

APPENDIX C

INFORMATION TO OBTAIN (Ontario Court of Justice)

CANADA
PROVINCE OF ONTARIO
TORONTO REGION



An Application for two Production Orders pursuant to section 487.016 of the *Criminal Code*;

An application for a Search Warrant pursuant to section 487 of the *Criminal Code*;

And

An application for an Order Denying Access to Information pursuant to section 487.3 of the *Criminal Code*;

I, Dennis YIM #9543, of the Toronto Police Service, City of Toronto, affirm and say as follows:

I understand that this is an ex parte application and that I am obligated to provide full, frank and fair disclosure of the material and information available to me. In drafting this Affidavit, I did not include every single detail of the investigation, which I believe does not impact on the sufficiency of the material and information I am presenting. I did not report on peripheral details to matters being investigated. Many reports I have read have contained more information than I have included in this Affidavit. In an effort to prepare a document that is clear and concise, I have included information that, I believe, is relevant to this particular investigation and which is necessary to establish the grounds for granting the requested Authorizations. I am aware of my duty to present information that would detract from my grounds.

I have reasonable grounds to believe that the following offence under the *Criminal Code* has been committed:

Unknown person(s), between December 13th, 2017 and December 15th, 2017, inclusive, at the City of Toronto, did Murder Bernard SHERMAN and Honey SHERMAN, contrary section 235(1) of the *Criminal Code*.

1. INTRODUCTION AND ORDERS BEING SOUGHT

On Friday, December 15th, 2017, the Toronto Police Service (TPS) received a 911 call to attend at 50 Old Colony Road, in the City of Toronto. Responding officers discovered the bodies of Bernard and Honey SHERMAN in the basement of their home, next to their swimming pool. They were facing the wall in a semi-seated position. Their arms were behind them, and their bodies were being held up by black belts wrapped around their necks and tied to a railing approximately [REDACTED]. As detailed in the information provided below, I have reasonable grounds to believe that Honey SHERMAN and Bernard SHERMAN were murdered. At this point in the investigation, investigators are trying to determine who is responsible for their deaths.

In my most recent applications, I sought to explore the theory that an individual seen in the area of 50 Old Colony Road, the “walking man”, was involved in the murders. [REDACTED]

[REDACTED]

The prior applications sought to identify this person and to determine his modus operandi.

By way of s. 487.015 production orders dated January 29th, 2019, Bell Canada Incorporated, Rogers Communications Canada Incorporated, Freedom Mobile Incorporated and Telus Communications Incorporated provided transmission data to the Toronto Police Service (TPS) Intelligence Unit. The Production Orders authorized the TPS Intelligence Unit to compare telephone numbers identified throughout the investigation, up to the point in which the transmission data had been provided, by the telecommunications companies. A subsequent production order authorized on July 2nd, 2019, authorized additional phone numbers to be included in the comparisons.

The results of the comparisons were compiled into a report and [REDACTED]

[REDACTED]

and this application seeks judicial authorization to have additional phone numbers

compared to the tower dump transmission data and additional comparisons run within the tower dump transmission data.

First, this application seeks to compare phone numbers that have since been acquired or identified as being a part of this investigation that have not been previously compared with the tower dump transmission data.

Second, this application also seeks authorization for the production of transmission data, in the possession of the Toronto Police Service, Intelligence Unit, that will allow the data to be grouped and analysed for common phone numbers that are present within two or more data sets, that parallel the times and locations, where Bernard SHERMAN and Honey SHERMAN had attended on December 13th, 2017. As detailed and explained later in this application, the tower dump transmission data comparisons will allow investigators to identify previously unknown persons of interest and to either bring credence to or cast doubt on whether the SHERMANS were under surveillance by unknown persons on December 13th, 2017. The presence or absence of any results will assist investigators in identifying perpetrators and in determining the sophistication and organization of any modus operandi.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In this application, I seek the following orders:

- (a) A production order pursuant to s. 487.016 authorizing Det. Christopher SLOAN #7844 (or his designate) of the TPS Intelligence Unit to compare tower dump transmission data to any newly identified phone numbers, acquired lawfully, in this investigation, for common numbers and to provide the transmissions data to investigators in the form of a report.
- (b) A production order pursuant to s.487.016 authorizing Det. Christopher SLOAN #7844 (or his designate) of the TPS Intelligence Unit to compare the transmission data, obtained by way of the s.487.015 production orders to trace a communication authorized January 29th, 2019, against itself, after having divided the transmission data in to groups according to time and geographic location. The Intelligence Unit will compare the groupings of data for common numbers amongst the groups of transmissions and will provide those transmissions to investigators in the form of a report.
- (c) A search warrant, pursuant to s. 487 authorizing the search of [REDACTED]
[REDACTED]
[REDACTED]
- (d) An order denying access to information pursuant to s.487.3 denying access to documents relating to this application.¹

2. BACKGROUND OF THE INVESTIGATION

Please refer to Appendix D for a background of this investigation.

The investigation into the phone numbers of all persons of interest as well as the investigation into tower dump transmission data around the areas where Bernard and Honey SHERMAN attended on December 13th, 2017 is extensively outlined in Appendix D.

¹ Included with this application is a thumb drive containing all the documents and appendices relating to this application.



3. RESULTS FROM PREVIOUS JUDICIAL AUTHORIZATIONS

Please refer to Appendix F for details of the results of previously granted judicial authorizations.

I have listed all the results that have been obtained by investigators. I have only outlined in detail the results that are relevant to this application.

Any results that have yielded phone records have been included as it shows all the actions leading to the application for the tower dump transmission data production orders.

4. REASONABLE GROUNDS TO BELIEVE AN OFFENCE HAS BEEN COMMITTED FOR SECTION 487.016 PRODUCTION ORDERS AND SECTION 487 SEARCH WARRANT

Under Section 487 of the Criminal Code, I must have **reasonable grounds to believe** that an offence has been committed and under Section 487.016, I must have **reasonable grounds to suspect** that an offence has been committed. I believe that the evidence meets the test for a section 487 search warrant and that the evidence exceeds this test for a 487.016 production order. I have **reasonable grounds to believe** that:

Unknown person(s), between December 13th, 2017 and December 15th, 2017, inclusive, at the City of Toronto, did Murder Bernard SHERMAN and Honey SHERMAN, contrary section 235(1) of the Criminal Code.

The reasons for my belief are as follows:

- i. On December 15th, 2017 at approximately 11:45 AM, police were called to 50 Old Colony Road, in the City of Toronto for an “Echo Tiered Response”.

² Pages 127-147.

ii. The bodies of Bernard SHERMAN and Honey SHERMAN, were first located and identified by the witness Elise STERN.

iii. On December 16th, 2017 at 2:55 PM the coroner, Dr. GIDDENS pronounced Bernard SHERMAN and Honey SHERMAN deceased.

iv. Both Bernard and Honey SHERMAN were [REDACTED]
[REDACTED]
[REDACTED]

v. [REDACTED]

vi. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] leads me to believe, that Honey SHERMAN's death is a murder.

vii. Post-mortem examinations conducted by forensic pathologist, Dr. PICKUP, determined that the cause of death for both Bernard SHERMAN and Honey SHERMAN was ligature neck compression. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

viii. Dr. PICKUP advised investigators that there are three possible outcomes in regards to this investigation. They were:

- I. A double suicide
- II. A homicide suicide
- III. A double homicide.

ix. If investigators can form reason to believe that double suicide and homicide suicide are not likely scenarios then, by deduction, investigators can have reason to believe that the double homicide scenario is likely. Evidence that suggests double homicide would further strengthen this belief.

x. I do not believe that the deaths of both Honey and Bernard SHERMAN can be attributed to a double suicide as it appeared that they were both living a happy life with no financial difficulties and no known mental illnesses. [REDACTED]

[REDACTED]

xi. So far, in the investigation, there has been no indication that either Bernard SHERMAN or Honey SHERMAN harboured any hostility towards each other and there is no documented history, with police, of any domestic violence. They were making plans for the future together as they had a trip to Florida scheduled and were in the process of having a new home built [REDACTED]

[REDACTED]

xii.

[REDACTED]

xiii.

[REDACTED]

[REDACTED]

[REDACTED] makes their deaths suspicious and leads me to believe that the deaths of Bernard SHERMAN and Honey SHERMAN were murders.

xiv. In a previous application, I had stated that I believed that Honey SHERMAN was murdered and Bernard SHERMAN was either murdered or committed suicide. In this application I state that I have reasonable grounds to believe that Bernard SHERMAN was murdered as well and my grounds to believe are as follows:

I.

[REDACTED]

II.

[REDACTED]

III.

[REDACTED]

IV.

[REDACTED]

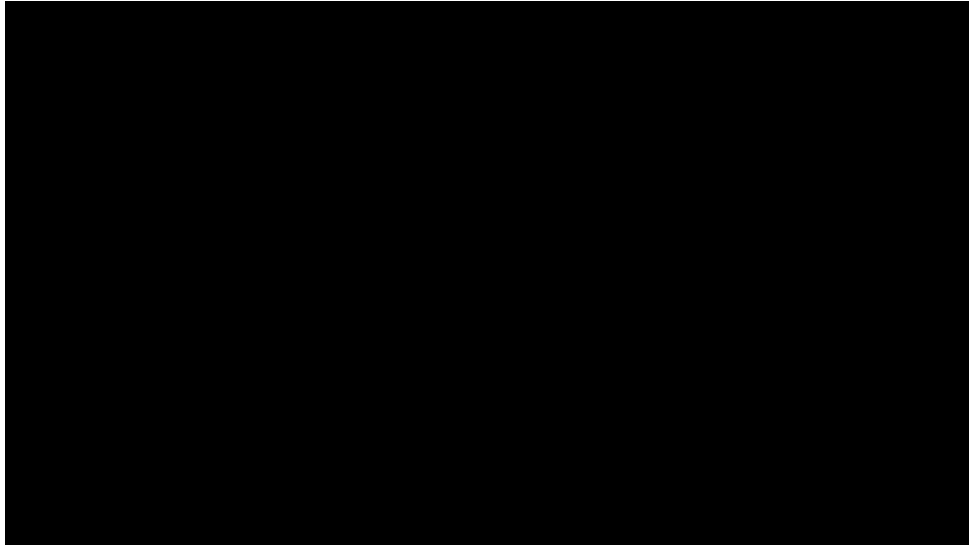
V.

[REDACTED]

VI. On January 22nd, 2018, forensic pathologist Dr. PICKUP spoke with D/S GOMES and advised that he believed that the manner of death for both Bernard SHERMAN and Honey SHERMAN was that of homicide. Also on January 24th, 2018, forensic pathologist Dr. CHIASSON, who was hired by Bernard SHERMAN's and Honey SHERMAN's family, spoke with D/S

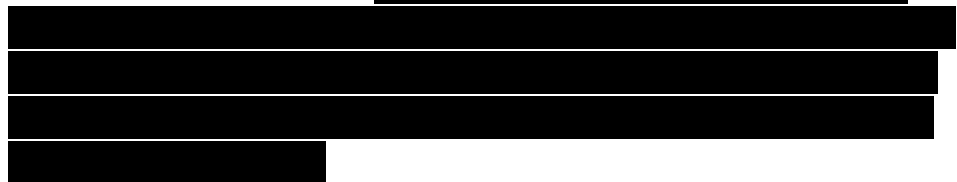
GOMES and advised that he believes that the manner of death for both Bernard SHERMAN and Honey SHERMAN is that of homicide. Both Dr. PICKUP and Dr. CHIASSON conducted separate post mortem examinations on Bernard SHERMAN and Honey SHERMAN.

VII.



VIII. On August 30th, 2018, D/S GOMES provided me with the final reports of the post-mortem examinations of Bernard SHERMAN and Honey SHERMAN. Both reports were signed by Dr. PICKUP and dated June 21st, 2018.

For the death of Bernard SHERMAN, Dr. PICKUP concluded, based on the scene, circumstances and autopsy findings, the most reasonable conclusion was that Bernard was restrained at the wrist and had died from ligature strangulation. [REDACTED]



The cause of death for Bernard SHERMAN was listed as "Ligature strangulation in an elderly man with [REDACTED]



For the death of Honey SHERMAN, Dr. PICKUP concluded, based on the scene, circumstances and autopsy findings, the most reasonable

conclusion is that Honey SHERMAN [REDACTED] and had died from ligature strangulation. [REDACTED]

The cause of death for Honey SHERMAN was listed as, "Ligature strangulation in an elderly woman with [REDACTED]

When addressing the manner of death for both, Bernard SHERMAN and Honey SHERMAN, Dr. PICKUP found that [REDACTED]

Plainly speaking Dr. PICKUP concludes that Bernard SHERMAN and Honey SHERMAN [REDACTED]

[REDACTED] Therefore, this strongly indicates that neither Bernard SHERMAN and/or Honey SHERMAN were responsible for their own deaths.

Therefore, for all the aforementioned reasons, I believe that Bernard SHERMAN and Honey SHERMAN were murdered.

5. ADDITIONAL GROUNDS REQUIRED FOR THE SECTION 487.016 PRODUCTION ORDERS ARE SATISFIED

In this application, I seek two s. 487.016 production orders: one involving the filtering of tower dump transmission data with updated phone numbers from the investigation (in a similar manner as has been done in the past) and the second involving comparing the tower dump transmission data gathered in different time periods/locations against each other.

Section 487.016 of the Code requires that the issuing justice be satisfied that the following criteria are met:

- (i) There are reasonable grounds to **suspect** an offence has been committed;

- (ii) There are reasonable grounds to **suspect** transmission data that is in the possession or control of a person and **will assist** in the investigation of the offence.

It is my belief that the grounds provided in this information to obtain satisfy the requirements for the issuance of the requested section 487.016 production orders.

(a) Reasonable grounds to suspect that the transmission data produced will assist in the investigation:

i. Filtering of tower dump transmission data with updated phone numbers from investigation.

One of the orders that I seek in application is a section 487.016 order for Det. SLOAN/designate to compare phone numbers identified in this application with the tower dump transmission data that was obtained by way of section 487.015 production orders to trace a communications, authorized by Justice PRINGLE on January 29th, 2019.

This order seeks to employ the same investigative strategy utilized in the 487.015 production orders authorized by Justice PRINGLE on January 29th, 2019 and the 487.016 production orders authorized by Justice PRINGLE on July 2nd, 2019. Both these production orders sought to compare phone numbers identified in the investigation with the tower dump transmission data. This application seeks to compare additional phone numbers that have been identified after July 2nd, 2020, which is the date that the last section 487.016 production orders were authorized by Justice PRINGLE.³

I. Definition of Data Sets in the Investigation for Comparison with the Tower Dump Transmission Data.

³ As I referenced in my prior application, it has been and continues to be anticipated that as the investigation continues to develop and new phone numbers are brought to the attention of or discovered by investigators, further judicial authorization will be sought to compare newly uncovered numbers against the “tower dump” results.

a. Phone numbers obtained [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From [REDACTED] phone numbers have been identified and have been included in **Appendices H, I, J and K** respectively, in this application.

b. Other phone numbers identified in the investigation

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Any number included

in this category can be sourced as being involved in this investigation in some manner.

