9 TRACES
1064 FFLS have	8 TRACES
1322 FFLS have	7 TRACES
1742 FFLS have	6 TRACES
2362 FFLS have	5 TRACES
3370 FFLS have	4 TRACES
5219 FFLS have	3 TRACES
9908 FFLS have	2 TRACES
32421 FFLS have	1 TRACES

## Weapons Type Rifle and Shotgun

US Recovered

COUNT(*)	FCNT
1 FFLS have	413 TRACES
1 FFLS have	407 TRACES
1 FFLS have	285 TRACES
1 FFLS have	270 TRACES
1 FFLS have	261 TRACES
1 FFLS have	236 TRACES
1 FFLS have	215 TRACES
1 FFLS have	214 TRACES
1 FFLS have	206 TRACES
1 FFLS have	200 TRACES
1 FFLS have	188 TRACES
1 FFLS have	185 TRACES
1 FFLS have	183 TRACES
1 FFLS have	182 TRACES
1 FFLS have	178 TRACES
1 FFLS have	169 TRACES
1 FFLS have	165 TRACES
1 FFLS have	156 TRACES
1 FFLS have	154 TRACES
1 FFLS have	151 TRACES
1 FFLS have	144 TRACES
1 FFLS have	132 TRACES
1 FFLS have	127 TRACES
1 FFLS have	118 TRACES
1 FFLS have	116 TRACES
1 FFLS have	112 TRACES
1 FFLS have	108 TRACES
1 FFLS have	107 TRACES
1 FFLS have	103 TRACES
1 FFLS have	102 TRACES
1 FFLS have	100 TRACES
1 FFLS have	99 TRACES
1 FFLS have	91 TRACES
1 FFLS have	86 TRACES
1 FFLS have	81 TRACES
1 FFLS have	77 TRACES
1 FFLS have	73 TRACES
1 FFLS have	70 TRACES
1 FFLS have	68 TRACES
1 FFLS have	66 TRACES
1 FFLS have	60 TRACES
1 FFLS have	59 TRACES
2 FFLS have	225 TRACES
2 FFLS have	141 TRACES
2 FFLS have	114 TRACES
2 FFLS have	97 TRACES
2 FFLS have	96 TRACES

## Weapons Type Rifle and Shotgun

MEXICO RECOVERED TRACES

COUNT(*)	FCNT
1 FFLS have	170 TRACES
1 FFLS have	146 TRACES
1 FFLS have	143 TRACES
1 FFLS have	103 TRACES
1 FFLS have	83 TRACES
1 FFLS have	68 TRACES
1 FFLS have	65 TRACES
1 FFLS have	64 TRACES
1 FFLS have	60 TRACES
1 FFLS have	56 TRACES
1 FFLS have	55 TRACES
1 FFLS have	51 TRACES
1 FFLS have	49 TRACES
1 FFLS have	43 TRACES
1 FFLS have	41 TRACES
1 FFLS have	40 TRACES
1 FFLS have	39 TRACES
1 FFLS have	37 TRACES
1 FFLS have	36 TRACES
1 FFLS have	32 TRACES
1 FFLS have	31 TRACES
1 FFLS have	29 TRACES
1 FFLS have	24 TRACES
1 FFLS have	23 TRACES
1 FFLS have	22 TRACES
2 FFLS have	66 TRACES
2 FFLS have	35 TRACES
2 FFLS have	27 TRACES
2 FFLS have	26 TRACES
3 FFLS have	34 TRACES
3 FFLS have	25 TRACES
3 FFLS have	21 TRACES
4 FFLS have	19 TRACES
4 FFLS have	17 TRACES
4 FFLS have	15 TRACES
5 FFLS have	20 TRACES
5 FFLS have	12 TRACES
7 FFLS have	13 TRACES
8 FFLS have	18 TRACES
8 FFLS have	16 TRACES
8 FFLS have	14 TRACES
13 FFLS have	11 TRACES
17 FFLS have	10 TRACES
22 FFLS have	9 TRACES
26 FFLS have	8 TRACES
40 FFLS have	7 TRACES
55 FFLS have	6 TRACES

2 FFLS have	95 TRACES	65 FFLS have	5 TRACES
2 FFLS have	92 TRACES	120 FFLS have	4 TRACES
2 FFLS have	88 TRACES	225 FFLS have	3 TRACES
2 FFLS have	87 TRACES	600 FFLS have	2 TRACES
2 FFLS have	85 TRACES	2999 FFLS have	1 TRACES
2 FFLS have	83 TRACES		
2 FFLS have	78 TRACES		
2 FFLS have	75 TRACES		
2 FFLS have	74 TRACES		
2 FFLS have	72 TRACES		
2 FFLS have	71 TRACES		
3 FFLS have	76 TRACES		
3 FFLS have	65 TRACES		
3 FFLS have	62 TRACES		
3 FFLS have	61 TRACES		
3 FFLS have	55 TRACES		
3 FFLS have	52 TRACES		
4 FFLS have	67 TRACES		
4 FFLS have	64 TRACES		
4 FFLS have	53 TRACES		
4 FFLS have	51 TRACES		
4 FFLS have	50 TRACES		
5 FFLS have	69 TRACES		
5 FFLS have	63 TRACES		
5 FFLS have	57 TRACES		
6 FFLS have	58 TRACES		
6 FFLS have	54 TRACES		
7 FFLS have	48 TRACES		
7 FFLS have	44 TRACES		
8 FFLS have	56 TRACES		
8 FFLS have	46 TRACES		
8 FFLS have	41 TRACES		
9 FFLS have	49 TRACES		
9 FFLS have	43 TRACES		
10 FFLS have	42 TRACES		
11 FFLS have	47 TRACES		
11 FFLS have	45 TRACES		
11 FFLS have	40 TRACES		
12 FFLS have	36 TRACES		
14 FFLS have	38 TRACES		
15 FFLS have	39 TRACES		
17 FFLS have	35 TRACES		
18 FFLS have	37 TRACES		
21 FFLS have	29 TRACES		
23 FFLS have	32 TRACES		
24 FFLS have	26 TRACES		
27 FFLS have	31 TRACES		
27 FFLS have	30 TRACES		
28 FFLS have	27 TRACES		
29 FFLS have	34 TRACES		
29 FFLS have	28 TRACES		
30 FFLS have	33 TRACES		

40 FFLS have	25 TRACES
40 FFLS have	24 TRACES
45 FFLS have	23 TRACES
55 FFLS have	21 TRACES
56 FFLS have	22 TRACES
78 FFLS have	20 TRACES
80 FFLS have	18 TRACES
89 FFLS have	19 TRACES
102 FFLS have	17 TRACES
102 FFLS have	16 TRACES
146 FFLS have	14 TRACES
153 FFLS have	15 TRACES
182 FFLS have	13 TRACES
221 FFLS have	12 TRACES
249 FFLS have	11 TRACES
291 FFLS have	10 TRACES
413 FFLS have	9 TRACES
532 FFLS have	8 TRACES
670 FFLS have	7 TRACES
923 FFLS have	6 TRACES
1285 FFLS have	5 TRACES
1850 FFLS have	4 TRACES
2991 FFLS have	3 TRACES
5596 FFLS have	2 TRACES
17120 FFLS have	1 TRACES

Weapons Type Rifle	
US Recovered	
COUNT(*)	FCNT
1 FFLS have	288 TRACES
1 FFLS have	264 TRACES
1 FFLS have	253 TRACES
1 FFLS have	238 TRACES
1 FFLS have	160 TRACES
1 FFLS have	154 TRACES
1 FFLS have	150 TRACES
1 FFLS have	140 TRACES
1 FFLS have	131 TRACES
1 FFLS have	127 TRACES
1 FFLS have	124 TRACES
1 FFLS have	113 TRACES
1 FFLS have	104 TRACES
1 FFLS have	95 TRACES
1 FFLS have	90 TRACES
1 FFLS have	79 TRACES
1 FFLS have	75 TRACES
1 FFLS have	73 TRACES
1 FFLS have	70 TRACES
1 FFLS have	67 TRACES
1 FFLS have	65 TRACES
1 FFLS have	62 TRACES
1 FFLS have	60 TRACES
1 FFLS have	57 TRACES
1 FFLS have	51 TRACES
1 FFLS have	50 TRACES
1 FFLS have	47 TRACES
2 FFLS have	120 TRACES
2 FFLS have	100 TRACES
2 FFLS have	92 TRACES
2 FFLS have	76 TRACES
2 FFLS have	69 TRACES
2 FFLS have	66 TRACES
2 FFLS have	63 TRACES
2 FFLS have	43 TRACES
2 FFLS have	38 TRACES
3 FFLS have	56 TRACES
3 FFLS have	52 TRACES
3 FFLS have	42 TRACES
3 FFLS have	41 TRACES
3 FFLS have	40 TRACES
3 FFLS have	39 TRACES
4 FFLS have	55 TRACES
4 FFLS have	45 TRACES
4 FFLS have	33 TRACES
5 FFLS have	48 TRACES
5 FFLS have	44 TRACES

Weapons Type Rifle	
MEXICO RECOVERED TRACES	
COUNT(*)	FCNT
1 FFLS have	169 TRACES
1 FFLS have	143 TRACES
1 FFLS have	140 TRACES
1 FFLS have	103 TRACES
1 FFLS have	77 TRACES
1 FFLS have	68 TRACES
1 FFLS have	66 TRACES
1 FFLS have	64 TRACES
1 FFLS have	63 TRACES
1 FFLS have	55 TRACES
1 FFLS have	49 TRACES
1 FFLS have	46 TRACES
1 FFLS have	43 TRACES
1 FFLS have	40 TRACES
1 FFLS have	37 TRACES
1 FFLS have	36 TRACES
1 FFLS have	35 TRACES
1 FFLS have	34 TRACES
1 FFLS have	31 TRACES
1 FFLS have	26 TRACES
1 FFLS have	25 TRACES
1 FFLS have	24 TRACES
1 FFLS have	23 TRACES
1 FFLS have	22 TRACES
1 FFLS have	19 TRACES
2 FFLS have	51 TRACES
2 FFLS have	39 TRACES
2 FFLS have	29 TRACES
2 FFLS have	28 TRACES
2 FFLS have	21 TRACES
2 FFLS have	13 TRACES
3 FFLS have	20 TRACES
3 FFLS have	16 TRACES
4 FFLS have	27 TRACES
5 FFLS have	17 TRACES
6 FFLS have	15 TRACES
6 FFLS have	14 TRACES
6 FFLS have	12 TRACES
7 FFLS have	18 TRACES
8 FFLS have	9 TRACES
10 FFLS have	11 TRACES
19 FFLS have	10 TRACES
27 FFLS have	8 TRACES
27 FFLS have	7 TRACES
46 FFLS have	6 TRACES
51 FFLS have	5 TRACES
105 FFLS have	4 TRACES

