


**Polk County Sheriff's Office
Texas Law Enforcement
Policies and Procedures**

Subject: Use of Force & Deadly Force	Policy Number: 5.01
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Approval Authority Title and Signature: Byron Lyons, Sheriff 	

POLICY:

The Sheriff's Office will enforce any and all applicable state and local laws against the physical barring of an entrance to or exit from a facility or locations which is subject of nonviolent civil rights demonstrations within its jurisdiction.

Human life is sacred. Protecting human life is the most important mission of Polk County Sheriff's Office. Apprehending suspects and criminals is less important than protecting innocent human life, including the protection of the officer's own life.

Officers maintain a constant readiness and ability to act in instances where, in *their perception*, the use of force or deadly force may be appropriate. By maintaining readiness and capacity, officers reduce the likelihood of opposition and of the actual need for a forceful response of any kind. While *officer discretion* is critical, the need for accountability and control of police activities is necessary to limit abuses of authority. Officers only use the amount of force reasonably necessary to protect life and enforce the law under guidelines established in this policy manual.

DEFINITIONS:

Authorized weapon: A weapon approved by the department for sanctioned use by its officers. No weapon is authorized for carry or use by an officer unless the agency expressly approves it and the officer has demonstrated proficiency with the weapon type in accordance with agency guidelines.

Auxiliary weapons of availability: An officer may become separated from their agency issued firearm or secondary impact weapons. Should this occur, the officer might have access to a *weapon of opportunity*, including but not limited to a flash light, citation holder, handcuffs, or any object that could be used as a weapon in the defense of them self or another.

Baton or expandable baton: an impact weapon capable of inflicting bodily injury by striking with a portion of the weapon. Only batons authorized by the department are

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Page 1 of 12

carried or used. Carrying or using saps, *Billy clubs* or *slapjacks* is prohibited.

Chemical weapon: Weapons capable of temporarily incapacitating a person through the controlled release of some chemical irritant or agent.

Certification with weapon: Officer has demonstrated proficiency with a particular weapon, and been tested in its safe care and use. The officer is thereby authorized to carry and use this weapon in the performance of his official duties regardless of whether the officer is on-duty or off-duty. Without such certification, the officer may not carry or use this or a similar weapon.

Deadly force: An action, with or without the use of a weapon, intended to cause death or serious bodily injury; or, the use of any object in a manner intended to cause death or serious bodily injury.

Electronic weapon: Weapons using short bursts of electrical energy to temporarily incapacitate a person without causing death or serious bodily injury.

Firearm: Any device designated, made, or adapted to expel a projectile through a barrel by using energy generated by rapidly expanding gases, or any device readily convertible to that use; including all handguns, rifles, and shotguns.

Force, non-deadly force, or less-lethal force: Actions not calculated under the circumstances to cause death or serious bodily injury.

Knife: Any edged weapon that is deigned to inflict serious bodily injury or death that stabbing, cutting, slicing, whether legal or illegal, and including swords, daggers, axes, hatchets, etc.

Lateral Vascular Neck Restraint [LVNR]: A method or manner of restraining or controlling a person by physically restraining the person's neck from behind. The technique involves the initial restraint of a person through contact and control methods which may ultimately be used to incapacitate the person by rendering the person temporarily unconscious where the person refuses to submit to lesser levels of control.

Less than lethal or intermediate weapons: Procedures or weapons that are designed to provide *force*, but usually *less than deadly force*. *Less than lethal* is sometimes referred to as *less-lethal, non-deadly force*. Regardless of the name, officers know that any force, especially when applied under dangerous, tense, uncertain, and rapidly evolving situations, may cause harm, serious bodily harm or death, despite the best intentions of the officer.

Physical strength and skill: Any physical actions by one or more officers (e.g., holding, restraining, pushing, and pulling) which may include special skills (e.g., boxing, karate, and judo) but do not include the use of *deadly force* or any weapon.

