Partisan Views on Voter Registration as Reflected by the Media: Any Path Forward?

By Lynne Holt and Mary Galligan

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Background

In the months preceding and immediately following the 2016 presidential election much ink has been spilled on the subject of voter fraud. President Trump’s claims of voter fraud elevated the public’s focus on the integrity of the voting process and may have diverted attention from problems with voter registration that were more readily substantiated. Voter registration problems may involve fraud which implies intentional deception but they more often result from inaccurate and outdated information on voter rolls.

When asked during an interview with Bill O’Reilly on Fox News about his claim of widespread voter fraud in the November 2016 election, the President replied: “Forget all that. Just take a look at the registration, and we’re going to do it. And I’m going to set up a commission to be headed by Vice President Mike Pence, and we’re going to look at it very carefully.”\(^1\) Then on May 16, 2017, the President issued an executive order that established the Presidential Advisory Commission on Election Integrity with a charge to its members to “study the registration and voting processes used in Federal elections.”\(^2\) The executive order is broad in that it requires the Commission to submit a report identifying the laws, rules, policies, activities, strategies, and practices that both undermine and enhance voter confidence in federal election voting process and the vulnerabilities in the system that could lead to improper voter registration practices and fraud. While fraud is still part of the study, registration will assume a central role. Given the President’s reframing of the problem, we can now shift our scrutiny to an issue that has been often overlooked in the voter fraud debate -- improved accuracy in voter registration rolls.

Accurate voter registration records are important because they are used to: determine who is eligible to vote, establish precincts, and assign voters to polling locations. Registration information also is used for communicating with voters and for ballot distribution, as well as for auditing election outcomes. Without accurate registration records, election officials face an uphill battle in detecting problems with an election regardless of whether fraud is involved.

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Media Reflection of Political Ideology

It is understandable that voters are confused with the distinction between voter fraud and registration problems because the public relies on the media for explanations of the issues and the pros and cons of proposed solutions. Research has shown that voters gravitate to news sources that are most likely to reinforce their predispositions. That was a finding of a 2014 Pew Research Center report. For the report, Pew posed 10 questions to 2,901 American adults to discern their political ideology. The responses were then divided into five categories in terms of political ideology: consistently liberal, mostly liberal, mixed, mostly conservative, and consistently conservative. Table 1 shows the political demographic profile of respondents

<table>
<thead>
<tr>
<th>Table 1 Political ideology Based on Pew Research Center Report</th>
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<tbody>
<tr>
<td>Surveyed by Web + Phone</td>
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<tr>
<td>Consistently conservative</td>
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<tr>
<td>Mostly conservative</td>
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<tr>
<td>Mixed</td>
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<tr>
<td>Mostly liberal</td>
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<tr>
<td>Consistently liberal</td>
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Nearly half, 47% of those classified consistently conservative, identified Fox News as their greatest source for political and government news, and almost a third of those classified as mostly conservative also relied on Fox News. The two most liberal categories of respondents distrusted Fox News more than trusted it and the most liberal groups expressed trust for a greater number of media sources than did their conservative counterparts. Reflecting that greater mix of trusted sources, the most liberal respondents tended to rely on CNN (15%), NPR (13%), MSNBC (12%), and the New York Times (10%) for their political news. For their part, the two most conservative categories of respondents distrusted those sources more than trusted them.

Although there are many issues related to voter registration that could ultimately impact vote results, voter proof of citizenship dominated news coverage and became almost a pass phrase for prevention of voter fraud in the conservative press. Consider this defense of state proof- of- citizenship laws offered in

4 Ibid.
5 Ibid.
a post-election op-ed by John Fund and Hans von Spakovsky on Fox News:

The Justice Department has also opposed every effort by states—such as Kansas, Arizona, Alabama and Georgia—to implement laws that require individuals registering to vote to provide proof of citizenship. This despite evidence that noncitizens are indeed registering and casting ballots.

In 2015 one Kansas county began offering voter registration at naturalization ceremonies. Election officials soon discovered about a dozen new Americans who were already registered—and who had voted as noncitizens in multiple elections.

