

*Independence*

*trustworthiness*

*accountability*

*impartiality*

*vigilance*

*integrity*

# Prime Ministerial motorcade

REPORT OF THE POLICE COMPLAINTS AUTHORITY INTO COMPLAINTS  
AND PROSECUTIONS ARISING FROM THE PRIME MINISTERIAL  
MOTORCADE BETWEEN WAIMATE AND CHRISTCHURCH 14 JULY 04

October 2007



**PCA**

Police Complaints Authority



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October 2007

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PRIME MINISTERIAL MOTORCADE

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## INTRODUCTION

On the afternoon of 14 July 2004 a prime ministerial motorcade carrying the Prime Minister, The Right Honourable Helen Clark, and the then Minister of Agriculture, the Honourable Jim Sutton, left Waimate for Christchurch Airport to catch a flight to Wellington after their flight from Timaru was cancelled.

In order to reach the airport in time to catch the Wellington flight, the motorcade significantly exceeded the speed limit. As a result a number of complaints of dangerous driving and excessive speed were made by members of the public.

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## ACTION TAKEN

The Police instigated a comprehensive investigation which led to a number of charges being laid against some members of the motorcade.

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## PURPOSE OF THIS REPORT

This report describes the events that took place before and during the prime ministerial motorcade in July 2004 and then details the investigation ordered by the Police and the process by which the decision was made to prosecute some of those in the motorcade.

It also looks at how effective the policies, practices and protocols that regulate prime ministerial security and motorcades were in this incident.

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## THE INCIDENT

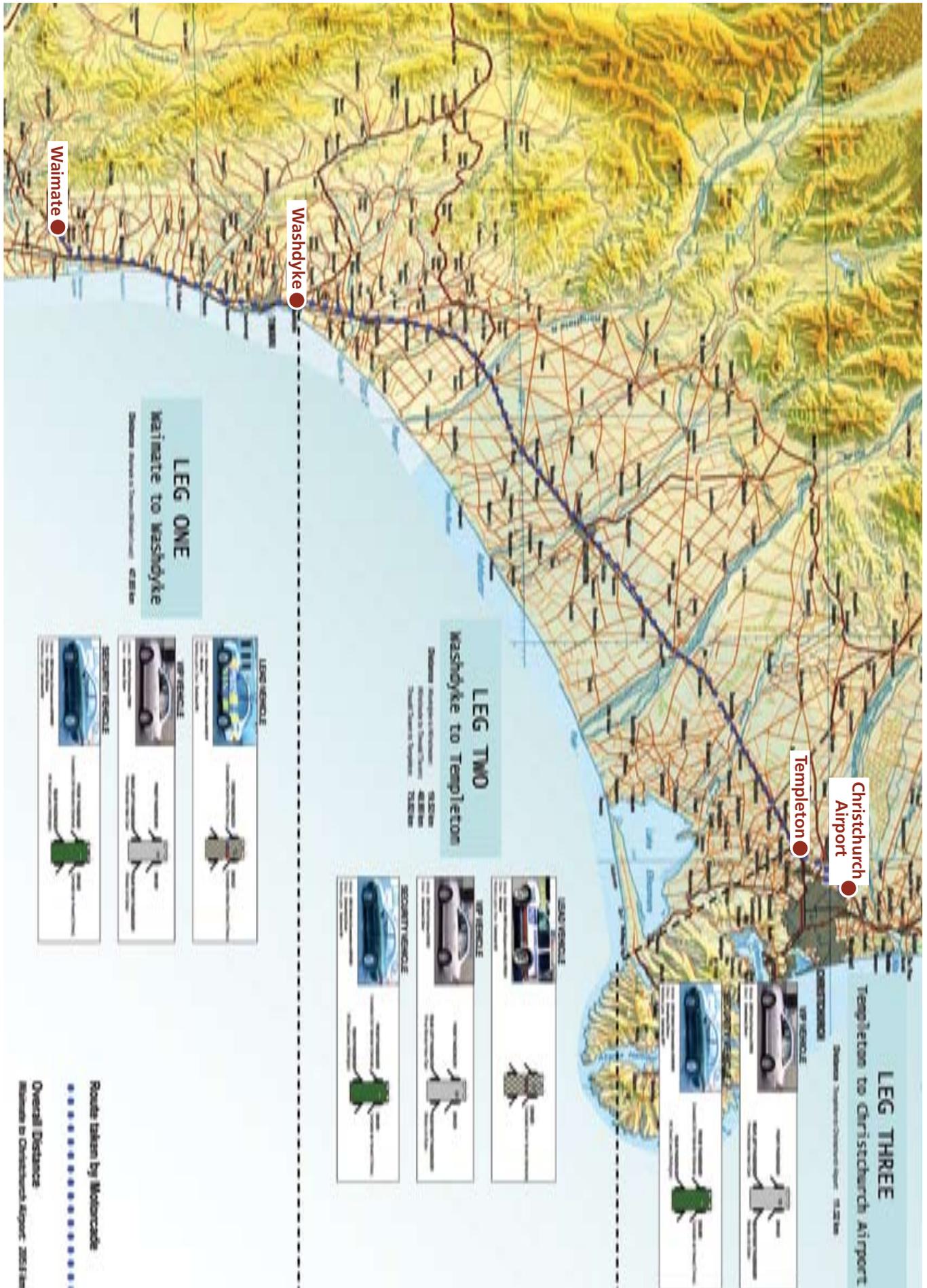
On 17 July 2004, the Prime Minister of New Zealand, The Right Honourable Helen Clark, attended the 150th anniversary celebrations of Waimate as part of her official duties. She was accompanied by the then Minister of Agriculture and local Member of Parliament, the Honourable Jim Sutton.

