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Devolution - Addendum Series - Part 4

Draft Executive Order



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On January 19th, 2022, it was reported that [Donald Trump lost his bid to block the release of records to the January 6th committee.](#)

(CNN) — [Thanks to the Supreme Court](#), the House select committee investigating January 6 has now received all the pages from the National Archives that former President Donald Trump had tried to block.



Related Article: Supreme Court ruling is a bitter legal and personal blow to Trump

The defeat of Trump's legal challenge was [resounding](#), though the Supreme Court left the door open to other efforts to challenge certain committee fact-finding efforts on the basis of executive privilege. But its rejection of Trump's arguments is certain to ripple across the considerations other witnesses are making about whether to cooperate with the probe and what chances their potential legal challenges have to success.

Since then, one of the documents that Trump was supposedly attempting to have blocked has been released. I say “supposedly” because I think there is something bigger going on here which I will touch on later. For now, I want to show you what this document is and what it means.

[This is what MSN had to say about it:](#)

A draft executive order that then-President Donald Trump considered signing in December 2020 would've directed the Pentagon to seize voting machines in key states and hunt for evidence of fraud, according to a draft published by Politico.

Trump never signed the executive order. But it would've directed the Secretary of Defense to "seize, collect, retain and analyze all machines, equipment, electronically stored information, and material records" related to Trump's false claims of an international vote-rigging conspiracy to deprive him of a second term in the White House, [according to the draft](#).

It is unclear who wrote the draft order, which is full of legal language asserting presidential powers to seize the election equipment and conspiracy theories about the 2020 election.

The draft also said the defense secretary could identify National Guard units to be federalized to help the effort. Any operation for the military or federal agents to seize voting equipment for political purposes would've been unprecedented in US history, and tantamount to a coup.

The first thing I would like to point out is that this is a “Draft Executive Order”. Where have we heard that before?

Presidential Emergency Action Documents (PEADs) are **executive orders**, proclamations, and messages to Congress that are prepared in anticipation of a range of emergency scenarios, so that they are ready to sign and put into effect the moment one of those scenarios comes to pass. First created during the Eisenhower Administration as part of continuity-of-government plans in case of a nuclear attack, PEADs have since been expanded for use in other emergency situations where the normal operation of government is impaired. As one recent government document describes them, they are designed “**to implement extraordinary presidential authority in response to extraordinary situations.**”

Presidential declarations of national emergency enable the president to use draft classified orders to exercise perhaps even more expansive powers, known variously as Presidential Emergency Action Documents or Presidential Emergency Action Directives (**PEADs**).¹⁷² The Federal Emergency Management Agency (FEMA)

defines these documents as “[f]inal drafts of Presidential messages, proposed legislation proclamations, and other formal documents, including DOJ [Department of Justice]-issued cover sheets addressed to the President, to be issued in event of a Presidentially-declared national emergency.”¹⁷³ They originated as part of Eisenhower-era planning for continuity of government (COG) procedures, which were intended to maintain major government operations during and following a nuclear exchange with the Soviet Union.¹⁷⁴ The situations in which the Executive Branch plans to employ such procedures, however, now encompass a broad array of declared national emergencies.¹⁷⁵

I’m not saying this is a PEAD. It’s impossible for us to know for sure but this appears to be a genuine draft of an Executive Order and it demands closer examination.

The Draft Executive Order

Authority

December 16, 2020

PRESIDENTIAL FINDINGS
TO PRESERVE COLLECT AND ANALYZE NATIONAL SECURITY INFORMATION
REGARDING THE 2020 GENERAL ELECTION

By the authority vested in me as President of the United States pursuant to the Constitution and laws of the United States of America, including Article 2 section 1 of the U.S. Constitution, **Executive Orders 12333, 13848, National Security Presidential Memoranda 13 and 21**, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA) and all applicable Executive Orders derived therefrom, the National Emergencies Act (50 U.S.C.1601 et seq.) (NEA), and section 301 of title 3, United States Code:

First let’s check out where the date of this order (December 16, 2020) falls on our timeline from [Devolution - Part 16](#):

- December 15, 2020: [Trump tweets twice regarding voting machines:](#)

