



# UTAH INDIGENT DEFENSE COMMISSION

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## 2021 Annual Report

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# COMMISSION MEMBERS 2021-2022

## Lorene Miner Kamalu

IDC Chair 2021

Davis County Commissioner, Chair

*Utah Association of Counties representative - large county*

## Sam Alba

IDC Chair 2020

Federal Magistrate Judge (Ret.)

Stakeholder, Snow Christensen & Martineau

*Utah Minority Bar Association representative*

## Michael Zimmerman

IDC Chair 2016 - 2019

Utah Supreme Court Chief Justice (Ret.) Founding

Member, Zimmerman Booher

*Judicial Council representative*

## Wally Bugden

Partner, Bugden & Isaacson

*Utah Association of Criminal Defense Lawyers representative - private defender*

## Mary Corporon

Partner, Christensen & Jensen

*Utah Association of Criminal Defense Lawyers representative - private defender*

## Representative Joel Ferry\*

Utah State House District 1

*Utah State House representative*

## Ron Gordon

State Court Administrator

*Administrative Office of the Courts representative*

## Margaret Lindsay

Supervising Attorney

*Utah County Public Defender Association*

*Child Welfare Parental Defense Program representative*

## Ryan Loose

City Attorney, South Jordan

*Utah League of Cities and Towns representative*

## Representative Steven J. Lund\*

Utah State House District 58

*Utah State House representative*

## Richard Mauro

Executive Director

Salt Lake Legal Defender Association

*Utah Association of Criminal Defense Lawyers representative - public defender*

## Shawn Milne

Cache Valley Economic Director

*Utah Association of Counties representative - small county*

## Tom Ross

Executive Director

Commission on Criminal and Juvenile Justice

*CCJJ Representative*

## Heather Schriever

City Attorney, Orem

*Utah League of Cities and Towns representative*

## Pamela Vickrey

Executive Director

Utah Juvenile Defender Attorneys

*Utah Association of Criminal Defense Lawyers representative - juvenile delinquency*

## Senator Todd Weiler

Utah State Senate District 23

Attorney, Christensen & Jensen

*Utah State Senate representative*

\*In November 2021, Representative Lund replaced Representative Ferry as a commissioner

# A GREETING FROM THE COMMISSION CHAIR

*Lorene Miner Kamalu*

As 2021 draws to a close and life returns to what **almost** feels like normal, the Indigent Defense Commission (IDC) has made remarkable strides towards improving Utah's indigent defense:

The IDC has expanded its reach to partner with a total of 20 counties and 2 cities throughout the state. The partner counties now all benefit from the managing defender organizational structure. This allows for greater independence from the judiciary and prosecution and increases accountability in these indigent defense systems, which handle 95% of all court-appointed district court cases statewide. It also enhances the IDC's ability to learn what local needs are in a particular region and to address those needs through our targeted grant program.

The IDC's Indigent Appellate Defense Division (IADD) has dramatically increased the number of appeals filed from Utah's rural counties, rising to meet the previously unmet demand for appellate representation. IADD has also consulted with defense attorneys throughout the state as they work on their cases to ensure that their clients receive the constitutional promise of a fair trial and opportunity to appeal.

Through its training program, the IDC has continued to embrace technological advances to provide virtual training sessions to defenders in every corner of the state, and to facilitate discussion and collaboration online.

The IDC is truly grateful for the ongoing support of the Legislative and Executive branches and their commitment to fulfill the constitutional guarantee of effective defense for all. We look forward to the coming year and are confident that with that continued support we will build upon this year's progress and continue to elevate the quality of indigent defense statewide.

# A MESSAGE FROM THE EXECUTIVE DIRECTOR

## *Matthew Barraza*

In October 2021, Matthew Barraza was appointed to be Executive Director of the Office of Indigent Defense Services following Joanna Landau's departure. The Indigent Defense Commission is grateful to Executive Director Landau for her years of leadership.

I am honored and humbled to have been selected by the Indigent Defense Commission to be the next Executive Director.