Probable cause: Sufficient reason based upon known facts to believe a crime has been

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committed or that certain property is connected with a crime. Probable cause must exist for a law enforcement officer to make an arrest without a warrant, search without a warrant, or seize property in the belief the items were evidence of a crime. *Probable cause* is often subjective, but if the police officer's belief or even hunch was correct, finding stolen goods, the hidden weapon or drugs may be claimed as self-fulfilling proof of probable cause. Technically, probable cause has to exist prior to arrest, search or seizure.

Serious bodily injury: Harm that creates substantial risk of death, serious permanent disfigurement, or loss or impairment of any body function or organ.

PROCEDURES:

Levels of Use of Force:

Use of force or deadly force is controlled by the basic elements of a reasonable officer's perception and a reasonable officer's response. Officers may use only the level of force that is reasonably necessary to stop the perceived threat.

To better understand and explain *use of force* and force issues, officer *perceptions* and officer *force options* are illustrated in the Use of Force Ladder or *force continuum* that is located on the last page of this policy. This chart illustrates five levels of *perception* and five corresponding levels of *response*. Officers must be familiar with, and know how to apply and explain this compendium. Refer to the Use of Force Ladder, at the end of this policy.

Officer's general perception and corresponding force options are:

Level 1 – (Compliant). The suspect is perceived by the officer to be *compliant*. The appropriate level of response is *cooperative controls*, including *officer presence, hand signals, verbal commands and instructions, light touching or patting*, etc. In other words cooperation at this level is a *two way street*.

Level 2 – (Passively Resistant). The suspect is perceived by the officer to be *passively resistant*. The appropriate level of response is *contact controls*, including *strong or forceful soft hand, hand and arm holds, pressured physical movement of the suspect, removal*, etc.

Level 3 – (Actively Resistant). The suspect is perceived by the officer to be *actively resistant*. The appropriate response is *compliance techniques*. This is the threshold for any reasonable officer to consider this suspect to be a potential threat to himself, the officer, or other citizens. Compliance techniques may include *all reasonable means to cause the suspect to comply as soon as reasonably possible*. These techniques may include *use of chemical weapons, use of Taser, use of restraints, forced movement, forcing a suspect's limbs behind his back, forcing a suspect down on the floor or against a wall, Lateral Vascular Neck Restraint* [if the

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officer is trained and has demonstrated proficient in its use] or using other forms of rough physical force, etc. Once suspects are perceived as actively resistant, officers should not relax care until the subject is fully secured. When several officers are present and are trying to restrain a suspect use of the Taser should be a last resort and when all officers feel they are losing control of the suspect. Using the Taser as a pain compliance (dry stun, no darts) is allowed if will end the use of force and secure the suspect.

Level 4 – (Assaultive & A Threat to Bodily Harm). The suspect is perceived by the officer to be assaultive – and a threat to bodily harm. The appropriate level of response is immediate *defensive tactics*. The original assaultive behavior may have been directed at a fellow suspect, apparent victim or the officer. *Defensive tactics* may include *impact weapons, hard fist, or any other reasonable means available* and at hand to stop the aggression, defend against the attack, and bring the suspect into compliance. It is contemplated and understood that reasonable officers, while employing defensive tactics, may cause injury, serious injury, and in some isolated instances, death without intending such consequences.

Level 5 – (Assaultive & Serious Threat of Bodily Harm or Death). The suspect is perceived by the officer to be assaultive – serious bodily harm or death. The appropriate level of response is *deadly force*. Deadly force includes firearms, knives, or any other means immediately available that a reasonable officer, in the same circumstance, would consider as potentially causing death or serious bodily injury.

Discussions of Possible Officers Perceptions & Tactics:

Level 1 – (Compliant). No or Slight Apparent Potential for Harm

Arrival & Presence: Officer present at the scene. This includes proper voice and/or other identification, body language, and awareness by the subject that he is dealing with an officer of the law. May also include presence of the officer's vehicle, seeing the officer in his uniform, hearing officer identification, etc. A reasoning person seeing and hearing these things will normally alter their behavior, and respond to the officers instructions.

Interview Stance: The officer adopts a stance outside his danger zone that provides appropriate protection and forms the basis of an effective physical response if attacked.