Dec 15th 2020 - 12:21:43 AM EST
 55k 212k Show

This is BIG NEWS. Dominion Voting **Machines** are a disaster all over the Country. Changed the results of a landslide election. Can't let this happen. Thank you for the genius, bravery, and patriotism of the Judge. Should get a medal! <https://t.co/4WwiA83Prg>

Dec 15th 2020 - 9:21:48 AM EST
 60k 267k Show

Tremendous problems being found with voting **machines**. They are so far off it is ridiculous. Able to take a landslide victory and reduce it to a tight loss. This is not what the USA is all about. Law enforcement shielding **machines**. DO NOT TAMPER, a crime. Much more to

- December 16, 2020: [Trump tweets regarding voting machines:](#)

Dec 16th 2020 - 1:51:14 PM EST
 52k 222k Show

Chris Krebs was totally excoriated and proven wrong at the Senate Hearing on the Fraudulent 2020 Election. Massive FRAUD took place with **machines**, people voting from out of state, illegals, dead people, no signatures—and so much more!

- December 18, 2020: 45 days after the election and the due date for the [Intelligence Community assessment required by EO 13848](#)
- December 18, 2020: [Remarks by Vice President Pence at the 8th Meeting of the National Space Council | Cape Canaveral, FL](#)
 - Prior to these remarks, it was Christopher C. Miller, having been Acting Secretary of Defense for 1 month and 9 days, who introduced Mike Pence and said this:

Look at the authorities it is drawing upon to issue this draft.

[EO 12333: United States Intelligence Activities](#). I had just discussed this in [Devolution - Part 16](#) because on [January 7th, 2021, General Nakasone declassified the DoD Manual S-5240.01-A](#). More on that again later.

Next is [Executive Order 13848](#), which we have covered extensively throughout the [Devolution Series](#).

[Executive Order 13848](#) of September 12, 2018

Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election

Finally, we have [NSPM 13](#) and 21. There is little we know about these but I'll put forward everything I have found.

NSPM 13 United States Cyber Operations Policy

NSPM 21 is supposedly related to NSPM 13 according to Politico's "source" so I have only modest confidence that that is the case. There is no other information out there regarding NSPM 21.

The existence of the first of those memoranda is publicly known, but the existence of the second has not been previously reported. NSPM 13 governs the Pentagon's offensive cyber operations. According to a person with knowledge of the memoranda, 21 makes small adjustments to 13, and the two documents are viewed within the executive branch as a pair.

Authority to Conduct Cyber Operations

On March 2nd, of 2020, Honorable Paul C. Ney, Jr., the DOD General Counsel, gave remarks at the U.S. Cyber Command Legal Conference where he made reference to NSPM 13.

Because of the complexity and dynamism of the domain and the threat environment, the need for persistent engagement outside U.S. networks, and the critical advantage that cyber operations provide our Armed Forces, DoD must develop, review, and approve military cyber operations at so-called "warp-speed." To this end, the U.S. Government has made meaningful strides. You heard in 2018 that the President had issued National Security Presidential Memorandum-13, *United States Cyber Operations Policy*, or "NSPM-13" for short, **which allows for the delegation of well-defined authorities to the Secretary of Defense to conduct time-sensitive military operations in cyberspace.** Congress also has clarified that **the President has authority to direct military operations in cyberspace to counter adversary cyber operations against our national interests** and that such operations, whether they amount to the conduct of hostilities or not, and even when conducted in secret, are to be considered traditional military activities and not covert action, for purposes of the covert action statute.

The CFAA was enacted to protect U.S. Government computers and critical banking networks against thieves and hackers, not vice versa; it expresses no clear indication of congressional intent to limit the President from directing military actions; and the more recent statutes I mentioned earlier specifically authorize or reaffirm the President's authority to direct DoD to conduct operations in cyberspace. In light of these considerations, it would be unreasonable and counterintuitive to interpret the CFAA as restricting properly authorized military cyber operations abroad against foreign actors.

This entire speech is fascinating. **They were discussing the legal authority the President has to authorize cyber operations in defense of the nation.** They even discussed activities related to the election, although it was about influence rather than interference. Noteworthy nonetheless.