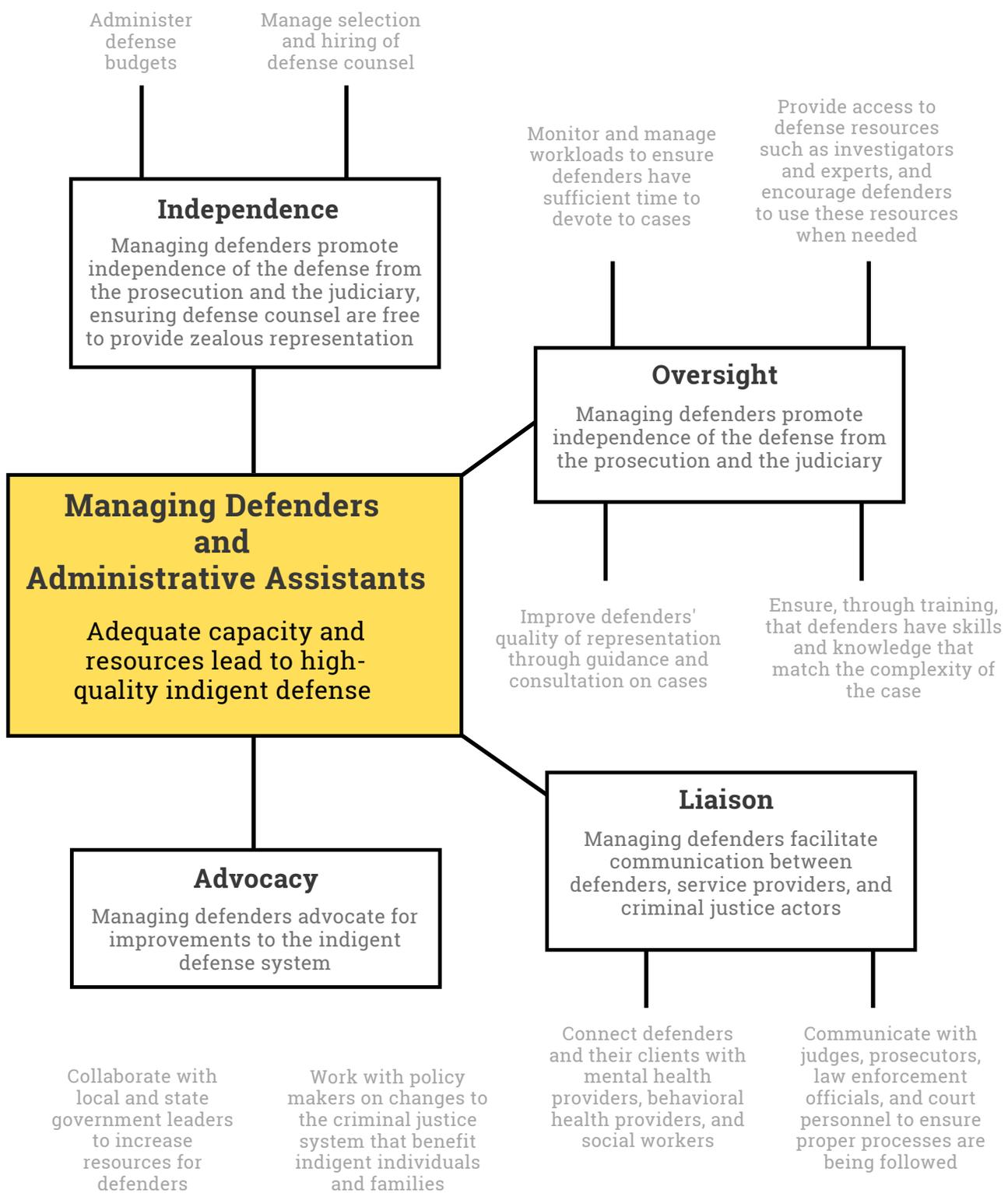
I have dedicated my legal career to fighting for the constitutional rights of individuals who are accused of crimes to have a fair trial and effective and zealous representation regardless of their ability to pay.

For the past 15 years I have worked as a trial attorney for the Salt Lake Legal Defender Association. During that time, I represented clients in a wide variety of cases - from misdemeanors in justice court, to felonies in drug court, all the way up to death penalty cases.

I am excited to use the wealth of experience and knowledge I have gained to help the IDC and its partners support and enhance indigent defense in Utah. The IDC is poised to make some extremely meaningful impacts this year, and I'm proud to be a part of it.



