



# Strengthening Accountability Surrounding Issues of Sexual Violence: How UBC Process is Failing to Protect Graduate Students

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*We would like to acknowledge that UBC Vancouver is located on the traditional, ancestral and unceded territory of the Coast Salish people specifically the sk̓wx̓wú7mesh (Squamish), sel̓ílwitl̓h (Tsleil-Waututh), and x̓m̓əθk̓ʷəy̓əm (Musqueam) nations, and that UBC Okanagan is located on the traditional, ancestral and unceded territory of the Okanagan Nation. We are incredibly grateful for their ongoing hospitality and hope to remain good guests in their territory.*

## BACKGROUND

This report was struck in June 2015 in response to a systemic pattern of sexual assaults perpetrated by a graduate student at the University of British Columbia against a number of other graduate students at the University. Despite a number of graduate students' attempts to bring these allegations to the University over a period of a year and a half they faced significant challenges in obtaining a satisfactory response.

The mandate of this report was to develop a set of actionable recommendations that will result in identifiable change at the University of British Columbia. The recommendations of this report are directed at addressing the lack of understanding surrounding issues of sexual violence and limited knowledge held by faculty and staff as to how to appropriately respond to reports of sexual violence.

This report reflects various points at which the University system failed to respond effectively to student complaints and concerns regarding sexual violence, including students' experiences with one academic department. The purpose of this report is not to target specific individuals within the University but to examine the processes and resources that were sought by graduate students when attempting to bring to light acts of sexual violence, and identify the challenges and barriers that students faced throughout this process.

While implementing wider, systemic change is complex and requires a long-term commitment, we believe that the UBC community is capable of fostering a safe space for survivors of sexual violence and developing processes that are survivor-centred.

## REPORT PROCESS

Recommendations were developed by the rapporteur through individual discussions with graduate students, who themselves were survivors of sexual violence and/or were acting as advocates for survivors of sexual violence and/or for the general student body. The UBC Office of the Ombudsperson for Students and Ashley Bentley at the AMS Sexual Assault Support Centre were both consulted during the report process for their feedback and input.

Based on the limited number of students interviewed by the rapporteur the recommendations of this report do not reflect a consensus but rather a collection of themes that emerged during one-on-one interviews. Moreover, due its limited nature, this report serves as an aspirational document for the University and to support the more exhaustive work of the Graduate Student Society Harassment and Discrimination Committee, which was struck in September 2015.

## INTRODUCTION

Sexual violence<sup>1</sup> is widespread and although all genders experience its negative effects women are disproportionately affected while the vast majority of abusers are male (CFS, 2013; Sinha, 2013). Whilst sexual violence is experienced by women from all backgrounds those who face higher risks include aboriginal women, transgender and gender non-conforming individuals, women aged between 15 to 24, women who identify as lesbian, bisexual or pansexual, and women living with disabilities (CFS, 2013; METRAC, 2014).

According to the Statistics Canada General Social Survey (2013), young women aged 15 to 24 accounted for almost half of all self-reported sexual assaults and are particularly vulnerable to violent crime. Women attending higher education institutions are therefore likely to have a higher risk of experiencing sexual violence. One national study found that 4 out of 5 female undergraduate students reported that they had been subjected to violence in a dating relationship with 29 per cent reporting incidents of sexual assault (DeKeseredy and Kelly, 1993)<sup>2</sup>. These statistics would suggest that Universities who portray near zero reporting levels for sexual violence have an inherently flawed reporting process.

University campuses are a microcosm of wider society where harmful attitudes towards women and sexual violence persist with one study indicating that 60 per cent of Canadian university-aged males would commit sexual assault if it were guaranteed that they would not get caught (Lenskyi, 1992). More recently, in a climate survey conducted by the University of Ottawa (2014) 42 per cent of male respondents agreed with or were neutral to the statement, “rape accusations are often used as a way of getting back at men” while 38 per cent of male respondents agreed with or were neutral to the statement, “women who wear low-cut tops or short skirts are sending mixed messages”. Both of these statements clearly contribute to ongoing narratives of victim-blaming, support the notion that women are legitimate targets for sexual violence and lay the foundation for the gross under-reporting of sexual violence.

