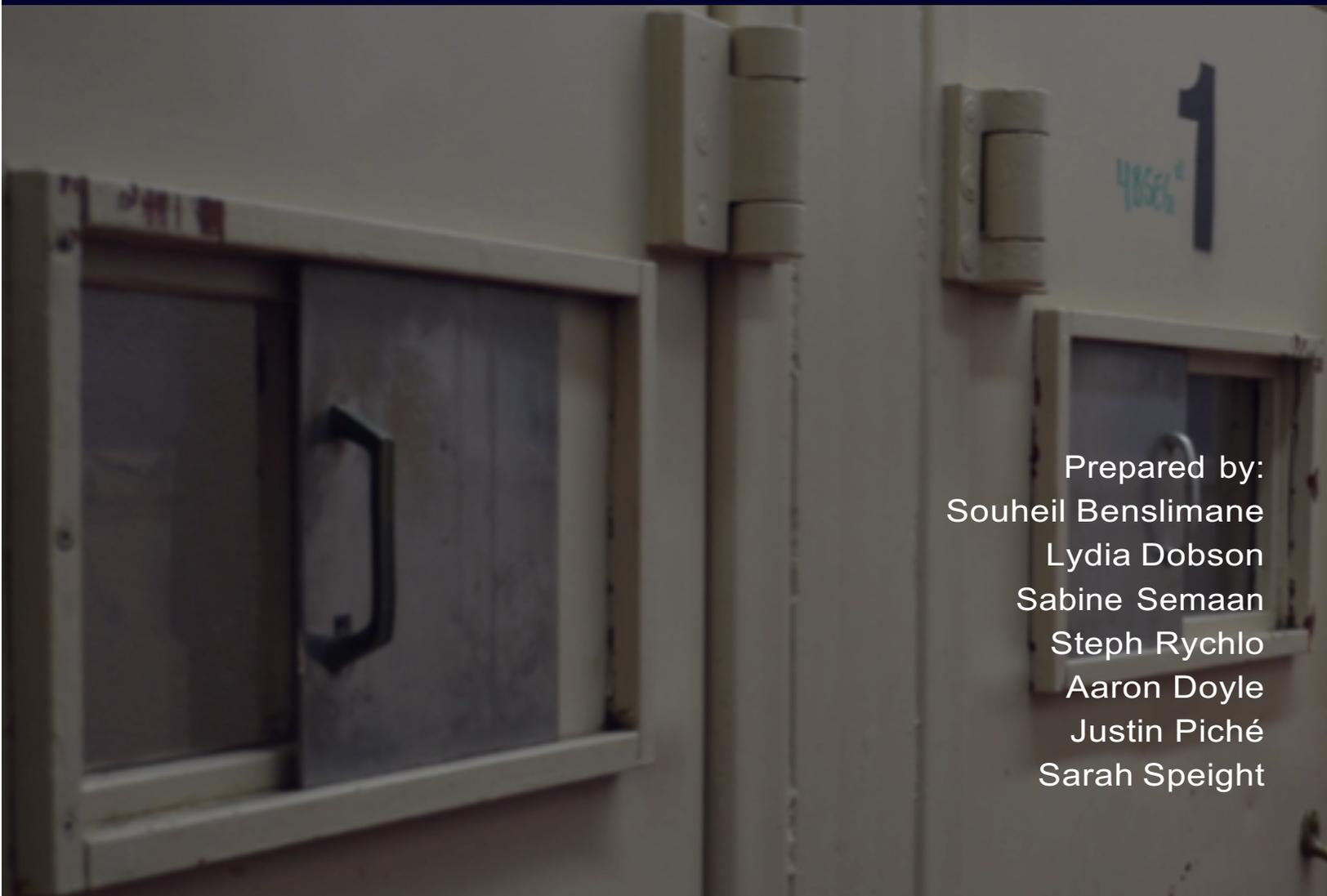


INADEQUATE COMPLAINTS PROCEDURES AT THE OTTAWA JAIL AND RECOMMENDATIONS FOR CHANGE

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A report of the Jail Accountability & Information
Line, a project of the Criminalization and
Punishment Education Project



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Acknowledgement of Traditional Territory:

The land upon which we conduct our advocacy work is the traditional territory of the Algonquin people. In acknowledging this, we are obligated to document and problematize how Canadian carceral institutions shape and are shaped by colonial policies and practices that must be abolished if we are to address pressing legacies, and the continued existence, of colonialism on Algonquin Territory and elsewhere on Turtle Island, including the incarceration of Indigenous, Black, racialized, poor, homeless and other people pushed to the margins.

