

Creating a Constructive Practice: Family and Professional Partnership in High-risk Child Protection Case Conferences

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Olmsted County Child & Family Services in Rochester, Minnesota, developed a family case conferencing approach in the juvenile court system involving children determined to be at high risk of maltreatment. This approach reflects the value of family involvement by privileging the knowledge and problem-solving capacities of family members joined by the presence and views of the professionals in their lives.

The Parallel Protection Process (P3) is an alternative justice intervention that uses a family case planning conference (FCPC) as the forum to achieve a settlement agreement in the initial child protection matter before the court. The FCPC includes an option of family group decision making when there is need for more detailed decision making. Mediation is also an option in the event of a dispute between parties.

Background: Children's Justice Initiative

The P3 was developed and implemented under the auspices of the Minnesota Children's Justice Initiative (CJI). In 2000, the Chief Judge of the Minnesota Supreme Court initiated a court improvement project that includes collaboration with the Minnesota Department of Human Services. The purpose of CJI

is to improve the processing and outcomes of child protection cases through collaboration of the juvenile court and social service system.

A lead judge in each county is expected to engage representatives of the court and social service system on a county CJI committee charged with improving the court process for children. The Olmsted County CJI initially focused on administrative changes to the process that enhanced calendaring and reduced court continuances. A small work group concentrated on "front loading," which is an effort to intensify court activity early in the process to gain agreement on issues before the court and to reduce the time that children and parents might wait for intervention while the court process unfolds. Front loading promotes early access to assessment and supports early engagement with families and improved access to interventions. The intensification of intervention early in the court process is designed to improve outcomes for children and families.

The National Council of Juvenile and Family Court Judges promulgated 11 principles to inform efforts to improve the child welfare court process (NCJFCJ, 1999). Principle number seven promotes the use of alternative dispute resolution and family group decision making in the court context. The P3 was constructed to incorporate front loading and family involvement strategies to privilege the voice of families in the court process and to decrease the adversarial nature inherent in the existing court system.

The Olmsted County CJI team has been effective in improving the processing and outcomes of child protection cases through collaboration of all parties



involved in the court. Judicial oversight remains a critical variable in maintaining efforts to improve the court experience for children and families while ensuring safety and permanency for children.

Background: Partnership-based practice

The partnership model of Family Group Conferencing originated in New Zealand with the Children, Young Persons and Their Families Act of 1989. This model became the initial reference point in the construction of the P3. To expand the repertoire of family involvement strategies and to maintain the integrity of the FGC process, Olmsted County developed a family case planning conference at the front end of the P3, recognizing that family group conferencing could be utilized as a subsequent resource after the case planning conference.

Family case planning conferences are designed to be conducted on a regular, ongoing basis in the development of informed next steps in the overall agency case plan. Preparation time is two to three hours and participation is held to immediate family and their easily accessible kin and support system, along with invited service providers and legal advisors. The court-ordered FCPC held in the context of the P3 represents the initial conference in a possible sequence of many. The use of family group conferencing is reserved for much more extensive and detailed decision making with the search for and inclusion of many more family members. The integrity and success of the FGC is dependent on thorough preparation in the range of 20 to 40 hours.

Family group conferencing and FCPC are both built on a foundation of principles that include the family, culture, and community. The commonly held values reflect the family's rights and responsibilities to care for and protect their children and the children's right to access extended family and kin in planning for their safety, well-being, and permanency. The FCPC was viewed as the preferred initial option in the P3

because it could be coordinated and conducted within statutory time lines while maximizing the number of families that could access a court process that authentically involved families and their children.

Mediation was chosen as the preferred intervention in the event of disputes in the case planning conference. The disputing parties are referred to a process where a third party, functioning as a neutral, assists them in resolving their differences in a way that is mutually acceptable. Mediations are generally conducted within one to three two-hour sessions.

On the common foundation of family involvement and relevance, partnership is enhanced in the FCPC by

- Directly and honestly acknowledging authority of the statutory agency
- Building trust through acknowledgment of family members' positions
- Involving the family in the planning and decision making affecting their lives
- Sharing information directly with the family
- Locating any judgments with those who have brought them forward
- Utilizing participatory planning, decision making, and dispute resolution processes
- Providing choices
- Fostering family input

Partnership-based practice should foster professionals who value their own knowledge and authority and, at the same time, can allow their assessments to be vulnerable to family, culture, and community knowledge, perspectives, and judgments (Turnell, 1998). Table 1 identifies practice principles important in engaging families in a constructive working relationship.