Tracking incidents of sexual violence is complex, as many women choose not to formally report to police or campus authorities for a number of reasons, including: fear of reprisal, belief that the incident was not serious enough, feeling partially responsible, not wanting family and friends to know, not wanting the police involved, and lack of faith in the reporting process (uOttawa, 2014). As a result, less than 10 per cent of

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<sup>1</sup> Sexual violence can be described as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.” (Krug EG et al., 2002)

<sup>2</sup> Many incidents of on-campus sexual violence are said to occur within the first eight weeks of classes (CFS, 2013).

incidents of sexual violence are reported to the police and many survivors of sexual violence describe police as unsupportive (Vaillancourt, 2008; uOttawa, 2014).

For graduate students attempting to report incidents of sexual violence these concerns are often amplified by the close-knit community in which they exist. Graduate students are reliant on their relationships within their department (with both peers and faculty), as well as their relationship with their supervisor, for the success of their academic career. The asymmetrical power dynamics between graduate students and faculty mean that these relationships, if not monitored closely, have the potential for abuse and exploitation. Graduate students who have experienced sexual violence or who come forward on behalf of peers who have experienced sexual violence may experience unintended consequences, such as the risk of damaging their relationships with faculty members within their department. There are also power differentials within departments between faculty, which may impede the ability of certain faculty members to support students who have experienced sexual violence.

The impact of sexual violence on survivors is far-reaching including direct physical consequences (personal injury, STIs, unwanted pregnancy) and longer-term mental health issues (increased stress, anxiety, post-traumatic stress disorder, depression, fear, alcohol/drug dependence, suicidal thoughts/attempts, disordered eating) (Temple et al., 2007; Campbell, 2009). As a result, survivors' academic performance is likely to decline as they become increasingly disengaged, unable to attend classes or keep up with the strict demands placed upon them by their academic institution (van Roosmalen and McDaniel, 1998). Importantly, women who experience sexual violence and suffer from psychological distress have a higher likelihood of withdrawing from university or college before completing their degree (Smith, White and Holland, 2003). Moreover, survivors who experience difficulty in the reporting process and receive inadequate responses to their reports and/or complaints are likely to feel a sense of institutional betrayal. This sense of institutional betrayal exacerbates the post-traumatic response (including dissociation, sexual dysfunction and anxiety) of survivors (Smith and Freyd, 2013).

In Canada, unlike the United States, no federal or provincial legislation exists which requires universities to establish sexual violence/assault policies. As a result, very few Canadian universities have a stand-alone policy; out of 102 universities and colleges across Canada only 9 have a separate policy specific to sexual violence/assault (Mathieu & Poisson, 2014). While developing and implementing a targeted sexual assault policy is not the only way in which universities should seek to tackle sexual violence it can help foster an environment that rejects all forms of sexual violence. Moreover, introducing a specific sexual violence/assault policy holds perpetrators accountable for their actions and requires the implementation of adjunct services for the benefit of survivors.

Despite the University of British Columbia's<sup>3</sup> core values of integrity, mutual respect and equity recent incidents of peer-to-peer sexual violence at the University have unveiled a number of failings in the administration's response.

## FAILING TO PROTECT STUDENTS

Graduate students (advocates and survivors) who brought forward allegations of sexual violence to faculty and/or staff at the University of British Columbia over a period of a year and half stated that they felt:

- Unsure of who to speak to at the University
- That their concerns were not being taken seriously and were not being heard
- Concerned for their safety and the safety of their peers after witnessing the University's lack of response to the allegations
- Silenced by the University's response to their concerns
- That the onus was on the student to follow-up with the administration, and not vice-versa
- Concerned by the administration's apparent lack of urgency in responding to the allegations brought forward
- Frustrated and exhausted by a process that required them to repeat their story multiple times to multiple different individuals/departments across campus
- Excluded from the process based on the administration's lack of communication and transparency throughout
- That the staff/faculty they encountered were ill-prepared for handling incidents of sexual violence