Acronyms:

CPEP – Criminalization and Punishment Education Project
JAIL – Jail Accountability & Information Line
MSG – Ministry of the Solicitor General
OCDC – Ottawa-Carleton Detention Centre
CCRU – Client Conflict Resolution Unit

Overview of the JAIL Hotline:

The Jail Accountability & Information Line (JAIL) is a hotline operated by community members working in solidarity with people who are incarcerated at the Ottawa-Carleton Detention Centre (OCDC) and their loved ones. The JAIL hotline has two purposes: 1) Accountability (holding the provincial government, Ministry of the Solicitor General [MSG], as well as OCDC management and staff, accountable for the treatment of incarcerated individuals through tracking and resolving human rights violations within the jail); and 2) Information (providing information to people who are incarcerated at OCDC about their rights and resources available to them upon re-entry into the community).

The JAIL hotline was founded by the Criminalization and Punishment Education Project (CPEP) in response to long-standing issues regarding the use and conditions of confinement at OCDC. A provincial jail located on Innes Road in a suburb of Ottawa, OCDC has an official capacity of 585 beds, including about 60 beds for incarcerated women in a separate unit. Roughly two-thirds of those incarcerated at OCDC on any given day are not there to serve

sentences, but are on remand and awaiting their day in court. The JAIL hotline launched on 10 December 2018 and has taken calls on weekdays from 1:00pm to 4:00pm since that time. These hours of operation were chosen with the input of people who have experienced incarceration at OCDC. Currently, we have one phone line – 613-567-JAIL (5245) – that is staffed by up to three volunteers at a time. During its first 30 months, the hotline received over 7,500 calls.

Our work has become all the more pressing as the Government of Ontario committed an additional \$500 million on measures like hiring more staff with hundreds of millions more to be allocated to build new jail infrastructure in Thunder Bay, Kenora, Napanee, Brockville, Kemptville and Ottawa that will expand the province's future capacity to cage people, many of whom will be pushed further to the margins in the years ahead by cuts to essential services that actually contribute to community well-being and safety. In times when state repression deepens, it is in the public interest to demand transparency and accountability to limit damage caused by exclusionary laws, policies, and practices that underpin human caging in order to resist carceral expansion and work towards de-carceral futures.

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PART I: INTRODUCTION

This report comes following several hunger strikes at OCDC in the summer and fall of 2020, all of which involved incarcerated people advocating for their most basic rights (e.g. food, cleaning and hygiene products, and equitable access to healthcare) in the context of a pandemic.¹ Despite prisoners foregoing meals and putting their safety on the line to have their voices heard, the Ministry of the Solicitor General (MSG) and the jail continuously fails to address the prisoners' needs, demands and concerns. As one prisoner who partook in the strikes told the JAIL hotline, after several complaints made in order to receive cleaning products and even engaging in a hunger strike that included a demand for body wash:

“I was told to go to the doctor to get body wash. When I asked the doctor for body wash, the doctor responded by saying “I’m not a cosmetologist.”

The internal complaint process at the OCDC is inadequate. Existing complaint mechanisms do not support prisoners in asserting even their most basic rights, often resulting in serious injury or harm towards individuals before any action is taken. Kyle Bancroft, a person living with a disability who has been confined at the OCDC for approximately three years told the JAIL hotline that:

“in the last 81 days, OCDC refused to give me a shower assisted by a personal support worker (PSW) for 45 days, despite that the PSW comes into the institution daily... I spent another 12 days with no clean clothes.”

For some racialized prisoners, just making any complaint at all feels futile. As a Black man, currently caged at OCDC, told the JAIL Line:

“[guards] call me names and make fun of my hair. Sometimes they call me a retard and I would like them to change that and talk to me normally instead of calling me names and telling me to go back to my country and calling me a piece of shit.”

In order to address the ongoing failings of the jail and the inadequacy of the complaints process, this report will provide:

1. an overview of the OCDC internal complaints process;
2. an overview of the task force that was established to reform, among other things, the complaints process and its subsequent failures;
3. the impact of such inadequate complaint processes for prisoners; and
4. the demands and recommendations of prisoners for improvement.