Parallel Protection Process: Operations

The core issue and test of partnership in child protection work is that of goals: "Partnership exists when both the statutory agency and the family



Table 1 – Practice Principles That Build Partnerships (Turnell & Edwards, 1999)

- Respect service recipients as people worth doing business with.
- Cooperate with the person, not the abuse.
- Recognize that cooperation is possible even where coercion is required.
- Recognize that all families have signs of safety.
- Maintain a focus on safety.
- Learn what the service recipient wants.
- Always search for detail.
- Focus on creating small change.
- Don't confuse case details with judgments.
- Treat any interview as a forum for change.
- Treat the practice principles as aspirations, not assumptions.

cooperate and make efforts to achieve specific, mutually understood goals” (Turnell & Edwards, 1997).

The purpose of the FCPC is essentially twofold. The first goal is the negotiation of a settlement on admission/denial of the Child in Need of Protective Services (CHIPS) petition. The second is the development of the immediate next steps in the child protection or agency case plan. These goals are clearly communicated to the family and other participants with ongoing opportunity to ask questions.

The availability of the FCPC is limited due to the time it requires to conduct the process, the availability of participants, and the legal timeframes required for court action. Each month, four three-hour periods are

identified in which all parties are available to attend an FCPC. Professional court schedules are protected to ensure attorneys are available. This means that each month the court has access to order an FCPC for up to four families. Judges court-order all parties to the case planning conference – a facilitated process that includes the family, extended family/community supports invited by the family, family attorney, *guardian ad litem* (GAL), county attorney, social worker, social work supervisor, court liaison worker, attorney for the GAL, and any additional relevant service providers. The coordination and facilitation is staffed through Olmsted County’s family group decision making team. Two laptop computer operators are present to draft the legal agreement and the case plan next steps. There is opportunity for two silent process observers. Interpreters are asked to co-facilitate to respect the need for more than one language. All written material is presented to the group orally. Table 2 describes the working format of the FCPC.

Comprehensive risk assessment

The information sharing stage of the case planning conference is based on the “Signs of Safety” approach (Turnell & Edwards, 1997) (Figure 1). This approach pursues a balance of typical data collected for the purposes of risk assessment (e.g., Sigurdson & Reid, 1996): the severity and pattern of the maltreatment, the perceptions of family members regarding abuse and neglect, the vulnerability of the child to future harm, the tendency toward violence within the family, and additional factors such as substance abuse and mental health disorders. This assessment expands the map by including detail on family strengths and competencies, existing safety, and goals in tandem with traditional risk constructions. Everyone present participates in the information sharing stage. The family begins by sharing their perspective on the agency involvement,



Table 2 – Format of the Family Case Planning Conference

- *Introductions and family presentation of their genogram.* All participants introduce themselves in the context of their role and relationship to the children. The family guides the facilitator by illustrating their family system on flipchart paper. It is clear from the beginning that the family is the only expert in the room on their family. Participants describe this process as an “ice breaker,” generating humor and learning postures. This process also provides extensive information and early identification of kin.

- *Information sharing.* Five headings with explanations are placed on the whiteboard. “Danger/Harm” is where the family and social worker describe the incident(s) in detail that brought the family to the attention of social services. Any past pattern/history of agency involvement is also detailed. The family story and agency information, which may be different, are both written here. “Complicating Factors” is where any participant can describe conditions that contribute to difficulty for the family. “Strengths/Protective Factors” is where any participant can describe assets, capacities, and resources within the family, community, and individual (things that are going well). “Risk Statements” are formulated by the social worker and supervisor in preparation, discussed with the family and GAL, and brought forward here to describe specifically what social services is worried could happen to the children and when they are most worried it will happen (e.g., “The children may be accidentally hurt again when Mom and Dad are busy and not paying attention and the toddlers wander”). “Safety” is where the entire group is asked whether any of the Strengths/Protective factors rise to the level of safety, defined as “strengths demonstrated as protection over time.” All participate in this process.