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<sup>3</sup> In 2014, approximately 51,441 students were enrolled at UBC spread across both campuses (Vancouver and Okanagan) of those 48,895 were undergraduate and 10,758 were graduate. Gender distribution across both student levels (graduate and undergraduate) at UBCV was the same, with 54 per cent female and 46 per cent male. Based on the information provided by the 2014 UBCV Annual Report on Enrolment no option is provided to students who wish to identify outside the gender binary paradigm. The 2014 UBCO Annual Report on Enrolment did not provide any information related to the gender of students enrolled at that campus. (Farrar, 2014; Mathieson, 2014)

- Concern over how bringing forward allegations of sexual violence would impact their relationships within their department (with peers, faculty, and more specifically supervisors)
- Misled throughout the process and unsure of the available reporting (including formal and informal) options
- Uncomfortable with the peer-based non-academic misconduct process
- That many faculty members in their department were not supportive
- That the administration was more concerned with the well-being of the accused than the well-being of survivors

As a result, students' (survivors and advocates) concerns about the reporting process at UBC echoed many of the sentiments recorded in the existing literature on barriers to reporting incidents of sexual violence/assault to police and campus authorities. Students involved in attempting to bring forward allegations of sexual violence/assault at UBC felt disempowered, abandoned and silenced by the reporting process, causing them to lose faith in the ability of the University to appropriately respond to their concerns and maintain a safe environment for all students.

Students described the failure of educational workshops to explicitly address peer-to-peer sexual violence, as well as the advice provided to them by faculty members to “not bring these issues forward”. Moreover, survivors described feeling pressured by the Equity and Inclusion Office (EIO) to consider mediation as an appropriate tool for reconciliation between both parties, despite explicitly stating that they did not want to mediate<sup>4</sup>. Throughout the process some survivors described how the administration failed to explicitly and clearly communicate to them their right to report the incident to the police, and demonstrate their willingness to support survivors in doing so. Other survivors describe being misinformed about how to report an incident to police and how their complaint would be handled by the police<sup>5</sup>.

Students raised concerns over the sense of hostility that emerged and developed during their interactions with University administrators and faculty members who were involved in responding to their reports/complaints. They describe a process whereby the actions and reactions of largely well-intentioned faculty members and University

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<sup>4</sup> In the United States, Title IX legislation clearly states that in cases of sexual violence mediation, even if voluntary, is not an appropriate form of redress.

<sup>5</sup> In one particular case a survivor, who was misinformed about the reporting process by the EIO, was unaware that the police would contact the perpetrator as part of the investigative process and that the process would subsequently be out of their hands. Upon discovering this, the survivor became so concerned with possible retaliation from a faculty member that they redacted their statement.

administrators worked to prevent students from attaining sensitive, effective responses to their concerns. At times this manifested as promises of action that were not honoured and provision of information that proved incorrect or misleading. Over the course of their involvement in the process, students felt increasingly alienated, ostracized and singled-out for raising their concerns and asking for more support. Although it is beyond the scope of this report to determine why faculty and University administrators felt restricted in their ability to respond more effectively to student concerns it remains an important area for investigation and analysis from the University as an institution.

Most important to note is that as a result of the University's ineffective and slow response to the initial allegation of sexual violence brought forward by a student in one department, the safety of other women was compromised.

## EXISTING PROCESSES AND POLICIES

Currently, the University of British Columbia does not have a targeted and specific sexual violence/assault policy. The only policy that survivors of sexual violence are empowered by is *Policy #3: Discrimination and Harassment*, wherein the only mention of sexual violence is in section 2.2 referring to the scope of the policy to include "...sexual harassment, sexual assault...". When students engaged in the reporting process at no point were they explicitly informed of or referred to *Policy #3: Discrimination and Harassment* by University employees. Instead University employees referred to *Policy #14: Response to At-Risk Behaviour* and to *Discipline for Non-Academic Misconduct: Student Code of Conduct* in the Academic Calendar.

The only disciplinary process available to students who bring forward allegations of sexual violence at UBC is the non-academic misconduct process. This process is overseen by the non-academic misconduct committee comprised of a chair selected by the President, while the remaining committee members are students registered at the University<sup>6</sup>. Survivors who were involved in bringing forward allegations of sexual violence to the committee described a process that was disorganised, lacked transparency and was ill-suited to handling such cases. Survivors felt that committee members lacked the experience and necessary tools to respond appropriately to incidents of sexual violence, and were unaware of the way in which their language could negatively impact survivor experiences.

