

# The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 158

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Dear Subscriber,

**The confirmation of MICHAEL J. SULLIVAN as director of the Bureau of Alcohol, Tobacco, Firearms and Explosives is still under three holds placed by Senators MIKE CRAPO (R-ID), LARRY CRAIG (R-ID) and DAVID VITTER (R-LA).**

Anti-gun Sen. JOHN KERRY **demand**ed they remove the holds, saying Sullivan is "the furthest thing from an ideologue that you could imagine."

**Not so.** In fact, SULLIVAN was in a room full of anti-gun ideologues in April, 2007, when he gave a keynote speech at the **Great Lakes Summit on Gun Violence** in Chicago, *spouting all kinds of gun control rhetoric.*

That "summit" was held by **the International Association of Chiefs of Police and paid for by the notorious anti-gun Joyce Foundation** of Chicago.

**These organizations are clearly not pro-gun, and we have increasingly good reason to believe that SULLIVAN himself is not.**

So far, Senators CRAPO, CRAIG and VITTER have shown no sign of wavering on keeping their holds in place.

Senate rules forbid the chamber from voting on a confirmation while any Senator has placed a hold on it.

Meanwhile, in the House of Representatives, **Congressman CHRISTOPHER CARNEY (D-PA) has become a member of the bipartisan Congressional Second Amendment Caucus**, which is dedicated to the right of lawful individuals to own firearms.

Rep. CARNEY said, "As an avid hunter, I value the time I spend taking my own children hunting. **As a Member of Congress, I know that we must fight to preserve the Constitutional right for individual citizens to keep and bear arms.** Hunting and shooting sports are valued traditions in Pennsylvania, and I will always fight to protect the Constitutional right to bear arms."

**At the White House, President GEORGE W. BUSH has signed the controversial "NICS Improvement Act,"** but not in the "horrendous" form first drafted by the anti-gun Brady group and its allies.

HR 2640 was **quietly re-written by attorneys working with a number of pro-gun groups**, for which we can thank Rep. **TOM COBURN (R-OK), who struggled to get the bill to a condition that gun owners could support.**

This final version adds four main points to the existing National Instant Criminal Background Check System (NICS):

- 1. Prevents certifiable mental cases from buying guns at retail.**
- 2. Funds a way to restore gun rights in cases where it is appropriate.**
- 3. Requires government agencies to comply with rights-restoration procedures.**
- 4. Notifies individuals in advance that proceedings could remove their gun rights and how to get them restored.**

As usual, the new NICS law is only as good as the bureaucrats' willingness to follow it. They are not punished for ignoring you, even though you can now proceed without them.

Then you have to hope that the courts rule on what the law says, not what the judge prefers.

The new NICS law isn't perfect, but **it's better than what we had before.**

**Also in this issue:** ● *Nebraska may get "Katrina Law"* ● *Update on the Supreme Court and gun rights* ● *Gun dealers sue BATFE over license revocations* ● *United Nations controls Peru's gun agency* ● *Smith & Wesson doing well* ● *Are the NBA and NFL anti-gun? in our Page Eight "Parting Shot"*

**ON THE  
FEDERAL  
LEVEL**

### **ARIZONA LAWMAKERS CONSIDER CONCEALED CARRY IN RESTAURANTS**

Two bills before the legislature would extend the places where concealed weapons permit holders can take their firearms. Senate Bill 1132 would allow permittees to carry in restaurants that serve alcohol, and SB 1214 would allow the to carry on school campuses.

**IN THE STATES**

### **FLORIDA BILLS PROPOSE TO TIGHTEN GUN LAWS**

The Florida legislature is also considering two gun bills, but from the opposite direction: to tighten gun laws. In the House, a North Miami lawmaker is proposing to extend the time people have to wait before getting concealed weapon licenses if they've pleaded guilty or no contest to felonies but had convictions "withheld." The new wait would be five years, not three, as now. In the Senate, the Criminal Justice Committee is seeking better ways to identify mentally ill persons so officials can suspend or revoke gun licenses.

### **GEORGIA GUNS-AT-WORK BILL PASSES SENATE**

The state Senate has passed a bill that allows concealed carry permittees to take their guns to work, but gives property owners the right to ban weapons from parking lots at all times. It passed 41 to 15. The bill now goes back to the House for a vote on the Senate changes.