- *Settlement agreement.* Before taking a formal break, the facilitator talks with the group about negotiating a settlement upon admission or denial of the petition specifying that this stage involves the family, their attorneys, social services, and the county attorney. All others remain in the room as observers. All negotiations are conducted openly.

- *Negotiation of a match.* The facilitator informs the involved parties that, before coming to the FCPC, the agency developed the legal bases under which the petition was filed. The facilitator writes on a flipchart as the county attorney gives the legal language of the statutes under which the petition was filed. The attorney then gives a layman’s explanation of that language. The facilitator informs the group that the next step is to see whether the information shared by the family and others matches the legal language under which the petition was filed. There are two other flipcharts: One has a “yes” heading for the areas of agreement, and the other has a “no” heading for disagreement. Negotiations aim to determine through consensus one or more areas of agreement, and to dismiss the remaining areas of disagreement. The attorneys signal the facilitator when a settlement is reached and a formal break is then taken.

- *Development of immediate next steps (Case Plan).* The group returns from break and the social worker presents the prepared agency “bottom lines” (i.e., what social services needs to see to close the case). The group discusses the immediate next steps that move closer to case closure. The next steps must be tied to the risk statement contexts. “Next Steps” detail what needs to happen now, who is involved, and the time lines. The goal is to build safety to risk context to ensure enough safety at some point for case closure.

- *Plan review and signature.* Those involved in the legal settlement sign that document, and all participants sign the document that contains all the information from the whiteboard, including the next steps.



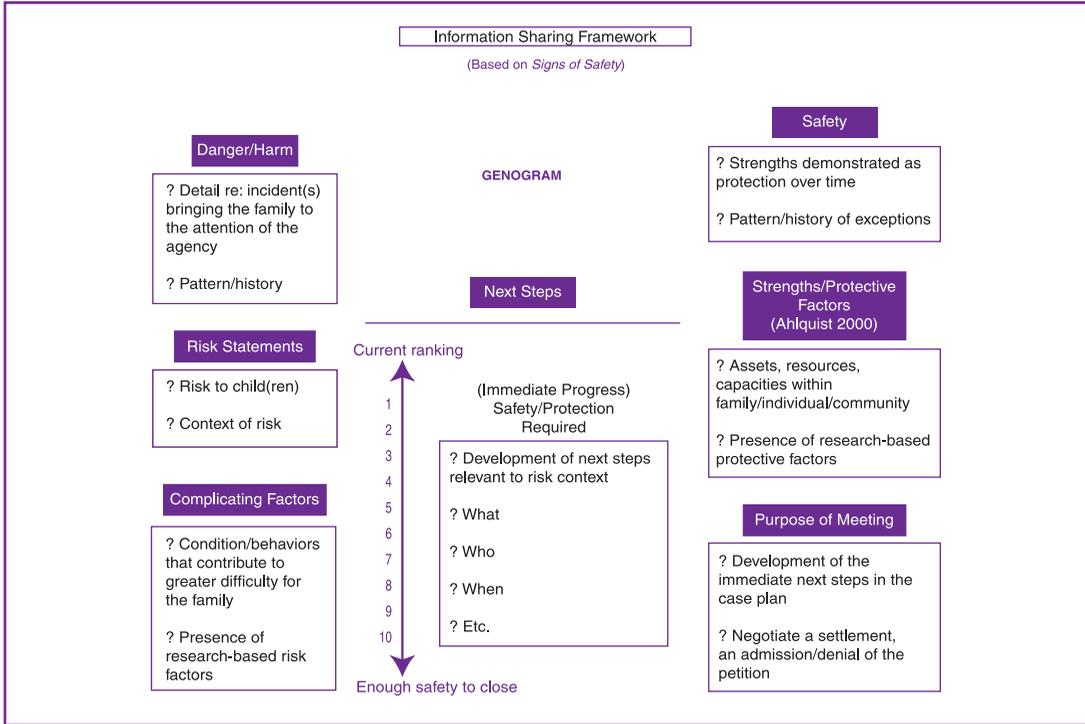


Figure 1: Partnering: Action with family in their position: willingness, confidence, capacity

their strengths and concerns, and their plans and ideas to build safety to risk. The amplification and assessment of the constructive side of a family's capabilities allow for a more comprehensive understanding of the risk and harm. Typically, risk assessment focuses on the risk factors present, the harm that has occurred, and the perceived future danger. This information is generally forwarded by the professional network. The information sharing stage of the FCPC requires organization of a balanced view. Family network and community wisdom and perspective are sought, and much rigor is applied to seeking the strengths, protective factors, and existing safety within the family, individuals, and community. Exceptions to abuse and neglect are amplified. Safety is more than the absence of risk.