In addition, survivor requests for a counsellor to be present in the room throughout the process and to allow the survivor to have more than one support person present were rejected without adequate reasoning provided. Some survivors were also asked to

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<sup>6</sup> It is worth note, and of particular concern, that out of the total 19 students currently sitting on the committee only 1 is a graduate student.

submit new statements to the committee with little notice and forced to demonstrate how an assault off campus impacted their life on campus (due to the fact that the University takes the position that an assault off campus is not covered by the current Student Code of Conduct).

Of particular concern for graduate students was the make-up of the committee, who are primarily undergraduate students. This is problematic for a number of reasons, not least that most graduate students work as Teaching Assistants during their time at university and may encounter undergraduate students that they have previously taught or may teach in future. This evoked feelings of humiliation on the behalf of survivors, who themselves were graduate students and did not feel comfortable with undergraduate students adjudicating the process (which felt like a breach of privacy to survivors). Furthermore, undergraduate students only know when there is a conflict of interest once they have already seen the names of the individuals involved in the non-academic misconduct process, and although they may remove themselves from the process the anonymity of those involved will be in some way compromised. Recently the Massachusetts Institute of Technology (MIT) altered the composition of their Committee on Discipline to no longer include students, as they recognised the need for individuals with a significant amount of expertise on and sensitivity to the topic of sexual violence.

## RECOMMENDATIONS

### 1. Create a Sexual Violence Policy

The University of British Columbia should develop a comprehensive, survivor-centred sexual violence policy that applies to all members of the UBC Community (students, staff, faculty) and expands on existing policies. This policy should include:

- a. A definition of sexual violence, with separate sections on sexual harassment and sexual assault
- b. A clear description of what constitutes “consent” in accordance with the Criminal Code of Canada and explicit definitions of “force” and “incapacity”
- c. A connection to the protocol which describes the process for responding to allegations of sexual violence with a list of all the support services available to students [and which also clearly communicates the role of each service]
- d. A list of interim measures/accommodations available to students to ensure their safety prior to the onset and completion of the disciplinary process
- e. Clearly defined reporting processes to both campus authorities and police
- f. A list of possible remedies, corrective actions and sanctions
- g. The right of complainants and respondents to an advisor/legal counsel



- h. A statement which clearly demonstrates that any form of retaliation, coercion, threats or intimidation against any individual and/or third party who reports or provides information pertaining to sexual violence will be subject to disciplinary action by the University

During the design process the University should extensively consult with survivors of sexual violence and community organisations working in the area of sexual violence. Undergraduate and graduate students across both the Vancouver and Okanagan campuses, and student unions/associations should be actively involved in every step of the design process.

This policy should apply gender-neutral language and be reviewed regularly as per standard policy review timelines.

## **2. Amend the Student Code of Conduct**

The current Student Code of Conduct does not account for incidents that take place off campus if unrelated to a University sponsored program or activity, or a student's standing, status or academic record at the University. Therefore, it should be amended to include:

- a. Any prohibited activity that occurs off campus involving one or more students from the University

By amending the Student Code of Conduct to include such a provision, students who are subject to sexual violence off campus will no longer be forced to demonstrate an explicit connection to their life on campus.

## **3. Design an Alternative Disciplinary Process**

The current non-academic misconduct process is not properly equipped to handle cases of sexual violence, as such an alternative disciplinary process should be designed that:

- a. Excludes peer members acting as adjudicators, particularly in cases which involve graduate students, so as to avoid a conflict of interest and protect the privacy of all parties
- b. Ensures all members of the process are adequately educated and receive in-depth training on how to handle cases of sexual violence, including an understanding of how the language used may impact those involved
- c. Is thoroughly understood by all those providing oversight and participating in the process

- d. Includes individuals with the necessary expertise to conduct investigative functions
- e. Is survivor-centred and sensitively considers how the process may retrigger survivors
- f. Honours survivor requests for the presence of one or more support persons present (in the room) throughout their involvement in the hearing process
- g. Provides all parties involved with a clear timeline for the overall process
- h. Is transparent and thoroughly explained to all parties involved prior to its start
- i. Ensures that a counsellor and/or support person from SASC is present (in the room) throughout the hearing process to foster a safe space for all parties involved
- j. Notifies both parties in writing about the outcome of the complaint and any move to appeal
- k. Provides an objective party, separate from a chair, whose role it is to monitor the process and ensure the fair treatment of all parties involved
- l. Reminds students of the resources and support services freely available to them

This process should actively engage with student unions/associations, survivors of sexual violence, on campus groups working to promote equality and equity, undergraduate and graduate students at UBCO/V, and community organisations whose work addresses issues of sexual violence and violence against women.