5 FFLS have	37 TRACES	183 FFLS have	3 TRACES
5 FFLS have	32 TRACES	480 FFLS have	2 TRACES
8 FFLS have	46 TRACES	2540 FFLS have	1 TRACES
8 FFLS have	36 TRACES		1824
8 FFLS have	35 TRACES		
8 FFLS have	34 TRACES		
9 FFLS have	31 TRACES		
9 FFLS have	30 TRACES		
10 FFLS have	29 TRACES		
10 FFLS have	27 TRACES		
13 FFLS have	28 TRACES		
17 FFLS have	25 TRACES		
18 FFLS have	26 TRACES		
19 FFLS have	22 TRACES		
19 FFLS have	21 TRACES		
23 FFLS have	24 TRACES		
27 FFLS have	23 TRACES		
28 FFLS have	19 TRACES		
29 FFLS have	20 TRACES		
36 FFLS have	18 TRACES		
49 FFLS have	17 TRACES		
51 FFLS have	16 TRACES		
55 FFLS have	15 TRACES		
81 FFLS have	14 TRACES		
94 FFLS have	13 TRACES		
107 FFLS have	12 TRACES		
110 FFLS have	11 TRACES		
156 FFLS have	10 TRACES		
194 FFLS have	9 TRACES		
260 FFLS have	8 TRACES		
367 FFLS have	7 TRACES		
542 FFLS have	6 TRACES		
787 FFLS have	5 TRACES		
1217 FFLS have	4 TRACES		
2037 FFLS have	3 TRACES		
4270 FFLS have	2 TRACES		
14085 FFLS have	1 TRACES		
	5065		



Weapons Type Rifle with Caliber > 22  
US Recovered

COUNT(*)	FCNT
1 FFLS have	241 TRACES
1 FFLS have	224 TRACES
1 FFLS have	146 TRACES
1 FFLS have	126 TRACES
1 FFLS have	123 TRACES
1 FFLS have	114 TRACES
1 FFLS have	90 TRACES
1 FFLS have	89 TRACES
1 FFLS have	77 TRACES
1 FFLS have	76 TRACES
1 FFLS have	75 TRACES
1 FFLS have	74 TRACES
1 FFLS have	73 TRACES
1 FFLS have	70 TRACES
1 FFLS have	64 TRACES
1 FFLS have	59 TRACES
1 FFLS have	57 TRACES
1 FFLS have	56 TRACES
1 FFLS have	53 TRACES
1 FFLS have	52 TRACES
1 FFLS have	51 TRACES
1 FFLS have	50 TRACES
1 FFLS have	46 TRACES
1 FFLS have	42 TRACES
1 FFLS have	37 TRACES
2 FFLS have	61 TRACES
2 FFLS have	48 TRACES
2 FFLS have	45 TRACES
2 FFLS have	39 TRACES
3 FFLS have	60 TRACES
4 FFLS have	36 TRACES
4 FFLS have	35 TRACES
4 FFLS have	28 TRACES
5 FFLS have	43 TRACES
5 FFLS have	40 TRACES
5 FFLS have	32 TRACES
5 FFLS have	31 TRACES
6 FFLS have	41 TRACES
6 FFLS have	33 TRACES
6 FFLS have	30 TRACES
6 FFLS have	29 TRACES
7 FFLS have	25 TRACES
8 FFLS have	34 TRACES
8 FFLS have	27 TRACES
9 FFLS have	26 TRACES
9 FFLS have	24 TRACES
9 FFLS have	22 TRACES

Weapons Type Rifle with Caliber > 22  
MEXICO RECOVERED TRACES

COUNT(*)	FCNT	
1 FFLS have	167 TRACES	167
1 FFLS have	143 TRACES	143
1 FFLS have	133 TRACES	133
1 FFLS have	103 TRACES	103
1 FFLS have	73 TRACES	73
1 FFLS have	68 TRACES	68
1 FFLS have	62 TRACES	62
1 FFLS have	51 TRACES	51
1 FFLS have	43 TRACES	43
1 FFLS have	40 TRACES	40
1 FFLS have	39 TRACES	39
1 FFLS have	36 TRACES	36
1 FFLS have	29 TRACES	29
1 FFLS have	28 TRACES	28
1 FFLS have	25 TRACES	25
1 FFLS have	24 TRACES	24
1 FFLS have	23 TRACES	23
1 FFLS have	19 TRACES	19
1 FFLS have	16 TRACES	16
2 FFLS have	64 TRACES	128
2 FFLS have	37 TRACES	74
2 FFLS have	34 TRACES	68
2 FFLS have	26 TRACES	52
2 FFLS have	21 TRACES	42
2 FFLS have	13 TRACES	26
3 FFLS have	20 TRACES	60
4 FFLS have	27 TRACES	108
4 FFLS have	17 TRACES	68
4 FFLS have	14 TRACES	56
4 FFLS have	12 TRACES	48
5 FFLS have	18 TRACES	90
5 FFLS have	9 TRACES	45
6 FFLS have	15 TRACES	90
8 FFLS have	11 TRACES	88
12 FFLS have	10 TRACES	120
16 FFLS have	8 TRACES	128
16 FFLS have	7 TRACES	112
31 FFLS have	6 TRACES	186
37 FFLS have	5 TRACES	185
57 FFLS have	4 TRACES	228
111 FFLS have	3 TRACES	333
289 FFLS have	2 TRACES	578
1761 FFLS have	1 TRACES	1761
	1506	0
		5796

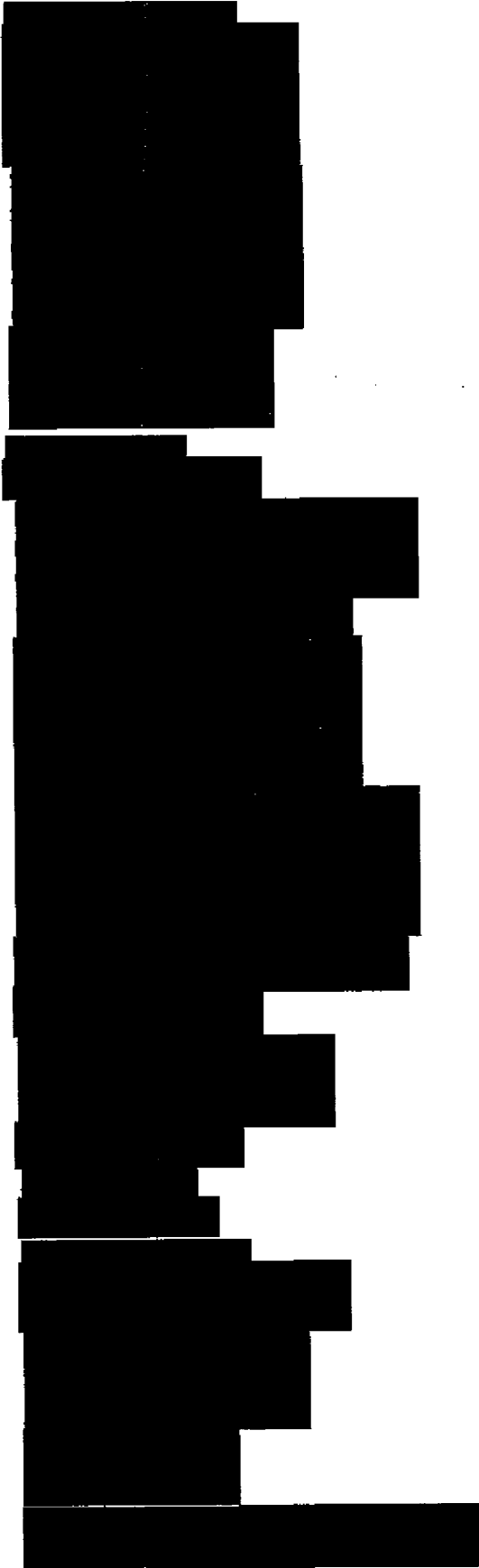
13 FFLS have	23 TRACES
15 FFLS have	21 TRACES
16 FFLS have	19 TRACES
19 FFLS have	20 TRACES
20 FFLS have	18 TRACES
21 FFLS have	15 TRACES
22 FFLS have	17 TRACES
24 FFLS have	16 TRACES
46 FFLS have	14 TRACES
50 FFLS have	13 TRACES
54 FFLS have	12 TRACES
68 FFLS have	11 TRACES
79 FFLS have	10 TRACES
93 FFLS have	9 TRACES
156 FFLS have	8 TRACES
167 FFLS have	7 TRACES
259 FFLS have	6 TRACES
394 FFLS have	5 TRACES
606 FFLS have	4 TRACES
1209 FFLS have	3 TRACES
2822 FFLS have	2 TRACES
10865 FFLS have	1 TRACES
	3208

RECOVERY MM, Caliber > 22 Retail FFL's

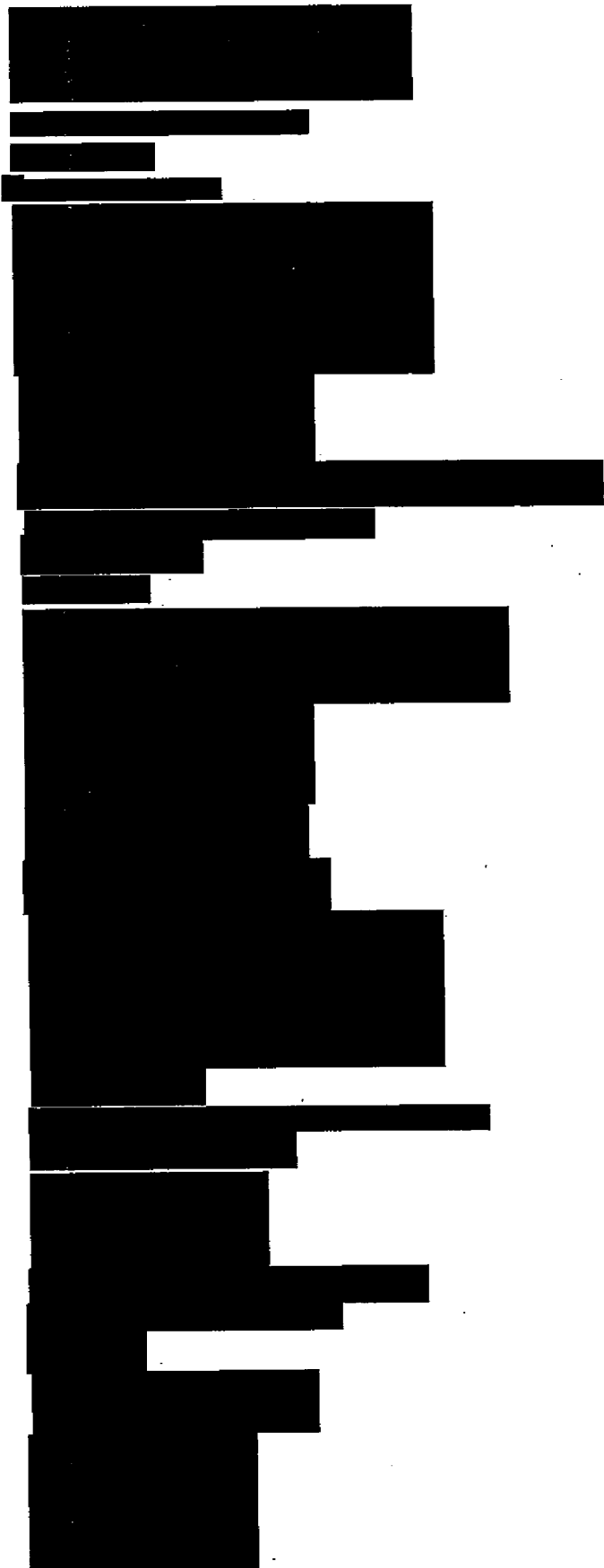
FFL

[REDACTED]

