

# **SARATSO POLICIES AND PROCEDURES MANUAL**

## **Introduction**

The SARATSO (State Authorized Risk Assessment Tool for Sex Offenders) Review and Training Committees select risk assessment instruments for the state of California, monitor risk assessments, and sponsor trainings on scoring risk assessment tools.<sup>1</sup> This policies and procedures manual is intended to assist those agencies mandated to perform sex offender risk assessment. The current instruments mandated for use in California are the Static-99 (adult males) and the JSORRAT-II (juvenile males). The SARATSO Review Committee has not yet selected a dynamic risk assessment instrument. The Committee has determined that currently no instrument meets the statutory criteria in California for selecting a risk assessment instrument for females, either adult or juvenile.

Many helpful resources can be found on the SARATSO web site at the California Department of Mental Health, including a document explaining the statutes governing the risk assessment process. To access the web site, go to [www.dmh.ca.gov](http://www.dmh.ca.gov). Click on the link to “SARATSO” on the left side of the home page. There is an e-mail address provided for SARATSO’s staff person at DMH if you have questions not answered in the manual.

For questions on scoring the instruments, see below. For legal questions about risk assessment, contact SARATSO Review Committee member Deputy Attorney General Janet Neeley at [janet.neeley@doj.ca.gov](mailto:janet.neeley@doj.ca.gov).

## **I. TRAINING**

### **Only Certified Personnel Can Score the Risk Assessment Instruments**

Only persons who have received the official SARATSO training can legally perform sex offender risk assessment in California. The SARATSO Committee retains experts in the field of risk assessment who instruct persons from Probation, Parole, and the Department of Mental Health (DMH). The persons trained by the experts to score the risk assessment instruments are known as the “super-trainers.” Once a super-trainer has been certified by SARATSO as having successfully completed the expert training course, he or she is authorized to train others within his or her organization to score the risk assessment instrument.

### **Use of Official SARATSO Curriculum Required**

The super-trainer must use the authorized SARATSO curriculum to train within their agencies. The official Power Point presentation which must be used is available via e-

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<sup>1</sup>Penal Code sections 290.03-290.08.

mail from the SARATSO Committee to certified super-trainers. E-mail SARATSO staff for a copy of the training you need (see above for SARATSO web site address and DMH e-mail contact).

### **Super-Trainers Must Submit Names of Persons Certified to Do Assessments To the SARATSO Committee Within Probation, Parole and DMH**

The SARATSO Committee keeps a list of all probation, parole and DMH personnel who have been trained and are certified to perform risk assessments, along with the date of training. Within one week of the training, each super-trainer should submit the names of persons within their agencies that they have certified to score the risk assessment instruments to the SARATSO Committee by e-mailing the SARATSO staff person at DMH. List name of certified person and date of training.

### **Training Schedule**

The SARATSO web site (see Introduction) posts scheduled trainings. Trainings are conducted yearly. All persons who are scoring risk assessment instruments must be re-trained every two years. (Pen. Code, § 290.05(d).) To sign up for a scheduled training, e-mail SARATSO staff at DMH to check availability.

## **II. SCORING RISK ASSESSMENT INSTRUMENTS**

### **Only Persons Certified by SARATSO Can Score the Instruments**

Only persons who have taken the official SARATSO training, given either by a SARATSO-retained expert or by a super-trainer who was certified by a SARATSO expert, and who have passed the test and been certified as capable of performing the task, are authorized to score the risk assessment instruments. It is expected that the professionals using the risk assessment instruments adopted by the SARATSO Committee will consider and adhere to the limitations of the tool which are stated in the coding instructions for that tool.

### **Where to Find the Scoring Sheets and Static-99 Coding Rules or JSORRAT-II Scoring Guidelines**

The scoring sheets and Static-99 coding rules or JSORRAT-II scoring guidelines can be downloaded from the DMH web site and the DOJ Risk Assessment Message Board.

