

**RINCON BAND OF LUISEÑO INDIANS
RINCON RESERVATION, CALIFORNIA**



**RINCON GOVERNMENT ORGANIZATION ORDINANCE
RINCON TRIBAL CODE § 2.2000**

Adopted on January 7, 2016

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§ 2.2000 PURPOSE AND INTENT

The purpose of this Ordinance is to ensure effective Tribal Government, provide for continuity of effort, and document the responsibilities and authorities vested in various units of Tribal Government. This Ordinance sets forth the organization of the Tribal Government and establishes standards and procedures for conducting Tribal Government business and operations.

As a representative government, the Tribal Council is the governing body of the Tribe vested with the responsibility to organize all efforts of the Tribal Government. It is in the best interests of the Tribe for the Tribal Council to clearly define a strategy to realize the mission of the Tribe:

“It is the mission of the Tribe to ensure the protection of sovereignty with the vision to improve the quality of life of every tribal member through fairness and equality and to achieve financial, economic and political success through an efficient and effective government.

To undertake the mission and goals of the Tribe, the Tribal Council is vested with the authority to hire employees, form committees, charter subordinate organizations, employ legal counsel and other professionals to assist them in carrying out the legislative, executive and judicial functions of Tribal Government.

The Tribal Council has determined that the hiring of employees, the establishment of a Tribal Court, appointment of committees, chartering of subordinate organizations and employment of legal counsel and other professionals is necessary to achieve the goals and vision of the Tribe.

It is the intent of the Tribal Council to clearly set forth the organizational components, provide clear direction and authority to each work unit, and to establish consistent and effective procedures for undertaking the work of Tribal Government.

§ 2.2001 AUTHORITY

The authority for this Ordinance is found in the Articles of Association, Sections 6 (b) and (c).

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§ 2.2002 DEFINITIONS

(a) **“Articles of Association”** means that certain organizational document setting forth rules of procedure to govern the operations and recognize the governing body of the Tribe, adopted by the General Membership on February 14, 1960, and approved by the Commissioner of Indian Affairs on March 15, 1960.

(b) **“Attorney General”** means the chief legal officer of the Tribe appointed by the Tribal Council to execute the day-to-day governmental and commercial legal affairs of the Tribal Government.

(c) **“Business Committee”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Business Committee" shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal ordinance.

(d) **“Confidential or Proprietary Information”** means any non-public data or information about Band members, such as personal identifying information, e.g. dates of birth, social security numbers, addresses, gender, that when combined with other information, e.g., email addresses, can be used in identity theft, reputational damage or financial loss, including, enrollment records, personnel or employment records, contractor data, internal governmental communications, including, retention of confidential or proprietary information on non-Tribal Government electronic devices, and any information discussed in executive or closed session meetings of the Tribal Council, including the subject matter of the discussions, decisions, and actions taken by governmental officials or by the Tribal Council. Proprietary Information means financial, business, operational, administrative, legal and litigation matters or information about the Tribe that has commercial value and is not known to the general public and, if disclosed, can result in competitive disadvantage, reputational damage and financial loss to the Tribe.

(e) **“Director of Human Resources”** means the employee appointed by the Tribal Council to execute the day-to-day labor and employment functions of the Tribal Government.

(f) **“Director of Tribal Administration”** means the employee appointed by the Tribal Council to execute the day-to-day administrative functions of the Tribal Government.

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(g) **“Enrollment Committee”** shall mean the five elected Band Members to assist with enrollment functions of the Tribe pursuant to Enrollment Ordinance No. 3, dated December 19, 1970.

(h) **“General Membership”** means enrolled members who are twenty-one years (21) of age or older pursuant to Section 5 of the Articles of Association.

(i) **“Grievance Board”** shall mean the three elected Band Members to hear grievances against a member or officer of the Tribal Council pursuant to Section 7 of the Articles of Association.

(j) **“Ordinance”** means this Rincon Government Ordinance, as amended from time to time.

(k) **“Ordinance No. 3”** means that certain regulation and procedure supplementing 25 CFR Part 46 enacted by the Tribal Council on October 11, 1970, and approved by the General Membership on December 19, 1970 pursuant to Section 6(d) of the Articles of Association that governs future membership, loss of membership and the adoption of members into the Tribe.

(l) **“Reservation”** means all lands within the boundaries of the Rincon Reservation, including, but not limited to:

- (1) all lands within the territorial boundaries of the Rincon Indian Reservation as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President on September 13, 1892, the Act of Congress of August 16, 1941, 55 Stat. 622, the February 12, 1968 Order setting aside land for the Rincon Band and the trust patent issued on January 20, 1971, which established and added to the Rincon Reservation, and any fee land acquired in trust pursuant to 25 U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and

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- (2) all other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Rincon Reservation.

