



Tribal Crime Data Collection Activities, 2016-18

Enacted in 2010, the Tribal Law and Order Act (TLOA) requires the Bureau of Justice Statistics (BJS) to (1) establish and implement a tribal data collection system, (2) consult with Indian tribes to establish and implement this data collection system, and (3) annually report to Congress the data collected and analyzed in accordance with the act (P.L. 111-211, 124 Stat. 2258, § 251(b)). Indian country includes federally recognized reservations, tribal communities, and identified trust lands.

According to the U.S. Census Bureau, an estimated 4.8 million persons lived on American Indian reservations or in Alaska Native villages in the United States in 2010, the most recent data available.¹ A total of 567 tribal entities in the lower 48 states and in Alaska were eligible for funding and services from the Bureau of Indian Affairs (BIA) in 2017.² There were

334 federally and state-recognized American Indian reservations in 2010, the most recent available data.³

Due to the sovereign status of federally recognized tribes in the United States, crimes committed in Indian country among American Indians and Alaska Natives (AIAN) are often subject to concurrent jurisdiction among multiple criminal justice agencies, either at federal or state and local levels of government, depending on the seriousness of the offense. Criminal jurisdiction in Indian country varies by type of crime committed, whether the offender or victim is a tribal member, and the location in which the offense occurred.

More than 300 tribes in the United States are under P.L. 83-280 jurisdictions (commonly referred to as P.L. 280), which permits the federal government to transfer mandatory jurisdiction over major crimes in

¹ See *The American Indian and Alaska Native Population: 2010* at <https://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>.

² See *Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs* at <https://www.federalregister.gov/articles/2016/01/29/2016-01769/indian-entities-recognized-and-eligible-to-receive-services-from-the-united-states-bureau-of-indian#h-4>.

³ For more information about federally recognized tribes, reservations, and Alaska Native village statistical areas, see *Tribal Crime Data Collection Activities, 2012* at <https://www.bjs.gov/content/pub/pdf/tcdca12.pdf>.

HIGHLIGHTS

- During fiscal year (FY) 2016, the Bureau of Justice Statistics (BJS) held meetings with justice professionals from federal, state, and tribal law enforcement offices to obtain input on the planning and development of the Census of Tribal Law Enforcement Agencies.
- BJS anticipates releasing findings from the National Survey of Tribal Court Systems in FY 2019.
- At midyear 2016, an estimated 2,540 inmates were held across 80 Indian country jails, up 1.2% from the 2,510 inmates held at midyear 2015 in 76 facilities.
- Although males accounted for the largest proportion of the inmate population in Indian country jails from 2000 to 2016, the portion of female jail inmates increased from 20% to 27% during this period.
- During 2014, a total of 2,648 American Indians or Alaska Natives were arrested by federal law enforcement agencies, 1,417 were sentenced in U.S. district courts, 1,715 entered federal prison, and 1,763 exited federal prison.

Indian country to states, or states to acquire optional jurisdiction in whole or in part over Indian country within their boundaries.⁴ Sixteen states have established either mandatory or optional jurisdictions over crimes in Indian country.

In states where P.L. 280 does not apply, the federal government retains criminal jurisdiction for major crimes committed in Indian country.⁵

This report summarizes efforts related to BJS’s tribal crime data-collection system during fiscal years (FYs) 2016 through 2018, including—

- tribal data-collection activities: State and Local Justice Agencies Serving Tribal Lands, the Census of Tribal Law Enforcement Agencies (CTLEA), and the National Survey of Tribal Court Systems (NSTCS)
- tribal participation in national records and information systems, including the National Criminal History Improvement Program (NCHIP) and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP)
- BJS’s most recent statistical findings on jails in Indian country and the AIAN population in the federal justice system.

Tribal data collections during fiscal years 2016 through 2018

Census of Tribal Law Enforcement Agencies

In 2015, BJS awarded the independent research organization NORC at the University of Chicago a cooperative agreement to conduct the 2016 Census of Tribal Law Enforcement Agencies (CTLEA). NORC partnered with the International Association of Chiefs of Police to administer the data collection.