ST	COUNT
AZ	167
AZ	143
TX	133
AZ	103
TX	73
AZ	68
TX	64
TX	64
TX	62
TX	51
CA	49
TX	43
AZ	40
TX	39
CA	37
TX	37
AZ	36
TX	34
TX	34
TX	29
AZ	28
AZ	27
TX	27
AZ	27
TX	27
TX	26
CA	26
TX	25
TX	25
TX	25
TX	24
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AZ	18
TX	18
TX	18
TX	18
TX	18
CA	17



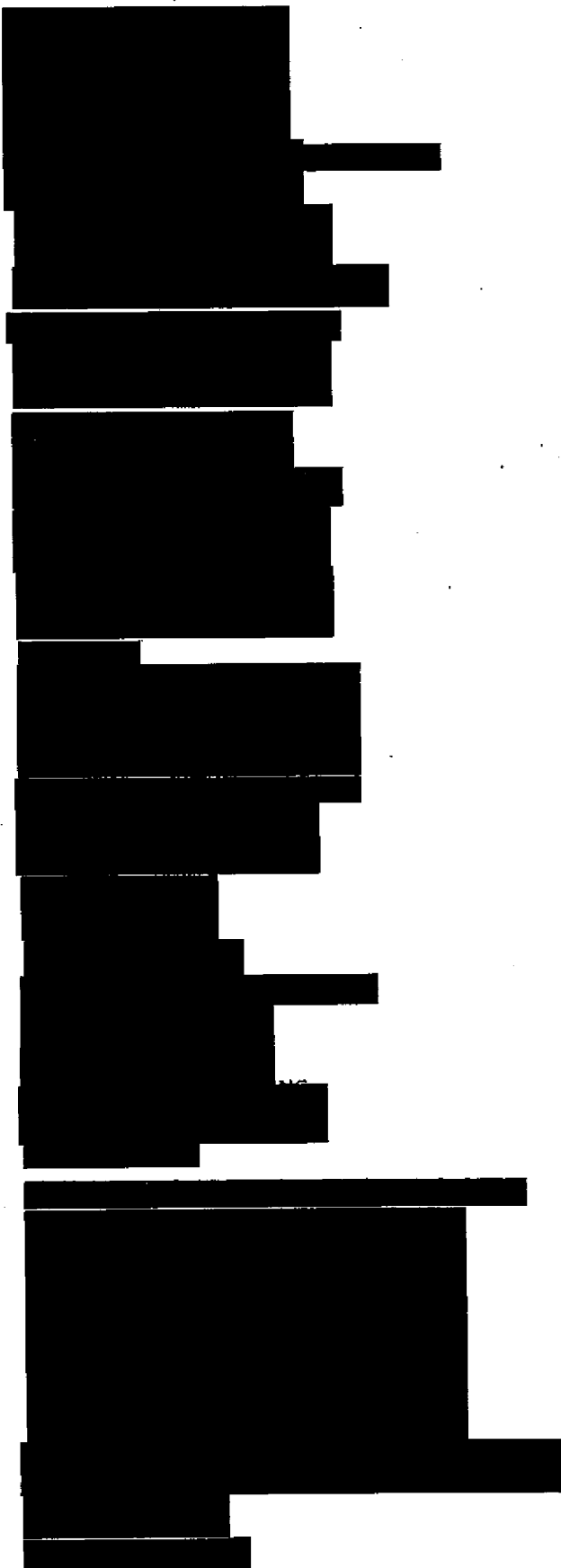
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OK 15  
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TX 14  
NV 14  
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AZ 12  
TX 12  
IL 12  
AZ 11  
WA 11  
FL 11  
AZ 11  
TX 11  
TX 11  
TX 10  
TX 10  
NM 10  
CA 10  
TX 10  
AZ 10  
NC 10  
CA 10  
TX 10  
AZ 10  
TX 10  
TX 9  
NM 9  
CA 9  
AZ 9  
TX 9  
TX 9  
AZ 9  
AZ 8



TX	8
TX	8
TX	8
AZ	8
TX	8
CA	8
TX	8
TX	8
TX	8
TX	8
AZ	8
CA	8
NV	8
TX	8
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NV	7
WA	7
CA	7
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NV	7
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CA	7
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IL	6
TX	6
AZ	6
AZ	6
CA	6
TX	6
AL	6
TX	6
AZ	6
CA	6
TX	6
TX	6
TX	6
TX	6

[REDACTED]

AR 6  
AZ 6  
TX 6  
CA 6  
TX 6  
AZ 6  
NV 6  
TX 6  
CA 6  
TX 6  
TX 6  
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CA 6  
FL 6  
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CA 5  
AZ 5  
OH 5  
NC 5  
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CA 5  
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AZ 5  
TX 5  
TX 5  
TX 5  
TX 5



TX	5
TX	5
TX	5
TX	4
OH	4
TX	4
CA	4
CA	4
TX	4
AZ	4
TX	4
TX	4
CA	4
GA	4
TX	4
TN	4
AZ	4
TX	4
TX	4
KS	4
TX	4
TX	4
TX	4
MI	4
TX	4
TX	4
WA	4
FL	4
TX	4
NM	4
TX	4
AZ	4
TX	4
TX	4
CA	4
IL	4
TX	4
TX	4
TX	4
TX	4
TX	4
TX	4
TX	4
NM	4
AZ	4
TX	4
OK	4

[REDACTED]

UT 4  
TX 4  
TX 4  
AZ 4  
TX 4  
TX 4  
CA 4  
TX 4  
AZ 4  
TX 3  
TX 3  
NY 3  
AZ 3  
AZ 3  
TX 3  
TX 3  
CA 3  
AL 3  
CO 3  
CA 3  
NV 3  
TX 3  
AZ 3  
TX 3  
KS 3  
TX 3  
KS 3  
TX 3  
AZ 3  
TX 3  
NM 3  
AZ 3  
CA 3  
MN 3  
AZ 3  
TX 3  
TX 3  
TX 3  
TX 3  
WA 3  
AZ 3  
MI 3  
MI 3  
OK 3  
CA 3  
SC 3  
TX 3



[REDACTED]

AZ 3  
TX 3  
IL 3  
TX 3  
TX 3  
AZ 3  
MA 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
IL 3  
CA 3  
TX 3  
CA 3  
TX 3  
NV 3  
TX 3  
NM 3  
AZ 3  
TX 3  
NM 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
CA 3  
TX 3  
TX 3  
TX 3  
TX 3  
TX 3  
OH 3  
AZ 3  
CA 3  
TX 3  
TX 3  
TX 3  
IL 3  
AZ 3  
CA 3  
OK 3  
CA 3  
CA 3



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

TX 2  
TX 2  
WA 2  
TX 2  
TX 2  
CA 2  
UT 2  
FL 2  
CA 2  
CA 2  
IN 2  
TX 2  
AZ 2  
TX 2  
CA 2  
TX 2  
AZ 2  
PA 2  
TX 2  
TX 2  
OR 2  
TX 2  
TX 2  
OH 2  
TX 2  
NM 2  
TX 2  
TX 2  
TX 2  
AZ 2  
CO 2  
FL 2  
WA 2  
OK 2  
OH 2  
OK 2  
CT 2  
CA 2  
AZ 2  
MT 2  
CO 2  
AZ 2  
TX 2  
CA 2  
CA 2  
AZ 2  
WA 2

[REDACTED]

OK 2  
TX 2  
LA 2  
OK 2  
TX 2  
CA 2  
CA 2  
OR 2  
CA 2  
KY 2  
TX 2  
IN 2  
CA 2  
WI 2  
KY 2  
FL 2  
TX 2  
AZ 2  
OK 2  
NM 2  
KS 2  
LA 2  
WV 2  
FL 2  
MI 2  
TX 2  
TX 2  
CA 2  
TX 2  
CA 2  
AR 2  
AZ 2  
NC 2  
TX 2  
AL 2  
TX 2  
TX 2  
TX 2  
TX 2  
TX 2  
KS 2  
TX 2  
NM 2  
TX 2  
CO 2  
NV 2  
TX 2  
OR 2

[REDACTED]

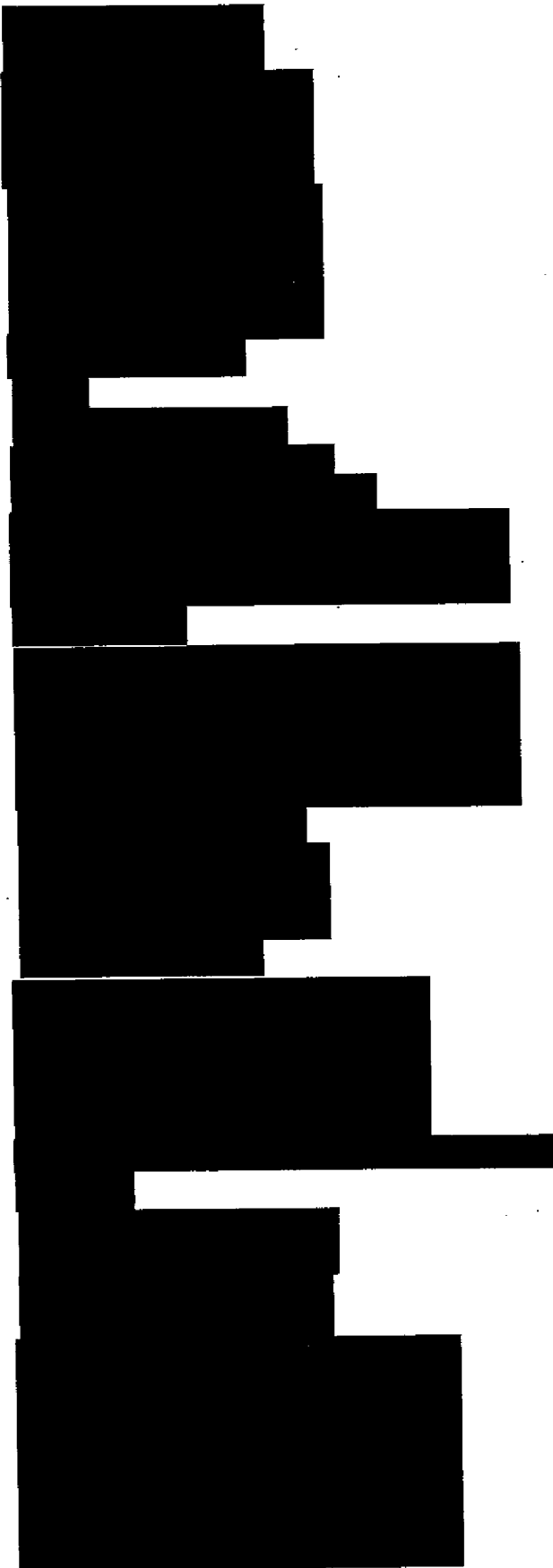
TX 2  
AZ 2  
WA 2  
TX 2  
ID 2  
NV 2  
NM 2  
TX 2  
NM 2  
NM 2  
TX 2  
CA 2  
UT 2  
AZ 2  
TX 2  
TX 2  
CA 2  
AZ 2  
CA 2  
FL 2  
OK 2  
TX 2  
CA 2  
TX 2  
OH 2  
NM 2  
MO 2  
CA 2  
WA 2  
TX 2  
TX 2  
TX 2  
CA 2  
TX 2  
OR 2  
CA 2  
TX 2  
CA 2  
TX 2  
AZ 2  
AZ 2  
TX 2  
TX 2  
LA 2  
TX 2  
VA 2  
NM 2