(m) **“Sedition”** means conduct, speech, or writing within the jurisdiction of the Tribe that is intended and likely to incite imminent unlawful acts of force or violence against the Tribal government, or to incite others to engage in concerted unlawful action to overthrow, destroy, or aid in fostering contempt for the Tribal Government or materially impair the lawful authority of the Tribal Council or the Tribal government, its arms or entities.

(n) **“Terrorism”** means the use or threat of violence, or other unlawful acts, committed within the jurisdiction of the Tribe, against the Tribe, its government, officials, employees, contractors, members, or property, with the intent to intimidate, cause panic, or coerce the Tribal government or its members, especially as a means of affecting Tribal political conduct or decision-making.

(o) **“Terroristic Threat”** means a communicated intent to commit any crime of violence within the jurisdiction of the Tribe with the purpose of:

- (1) Terrorizing another person;
- (2) Causing the evacuation of a building, assembly, or facility;
- (3) Causing serious public inconvenience; or
- (4) Acting with reckless disregard of the risk of causing such terror or inconvenience.

(p) **“Threat”** means a communicated intent to inflict harm, injury, or loss on another person, the Tribe, or their property interests.

(q) **“Treasurer”** means the person appointed by the Tribal Council pursuant to Section 3(b) of the Articles of Association to execute the day-to-day monetary functions of the Tribe in accordance with Paragraph 2, Section 10 of the Articles of Association.

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(r) **“Tribal Council”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Tribal Council" shall be synonymous with “Business Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal ordinance.

(s) **“Tribal Court”** means the Intertribal Court of Southern California, the Rincon Civil Trial Court and the Rincon Court of Appeals.

(t) **“Tribal Government”** means the administrative and executive arms of the Tribe, its departments, committees, political subdivisions, agencies and enterprises.

(u) **“Tribal Land”** means land within the Reservation that is held in trust by the United States for the benefit of the Tribe, inclusive of assigned land but exclusive of allotted land.

(v) **“Tribal Law”** means the laws, ordinances, policies and procedures enacted by the Tribal Council.

(w) **“Tribal Law Enforcement”** means the Tribal Government department established by the Tribal Council to provide public safety services on the Reservation.

(x) **“Tribe”** means the Rincon Band of Luiseno Indians, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately.

§ 2.2003 GOVERNMENT ORGANIZATION, ROLES & PLAN

(a) **Tribal Government Organization.** The Tribal Government consists of the General Membership, Tribal Council and all subordinate boards, committees, officials, employees and organizations, whether elected, chartered or appointed by the Tribal Council or any designee thereof.

(b) **Tribal Council Responsibility.** The Tribal Council is vested with the authority to perform and/or delegate prescribed governmental functions with respect to legislative, executive and judicial functions enumerated under the Articles of Association. The Tribal Council shall appoint and employ such subordinate employees, committees and boards as are reasonable and necessary to assist in carrying out its responsibility. The Tribal Council retains the exclusive authority to waive the sovereign immunity of the Tribe,

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including the Tribal Council officers and members, Attorney General and Tribal officers and staff, from unconsented suit unless otherwise delegated by written resolution. Subject to RTC §2.100, any valid waiver of sovereign immunity must be expressly and specifically authorized by resolution of the Tribal Council.

(c) **Tribal Government Roles.** The Tribal Council establishes and assigns the following roles for the overall effective management of the Band's governmental affairs:

- (1) Public Policy and Legislative Functions. The Tribal Council is responsible for carrying out all legislative authority not reserved to, or delegated by, the General Membership pursuant to the Articles of Association. The Tribal Council shall reserve all legislative authority to give voice to public policy, strategic planning and the enactment of laws to carry out the vision and duties of Tribal Government, including the regulation of the affairs of the General Membership, where appropriate, and any other authority not specifically delegated by applicable Tribal Laws. The Tribal Council has enacted and shall regularly review and revise as needed, an ordinance to guide the conduct of Tribal Council business and that of its members to protect the continuity of the Tribal Government, the treasury, human resources and the commercial affairs of the Tribe.
- (2) Executive Officer Functions. To carry out the executive functions of Tribal Government, the Tribal Council shall appoint the Treasurer pursuant to Section 3 of the Articles of the Association, and shall establish key staff positions including the Director of Tribal Administration, Director of Human Resources and Attorney General, and shall delegate by ordinance or resolution these and other positions to assist the Tribal Council in its work as needed to implement applicable Tribal Laws and execute the financial, administrative and legal functions of the Tribal Government. These executive officers of the Tribe shall serve at the pleasure of, and report to, the Tribal Council.