¹ ‘OCDC Hunger Strike Details’ online at: < <https://cp-ep.org/ocdc-hunger-strike/>>

PART II: OVERVIEW OF THE OCDC COMPLAINTS PROCESS

The current complaint process at the Ottawa-Carleton Detention Centre is unclear, lacks transparency, and consistently does not sufficiently address the concerns raised by prisoners. The existing complaints process consists of an internal and external process. The internal process is the first step in the complaint process and prisoners are required to address their complaints within the institution. The internal complaints process is problematic because it lacks impartiality and independence. It forces a prisoner to submit a complaint form to the very institution that is causing them harm and to experience injustice.

Individuals incarcerated at OCDC continue to experience barriers to accessing complaint and request forms, both for medical and administrative requests and complaints. For example, JAIL hotline callers report that they were being denied photocopies of their complaints, which they are entitled to as a means of keeping track of the process (Speight et al., 2019a). Such instances reveal how the internal complaint process often leaves complaints unaddressed, unacknowledged and unresolved (see below).

Internal Complaints at OCDC

The current complaint process requires a prisoner to submit a request form, also known as a “Blue Form.” These complaint forms are submitted directed to the Superintendent. However, in order for the form to reach the Superintendent, prisoners must first gain access to the physical form and writing utensils. We have received many reports that such items have been refused to prisoners for various reasons including guards deeming the merits of the complaint unfounded and limited supplies.

Once the Blue Form is completed, the prisoners must rely on the guards (who are often the subject of the complaints) to deliver them to the Superintendent. If the complaint reaches the Superintendent, they will then have the discretion to determine whether the issue is within the Ministry of Solicitor General’s jurisdiction and determine a course of action (CAEFS, 2014).

If the prisoner is unsatisfied with the Superintendent’s response, there is no direct appeal process. The recourse available to the prisoner at that point is to contact the Regional Director that oversees OCDC and other jails in the region in writing. This correspondence written by the incarcerated complainant must contain the issue raised, in the complaint, the Superintendent’s response to it and the reason that this response is unsatisfactory. To be clear, this is not an appeal process. It is a second complaint made to a different body, which will not be accepted unless the Blue Form complaint process has also been completed. This process is generally quite delayed because it must be submitted via mail. Oftentimes these delays will deter this level of complaint as the passage of time will often render the issue of the complaint moot given the frequent turnover of the jail population.

Further, the internal complaint process is not transparent, lacking both tracking information as well as defined standards for complaints. Many prisoners have reported to us that they are not

provided copies of their complaints, which often go entirely unanswered. There is no accountability mechanism that allows incarcerated persons to have receipts for their claims and requests, and to verify that their complaints and requests were received and reviewed by the administration (Speight et al., 2019a). Prisoners from various units and security-level areas at OCDC have reported that jail officers demand a justification from the imprisoned person as to why they need a complaint form, often intimidating them from making a complaint at all. The jail officers also inform the prisoner that the staff must obtain the request form from a sergeant who has to be made aware of the prisoner's complaint. In many cases, (1) the sergeant does not bring the form as promised by the staff and/or (2) the jail officer informs the prisoner that the sergeant refused to provide them with an Internal Complaint Form.

Client Conflict Resolution Unit

The Client Conflict Resolution Unit (CCRU) is another mechanism available for prisoners to make complaints. JAIL hotline volunteers have encouraged callers to utilize these channels instead of relying solely on us to work with them to impact change (Speight et al., 2019b). However, the CCRU is very restrictive in terms of only dealing with human rights complaints based on the prohibited grounds as outlined by the *Ontario Human Rights Code*. Where the CCRU determine that the prisoner's complaint is not related to a human rights ground, they will not be supported.

The information that is shared with the MSG employed advisor of the CCRU is not kept confidential and is shared within the institution. This further impedes on a prisoner's ability to address their concerns due to the fear of reprisal associated with having their safety compromised within the jail (Speight et al., 2019a).