### **IOWA MAY BECOME A "SHALL-ISSUE" STATE**

House File 120 would change the Right-to-Carry law to make Iowa a "shall-issue" state. Any law-abiding person 21 years of age or older would be eligible for a permit if they pass a training and marksmanship course.

### **NEBRASKA MAY GET "KATRINA LAW"**

LB 1076, a bill from state Senator Kent Rogert of Teamah, would forbid state or political subdivisions from enacting special restrictions on guns during emergencies or disasters. The bill would apply to gun possession, storage and use, among other things. This "Katrina Bill" would prevent gun confiscations like those in New Orleans during the catastrophic 2005 hurricane.

### **SOUTH DAKOTA CONSIDERS GUN-ON-CAMPUS BILL**

HB1261 would prevent regents from outlawing firearms on state university campuses. University officials could not expel or discipline anyone who legally carried a gun onto campus. However, the bill would allow campuses to require all firearms in dormitories to be locked in gun safes while not in a person's immediate possession.

### **TENNESSEE**

Senate Bill 23, which would allow a Right-to-Carry permittee to take a fire-arm into restaurants where alcohol may be served, has passed through the Senate by a 24-6 vote. Permittees would not be allowed to consume alcohol while carrying.

### **VIRGINIA**

Two bills that would have put restrictions on person-to-person gun purchases in gun shows have been defeated in the state Legislature. The House Militia, Police and Public Safety Committee scuttled the two measures that would have required "firearms show vendors" to check the criminal background history of the buyer. The vote was 13-9 against the gun show bill.

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## THE SHOWDOWN ON GUN RIGHTS UNFOLDS

When the U.S. Supreme Court agreed to hear the case of District of Columbia v. Heller, everyone knew that the arguments in the case would be the Gunfight At The O.K. Corral of modern times. Events are living up to that expectation.

The high court will consider the constitutionality of Washington, D.C.'s ban on handgun ownership and self-defense in law-abiding residents' homes.

That falls naturally into two parts: first, the question of whether the Second Amendment to the U.S. Constitution protects the rights of individuals to keep and bear arms or a right of the government to organize and arm militias; second, the question of whether the District of Columbia's self-defense and handgun bans are constitutional.

# AT THE SUPREME COURT

The gun ban was challenged in court and was struck down as unconstitutional by the U.S. Court of Appeals for the District of Columbia Circuit.

The District of Columbia is taking the case to the U.S. Supreme Court for final determination. The direct question of whether the Second Amendment protects an individual, as opposed to collective, right has never been addressed by the high court.

Naturally, lawyers for the District of Columbia are arguing that there is no individual right to own a gun, so they can ban them as they please.

Gun rights advocates, such as Alan Gura, who is leading the challenge against D.C.'s gun ban, insists there is an individual right and that governments have no business infringing that right.

The most surprising - and the weirdest - position is the Bush Administration's "let's have it both ways" brief, filed by U.S. Solicitor General Paul D. Clement.

The government's brief says clearly in one place that the Second Amendment "protects an individual right to possess firearms unrelated to militia operations."

Then the Bush Administration opposes the gun ban, right?

Wrong. In another place, the government's brief says, "Given the unquestionable threat to public safety that unrestricted private firearm possession would entail, various categories of firearm-related regulation are permitted by the Second Amendment."

Where it says that in the Second Amendment, Clement did not indicate.

But even if the D.C. ban was unconstitutional, Clement said the high court should stop short of striking it down.

"The D.C. ban may well fail constitutional scrutiny," he said, because it totally forbids private citizens from having a handgun at home. Such a ruling, however, should not threaten other laws, he said.

"Nothing is the Second Amendment properly understood calls for invalidation of the numerous federal laws regulating firearms."

So, there's the Bush Administration's *real* agenda. It was obviously designed to protect existing *federal* gun laws, and didn't care what happened to the District of Columbia's gun ban, but didn't want the court to decisively strike it down, because that would automatically put a federal gun laws at risk.

So how do you stave off the Gunfight At The O.K. Corral?

Clement revealed his grand solution in the mushiest, most cowardly non-solution imaginable: send the case back to a trial judge for more hearings.