### **When Risk Assessments Must Be Scored**

Risk assessment must be done by probation pre-sentencing. It must be done again 4-10 months prior to release from a sentence served at the California Department of

Corrections and Rehabilitation (CDCR), or 4-10 months prior to release from placement at a DMH facility. All sex offender registrants on a probation caseload on January 1, 2010, must have been assessed.

### Sex Offenders Eligible to be Scored

The following matrix illustrates when a sex offender can be scored on an instrument, and which instrument should be used. A narrative explanation follows the matrix.

Table 1: Probation Department is completing the SARATSO Assessment

<b>Probation Department SARATSO Assessment of Male Offender</b>		
<b>Matrix for Determining Who to Complete SARATSO Assessment Tool on, When to Complete, and Which Assessment Instrument to Use</b>		
<b>Court of record: Adult or Juvenile Court</b> <b>Age at time of assessment</b> <b>Age at time of offense</b> <b>Sex offender registration status</b>	<b>SARATSO Tool, when Probation conducts assessment</b>	
	<b>Static 99</b>	<b>JSORRATT-II</b>
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Age 18 years old or more at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	Yes Pre-sentencing	No
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Age 16 or 17 at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	Yes Pre-sentencing	No
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Under age 16 at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	No	No
<ul style="list-style-type: none"> <li>• Age 17 years old or less at time of assessment and offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	No	Yes Pre-sentencing

Table 2: CDCR, DJJ or DMH is completing SARATSO Assessment

<b>CDCR, DJJ or DMH SARATSO Assessment Male Offender</b>		
<b>Matrix for Determining <b>Who</b> to Complete SARATSO Assessment Tool on, <b>When</b> to Complete, and <b>Which</b> Assessment Instrument to Use</b>		
<b>Court of record: Adult or Juvenile Court</b> <b>Age at time of assessment</b> <b>Age at time of offense</b> <b>Sex offender registration status</b>	<b>SARATSO Tool, when CDCR, DJJ or DMH conducts assessment</b>	
	<b>Static 99</b>	<b>JSORRATT-II</b>
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Age 18 years old or more at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	Yes 4-10 months prior to release	No
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Age 16 or 17 at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	Yes 4-10 months prior to release	No
<ul style="list-style-type: none"> <li>• Age 18 years old or more at time of assessment</li> <li>• Under age 16 at time of offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	No	No
<ul style="list-style-type: none"> <li>• Age 17 years old or less at time of assessment and offense</li> <li>• If Sex Offender Registration is required or Probation recommends Court order requirement to register</li> </ul>	No	Yes 4-10 months prior to release

Table 3: Simple matrix to determine which assessment to use based on age only (does not address court of record, sex offender registration status, Probation recommendations, or who conducts the assessment and when)

<b>Matrix for Determining SARATSO Assessment Tool to Complete on Male Juveniles and Adults</b>		
Age of offender and age at time of offense	Static 99	JSORRATT-II
18 years old or more at time of SARATSO assessment and at time of offense	Yes	No
18 years old or more at time of SARATSO assessment and age 16 or 17 at time of offense	Yes	No
18 years old or more at time of SARATSO assessment and under age 16 at time of offense	No	No
Under age 18 at time of SARATSO assessment and under age 18 at time of offense	No	Yes

### **A. Adult Sex Offenders**

1. Adult male sex offenders (offense committed at or after age 18) whose offense requires mandatory registration as a sex offender pursuant to Penal Code section 290 are eligible for assessment and must be assessed with the Static-99.

2. Adult male sex offenders (offense committed at or after age 18) whose offense was sexually motivated, but whose offense does not require mandatory registration under Penal Code section 290, must be assessed if probation is recommended that the sentencing court impose a requirement to register as a sex offender.

3. In 2009, the SARATSO Committee submitted the following plan for scoring certain sex offenders no longer on supervision as part of its bill in the Legislature: (1) Registering law enforcement agencies can enter into an MOU with Probation and have Probation score those registrants which the agency requests to have scored. (2) Alternately, a registering agency can send qualified personnel to the official SARATSO trainings, and choose to score its own registrants thereafter. (3) Registrants can request assessment on a form available at the registering agency. If the registrant has been living in the community for more than 10 years, he is not eligible to be assessed unless he committed a new sex offense (misdemeanor or felony) during that period, or a new serious felony, as defined in Penal Code section 1192.7(c).