# THE IMPORTANCE OF ORGANIZATIONAL CAPACITY



# SCOPE OF OUR GRANT PROGRAM

FY 2022 Grant Year

**\$5,266,588**  
*in grant funds benefitting*

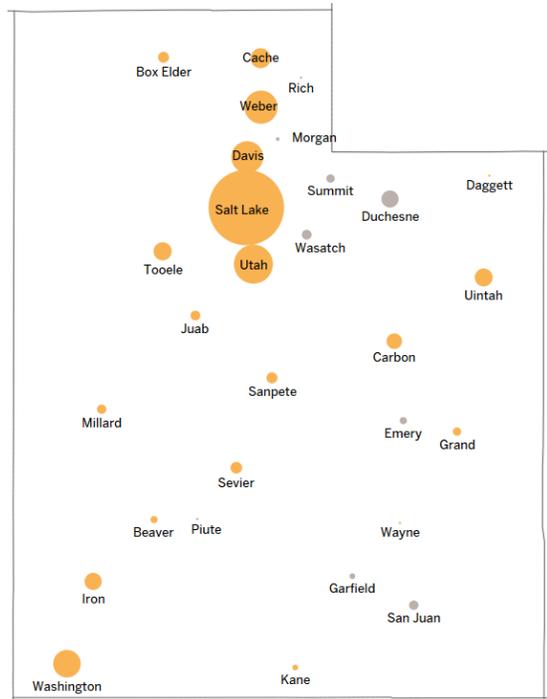
**20 Counties**  
*out of 29*

**2 Cities**  
*out of 247*

The IDC Grant Program supports local governments' ability to provide effective indigent defense services that comply with state and federal laws. For the FY 2022 grant year, IDC awarded more than \$5.2 million in state funding to 19 counties and two cities. In addition, indigent defense services in Daggett County are provided for by Uintah County, a current IDC grant recipient.



**Counties Benefitting from Grant Funds**



**Counties Scaled to Number of Appointed District Court Cases**

**95%**

OF APPOINTED DISTRICT COURT CASES IN UTAH ARE HANDLED BY COUNTIES THAT RECEIVE IDC GRANTS

# IMPACTS OF THE IDC GRANT PROGRAM

IDC grants have improved local governments' capacity to provide better indigent defense services and have laid the groundwork for more effective oversight and data collection. During the FY 2022 grant cycle, the Indigent Defense Commission focused on Core Principle One: Organizational Capacity of Defense Systems is Sufficient to Ensure Compliance with Core Principles. Grant requests were prioritized based on whether or not a funding item would help improve organizational capacity. Specifically, the highest priorities were 1) establishing managing defender positions within indigent defense systems, and 2) ensuring managing defenders have administrative support and reduced caseloads to allow capacity for managerial duties.

Key improvements in organizational capacity this year:

- **All counties that receive IDC funding** now have a clearly identified **managing defender** involved in their indigent defense systems
- Fourteen managing defenders are overseeing indigent defense services in twenty of the state's twenty-nine counties
- The IDC adopted a "**Managing Defender Manual**" as an informal guide on managing defenders' responsibilities
- **Thirteen IDC grant-funded administrative assistants** support seventeen of the state's twenty-nine counties
- The IDC has **leveraged federal JAG funding to offer case management software** to indigent defense systems
- All indigent defense systems receiving IDC funding are reporting financial and programmatic progress data to the state

The IDC drives for continuous improvement. In January 2021, staff implemented a [System Needs Evaluation](#) and an [Attorney Caseload Survey](#), which will both be administered twice a year. Grant recipients report quantitative and qualitative information on their indigent defense services and how they align with the IDC Core System Principles. Indigent defense spending is also being tracked to ensure that state funds are used well and do not supplant local spending. These reports will not only map progress but will also be used in collaborative meetings to help the systems identify areas of needed improvement. State funds can then be better targeted toward meeting those needs.

# TRAINING PROGRAM

The IDC's continuing legal education program provides targeted training, resources, and support to build a robust, connected community of specialized indigent defense practitioners who elevate the quality of representation. The Training Program benefited from the Utah State Bar Association's new mandatory continuing legal education (MCLE) category of online e-verified CLE created this year and from the rule change allowing attorneys to complete all MCLE credits via e-verified CLE training.

Attorneys have found the free training provided by IDC to be high quality, relevant to their specialty areas, convenient, and cost-effective. This is particularly true for attorneys from outside of Salt Lake County.