These blatant attempts to prevent states from learning if they have a real problem with illegal votes makes it impossible to learn if significant numbers of noncitizens and others are indeed voting illegally, perhaps enough to make up the margin in some close elections.\(^6\)

Countering that perspective, the New York Times was critical of the impact of Kansas’ proof-of-citizenship law, citing a federal judge’s conclusion that thousands of Kansas voters were prevented from registering for federal elections in 2016, while only three non-citizens had voted between 1995 and 2013.\(^7\)

However, the nuances of both pieces may be missed by a large segment of news consumers. According to a Pew Research Center report released in May 2016, 62% of Americans get their news from social media. Among Americans, 9% get their news from Twitter and may only see retweeted headlines and not read the content.\(^8\) The Fox News headline for the op-ed noted previously reads: “Why Trump’s probe of voter fraud is long overdue,” whereas the New York Times headline reads: “The Struggle to Vote in Kansas.”

Leading up to establishment of the Presidential Advisory Commission on Election Integrity, headlines in on-line counterparts of the main conservative (Fox News) and liberal (CNN and MSNBC) news sources identified by respondents in the Pew survey, display the outline of the debate as shown in Table 2.

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\(^8\) Jeffrey Gottfried and Elisa Shearer, “News Use Across Social Media Platforms 2016,” Pew Research Center, May 26, 2016, http://www.journalism.org/2016/05/26/news-use-across-social-media-platforms-2016/. The survey which formed the basis for the report’s conclusions was conducted in February 2016. Since that time, tweeting has become an increasingly acceptable form of political communication given the President’s adoption of that practice.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Fox</th>
<th>CNN</th>
<th>MSNBC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraud prosecutions</td>
<td>Voter fraud in Kansas State announces first conviction by a non-US citizen; April 14, 2017</td>
<td>Reality Check: Trump's claims of 'large scale' voter fraud Trump campaign intensifies reports of voter fraud without evidence; October 18, 2016</td>
<td>Texas governor helps debunk his own voter-fraud argument The Texas Governor justified his position of needing to crack down on voter fraud by pointing to a link to a news story that only a handful of cases prosecuted in Texas since 2002 involved in-person voter fraud; March 15, 2016</td>
</tr>
<tr>
<td>2016 Election</td>
<td>Top Trump aide says White House has 'enormous evidence' of voter fraud Trump aide Stephen Miller claims that everyone is aware of the problem of illegal voting in New Hampshire and the article referred to claims of voter fraud occurring in other states. February 12, 2017</td>
<td>People of New Hampshire sound off against WH voter fraud claims New Hampshire residents including the state GOP chairman and the New Hampshire Secretary of State’s office push back against voter fraud allegations; February 15, 2017</td>
<td>Sen. Shaheen: This is a totally made up charge The Senator’s comment refers to the Trump campaign allegation that people were bussed to New Hampshire to vote illegally. She claimed this was a voter suppression tactic against a state which allows same day voter registration; February 15, 2017</td>
</tr>
<tr>
<td></td>
<td>Kansas Secretary of State: There is Proof of Widespread Voter Fraud; Kobach claimed White House provided “enormous evidence” to support existence of widespread fraud; February 13, 2017</td>
<td>CNN's Kate Bolduan Shuts Down Trump's Voter Fraud Expert Kris Kobach Interview questioning Kobach’s claim of widespread rampant voter fraud; Daily Beast February 13, 2017.</td>
<td>White House clings to non-existent evidence of voter fraud Despite a lack of evidence, reports of voter fraud persist and claims of fraud are characterized as lies; February 13, 2017</td>
</tr>
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</table>