[REDACTED]

CA 2  
IL 2  
GA 2  
TX 2  
CA 2  
TX 2  
TX 2  
TX 2  
TX 2  
LA 2  
TX 2  
CA 2  
OK 2  
TX 2  
SC 2  
FL 2  
TX 2  
TX 2  
CO 2  
TX 2  
AR 2  
TX 2  
TX 2  
TX 2  
TX 2  
WY 2  
TX 2  
PA 2  
NC 2  
TX 2  
NM 2  
AZ 2  
CA 2  
IN 2  
CA 2  
TX 2  
CA 2  
CA 2  
TX 2  
TX 2  
OK 2  
TX 2  
WI 2  
TX 2  
TX 2  
TX 2  
AZ 2

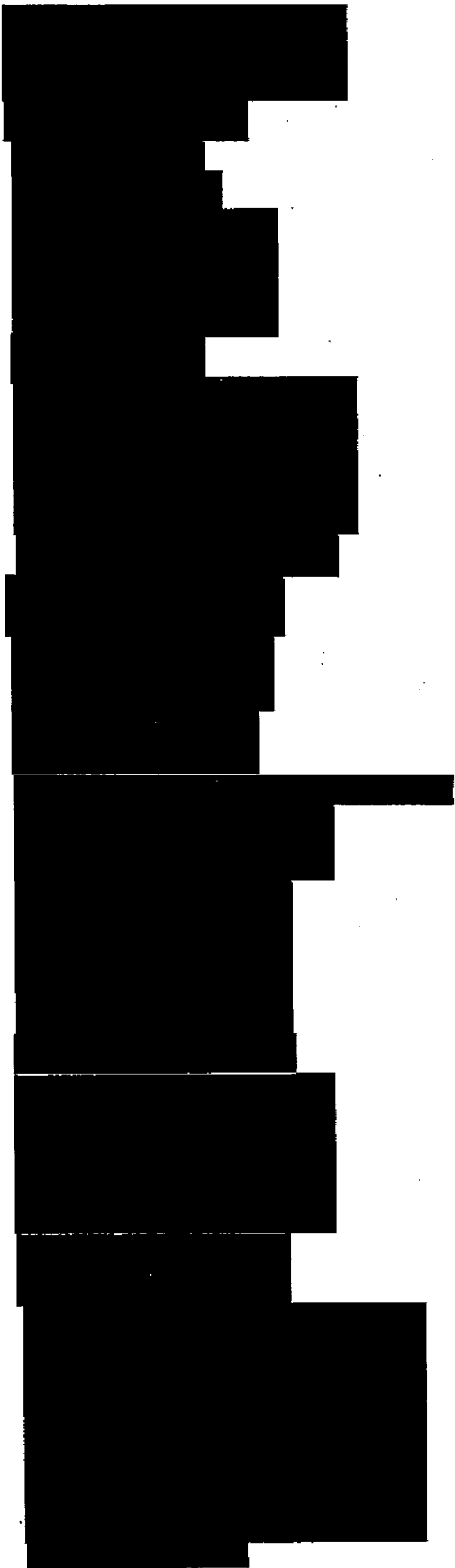
[REDACTED]

ME 2  
AZ 2  
TX 2  
AZ 2  
CA 2  
TX 2  
TX 2  
TX 2  
CA 2  
CA 2  
TX 2  
CO 2  
GA 2  
AZ 2  
CA 2  
TX 2  
TX 2  
AZ 2  
CO 2  
AZ 2  
CO 2  
CA 2  
TX 2  
CA 2  
NV 2  
CA 2  
OH 2  
TX 2  
OH 2  
TX 2  
TX 2  
FL 2  
CA 2  
AZ 2  
TX 2  
TX 2  
TN 2  
CT 2  
CO 2  
TX 2  
KS 2  
AZ 2  
AZ 2  
TX 2  
CA 2  
CA 2  
MI 2



AZ	2
NM	2
TX	2
TX	2
TX	2
CA	2
AZ	2
AZ	2
CA	2
CA	2
TX	2
NM	2
TX	2
CA	2
TX	2
SC	2
KS	2
OK	2
TX	2
AZ	2
FL	2
LA	2
CA	2
WA	2
TX	2
IN	2
AL	2
AZ	2
TX	2
AZ	2
VT	2
IL	2
MA	1
AZ	1
TX	1
TX	1
NC	1
CA	1
TX	1
TX	1
AK	1
TX	1
TX	1
KY	1
LA	1
TX	1
TX	1

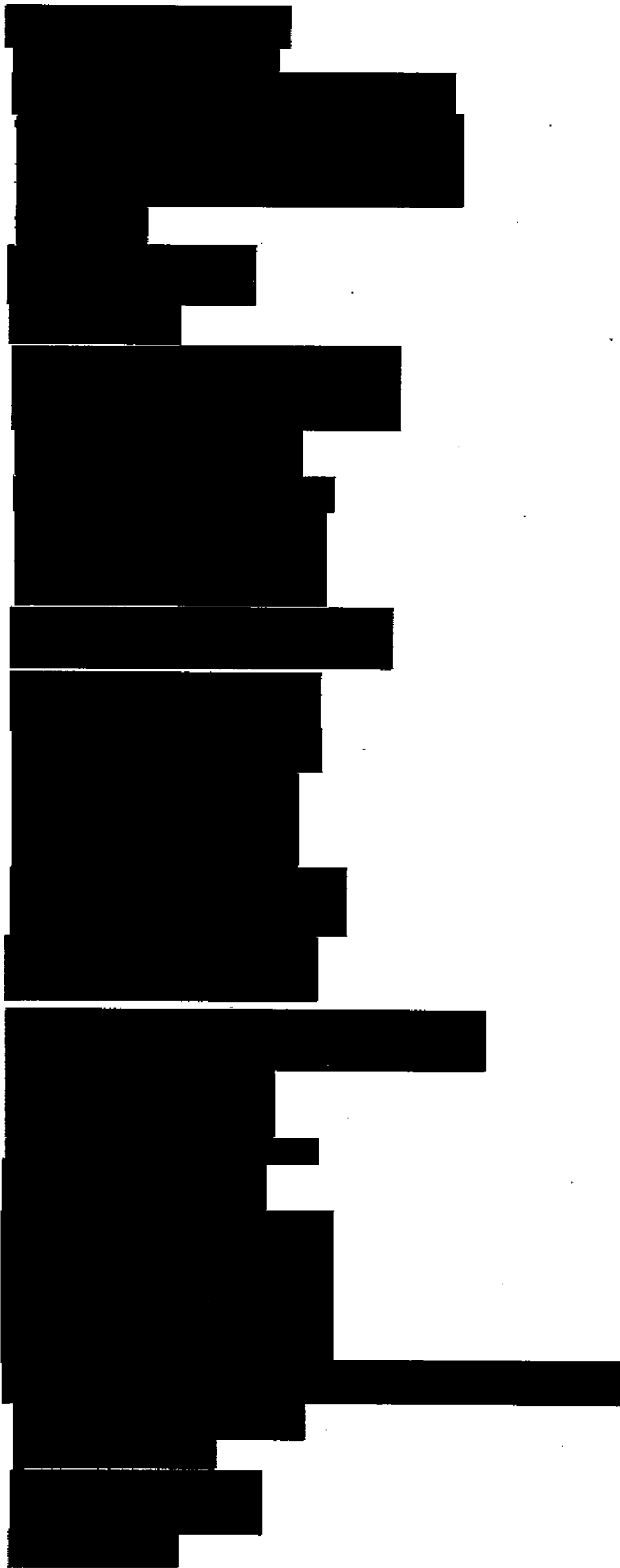




OR	1
NY	1
GA	1
TX	1
AZ	1
TX	1
CA	1
AK	1
CA	1
AZ	1
TX	1
CA	1
LA	1
MI	1
AZ	1
NC	1
TX	1
NV	1
SD	1
TX	1
TX	1
AZ	1
OH	1
DE	1
TX	1
TX	1
MO	1
NV	1
WA	1
MD	1
AZ	1
TX	1
NC	1
CA	1
MS	1
MO	1
NJ	1
TX	1
TX	1
CA	1
NE	1
MI	1
GA	1
IL	1
TX	1
AL	1
TX	1

[REDACTED]

- TX 1
- AZ 1
- TX 1
- CO 1
- AL 1
- AZ 1
- TX 1
- NE 1
- MN 1
- AZ 1
- KS 1
- OR 1
- TX 1
- CA 1
- CA 1
- OH 1
- CA 1
- TX 1
- AZ 1
- TX 1
- NM 1
- KY 1
- CA 1
- MN 1
- MN 1
- CA 1
- AZ 1
- NM 1
- MI 1
- WV 1
- OR 1
- NC 1
- NY 1
- TX 1
- CO 1
- AZ 1
- TX 1
- NE 1
- SC 1
- CA 1
- TX 1
- MI 1
- TX 1
- IN 1
- FL 1
- GA 1
- WA 1



- TX 1
- WA 1
- TX 1
- CA 1
- AZ 1
- CA 1
- TX 1
- CA 1
- LA 1
- TX 1
- CA 1
- CO 1
- NM 1
- TX 1
- CA 1
- TX 1
- TX 1
- TX 1
- CO 1
- LA 1
- WA 1
- CA 1
- TX 1
- CO 1
- NV 1
- CA 1
- TX 1
- TX 1
- AZ 1
- VA 1
- OK 1
- OH 1
- TX 1
- TX 1
- NC 1
- TX 1
- VA 1
- CO 1
- AL 1
- CA 1
- SC 1
- TX 1
- MN 1
- TX 1
- CA 1
- AZ 1
- TX 1

[REDACTED]

CO 1  
TX 1  
TX 1  
OK 1  
OK 1  
TX 1  
AZ 1  
TX 1  
CA 1  
LA 1  
TX 1  
IL 1  
NC 1  
CA 1  
TX 1  
CA 1  
TX 1  
TX 1  
NM 1  
KS 1  
TX 1  
TX 1  
TX 1  
NV 1  
TN 1  
CA 1  
MI 1  
CA 1  
AZ 1  
OK 1  
LA 1  
AZ 1  
KY 1  
AR 1  
TX 1  
TX 1  
MO 1  
CA 1  
OH 1  
TX 1  
PA 1  
PA 1  
TN 1  
NE 1  
HI 1  
AL 1  
NC 1

[REDACTED]