But wait, we've already been there and the D.C. ban was struck down as unconstitutional. That's why we're talking to the Supreme Court. It's supposed to make the final decision.

Not as Clement sees it. His solution was as stupid as telling the Earps and Doc Holliday to sit down with the McLaury boys and the Clanton gang, rethink their lives, and visualize world peace - at least until the Bush Administration is out of town.

Just about every state governor and municipal government in America is likely to insist there is no individual right to keep and bear arms.

Just about every American citizen thinks there is.

This Supreme Court is not likely to back off from deciding which it is.

### **APPEALS COURT UPHOLDS DISMISSAL OF LAWSUIT AGAINST GUN MAKERS**

The District of Columbia Court of Appeals has unanimously upheld a lower court's decision to dismiss a lawsuit against 25 gun manufacturers filed by the District of Columbia and families of nine shooting victims in the city.

The lawsuit was filed in January 2000, but the Protection of Lawful Commerce in Arms Act of 2005 required the court to dismiss the case, according to the opinion written by Associate Judge Michael William Farrell.

Historically, such lawsuits have not been successful, but defending against them was so costly it threatened to put the American gun industry out of business.

Congress settled the problem by outlawing these suits as a frivolous nuisance.

**ON THE  
LEGAL  
FRONT**

### **SAN FRANCISCO HANDGUN BAN ILLEGAL, SAYS CALIFORNIA APPEALS COURT**

The California Court of Appeals ruled that the City of San Francisco's handgun ban is illegal under state law, upholding a lawsuit filed by the Second Amendment Foundation (SAF) and several other groups.

SAF was joined in the lawsuit by the National Rifle Association, Law Enforcement Alliance of America, California Association of Firearms Retailers and several private citizens.

In its ruling, the court held that Proposition H, approved by voters in November 2005, is invalid as preempted by state law. This was essentially the same case that SAF battled on its own 23 years ago when the city, under then-Mayor Dianne Feinstein, adopted a similar gun ban.

SAF Founder Alan Gottlieb said, "This wasn't just a fight over gun rights. It was really about defeating social prejudice against gun owners; a type of bigotry made even more insidious by the fact that it was fostered and defended by a city administration whose attitude toward gun owners is anathema to American values."

### **OHIO GUNS-IN-PARKS CASE GETS FRIEND-OF-THE-COURT SUPPORT**

Attorneys for Ohioans For Concealed Carry and the Ohio Attorney General's office have filed Merit Briefs with the Ohio Supreme Court in the landmark case *Ohioans For Concealed Carry v. City of Clyde*.

The gun group sued the City of Clyde after their council enacted an emergency ordinance that prohibited concealed carry in their city parks. Clyde passed the ordinance shortly after concealed carry became law in Ohio.

The City of Toledo did the same, and gun-owner Bruce Beatty defied the ordinance, but the courts ruled against him, setting a bad precedent. Ohioans For Concealed Carry's case against the City of Clyde was delayed, and then failed when the court ruled on the basis of the precedent in Beatty.

Ohioans For Concealed Carry appealed the decision to the Sixth District Court of Appeals, and in the interim, the Ohio General Assembly passed HB347, a state-wide pre-emption law forbidding local governments from enacting gun laws more restrictive than state laws.

The gun group brought the change of law to the attention of the court which then ruled in its favor. Now the case is being heard by the Ohio Supreme Court.

### **GEORGIA GUN GROUP WINS TWO VICTORIES**

Georgia Carry.Org (GCO) has reached a settlement with the Cobb County Probate Court over the requirement to provide Social Security Numbers (SSNs) when applying for a firearms license.

Cobb County will be prohibited from asking for SSNs, will expunge GCO's members' SSNs from their records, and will be required to pay GCO's attorney's fees.

GCO also won an injunction from the Superior Court of Athens-Clarke County prohibiting the county from enforcing its ban on concealed guns in county parks.

The temporary injunction was consented to by the county as it contemplates repeal of its ordinance in light of the Court of Appeals Opinion that a similar ordinance in Coweta County is preempted by state law.

