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### DEPARTMENT OF THE ARMY

## 4<sup>TH</sup> BRIGADE COMBAT TEAM, 4TH INFANTRY DIVISION FOB PROSPERITY, BAGHDAD, IRAQ APO AE 09348

REPLY TO ATTENTION OF:

AFYB-UA-CDR

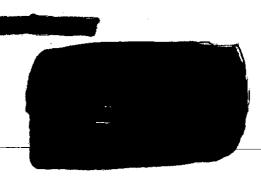
19 March 2006

MEMORANDUM FOR Commander, Multi-National Division - Baghdad, Camp Liberty, APO AE 09352

SUBJECT: Recommendations - AR 15-6 Investigation Re: EOF-8-10 (1 LN KIA) - 11 Mar 06

- 1. I have reviewed the above described investigation and recommend approval of the findings and recommendations. The soldiers correctly applied escalation of force procedures. Of note, the individual's uncle said he heard and understood the soldiers yelling at the individual to stop or they would shoot. The soldiers were in a known AIF area of operations. They had been directed to investigate a suspicious pile of dirt. The individual was out after curfew and began running as soon as the patrol spotted him. The patrol's use of deadly force did not violate the ROE, and I recommend no adverse action be taken against the soldiers.
- 2. I endorse the IO's recommendations for continued training, and a condolence payment. Although this was a tragedy, the locals told us that the individual had previously engaged in extremely risky behavior around Coalition Forces, and that they had warned him to stop. I believe a quick condolence payment in this case will largely mitigate the negative IO aspects of this incident.
- 3. My POC for this action is

ALL ITEMS ARE
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5USC552(3)(6)
UNLESS OTHERWISE
NOTED



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ow, indicate the reason in the space where his signature should app	NEW HEARTON (para 3-17, AR 15-6)  LATE. (If any voting member or the recorder fails to sign here or in Section VII pear.)
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(Member)	(Member)
indings and recommendations of the (investigating officer) (board tutions). (If the appointing authority returns the proceedings to the ctive action, attach that correspondence (or a summary, if oral) as	FORTING AUTHORITY (para 2-3, AR 15-6)  l) are (approved)-idisapproved) (approved with following exceptions/ e investigating officer or board for further proceedings or s a numbered inclosure.)
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Page 4 of 4 pages, DA Form 1574, Mar 83