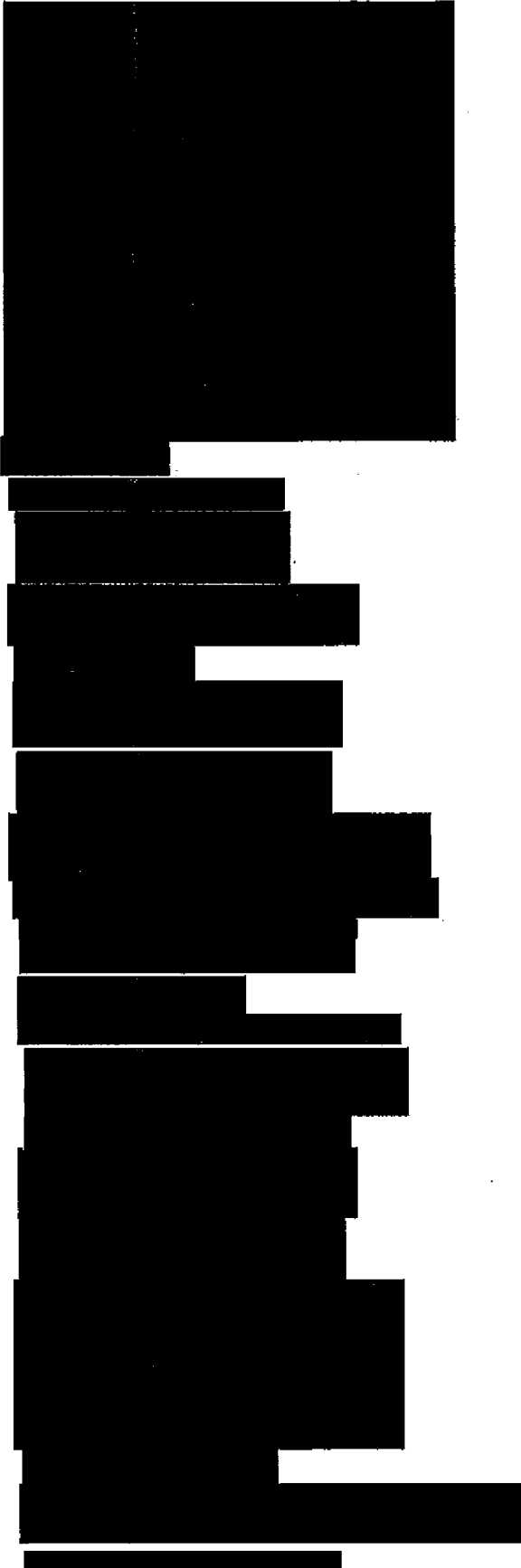
OK 1  
MO 1  
IN 1  
AZ 1  
CA 1  
AZ 1  
WA 1  
TX 1  
TX 1  
AZ 1  
AZ 1  
AZ 1  
CT 1  
CA 1  
IN 1  
CA 1  
MN 1  
OH 1  
TX 1  
AZ 1  
TX 1  
MS 1  
TX 1  
TX 1  
MO 1  
FL 1  
AZ 1  
TX 1  
ND 1  
MD 1  
CA 1  
TX 1  
TX 1  
CA 1  
PA 1  
NM 1  
TX 1  
TX 1  
TX 1  
TX 1  
WV 1  
AZ 1  
TX 1  
CA 1  
TX 1  
CA 1  
MO 1



TX	1
CA	1
TX	1
AZ	1
AZ	1
OR	1
NE	1
NY	1
TX	1
OR	1
NM	1
CA	1
NV	1
TX	1
MO	1
TX	1
CO	1
GA	1
CA	1
CA	1
CA	1
MD	1
ID	1
TN	1
CA	1
CA	1
AZ	1
TX	1
CA	1
PA	1
OH	1
MA	1
CA	1
OH	1
MN	1
LA	1
OK	1
PA	1
AZ	1
CA	1
TX	1
ID	1
CA	1
TX	1
AZ	1
CA	1
LA	1

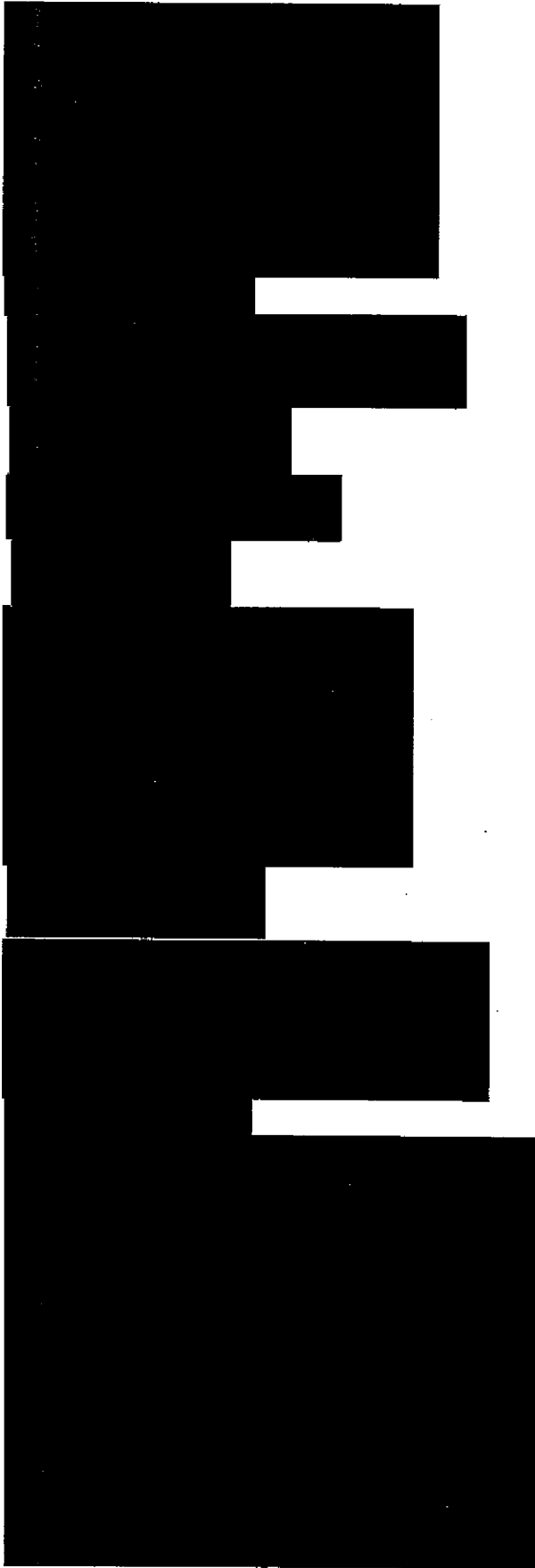
[REDACTED]

CA 1  
CT 1  
WY 1  
NE 1  
CA 1  
AZ 1  
MS 1  
MN 1  
TX 1  
AZ 1  
AZ 1  
AZ 1  
TX 1  
NV 1  
TX 1  
IL 1  
TX 1  
TX 1  
CA 1  
TX 1  
AZ 1  
IL 1  
CA 1  
TX 1  
CA 1  
CA 1  
PA 1  
TX 1  
TX 1  
TX 1  
CA 1  
CA 1  
CA 1  
TX 1  
TX 1  
CA 1  
TX 1  
MS 1  
PA 1  
CA 1  
TX 1  
ID 1  
TX 1  
MS 1  
OH 1  
TX 1  
OH 1

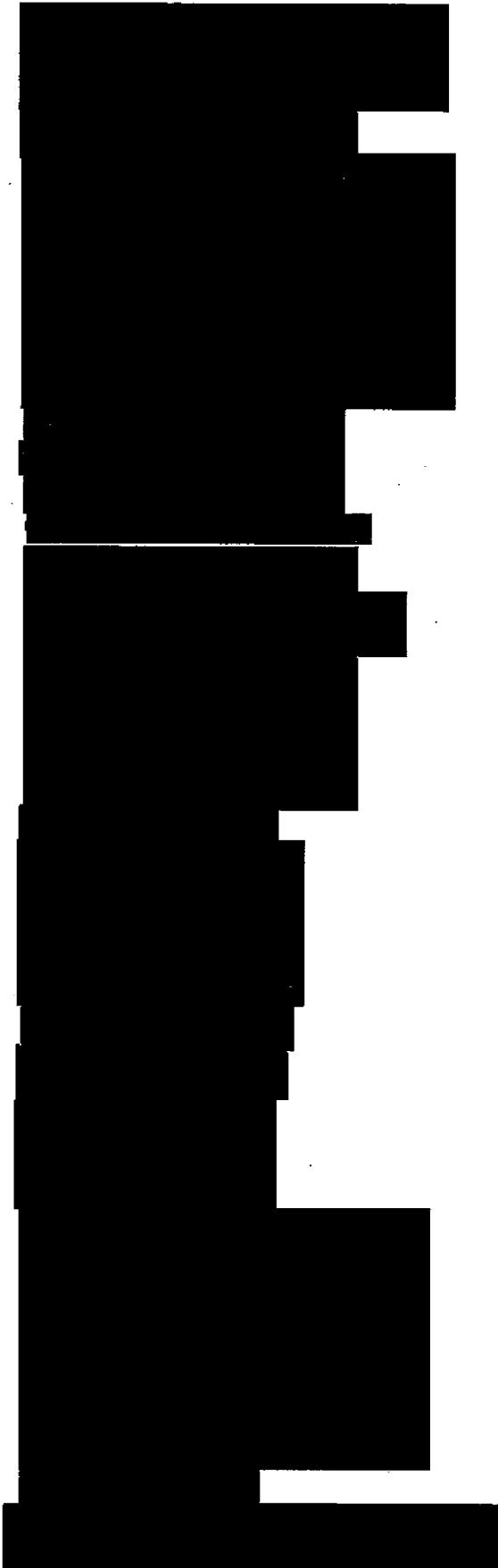


AZ	1
CA	1
OK	1
WI	1
NE	1
IN	1
IL	1
CO	1
CA	1
AZ	1
CA	1
OH	1
AL	1
TX	1
IN	1
TX	1
TX	1
CA	1
KS	1
TX	1
MI	1
OH	1
TX	1
TX	1
AR	1
KS	1
TX	1
OK	1
TX	1
WA	1
TX	1
OH	1
MA	1
TX	1
MO	1
NM	1
TX	1
TX	1
CO	1
MD	1
NM	1
NM	1
OK	1
TX	1
TN	1
NC	1
NM	1





CA 1  
AL 1  
CA 1  
OH 1  
CA 1  
NY 1  
NE 1  
VA 1  
TX 1  
ND 1  
LA 1  
NY 1  
TX 1  
TX 1  
SC 1  
IN 1  
TX 1  
TX 1  
NM 1  
VA 1  
NM 1  
CA 1  
SD 1  
IA 1  
TN 1  
IA 1  
TX 1  
TX 1  
WA 1  
CA 1  
MO 1  
OR 1  
NC 1  
TX 1  
OH 1  
CO 1  
WA 1  
KY 1  
CA 1  
CA 1  
MO 1  
OK 1  
FL 1  
AZ 1  
CA 1  
NC 1  
MI 1