These numbers are listed in **Appendix L** of this application.

c. Phone numbers identified in [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

These numbers are listed in **Appendix M** of this application.

[REDACTED]
[REDACTED]

II. Avenues of Investigation, Filtering of Data and Protection of Third Party Data

As a result of the January 29th, 2019, production orders, Det. SLOAN of the Toronto Police Service, Intelligence Unit had received transmission data from various telecommunications companies regarding cell tower activity in the locations proximate to where Honey and Bernard SHERMAN were on the date of the murders. The January 29th, 2019, production orders allowed Det. SLOAN or his designate of the intelligence Unit to compare phone numbers identified throughout the investigation (identified in Appendices G to Appendix K attached to the January 29th, 2019 Information to Obtain)⁵ against the transmission data provided by the telecommunications companies to see what, if any, common numbers there were between the two datasets.

In my application for the January 29th, 2019, production orders, I advised that investigators may seek judicial authorization to compare additional phone numbers to the transmission data gathered from the telecommunications companies.

The investigative strategy, for this proposed judicial authorization will be identical to the comparison strategy that was outlined in prior Informations to Obtain for the production orders that were granted on January 29th, 2019 and July 3rd, 2019. The strategy will be to compare the phone numbers from the “tower dumps” to [REDACTED] [REDACTED] and any other phone numbers identified in this investigation that have not already been compared with the tower dump transmission data. I have reasonable grounds to suspect that the subset of transmission data generated from the comparison and identification of the common numbers between the transmission data obtained from the January 29th, 2019 production orders to trace a communications and the numbers listed in Appendix H through to Appendix M, inclusive, of this Information to Obtain, will assist in identifying witnesses and/or the person or persons responsible for the

⁵ See Appendix E, Previously Considered Judicial Authorizations, page 8-11 for details

murders and/or identifying a modus operandi and therefore will assist in the investigation.

Below, I have outlined how this filtering will assist the investigation into the murders.

a. Identification of Persons of Interest or Suspects

Any common numbers identified in this filtering would indicate that the person using the electronic device associated to the transmission data was in a relevant area during a relevant time period of which Bernard SHERMAN, Honey SHERMAN or the “walking man” was present. Any emerging patterns could reveal that the SHERMAN’s were under surveillance prior to their murders or could reveal the identity of the “walking man”.

b. [REDACTED]

[REDACTED]

[REDACTED]

c. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

d. Revelation that there are no common numbers

Upon receipt of the “tower dump” data and the filtering for common numbers using the data sets, identified above, it is conceivable that that there may be no results. The determination of negative results would be useful information to investigators. Negative results could be indicative of one or more of the following scenarios:

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

III. Tower Dump Filtering

Transmission data from the “tower dump” consists of the phone numbers associated to devices that were in communication with a relevant cellular tower and devices communicating with those devices. The tower dump data will be utilized as follows:

- a. Filtering of Phone Numbers From [REDACTED]

First, the “tower dump” phone numbers will be compared or “filtered” against the pre-existing phone numbers relating to this investigation, that have already been compiled (refer to appendices H, I, J, K, L, and M). This comparison or filtering will identify all the common numbers between the tower dump transmission data phone numbers and the other pre-existing investigative phone numbers. These common numbers will be available to investigators for follow-up investigation.

- b. Sealing of Data After the Application of Filter

The second step will be the sealing of all the “tower dump” phone numbers that “pass through the filters” – that is, those that do not match any of the pre-existing investigative phone numbers. These numbers are likely uninvolved third party data which investigators have no reason to view or investigate, at present. The numbers that pass through the filters, will be sealed and will not be examined or analysed further without judicial authorization.

These two processes will allow investigators to obtain the information required to advance the investigation, while protecting the data of uninvolved third parties. These processes will also preserve the data for future investigation should there be the need to access it in the future with further judicial authorization, or also for purposes of disclosure, if charges are ultimately laid.

The filtering will be done (as it was in the prior application), electronically with spreadsheet programs such as Microsoft Excel⁶ in which members of the Toronto Police Service – Intelligence Unit, Technical Crime Unit will instruct the program to sift through the data to identify common numbers from the various data sets and the “tower dump” data sets. This digital filtering will be done, because it allows investigators to identify the common numbers without having to do this process manually, which would be time consuming. Digital filtering will also limit members from viewing individual phone numbers of uninvolved third parties. During this filtering process, members will take reasonable steps to only view data pertaining to the identified phone numbers, and investigators will, thereafter, only be provided those identified phone numbers for further investigation.

Any phone numbers that are not identified by the filtering described above will be sealed and held in an electronic database at the Toronto Police Service, Intelligence Unit indefinitely and will not be

⁶ Microsoft Excel - is a software program produced by Microsoft that allows users to organize, format and calculate data with formulas using a spreadsheet system. This software is part of the Microsoft Office suite and is compatible with other applications in the Office suite.

used, viewed or investigated by anyone for any reason unless judicial authorization is obtained that permits further access to the data.

The purpose of sealing the data is to ensure that the data of uninvolved third parties is protected and that the data will not be used for any other purposes other than the purposes outlined in this judicial authorization.

Another reason for the sealing is to protect any potential, unidentified, evidence within the “tower dump” data that investigators are currently unaware of. If, in the future, investigators were to receive information, that a perpetrator had been using a phone number on December 13th, 2017, investigators could apply for judicial authorization to unseal the “tower dump” data again, to determine if the perpetrator’s phone number is contained in the “tower dump” data sets, which would indicate that the perpetrator was in one of the areas of interest at a relevant time.

I believe that the sealing of the data allows investigators to preserve data to investigate various theories and search for evidence to support the theories while at the same time protecting the data of uninvolved parties.

- c. Acknowledgement that filtering and securing of data can be facilitated by the Toronto Police Service, Intelligence Unit

On January 17th, 2019, I spoke with Jonathan RETCHFORD who is a Senior Intelligence Analyst with the Toronto Police Service, Intelligence Unit, who advised that they would be able to facilitate the analysis, comparisons, filtering and the subsequent sealing of the data at the Intelligence Unit. Jonathan also advised that the analysis, comparisons and filtering would be done by a member with no involvement in this investigation.

On January 22nd, 2019, I received an email, from DC DEVINE outlining her communications with Det. SLOAN of the Toronto Police Service, Intelligence Unit, Technical Crime Unit in regards to the subsequent sealing of the transmission data that has no commonality with any of

the phone numbers in the data sets identified in the appendices. DC DEVINE was advised of the following:

- The digital report containing transmission data will be securely stored at the Technical Crime Unit (TCU) on a forensic network that is maintained on a closed computer system. This system is only available to the Technical Crime Unit members and is not connected to either the public internet or the Toronto Police Service intranet. The data itself will remain encrypted on the system and no one outside the TCU has access to this system. The password to access this data will be stored with Detective SLOAN (or a designate who is not involved in the investigation into the deaths of Bernard SHERMAN and/or Honey SHERMAN. The secured data will not be accessed without further judicial authorization.

IV. Terms and Conditions For Tower Dump Transmission Data Filtering

I propose that, if this application is granted, that the s. 487.016 production order be subject to the following terms and conditions:

Terms and Conditions:

- 1) The person accessing the data, must be Det. Christopher SLOAN #7844 or his designate, from the Toronto Police Service – Intelligence Unit, Technical Crime Unit, who has no involvement in this investigation.**
- 2) Upon accessing the transmission data provided by the telecommunications companies in response to the January 29th, 2019, s. 487.015 Production Orders(hereinafter “the data”). In response to this production order, Det. SLOAN or his designate may only analyse the data by comparing it, using electronic means, against the phone numbers in the attached Appendices H to M and generating a sub-set of data consisting of data pertaining to communications involving one or more of the phone numbers in the attached Appendices H to M.**

- 3) **Det. SLOAN or the designate conducting the analysis described above must take reasonable steps to only view the sub-set of the data generated by this analysis.**
- 4) **The sub-set of the data generated by this analysis may be provided to investigators who may use it for investigative purposes.**
- 5) **Once this analysis is complete, Det. SLOAN or his designate must seal and keep stored in a sealed manner the data accessed pursuant to this order, ensuring that it is inaccessible to the investigators and any other persons, and not further accessed or analysed, without a court order.**

Note: On the Production Order to Produce Transmission Data, Appendix H, I, J, K, L and M in this application will be designated as Appendix C, D, E, F, G and H respectively.

ii. Comparison of Transmission Data to Identify Common Phone Numbers Within Separate Data Groupings

I am also seeking a second 487.016 production order to authorize Det. SLOAN, or his designate to perform a second type of comparison – looking for commonalities in the transmission data obtained from the different towers at the time periods set out in the January 2019 s. 487.015 production order. One of the shortcomings of the investigative strategy of comparing transmission data with known numbers is that if the phone numbers of perpetrators are presently unknown to investigators, the investigative strategy of comparing the transmission data seized pursuant to the January 2019 s. 487.015 production order to existing phone numbers in the investigation would be of no value in identifying the perpetrators. This production order seeks to address this problem.

Transmission data from cellular towers identifies a number initiating a phone call and a number receiving a phone call. This production order will seek to identify common numbers within specific identified groups of data from the transmission data obtained from the production orders to trace a communication, authorized on January 29th, 2019 by Justice PRINGLE.

By identifying common numbers between groups of cellular transmission data investigators seek to identify any person or groups of persons that may have had either Bernard SHERMAN and/or Honey SHERMAN under surveillance or any individual that was in communication with the walking man and whose phone number has not already been identified in this investigation. This strategy relies on the improbability of coincidence that the same number(s) would not occur in different groupings unless it was the number utilized by someone who was involved in the offences (e.g. someone following the victims while communicating their locations using cellular devices).

I propose that the data sets be separated into individual groupings defined by location and time and then individual groups be compared with other groupings, searching for common numbers amongst different groups. Any positive results would indicate that three variables would have been satisfied. The first variable would be that a phone number within a data set is in common with another phone number in another data set. The commonality would imply that the second variable, location, had been satisfied since the devices facilitating the transmission were in the relevant areas. Lastly, the variable of time would also be satisfied because the phone call was occurring within the relevant time period of the designated groupings. By identifying all unknown phone numbers that satisfy all these conditions investigators intend to identify persons that were involved in the murders in light of the improbability of coincidence that other uninvolved individuals would satisfy all three variables at random.

I have outlined below how investigators intend to group the transmission data, the means of comparison, the implications of any positive or negative results, the terms and conditions and finally, the reasonable ground to suspect how this data will assist in the investigation.

I. The Grouping of Transmission Data According to Time and Location

I propose that the data that is in the possession of the Toronto Police Service Intelligence Unit, be grouped into 9 groups by location and timeframe. Subsequent to the organization of the data into groups, the data sets will be compared amongst each other to determine if there are any common numbers within two or more of these groups. I have compiled the proposed groupings in chart form in order to simplify and comprehensively illustrate what investigators intend to examine with the

proposed production order. The subsets of transmission data seized pursuant to the January 2019 s. 487.015 production orders correspond to the location and timeframes set in the Appendix As to the January 2019 s. 487.015 production order. The “Related Action” heading relates to the victims’ or the walking man’s action at the location during the stipulated time period. For the purposes of comparison, the number in the designation indicates that the data set all belong to the same group. For example, group 1, (which consist of B1, F1, R1 and T1) no matter which telecommunications company provided the data, all belong to the same group geographically and the time periods for the data is the same. The grouping of the data sets from 1 to 9 will allow investigators to logically analyze the transmission data to determine if any common numbers are identified between the groups, indicating that the same numbers are appearing at different locations of interest at time of interest.

The following chart shows the proposed groupings of transmission data that investigators intend to use for comparisons. The chart illustrates what transmission data makes up a particular group and how the group relates to an action that occurred on December 13th, 2017.

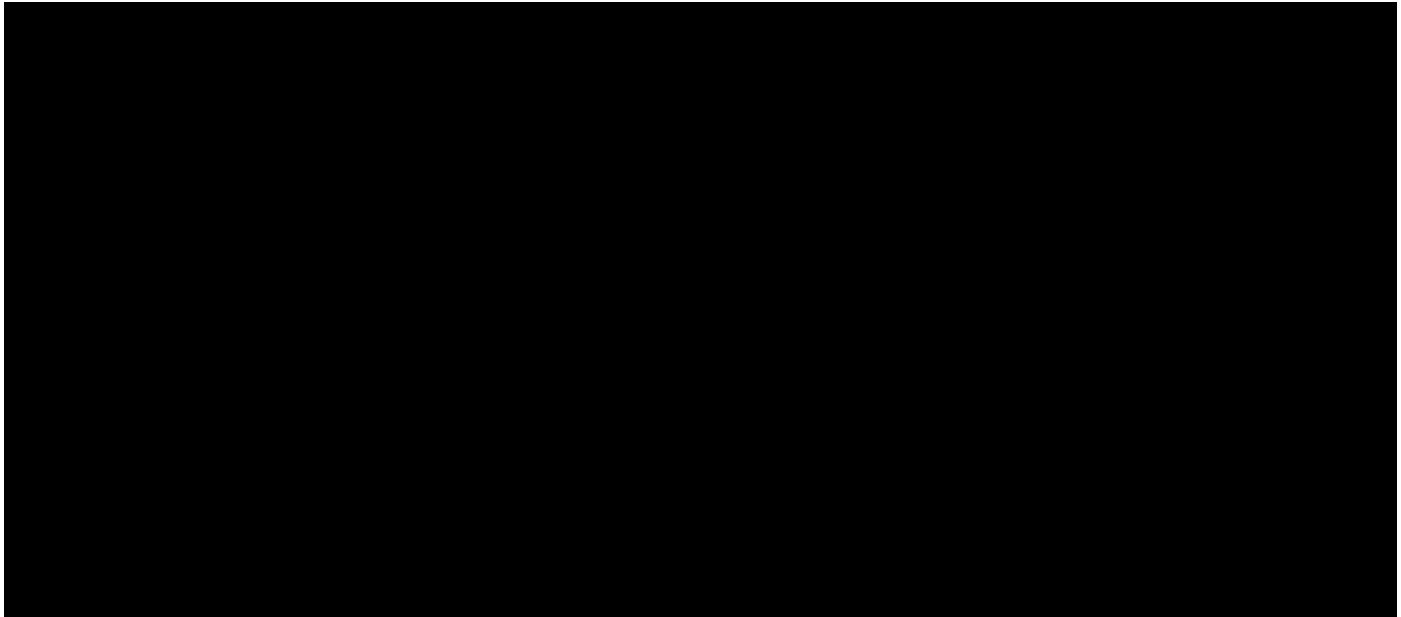
Group	Transmission Data That Comprises the Group ⁷	Related Action
1	B1, F1, R1, T1	
2	B2, F2, R2, T2	
3	B3, F3, R3, T3	
4	B4, F4, R4, T4	
5	B5, F5, R5, T5	
6	B6, F6, R6, T6	
7	B7, F7, R7, T7	
8	B8, F8, R8, T8	
9	B9, F9, R9, T9	

⁷ The lettered groups beginning with “B”, “F”, “R” and “T” refers to the four telecommunications companies, Bell Canada Incorporated (B), Freedom Mobile Incorporated (F), Rogers Communications Canada Incorporated (R) and Telus Communications Incorporated (T), respectively.