Let me give you a concrete example. A core part of DoD's mission to defend U.S. elections consists of defending against covert foreign government malign influence operations targeting the U.S. electorate. The bulk of DoD's efforts in this area involve information-sharing and support to domestic partners, like the Department of Homeland Security and the Federal Bureau of Investigation. But what about a U.S. military cyber operation to disrupt a foreign government's ability to disseminate covertly information to U.S. audiences via the Internet by pretending that the information has been authored by Americans inside the United States? Can we conduct such an operation in a manner that contributes to the defense of our elections but avoids impermissible interference with the right of free expression under the First Amendment—including the right to *receive* information? The analysis often turns on the specifics of the proposed operation—but, in short, we believe we can.

Few precedents address this issue directly; but, U.S. case law does provide a framework with at least three key strands. First, there are judicial decisions that stand for the proposition that the U.S. Government, in carrying out certain appropriately authorized activities, may incidentally burden the right to receive information from foreign sources without violating the First Amendment. Second, courts have recognized a compelling government interest in protecting U.S. elections from certain types of foreign influence—especially when that influence is exercised covertly. Third, government action based on the content of the speech will be suspect.

In light of these precedents, DoD lawyers analyzing particular cyber operations for First Amendment compliance will consider a number of factors, including: whether the operation is targeting the foreign actors seeking to influence U.S. elections covertly rather than the information itself; the extent to which the operation may be conducted in a “content neutral” manner; and, the foreign location and foreign government affiliation of the targeted entity.

So to recap, the first 3 authorities listed on the draft executive order are:

- EO 12333: Having to do with intelligence gathering
- EO 13848: Having to do with foreign interference in a United States Election
- NSPM 13 (and 21): Having to do with military cyber operations

Content of the Executive Order

So let's look at the actual body of the draft Executive Order and see what it tells us.

I, Donald J. Trump, President of the United States, find that the forensic report of the Antrim County, Michigan voting machines, released December 13, 2020, and other evidence submitted to me in support of this order, provide probable cause sufficient to require action under the authorities cited above because of evidence of international and foreign interference in the November 3, 2020, election. Dominion Voting Systems and related companies are owned or heavily controlled and influenced by foreign agents, countries, and interests. The forensic report prepared by experts found that "the Dominion Voting System is intentionally and purposefully designed with inherent errors to create systemic fraud and influence election results. The system intentionally generates an enormously high number of ballot errors. The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency, and no audit trail. This leads to voter or election fraud." The report found the election management system to be wrought with unacceptable and unlawful vulnerabilities--including access to the internet--probable cause to find evidence of fraud, and numerous malicious actions.

Note the date of December 13, 2020 referenced above for Antrim County, Michigan and note where it falls in the timeline from Devolution - Part 16.

- December 12, 2020: DNI John Ratcliffe attends Army-Navy game with Trump:



- December 13, 2020: Trump tweets “Election under protest” while referencing glitches in the machines:

Dec 13th 2020 - 5:49:39 PM EST
 60k 245k Show

Swing States that have found massive VOTER FRAUD, which is all of them, CANNOT LEGALLY CERTIFY these votes as complete & correct without committing a severely punishable crime. Everybody knows that dead people, below age people, illegal immigrants, fake signatures, prisoners,....

Dec 13th 2020 - 5:49:39 PM EST
 31k 156k Show

.....and many others voted illegally. Also, machine “glitches” (another word for FRAUD), ballot harvesting, non-resident voters, fake ballots, “stuffing the ballot box”, votes for pay, roughed up Republican Poll Watchers, and sometimes even more votes than people voting, took....

Dec 13th 2020 - 5:49:39 PM EST
 33k 161k Show

....place in Detroit, Philadelphia, Milwaukee, Atlanta, Pittsburgh, and elsewhere. In all Swing State cases, there are far more votes than are necessary to win the State, and the Election itself. Therefore, VOTES CANNOT BE CERTIFIED. THIS ELECTION IS UNDER PROTEST!