After the celebrations, the Prime Minister was to fly from Timaru to Wellington. However, alternative arrangements had to be made when they were told that the flight had been cancelled. After a discussion between the Prime Minister's Personal Protection Officer and her Press Secretary, it was decided to drive to Christchurch and fly to Wellington from there.

The prime ministerial motorcade left Waimate at 2.46pm to catch the flight scheduled to depart from Christchurch at 4.50pm. The 205km trip from Waimate to Christchurch, which included a brief stop at Timaru for the Hon Jim Sutton to pick up an item of property, took 96 minutes which meant an average speed during the journey of approximately 128kph. A map of the route is on the following page.

The motorcade initially consisted of three vehicles: lead, ministerial and security. The lead vehicle pulled out at Templeton as by then it was clear there was sufficient time to get to the airport.

At the start of the trip, the lead vehicle was driven by Constable Doonan. However, it was replaced at Washdyke by a vehicle driven by Constable Vincent when the first vehicle ran low on petrol. The Prime Minister's vehicle was driven by ministerial driver Mr A with Constable B in the front passenger's seat. (Mr A and Constable B were granted permanent name suppression at the end of the court process.) The Prime Minister was in the back seat on the left side and the Hon Jim Sutton was seated behind the driver. Constable Howard drove the security car with Constable Vallender in the front passenger's seat. The Prime Minister's Press Secretary, Mr Lewis, sat in the back.



Complaints were laid by 16 members of the public who saw the motorcade during the course of the journey and claimed there was dangerous driving and excessive speed en route from Waimate to Christchurch Airport. As a result, the five police officers and Mr A were subsequently charged with offences under the Land Transport Act 1998 and The Traffic Regulations 1976. All except one of the 16 complainants gave evidence at the defended hearing of the charges.

*Police command structure and standard operating procedures:*

The Prime Minister's attendance at Waimate on 17 July 2004 was the subject of formal Operation Orders issued by the Acting Operations Services Manager, Canterbury Police District, on 16 July 2004. Included in the Operation Orders were details of a possible threat to the Prime Minister's safety. Procedures to deal with that threat were detailed as part of the overall mission to protect the Prime Minister during her visit to Waimate.