*July 1, 2020 – June 30, 2021, by the numbers:*

**23** Online CLES

19 criminal defense, 4 appellate advocacy

**723**  
HOURS

CLE credit earned in criminal defense

**216**  
HOURS

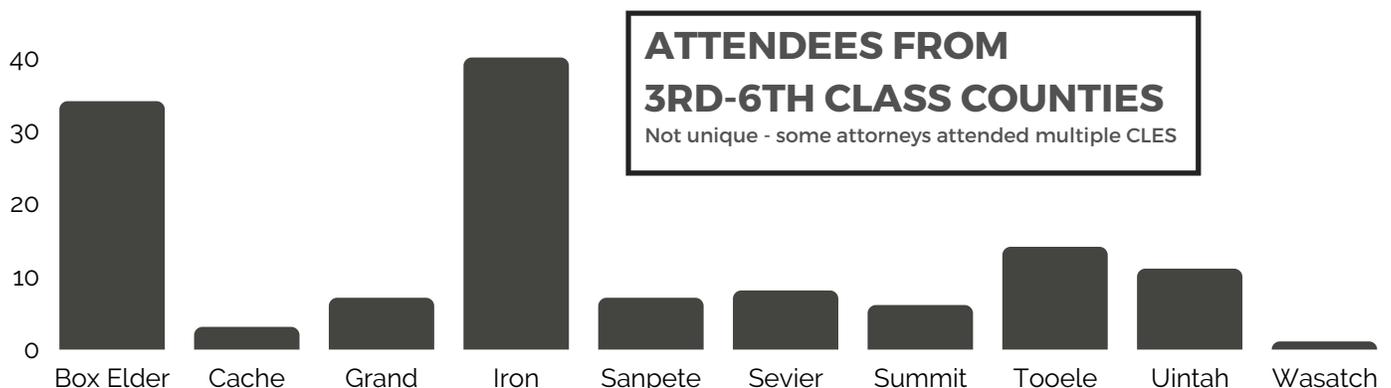
CLE credit earned in appellate advocacy and preparing cases for appeal

**935** Attendees

Some attorneys attended multiple events

**47%** Attorneys from outside of Salt Lake County

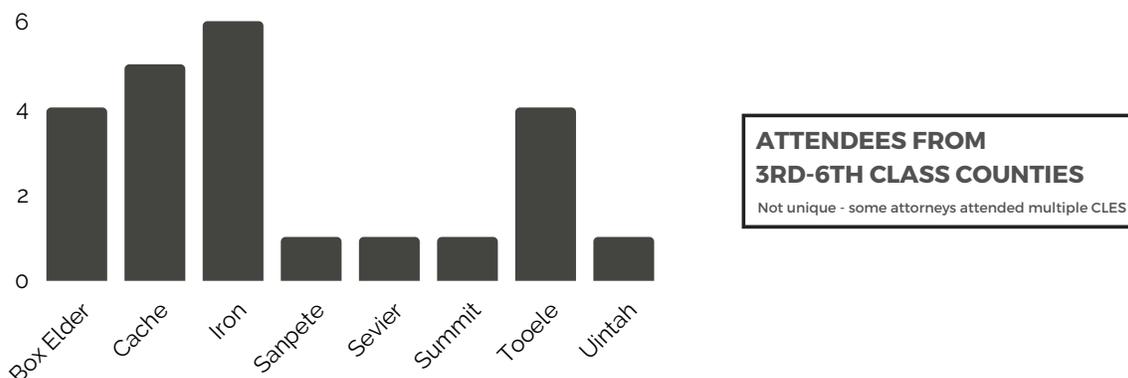
**14%** Attorneys from 3rd-6th class counties



# BUILDING PRACTITIONER EXPERTISE TO IMPROVE REPRESENTATION OF JUVENILES IN DELINQUENCY PROCEEDINGS

Specialized training and practice resources are crucial to effective legal representation. To that end, IDC has collaborated with the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) to present a 3-year statewide delinquency defense training project for appointed juvenile delinquency defenders. The project's accomplishments during the second grant year are:

- 16 training hours (2 all-day seminars and 2 lunch-hour trainings)
- 156 participants (not unique- some attorneys participated in multiple trainings)
- 672 CLE credit hours earned in juvenile delinquency defense
- 43% of attorneys from outside Salt Lake County
- 14% of attorneys from 3rd-6th class counties



The project has also developed practice resources that will support specialized juvenile defense in Utah's juvenile justice system after the OJJDP grant funding expires. This year two toolkits have been made available to practitioners across the state:

- Utah Juvenile Record Expungement Toolkit
- Utah Toolkit for Representing Young People Charged with Sex Offenses

The development of a third toolkit, "A Combined Timelines Toolkit/New Practitioner Toolkit," is underway.

# REPRESENTATION FOR PARENTS FIGHTING TERMINATION OF THEIR PARENTAL RIGHTS

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Utah law requires that parents facing the possibility of a court terminating their rights to parent their children are entitled to legal representation and to appointed counsel if they are indigent. (Utah Code section 78-22-201). The statute applies whether a case is brought by a state agency or a private party.

While counties are responsible for providing this representation, state law authorizes the IDC to collaborate with counties to help deliver these legal services and to reimburse them for the cost of representation in these cases.