### **B. Juvenile Sex Offenders**

1. Juvenile male sex offenders who are adjudicated for a sex offense requiring juvenile registration (Pen. Code, § 290.008), should be assessed using the JSORRAT-II pre-sentencing if probation is recommending placement at CDCR/DJJ, providing the juvenile is not yet 18 at the time of the assessment.<sup>2</sup> If the juvenile is 18 or older at time of assessment, the assessment should be done with the Static-99, providing the sex offense was committed when the juvenile was 16 or 17. If the offense was committed at a younger age, the person is not eligible to be assessed on any risk assessment tool.

2. Juvenile males who are convicted in adult proceedings for a sex offense requiring mandatory registration pursuant to Penal Code section 290 should be assessed pre-sentencing using the JSORRAT-II if the juvenile is under 18, and using the Static-99 if the juvenile is 18 or older, providing the sex offense was committed when the offender was 16 or 17. If the offense was committed at a younger age, the person is not eligible to be assessed on any risk assessment tool.

3. Juvenile males who are convicted in adult proceedings for an offense which does not require mandatory registration under Penal Code section 290, but as to whom probation is recommending registration be ordered at sentencing pursuant to Penal Code section 290.006, should be assessed using the appropriate risk assessment tool (see 2, above).<sup>3</sup>

### **Obtaining Records Needed for Scoring**

Persons scoring risk assessment instruments are authorized by law to receive any record needed to complete the assessment, including but not limited to criminal history records, police and probation reports, judicial records, juvenile records, psychological evaluations and psychiatric hospital reports, sexually violent predator treatment program reports, and sealed records. The right to obtain these and other necessary records to score the risk assessment instrument exists notwithstanding any other provision of law. (Pen. Code, sec. 290.07.)

### **Conflicting Facts in Records**

If there is a conflict between facts in two different records, the most reliable record should be used. For example, facts in a preliminary hearing transcript must be used rather than conflicting facts in a police report.

### **Submitting Questions About Scoring and Overrides to SARATSO Experts**

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<sup>2</sup>This is not clear in the current statute but will be clarified in future legislation.

<sup>3</sup>Courts have no discretion to order registration at sentencing for juveniles adjudicated on an offense that does not require mandatory juvenile registration (Pen. Code, § 290.008). (*In re Derrick B.* (2006) 39 Cal.4th 535.)

If a person scoring an instrument has a question, he or she must first submit the question to a super-trainer for his or her agency. If the super-trainer is unable to answer the question, the super-trainer must submit it to the SARATSO expert for response. The method of submission is via the Risk Assessment Message Board. Probation and Parole can go to <http://clew.doj.ca.gov>, log in (may have to follow directions to obtain log-in information first), go to Sex Registration, then go to Risk Assessment Message Board. Click on Post a New Message, and specify which risk assessment instrument it pertains to in the subject line. The appropriate expert should get back to you shortly. If you need an immediate response you can contact the expert via e-mail, but please post the question anyway, so others can see it. All scorers should check the Risk Assessment Message Board regularly and keep up with the questions and answers. This will reduce repetitive questions.

For DMH personnel and SARATSO experts, the access to the Risk Assessment Message Board is at [http://clew.doj.ca.gov/ra\\_login.asp](http://clew.doj.ca.gov/ra_login.asp). You will have to obtain log-in information from the SARATSO Committee.

Questions about overrides should also be submitted to the expert on the risk assessment instrument in question. Requests should come through the super-trainers. The request for the expert to determine if a risk level is too high or low should include defendant's name and case number, and factors in the record supporting the override request. The expert shall be guided by empirical research in determining whether to raise or lower the offender's risk level (not score), and his or her decision is final.