Level 2 – (Passively Resistant). Moderate Potential for Physical Harm

Dialogue between Parties: A two way, controlled, non-emotional communications between the officer and the subject, aimed at a problem

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identification and/or resolution.

Verbal Direction: Officer asks, advises, or commands subject to engage in, or refrain from, a specific action or non-action.

Soft hand Techniques: Officer may choose to employ some assistance in movement, compliance, or removal from the immediate scene.

Level 3 – (Actively Resistant). Moderate Potential for Physical Harm

Restraint Devices: Mechanical tools used to restrict a subject's movement and facilitate searching such as, handcuffs, flex cuffs, leg irons, belly chains, optional nylon restraining devices etc.

Chemical Agents Individual Protection devices: CS/OS spray agent used to subdue a subject.

Transporters: Techniques used to control and/or move a subject from point A to point B with the minimum effort by the officer or, to gain and retain control over the subject.

Takedown: Techniques that redirect a subject to the ground in a controlled manner to limit physical resistance and to facilitate the application of a restraint device, and to prevent intentional injury to the subject.

Pain Compliance: Techniques that force a subject to comply with an officer, as a result of the officer inflicting controlled pain upon specific points in the subject's body, such as pressure point techniques and or dry stun using an electronic weapon. Pain compliance should only be used when all other means of lesser force has been exhausted. Dry stunning a restrained suspect in a patrol vehicle or in the jail should be a last resort and to prevent injury.

Level 4 – (Assaultive & A Threat to Bodily Harm). Serious Potential for Physical Harm

Incapacitation: Techniques intended to stun or render a subject temporarily unconscious. These techniques may be an impact weapon, such as a strike to a major nerve area,

Intermediate Weapon: Impact weapons that are primarily used to control a subject such as a baton, expandable baton, Taser, and/or police canine.

Level 5 – (Assaultive & Serious Threat of Bodily Harm or Death). High

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Potential for Great Bodily Harm or Death

Deadly Force: Techniques that may result in imminent death or serious injury, unconsciousness or permanent disfigurement, such as impact weapon strikes or use of firearms. Blows with impact weapons will not be made to the head. Deadly Force techniques are a last resort.

Only when there is a reasonable expectation that altered or damaged property may place others in imminent risk of death or serious bodily injury *deadly force* is appropriate to protect property. For example, stopping a suspect from setting a fire, or throwing a bomb.

It is important to remember that almost all incidents faced by police are not scripted, easy to understand, or predictable as to outcome.

Officers use their best effort to determine the threat level and apply the corresponding response. Time permitting, officers must use care in evaluating a suspect's actions and perceived threat level. If there is reasonable doubt and time permits, seek assistance before acting. Justification for the use of force and deadly force must be limited to what is *known or reasonably perceived* by the officer at the time of the incident. Facts unknown at the time force is used should not be considered later to determine whether the force was justified.

Officers may not intentionally use more force than is necessary and reasonable under the circumstances. Officers may never use force in response to mere verbal provocation or abusive language directed at the officer. Officers must never use deadly force, except to protect his life, or the life of other human beings.

Application of Use of Force & Deadly Force:

Application of *deadly force* and *force* are authorized by a peace officer only to achieve the following lawful objectives:

1. To defend himself, or others against serious threats of serious bodily injury or death;
2. To stop dangerous felony flight, where there is serious imminent risk to the public of death or serious bodily injury; &
3. To prevent roaming at large by obviously mad or vicious animals; to relieve animals so badly injured that it cannot reasonably survive from injuries causing prolonged suffering.

Application of *force* but not *deadly force* is authorized by a peace officer only to achieve the following lawful objectives:

1. To preserve the peace;
2. To defend themselves, or others against unlawful violence;
3. To prevent the commission of self-inflicted injury, or suicide by any person;
4. To make lawful arrests or searches; to overcome resistance to such arrests or

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- searches; and to prevent escape from custody;
5. To prevent or interrupt an intrusion on, or interference with the lawful possession of property; &
 6. To prevent roaming at large by obviously mad or vicious animals, or to relieve animals so badly injured that it cannot reasonably survive from injuries causing prolonged suffering.