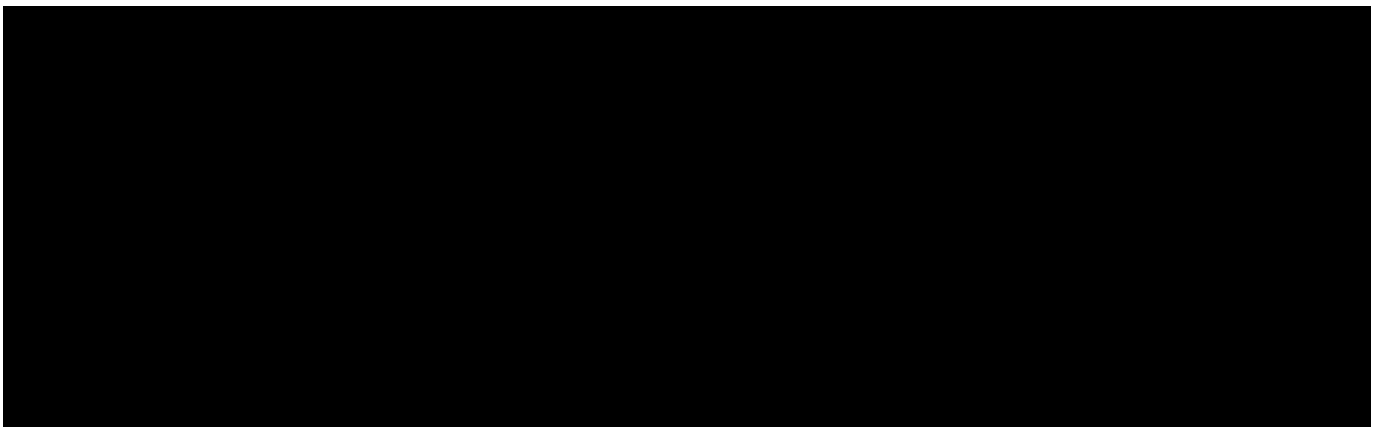
The following four charts set out what sub-set of transmission data time periods and locations from the results of the January 29, 2019 s. 487.015 production orders make up each of the B, F, R and T groups referenced above.

The charts illustrates where the transmission data that comprises of groups 1 to 9 had originated. The individual telecommunications company is identified along with the time periods, cellular tower locations and how the data relates to an action on December 13th, 2017.

Bell Canada Incorporated Transmission Data Groupings

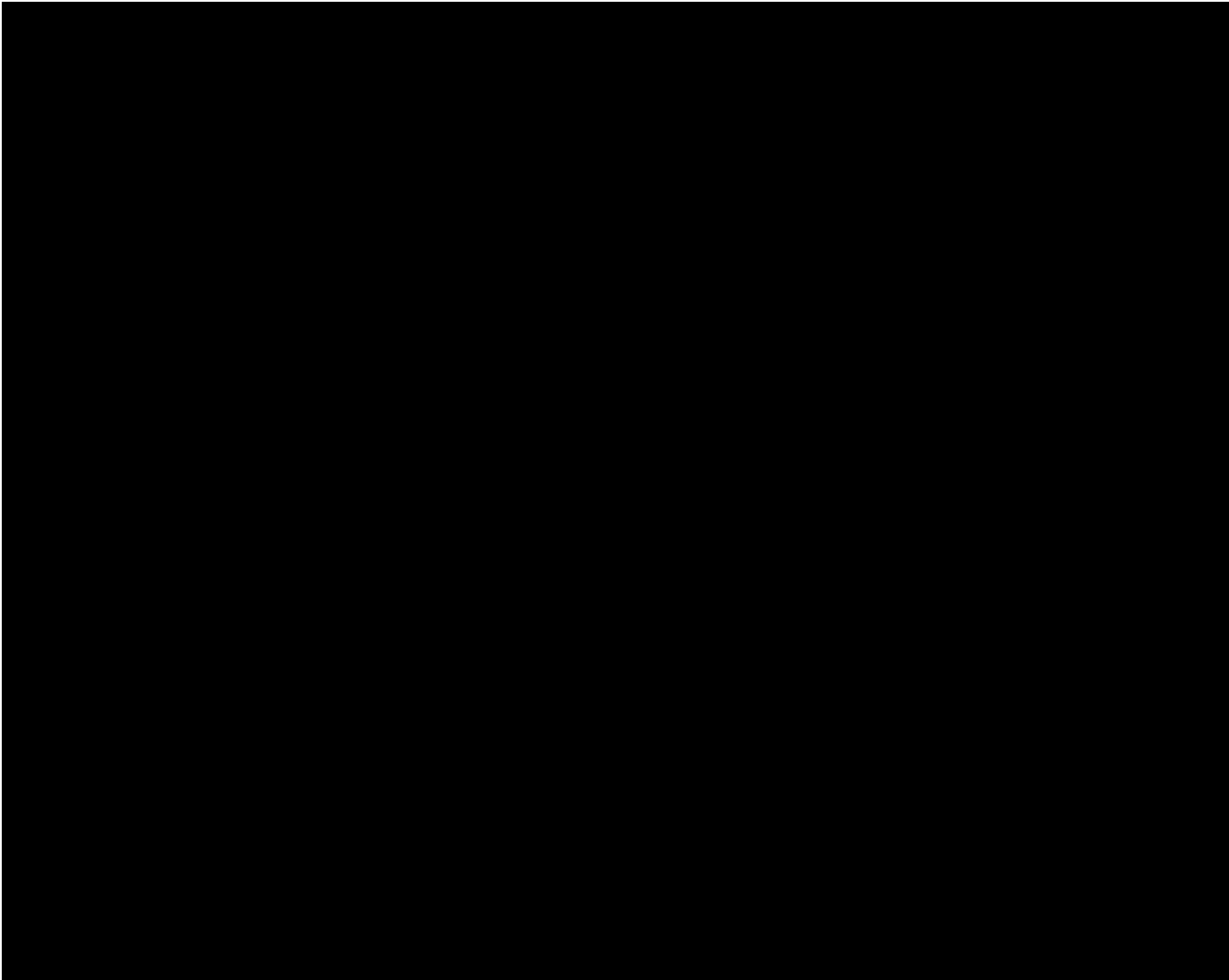


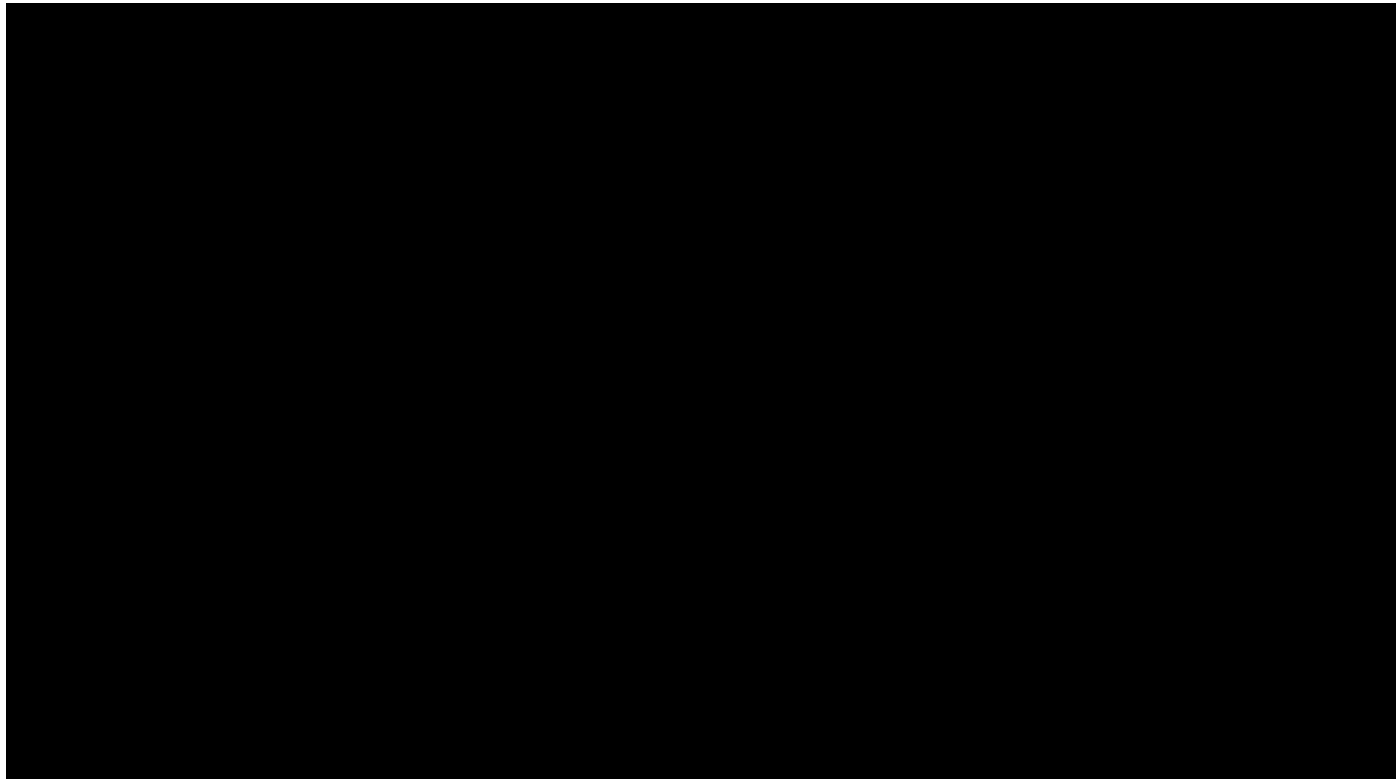
Telus Communications Incorporated Transmission Data Groupings