After extensive questionnaire development activities, BJS is set to conduct the cognitive testing of the questionnaire in 2018 with the full data collection to take place in 2019. This is the first BJS data collection targeted

⁴P.L. 83-280, August 15, 1953, codified as 18 U.S.C. § 1162, 28 U.S.C. § 1360, and 25 U.S.C. §§ 1321-1326).

⁵Federal jurisdiction in Indian country is established under the Indian Country Crimes Act (18 U.S.C. § 1152), the Indian Country Major Crimes Act (18 U.S.C. § 1153), and the Assimilative Crimes Act (18 U.S.C. § 13).

solely at tribal law enforcement agencies. The survey is designed to capture information on—

- criminal jurisdiction
- staffing, officer training, and safety equipment
- sources of operational funding
- workloads and arrests
- access to, and participation in, regional and national justice database systems
- special topics, such as human trafficking, domestic violence, and juvenile delinquency
- monitoring of sex offenders on tribal lands
- reporting of crime data to the FBI Criminal Justice Information Services database
- special jurisdiction over non-Indian offenders for select domestic-violence cases.

A total of 275 agencies will be asked to participate in the census, including tribal police departments, conservation and wildlife offices, and tribal university or college police, (table 1). The CTLEA will cover information from all known tribally operated law enforcement agencies.

BJS will work directly with the Department of Interior (DOI) Office of Justice Services to gather information on Bureau of Indian Affairs (BIA) police agencies.

In FY 2016, BJS established a tribal justice and law enforcement panel to ensure that tribal governments and their law enforcement agencies have a central role in the development, design, and implementation of the census. The panel is made up of tribal leaders and law enforcement representatives from across the country, along with representatives from the Department of Justice’s Office of Tribal Justice, the FBI’s Indian Country Crimes Unit, and the DOI’s Office of Justice Services.

TABLE 1
Universe for the Census of Tribal Law Enforcement Agencies, 2017

Type of agency	Count	Percent
Total	275	100%
Tribal law enforcement agencies	226	82
Conservation/wildlife enforcement agencies	43	16
Tribal university/college police agencies	6	2

Source: Bureau of Justice Statistics, National Survey of Tribal Court Systems, 2017.

The tribal law enforcement agencies, justice organizations, and research institutions that participated on or advised the panel included—

- Hualapai Tribal Police Department
- Navajo Department of Public Safety
- Tulalip Tribal Police Department
- Saint Regis Mohawk Tribal Police Department
- Tanana Chiefs Conference
- Aleutian Pribilof Islands Association
- White Earth Reservation Tribal Police Department
- Columbia River Inter-Tribal Police Department
- Chickasaw Lighthouse Police Department
- Anadarko Law Enforcement Agency, BIA
- Mescalero Law Enforcement Agency, BIA
- Northern Cheyenne Law Enforcement Agency, BIA
- Association of Village Council Presidents
- American Indian Development Associates, LLC
- Tribal Law and Policy Institute
- International Association of Chiefs of Police, Indian Country Law Enforcement Section
- University of Arizona, American Indian Studies Program.

The federal and state agencies that participated on the panel or provided input on the census included—

- U.S. Department of Justice (DOJ)
 - U.S. Attorney's Office for the District of Montana
 - U.S. Attorney's Office for the Western District of Michigan
 - Office of Tribal Justice
 - Office of Juvenile Justice and Delinquency Prevention
 - Office for Victims of Crime
 - National Institute of Justice
 - Community Oriented Policing Services
 - Office on Violence against Women
 - Federal Bureau of Investigation (FBI), Indian Crimes Unit
- BIA, DOI
- Alaska State Troopers.

In addition, as part of the outreach and collaboration plans for the CTLEA, the BJS acting director sent a letter announcing the census to all federally and state-recognized tribes across the United States. The letter also invited input from tribal nations on the design and development of the survey instrument.

In December 2016, BJS completed an initial pilot test of the CTLEA forms with seven tribal and two BIA law enforcement agencies. The test examined the estimated respondent burden and obtained feedback on the survey design, content, protocols for contacting respondents, and mode of data collection. As a result of the pilot test, BJS and its data collection agent reduced the number of questions on the draft survey to minimize the respondent burden and focus on core items.