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- (3) Judicial Functions. The Tribal Council shall by resolution or ordinance establish a Tribal Court or join a tribal court consortium, establish the position of a Chief Judge and such associate judges and assistants as deemed appropriate. The Chief Judge shall promulgate rules of pleading practices and procedures, as provided by the resolution or ordinance establishing the Tribal Court and/or joining a tribal court consortium, and shall regularly review and revise the rules as needed.
- (4) Elected Committee Functions. The Grievance Board, an elected body of three Band Members pursuant to Section 7 of the Articles of Association, and one alternate Band Member pursuant to custom and tradition, shall review and oversee complaints of misconduct against Tribal Council members in accordance with Rincon Grievance Board Administrative Policy. The Enrollment Committee, an elected body of three Band Members and two alternate Band Members, shall assist with enrollment functions of the Tribe in accordance with Ordinance No. 3.
- (5) Policy Advisory Functions. To promote the maximum participation of the General Membership and provide for increased General Membership knowledge of membership needs and opportunities, the Tribal Council may appoint such advisory committees for any area of concern where there shall be a temporary or on-going need of advice to the Tribal Council. The Tribal Council may enact a general committee ordinance that provides guidance for the day-to-day administrative operations of committees. Advisory committees are formed to provide advice and recommendation to the Tribal Council or its designee and shall serve at the pleasure of, and report to, the Tribal Council.
- (6) Economic/Commercial Functions. The Tribal Council may charter, by ordinance or resolution, subordinate organizations

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and boards for the purpose of carrying out business development and management activities outside of the Tribal Government executive structure. Such persons appointed to boards may be appointed by and report to the Tribal Council or as otherwise provided in their charter.

- (7) Subordinate Organizations Functions. The Tribal Council may establish other subordinate organizations to carry-out any functions necessary to accomplish Tribal Council goals and vision, whenever the Tribal Council deems the activity to be of sufficient importance to require separation from the day-to-day affairs of government. Subordinate organizations may be chartered by ordinance or resolution and shall report to the Tribal Council.

(d) Organizational Development Plan. The Tribal Council shall adopt and annually update an organizational plan for the following purposes:

- (1) To ensure the Tribal Government is responsive to the General Membership that it serves.
- (2) To effectively deliver services to the General Membership.
- (3) To clearly define roles and responsibilities, coordinate programs, and avoid duplication of services.
- (4) To provide a framework for continuity of effort in guiding future growth of the Tribal Government and perform at a high standard.
- (5) To clearly designate responsibility and authority within the Tribal Government for making day-to-day decisions.
- (6) To cultivate and develop future leaders from the General Membership to dedicate and invest in the future operations of the Tribal Government.

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- (7) To ensure consistent, fair and nonpolitical implementation of Federal and Tribal Laws as the foundation for assertion of tribal sovereignty and the right to tribal self-government.

§ 2.2004 TRIBAL LAWS & POLICY/ORDER OF PRECEDENCE

(a) **Tribal Organic Documents.** The organic documents of the Tribe are the Articles of Association as approved by the Commissioner of Indian affairs on March 15, 1960. This document sets out the policies of the General Membership and confers governing powers to the Tribal Council except for reserved powers to the General Membership.

(b) **Ordinances.** Pursuant to the Articles of Association, all final decisions of the Tribal Council on matters of general and permanent importance to the General Membership shall be embodied in ordinances.

(c) **Rincon Tribal Code.** The body of laws, organized by chapter and subject matter currently enacted by the Tribe.

(d) **Rincon Tribal Common Law.** The opinions of the Tribal Court.

(e) **Policies.** Implementing policies for and interpretations of Tribal Laws as established by the Executive Officers of the Tribe, including emergency policies in the absence of Tribal ordinances and resolutions to regulate the activities of Tribal Government employees and delivery of services.

(f) **Manuals.** Operating documents for a particular unit of Tribal Government to provide guidance on day-to-day operations of staff, including forms and information to facilitate efficient operations and continuity of services.

§ 2.2005 TRIBAL LAW, MAINTENANCE & CODIFICATION STANDARDS

(a) Tribal Laws shall be maintained in the central library on the Rincon Band's website, portions of which may be available at other locations within the Tribal Government.

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(b) Tribal Laws in the central library shall be current and up-to-date at all times.