Human Rights Legal Support Centre

One external complaints option available to incarcerated people at OCDC is to contact the Human Rights Legal Support Centre (HRLSC), an independent agency funded by the Government of Ontario. The HRLSC deals with concerns related to the *Ontario Human Rights Code*, particularly discrimination and harassment. The HRLSC is separate from the Ministry of the Solicitor General and is difficult to navigate as the information provided to prisoners is vague and often incomplete. However, much like the CCRU, when a complaint is not directly related to a human rights-based ground, the prisoner does not have access to this resource.

Ombudsman's Office

As a final recourse, a prisoner can file a complaint with the Office of the Ombudsman of Ontario. As noted in its most recent annual report, the Ombudsman received over 6,000 complaints about provincial jails and prisons in 2019-2020. However, the Ombudsperson office will not conduct an investigation until a prisoner has exhausted all other institutional remedies first (*Ombudsman Act*, s 14 (4)). Thus, the Ombudsperson office has full discretion in deciding whether or not to conduct an investigation and can terminate an investigation at any time. Should the Ombudsperson office fail to conduct an investigation, a prisoner is only left with

writing directly to a Member of Provincial Parliament or any Minister of the Crown to remedy the situation they face. This is not realistic nor is it adequate enough to hold their oppressors accountable for the injustices against criminalized people.

Writing to the Ministry

Prisoners may also write to a senior ministry official including the Assistant Deputy Minister, Institutional Services and the Deputy Minister, and/or the Solicitor General to ask for further review. However, individuals incarcerated at the OCDC report that the MSG consistently fail to respond or review their complaint and provide adequate solutions.

Overview of Complaints Options

It is clear due to the prevalence of difficulties with the complaint process and the high volume of calls we receive that the existing complaint channels are not adequately addressing prisoner grievances, nor are they setup to address systemic and individual issues. Individuals incarcerated at OCDC reported difficulty utilizing existing internal complaint and request channels due to the following: (1) failure of the institution to respond to or provide request and complaint forms; (2) staff members being unwilling to identify themselves by displacing their badges or providing their badge numbers on request; (3) fear of reprisal, particularly with respect to involuntary transfers to other provincial institutions; and (4) the fear of reprisal associated with having their safety within the jail compromised (Speight et al., 2019a).

PART III: TASK FORCE RECOMMENDATIONS AND LACK OF IMPLEMENTATION

On 25 March 2016, following many serious complaints to the Ontario Ombudsman and multiple Human Rights Tribunal Applications related to conditions of confinements at OCDC, the Ministry established a Task Force mandated to address ongoing issues at the institution. Members of the Task Force were made up predominantly of Ministry officials and jail staff. Some partners, including the Elizabeth Fry Society, the Defence Counsel Association of Ottawa, and Mothers Offering Mutual Support, were also invited to join. This Task Force produced 42 short-, medium-, and long-term recommendations, followed by three Progress Reports and Quarterly Trends Analyses. To ensure accountability, MSG was directed to report back to the Minister on the progress of the Task Force and its goals on a quarterly basis.

Recommendations Related to Complaints Processes

Recommendations of the task force were divided into several categories, inclusive of Tracking Institutional Trends, Population Management and Administration, Bail and Remand, Health Care, Conditions of Confinement, Capital Improvements, and Reintegration into the Community. Under the subheading of Public Management and Administration and Conditions of Confinement, several recommendations specifically directed at the internal complaints

process were made. These include Recommendation 6, Recommendation 28 and Recommendation 30. Most notably, Recommendation 6 states that:

MCSCS [now MSG] should review and revise the inmate request and internal complaint process to ensure the systems in place are tracked, clear and transparent, with clearly defined service standards for complainants. This should include annual public disclosure of the nature of inmate complaints made to the ministry, remedial action taken and number of days to resolution. (MCSCS, 2016a)

Recommendation 28 expands on the provisions suggested in Recommendation 6 by requiring that incoming prisoners to the detention centre be provided with an orientation brochure that would “include information on complaints, requests, visits, as well as the process and contact numbers for Legal Aid Ontario” (MCSCS, 2016a). Recommendation 30 specifically deals with issues around food at the detention centre, recommending that, “The Ministry’s food services managers, dietary coordinator and procurement staff should meet on a regular basis to review complaints arising from food service at all institutions, determine if new food items are to be added and whether existing vendor contracts should continue” (MCSCS, 2016a).