### **SAF AND NRA WIN POSTPONEMENT IN KATRINA TRIAL TO FIND MORE VICTIMS**

U.S. District Judge Carl Barbier has agreed to reschedule a February 19 trial for a lawsuit the Second Amendment Foundation filed against New Orleans city officials for seizing hundreds of guns in Hurricane Katrina.

Co-plaintiff National Rifle Association attorneys joined SAF in saying they need more time to search for hundreds of gun owners whose firearms were confiscated by New Orleans police.

SAF and NRA sued New Orleans Mayor Ray Nagin and Police Superintendent Warren Riley over the city's seizure of more than 1,000 guns that weren't part of any criminal investigation after Katrina.

**ON THE  
LEGAL  
FRONT**

### **NORTH CAROLINA GUN DEALER FIGHTS WITH BATFE**

Judge Malcolm J. Howard of the U.S. District Court for the Eastern District of North Carolina has set a trial date for Fayetteville dealer Jim's Gun Jobbery, rejecting a BATFE motion that the dealer should immediately lose its license.

The Bureau of Alcohol, Tobacco, Firearms and Explosives decided to revoke Jim's license last year after a decade harassing the dealer, claiming numerous violations of gun laws, including paperwork discrepancies and lost inventory.

Tired of the bully-boy actions of BATFE, Jim's filed suit to challenge the agency's decision and keep its license.

Judge Howard's ruling found "genuine issues" in the case deserving of a trial. One issue is the definition of "willful" violations, which is the threshold the government must prove to revoke a license.

Judge Howard noted that the term is ambiguous, and rejects the agency's argument that because Jim's violations were repeated, they constitute willfulness.

### **ANOTHER "WILLFUL" CASE WILL GO TO TRIAL, THIS ONE IN IDAHO**

U.S. District Court Judge Edward J. Lodge has denied the BATFE's request for summary judgment in the case of Red's Trading Post in Twin Falls, Idaho, and has moved it on to trial.

Last year the BATFE decided to revoke Red's license after the store's 72 years in business.

Ryan Horsley, marketing director of Red's, said, "At question in our case is the ATF's definition of the word WILLFUL; they claim that we WILLFULLY committed .4% clerical errors."

This ridiculous fly-specking of gun dealer records must stop, but we have seen Acting BATFE Director Michael Sullivan do nothing to stop it. If anything, the problem has grown worse on his watch.

Senators Crapo, Craig, and Vitter have good reason to keep their holds on the confirmation of Sullivan.

### **BLOOMBERG'S GUN STING NOT ILLEGAL, JUDGE SAYS**

U.S. Magistrate Judge Cheryl Pollak in Brooklyn has ruled that Mayor Michael Bloomberg's administration did not commit a crime when it sent private investigators into gun shops in five states to attempt illegal weapons purchases.

The phony sting operation was conducted two years ago as the basis for a civil lawsuit brought by the city against 27 gun dealers in Georgia, Ohio, Pennsylvania, South Carolina and Virginia. Bloomberg hit shops that the city claims are selling guns traced back to crimes in New York City.

Fifteen dealers have settled and agreed to let a special master monitor their sales, and a suit against several of the remaining 12 is proceeding in federal court in Brooklyn.

Gun rights advocates like the Second Amendment Foundation also have complained that Bloomberg's gun sting was a criminal stunt. And the Justice Department even did its own inquiry as to whether the city was out of bounds.

But Judge Pollak said the court had found "that the city's actions do not constitute a crime or fraud," because the hired shill did not hand over the falsely purchased gun to anyone else, so there was no intent to break the law.

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS - FOREIGN DESK**

● **Lima, Peru:** How the United Nations rules the world: Abiding by international "peace and disarmament" policies, the Peruvian General Directorate for the Control of Security Services, Guns, Ammunitions and Explosives for Civil Use (DICSCAMEC) is to incinerate 35,240 firearms within the next several months. Peru's authorities are waiting for representatives from the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) to be present at the destruction of the firearms.

● **Edinburgh, Scotland:** Scotland didn't get its air gun ban: the British Parliament has voted down a government motion calling for action to ban the ownership and use of all firearms and air weapons. In Scotland, Justice Secretary Kenny MacAskill accused the United Kingdom Government of failing to tackle the misuse of air weapons, saying that Scotland wanted tougher action which would see them licensed in the same way as all firearms.