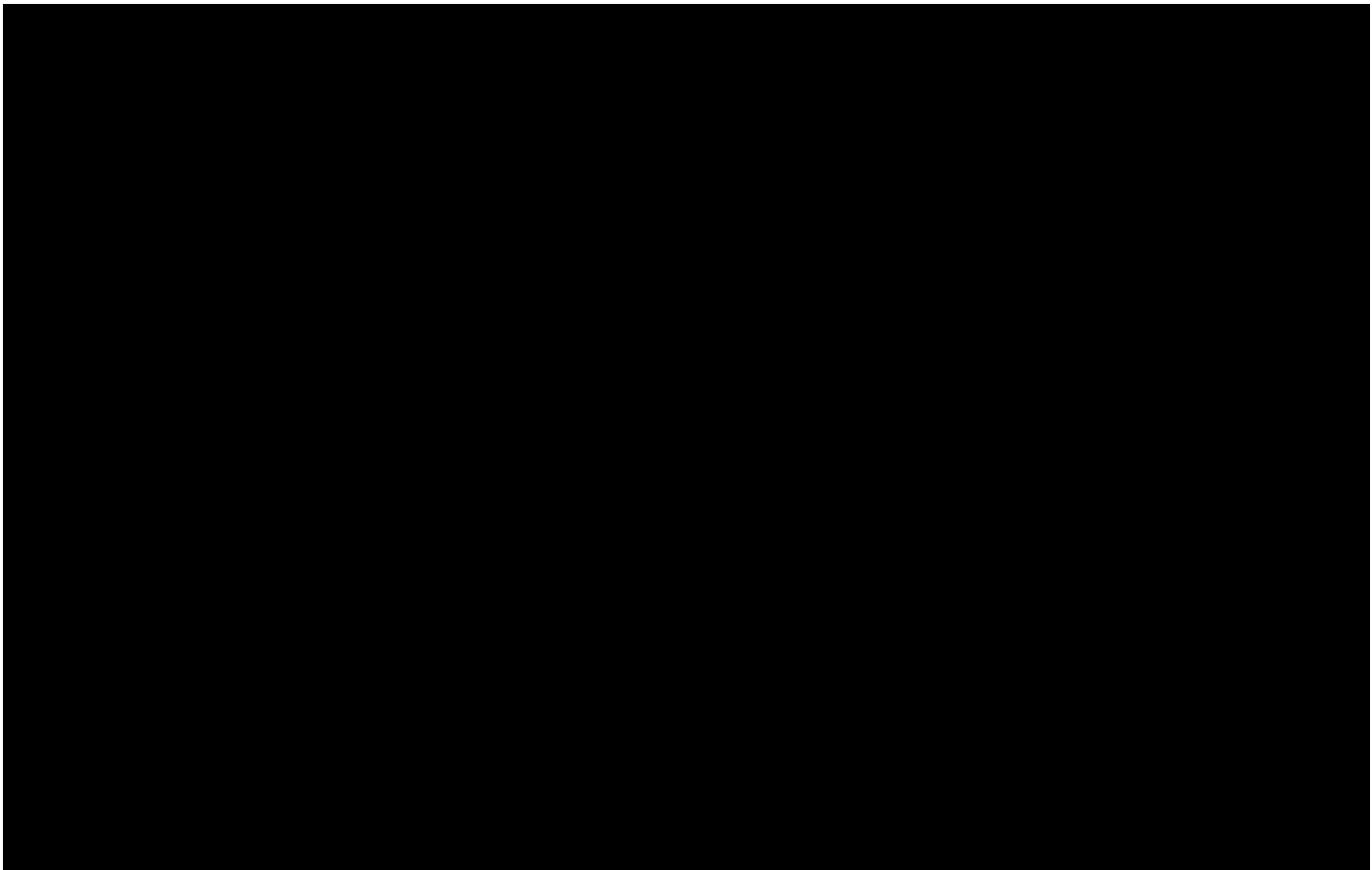


Freedom Mobile Incorporated Transmission Data Groupings



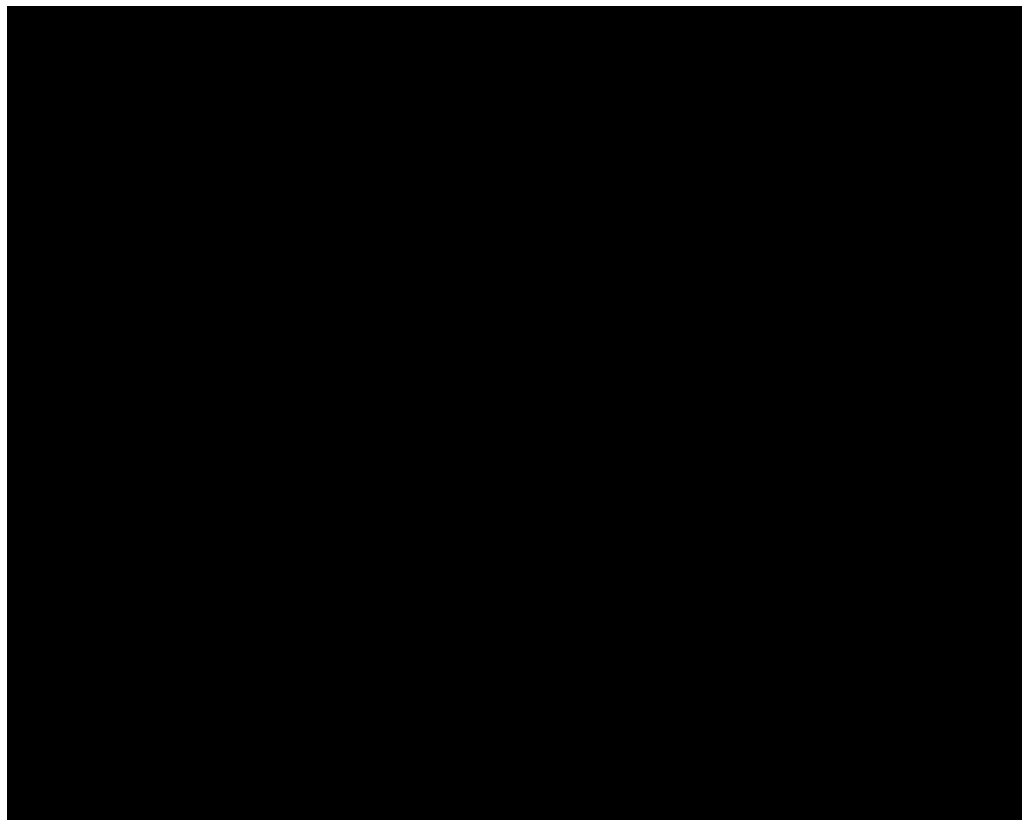


Rogers Communications Canada Incorporated Transmission Data Groupings





II. Identification of common numbers and implications



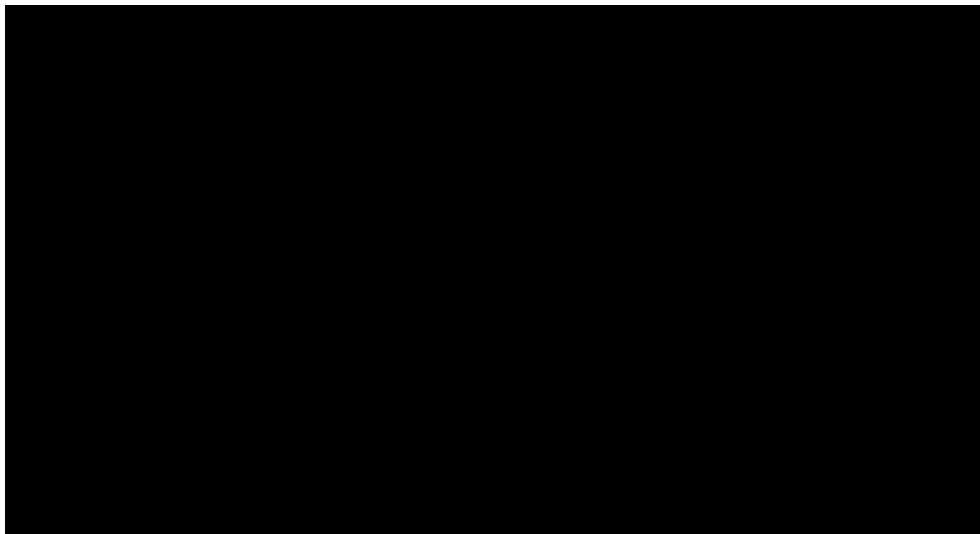
I have listed below some patterns that investigators wish to look for within the data, that the Toronto Police Service, Intelligence Unit is in possession of, and if identified, what those patterns would imply.

a. Common numbers from groups that may indicate that

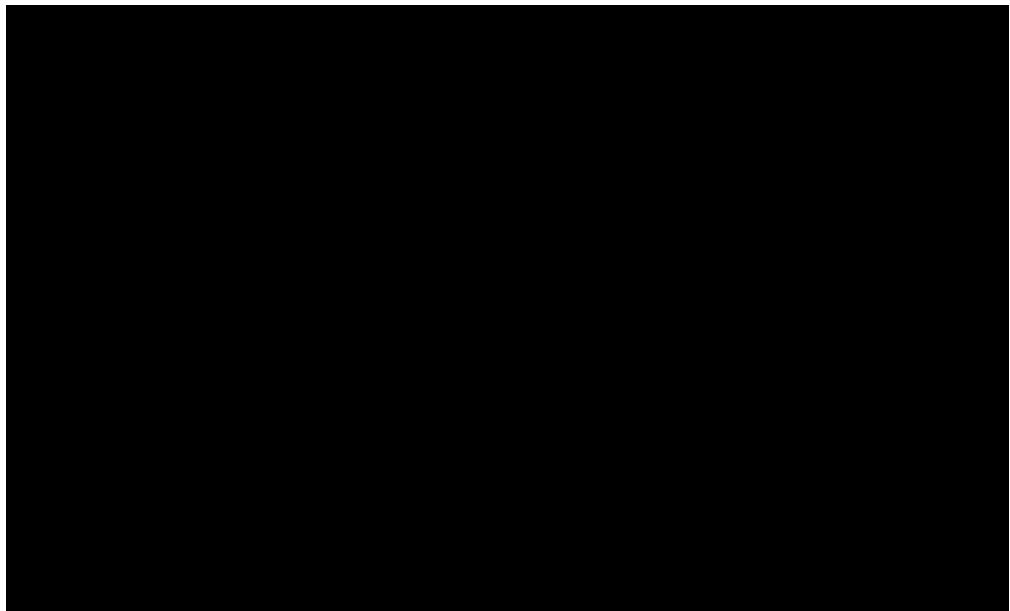
[REDACTED]

[REDACTED]

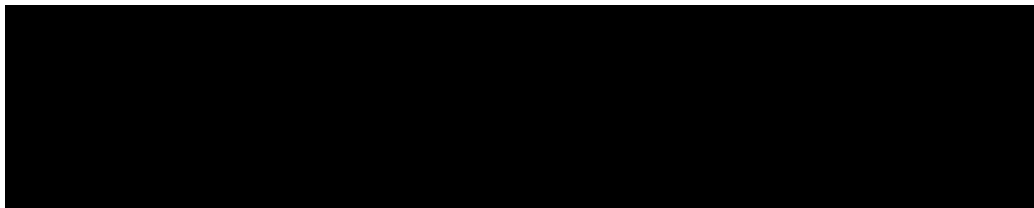
[REDACTED]

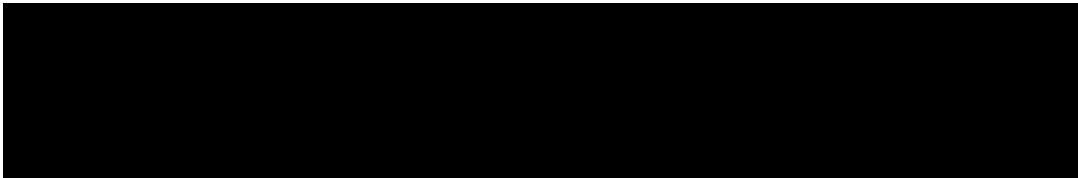


- b. Common numbers from groups that may indicate [redacted]
[redacted]
[redacted]



- c. Common numbers from groups that may identify [redacted]
[redacted]
[redacted]





The division of the transmission data into groupings and the comparison between the groupings rather than the comparison within an individual group, seeks to minimize the data and to exclude data that is not relevant to the investigation.

For example, if investigators were to search for common numbers, within the large data set of group 4, investigators would identify all persons in the area of 50 Old Colony Road, that had made multiple phone calls or text messages within that time period and would yield a large data set. Conceivably investigators would identify all the neighbours in the area of 50 Old Colony Road sending and receiving multiple phone calls or text messages, which would result in a large amount of results, most of which, would have no investigative value. This problem is avoided by comparing a numbered group with only different numbered groups associated to different locations, rather than searching for common numbers within a specific numbered group.

III. The manner of execution of the production order to compare for common numbers against transmission data groupings and subsequent sealing of data

a. Comparison for common numbers

The comparison for common numbers amongst transmission data groupings would be done in a similar manner as the filtering for common numbers between the tower dump transmission data and the phone numbers that investigators have identified. The Toronto Police Service, Intelligence Unit will use electronic spreadsheets such as Microsoft Excel to identify common phone numbers within two or more of the specified groups.

b. Sealing of Data After Comparisons

As with the tower dump transmission data filtering, after the comparisons are completed, the data that did not yield any common numbers from the groupings will be sealed and not be accessed unless

further judicial authorizations seeking access to the data, are sought and granted.

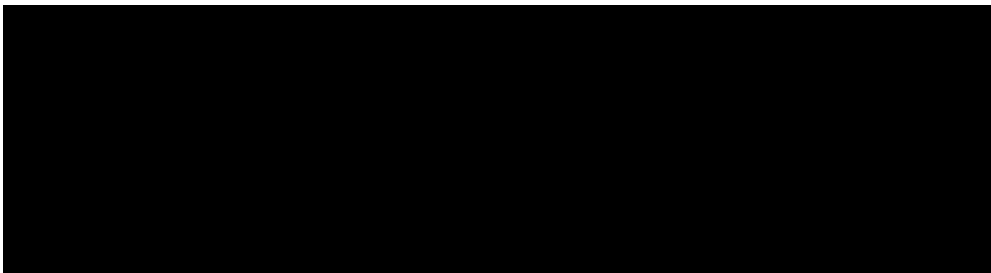
IV. Terms and Conditions for Comparison of Transmission Data Groupings

In this application, I am proposing that Det. Chirstopher SLOAN #7844 or his designate of the Toronto Police Service, Intelligence Unit, be allowed to access the tower dump transmission data that was obtained, as a result of the January 29th, 2019, production orders to trace a communication. Upon accessing the data, the data would be analysed for any common numbers in the manner that I have described above. The results of the analysis will be provided to investigators in a form of a report and investigators would not view or have any access to the raw data. The retrieval and subsequent analysis of this data would be subject to the following terms and conditions:

Terms and Conditions:

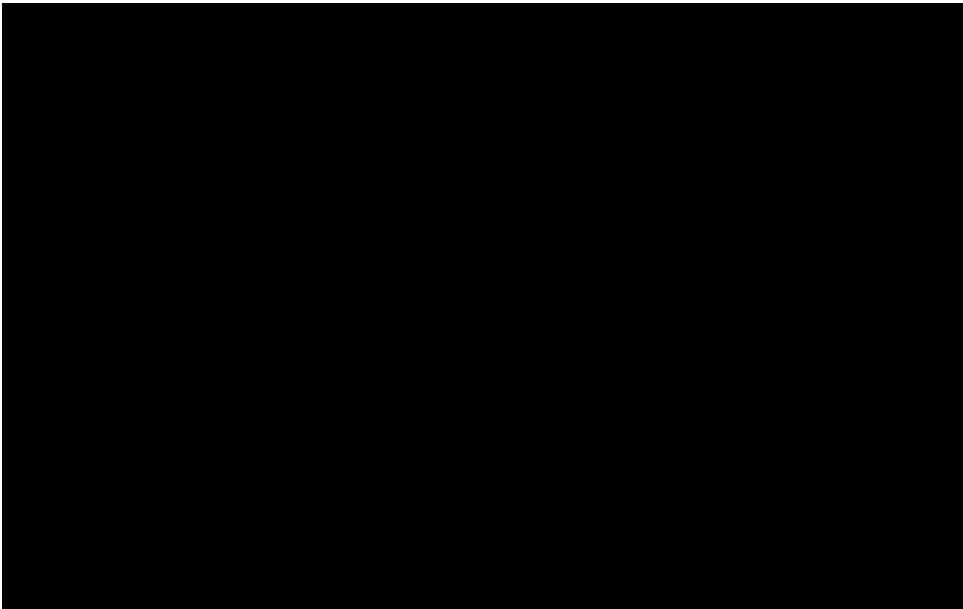
- 6) The person accessing the data, must be Det. Christopher SLOAN #7844 or his designate, from the Toronto Police Service – Intelligence Unit, Technical Crime Unit, who has no involvement in this investigation.**
- 7) In response to this production order Det. SLOAN or his designate may access the transmission data provided by the telecommunications companies in response to the January 29th, 2019, s. 487.015 Production Orders(hereinafter “the data”).**
- 8) Det. SLOAN or his assigned designate will group the transmission data from the respective telecommunications companies according to the cellular tower and time period as shown in the following charts:**