During FY 2017, BJS received feedback from several agencies and organizations, including the Bureau of Justice Assistance in the Office of Justice Programs, the Criminal Justice Information Law Unit at the FBI's Office of the General Counsel, and the Confederated Tribes of the Umatilla Indian Reservation. The comments included suggested edits to question wording and the addition or revision of response categories. The recommended changes included adding additional agency functions or duties, specific types of available training, budget components, and equipment types.

In May 2018, BJS received approval from the Office of Management and Budget (OMB) to conduct cognitive testing of the revised draft of the CTLEA with 20 tribal law enforcement agencies. Through this testing, BJS aims to (1) conduct a second pilot test of the CTLEA survey, (2) establish an accurate estimate of the respondent time burden, (3) test the reliability of the questions to avoid response error, (4) test the content validity of the questions and verify completeness of the response categories, (5) verify that the instruction materials are clear and easy to follow, and (6) document respondent feedback from the cognitive interviews to make any final improvements and revisions to the CTLEA. The cognitive testing is expected to be completed in the summer of 2018.

National Survey of Tribal Court Systems

On December 31, 2015, BJS concluded the data collection for the National Survey of Tribal Court Systems (NSTCS). Data processing and analysis are ongoing. BJS last collected data on tribal court systems in the 2002 Census of Tribal Justice Agencies, which gathered limited data on law enforcement, courts, and correction agencies. The NSTCS gathered information on—

- administrative and operational characteristics of tribal justice systems (including budgets, staffing, use of juries, and appellate systems)
- indigent defense services
- pretrial and probation programs
- protection orders
- criminal, civil, domestic violence, and juvenile caseloads
- implementation of various enhanced sentencing provisions under the 2010 TLOA
- indigenous or traditional dispute forums operating within Indian country.

NSTCS used three separate but compatible survey instruments that were customized to the type and location of the tribal courts in the lower 48 states, Alaska Native villages, and the BIA's Code of Federal Regulation (CFR) courts. BJS mailed surveys to 237 tribal courts or judicial forums in the lower 48 states, 75 Alaska Native villages, and 7 BIA CFR courts (that have jurisdiction over 22 separate tribes or service areas). The survey had an 81% overall response rate, which varied by respondent type. The response rate was 83% for tribal courts in the lower 48 states, 72% for the judicial forums in Alaska Native villages, and 100% for the CFR courts.

Several organizations and tribes assisted in developing and implementing the NSTCS:

- American Indian Development Associates, New Mexico
- American Probation and Parole Association, Kentucky
- Bristol Bay Native Association
- BIA's Office of Justice Services
- Hamline University School of Law, Minnesota
- Kansas University School of Law's Tribal Law and Government Center
- National Judicial College, the National Tribal Judicial Center, Nevada
- National American Indian Court Judges Association
- Standing Rock Sioux Tribe of North and South Dakota
- Supreme Court of the Navajo Nation
- Syracuse University College of Law, the Center for Indigenous Law, Governance, and Citizenship, New York

- Tanana Chiefs Conference, Alaska
- Tribal Law and Policy Institute, California
- University of Colorado at Boulder, American Indian Law Clinic
- University of North Dakota School of Law's Tribal Judicial Institute.

BJS plans to release a report and the NSTCS data in FY 2019.

Survey of Jails in Indian Country

The Survey of Jails in Indian Country (SJIC) is BJS's only national data collection that provides annual data on Indian country jails and detention facilities. BJS initiated the SJIC in 1998 as a component of the Annual Survey of Jails. The SJIC includes Indian country facilities operated by tribal authorities or BIA. The survey collects data on—

- percentage of capacity occupied based on the average daily population
- midyear population
- peak population
- staffing
- offense types
- conviction status.

The most recent SJIC data are available in *Jails in Indian Country, 2016* (NCJ 250981, BJS web, December 2017).