#### **4. Train and Educate University Leadership, Faculty and Staff**

Based on the information gathered in this report, it is clear that a paucity exists in terms of faculty and staff understandings of sexual violence and the way in which they should respond to such allegations. As such all university leadership, including deans, associate-deans and chief administrative officers, faculty (in particular those who are acting as graduate/academic advisors) and staff should be required to complete mandatory training on the scope and causes of sexual violence before the beginning of the 2016-2017 academic year.

This training should be led by community organisations working in the field of sexual violence, with support from the UBC Sexual Violence Coordinator (See recommendation 8), and should include and/or address:

- a. The debunking of myths surrounding issues of sexual violence and the barriers/challenges survivors face in the reporting process
- b. The prevalence of sexual violence in Canada and across university/college campuses (noting the disproportionate effects on marginalised communities)
- c. The impact of sexual violence on the physical and mental well-being of survivors, as well as the deleterious effects on academic performance
- d. A clear explanation of “consent”, “force” and “incapacity”

- e. Existing UBC policies and protocols related to sexual violence, including raising awareness of the support services available to survivors of sexual violence
- f. An explanation as to the importance of a survivor-centred approach in responding to allegations of sexual violence
- g. An introduction to bystander intervention
- h. Best practices for how to support survivors of sexual violence

Following the development of this curriculum, the UBC Sexual Violence Coordinator should continue to work closely with community organisations to deliver this training to all senior administration, faculty and staff across both campuses (Okanagan and Vancouver).

## 5. Create Clear Guidelines

In order to ensure that all faculty and staff at UBC feel equipped to handle allegations of sexual violence, in addition to training opportunities, they should receive a list of clear guidelines that:

- a. Describes all possible grievance/disciplinary/reporting processes available to individuals bringing forward allegations of sexual violence, including reporting processes available to students outside the University
- b. Describes possible outcomes of all reporting processes
- c. Explains the importance of the language that is used when working with survivors of sexual violence
- d. Defines “consent”, “force” and “incapacity”
- e. Includes a list of all resources and support services available to survivors with a clear description of the role of each service in handling incidents of sexual violence
- f. Highlights the importance of responding to reports and complaints in a prompt and timely manner; ensuring that such reports and complaints are made a priority
- g. Emphasises the need for University faculty and staff to keep students informed of the status/outcome of their complaint
- h. Describes the need for University faculty and staff to inform complainants of any and all information which has been provided to the respondent by the University
- i. Reiterates that any form of retaliation, coercion, threats or intimidation of complainants/respondents will not be tolerated by the University
- j. Highlights the need for close follow-up with the survivor until the danger of continued sexual violence has passed

## **6. Clarify and Publicise the Role of the Equity and Inclusion Office**

Throughout this process it was made clear that students remained unsure of the role of the UBC Equity and Inclusion Office (EIO). As a result, clarification is needed and should be broadly publicised to prevent misunderstandings in future. Therefore, the University should clarify:

- a. The mandate of the Equity and Inclusion Office (EIO)
- b. The role of the office in handling cases of sexual violence
- c. Whether the EIO is able to maintain a neutral stance in responding to allegations of sexual violence and reporting them to the University
- d. Whether the EIO is completely independent from the University with an explanation as to why or why not this is the case
- e. The administrative and reporting relationships between the EIO and senior administration at the University, as well as Student Services, Human Resources and any other administrative units that may be involved in responding to incidents of sexual violence at the University
- f. The decision-making processes undertaken by the EIO to decide which complaints are chosen for further investigation with clear reasoning provided as to why or why not a complaint was investigated

Furthermore, the EIO should be subject to review by an impartial, external body which will conduct an assessment based on whether the resources, protocols, and practices in place are adequate to support the mandate of the office and their ability to appropriately respond to allegations of sexual violence. Upon completion of this assessment, should it be found that the EIO is lacking the necessary resources to fulfill its mandate related to the new sexual violence policy and protocol the University should commit to providing any additional resources.