Bell Canada Incorporated, Transmission Data Groupings

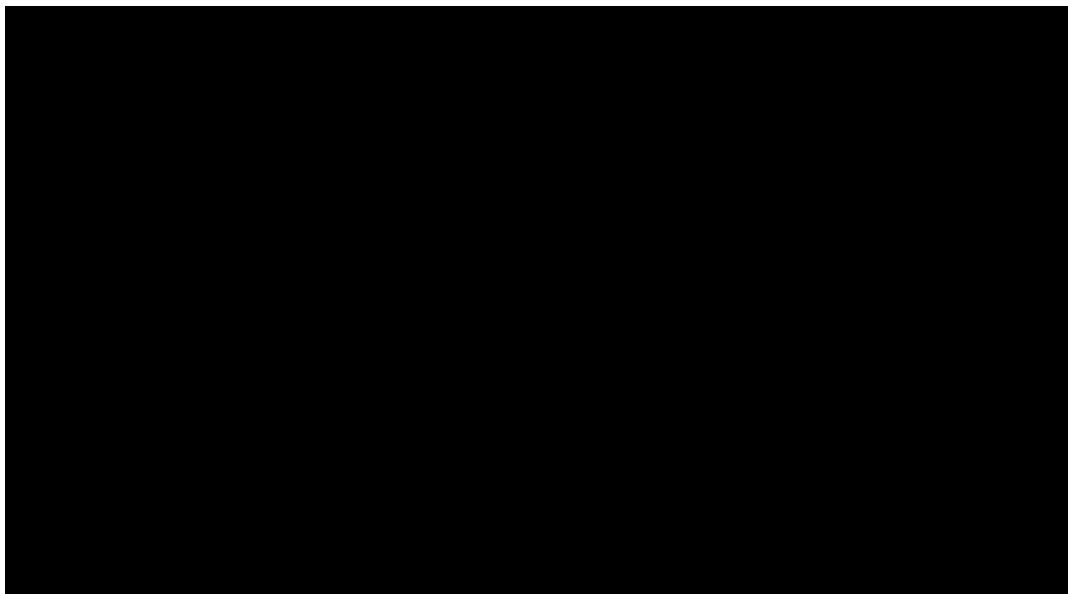




Telus Communications Incorporated Transmission Data Groupings

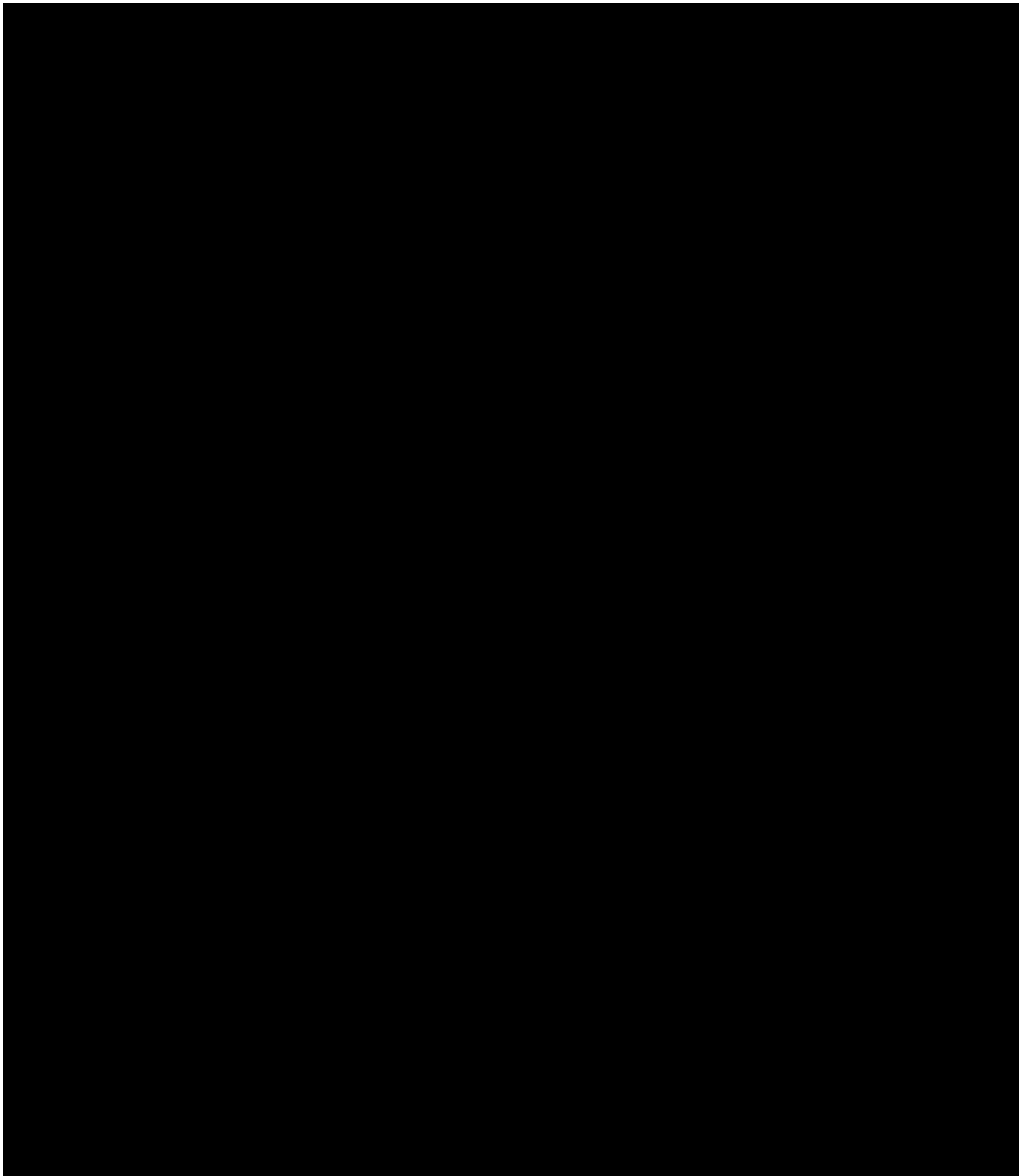


Freedom Mobile Incorporated Transmission Data Groupings





Rogers Communications Canada Incorporated Transmission Data





- 9) **Det. SLOAN or his designate may only analyse the data by comparing it, using electronic means, to identify any common phone numbers between transmission data in the groups 1 to 9 with phone numbers in transmission data from another different numbered group from 1 to 9.**
 - 10) **Det. SLOAN or the designate conducting the analysis described above must take reasonable steps to only view the sub-set of the data generated by this analysis.**
 - 11) **The sub-set of the transmission data generated by this analysis may be provided to investigators who may use it for investigative purposes.**
 - 12) **Once this analysis is complete, Det. SLOAN or his designate must seal and keep stored in a sealed manner the data accessed pursuant to this order, ensuring that it is inaccessible to the investigators and any other persons, and not further accessed or analysed, without a court order.**
- (b) Reasonable grounds to suspect that the transmission data to be produced under section 487.016 is in the possession and control of the entity from which I seek the data**
- i. **Tower dump transmission data obtained from the January 29th, 2019 production order authorized by Justice PRINGLE.**

On February 4th, 2019, I was advised that the tower dump data, from Telus Communications Incorporated were received and confirmed by Det. SLOAN.

On February 27th, 2019, I was advised that the tower dump data, from Rogers Communications Canada Incorporated were received and confirmed by Det. SLOAN.

On March 1st, 2019, I was advised that the tower dump data, from Freedom Mobile Incorporated were received and confirmed by Det. SLOAN.

On May 6th, 2019, I was advised that the tower dump data, from Bell Canada Incorporated were received and confirmed by Det. SLOAN.

Since being advised by Det. SLOAN of receipt of the tower dump transmission data, I have been in receipt of a report that was generated from the tower dump data by way of execution of a production order dated July 2nd, 2019. The terms and conditions from that production orders stated that the tower dump transmission data was to be sealed and in the possession of Det. SLOAN pending further judicial authorization.

Therefore, I have reasonable grounds to suspect that the transmission data is still in the possession and control of Det. SLOAN.

6. ADDITIONAL GROUNDS THAT THE REQUIREMENTS FOR A SECTION 487 SEARCH WARRANT ARE SATISFIED

(a) Reasonable grounds to believe items to be searched for will afford evidence

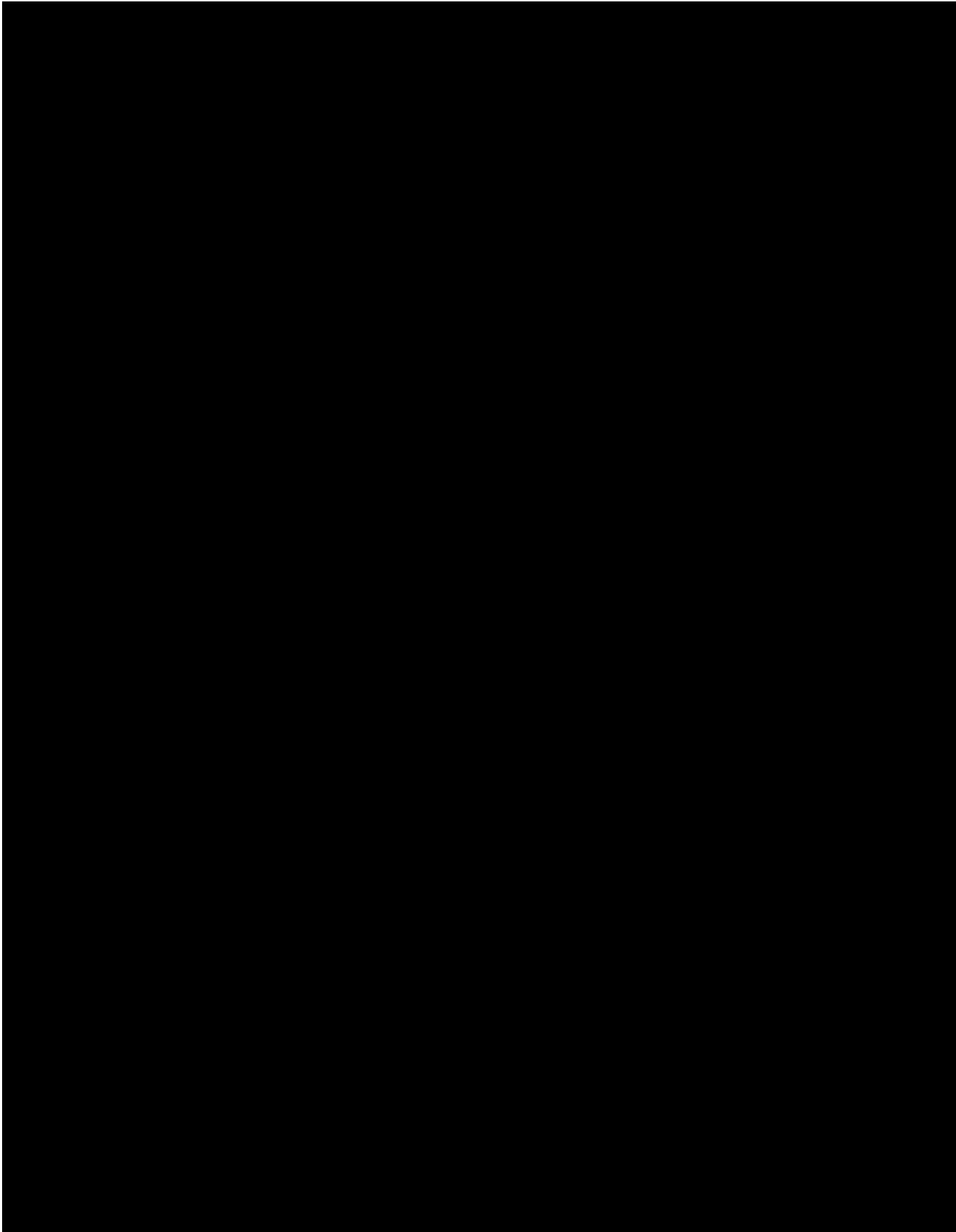
This application seeks the authorization to search a:

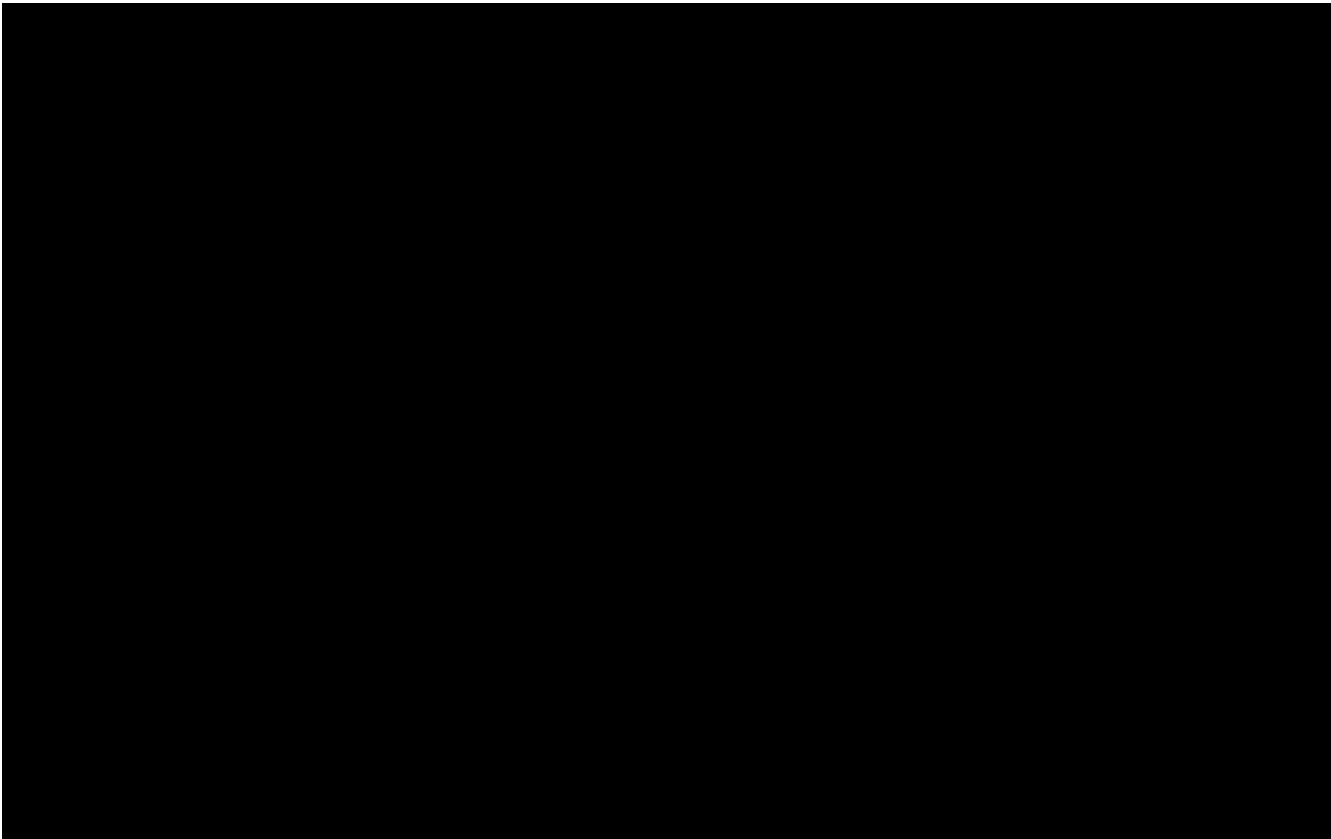
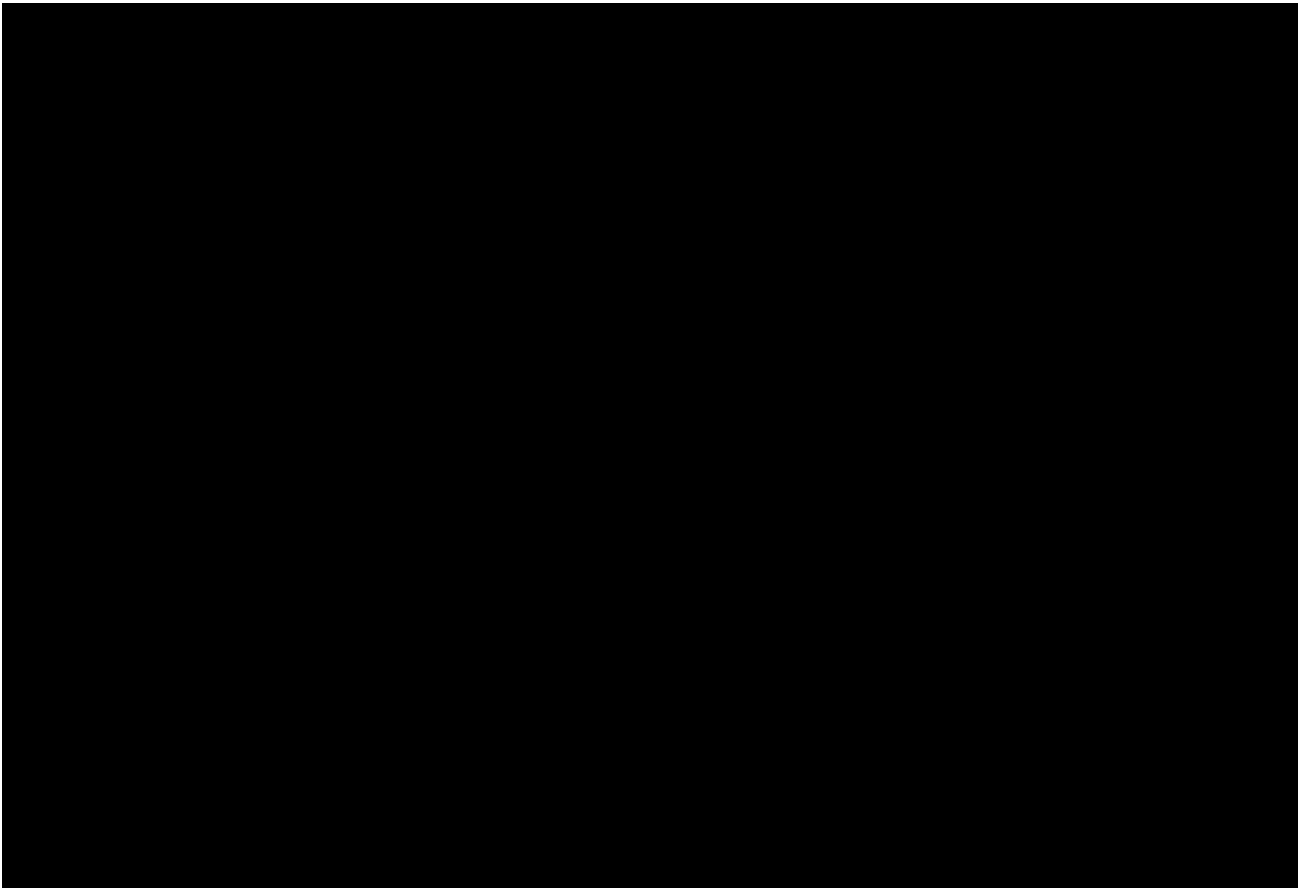
1. [REDACTED]