*Prime ministerial security – general:*

There are various procedures that relate to prime ministerial security. Operation Instruction No. 14, in terms of Prime Minister Helen Clark's security, took effect on 1 September 2003 and remains current. This instruction was issued by the National Manager: Operations, Police National Headquarters, and, amongst other things, stipulates police district planning responsibilities and the functions of key police staff to minimise risk to the Prime Minister's safety. Security levels and responses to various levels of threat to security are also set.

*Motorcades:*

*The New Zealand Police Manual of Best Practice, Volume One* (2<sup>nd</sup> ed, 1998) sets out the composition of and relevant responsibilities for the establishment of motorcades and these are replicated in the *Protection Officers Procedure Manual, Standard Operating Procedures*, dated May 2004.

The instructions also identify the responsibilities of the Motorcade Commander, which include:

- setting the proper pace of the motorcade
- calling the speed at regular intervals so others in the motorcade remain aware of the speed at which they should be travelling
- except in an emergency, ensuring that the pace must not be so fast that the VIP is placed in danger of being in a motor accident.

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## THE POLICE INVESTIGATION

On 20 July 2004, (then) Inspector David Cliff of Dunedin was appointed to investigate the complaints made about the prime ministerial motorcade. Under terms of reference from Deputy Commissioner Long, Inspector Cliff began a *“Review of circumstances surrounding the initiation and deployment of a motorcade from Waimate to Christchurch on 17 July 2004”*. As part of the enquiry, Inspector Cliff was instructed to:

- locate and interview all witnesses and parties to establish the facts surrounding the formation and use of the motorcade
- identify relevant law, policy or regulations affecting the liability of any party, and
- report on the facts, issues of liability, compliance, conformance with relevant law, policy or regulations, and any implications arising from that.

Since the journey had involved changes in the lead vehicles, Inspector Cliff divided his investigation of the journey into three legs: Waimate to Washdyke; Washdyke to Templeton; and Templeton to Christchurch Airport. Ultimately, the charges that were laid were framed in terms of those three legs.

The Authority's review of Inspector Cliff's investigation showed it had been well planned and meticulously conducted with comprehensive interviews with all witnesses. Before the facts established during the enquiry were forwarded to the legal advisor at Police National Headquarters for legal opinion, Inspector Cliff gave close attention to the following areas:

- the process by which the motorcade was established and its implementation approved
- the individual members' functions and responsibilities in terms of the policies governing urgent driving duty, Diplomatic Protection Squad standard operating procedures and VIP security planning
- the actual level of threat to the Prime Minister's security and at what point that threat was downgraded
- the accurate measurement of the distances between fixed points
- the accurate calculation of average speeds by the motorcade between fixed points, where it was possible for this to be established
- accurately establishing the times at which the motorcade left Waimate and arrived at Christchurch Airport
- interviews with police members and others who had allegations made against them, including the Prime Minister and the Hon Jim Sutton
- establishing whether specialised training was required for any of the members involved in the motorcade and whether that training had been completed
- obtaining audio recordings of exchanges between the police communications centre and both the motorcade and members of the public who called with complaints
- obtaining an analysis of average speeds and expert comment on the relationship between speed and the risk of a crash resulting in casualties.

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## THE DECISION TO PROSECUTE

Once thorough research had established the facts, the following steps were taken in order to determine liability on the part of those involved:

- a legal advisor at Police National Headquarters provided an opinion on the statutory defences to exceeding the speed limits and any other relevant law
- Inspector Cliff made clear recommendations on the substantive charges he believed should be brought against each of the motorcade drivers on each of the three legs of the route. In addition, he sought legal advice on the liability of each member either for dangerous driving or being a party to it over each of the three legs of the route
- there were also recommendations on disciplinary action to be considered if criminal liability was not established.

Inspector Cliff's investigation was reviewed at Police National Headquarters. After examining the Solicitor-General's Guidelines on Prosecutions and applying relevant precedents, the legal advisor concerned recommended that certain charges be considered. His legal opinion was then reviewed by an experienced Crown Prosecutor at Crown Law. She took a differing view on whether joint charges ought to be laid and sought the opinion of a senior Crown Counsel. There was also a discussion with the Deputy Solicitor-General about engaging a Crown Solicitor to prosecute the charges.