Table 2
Examples of Headlines by News Source

<table>
<thead>
<tr>
<th>Topic</th>
<th>Fox</th>
<th>CNN</th>
<th>MSNBC</th>
</tr>
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<tbody>
<tr>
<td>Trump's vote fraud claims explained</td>
<td>FEC commissioner asks Trump for voter fraud evidence</td>
<td>Trump voter-fraud allegations start to look 'deranged'</td>
<td></td>
</tr>
<tr>
<td>Arguing that Trump alleged voter fraud because losing is “bad.” Concluding that fraud claims won’t matter in the election outcome but, even if without merit, will have the effect of solidifying Trump as a winner in the eyes of his supporters; November 28, 2016</td>
<td>An FEC Commissioner asks Trump for evidence to support claim of massive voter fraud in New Hampshire; February 10, 2017</td>
<td>Labeling some allegations of vote fraud in the 2016 election delusions; February 10, 2017</td>
<td></td>
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Ideologies and Perspectives on Voter Fraud and Registration Problems

Different media sources reflect divergent public opinions regarding voter registration improvements and also define the problem differently. In a polarized political environment that is not likely to change. Yet conflation of voter fraud (largely unsubstantiated) with voter registration issues potentially prevents states from implementing measures that could increase participation by eligible and legitimate voters in the election process. One of the chief problems is the maintenance of updated and accurate voter registration records which, at least on the surface, would appear to garner support from both sides of the political spectrum.

However, what one would expect to be a consensus does not emerge because the two ends of the political spectrum set different goals for voter registration improvements and therefore seek divergent reforms. For their part, conservatives have adopted a position that registration process improvements should be aimed primarily at preventing fraud. Thus, their toolkit of reforms includes requirements for registrants to provide documentary proof of citizenship and use of multi-state databases to identify voters registered in more than one state at the same time, among others. The former requires verification prior to registration and the latter may be used to remove former residents from voting rolls, thereby preventing people from voting in two states and preventing illegal voting under a former resident’s name. On the other hand, liberal-backed reforms tend to be aimed at making the ballot more accessible by removing barriers to registration and updating registration records. Among improvements to achieve that goal include automatic voter registration (AVR), election-day registration, online registration, and registration...
portability.10

The broad goals of improving election integrity can result in policies that work at cross-purposes. For example, some efforts to prevent vote fraud result in vote suppression. In a recent *Political Science Quarterly* article, an analysis of three cases involving exaggerated claims of voter fraud supported that finding.11 The cases were Democratic Senator Gale McGee’s campaign to authorize postcard registration in the 1970s; President Jimmy Carter’s attempt to enact Election Day registration; and the campaign for comprehensive voter registration reform that ultimately became the National Voter Registration Act of 1993 (The Motor Voter Act). Due to potential voter fraud arguments, the Motor Voter Act almost failed in Congress to be enacted and its eventual passage reflected the partisan nature of the vote with few Republicans in support.

The maintenance of accurate registration records is not always easy because people register to vote in many ways in accordance with state law. The U.S. Election Assistance Commission summarizes the options as follows:

Individuals can register to vote by mail when applying for a driver’s license or identity card at their State’s driver’s licensing offices, at offices providing public assistance, at offices providing State-funded programs for people with disabilities, and at Armed Forces recruitment offices. Many States also offer voter registration services on their Web site. An individual can obtain a registration application from either the local election official in his or her county or city or town of residence, or through registration outreach programs sponsored by various private groups. Federal registration forms and many State forms are now accessible on the Internet. The National Mail Voter Registration Form, available from the EAC, is the one document that allows individuals to register to vote from anywhere in the United States. (North Dakota does not have voter registration; Wyoming and the four territories do not accept this form; New Hampshire accepts the form only as a request for an absentee voter mail-in registration form.) The form is available at [www.eac.gov](http://www.eac.gov).12

There is more evidence pointing to inaccuracy in voter registration records than there is of outright voter fraud. In 2008, one study estimated that up to 3 million eligible voters were unable to vote because of registration problems and the percentage of eligible voters who could not vote due to registration problems increased from 2% in 2008 to 2.8% in 2012.13 The Pew Research Center reported in 2012 findings from research it had commissioned that an estimated 24 million registrations across the country were invalid or included serious inaccuracies. Pew also found that more than 1.8 million deceased individuals were listed as voters and approximately 2.75 million people were registered in more than one

state.14

During the 2016 general election, there were several reports of voter registration problems. Perhaps the most widely publicized problems were in North Carolina where nearly 7,000 voters were illegally removed from the state’s voter registration lists.15 North Carolina voters also complained that they could not be found on the voter rolls when they showed up for early voting despite having registered with Department of Motor Vehicles.16