Before using any force against a suspect, time permitting, officers must:

1. Have probable cause to arrest that suspect;
2. State his intentions to arrest, and identify himself as a peace officer; &
3. State the reason for the arrest.

The amount and degree of force officers may use to achieve an objective takes into consideration the following possible issues, if time and circumstances allow:

1. Nature and seriousness of the original offense committed by the suspect;
2. Nature and seriousness of the risk of injury to the officer or others;
3. Age, physical condition, and behavior of the suspect;
4. Relevant actions by any third parties;
5. Physical conditions (e.g., visibility) at the scene;
6. Feasibility and availability of alternative actions: &
7. Opportunity and actual ability of the suspect to injure the officer, himself, or others.

Before officers use force (but not deadly force) when protecting a person from self-inflicted bodily injury [suicide attempt] or from uncontrollable circumstances, the officer must consider other available alternatives to protect that person from harm.

Officers may use unauthorized objects as weapons, or use weapons in unauthorized manners if emergency circumstances make it necessary to protect human life and prevent serious injury.

Officers may draw and ready any authorized weapons for use only when they reasonably anticipate that they may have to use such weapon(s). This does not require officers to use the weapons.

Use of Non-Deadly Force:

Officers use physical strength and skill, restraint devices, chemical weapons, electronic weapons, or impact weapons to apply non-deadly force only.

Officers have no obligation to *retreat* or *back down* before resorting to approved use of force, including deadly force. Officers may consider retreat or withdrawal where delay could make a more peaceable arrest, or stop, likely if such tactics would not increase risk to him or others. In some cases, an increased show of force may reduce the amount of force necessary to accomplish the officer's objective.

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Officers may not attempt to affect arrests alone if there is substantial risk to himself from the arrestee or another party unless there are no available reasonable alternatives.

Officers use handcuffs or other restraining devices on all arrestees unless it is obviously unnecessary or impractical (e.g. the elderly, young juveniles, amputees, crippled, injured, or other applicable subjects). Officers must take reasonable precautions to protect arrestees from injury caused by handcuffs or other restraining devices. Only restraining devices and techniques approved by the department may be used.

Officers may use chemical weapons for self-protection, or to subdue a person unlawfully resisting arrest. Any person on which a chemical weapon has been used must be treated or decontaminated for exposure to the chemical agent as soon as practical and thereafter monitored for possible latent effects.

Officers may use approved electronic weapons in accordance with this policy. An electronic weapon is only be used to protect persons from assault or to subdue persons unlawfully resisting arrest.

Officers may use impact weapons to protect him or another from assault or to arrest a person who unlawfully and violently resists arrest if lesser methods have failed, or if circumstances warrant the immediate use of the baton. However, officers should:

1. Avoid baton blows that are capable of inflicting serious bodily injury;
2. Not raise the baton above the head to strike someone or use the baton as a club or bludgeon;
3. Deliver only short snappy body blows to vulnerable areas in order to temporarily incapacitate subjects; &
4. Not deliberately strike the *face, head, neck, collarbone, spine, kidney area, solar plexus, knees, or elbows.*

Officers not trained and currently certified with impact weapons are not authorized to use flashlights or other similar devices as substitutes, except in extreme life-threatening emergencies.

Use of Deadly Force:

Deadly force may not be used under the following circumstances:

1. As a warning or threat;
2. With the intent to maim or cripple a person;
3. On a person who has not caused or threatened to cause serious bodily injury or death to another person, including the officer;
4. On a person who simply flees or evades arrest;
5. At or from a moving vehicle; **unless absolute necessary to prevent serious bodily injury**

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6. Merely to prevent the destruction or theft of property; or
7. When the officer has any doubt as to the justification for using deadly force.

Reporting the Use of Force:

Officers, who discharge a firearm, use chemical weapons, electronic weapons, impact weapons, special weapons, knives, or who cause bodily injury or death to other persons by use of force or deadly force must notify their direct supervisor immediately.

Officers are required to complete a separate use of force written report detailing the circumstances surrounding the use of force incident. This written use of force report requirement must be met even though other required reports may have already covered the situation. This report will be given to the officers Lieutenant or Captain as soon as completed so that it can be examined to make sure the use of force was justified. Use of force paperwork will be completed before end of shift on the same day force was used.