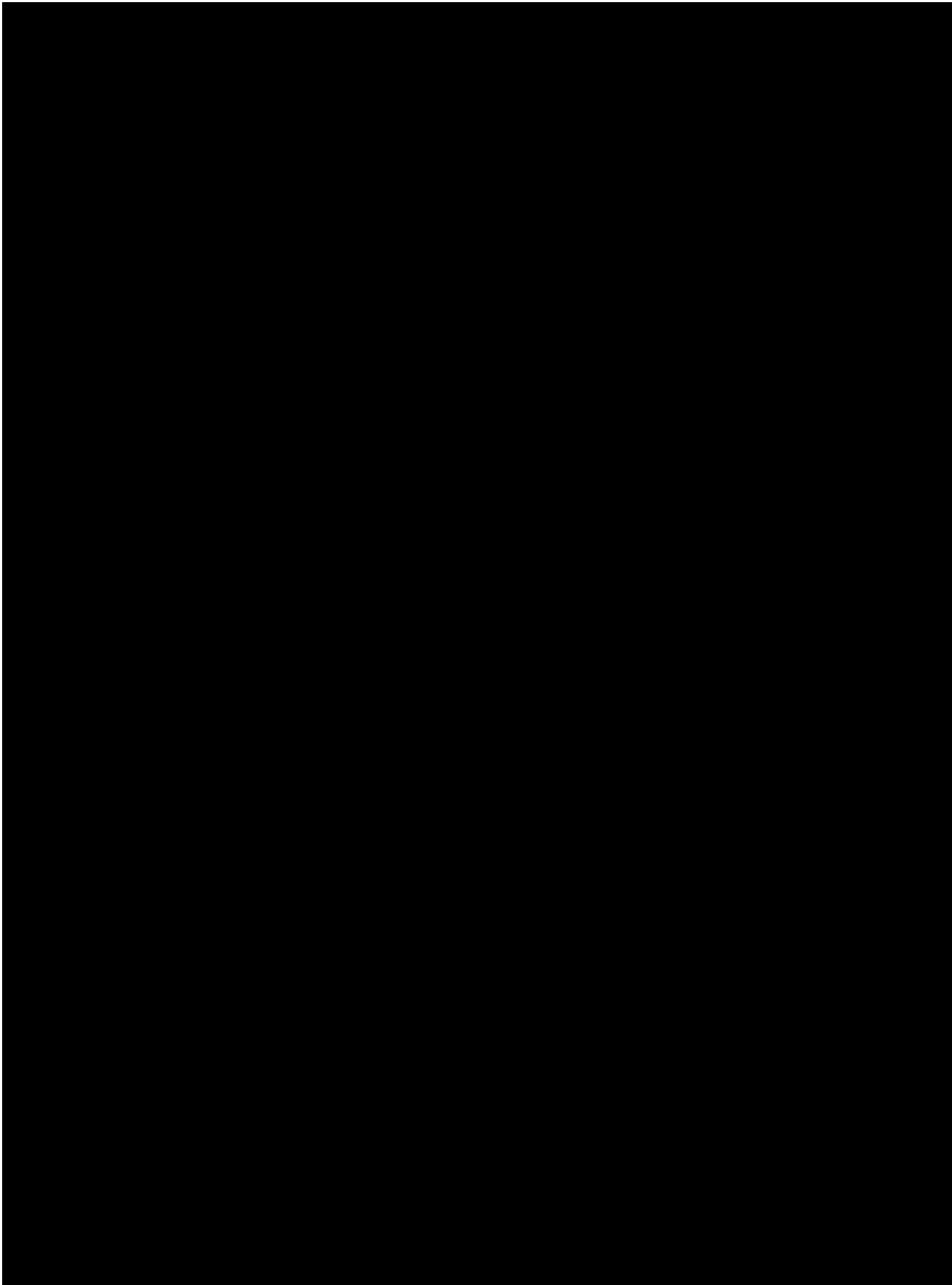
[REDACTED]

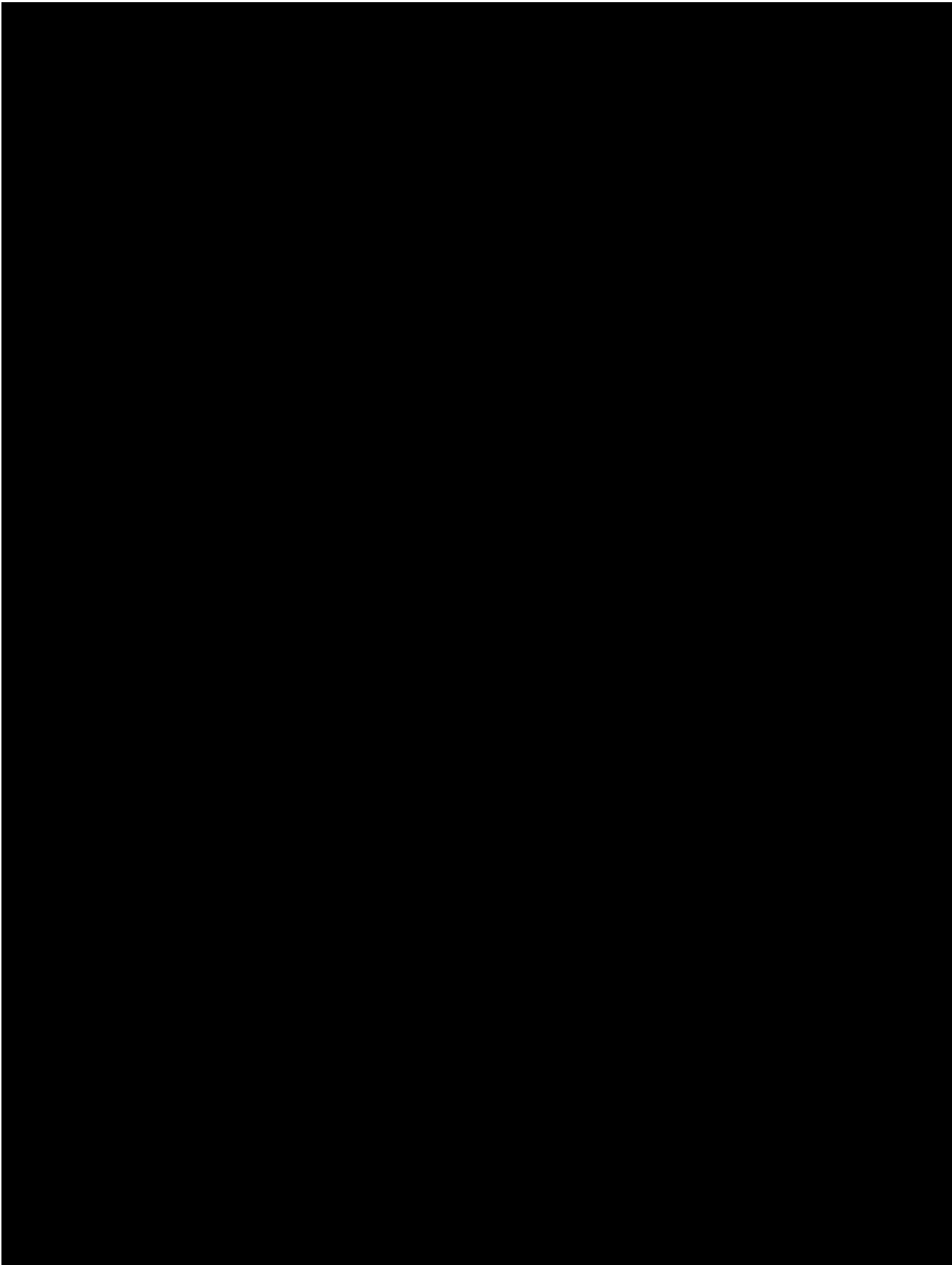
[REDACTED]

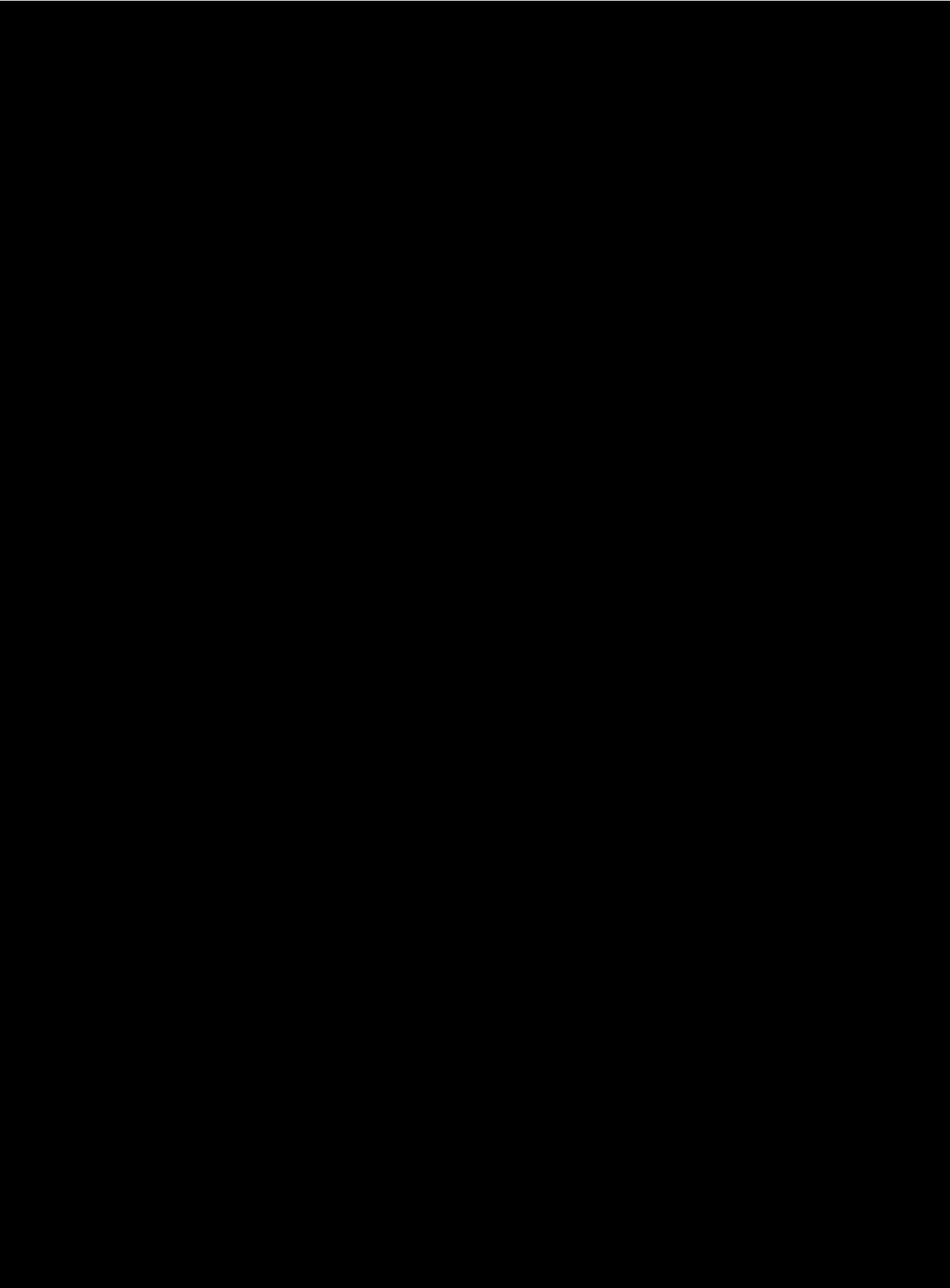
[REDACTED]