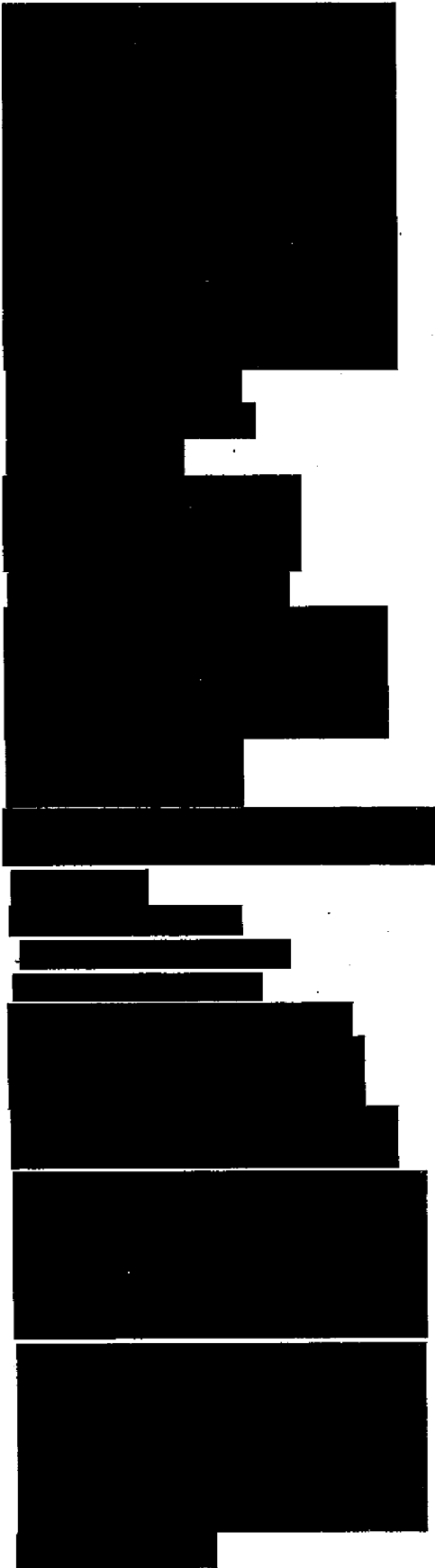
PA 1  
CA 1  
WA 1  
TX 1  
AZ 1  
CA 1  
NY 1  
AL 1  
PA 1  
CA 1  
CA 1  
PA 1  
TX 1  
CA 1  
TX 1  
PA 1  
GA 1  
LA 1  
AR 1  
OK 1  
CA 1  
AZ 1  
OK 1  
CA 1  
TX 1  
KS 1  
NC 1  
NE 1  
CA 1  
CA 1  
TX 1  
MO 1  
OR 1  
TX 1  
TX 1  
TX 1  
CA 1  
CA 1  
CA 1  
NV 1  
AK 1  
SC 1  
CO 1  
AL 1  
TX 1  
FL 1  
MI 1

[REDACTED]

GA 1  
TX 1  
TX 1  
MN 1  
TX 1  
MS 1  
CO 1  
TX 1  
TX 1  
CA 1  
TX 1  
FL 1  
CA 1  
OK 1  
TX 1  
MI 1  
CA 1  
AZ 1  
NM 1  
TX 1  
TX 1  
TX 1  
CA 1  
CA 1  
NC 1  
CA 1  
NM 1  
TX 1  
MI 1  
TX 1  
TX 1  
AZ 1  
TX 1  
GA 1  
WI 1  
SC 1  
NC 1  
IL 1  
ID 1  
GA 1  
CA 1  
TX 1  
CO 1  
IL 1  
CT 1  
TX 1  
AK 1

[REDACTED]

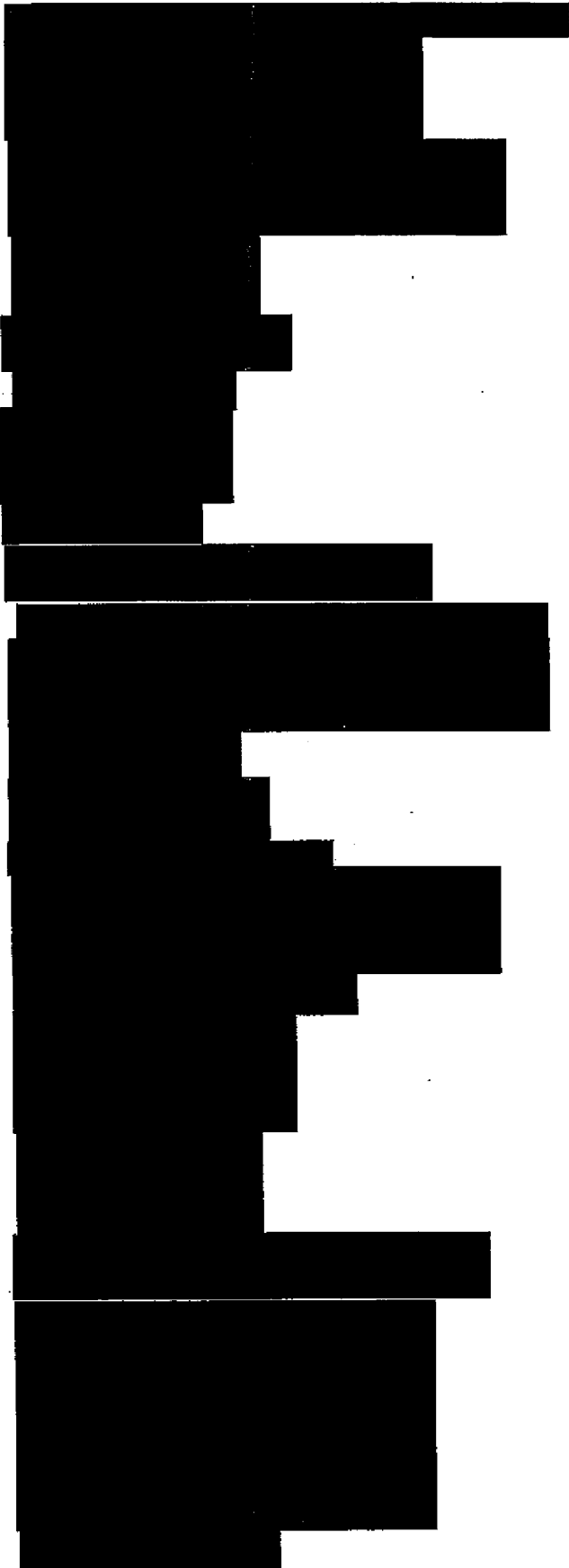
MD 1  
AL 1  
NC 1  
NC 1  
AR 1  
TX 1  
NJ 1  
CA 1  
AZ 1  
FL 1  
TX 1  
NM 1  
TX 1  
NM 1  
MN 1  
IL 1  
TX 1  
IL 1  
GA 1  
CA 1  
NC 1  
FL 1  
TX 1  
CA 1  
TX 1  
OR 1  
TX 1  
TX 1  
KY 1  
TX 1  
PA 1  
CA 1  
CA 1  
CA 1  
CA 1  
PA 1  
IN 1  
MT 1  
NV 1  
ID 1  
TX 1  
CA 1  
OR 1  
TX 1  
TX 1  
TX 1  
MO 1



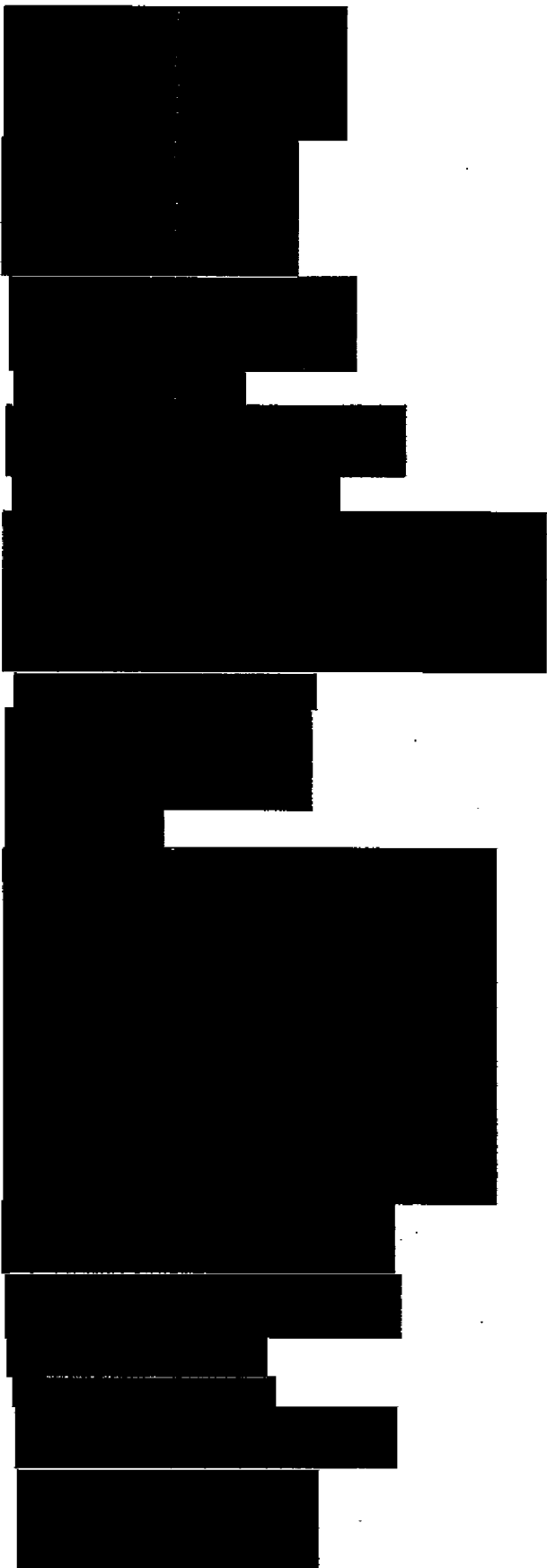
IL	1
AZ	1
AK	1
FL	1
GA	1
CA	1
OH	1
WY	1
NV	1
NV	1
ID	1
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MS	1
TX	1
AR	1
UT	1
AZ	1
TX	1
AR	1
MO	1
MT	1
PA	1
TX	1
TX	1
AL	1
ID	1
TX	1
NV	1
TX	1
MI	1
TX	1
OR	1
CA	1
TX	1
TX	1
AZ	1
MN	1
CA	1
NY	1
TN	1
AK	1
WA	1
MN	1
FL	1
NM	1
AZ	1
TX	1

[REDACTED]

OK 1  
LA 1  
TX 1  
TX 1  
OH 1  
TX 1  
TX 1  
WA 1  
NE 1  
TN 1  
PA 1  
MD 1  
CO 1  
AZ 1  
CT 1  
NM 1  
MN 1  
TX 1  
TX 1  
NY 1  
TX 1  
LA 1  
IN 1  
CA 1  
TX 1  
WA 1  
MD 1  
CA 1  
IL 1  
IL 1  
TX 1  
CA 1  
WI 1  
FL 1  
TX 1  
KS 1  
NM 1  
TX 1  
AZ 1  
AZ 1  
NC 1  
CA 1  
TX 1  
TX 1  
TX 1  
NC 1  
CA 1