## **7. Strengthen Institutional Transparency**

In an effort to ensure that the University of British Columbia is transparent in its handling of allegations/cases of sexual violence the University should publish an annual report, which includes the following information:

- a. The incidence of sexual violence
- b. The number of cases brought forward to the alternative disciplinary process
- c. The outcome of cases brought forward to the alternative disciplinary process
- d. The number of cases reported that did not go through the alternative disciplinary process
- e. The initiatives/programs underway at the University working to address sexual violence and their effectiveness

## **8. Create the Position of Sexual Violence Coordinator**

In order to coordinate the fragmented resources, processes and offices across the University which handle allegations of sexual violence a Sexual Violence Coordinator should be specifically created and funded by the University. The role of the Sexual Violence Coordinator should include:

- a. Providing oversight of all allegations/cases of sexual violence brought forward to the University to ensure the consistency and coordination of response efforts
- b. Monitoring outcomes and tracking patterns in the University's response to reports and complaints
- c. Addressing any negative trends identified in the University's response to reports and complaints, and assessing their impact on the campus climate
- d. Providing oversight of all training for students, faculty and staff related to issues of sexual violence
- e. Determining whether allegations brought forward violate the University's sexual violence policy
- f. Assigning investigatory powers and/or referring the allegations to a designated team upon determining the allegations may violate the sexual violence policy
- g. Ensuring that all reports and complaints are dealt with in a timely manner and complainants/respondents are treated fairly
- h. Informing all parties of the grievance processes available to them and clearly explaining the possible outcome(s) of each process
- i. Informing all parties of the grievance/disciplinary outcome(s) and providing information on the right to an appeal, if applicable
- j. Monitoring University compliance with timeframes specified in the grievance/disciplinary processes
- k. Fostering a safe, inclusive space for all students
- l. Providing oversight of a Sexual Violence Prevention and Response Team

## **9. Institute a Campus-wide Awareness Campaign**

To ensure that the University creates and nurtures an environment that values respect and equality, and provides a space where all members of the University community can work and study free from sexual violence a campus-wide awareness campaign should be implemented that aims to:

- a. Promote healthy sexual and dating relationships
- b. Clearly articulate "consent", "force" and "incapacity"
- c. Introduce the concept of dating/partner abuse
- d. Explain the all-encompassing nature of sexual violence and the communities most likely to be impacted
- e. Inform students of the bystander intervention model

- f. Contextualize gender-based violence as situated in the wider context of patriarchy, power and privilege
- g. Focus heavily on Frosh/Orientation weeks at the beginning of the academic year
- h. Highlight workshops on consent that take place throughout the year
- i. Provide students with a basic understanding of equity and anti-oppression
- j. Inform students of the different sexual violence support services available

## 10. Build stronger community partnerships

The University should strengthen its relationships and collaborate with community-based organisations working to end violence against women and sexual violence, including but not limited to:

- Women against violence against women (WAVAW)
- Battered women's support services (BWSS)
- BC society for male survivors of sexual abuse
- QMUNITY: BC's queer resource centre
- Ending violence association of BC (EVA BC)

Front-line, community-based organisations have practical experience fighting sexual violence. This expertise would serve as a valuable addition to the existing University services offered to advocates and survivors of sexual violence. Academics at the University with expertise in the field of sexual violence should work closely with community-based organisations to continue to promote an environment free from sexual violence. The University should demonstrate their commitment to an ongoing ethic of care in this area by fairly compensating all those involved in providing education and training to the UBC community.

**A sexual violence action team should oversee and closely monitor the implementation of all of the recommendations set out in this report. A follow-up report should be published in six months that clearly demonstrates the University's commitment to promoting a safe, inclusive space for the entire community (student, staff and faculty). The University should continue to publish annual reports until all the recommendations herein have been implemented.**

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