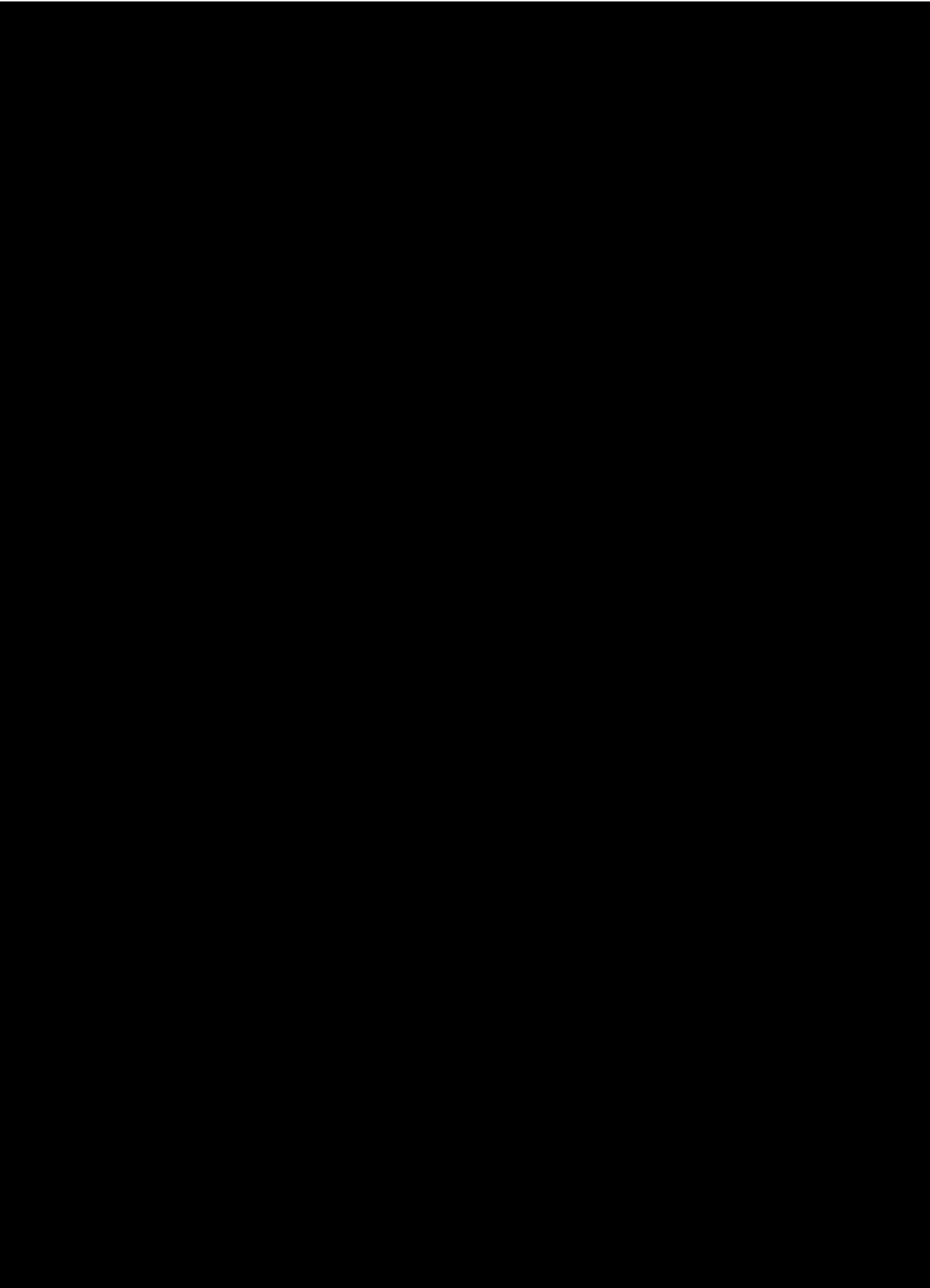


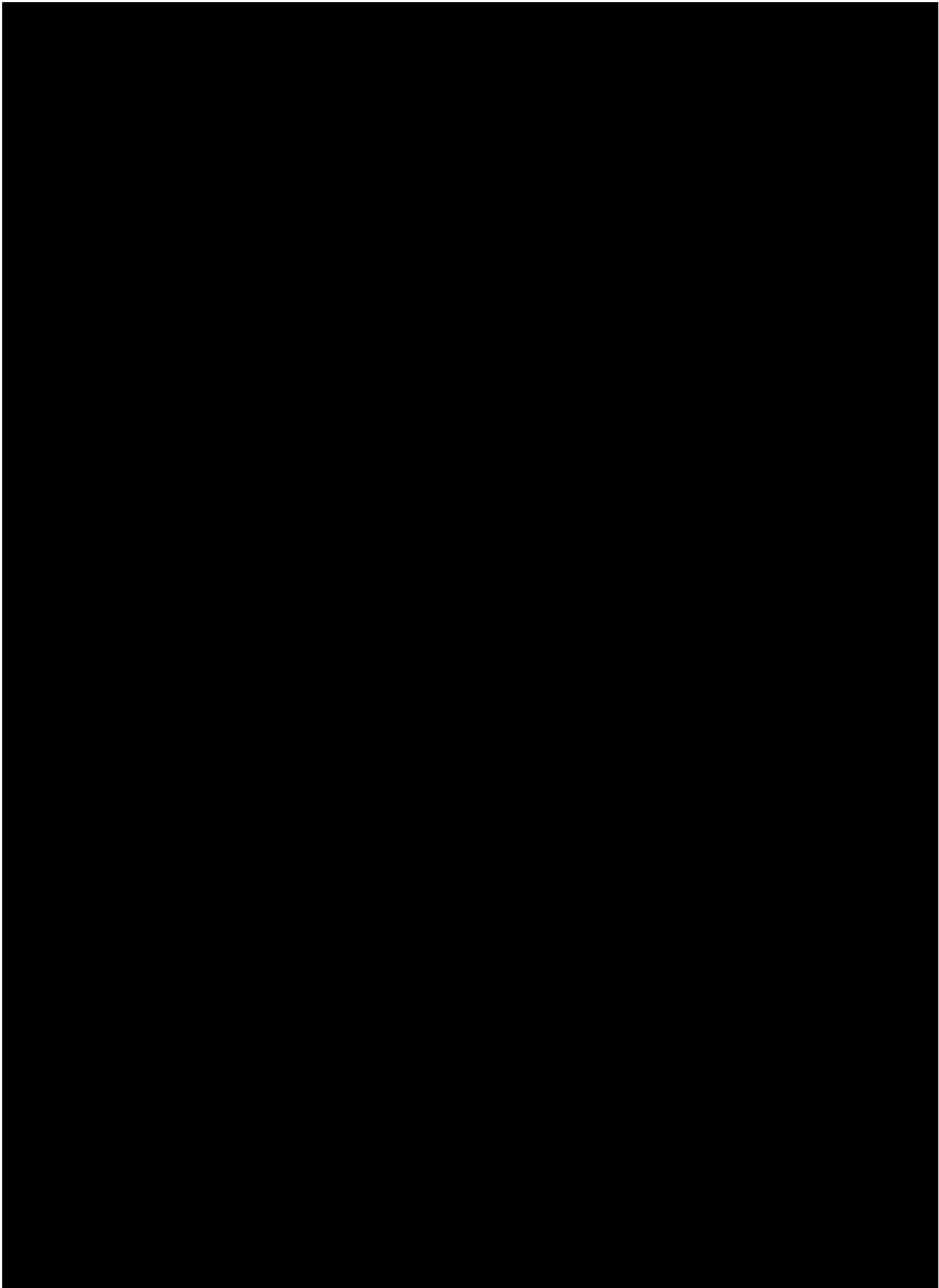


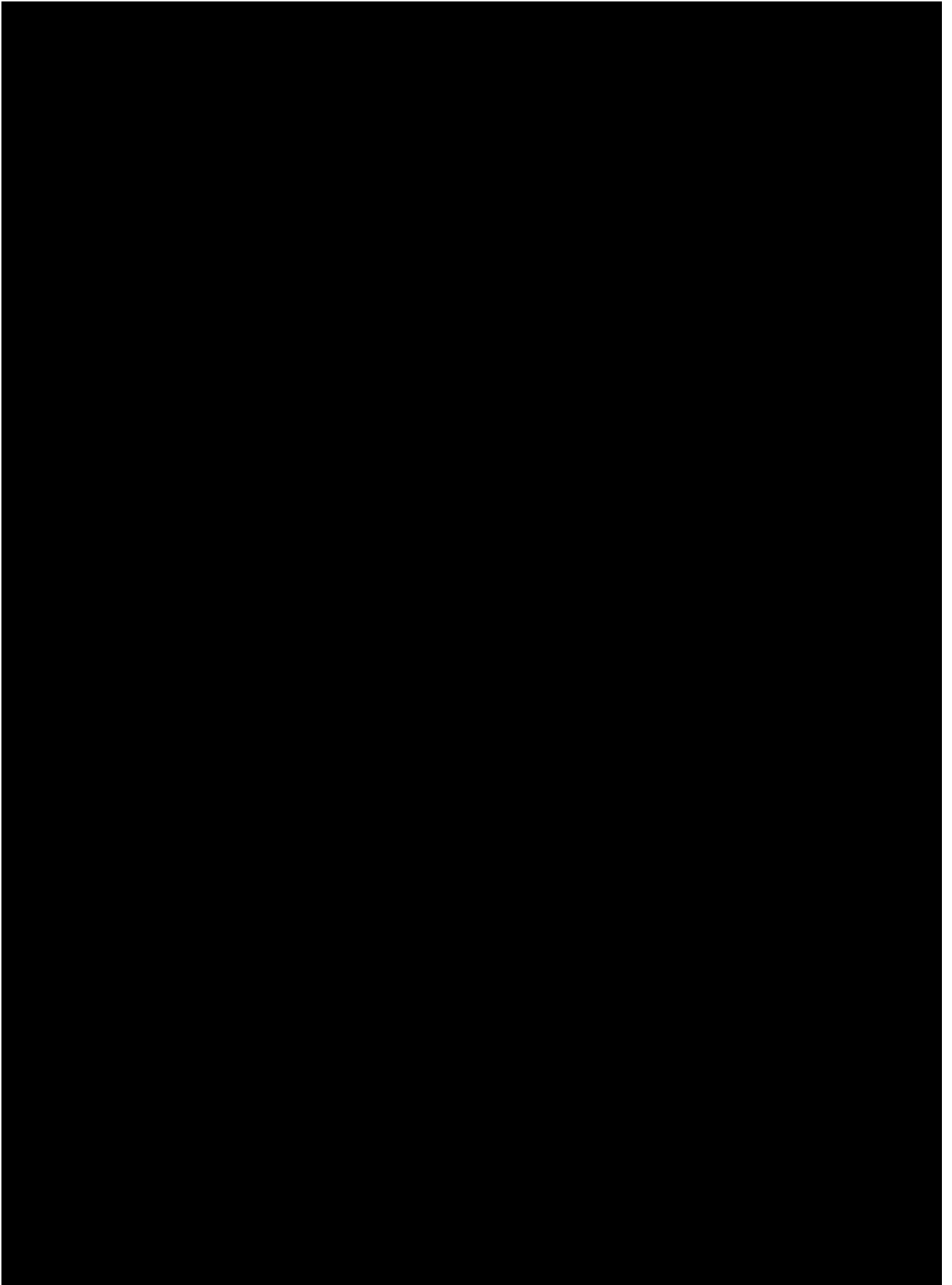


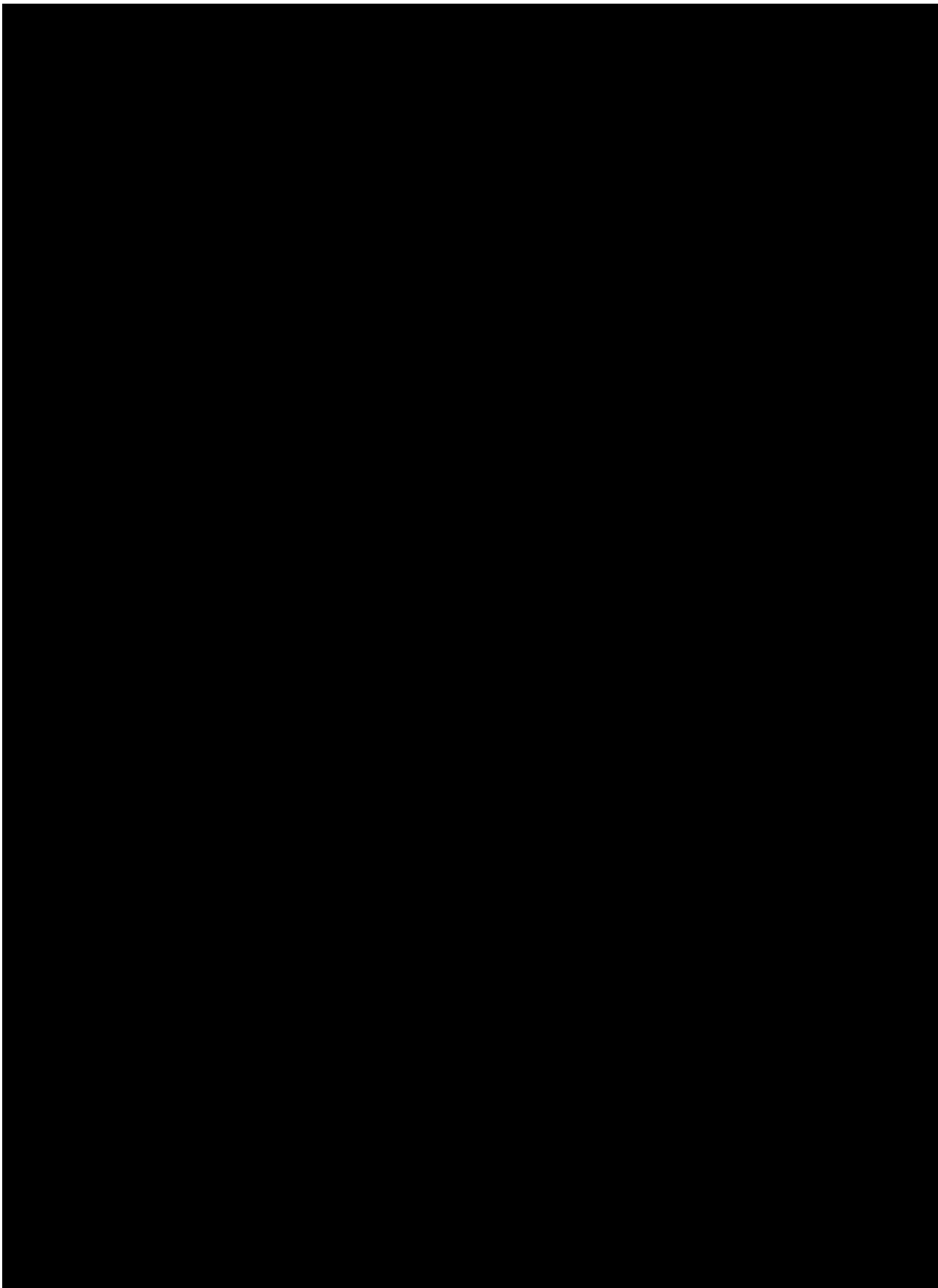















7. MANNER OF EXECUTION FOR SECTION 487 SEARCH WARRANT



8. CONCLUSION

At this point in the investigation, investigators are trying to determine who is responsible for the deaths of Bernard SHERMAN and Honey SHERMAN. 