IN	1
TX	1
TX	1
TX	1
CA	1
AR	1
CA	1
TX	1
TX	1
CA	1
GA	1
TX	1
OK	1
IL	1
CA	1
TX	1
KS	1
TN	1
TX	1
CA	1
CO	1
VA	1
TX	1
MO	1
MD	1
TX	1
ME	1
NY	1
CA	1
TX	1
WV	1
FL	1
SD	1
PA	1
TX	1
TX	1
TX	1
CA	1
ID	1
CO	1
OH	1
CA	1
CA	1
CT	1
AZ	1
FL	1
TX	1



PA 1  
NM 1  
WA 1  
AZ 1  
TX 1  
TX 1  
TX 1  
TX 1  
SC 1  
AZ 1  
FL 1  
TX 1  
AR 1  
FL 1  
TX 1  
CA 1  
IN 1  
UT 1  
CA 1  
CA 1  
TX 1  
MO 1  
AZ 1  
OR 1  
TX 1  
OR 1  
CA 1  
AZ 1  
MS 1  
KS 1  
NM 1  
WA 1  
MI 1  
WV 1  
VA 1  
AZ 1  
TX 1  
TX 1  
CA 1  
CO 1  
TX 1  
CA 1  
TX 1  
TX 1  
AZ 1  
CA 1  
FL 1



[REDACTED]

[REDACTED]

[REDACTED]

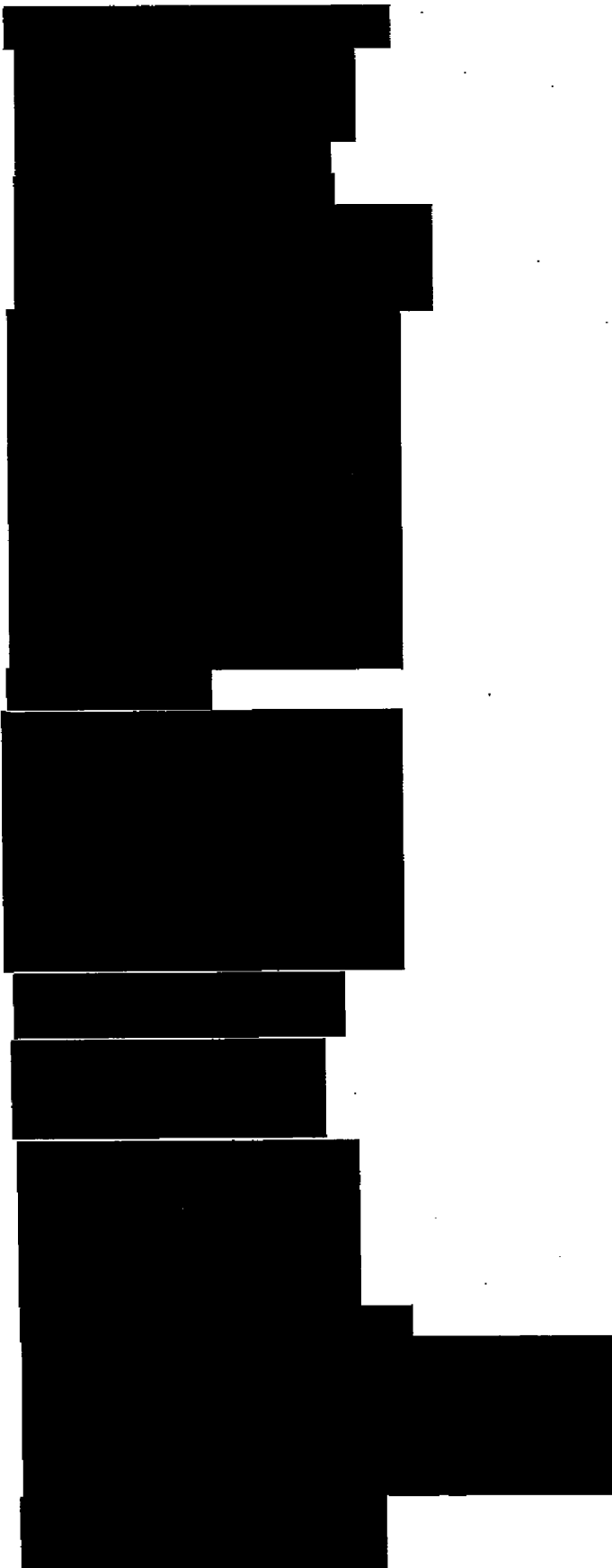
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

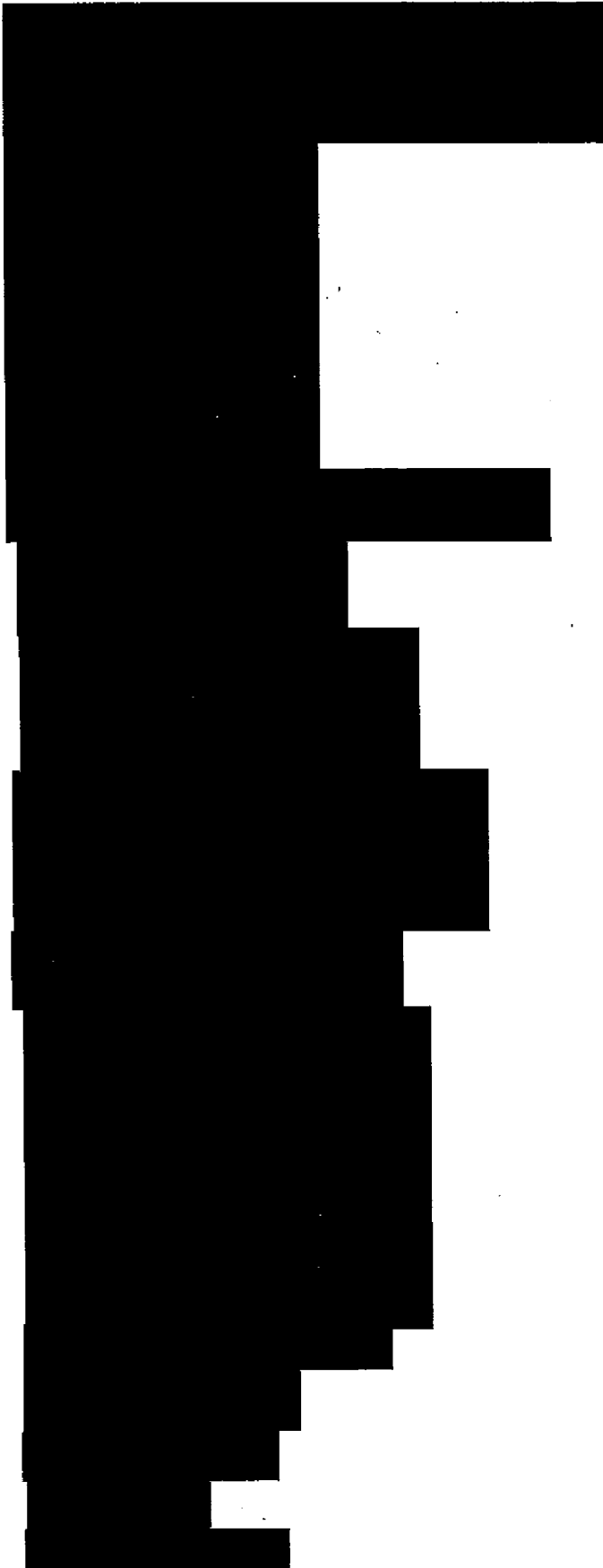
OK	1
MN	1
CO	1
TX	1
AZ	1
CA	1
WA	1
CA	1
MI	1
UT	1
TX	1
CA	1
TX	1
MO	1
TX	1
NC	1
TX	1
MI	1
WI	1
CA	1
IL	1
OH	1
IL	1
AZ	1
AZ	1
AL	1
CA	1
TX	1
MO	1
WA	1
CA	1
NJ	1
TX	1
TX	1
GA	1
IL	1
NM	1
GA	1
WA	1
CA	1
CA	1
CA	1
TX	1
CA	1
VA	1
CA	1
TX	1



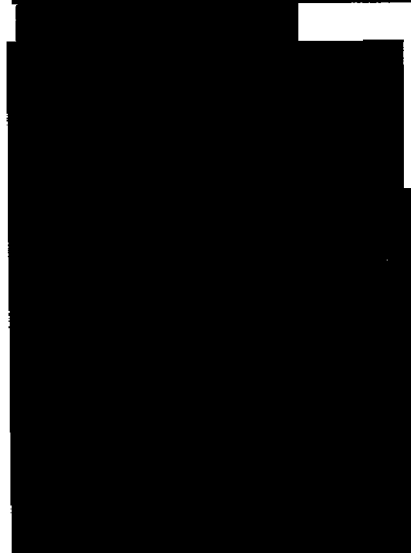
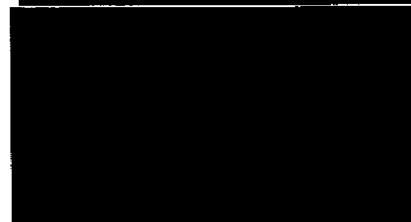
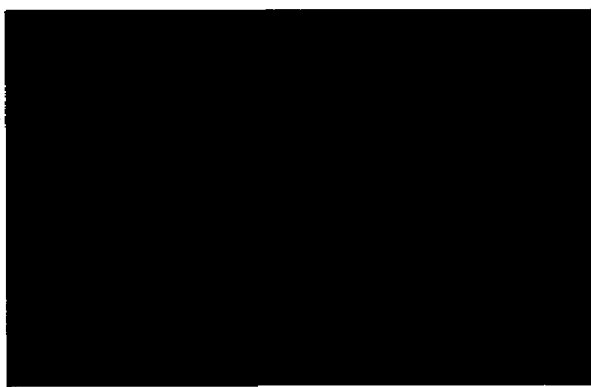
TX	1
NH	1
CA	1
CA	1
TX	1
IN	1
TX	1
TX	1
TX	1
KS	1
AZ	1
NM	1
TX	1
AZ	1
WI	1
CA	1
NM	1
NM	1
MT	1
WA	1
TX	1
FL	1
NC	1
CA	1
GA	1
TN	1
CA	1
NM	1
MO	1
TX	1
TX	1
OK	1
NV	1
OH	1
CA	1
SC	1
CO	1
NM	1
AZ	1
TX	1
NC	1
AZ	1
UT	1
AZ	1
KS	1
TX	1
TX	1

[REDACTED]