USAPA V1.20

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	SECTIONALI - CHECKL	ST FOR PROCEEDINGS	,	
A. COMPLETE IN ALL CASES				YES NO N
Inclosures (para 3-15, AR 15-6)	and construction and the second contract of t			
Are the following inclosed and numbered cons  a. The letter of appointment of a summary of	securively with Roman numerals:	(Attached in order listed)		
a. The feter of appointment of a summary of a Copy of notice to respondent it any. (See				
c. Other correspondence with respondent or c	oursel, if any?	- Control of the Cont		
d. All other written communications to or from				X
e. Privacy Act Statements. (Certificate, if state	tement provided orally)?			
f. Explanation by the investigating officer or		ulties, irregularities, or or	her problems	
ercountered le.g., absence of material with	nesses)?		#** 	
g. Information as to sessions of a formal boar	d not included on page 1 of this re	port?		
h. Any other significant papers (other than e)	rdence) rélating to administrative	aspects of the investigation	n or board?	
OOTNOTES: 1) Explain all negative answers on an of 2 Use of the N/A column constitutes a or board.	utached sheet. positive representation that the circums	lances described in the aux vin	n dill not occur in this investi-	· · · · · · · · · · · · · · · · · · ·
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12	Exhibits (para 3-16, AR 15-6)		<del></del>	
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as	YES	MO!	NA <sup>2/</sup>
	exhibits and affacted to this report?	X		
1	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		$\dashv$
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	X		$\neg$
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?	1		X
1	I is each written stipulation attached as an exhibit and is each oral stipulation either reduced to printing and mailtean	-		$\sim$
	eximple on recorded in a verositin record.	X		
L	g. If official notice of any matter was taken over the objection of a respondent of counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
13	Was a quorum present when the board voted on findings and recommendations (parts 4-1 and 5-2b, AR 15-6)?	1		V
B	COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5 AR 15.6)			
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?	-	*****	
5	Was a quorum present at every session of the board (para 5-2b, AR 15-6)?	1-	ا ا	
6	Was each absence of any member properly excused (para 5-2a, AR 15-6)?	-		
7	Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?		<del> </del>	
8	If any members who voted on findings or recommendations were not present when the board received some evidence,		<del> </del>	
	does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?	i i	A Charles	
<u>C</u>	COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)  Notice to respondents (para 5-5, AR 15-6):			
l	a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
	b. Was the date of delivery at least five working days prior to the first session of the board?		<u>                                      </u>	
l	c. Does each letter of notification indicate —		<u></u>	
ĺ	(i) the date, hour, and place of the first session of the board concerning that respondent?		ļ	
ı	b		<u> </u>	
1	(3) the respondent's rights with regard to counsel?	1	<u>Ĺ</u>	
l	(4) the name and address of each witness expected to be called by the recorder?		1	
l	(5) the respondent's rights to be present, present evidence, and call witnesses?			
l	d. Was the respondent provided a copy of all unclassified documents in the case file?	1		
<u> </u>	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10	If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):			
1	a. Was he properly notified (para 5-5, AR 15-6)?		-	
L	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11	Counsel (para 5-6, AR 15-6):			
ĺ	a. Was each respondent represented by counsel?			
	Name and business address of counsel:			
l				
	(If counsel is a lawyer, check here 📋 )			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
	c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the	1	1	
	action taken on it included in the report (para 5-6b, AR 15-6)?		The second	i
1,2	If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			200
	a. Was the challenge properly denied and by the appropriate officer?			uneseles.
	b. Did each member successfully challenged cease to participate in the proceedings?	-	++	+
13				
	a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?	_		
	b. Examine and object to the introduction of real and documentary evidence, including written statements?		<u> </u>	
ŀ	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?		4	
	d. Call witnesses and otherwise introduce evidence?			- 2000 CO
Γ	e. Testify as a witness?	-	<del> </del>	66.6
		4	<u> </u>	
7.5	f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
Ju 1	If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?	ľ		
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?			-
FC	OTNOTES: U Explain all negative answers on an attached sheet. 21 Use of the NIA column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.			<u></u>

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Page 3 of 4 pages, DA Form 1574, Mar 83

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Page 4 of 4 pages, DA Form 1574, Mar 83

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# DEPARTMENT OF THE ARMY

8<sup>th</sup> SQUADRON, 10<sup>TH</sup> (US) CAVALRY 4th INFANTRY DIVISION CAMP FALCON, BAGHDAD, IRAQ APO AE 09361

REPLY TO ATTENTION OF:

AFYB-UA-UAA

8 March 2006

	18 March 2006
MEMORANDUM FOR Commander, 4BCT, 4ID (M),	Iraq 09348
SUBJECT: AR 15-6 Report of Investigation (Escalation of F	orce)
Purpose. The purpose of this memorandum is to provide the escalation of force by A Section, 1 <sup>st</sup> Platoon, A Troop, 8-	the findings and recommendations regarding
2. Summary of Incident. On 11MAR06, A/1/A/8-10 CAV w (A12, A13, and A92) along and then down into 2230, the 8-10 CAV TOC notified the Patrol Leader, mound of dirt at grid the reported to 8-10 CAV by Case patrol) arrived in the vicinity of two dirt roads running followed by the A92 vehicle take the eastern road closest to road, all traveling south (EXHIBIT I, N,L). Line of Sight was revenicle and the two other elements of the patrol (EXHIBIT I). At 2305 (AR 2) reported receiving small arms directed in the area of his vehicle (EXHIBIT L, N, P). So seen on the edge of M895 running back east into buildings (IDRVR) (DRVR)	as conducting a patrol with three vehicles  (EXHIBIT N). At approximately 5 UC 552(5)(1)  The needed to investigate a suspicious obra Mike (EXHIBIT B, N). A Red 2 (1)  Imately 2252 (EXHIBIT P). Once in the area, 5 UC 552(5)(1)  Imately 2252 (EXHIBIT B, I, N).  The canal while takes the western momentarily lost between the contact from the east victorial arms fire and about three personnel are EXHIBIT N).  (GNR), and back east and took it to link back up with the approximately 100 meters away (EXHIBIT B, back behind the corner of a concrete wall the corner of the wall. Upon reaching the vidual whereby the individual began running the direction the vehicle was facing (EXHIBIT).
"eggoff" or stop (EXHIBIT G, H) and "stop or we will shoot" in saw the individual carrying white or light in color, round, thin and about a foot long (EXHIBIT H). "HMMWV and began yelling for the individual to "stop" and "st B, D, G, H). The individual continued to run at a full sprint (E approximately 8 demonstration/warning shot off the ground a B, H). If fired a couple of demonstration shots at the rounds before realizing it was too dangerous and continued to	the individual and started yelling for him to a Arabic (EXHIBIT B). At this time a something in his hand that appeared to be a something in his hand that appeared to be a something in his hand that appeared to be a something in his hand that appeared to be a something in his hand that appeared to be a something and a something in the individual (EXHIBITS). At this time a something it is a something in the individual (EXHIBIT B). At this time a something it is a something it is a something in the individual (EXHIBIT B).
(EXHIBIT G). The individual continued to run, he was approximately 25 meters from rounding a corner in the way	kimately 75 meters away from the A13 crew vall (EXHIBIT B, D, L). At this time