Final recommendations on the appropriate charges were forwarded to Assistant Commissioner Marshall, along with a recommendation that a Crown Solicitor be instructed to prosecute the charges. In the event, two Crown Solicitors, Mr Gresson of Timaru and Mr Stanaway of Christchurch were jointly instructed and consulted on matters of disclosure and the formation of the appropriate charges.

The potential criminal liability of the Prime Minister, the Hon Jim Sutton, a constable who was a passenger and Mr Lewis were thoroughly examined. Both Crown Solicitors concluded there was no evidence upon which to base a prosecution against the Prime Minister or any of the others referred to.

From this history it is clear that the decision to prosecute and the formulation of the appropriate charges were based on a careful and well researched exercise that had the added benefit of objective and independent scrutiny.

A total of 31 charges were laid against Constables Doonan, Vincent, Howard, Vallender, and Mr A and Constable B. At their first appearance in the District Court at Timaru on 14 December 2004, eight of the charges were withdrawn. Not guilty pleas were entered to the remaining charges. All defendants subsequently appeared before Judge Strettell in the District Court at Timaru on 1 August 2005 to defend the charges. The hearing finished on 11 August 2005.

At its conclusion Judge Strettell reserved his decision until 19 August 2005 when he found the charge of dangerous driving proved against Constables Vincent and Howard, and Mr A. Each was convicted and fined \$675 and ordered to pay court costs of \$130. Charges of following too closely were also found to have been proved against Constable Howard and Mr A and convictions entered. However, each offender was discharged under Section 106 of the Sentencing Act 2002. All other charges were dismissed.

On 27 October 2005, Mr A's appeal against conviction and sentence on the charge of dangerous driving was heard in the High Court at Timaru by Hon Justice Cooper. In a judgment delivered on 19 December 2005, His Honour dismissed the appeal but discharged Mr A without conviction under Section 106 of the Sentencing Act 2002.

On 31 August 2006 Constables Vincent's and Howard's appeals were heard in the High Court at Timaru before Hon Justice Priestly. Both appellants were discharged without conviction under Section 106 of the Sentencing Act.

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RECOMMENDED  
CHANGES TO  
POLICE STANDARD  
OPERATING  
PROCEDURES

When sentencing the members against whom convictions were originally entered, Judge Strettell indicated that a review and/or changes to existing security and motorcade procedures were warranted. In his decision (paragraphs 6 to 9) he said:

*"In the cold hard light of day it was perhaps incumbent upon him [Constable Vincent] to ascertain why the motorcade was travelling at such a speed and not merely to assume that was for the same security reason that he had been briefed on the day before.*

*What is apparent is that these three drivers were let down by the system. They had no briefing from the senior Protection Officer who was in control of the motorcade, no indication of how they were to drive, no guidance from their Commanding Officer, there was no policy or protocol that specifically applied to this type of situation.*

*Clearly there needs to be, as all counsel have mentioned, a review of the way in which use is made of drivers, particularly of police vehicles in such circumstances. As the Court was told existing Police Urgent Driving Policy does not cover this type of police involvement.*

*The evidence I have heard suggests at times that police officers are put in an unfair and untenable position. It needs to be addressed by way of clear policy guidelines and, if necessary, statutory amendment. I emphasise that is only in relation to the urgent duty speeding defence. There can never be a defence generally to dangerous driving and that is the difficulty that the three face here today."*

In response to Judge Strettell's comments, Police National Headquarters has reviewed existing procedures. The review takes account of the impact of the introduction of the Land Transport (Road User) Rule 2004, Rule 1.8(3), which provides a statutory defence for police and those directed by police to the offence of driving too closely.