In incidents where officers cause serious bodily injury or death through the application of deadly force, they first call for medical assistance, secure the scene as well as possible, and then notify their direct supervisor. Upon arrival, the supervisor takes charge of the scene, secures it and refers it to the **Sheriff or Chief Deputy** along with any investigation concerning the incident and report the incident to the Sheriff or designee.

In incidents involving the use of force, all officers assist in every way possible with the investigation. Any report required by this policy receives executive review in an effort to:

1. Protect the integrity of the facts and the evidence;
2. Ensure that the officer's use of force complied with all appropriate state and federal laws, and department policy;
- 3. Determine if the officer's use of force indicates a need for special counseling, training, or disciplinary action;**
4. Determine whether the situation requires further action; &
- 5. Evaluate the need for additional, or future, training. If an officer is having use of forces more often than the division in a whole than their use of force reports need to be gone over and discussed with the Chief Deputy to see if there is a need for counseling or additional training.**

Reporting Requirements:

The Shift Supervisor, must be notified immediately, who will then immediately notify the Sheriff and Chief Deputy when any type of deadly force is used and there are resulting *serious physical injuries or death*.

Each officer who witnessed the incident or responded to the scene must complete a written report. These witness reports must be completed no later than the conclusion of the shift in which the incident occurred and filed with the Chief Deputy or designee.

The officer(s) who actually used or employed the deadly force will be relieved of duty and

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transported to the station. At the time the officers are relieved of duty the weapon(s) used in the incident are collected and tagged as evidence. The Chief Deputy or designee or next senior supervisor at the scene instructs the officer(s) who used deadly force to:

1. Refrain from making any statements to the news media, other officers, or supervisors;
2. Refrain from discussing the matter between officers or witnesses [if more than one officer];
3. Return directly to the station; &
4. Refrain from completing any reports or statements for at least twelve [12] hours.

When the officer arrives at the station, investigators debrief the officer and advise Chief Deputy or designee of their findings. Thereafter the officer(s) are transported home. The officer is to be given the opportunity to receive counseling if they or the department request it. Upon return to duty the next day, the officer(s) involved in the deadly force incident must complete his report and make all required statements. The officer(s) provide all required information as if a witness to the incident, first hand *perception of events* at the time, and the *corresponding force options used*. Special attention must be given to any deviation from this policy.

All reports completed by the officers using force, other officers or witnesses must include the following:

1. A description of the events leading to the use of force or deadly force;
2. The original offense or *probable cause* for the stop or action;
3. An accurate description of the incident and reasons for employing force;
4. A description of the weapon or device used and the manner in which it was used;
5. A description of the injuries suffered, and the treatment given or received;
6. A list of all participants and witnesses to the incident; &
7. A copy of all incident reports compiled because of the incident.

The Sheriff or designee formalizes criteria for reporting incidents. Reports of all injuries are filed in the central file and the employee's personnel record.

Weapons Control & Issue:

Officers must register all firearms carried on-duty or off-duty, and only carry or use authorized duty weapons, firearms and ammunition under these standards:

1. Firearm is registered with the department.
2. Specific firearm and ammunition *manufacturer, type, and caliber (or mm)* is approved for use by the Sheriff.
3. Firearms have been inspected, fired, and certified safe by the department's firearms instructor.
4. The officer has demonstrated proficiency and been certified in the last twelve [12] months in the use of all weapons and ammunition he carries on-duty or off-duty.

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5. Officer qualifies with the same weapon and type of specific ammunition [caliber, bullet weight, bullet design, and powder load] actually carried on duty.
6. If a different firearm is carried off-duty, the conditions of 1-5 above apply to the off-duty weapon(s).

Officers may not modify or alter an authorized weapon in any material way without Agency approval.