fired warning shots, he threw something else at them, they fired on him and he went down" (EXHIBIT P). This was reported by who was relaying to Squadron TOC from However, the Clarified this report saying he didn't recall saying the individual had thrown something at the vehicle, but was trying to say the individual running by the vehicle had something in his hand and might have dropped it. He was also in the middle of reporting the small arms fire directed toward his vehicle and the two reports probable got mixed together (EXHIBIT Q).

funning away with what appeared to be a mortal tube in his hand, he threw something at the patrol, they

approximately 2 disabling shots each at the individual at which time he went down and did not move

gave the order to take the individual down (EXHIBIT B, H).

(EXHIBIT B, C, D, E, H), At 2307

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(AR2) reported to the 8-10 CAV TOC that they "saw a man

Page 1 of 3

AFYB-UA-UAA SUBJECT: AR 15-6 Report of Investigation (Escalation of Force) , also stated that there was a lot of trash in the area so it was impossible to determine what the individual might have been carrying. However, they did not find anything that posed a threat to them after stated that he did not know what it was or what happened stated that upon search they found nothing (EXHIBIT H). searching the area (EXHIBIT Q). to it (EXHIBIT B). hen ordered the crew to check 5-25's. As the crew was clearing 5-25's, noticed the primer on the bottom of what he thought was a mortar round located where the individual had been standing before he had begun running (EXHIBIT H). confirmed the artillery round where the individual had been standing and ordered his crew to push forward (EXHIBIT B, H, M, P). called in a report to informing him of the details. A cordon was established using cones and signs (EXHIBIT B, M, J). and the PSD arrived at the location at 2330 and confirmed that the suspected object was not a live UXO (EXHIBIT I, P). stated that it looked like an artillery round (EXHIBIT G) and ound what appeared to an artillery shell casing stated (EXHIBIT'D). e along with Red 3 confirmed the object to be dunage, an old artillery round (EXHIBIT J, P). The body was examined and confirmed dead from a bullet wound that struck the back of the head and exited the upper right forehead (EXHIBIT H, I, J). walked the ground where the rounds were fired to the body and found nothing suspicious (EXHIBIT J). along with the Interpreter spoke with local nationals at the site. One local national identified the body saying his name was a conjugate (unknown last name). The local national said the individual was retarded and is always acting suspicious and out after curfew, even though he was told to stay inside by the neighborhood. The local national speaking with said his uncle lived in the house in front of the body. The uncle called on a cell phone and told them he heard the Americans warning the individual to "stop or we shoot" at least three times and then the shooting. The uncle also that awhile ago the individual found an explosive device, took it home, somehow it detonated and accidentally killed two of his brothers (EXHIBIT K, J). At 12 0214MAR06, IP arrive on the scene to recover the body of the Local National (EXHIBIT M). along with a B Section patrol went back to the site and contacted the individuals brother. The brother reaffirmed the mental status of his deceased brother. He was given a 4th ID Contact Card (EXHIBIT I). 3. Findings of the Investigation. The actions of the local national combined with recent IED/AIF activity in the vicinity of led , and

to believe the local SUSCS \$ ZCF)(1) national was exhibiting hostile intent with the potential for committing hostile act (EXHIBIT C, D, F, M,O). perceived the local national actions as hostile given that he was at the grid coordinate of a possible IED, the local national was out after curiew and was trying to evade coalition forces. pelieved the local national was in a "hot area, after curfew, to plant or observe coalition person(nel) for the intent of hurting or killing troops, directly or indirectly" (EXHIBIT C). that the "person appeared to be evading us from what appeared to look as placing an IED or being the trigger man for the possible IED we were call" (EXHIBIT E). also stated the individual "could easily take cover and proceed to do any kind of engage(ment) toward us" (EXHIBIT D).