The information is recorded on a whiteboard that all can see and is used in drafting the settlement agreement. Legal language that the petition was filed

under is then held next to the information that the family and other participants discovered and disclosed. The negotiation of a match between the legal language and the family's information becomes the process of admitting or denying the petition itself.

Figure 2 illustrates the design and relationship between the P3 and the court process. At the first court hearing, the petition is presented to the court and the parents are asked whether they agree to or deny the petition. If the parents admit to the petition, the regular court process continues. If the parents deny the petition, the judge may order an FCPC to gain a settlement agreement. The results of the FCPC are then presented to the court at the next court hearing.

Results

In two years, 45 P3 case planning conferences have resulted in a 100% settlement rate prior to the return to court. Settlement means the parents are in



agreement with the petition to be presented to the court that lays out the reasons for court involvement to ensure the safety of children. A surprising 91% (41) of settlement agreements were obtained at the close of the FCPC. In all cases, the FCPC also led to the identification of immediate next steps, allowing the family and social worker to enter a case planning process to determine both formal and practical interventions to address the needs of the family and the risk context identified in the FCPC. The parents and social worker move forward with shared goals.

The frequency of settlements to date has been a pleasant surprise. It speaks to the efforts to engage families in an open and meaningful process to ensure the safety of children. The presiding judge reviews all settlement agreements and, to date, the court has accepted 100%. Judges and attorneys view the settlement agreement process on the initial petition as less adversarial and more conducive to engaging families in a helping process.

Court cases that begin with an FCPC may result in a less adversarial resolution at later permanency hearings when reunification with the family is not possible. These high-risk child protection cases begin with an initial settlement on the legal reasons for an open child protection case and a shared understanding of the work to be done with the family. Unfortunately, not all cases result in children remaining with their family over the life of a case. Some parents face issues and challenges that are not resolved and their children move to an alternative permanency arrangement after further service and court activity. These are high-risk child protection cases, yet less than 10% of the family cases have resulted in a formal trial for permanency, and only 2% (1) has resulted in an actual extended court process. More than 90% of families have achieved final court resolution regarding permanency for the children without a contested trial.