Security of online voter registration systems also became an issue in 2016 when prior to the presidential election the Indiana Secretary of State claimed that thousands of names and birthdates had been changed in the Statewide Voter Registration System leading to accusations of voter fraud.17 Other reports of hacking attempts raised concerns about voter registration systems.18 Also during the 2016 campaign, multiple lawsuits in Kansas challenged suspension of thousands of voters’ registrations because registrants did not present proof of citizenship as required by that state’s law.19 (A federal appeals court subsequently blocked inclusion of the proof-of-citizenship requirement on federal voter registration forms in Kansas and two other states -- Alabama and Georgia--which had the same requirement.)

Reports of Russian hacking of voter records have continued to surface months after the election. Although the magnitude of Russian efforts to delete and modify voter records is undetermined at the time of this writing, Illinois, for example, has reported that as many as 90,000 voter records were compromised.20

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Voter ID laws, often enacted as a fraud prevention measure, can present problems when voter rolls are not kept up to date. This happens most frequently when a voter has an approved ID card but it does not match information about the voter in the registration files. That could be one result of voter ID laws which may prove problematic if voter registration rolls have been compromised by hacking or other means.

Concerns about the accuracy of voter registration rolls are not new. States have implemented federal requirements in the past to upgrade the electoral process, particularly with respect to elections of federal officeholders. The 1993 National Voter Registration Act (“Motor Voter Act”) set minimum regulatory guidelines for allowing states to remove names of voters from registration rolls under certain circumstances (change of residence, death, and, depending on state regulations, mental incapacity and felony convictions). The Motor Voter Act provided a means for local election officials to ascertain current voter addresses by using the confirmation notice which is sent to registered voters asking them to confirm that they continue to reside at the address on file. States vary considerably in the ratio of confirmation notices sent out, from less than 5% of total registered voters in South Carolina to 36% of registered voters in Arizona for the 2014 election cycle. Confirmation notices are not always deliverable, with reports of high percentages of non-deliverability for the 2014 election cycle in South Dakota (63.5%), North Carolina (51.4%), Oklahoma (35.2%), New York (33.5%), and Florida (32.9%). States were allowed to adopt other measures for voter roll maintenance provided they were uniform, non-discriminatory, and in compliance with the federal Voting Rights Act.

Voter Registration Reform Measures

Following the 2000 presidential election debacle and Florida’s problems with the election process, the Help America Vote Act, enacted in 2002, required states to maintain statewide voter registration systems. No federal government agency was designated to maintain, manage, or administer a national voter registry. Unofficially, private organizations such as Electronic Registration Information Center (ERIC) and Interstate Crosscheck are used by election officials to check registration rolls. However, those systems may lack the rigor necessary to prevent removal of legitimate voters from registration rolls.

22 See fn. 12, at, at 22-23.
23 Ibid. at 23.
26 ERIC has more data points than Crosscheck to facilitate its work in checking voters’ eligibility to vote in a given state but it is unclear whether either program reduces the number of unlawful double voting incidents. See Advancement Project, “Questions & Answers: Interstate Crosscheck Program (“Crosscheck”) & Electronic Registration Information Center (“ERIC”).” Based on publicly available information, August 12, 2015, http://b.3cdn.net/advancement/1d6ccc4b34b9645da_hdm6i29rp.pdf. Indeed, one article using simulations makes the case that data matching systems can inflate the number of double registrations because statistical probability accounts for genuine matches of names and birthdates when voter lists are compared. See Michael P. McDonald and Justin Levitt, 2008, “Seeing Double Voting: An Extension of the Birthday Problem,” Election Law Journal, 7(2): 111-122.
Despite those efforts, there seems to be some agreement that the voter registration process and maintenance of accurate voter rolls could benefit from additional improvements. However, there may be less consensus on how to address those problems.