In FY 2021, IDC paid for representation and defense resources for parents in more than 50 cases in five of the eight judicial districts.

The IDC is continually working to strengthen the representation of parents who are at risk of the great loss that comes from the permanent severing of their family connections. The IDC will continue to help to provide this protection to the growing number of parents facing this serious penalty.

## PARENTAL DEFENSE ALLIANCE

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The Parental Defense Alliance of Utah (PDA) is a 501(c)(3) non-profit organization, which contracts with the Indigent Defense Commission to provide continuing legal education, networking, and other resources to attorneys who represent indigent parents in child welfare cases in Utah's juvenile courts, as well as to other stakeholders. PDA and IDC engage in coordinated efforts to:

- Provide high quality training opportunities to parental representation attorneys across the state. In FY 2021, more than 450 attorneys and other child welfare professionals participated in PDA training programs.
- Elevate appellate practice by ensuring Utah Supreme Court roster-qualified counsel are appointed early on in potential appellate cases, so critical issues are preserved and the right to a meaningful appeal is protected.
- Advance the Defense-Side Social Worker Pilot Program, which has yielded significant results in Salt Lake and Utah counties, with the promise of expanding the program to the entire state.
- Work with the Attorney General's Office, Guardian ad Litem's Office, Court Improvement Program, and other community partners to craft sound public policy protecting Utah's most vulnerable families.

With these ongoing efforts to provide structure and impart institutional knowledge to the parental defense bar, PDA aims to support and honor families while working to provide a safe, just, and timely judicial process.

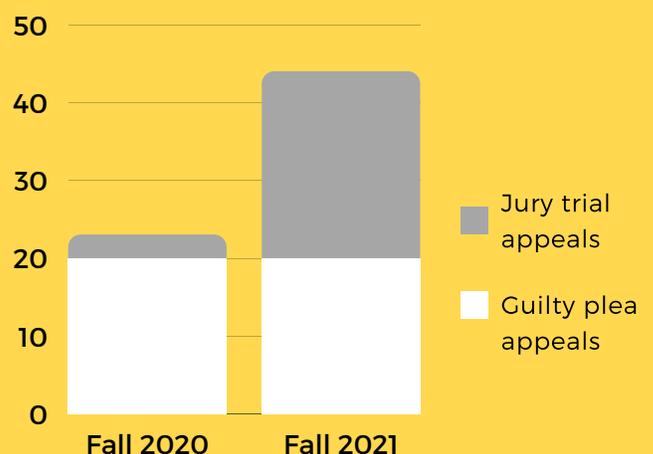
# INDIGENT APPELLATE DEFENSE DIVISION

The Indigent Appellate Defense Division (IADD), established in 2020, was given statutory jurisdiction to provide appellate representation for cases arising from the third through sixth class counties.

***Despite COVID-related budget cuts, the division has grown and expanded its scope and its services during the past year:***

- IADD has already been appointed to represent clients in more than 130 appeals. The division contracts with 16 private practitioners who help IADD staff provide representation in the areas of adult criminal, juvenile delinquency, and child welfare/parental defense appeals
- In addition to the Chief Appellate Officer, IADD now employs a paralegal and two full-time appellate attorneys who consult with criminal defense attorneys across rural Utah to provide case support and issue development, as well as carry caseloads of their own
- IADD created the Juvenile Delinquency Appellate Program in collaboration with the Utah Juvenile Defender Attorneys (UJDA). Specialized juvenile delinquency appellate counsel from UJDA provide training, trial, and appellate consultation as well as other resources and support to Utah's rural attorneys
- IADD also created a program for child welfare/parental defense appellate representation. Qualified, specialized attorneys contract with the division to represent indigent parents and guardians seeking to directly appeal their juvenile court decisions in child welfare and their termination of parental rights cases
- The Indigent Defense Commission adopted "Core System Principles for Appellate Advocacy", which IADD developed to set standards and guidelines for effective appellate practice in Utah

The number of appeals resulting from jury trials and guilty pleas in rural counties has more than doubled this fall (2021) over the same time period last year due to district courts opening again after the COVID shutdown. This sharp increase is stretching the existing IADD staff and resources to the limit, and the demand for indigent appellate services will only continue to grow as the pandemic subsides and the backlog of cases waiting for trial unravels.



**The division is seeking additional funding from the 2022 Utah legislature to hire more appellate attorneys and staff to meet the growing demand for legal services and to expand resources, such as training and outreach to rural communities.**

# CONTACT THE IDC

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