(c) Tribal Laws shall be protected to maintain their integrity for reliance therein by the Tribal Government.

(d) Tribal Laws shall be made available to the General Membership and any employee, and any other person subject to reasonable request and authorization by an Executive Officer.

§ 2.2006 TRIBAL LAW AND POLICY FORMAT

(a) Subject to RTC § 2.900 *et seq.*, standard organizational and style formats, numbering and definitions shall be adopted and incorporated into Tribal Laws.

(b) The following definitions shall be used in all Tribal Laws and Policies:

- (1) **“Attorney General”** means the chief legal officer of the Tribe appointed by the Tribal Council to execute the day-to-day governmental and commercial legal affairs of the Tribal Government.
- (2) **“Business Committee”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Business Committee" shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal ordinance.
- (3) **“Director of Human Resources”** means the employee appointed by the Tribal Council to execute the day-to-day labor and employment functions of the Tribal Government.
- (4) **“Director of Tribal Administration”** means the employee appointed by the Tribal Council to execute the day-to-day administrative functions of the Tribal Government.

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- (5) **“Ordinance”** means this Rincon Government Ordinance, as amended from time to time.
- (6) **“Reservation”** means all lands within the boundaries of the Rincon Reservation, including, but not limited to:
 - (A) all lands within the territorial boundaries of the Rincon Indian Reservation as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President on September 13, 1892, the Act of Congress of August 16, 1941, 55 Stat. 622, the February 12, 1968 Order setting aside land for the Rincon Band and the trust patent issued on January 20, 1971, which established and added to the Rincon Reservation, and any fee land acquired in trust pursuant to 25 U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and
 - (B) all other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Rincon Reservation.
- (7) **“Treasurer”** means the person appointed by the Tribal Council pursuant to Section 3(b) of the Articles of Association to execute the day-to-day monetary functions of the Tribe the Tribe in accordance with paragraph 2 of Section 10 of the Articles of Association.
- (8) **“Tribal Administrator”** means the Tribal Government employee appointed by the Rincon Business Committee to execute administrative functions on behalf of the Tribal Government operations.
- (9) **“Tribal Council”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Tribal Council" shall be synonymous with “Business

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Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal ordinance.

- (10) **“Tribal Court”** means the Intertribal Court of Southern California, Rincon Civil Trial Court and Rincon Court of Appeals.
- (11) **“Tribal Government”** means the Rincon Tribal Government, the Tribal Council, elected and appointed committees, Executive Officers, its arms, agencies, departments, instrumentalities, entities and enterprises.
- (12) **“Tribal Land”** means land within the Reservation that is held in trust by the United States for the benefit of the Tribe, inclusive of assigned land but exclusive of allotted land.
- (13) **“Tribal Law”** means laws, ordinances, policies and procedures enacted by the Tribal Council.
- (14) **“Tribal Officials”** shall mean the Tribal Council.
- (15) **“Tribe”** means the Rincon Band of Luiseno Indians, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately. “Tribe” means the same as “Band”.

§ 2.2007 TRIBAL COUNCIL & GENERAL MEMBERSHIP MEETING PROCEDURES

(a) **Meeting Procedures.** All meetings of the Tribal Council and General Membership shall be conducted as follows:

- (1) The Tribal Council and Tribal Members welcome input from the General Membership, staff, or guests present. No person will be denied an opportunity to speak, and after requesting the floor from the Chairman. The Chairman will recognize them at an appropriate time for discussion on a specific agenda item, or it

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appropriate, upon completion of the agenda during “Other Business.” The Council may impose a limit of 3 minutes for a person to speak on a single issue in General Membership meetings only.

- (2) When voicing a complaint, persons must speak in a civil manner. The Council will not tolerate yelling, obscenities, threats, degrading or malicious personal attacks on anyone.
- (3) On an agenda matter, Roberts Rules of Order should be used. This will ensure that all interested persons will have an opportunity to present their position in support of or in opposition to an issue of discussion.
- (4) Any concern not being addressed on the meeting agenda must wait for “Other Business.”
- (5) Speakers should strive to be an example for the next generation.
- (6) In an effort to ensure effective meetings, speakers are required to use a microphone set up at podium(s) so that attendees can hear the speaker who has the floor. Persons speaking are not to be interrupted during their presentation. Any Tribal Member that intentionally interrupts a speaker will be given a one-time warning by the Chairman not to interrupt the speaker. If the Chairman gives a second warning not to interrupt to a Tribal Member who received a first warning, and the second warning is ignored, the Tribal Member will be removed from the meeting by Tribal Law Enforcement staff. Any Tribal Member removed from a General Membership meeting for disruptive conduct shall be barred from attending General Membership meetings for six (6) months. Any Tribal Member barred from General Membership meetings for six (6) months due to disruptive conduct and who is removed a second time from a General Membership meeting by Tribal Law Enforcement, after receiving and ignoring a second warning from the Chairman not

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to interrupt a speaker, shall be barred from attending General Membership meetings for twelve (12) months.