Inmate population

At midyear 2016, an estimated 2,540 inmates were held in 80 Indian country jails, up 1.2% from the 2,510 inmates held at midyear 2015 in 76 facilities. During June 2016, the number of inmates admitted into Indian country jails (9,640) was nearly four times the average daily population (ADP) (2,480). Overall, admissions declined and ADP increased, resulting in an increase in the expected average length of stay (the time held in custody from admission to release) between June 2015 (about 7 days) and June 2016 (nearly 8 days). Most persons held in Indian country jails were convicted inmates, and fewer than half were unconvicted inmates awaiting court action on a current charge. The percentage of convicted inmates peaked in 2009 at 69%, then declined steadily each year from 2010 (59%) to 2014 (51%). In 2015, the percentage of convicted inmates increased to 55% and remained unchanged in 2016.

Inmate characteristics

Since 2010, about 3 in 10 Indian country jail inmates have been held for a violent offense, a decline from 4 in 10 in 2007. At midyear 2016, domestic violence (14%) and aggravated or simple assault (10%) accounted for nearly a quarter of all inmates. Inmates held for rape or sexual assault (1%) and other violent (5%) offenses accounted for an additional 6% of the jail population. Inmates held for DWI/DUI declined from 16% of the total inmate population in 2000 to 7% at midyear 2016. From 2010 to 2015, approximately 5% of inmates were held for a drug law violation. By midyear 2016, the percentage of inmates held for a drug violation had increased to 8%, a level last observed in 2000. At midyear 2016, 23% of inmates were held for public intoxication.

Although males accounted for the largest proportion of the inmate population in Indian country jails, the percentage of female jail inmates increased from 20% of all inmates in 2000 to 27% in 2016. The juvenile population, defined as inmates age 17 or younger, declined from 16% in 2000 to fewer than 10% from 2013 through 2016.

Indian country jail operations

At midyear 2016, jails in Indian country were able to hold an estimated 4,090 inmates (as determined by rating officials), up from 3,800 in 2015. From midyear 2000 to midyear 2016, the overall capacity (up 97%) grew at twice the rate of the midyear inmate population (up 43%). As a result, occupied bed space declined from 86% of capacity at midyear 2000 to 62% at midyear 2016. When measured relative to the ADP, Indian country jails were at 61% of capacity in June 2016. This was down from 75% in June 2004, the first year ADP was collected. The occupied bed space on the most crowded day in June declined from 118% in 2000 to 83% in 2016.

Among all Indian country jails at midyear 2016, the population ranged from no inmates in six facilities to 311 inmates in the Nisqually Adult Corrections facility in Washington state, which held 12% of the total population of Indian country jails. Overall, 12 facilities held half of the inmate population in Indian country jails. Nearly 63% of the Indian country jail population was held in the 23 facilities able to hold 50 or more inmates. The 25 facilities with a capacity of 24 or fewer inmates accounted for 31% of all facilities and held fewer than 9% of all inmates in Indian country jails.

Indian country jail employees

Indian country jails employed an estimated 1,810 persons at midyear 2016. Each year since 2010, jail operational staff accounted for about 7 in 10 employees. Jail operational staff consists of correctional officers and other staff who spend more than 50% of their time supervising inmates. The number of jail operational staff increased 27% from midyear 2010 (1,010) to midyear 2016 (1,280). Overall, the ratio was about 2 inmates to 1 jail operational employee at midyear 2016.

Deaths in Indian country jails

Indian country jail authorities have reported 13 deaths in custody since midyear 2010. Three deaths, including one suicide, were reported during the 12-month period ending June 30, 2016. During this period, 69 of 80 facilities reported data on attempted suicides. Of these, 14 facilities reported a combined 38 attempted suicides.

State and local justice agencies serving tribal lands

Criminal jurisdiction in Indian country is shared by federal, state, local, and tribal governments. In FY 2013, BJS solicited the state and local justice agencies serving tribal lands to collect information about the services provided to tribal lands by state and local law enforcement agencies and prosecutor offices.

During FY 2016, BJS continued to study the role of non-tribal state and local law enforcement agencies and prosecutor offices in providing and supporting criminal justice functions and services on tribal lands. BJS developed two surveys to document tribal-related law enforcement and court activities and caseloads: the Census of State and Local Law Enforcement Agencies Serving Tribal Lands; and the Census of State and Local Prosecutor Offices Serving Tribal Lands. These data collections were designed to provide information on the legal and structural procedures in place to address crime on tribal lands.⁶

⁶Federal jurisdiction in Indian country is established under the Indian Country Crimes Act (18 U.S.C. § 1152), the Indian Country Major Crimes Act (18 U.S.C. § 1153), and the Assimilative Crimes Act (18 U.S.C. § 13).