A point-in-time case status assessment of 23

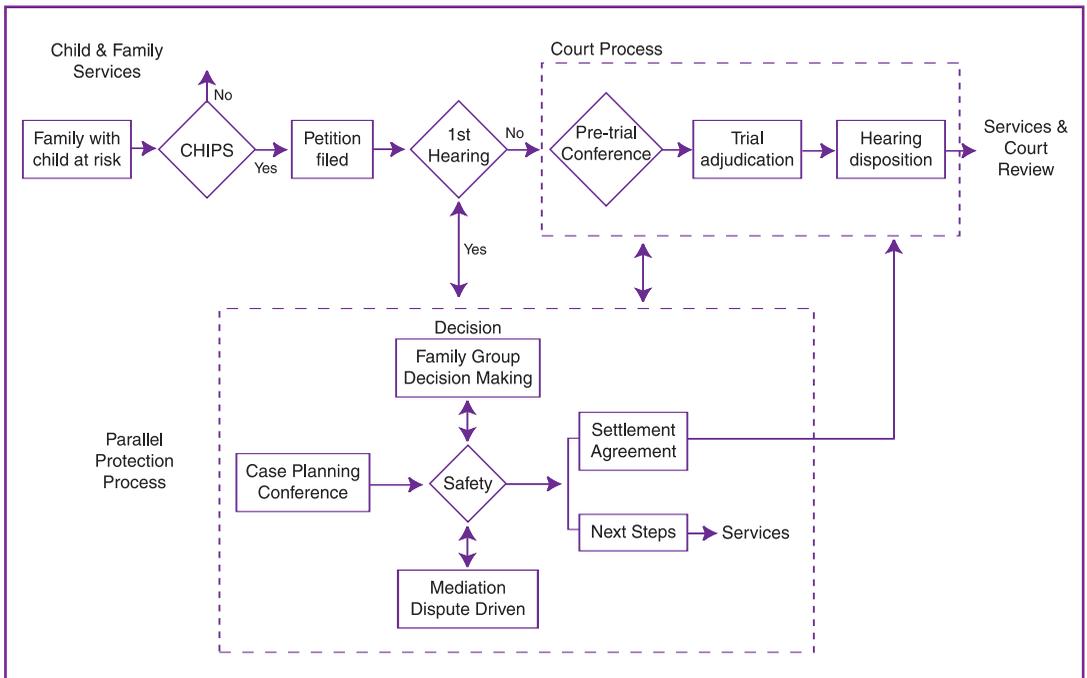


Figure 2: Olmsted County Court Improvement Project – Parallel Protection Process A “Front Loading” Initiative



families that participated in the P3 found that an estimated 17% of the cases moved to the termination of parental rights and an alternative permanency arrangement for the children. Twenty-three cases began with a settlement agreement on the initial petition, and four cases later resulted in the filing of a new petition to terminate parental rights because the parents have been unsuccessful in resolving the issues and challenges that placed their children at risk. All four cases of termination of parental rights were resolved without a contested court trial. An estimated 22% of the children safely resided with relatives, and 43% of the children were with their parents at case closure. There have been no mediations, and 27% of the cases have included subsequent decision making through the use of FGC. It is important to note that court involvement is limited to high-risk child maltreatment cases with 60 to 65 new petitions being filed in one year in a jurisdiction with a population of more than 125,000.

The court improvement project, the P3, and the FCPC hope to collectively impact the outcomes of safety, well-being, and permanence of children in the court system. In 2002, 20 families with 40 children participated in an FCPC and the resulting family case plan to address risks and challenges. In the 12 months before the FCPC, 53% (21) of the children were victims of child maltreatment. In the 12 months after the FCPC and services 5% (2) of the children were the subjects of an unfounded report of child maltreatment. This represents a 90% reduction in child protection reports after an FCPC and no new findings of child maltreatment within 12 months of the FCPC. This encouraging finding may suggest a positive reduction in repeat child maltreatment reports.

The U.S. Department of Health and Human Services Child and Family Service Review uses a set of outcomes and indicators to monitor and measure the performance of state and local child welfare systems. In the area of permanency, a state is expected

to finalize 32% of all adoptions within 24 months of initial child placement in foster care. Before the court improvement project, the agency was at 30% on this indicator, which reflects a less than satisfactory standing. After two years of CJI and the implementation of the FCPC, the agency and system performance on this adoption indicator is 90.9%. The collective effort to improve the processing of child protection matters in the court has significantly enhanced permanency for children.

Findings from participant survey

A participant survey was conducted over a six-month period beginning in November 2002. Participants in 16 P3 FCPCs conducted in 2002 were asked to respond to structured interview questions. The 18 professionals who participated have extensive experience in the regular court process and the P3. Fifteen of the 16 families participated in the structured interview process, which also included four interviews with older children. Parties interviewed included 15 parents, four children, four GALs (three of whom were attorneys), two public defenders, one county attorney, four child welfare social workers, three supervisors, and two presiding judges.

A graduate social work student conducted and transcribed the interviews to identify the impact of the process on the participants themselves. Three agency personnel separately reviewed the transcribed interviews for themes. This information was compiled, and common findings from the three reviews were presented to the professional participants in the P3s to confirm results of the participant survey.

The initial findings included:

- A partnership with families was enhanced in the majority of the cases. Families report feeling respected, relevant, and part of the process.
- The P3 is viewed by professionals as less adversarial (than traditional practices) and focuses on what needs to be done to ensure the safety and



well-being of children.

- There is a professional view of increased collaboration between parties resulting in access to early delivery of needed services and other interventions.
- Attorneys report the process clearly identifies the reasonable efforts required and offered.
- Individualized case plans based on family needs and the risk of harm to the child(ren) were developed with the family.
- Front loading reduces court process time. Attorneys report the most significant time reduction.
- Social workers were more concise in their statements of risk and articulation of agency expectations regarding child safety.
- All parties were more knowledgeable and reported a shared understanding of the desired goals of the case.
- The family identified relatives early as resources for the children and parents.
- Parents with significant challenges can, with appropriate support, successfully participate in the process.
- Parents report meaningful involvement. They said they understood what the agency expected, felt listened to, and were active participants in the results of the FCPC.
- Children report positive involvement. The older children felt listened to and that they had a chance to influence the process.