### **Tier Levels on the SARATSO Risk Assessment Instruments**

#### **A. Static-99**

- Low risk: 0-1
- Low-moderate risk: 2-3
- Moderate-high risk: 4-5
- High risk: 6 and above

#### **B. JSORRAT-II**

- Low risk: 0
- Moderate-low risk: 1-3
- Moderate risk: 4-7
- Moderate-high risk: 8 and above

### **Recording and Submission of the SARATSO score**

#### **A. Pre-Sentencing Scores**

The risk assessment score should be made part of any pre-sentencing or probation report. (Pen. Code, sec. 1203.) If no such report is prepared, the standard paragraph about the score should be submitted on a separate document to the court prior to sentencing, and made available to the prosecutor and defense counsel. A process should be in place in the county that has either probation or the court clerk provide copies to those parties. In one county, the court orders misdemeanor sex offenders at the plea hearing to report to probation for the SARATSO evaluation. At the plea hearing in that county, the offender also signs the Notice of Requirement to Register as a Sex Offender (DOJ form SS 8047).

The score should also be recorded on the Facts of Offense sheet, which can be sent to DOJ beginning on January 1, 2009.<sup>4</sup> Fax the Facts of Offense sheet to DOJ at 916-227-3663, or mail it to Department of Justice, SHOP, 4949 Broadway, Sacramento, CA 95820. An electronic submission system is being developed but not yet in place. DOJ will post the risk assessment scores on the offender's record in the sex offender registry when the new registry is available, no later than July 1, 2010. The score will be accessible to law enforcement.

The Facts of Offense sheet should also be sent to CDCR for offenders sentenced to prison or to DMH for offenders placed in mental institutions, as part of the offender's file.

## **B. Approved Language for Submission of Scores to Courts**

Use the one of the two approved paragraphs to submit the score to the sentencing court, or to explain why the person cannot be scored under the coding rules. Fill in the blanks about the percentile of risk for the individual offender by consulting the coding rules or scoring guidelines for the risk assessment instrument. The recidivism risk levels changed, due to new research, in October 2008. Check the SARATSO web site for the new scoring worksheet. It has the new risk levels at the bottom. The scores did not change, just the recidivism risk level posed by an offender.

### **1. Static-99 score submission paragraphs**

#### **Static-99 Template for Parole and Probation – Short Version**

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<sup>4</sup>Submission of the Facts of Offense sheet is mandatory beginning July 1, 2010, but DOJ will be able to accept these starting January 1, 2009. You should have received further instructions about submitting these. The Guidelines for the Facts of Offense sheet are posted on the SARATSO web site, [www.dmh.ca.gov](http://www.dmh.ca.gov).

Mr. SVP was scored on the Static-99<sup>5</sup>, which is an actuarial measure of risk for sexual offense recidivism. This instrument has been shown to be a moderate predictor of sexual reoffense potential. Mr. SVP received a total score of **XXX**, which places him in the **XXXX** (choose one: Low, Moderate-Low, Moderate-High, or High) Risk Category for being charged or convicted of another sexual offense.

The new sample on which the recidivism rates were derived included a sample of largely untreated sex offenders similar to those offenders in the California Department of Corrections and Rehabilitation. There was a 2008 update of the recidivism rates that now apply to scores from 0 to 10+. Mr. **XXXX** scored a **XXXX** on the Static-99. The estimated risk for this score on the Static-99 is **XXXX** over ten years.

**Use the following paragraph instead of the above if the person is ineligible to be scored under Static-99 Coding Rules:**

Current law requires that the risk assessment score on the Static-99 be done for every eligible person (PC, sec. 290.06). Although Mr. XXX is required to register pursuant to Section 290, et seq., he is not eligible to be scored on the Static-99 under the official coding rules of the Static-99. His offense does not fit the criteria for those who can be assessed with this risk assessment tool.