Table 3 lists each measure and the number and list of states that have adopted the measure:

<table>
<thead>
<tr>
<th>Measure</th>
<th>Number of states</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automatic voter registration</td>
<td>Eight plus District of Columbia</td>
</tr>
<tr>
<td>Same-day registration</td>
<td>Fourteen plus District of Columbia</td>
</tr>
<tr>
<td>Online registration</td>
<td>Thirty-eight plus District of Columbia</td>
</tr>
<tr>
<td>Portability</td>
<td>Twenty-one plus District of Columbia</td>
</tr>
</tbody>
</table>


Automatic voter registration has been the most controversial measure in recent months in large part because it has been adopted and implemented by the fewest states to date. Eight states and the District of Columbia have authorized automatic voter registration (AVR) to date: Alaska, California, Colorado, Connecticut, Georgia, Oregon, Vermont and West Virginia. The Illinois, New Jersey, and Nevada legislatures adopted legislation to authorize AVR but it was vetoed by the respective governors. In Nevada, an initiative for AVR will appear on the 2018 ballot.

The Brennan Center for Justice advocates the adoption of AVR laws, noting that they would increase accuracy, reduce errors, and enhance security by making the registration process less vulnerable to manipulation than a paper-dependent process. The nonpartisan National Conference of State Legislators summarizes arguments for and against AVR as shown in Table 4.

<table>
<thead>
<tr>
<th>Arguments for AVR</th>
<th>Arguments against AVR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automatic enfranchisement. Eliminates voter</td>
<td>Overreach of government to tell citizens what to</td>
</tr>
</tbody>
</table>

Table 4
Arguments for and against Automatic Voter Registration

<table>
<thead>
<tr>
<th>Arguments for AVR</th>
<th>Arguments against AVR</th>
</tr>
</thead>
<tbody>
<tr>
<td>concerns over registration deadlines and application submittals</td>
<td>do. infringement of First Amendment Right to free speech</td>
</tr>
<tr>
<td>Should lead to cleaner voter registration rolls</td>
<td>Infringement of First Amendment Right to free speech</td>
</tr>
<tr>
<td>Should contribute to reduced use of provisional ballots which are more costly and could result in discrepancies with other voter registration information</td>
<td>Potential for fraud as the process may be inadequate to filter out non-citizens’ access to state identity cards in some states</td>
</tr>
<tr>
<td>May lead to increased voter turnout</td>
<td>No guarantee it will result in greater voter turnout</td>
</tr>
</tbody>
</table>


As in the public debate over voter fraud, public attitudes toward registration reform measures split along partisan lines. While a poll by HuffPost/YouGov in March 2015 showed more overall support than opposition to both AVR and same-day voting (over half the respondents supported the two measures), Republicans were markedly less supportive than Democrats.29 Interestingly, Republicans were more likely to support AVR (53%) than same-day registration (36%), whereas over 7 in 10 Democrats supported both measures. A more recent Gallup poll (August 2016) shows a similar split with 80% of Democrat respondents supporting AVR compared to 51% of Republicans. (No question was asked in that poll about same-day registration.) Despite half of Republican respondents’ support of AVR, the measure has nonetheless turned out to be a more politically polarizing issue than has same-day registration.

Coverage in the media reflects the poll responses to AVR, with liberal-leaning sources supporting AVR and conservative media taking a more critical position. An article on Oregon in the New York Times, which has a more liberal readership based on Pew Research Center’s categorization, cited that state’s AVR law as a success based on the turnout of the 2016 presidential election.30 Of those Oregonians registered to vote through the AVR process, 43% voted in the 2016 presidential election. Despite the headline, “Automatic Voter Registration a ‘Success’ in Oregon,” the article reached a qualified conclusion: specifically, this was only one election cycle and more data would be needed to draw more robust conclusions about the impact of AVR. Moreover, the article suggested that many people may have registered anyway regardless

29 Both in 2016 and 2017 Representative Robert Brady, a Democrat from Pennsylvania, sponsored an AVR bill in Congress. (HR 2694 and HR 2876, respectively)
of the opt-in registration AVR. Other liberal-leaning media outlets, such as the Huffington Post, Mother Jones, Salon, and the Nation, have taken positions to strongly support AVR or criticize gubernatorial vetoes of AVR legislation.