- December 13, 2020: Solarwinds hack is detected.
 - I covered the Solarwinds hack in Devolution - Part 11 and this will be coming up again later so take note that it was FireEye that discovered the hack:

The draft order also states there is “**evidence of international and foreign interference in the November 3, 2020, election.**” The fact that this order was on standby and ready to be issued (and we don’t know for sure it wasn’t), tells me they had evidence of foreign interference. They then go on to list multiple entities with issues:

There is also probable cause to find that **Dominion Voting Systems, Smartmatic, Electronic Systems & Software, and Hart Inter Civic**, Clarity Election Night Reporting, Edison Research, Sequoia, **Scytl**, and similar or related entities, agents or assigns, have the same flaws and were subject to **foreign interference in the 2020 election in the United States**. There is probable cause to find these systems bear the same crucial code “features” and defects that allowed the same outside and foreign interference in our election, in which there is probable cause to find votes were in fact altered and manipulated contrary to the will of the voters.

Lots of familiar names on that list from Devolution - Part 5:

1. Member Affiliations

Members of the EISCC include entities (companies, organizations, or components thereof) whose services, systems, products or technology are used by (or on behalf of) State or Local government in administering the U.S. election process.

Such entities should have demonstrable working relationships with federal, state, or local election officials, which may include verifiable registration/accreditation with the U.S. Election Assistance Commission, and/or relevant contractual relationships with SLTT government election offices. Entities whose primary assets are elections-related may be considered for membership.

Each Member representative shall serve until the end of their tenure with their appointing entity, or until the entity self-reports a change in its representation.

The Members of the EISCC can remove a member on two thirds vote of the full membership.

Organizing Members of the EISCC include:

Associated Press (AP) Elections	PCC Technology Inc.
BPro, Inc.	Pro V&V
Clear Ballot Group	Runbeck Election Services
Crosscheck	SCYTL
Democracy Live	SLI Compliance
Democracy Works	Smartmatic
Demtech Voting Solutions	Tenex Software Solutions
Dominion Voting Systems	Unisyn Voting Solutions
ELECTEC Election Services Inc.	VOTEC
Election Systems & Software	Votem
Electronic Registration Information Center	VR Systems
Everyone Counts	
Hart InterCivic	
MicroVote General Corp.	

The key takeaway is that the above companies were all “subject to foreign interference in the 2020 election of the United States.”

Dominion Voting Systems is based in Toronto, Canada, and assigns its intellectual property including patents on its **firmware and software to Hong Kong and Shanghai Bank Corporation (HSBC)**, a bank with its foundation in China and its current headquarters in London, United Kingdom. The Dominion Voting system is owned and controlled by foreign entities. **Multiple expert witnesses and cyber experts identified acts of foreign interference in the election prior to November 3, 2020 and continued in the following weeks.** In fact, there is probable cause to find a massive cyber-attack by foreign interests on our crucial national infrastructure surrounding our election--not the least of which was the hacking of the voter registration system by Iran. (B.O. 13 800 of May 11. 2017)

Here we have specific references to Dominion Voting Systems and their ties to China. The China connection is what I covered in Devolution - Part 16.

The draft order goes on to cite testimony from a federal case:

Just days prior to the election of November 3, 2020, federal Judge Totenberg found, after three days of testimony including by Dominion executive Eric Coomers:

There are "true risks posed by the new BMD [Ballot Marking Device of Georgia's Dominion Voting Systems] voting system as well as its manner implementation. These

risks are neither hypothetical nor remote under the current circumstances. The insularity of the Defendants' and Dominion's stance here in evaluation and management of the security and vulnerability of the BMD system does not benefit the public or citizens' confident exercise of the franchise. The stealth vote alteration or operational interference risks posed by malware that can be effectively invisible to detection, whether intentionally seeded or not, are high once implanted, if equipment and software systems are not properly protected, implemented, and audited. The modality of the BMD systems' capacity to deprive voters of their cast votes without burden, long wait times, and insecurity regarding how their votes are actually cast and recorded in the unverified QR code makes the potential constitutional deprivation less transparently visible as well, at least until any portions of the system implode because of system breach, breakdown, or crashes. Any operational shortcuts now in setting up or running election equipment or software creates other risks that can adversely impact the voting process.

"The Plaintiffs' national cybersecurity experts convincingly present evidence that this is not a question of "right this actually ever happen?" - but *when it will happen, especially if further protective measures are not taken. Given the masking nature of malware and the current systems described here, if the State and Dominion simply stand by and say, "we have never seen it." the future does not bode well.