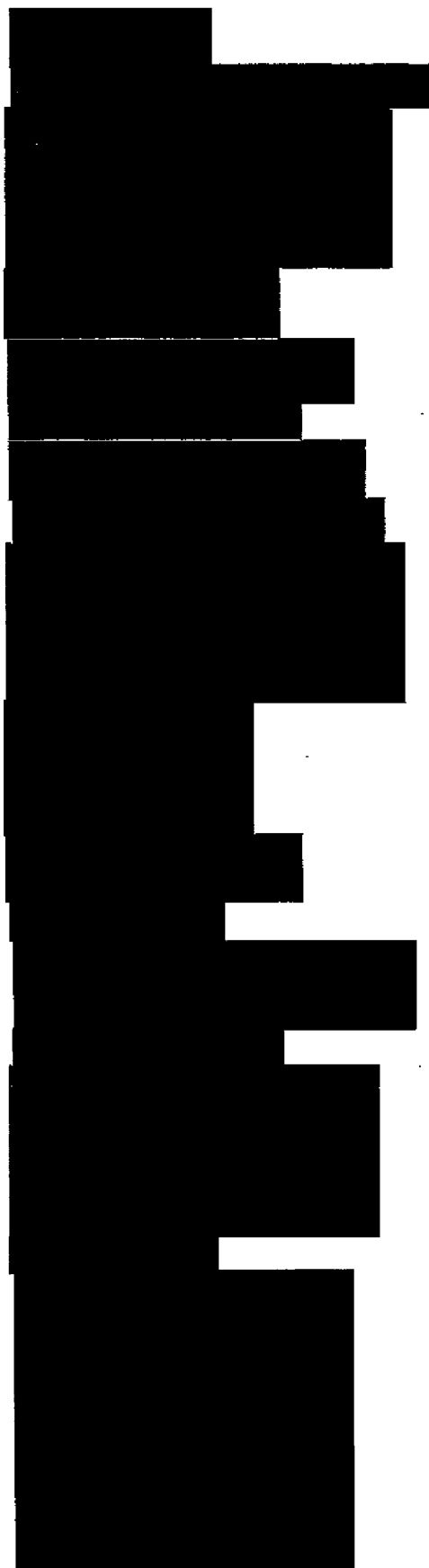
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LA 1  
MI 1  
MN 1  
TX 1  
TX 1  
FL 1  
TX 1  
CO 1  
AZ 1  
TX 1  
TX 1  
FL 1  
TX 1  
OH 1  
MI 1  
MT 1  
AZ 1  
AK 1  
OK 1  
KY 1  
NY 1  
TX 1  
CA 1  
AL 1  
CA 1  
TX 1  
AZ 1  
GA 1  
MO 1  
CA 1  
CA 1  
CA 1  
IL 1  
NM 1  
LA 1  
OH 1  
AZ 1  
NM 1  
CA 1  
AR 1  
GA 1  
CA 1  
TX 1  
AZ 1  
TX 1  
CA 1



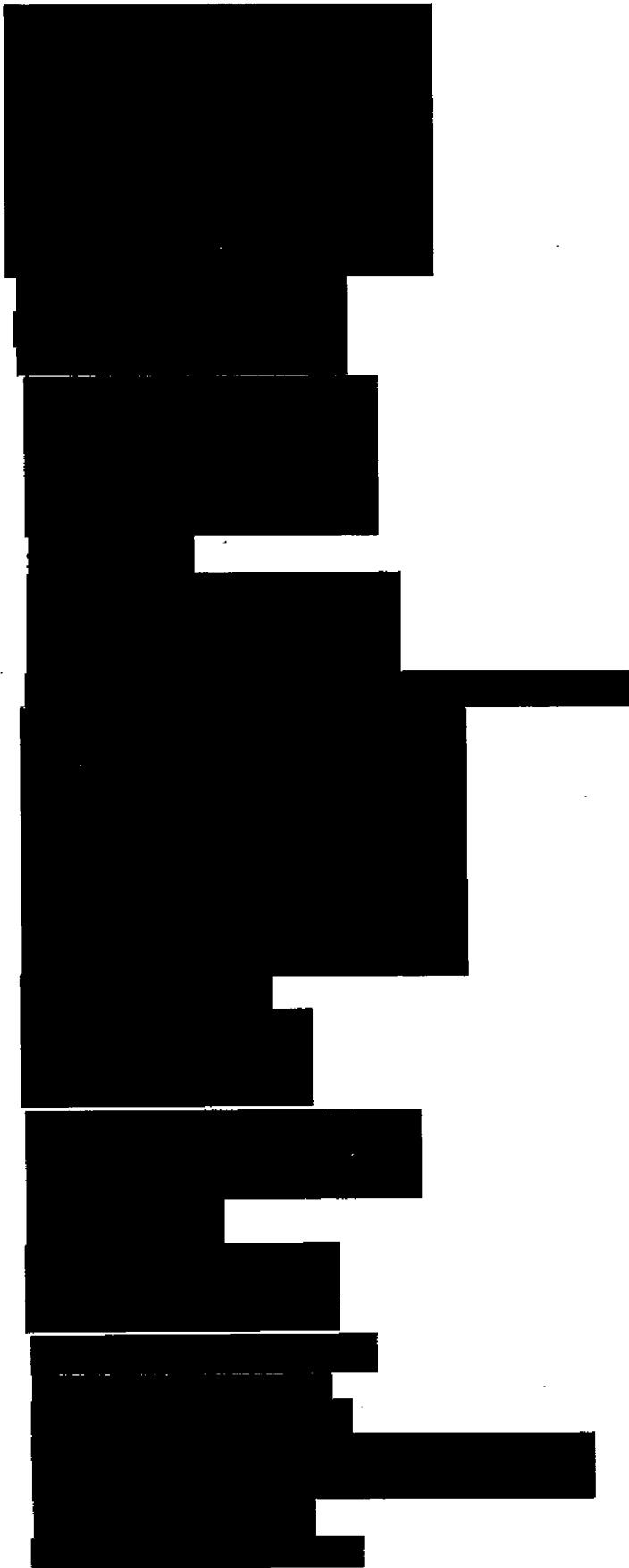
CA	1
MI	1
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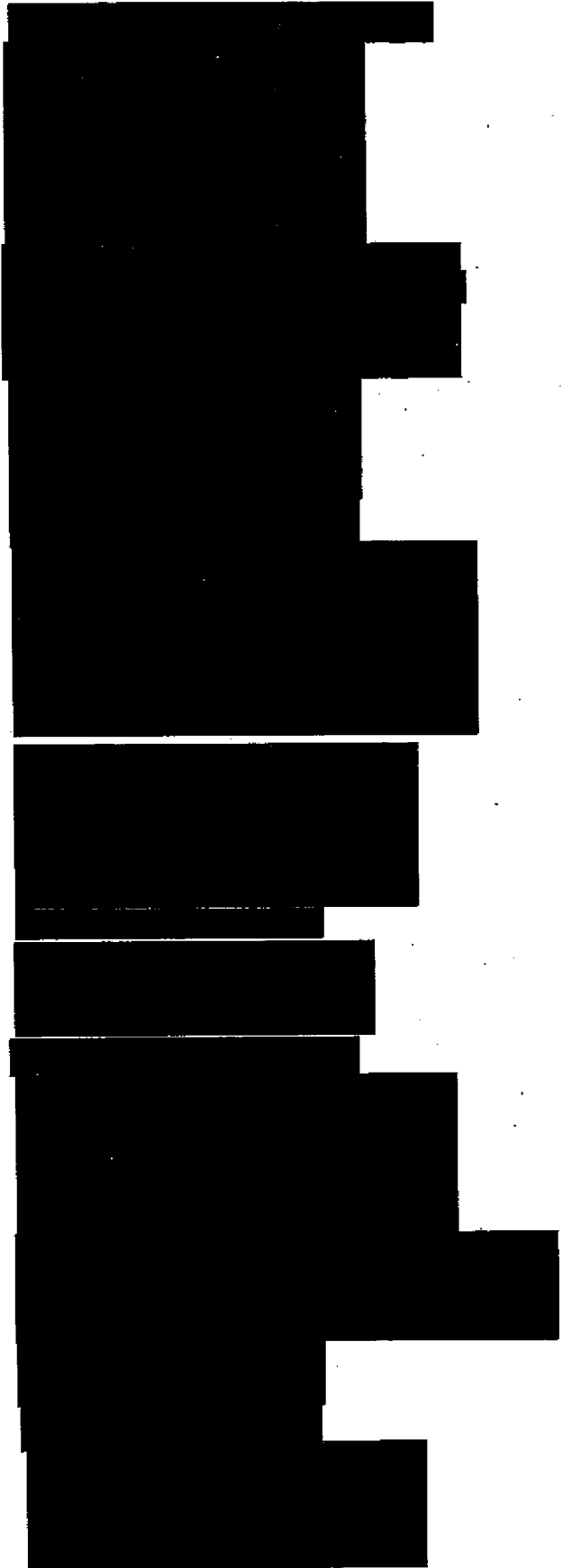


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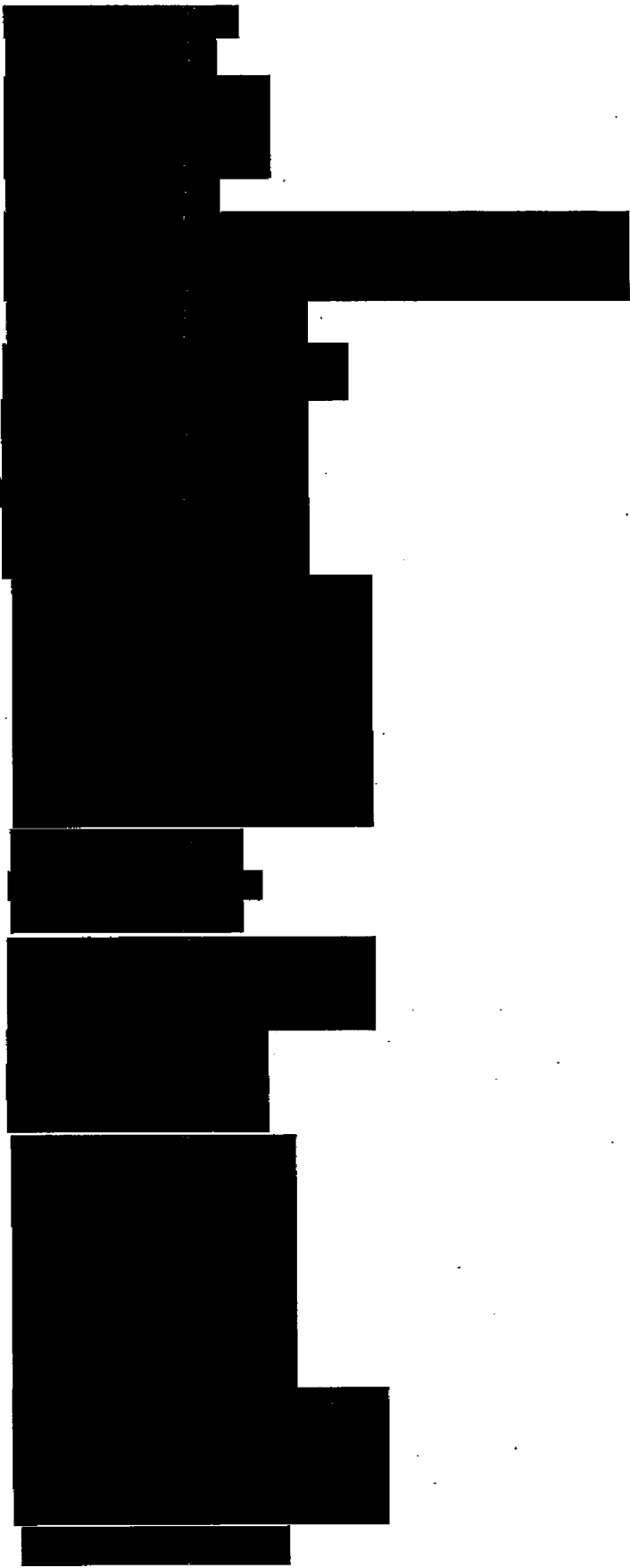


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