Based on the perceived hostile intent of the individual, and his crew used proper all shouted at the individual to stop in Arabic multiple times EOF. and crew did not have the ability to restrain, block access or detain the individual. Warning shots were fired by the crew members and they continued to shout at the individual to stop or they would shoot. Then disabling shots fired to remove the threat (EXHIBIT B, C, D, E, F, G, H).

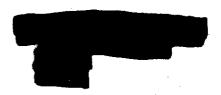
4. Recommendations. Recommend all soldiers in 8-10 CAV continue to conduct refresher training utilizing scenario based training on current ROE and EOF. Recommend 8-10 CAV leadership continue to reinforce ROE and EOF criteria in patrol briefs and rehearsals prior to departure into sector. Recommend Apache Troop remain in contact with the brother of the deceased and aggressively action and monitor the status of condolence payment.

> ALL ITEMS ARE REDACTED UNDER Page 2 of 3

505C552(B)(6) UNLESS OTHERWISE NOTED

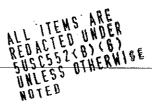
SUBJECT: AR 15-6 Report of Investigation (Escalation of Force)

5. The point of contact for this memorandum is



#### **EXHIBITS**

- A. Appointment Orders for Investigating Officer
- B. DA Form 2823 (Sworn Statement) for
- C. DA Form 2823 (Sworn Statement) for
- D. DA Form 2823 (Sworn Statement) for
- E. DA Form 2823 (Sworn Statement) for
- F. DA Form 2823 (Sworn Statement) for
- G. DA Form 2823 (Sworn Statement) for
- H. DA Form 2823 (Sworn Statement) for
- I. DA Form 2823 (Sworn Statement) for
- J. DA Form 2823 (Sworn Statement) for
- K. DA Form 2823 (Sworn Statement) for a second (interpreter)
- L. 1/A/8-10 CAV Storyboard on 11MAR06
- M. 8-10 CAV SIR 11MAR06
- N. A/1/A/8-10 CAV Patrol Debrief
- O. 8-10 CAV S2 log of SIGACT in Apache AO 12FEB06-12MAR06
- P. 8-10 CAV Staff Duty Log for 112200MAR06-120600MAR06
- Q. MFR of VOIP call from
- R. Photos: deceased local national (X4) wall with pullet hole (1X)





REPLY TO ATTENTION OF:

# DEPARTMENT OF THE ARMY

8<sup>th</sup> SQUADRON, 10<sup>Th</sup> (US) CAVALRY 4th INFANTRY DIVISION CAMP FALCON, BAGHDAD, IRAQ APO AE 09361

AFYB-UA-UAA

18 March 2006

MEMORANDUM FOR RECORD

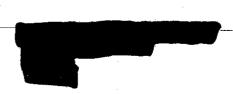
SUBJECT: AR 15-6 TABLE OF EXHIBITS

1. The purpose of this memorandum is to provide a INDEX OF EXHIBITS regarding the escalation of force which occurred on 11 MAR 06 involving

2. The following exhibits are provided for the AR 15-6 Investigation:

EXHIBIT A	Appointment Orders for Investigating Officer
EXHIBIT B	DA Form 2823 (Sworn Statement) for
EXHIBIT C	DA Form 2823 (Sworn Statement) for
EXHIBIT D	DA Form 2823 (Sworn Statement) for
EXHIBIT È	DA Form 2823 (Sworn Statement) for
EXHIBIT F	DA Form 2823 (Sworn Statement) for
EXHIBIT G	DA Form 2823 (Sworn Statement) for
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EXHIBIT	DA Form 2823 (Sworn Statement) for
EXHIBIT J	DA Form 2823 (Sworn Statement) for
EXHIBIT K	
EXHIBIT L	1/A/8-10 CAV Storyboard n 11 MAR 06 (interpreter)
EXHIBIT M	8-10 CAV SIR 11 MAR 06
EXHIBIT N	A/1/A/8-10 GAV Patrol Debrief
EXHIBIT O	8-10 CAV 52 SIGACT log of Apache Troop AP 12FEB06-12MAR06
EXHIBIT P	8-10 CAV Staff Duty Log for 11 2200MAR06-12 0600MAR06
EXHIBIT Q	MFR of VOIP call from
EXHIBIT R	Photos: deceased local national (X4) wall with builet hole (1X)