● **Toronto, Canada:** Toronto Mayor David Miller has called for an "absolute ban" on handguns in Canada after the city's second shooting death in less than a week. Public Safety Minister Stockwell Day ruled out a total ban on handguns, saying that the weapons were already effectively banned. "You don't make headway against firearm crime by going against innocent firearm owners," Day told *The Canadian Press*. A more effective response would be to establish mandatory jail sentences for people who commit gun crimes - a move that has been opposed by other federal parties, he said.

● **Carnon Downs, Wales:** A drama group in this British village had to register a toy gun with the police to comply with health and safety rules. They also had to lock up their plastic cutlasses and wooden swords for the pantomime they were putting on. Producers of the show called the rules "farcical." The show ends with a fight in which actors use replica 4 foot-long plastic cutlasses, and the toy gun produces a flag saying "BANG!" The Health and Safety Executive spokesman said the rules knew best.

● **Yuquan, China:** Yuquan International Hunting Field in Heilongjiang province draws more than 100,000 domestic tourists a year, many traveling thousands of miles to get their hands on a rifle or shotgun for the first time in the communist dictatorship. "Our country has very tight controls on gun ownership," said Wang Zengyu, Yuquan's manager. The 3,000-acre reserve, about 30 miles from Harbin, Heilongjiang's provincial capital, is hardly a sprawling wilderness, but it is the largest of China's few designated hunting parks. Once common across China's vast countryside, private gun ownership has been banned since the Communist Party swept to power in 1949, stripping farmers and hunters of weapons. The guns keep the tourists coming in, but controls limit the business's prospects, the former hotel manager said.

● **London, England:** The British government has announced that it plans to ban deactivated firearms by the end of the year after a huge increase in the number of model and pellet guns that have been converted to fire live ammunition. Home Secretary Jacqui Smith announced the ban during a visit to Liverpool where 11-year-old schoolboy Rhys Jones was shot dead in August 2007 as he walked home from playing football. The shooting, which was not solved and did not implicate a converted gun, shocked the nation and was used by Smith to impose more government control on a country already losing population because people are fleeing its straitjacket rulers. Smith claimed the ban would "protect the public and give police the power to remove the 'black market' firearms." Police believe there are an estimated 120,000 deactivated weapons in circulation across Britain. The government was set to reclassify them as replica guns, which are already banned. "Tackling gun crime is key to making people feel safer and more secure in their communities," Smith said, not saying whether the "feeling" would translate into real safety. "We already have the tightest controls in Europe but there is more we can do to remove the threat of gun crime," she said. Gill Marshall-Andrews of the Gun Control Network said: "We are delighted. This has been on our agenda for a long time. It is a big loophole in our firearms legislation."

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS**

● **New York City:** Shares of Smith & Wesson Holding Corp. (NASDAQ:SWHC) rose after Susquehanna Financial initiated coverage on the handgun maker with a positive rating, saying new products and the potential for an Army contract could boost the company's top line. Smith & Wesson recently launched a line of bolt-action rifles, which, in addition to a new line of hunting rifles, have already been covered by 11 industry magazines, Susquehanna told clients. The company also is developing other new products, which are "expected to gain popularity and wide market acceptance on the back of its strong brand name," Susquehanna wrote, adding that the products were expected to drive revenue growth in the company's handgun and long-gun divisions. Another major boost could come if the U.S. military makes good on a plan to switch to .45 caliber pistols from the current .40 caliber.

● **Detroit, Michigan:** The *Detroit Free Press* reports that after six years of expanded concealed carry in Michigan, "the incidence of violent crime in Michigan, on average, is below the rate of the previous six years. The overall incidence of death from firearms, including suicide and accidents, also has declined." Mark Taff, executive director of the Citizens Committee for the Right to Keep and Bear Arms (CCRKBA), said, "The hysteria pandered by anti-gun extremists who opposed the law has been proven false." The *Free Press* story revealed that Woodhaven Police Chief Michael Martin, with the Michigan Association of Chiefs of Police, admitted that police fears about passage of concealed carry were misplaced.