BJS formed an expert panel made up of state, local, and tribal law enforcement officers and prosecutors to provide input on designing the two data collections.

Participants on the panel included representatives from—

- Alaska State Troopers, Alaska
- Apache Junction Police Department, Arizona
- Association of Prosecuting Attorneys, Washington, D.C.
- Beadle County State's Attorney Office, South Dakota
- Cass County State's Attorney Office, Minnesota
- Cherokee Nation Marshal Service, Oklahoma
- International Association of Chiefs of Police, Indian Country Law Enforcement Section, Washington, D.C.
- Miccosukee Tribal Police Department, Oklahoma
- National District Attorneys Association, Virginia
- National Sheriffs' Association, Indian Affairs Committee, Washington, D.C.
- Prosecuting Attorneys Coordinating Council, Michigan
- Riverside County Sheriff's Office, California
- Roosevelt County Sheriff's Office, Montana
- San Diego District Attorney's Office, California
- South Dakota Highway Patrol, South Dakota
- Sycuan Tribal Police Department, California.

BJS pilot-tested drafts of the law enforcement and prosecutor surveys in August and September 2015. The data collection instruments were revised using feedback from the pilot study.

The proposed Census of State and Local Law Enforcement Agencies Serving Tribal Lands and the Census of State and Local Prosecutor Offices Serving Tribal Lands encountered several challenges, including methodological issues and financial constraints. The main methodological challenge was determining an appropriate sampling frame. Based on consultation with subject-matter experts, BJS concluded that not all state and local agencies are likely to provide services to tribal lands. The provision of services is likely affected by proximity to tribal lands, jurisdiction on tribal lands (e.g., location in a P.L. 280 or non-P.L. 280 state), and by agreements with tribal governments. BJS tried to identify appropriate sampling frames, but due to limited resources was not able to identify a viable strategy.

As a result, BJS is discontinuing this project and will pursue an alternative approach to gathering baseline information. During 2018, BJS plans to field the Census of State and Local Law Enforcement Agencies (CSLLEA), a recurring data collection of approximately 20,000 state, local, and special-purpose law enforcement agencies, including tribal law enforcement. The CSLLEA includes a question about whether the agency provides services to or on tribal lands. BJS plans to use this information to develop a suitable sampling frame for a future data collection on the work of state and local law enforcement agencies providing services to tribal lands.

Tribal participation in national records and information systems

Since 2009, BJS has focused on improving tribal participation in national record and information systems through expanding tribal eligibility for funding under the National Criminal History Improvement Program (NCHIP) and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP). These efforts continued in FY 2018. Initiated in 1995, NCHIP provides grants to states, territories, and federally recognized tribes to improve the quality, timeliness, and immediate accessibility of criminal history records and related information. The National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007 (NIAA; P.L. 110-180) was enacted after the April 2007 Virginia Tech shooting. The NARIP provides grants to states and tribes to help them automate and submit complete records to NICS on persons who are prohibited from purchasing or possessing a firearm under federal or state law.

Under NCHIP, tribes may submit applications individually or as part of a multi-tribe consortium. BJS encourages states and tribes to strive for integrated record improvements regardless of the funding source. Despite improvements among the states, challenges remain among tribal justice agencies. For example, many tribes do not have the capability or technology to transmit records to national systems, either through their own infrastructure or the states'. Some tribes have not yet converted their manual records to electronic versions. Many tribes are unable to submit qualifying records to the National Crime Information Center Protection Order File, and the FBI reports continued problems with the appropriate flagging of protection orders regarding the prohibition of firearm purchases.

While federally recognized tribes are eligible to apply for NARIP funding, such funding can only be used to achieve the goals for complete records directly related to NICS checks. NARIP addresses the gaps in information available to NICS on a person's criminal history records, records of felony convictions, warrants, records of protective orders, convictions for misdemeanors involving domestic violence and stalking, drug arrests and convictions, records of mental health adjudications, and others.