### **Static-99 Template for Parole and Probation – Long Version**

Mr. **XXX** was scored on the Static-99<sup>6</sup>, which is an actuarial measure of risk for sexual offense recidivism. This instrument has been shown to be a moderate predictor of sexual reoffense potential. There have been a large number of studies examining the sexual recidivism rates associated with Static-99 scores. Harris, Helmus, Hanson & Thornton (2008)<sup>7</sup> summarized the results of 18 samples of sexual offenders (N=6,406) drawn from different countries including Canada, the United States, New Zealand, United Kingdom and Western Europe. In the studies

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<sup>5</sup> Hanson, R.K. & Thornton, D. (2000). Static-99: Improving risk assessments for sex offenders: A comparison of three actuarial scales. *Law and Human Behavior*, 24, 119-136.

<sup>6</sup> Hanson, R.K. & Thornton, D. (2000). Static-99: Improving risk assessments for sex offenders: A comparison of three actuarial scales. *Law and Human Behavior*, 24, 119-136.

<sup>7</sup> Harris, A. J. R., Helmus, L., Hanson, R. K., & Thornton, D. (2008, October). *Are new norms needed for Static-99?* Paper presented at the 27<sup>th</sup> Annual Research and Treatment Conference of the Association for the Treatment of Sexual Abusers, Atlanta. GA.

used to develop these norms, recidivism was defined as charges in about half of the cases and as convictions in the other half.<sup>8</sup>

These recent studies found that the ability of Static-99 to rank relative risk is reasonably consistent across samples and settings, but the observed recidivism rates vary across samples. Specifically, the average recidivism rates associated with each score are lower in contemporary samples (1990s and more recent) than in the original developmental samples, who were primarily released during the 1970s and 1980s. Consequently, the developers of Static-99 recommend that the original norms be replaced by new norms based on samples that are more recent, more representative, and larger than the original samples. The new sample on which the recidivism rates were derived included a sample of largely untreated sex offenders similar to those offenders in the California Department of Corrections and Rehabilitation (n=1,273). There was a 2008 update of the recidivism rates that now applies to scores from 0 to 10+.

On the Static-99 Mr. XXX received a total score of XXX, which places him in the XXXX (Choose one: Low, Moderate-Low, Moderate-High, or High) Risk Category for being charged or convicted of another sexual offense. The estimated risk for this score on the Static-99 is XXXX over ten years.

**Use the following paragraph instead of the above if the person is ineligible to be scored under Static-99 Coding Rules:**

Current law requires that the risk assessment score on the Static-99 be done for every eligible person (PC, sec. 290.06). Although Mr. XXX is required to register pursuant to Section 290, et seq., he is not eligible to be scored on the Static-99 under the official coding rules of the Static-99. His offense does not fit the criteria for those who can be assessed with this risk assessment tool.

## **2. JSORRAT-II score submission paragraph**

“The JSORRAT-II is a juvenile sexual offender risk assessment tool developed by Epperson, Ralston, Fowers, & Dewitt (2005). It was designed to provide empirically

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<sup>8</sup> Convictions provide a conservative estimate of sexual offending as research has shown that most sexual crimes do not result in charges or convictions, and when protected from prosecution, sexual offenders report they have committed more sexual crimes than they have been caught for. Another important consideration is that risk for reoffense increases as the opportunity time to reoffend increases. Thus, although the new Static-99 norms provide rates for a maximum of a 10-year period, cumulative risk continues to increase after 10 years. This is important because WIC 6600 requires that lifetime risk of reoffense, as indicated by additional criminal sexual behavior, rather than additional arrests, be determined.

based estimates of risk for future juvenile sexual offenses (juvenile sexual recidivism) by male juveniles currently in the juvenile justice system for a prior sexual offense. This instrument should not be used with female sexual offenders. The JSORRAT-II is comprised of 12 items and produces estimates of risk for future juvenile sexual offending based upon the number and combinations of risk factors present in any one individual. The 12 risk factors scored on the risk assessment tool include the number of prior sexual offense adjudications, the number of different victims in sexual offenses, length of sexual offending, commission of a sexual offense while under court ordered supervision, commission of a felony level contact sexual offense in a public place, use of deception or grooming in a sexual offense, prior sex offender treatment failures, frequency of officially documented sexual abuse experienced as a victim, frequency of officially documented physical abuse experienced as a victim, placement in special education, history of discipline problems in school, and the number of non sexual offense adjudications.