● **Salt Lake City:** Utah gun-owners say they have a right to carry their firearms at the Salt Lake City International Airport as long as they stay out of secured areas. The airport has signs at the terminal doors warning against bringing weapons on the premises, the *Salt Lake City Tribune* reports. But the signs cite a Utah law allowing guns in public areas. Gun-rights advocates asked the airport to remove the signs, but the airport says they will stay in place - they are an "early warning" for passengers that they cannot carry their guns through the security checkpoints.

● **Las Vegas:** An editorial in the *Las Vegas Review Journal* noted that Democratic presidential candidates Clinton and Obama have shied away from the issue of gun control, even on their Web sites, while Republican candidates McCain and Romney have posted statements outlining their positions on the politically charged issue.

● **Springfield, Massachusetts:** Smith & Wesson Holding Corporation, parent company of Smith & Wesson Corp., the legendary 156-year old company in the global business of safety, security, protection and sport, recently announced that it has received an order from the Colorado State Patrol for 850 of the company's Military & Police (M&P) Series of advanced-design polymer pistols. The Smith & Wesson M&P40, chambered in .40 S&W, will be issued to each officer of the Colorado State Patrol to replace early-model Smith & Wesson pistols that have served as the primary duty firearms for the department. The contract with the Colorado State Patrol represents the fourth state police department order that Smith & Wesson has received for the M&P pistols.

● **Los Angeles, California:** A former Los Angeles gang member who founded an anti-violence group called No Guns has pleaded no contest to federal weapons charges. Hector (Big Weasel) Marroquin, 51, entered a plea for three counts of manufacture, distribution and transport for sale of an unlawful "assault weapon." Marroquin founded No Guns in 1996, ostensibly to reduce gang violence. The group received \$1.5 million from the city for anti-gang efforts but its contract was cancelled last year when authorities learned Marroquin had hired his son, Hector (Little Weasel) Marroquin. The son is an known 18th Street gang member convicted in June 2007 of robbery and sentenced to nine years in state prison.

● **Wellington, New Zealand:** Gun control creates a nation of liars. More New Zealanders are getting firearms licences for sport, recreation and pest control (16,000 since 2006). They have to say they want a gun for outdoors activities on their application because self-defense is not an acceptable reason to want to own a gun in New Zealand.

# Parting Shot

## NBA, NFL - ANTI-GUN MENACE

Last year, the National Football League's anti-gun safety rules killed Washington Redskins safety Sean Taylor, sure as shooting, say critics.

Several months ago, while he was asleep with his family at home in a wealthy, gated community near Miami, Taylor was awaked by the sound of intruders. He got a machete - a large knife used to hack away jungle growth - and went to investigate. The intruder shot him dead.

"What if the machete had been a gun?" asked Chris Sprow in a *Reason* magazine article. The outcome would probably have been different.

The NFL has rules against guns. But we have to ask: Who are these anti-gun rules supposed to protect? The players or the league's image with the gun control crowd?

NBA Commissioner David Stern told media, "Although you'll read players saying how they feel safer with guns, in fact those guns actually make them less safe."

Sure, we've all heard that one for years.

In the NFL: As far back as 1994, Paul Tagliabue imposed an official league gun policy that warned against even lawful firearms. "Any weapon, particularly a firearm, is dangerous, especially so when it is in a vehicle or within reach of children and others not properly trained in its use."

Then Roger Goodell replace Tagliabue in the NFL's commissioner's office last year, and he slapped former Chicago Bears tackle Tank Johnson with harsh gun penalties when the player was cited for illegal firearm possession at his home in a Chicago suburb.

The state of Illinois gave Johnson 30 days in jail. Goodell gave him a half-season ban.

The NBA is just as bad.

For example: what about NBA player Antoine Walker? He was accosted in his garage in his multi-million-dollar Gold Coast home, bound with duct tape, and robbed of thousands of dollars in cash, jewelry - and his Mercedes.

What about Eddy Curry? He was robbed in a similar manner at his estate in Burr Ridge, just outside Chicago.

What about Atlanta forward Sheldon Williams? A few months ago he was carjacked at gunpoint.

Gun control doesn't work, even for wealthy athletes. Most came from the streets and their celebrity makes them targets of thugs from the streets.

They need protection. A league-wide pro-gun policy would be a good start.

*Alan M. Gottlieb*

*Joseph D. Tartaro*

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