By contrast, the conservative outlets characterize AVR as ripe for abuse. The National Review cites “Automatic voter registration of welfare recipients without local verification checks” among measures that are the product of activist groups funded by George Soros. Code words of “welfare recipients” and “George Soros” were arguably used to build resistance from conservative readers. Fox News described a potential loophole in California’s automatic registration law, namely that illegal immigrants can obtain driver’s licenses and then become automatically registered to vote under the federal Motor Voter Act. The article points out that California has no separate registration verification system. While the article cites the Brennan Center’s reasons for supporting AVR, its headline, “Experts: California voter registration system ‘highly susceptible’ to fraud,” speaks only to the conclusion that AVR results in abuse of other voter registration laws.

**Future Approaches—Any Path Forward?**

What is the most effective set of strategies going forward? Perhaps policymakers might focus on measures that are most likely to be supported by the public and by both the conservative and liberal media. Among the registration modernization measures summarized above, online registration has been adopted by a majority of states, some blue and some red or partisan resistance may not be as much of an issue in the remaining 12 states as it would be for other changes.

By contrast, AVR policies are most likely to be polarizing as reflected in the media coverage. Because so few states have enacted automatic voter registration laws and, as of March 2017, only two states -- Colorado and Oregon -- have implemented them, little is known about the implications for turnout and voter fraud. AVR policies risk generating polarized responses from the politicians and the public which will be echoed in the media much like the reactions that have surrounded voter ID laws. Specifically, in her capacity as presidential candidate, Hillary Clinton supported AVR in 2015, and Bernie Sanders

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31 Ibid.


introduced legislation calling for national automatic voter registration. While AVR has been supported by Democratic presidential candidates it was not endorsed by any Republican presidential candidates. Perhaps if Republican respondents to opinion polls begin to show more support for AVR, politicians and the media may more readily support the measure.

Where do we go from here? The public needs to agree on the objectives of changing registration and voting processes. Media coverage reflects the polarization in this country with liberal sources supporting one set of strategies and conservative sources supporting another based on the leanings of their customers. In contrast to voter ID laws, voter registration modernization initiatives, such as portability, same-day registration, and online registration, have attracted less media attention in recent months. Perhaps the most effective strategy is to support voter registration modernization efforts that are starting to elicit consensus from policymakers and voters in both red and blue states as well as support from both liberal and conservative media sources. That may mean broader adoption of portability policies, now embraced by 21 states, and online registration procedures adopted in 38 states and the District of Columbia. It also may mean nationwide adoption of a robust crosscheck database with multiple data points. In addition, state efforts to utilize more effectively existing voter registration tools such as confirmation notices may yield some benefits.

All these registration reform measures as well as other electoral reform initiatives will require ongoing scrutiny, not only because they are relatively new but because their impact is still uncertain. Complicating matters is the finding that cyber-attacks on voter records in several states occurred leading up to the 2016 presidential election. As a recent study on American election flaws observed: “The introduction of electoral reforms introducing convenience voting may seem like a straightforward ‘fix’ for low turnout, and the results may be positive, but in practice, any effects need to be carefully monitored, with systematic evaluation research examining the implementation of any new regulations.” The words “systematic evaluation research” are particularly critical given the tendency of politicians and their constituents to look for simple explanations for often complicated issues.

As efforts continue to modernize and update voter registration access and processes, we can expect to see more of the same tactics of exaggerated potential voter fraud claims that were used in earlier decades to derail registration reform. The best way to combat such arguments is to ask for proof of effectiveness in reaching the goal of greater integrity of the voting system without adverse consequences.

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