- (7) Any speaker that fails to use a microphone shall be deemed “out of order” and the Tribal Council will not consider the comments. The Tribal Council may also provide a means to submit written comments to the Tribal Council.
- (8) The Chairman or Vice-Chair reserves the right to adjourn any meeting conducted by the Tribal Council. If yelling, obscenities, threats, degrading or malicious personal attacks are made against the Tribal Council, staff or Band Members, instead of constructive concerns or questions relevant to Tribal Government operations, the meeting may be adjourned.
- (9) Audio Recordings of the General Membership meetings are an unofficial tool utilized by the General Membership Secretary to transcribe the minutes. Once the minutes are transcribed and approved, the audio recordings are not retained by the government.

(b) **Legislative Procedures.** After enactment of an ordinance or substantive amendment to an ordinance, the Attorney General shall ensure that:

- (1) Within ten (10) days of enactment, notice shall be posted on the Tribal Government website. The notice shall include:
 - (A) the purpose of the proposed ordinance or amendment; and
 - (B) how Tribal Members may view it with a hyperlink that can be clicked to obtain copies of the ordinance or amendment.

(c) **Policy Procedures.** To implement ordinances adopted by the Tribal Council, the Executive Officers of the Tribe shall promulgate policies to guide the conduct of Tribal Government business. The following procedures govern development of policies:

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- (1) the proposed policies are presented to the Tribal Council for review and approval;
- (2) notice to the General Membership shall be posted on the Tribal Government website. The notice shall include:
 - (A) the purpose of the proposed policies; and
 - (B) how Tribal Members may view it with a hyperlink that can be clicked to obtain copies of the policies.

§ 2.2008 OFFENSES AGAINST THE TRIBAL GOVERNMENT

(a) **Purpose.** The purpose of this section is to safeguard the integrity, security, and effective functioning of the Tribal Government by prohibiting acts that threaten, intimidate, or unlawfully interfere with its operations, officials, employees, contractors, members, or property.

(b) **Prohibited Acts.** It is a violation of this section for any person to:

- (1) Engage in Terrorism or make a Terroristic Threat against the Tribe, the Tribal Government, Tribal Courts, Tribal Council, Tribal officials, employees, contractors, members, or property;
- (2) Use Confidential or Proprietary Information to facilitate or carry out Terrorism or Terroristic Threats;
- (3) Author, distribute, or cause to be distributed anonymous or signed letters, messages, or other communications that are intentional efforts to attack Band members or their families, tear down, or destabilize the Tribal Government, when such communications are reasonably calculated to: promote hate or distrust within the Tribal membership, intimidate or cause humiliation, fear or panic, or impair Tribal Government operations and foster contempt for or distrust in Tribal Government;

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- (4) Engage in Sedition against the Tribal Government;
- (5) Aid, abet, solicit, or conspire with another to commit any of the acts described in subsections (1)–(4).

(c) **Penalties.** In addition to any criminal prosecution under applicable Federal or state law, violations are subject to one or more of the following civil sanctions, as determined by the Tribal Council based on the severity and frequency of the violation(s):

- (1) For Terroristic Threats, use or misuse of Confidential or Proprietary Information, or circulation of signed or anonymous letters, messages or other communications - monetary fine up to \$5,000;
- (2) For all other violations: \$400 for the first violation; \$800 for a second violation; \$1,600 for a third violation;
- (3) Suspension or removal from service on Tribal boards, committees, commissions, or other appointed positions, and ineligibility to run for or hold any elected office within the Tribe, for up to five (5) years from the date of violation;
- (4) Prohibition from attending or participating in Tribal Government events, meetings, or functions, for up to three (3) years from the date of violation;
- (5) Permanent or temporary exclusion from Tribal lands or facilities, depending on the severity of the violations;
- (6) Any other sanction authorized by applicable law.

(d) **Due Process.** To enforce penalties for violations of this Ordinance, the Tribe shall file a petition against the Tribal Member in Tribal Court for a garnishment order against per capita, including the cost of any court and attorney fees incurred to the Tribe in connection with enforcement.

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