Professionals in the participant survey reviewed and approved these findings. The eight findings that were not attributed to either parents or children were supported by professionals on the CJI team.

The parent and child interviews provide an understanding of the impact of the change in intervention generated through the P3.

Parents speak

- “I just felt like everybody listened to me.”
- “The focus was on safety and not us as bad parents.”
- “We came up with the solutions to the problem.”
- “We talked about the bad and the good.”
- “Everybody wanted my kids to be safe.”

Youth speak

- “In court, I felt like I was a bad person. Here I feel like people think I am OK.”
- “People did start to listen to me.”
- “This is not as scary as court.”
- “I like that I could talk to my Dad.”

Results to date are very encouraging as parents and children report that they are engaged in a process that includes their active participation and involvement. Professional parties across the spectrum report a more constructive approach to effectively and efficiently working with families to ensure safety and achieve permanency in a timely manner consistent with the developmental perspective of childhood.

Discussion

The P3 represents a significant shift in practice for child welfare, attorneys, and the court. The willingness to give up positions of privilege to enhance the voice of the family requires new ways of interacting. The historically adversarial legal approach with an emphasis on “proving the case” and “hallway negotiations” gives way to the establishment of a legal base for intervention secured on both common understanding and common interest in moving forward with agreed upon intervention. The safety, well-being, and permanency of children are enhanced through a collaborative approach focused on building safety to risk. The key factors are the attitudes, skill,



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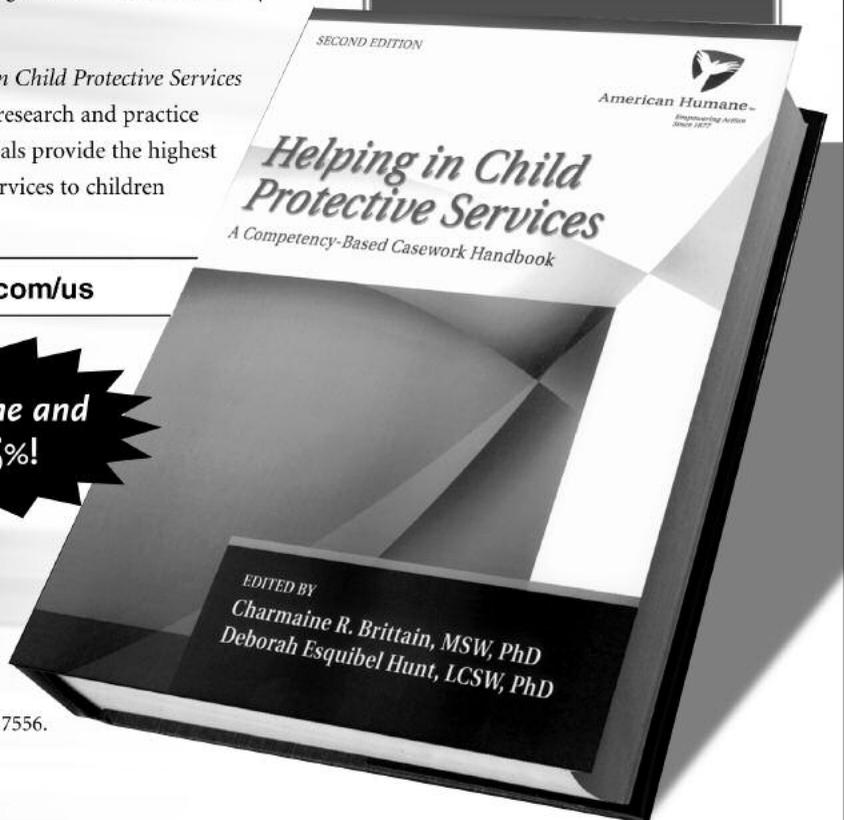
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and efforts of the professional parties involved supported by agency and system procedures that foster creative ways to inform, involve, and work in partnership with parents and children.

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