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## Matters considered by the Authority

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*The Authority considered the following issues, at the same time noting that the relevant facts have been the subject of a full defended hearing and subsequent review by appellate courts.*

### **Whether the Police response to the complaints arising out of the motorcade was appropriate and timely?**

Recording of complaints: the complaints received directly by Police, or received by the Authority and referred to the Police, were appropriately recorded and, with one minor exception, handled in an acceptable manner. That minor exception was a telephone complaint to the Southern Communications Centre on the day of the incident. The communicator's response to the call did not meet the required standard. However, this has been appropriately addressed through a performance review and remedial training.

The police enquiry: the motorcade incident was on 17 July 2004. The police enquiry was commissioned on 20 July 2004 and was completed in September 2006 when the court proceedings were at an end.

**FINDING**

The Police reaction to the complaints about the motorcade was appropriate in all but one instance. Importantly, there was immediate acceptance that an investigation was warranted and this was implemented with both expedience and care to ensure that a rigorous and thorough approach was taken to research all the issues.

**Whether the Police investigation was sufficiently thorough?**

The details of Inspector Cliff's investigation are outlined on Pages 3 and 4 of this report. A review of the Police investigation file confirms that a thorough and searching investigation was conducted and included the gathering of technical information and liaison with internal and external experts.

**FINDING**

Inspector Cliff's investigation was carried out in a thoroughly professional manner. The Inspector's attention to detail appears to have been excellent, as was the manner in which he planned and executed out his investigation.

**Whether the Police sought appropriate legal advice?**

The only legal issues requiring consideration were whether there was sufficient admissible evidence to prosecute and the reasonable prospect of conviction. The steps taken by Inspector Cliff to establish this are detailed in this report. Following recommendations at district level, the Police took advice from and were guided by two experienced counsel at Crown Law, the Deputy Solicitor-General and two independent Crown Solicitors.

FINDING

The Police sought and acted upon legal advice from independent and experienced legal advisers.

**Whether the charges against all involved were properly considered?**

The criminal liability of each individual who travelled at any time as part of the prime ministerial motorcade was examined in the course of the Police investigation. This included any culpability on the part of the Prime Minister and the Hon Jim Sutton, both of whom provided statements.

Police accepted independent advice that, other than the six individuals who were found to have cases to answer, there was no evidence upon which charges could be properly brought against any other persons travelling in the motorcade.

FINDING

Police examined the role of every person involved in the establishment and implementation of the motorcade and laid charges according to the available evidence in each case.

**Whether the Police have adequately addressed the issues raised by Judge Strettell?**

The Police have put in place additions to the Motorcade Commander's duties, speed considerations and the Urgent Driving Policy. The anomaly which denied civilian drivers in police controlled motorcades the same statutory defences as police officers has been resolved with the introduction of the Land Transport (Road User) Rule 2004, Rules 1.8(3) and 5.9(4).

FINDING

Police have adequately identified all relevant areas for policy review and updates and these matters have either been resolved or are currently being addressed.

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## CONCLUSIONS

After extensive enquiries into the circumstances that gave rise to the complaints about the prime ministerial motorcade between Waimate and Christchurch Airport on 17 July 2004, charges were laid against five police officers and one civilian. In the course of a lengthy defended hearing and ensuing appeals, all charges were disposed of without conviction.

Having reviewed the Police investigation, prosecution documents and transcripts of evidence, I am satisfied that, following a thorough investigation and expert independent legal advice on the potential criminal liability of the various parties, it was appropriate for the Police to lay the charges they did.

I share Judge Strettell's view that at all times the defendants felt that they were doing no more than their duty. However, the justification for the belief of urgency had not been properly established nor communicated and indeed at least one member said he had believed the threat to the Prime Minister still existed, although that had been resolved before the motorcade left Waimate. As a result of inadequate control throughout, an unacceptable standard of driving ensued which led to numerous complaints.

The actions of the NZ Police in reviewing and updating the Diplomatic Protection Standard Operating Procedures have been timely in light of the inadequacies identified. Similarly, their review of the existing Urgent Duty Driving Policy to take account of the changes created by the Land Transport (Road User) Rule 2004 is appropriate.



**The Hon. Justice Goddard**

POLICE COMPLAINTS AUTHORITY  
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