Federal justice statistics

The Federal Justice Statistics Program (FJSP) provides annual data on workload, activities, and outcomes associated with federal criminal cases. It acquires information on all aspects of processing in the federal justice system, including arrests, initial prosecutorial decisions, referrals to courts or magistrates, court dispositions, sentencing outcomes, sentence length, and time served. The FJSP collects data from the U.S. Marshals Service, the Executive Office for U.S. Attorneys, the U.S. Office of Probation and Pretrial Services, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons.

The FJSP captures an offender's race and Hispanic origin, but it does not provide information on tribal membership. During 2014 (the most recent federal data available), 2,648 AIANs were arrested and booked by federal law enforcement agencies, down from 2,882 in 2013. There were 1,417 AIANs sentenced in U.S. district courts in 2014, down from 1,429 in 2013. In 2014, a total of 1,715 AIANs offenders entered federal prison and 1,763 exited. At fiscal year-end 2014, a total of 3,717 AIANs were held in federal prison (1.9% of all federal prisoners). The most recent FJSP data are available in *Federal Justice Statistics, 2013-2014* (NCJ 249149, BJS web, March 2017).

BJS Indian country justice statistics webpage

The BJS Indian country webpage presents information on and updates to BJS's tribal data collections. It provides links to the latest victimization, law enforcement, courts, corrections, and criminal justice data-improvement information. It also provides links to BJS's FBI extract files on violent and property offenses known to tribal law enforcement by state from 2008 to 2016.

Previously released reports

- Jails in Indian Country, 2016* (NCJ 250981)
- Tribal Crime Data Collection Activities, 2016* (NCJ 249939)
- Jails in Indian Country, 2015* (NCJ 250117)
- Tribal Crime Data Collection Activities, 2015* (NCJ 248785)
- Jails in Indian Country, 2014* (NCJ 248974)
- Tribal Crime Data Collection Activities, 2014* (NCJ 246917)
- Jails in Indian Country, 2013* (NCJ 247017)
- Tribal Crime Data Collection Activities, 2013* (NCJ 242584)
- Jails in Indian Country, 2012* (NCJ 242187)
- Tribal Crime Data Collection Activities, 2012* (NCJ 239077)
- Tribal Crime Data Collection Activities, 2011* (NCJ 234518)
- Jails in Indian Country, 2011* (NCJ 238978)
- Summary: Tribal Youth in the Federal Justice System, 2011* (NCJ 234218)
- Jails in Indian Country, 2010* (NCJ 236073)
- Jails in Indian Country, 2009* (NCJ 232223)
- Jails in Indian Country, 2008* (NCJ 228271)
- Tribal Law Enforcement, 2008* (NCJ 234217)
- State Prosecutors' Offices with Jurisdiction in Indian Country, 2007* (NCJ 234241)
- Jails in Indian Country, 2007* (NCJ 223760)
- Improving Criminal History Records in Indian Country, 2004-2006* (NCJ 218913)
- Jails in Indian Country, 2004* (NCJ 214257)
- American Indians and Crime, 2004* (NCJ 203097)
- Jails in Indian Country, 2003* (NCJ 208597)
- Census of Tribal Justice Agencies in Indian Country, 2002* (NCJ 205332)
- Jails in Indian Country, 2002* (NCJ 198997)
- Jails in Indian Country, 2001* (NCJ 193400)
- Jails in Indian Country, 2000* (NCJ 188156)

Tribal Law Enforcement, 2000 (NCJ 197936)

American Indians and Crime, 1999 (NCJ 173386)

Jails in Indian Country 1998–1999 (NCJ 173410)

BJS-sponsored research

Examining Indian Country Cases in the Federal Justice System (NCJ 248656), produced by the Urban Institute, February 2015

Summary: Tribal Youth in the Federal Justice System, 1999–2008 (NCJ 234218), produced by the Urban Institute, May 2011



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeffrey H. Anderson is director.

Mark Motivans, Todd Minton, Steven W. Perry, and Suzanne Strong provided statistical review and verification of the report.

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