3. The point of contact for this memorandum is



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DEPARTMENT OF THE ARMY

8<sup>th</sup> SQUADRON, 10<sup>TH</sup> (US) CAVALRY 4th INFANTRY DIVISION CAMP FALCON, BAGHDAD, IRAQ APO AE 09381

REPLY TO ATTENTION OF:

AFYB-UA-UAA-SCO

12 March 2006

MEMORANDUM FOR

SUBJECT: Appointment as investigating Officer

- HHT/8-10 CAV is hereby appointed an investigating officer pursuant to AR 15-6 to conduct an informal investigation into a EOF fatality of a local national which occurred on 11 MAR 06 involving
- 2. Prior to beginning your investigation, you will consult with the Brigade Operational Legal Team. They can be reached at
- 3. In your investigation, all witness statements will be sworn and written on DA Form 2823. If you come to suspect any individual has committed a crime, you will advise that individual of his or her rights under Article 31 of the UCMJ or the Fifth Amendment, as appropriate, using DA Form 3881.
- 4. Submit your findings and recommendations to me on DA Form 1574 within 72 hours of receipt of this appointment order.

Distribution:

- 1- Squadron CDR
- 2- Squadron ADJ
- 3- Individual concerned



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AUTHORITY: Title 10 USC Section 301; Title 5 USC Sec	ction 2951; E.O. 9397 dated November 2	2, 1943 <i>(SSN)</i> .	NOTED
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DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE

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USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

TAKEN AT

DATED 2006 0313

9. STATEMENT (Continued)

MY GUNNER, BEGAN YELLING "STOP, OR WE WILL SHOOT " IN ARABIC, AT THIS TIME I HAD DISMONAR THE VEHICLE, AND ALSO PROCEEDED TO YELL, FOR THE MAN TO STOP, BUT HE WAS AT A FULL SPRINT. I STARTED FIZING DEMONSTRATION/ WARNING SHOTS APX 8, OFF THE GEORGIA PALD PHE WALL NEXT TO HIM. HE SUST GONTINUED TO LUN. HE WAS APPENXIMATELY ZO-25 METERS FROM ROUNDING A CORNER AND 75 METERS FROM US. AT THIS TIME I GAUETHE ORDER TO TAKE DOWN THE MAN HE WAS HIT AND WENT DOWN AND DID NOT MOVE. I INSTANTLY GAVE THE ORDER TO CHECK S-25 BECAUSE OF THE AREA WE WERE IN AND THATS HOW WE TRAIN. AT THIS Time we DISCOVERD AN ARTHURY FOUND WERE THE MAN HAD BEEN STANDING , I OFFICED MY MEN TO GET THE HELL OUT OF THERE. THEY PUSHED FORWARD AND IRAN TO CATEH UP. PERFORMED S-25. AT THIS Time WE SAN ANOTHOR MAN IN A SMALL BUILDING. WE DEDGRES Him TO HACT, HE DID. WE PROCEEDED TO CLEAR HIS BUILDING, HE TOLD US HE MAKES SHEE THE GENERATOR STAYS WORKINE, ING TOUR HIM TO STRY IN THE BOYLETTE AND HE DID. WE CALLED UP THE PEPBET TO A12, AND INFORMED OF ALL DETAILS AND SET A KARDONI.

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AMO GASICY HELD IN H	s MANO	s A Asons	T A Foo	T WAG
Did he have the object in his hands when he can	me out from behind the co	mer? IES H	E HAD	ir
IN HIS HAND, WHEN H				
: If so, what was he doing with the object? $\angle$ ,	repyiNG IT			
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ЕХНІВІТ	11. INPLACENCE PERSON	Making Clarence		· · · · · · · · · · · · · · · · · · ·
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