To date, there is no evidence to elevate any of the aforementioned parties to the status of a suspect.

In addition to these persons of interest, there is an unidentified person, the “walking man” that is seen on several surveillance videos in and around the area of 50 Old Colony Road on the evening of December 13th, 2017. The investigative theory being, that this individual is involved in the murders. The evidence sought in this judicial authorization application, allowing investigators to run the tower dump transmission data filter and conducting transmission data comparisons between groups, categorized by time and geography, will seek to identify the “walking man”, any associates of the “walking man” and/or any cellular device and phone number used by the “walking man”.



9. ORDER DENYING ACCESS TO INFORMATION

I am requesting that an order be made pursuant to section 487.3 of the Criminal Code, denying access to and disclosure of this Information to Obtain and its attached appendices, as well as the requested Production Orders.

I am requesting that this order be made for an indefinite period and until an application is brought, to a court with competent jurisdiction, to have the order terminated or conditions of the order varied pursuant to section 487.3(4) of the Criminal Code.

I am also requesting that a term/condition of the sealing order be added allowing the Crown to access the sealing materials for the purpose of making disclosure. This term/condition will allow the Crown to fulfil its disclosure obligation, if charges are laid, without first obtaining an order varying this sealing order.

I am requesting that this order be made, on the following grounds:



(b) Pursuant to section 487.3(2) (a) (ii), Compromise the nature and extent of an ongoing investigation

Currently, investigators believe that the individual seen on video surveillance in the area of 50 old Colony Road on the evening of December 13th, 2017, the “walking man” is involved in the murders. As outlined in this Information to Obtain, the information

sought from this production order application, seeks to determine [REDACTED]

[REDACTED] I believe that the reasons outlined below, in regards to the compromising of the investigation, apply to this specific theory as well as to this investigation in general.

The Information to Obtain of the proposed judicial authorization applications details the facts of an ongoing investigation and if this information were to be made public it would jeopardize the investigation. Currently the investigation is still ongoing, with substantial and continued media coverage of the investigation. Information about the investigation has been already inadvertently or purposely disclosed to the public and further disclosure about the details of this case will render any potentially new hold back information to be of no value to police.

Disclosure of this Information to Obtain would allow the perpetrator(s) to know how far the investigation has advanced, the identity of witnesses police have spoken to and what evidence police have seized. Knowing the aforementioned information, the perpetrators can then take steps to thwart and hinder the investigation by locating witnesses that police have spoken to as well as witnesses police have not spoken to with the intent to influence them to not participate in the investigation. Also, the perpetrators, by knowing what evidence police have already seized and obtained, can also take steps to destroy or conceal evidence that they know exist and police have not already seized.

Also, by disclosing this affidavit the perpetrator(s) would know if police have identified any potential suspects or persons of interest, which could precipitate the perpetrator(s)' flight.

Disclosure of this affidavit would also allow the perpetrator(s) to determine which witnesses that investigators have or have not spoken to. The perpetrator(s) can then attempt to locate or contact witnesses to influence their participation in this investigation.

Currently the investigation is still underway with witnesses and [REDACTED] still coming forward to provide information. If the details contained in the Information to Obtain were to be made public it could contaminate any subsequent witness statements thereby hindering investigators' ability to assess the credibility of the information provided by any future witnesses that may wish to come forward.

(c) Pursuant to section 487.3(2) (a) (iv), Prejudice the interest of an innocent person

The disclosure of the information relating to the Production Orders would prejudice the interest of an innocent person, due to the fact that many witnesses have already been interviewed by police and the contents of this affidavit would reveal the identity of witnesses who have provided information and statements to police.

I believe that, if the names and information provided were to be made public, that it would be detrimental to the progress of the investigation, the safety of witnesses and the safety of any potential witnesses. At this point in time investigators believe that this incident is a double murder and that the SHERMAN's were targeted, the perpetrator(s) are still unidentified and unaccounted for and could seek out the witnesses in this incident to cause them harm. Currently, it is unknown if other family members of the SHERMAN's are in danger. Disclosure of this affidavit would reveal the names and information of the family members and associates of the SHERMAN's thereby assisting any perpetrators in locating them.

The family and associates of the deceased along with witnesses have already been subjected to heavy media coverage. If their identities were to be revealed through this application the media coverage would only get worse prejudicing their right as innocent persons to be left alone.

Portions of the sealed materials contain information over which claims of privacy attach; portions contain references to financial, legal and medical information that would otherwise be confidential and un-accessible to members of the public or the media; large portions of the materials describe the personal and private information of many different people and entities, any of whom could reasonably assert an interest in not having this information publicly disclosed.

In addition, many of the witnesses who have been interviewed, have expressed opinions about whether other persons have the motive and/or character to commit these murders. If these opinions were to be released to the public, both those expressing them and those, who are the subject of the opinions, would be prejudiced. Disclosure of this information at this point would have a chilling effect on other witnesses who are asked to provide information and opinions about this investigation or other investigations. In addition, given that some of these opinions may be unfounded, those

who are the subject of them would be prejudiced if the opinions were published or otherwise made available to the public.

Any and all of the aforementioned considerations could “prejudice the interest of an innocent person”, as contemplated by s. 487.3(2)(a)(iv) of the Criminal Code.

(d) Pursuant to section 487.3(2)(b), for any other sufficient reason

i. Sealing of Previous Judicial Authorizations

On the following dates, judicial authorizations were granted, by her Honour L. PRINGLE, in relation to this case:

- I. December 20th, 2017;
- II. January 10th, 2018;
- III. January 15th, 2018;
- IV. February 15th, 2018;
- V. April 16th, 2018;
- VI. June 28th, 2018;
- VII. September 23rd, 2018;
- VIII. November 16th, 2018;
- IX. December 20th, 2018;
- X. January 29th, 2019;
- XI. July 2nd, 2019

The judicial authorization applications outlined above were sealed. I am requesting that this application and any orders be sealed as well because if this application or orders were to be left sealed, it would circumvent the sealing of the previous applications.

ii. Toronto Star’s Applications to Unseal

On March 16th, 2018, I attended the Toronto North Courts located at 1000 Finch Avenue West in the City of Toronto where Toronto Star investigative reporter, Kevin DONOVAN had made an application to unseal several judicial authorization applications relating to this case, before her Honour L. PRINGLE. The application to unseal the judicial authorizations was challenged by the Crown Attorney. I had filed an affidavit outlining the reasons why, I believed, that the judicial authorization

applications should all remain sealed. Ultimately, all the face pages, Appendix Bs and two Appendix As relating to medical records, from the judicial authorizations, were disclosed to the Toronto Star. Her Honour L. PRINGLE was to provide judgement on the unsealing of the remaining appendices at a later date.

On March 19th, 2018, her Honour L. PRINGLE ruled that the application to unseal was dismissed, without prejudice to renew should charges be laid, should the investigation conclude or should some other material change in circumstance arise.

On September 24th, 2018, I attended the Toronto North Courts in the City of Toronto where Toronto Star investigative reporter, Kevin DONOVAN, for the second time, made an application to unseal judicial authorization applications relating to this case. The application was again, challenged by the Crown Attorney and I filed an affidavit outlining the reasons why I believed that all the judicial authorization applications relating to this case should continue to remain sealed. The application to unseal was heard before her Honour L. PRINGLE. I was cross examined by Kevin DONOVAN in regards to my filed affidavit. Her honour L. PRINGLE reserved her judgement for a later date.

On September 25th, 2018, her Honour released the judgement ruling that the application to unseal was dismissed without prejudice to renew it, should charges be laid or should the investigation conclude or should some other material change in circumstances arise.

On April 17th, 2019, I attended the Toronto North Courts in the City of Toronto where the Toronto Star investigative reporter, Kevin DONOVAN, for the third time, had made an application to unseal judicial authorization applications relating to this case. The application was again, challenged by the Crown Attorney and I filed an affidavit outlining the reasons why I believed that all the judicial authorization applications relating to this case should continue to remain sealed. The application to unseal was heard before her Honour L. PRINGLE. I was cross examined by Kevin DONOVAN in regards to my filed affidavit. Her honour L. PRINGLE reserved her judgement for a later date.

On April 30th, 2019, her Honour L. PRINGLE released the judgement, ruling that the application to unseal, was dismissed. Her Honour was satisfied that the sealing orders are necessary, "...to protect the integrity of the ongoing police investigation"

and that, "...the reasons for sealing continue to outweigh the deleterious effects on the rights of the press to freedom of expression."

On October 15th, 2019, I attended the Toronto North Courts in the City of Toronto where the Toronto Star investigative reporter, Kevin DONOVAN, for the fourth time, had made an application to unseal judicial authorization applications relating to this investigation. Like all the previous times the application was challenged by the Crown Attorney, I filed an affidavit with the court and was cross examined on the affidavit.

On October 21st, 2019, her Honour L. PRINGLE released the judgement ruling that the application to unseal was dismissed.

On October 29th, 2019, Kevin DONOVAN published a book The Billionaire Murders about the SHERMAN murders.¹¹

Since October 21st, 2019, there have been no charges laid in this investigation, the investigation is currently ongoing, has not concluded and there has been no other material change in circumstance that would warrant unsealing. The investigation is ongoing, with additional witnesses to be spoken to, additional evidence to be obtained and analysed and additional tips to be investigated. Therefore, I believe that this judicial authorization application, like the others before it, should be sealed.

Another hearing was scheduled for May 4th, 2020 in response to another application to unseal by Kevin DONOVAN. That application was postponed due to the Covid-19 pandemic¹²

iii. Toronto Star Newspapers Ltd. v. Sherman Estate, 2018 ONSC 4706

On January 4th, 2019, I reviewed the case, Toronto Star Newspapers Ltd. v. Sherman

¹¹ <https://www.penguinrandomhouse.com/books/598686/the-billionaire-murders-by-kevin-donovan/>

¹² In response to the Covid-19 pandemic, the Government of Ontario declared a provincial emergency on March 17, 2020 under the Emergency Management and Civil Protection Act. Source: <https://news.ontario.ca/opo/en/2020/04/ontario-extends-emergency-orders-to-help-stop-the-spread-of-covid-19.html>

Estate, 2018.¹³ Upon reviewing the case I learned the following:

- I. The court decision is dated August 2nd, 2018 and the file number is CV-18-00012564-00ES. The case was heard on July 31st, 2018.
- II. The applicant is Toronto Star Newspapers Ltd. and Kevin DONOVAN and the respondents are the Estate of Bernard SHERMAN and the trustees of the estate and the Estate of Honey SHERMAN and the trustees of the estate.
- III. Kevin DONOVAN was seeking access to the estate files for the estates of Bernard SHERMAN and Honey SHERMAN. While the estates and trustees of the estates of Bernard SHERMAN and Honey SHERMAN were arguing for the estate files to be sealed.
- IV. Justice S.F. DUNPHY stated in his decisions that, "...this case requires me to balance the very strong public policy in favour of open courts against the interest of protecting the dignity and privacy of the victims of crime and ensuring the safety of their survivors." Justice DUNPHY went on to concluded that the , "...deleterious effects of applying confidentiality protection to these two estates files is substantially outweighed by the salutary effects on the rights and interests of the victim, their beneficiaries and the trustees of their estates."
- V. Justice S.F. DUNPHY ordered that the two files to remain sealed for a period of two years subject to further court orders.

On April 24th, 2019, during the third application to unseal the judicial authorizations, I was made aware, by Kevin DONOVAN, that he would be making an application to have the estate files of Bernard and Honey SHERMAN, unsealed and the application would be heard in Appeals court on April 29th, 2019.

On May 28th, 2019 I reviewed an Ontario Court of Appeal decision, Toronto Star Newspapers Ltd. v. Sherman Estate, 2019 ONCA 376 dated May 8th, 2019. In that decision Justices DOHERTY, PAUL ROULEAU and C.W. HOURIGAN set aside Justice J. DUNPHY's decision dated August 2nd, 2018 to have the SHERMAN estate files sealed. The order would take effect in 10 days after the release of their reasons.

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<https://www.canlii.org/en/on/onsc/doc/2018/2018onsc4706/2018onsc4706.html?searchUrlHash=AAAAAQANSG9uZXkgU2hlcmlhbgAAAAAB&resultIndex=3>

On May 28th, 2019, I reviewed a news article written by Kevin DONOVAN from the Toronto Star. The article was published on May 15th, 2019 and the headline was, “Sherman family to ask Supreme Court to seal files detailing slain billionaires’ estate”.

In the article, it was revealed, that the SHERMAN estate trustees are seeking leave to appeal to the Supreme Court of Canada to have the estate files sealed. The process would likely take six months.

On August 27th, 2020, I reviewed the Supreme Court of Canada webpage and located the docket for Estate of Bernard Sherman and the Trustees of the Estate, et al. v. Kevin Donovan, et al.¹⁴ I learned that on July 15th, 2020 a tentative hearing date was set for October 6th, 2020.

If this application were not to be sealed the information from this application would circumvent the order for sealing imposed by Justice S.F. DUNPHY as well as the leave to appeal to the Supreme Court because, like previous judicial applications, this current application provides details of the SHERMAN wills and trust.

If this Sealing Order is granted, I request that the Information to Obtain as well as a copy of the requested Production Orders, be sealed in a packet, delivered to and kept in the custody of the Local Registrar of the Ontario Court of Justice, in the Toronto Region, or their Agent, at Old City Hall, at 60 Queen Street West, City of Toronto, Ontario, or until otherwise ordered.

¹⁴ <https://www.scc-csc.ca/case-dossier/info/dock-regi-eng.aspx?cas=38695>