Firearms & Weapons Demonstrations of Proficiency:

The firearms & weapons instructor trains and mentors all officers in completing *demonstrations of proficiency* in the use of their primary and secondary firearms, as well as any off-duty firearms, and other weapons carried in the performance of official duties. Demonstration for all weapons [*firearms, batons, expandable batons, control sticks, chemical agents, electronic devices, knives, special munitions delivery systems, etc.*] authorized and carried by department officers must be conducted on a recurring basis. For further detail on weapons demonstration of proficiency refer to the *firearms demonstration of proficiency policy*.

Under no circumstance may officers not having demonstrated proficiency with their weapons be allowed to carry or use those particular weapons. In particular, to carry and use *handguns, shotguns, OC spray, straight baton, PR-24, expandable baton, or electronic device*. Officers must annually *demonstrate proficiency* with each weapon, subject to the approval of the weapons instructor.

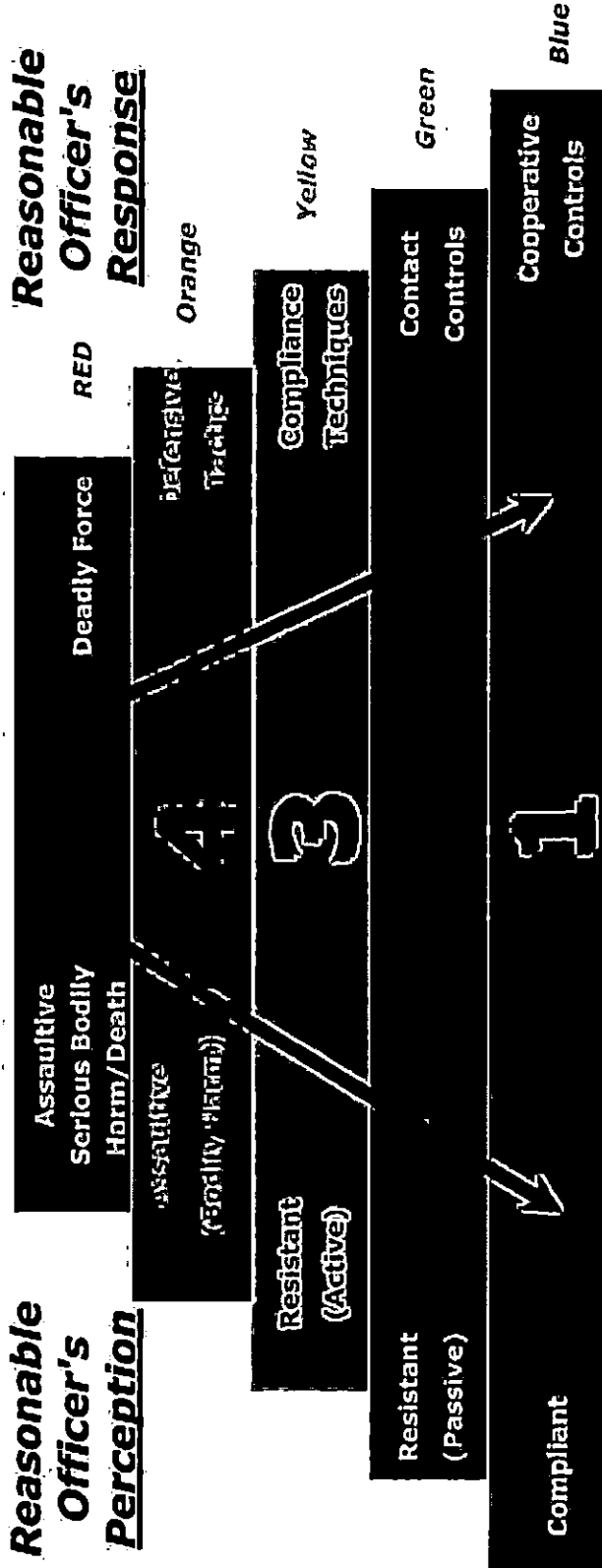
Allegations against Staff:

The Chief Deputy, or Internal Affairs Unit, investigates all allegations of improper use of force & deadly force, after notifying the Sheriff. In cases where possible criminal acts are involved, the appropriate law enforcement agency or prosecutor office must be notified.

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Use of Force



© Officer Enforcement Options

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