The juvenile sexual recidivism estimates provided by the JSORRAT-II are group estimates based upon charges for new sexual offenses derived from groups of individuals scoring in the same range on the JSORRAT-II. As such, these estimates do not directly correspond to that of an individual offender. Any individual offender's risk may be higher or lower than the probabilities for their group given the presence or absence of risk factors not assessed by the tool; however, absent information on other compelling risk factors, the group estimate is generally the best estimate for individuals in a group.

Mr. X received a score of XXXX on the JSORRAT II. This score is in the YYYY range of risk. On average, ZZZZ percent of individuals scoring in this range sexually recidivate as juveniles. This level of risk is deemed accurate in this case because there are no compelling additional risk factors that would alter this estimate.”

**Use alternate paragraph if Dr. Epperson has authorized an override on a juvenile risk level:**

“Although Mr. AAAA scores in the YYYY range of risk on the JSORRAT II, there are additional, compelling risk factors that override this risk estimate to a (higher or lower) level. Specifically, the following factors make a BBBB risk assignment more appropriate [list and discuss the factors].”

**B. Paragraph for submission to court if sex offender is not eligible to be scored on the Static-99 under the Coding Rules**

If an offender is not eligible for scoring on the Static-99, state in the pre-sentencing report: “The risk assessment score on the Static 99 must be done for every eligible person. Although Mr. X is required to register pursuant to Section 290, et seq., he is not eligible to be scored on the Static 99 under the official coding rules of the Static 99. His offense does not fit the criteria for those who can be assessed with this risk assessment tool.”

**C. Scores Obtained Prior to Release from Prison or Mental Institutions**

The risk assessment scores obtained prior to release from prison or a mental institution should be recorded in internal databases or spread sheets at CDCR or DMH. These scores are currently sent to DOJ as an Excel file, for eventual recording in the sex offender registry.

#### **D. Scores of Offenders No Longer on Supervision**

A plan for assessing these registrants was developed by the SARATSO Review and Training Committees in collaboration with local law enforcement and POST. (Pen. Code, §§ 290.05(c), 290.06(c).) It is set out in the 2009 SARATSO bill. As explained above, it would give registering agencies the option to request a risk assessment from Probation on designated offenders, or to have their own personnel trained to perform assessments on those registrants chosen by the registering agency. When these offenders are assessed, the scores must be submitted to DOJ by faxing a copy of their scoring sheet, to 916-227-3663. Eventually these scores will be electronically submitted.

#### **E. Access to Risk Assessment Scores**

When the new California Sex and Arson Registry is completed at DOJ (no later than July 1, 2010), the risk assessment scores will be posted on each offender's record in the registry and will be available to law enforcement, but not displayed on the public Megan's Law web site. For access to scores prior to posting in the California Sex and Arson Registry, law enforcement can call DOJ at 916-916-227-4736 or 4737.

### **III. Use of the Risk Assessment Score**

#### **A. Sentencing Court Must Consider Score**

The risk assessment score must be considered by the sentencing court as one factor in determining the sentence. (Pen. Code, § 1203.)

#### **B. Determines Placement on Supervision and GPS Monitoring**

The risk assessment score must be used to determine whether a sex offender is placed on intensive supervision on probation or parole. (Pen. Code, §§ 1203f, 3005.) Offenders who are high risk on the SARATSO must be continuously electronically monitored while on probation or parole. (Pen. Code, §§ 1202.8, 3004.)

#### **C. Sex Offender Treatment Placement**

The risk assessment score should be used to determine placement in an appropriate sex offender treatment program.

#### **D. Risk Assessment Can Support Community Notification Decisions**

Law enforcement has the discretion to do community notification registered sex offenders determined to pose a risk to the public. (Pen. Code, § 290.45.) The risk assessment score may assist in the determination that a particular registrant poses a current risk.

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