"Still, this is year one for Georgia in implementation of this new BMD system as the first state in the nation to embrace statewide implementation of this QR barcode-based BMD system for its entire population. Electoral dysfunction - cyber or otherwise - should not be desired as a mode of proof. It may well land unfortunately on the State's doorstep. The Court certainly hopes not." [FOOTNOTE 1: Case 1:17-cv-02 989-AT Document 964 Filed 10/11/20 Page 146 of 147]

And, yet it did. Every defect and hazard of which Judge Totenberg warned happened in Georgia. Witnesses in Georgia have provided evidence of crashes, the replacement of a server, impermissible updates to the system, connections to the internet, and both Coffee and Ware counties have identified a significant percentage of votes being wrongly allocated contrary to the will of the voter. Coffee County Georgia has refused to certify its result.

The Operation

Here is where we get to the specifics of what Trump was going to do with this draft order.

Accordingly, I hereby order:

(1) Effective immediately, the Secretary of Defense shall seize, collect, retain and analyze all machines, equipment, electronically stored information, and material records required for retention under United States Code Title 42, Sections 1974-1974(e), including but not limited to those identified in footnote 1. The Secretary of Defense has discretion to determine the interdiction of national critical infrastructure supporting federal elections. Designated locations will be identified in the operation order.

There are two things that stick out to me from this first section.

- This draft order would give the Secretary of Defense (Christopher C. Miller) the discretion to determine the interdiction of election infrastructure.

in·ter·dict  (in'tər-dīkt')

tr. v. in-ter-dict-ed, in-ter-dict-ing, in-ter-dicts

1. To prohibit (an action or thing) or forbid (someone) to do something, especially by legal or ecclesiastical order.

- “...Identified in the operation order.” - Not only is there a draft Executive Order to address foreign interference but somewhere, there is an accompanying operation order as well.

Let's continue.

(2) Within 7 days of **commencement of operations**, the initial assessment must be provided to the Office of the Director of National Intelligence. The final assessment must be provided to the Office of the Director of National Intelligence no later than 60 days from commencement of operations.

(3) The Director of National Intelligence shall deliver this assessment and appropriate supporting information to the President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security.

(4) A direct liaison to be authorized to coordinate as required between the applicable U.S.

Departments and Agencies.

(5) The Secretary of Defense may select by name or by unit **federalization of appropriate National Guard support**.

(6) The Assistant Secretary of Defense for Homeland Security will coordinate support requirements as needed from the Department of Homeland Security.

(7) The appointment of a Special Counsel to oversee this operation and institute all criminal and civil proceedings as appropriate based on the evidence collected and provided all resources necessary to carry out her duties consistent with federal laws and the Constitution.

Closing

I really want to make sure you understand the significance of this draft Executive Order so let's do a quick recap.

- This order would draw upon authorities from:
 - EO 12333: United States Intelligence Activities

- EO 13848: Foreign Interference in a US Election
- NSPM 13 (21): US Cyber Operations Policy
- The order itself tells us that there was foreign interference in our elections and even the machines it came from.
- The order alludes to involvement from China.
- The order allows for the military to step in and “interdict” in our federal elections.
- The order tells us there is a separate operation order.

The draft Executive Order is telling us that President Trump received intelligence (EO 12333) that there was foreign interference in our election (13848) and based on the inclusion of NSPM 13. Remember what we know about NSPM 13.

~~meaningful strides~~. You heard in 2018 that the President had issued **National Security Presidential Memorandum-13, United States Cyber Operations Policy**, or “NSPM-13” for short, **which allows for the delegation of well-defined authorities to the Secretary of Defense to conduct time-sensitive military operations in cyberspace.** ~~Congress also has clarified that~~

This means that the intelligence that there was foreign interference in our elections would have been gathered in a military operation. It would have been CYBERCOM or the NSA, both of which are headed up by General Nakasone. This again leads me to believe there is something bigger as to why General Nakasone declassified the DoD Manual S-5240.01-A on January 7th, 2021:

~~SECRET//SI//REL TO USA, FVEY~~

Cleared as Amended by NSA



CLEARED AS AMENDED For Open Publication

Jan 07, 2021

Department of Defense OFFICE OF PREPUBLICATION AND SECURITY REVIEW

DoD MANUAL S-5240.01-A

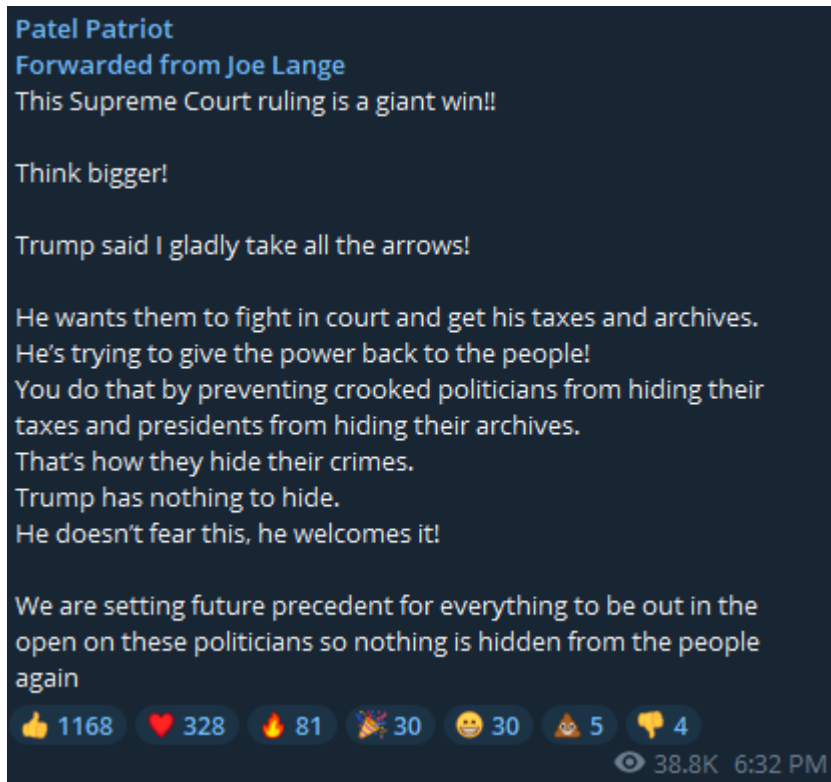
(U) PROCEDURES GOVERNING THE CONDUCT OF DoD INTELLIGENCE ACTIVITIES: ANNEX GOVERNING SIGNALS INTELLIGENCE INFORMATION AND DATA COLLECTED PURSUANT TO SECTION 1.7(C) OF E.O. 12333

Purpose: (U) DoD Manual (DoDM) 5240.01, including this annex, establishes procedures to conduct authorized activities in a manner that protects the constitutional and other legal rights of U.S. persons and persons in the United States as well as the privacy and civil liberties of such persons. This annex:

- (U) Implements Section 2.3 of Executive Order (E.O.) 12333 and provides additional governance for the collection, processing, querying, retention, and dissemination of signals intelligence (SIGINT) information and data collected by the United States SIGINT System (USSS).
- (U) Governs how the USSS will fulfill its existing responsibilities and does not confer any new authorities.

Declassified and Approved for Release by NSA on 01-07-2021 pursuant to E.O. 13526: MDR-109459

This is just one draft order that was released, and I'm still baffled that it actually was. I don't believe Trump has anything to hide. I've had the same mindset as Joe Lange in regard to the SCOTUS ruling allowing the J6 committee access to Trump's records:



Everything the Democrats have done since Trump left office has boomeranged on them in spectacular fashion. I assumed this SCOTUS decision would be much of the same. I can't imagine Trump would have left anything in those records that he didn't want to be made public anyway. So why was this left in there? I don't think this is a PEAD although I can't say that with any certainty. Any PEADs that are actually in play and being used would not be subject to the J6 committee jurisdiction, at least that's my understanding of how things work.

The more important aspect here for us to understand is that there was evidence of foreign interference, and this circumstantially proves our military found it. Another reason I believe it was the military who pulled off the Solarwinds attack.

This draft order lets us into the mindset of Trump. He was doing things behind the scenes to counter the theft. We already knew that based on the timeline laid out in Devolution - Part 16. This draft order was just one of the many options that he could have chosen from.

He chose Devolution.

THE BEST IS YET TO COME

Patel Patriot

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