Progress Reporting on Recommendations Related to the Complaints Processes

In the first Progress Report to the Minister, dated 27 October 2016, the task force declared its progress on reforms to the internal complaint process to be complete. Here, the report outlines a new process which, on its face, appeared to have implemented increased measures towards transparency and accountability within the institution. These changes included:

1. Changing the colour of the Complaints Form to Blue;
2. Requiring that Complaints Forms be provided to management;
3. Requiring that Complaints Forms be recorded and date stamped;
4. Requiring that a copy of Complaints Forms be provided to prisoners;
5. Requiring that a written decision be provided to prisoners within 10 days;
6. Requiring that a reason for delay is provided where written decisions cannot be provided to prisoners within 10 days; and
7. Requiring that the Deputy Superintendent Operations receive a summary report of all outstanding and resolved complaints every two weeks. (MCSCS, 2016b)

Similarly, the first Progress Report states that the brochure outlining complaints processes has been developed and is being distributed to all new prisoners at the institution. With respect to food services, the task force outlined a number of steps undertaken, none of which involved a review of complaints from prisoners regarding the food, as was recommended in Recommendation 30. In Progress Report 2, the task force reported that the above modifications to the complaint process had been successfully implemented.

Lack of Implementation

Although the task force, the MSG, and OCDC administration have made attempts to reform the complaint tracking and processing at the Ottawa jail, the information provided in Progress Report 2, which suggests that the new complaints processes have been “successfully” implemented is false. Based on thousands of interactions with incarcerated persons at OCDC through the JAIL hotline, staff and volunteers have been informed that the complaints processes outlined in the above noted recommendations have not been implemented. Below, we outline and enumerate the shortcomings of both the recommendations and their implementation.

Recommendation Shortcomings

While the recommendations themselves do mark a shift towards a more transparent and accountable process, they fall short of ensuring that responses and meaningful actions are taken to resolve complaints. Rather, they attempt to ensure a response without any recourse should that response be inadequate. Through our work with prisoners at OCDC, we know that in some circumstances responses are wholly inadequate and completely ignore the purpose of, and matters raised in, the complaints.

Furthermore, there is no mechanism in place to ensure that these processes are being followed beyond the scope of the reporting-back phases of the task force, which were completed more than three years ago. While the recommendations state that an oversight body will exist, it is unclear now who constitutes that body and what powers they hold.

Additionally, the complaints reforms made in the task force recommendations do little to address ongoing systemic issues plaguing the institution. A better mechanism for reforms that would diminish the harms of imprisonment would be accountable for monitoring the frequency and severity of complaints such that ongoing and systemic problems within OCDC could be identified, monitored, and addressed at a structural level, rather than through individualized complaint responses.

Implementation Shortcomings

Since 2018, the JAIL hotline has taken thousands of calls from prisoners at OCDC, many of which directly relate to matters which have or ought to be addressed by the jail complaints process. For many of our callers, the reforms undertaken by the task force in 2016 have fallen short of being achieved. Rather, these promises are not being met and the prisoners are left with an inadequate system that does not function in practice as it is written on paper. Notably, we are aware that the following occurrences have become commonplace at OCDC:

1. Blue Complaints Forms are not readily available;
2. Writing utensils with which to fill in Blue Complaints Forms are not readily available;
3. Prisoners are often not provided a copy of complaints;

4. Response times vary greatly and are often longer than 10 days;
5. In many instances, no response is provided at all;
6. Insufficient explanations for responses are common; and
7. Many prisoners have experienced reprisal for making complaints.

PART IV: IMPACTS ON PRISONERS

Incarcerated people at OCDC experience a myriad of hardships resulting from the ineffective and insufficient complaints processes within the jail. OCDC administration and MSG policies and procedures stipulate that incarcerated persons must use written request and complaint forms. Those channels are the most important means through which individuals confined at OCDC communicate with the administration, staff, and several OCDC departments (e.g. Health Care, Personal Effects, Admission and Discharge, Finance, Security, etc.) in order to access the services available to them on paper at the institution to meet their needs (e.g. clothing exchanges, doctor appointments, duty counsel, chaplaincy, etc.). Persons at OCDC use complaint forms to advocate for themselves and ensure that their treatment, while under the so-called care of the MSG, is in line with the standards set by laws, policies, and guidelines that regulate conditions of confinement in Ontario and Canada.

Given the broad range of matters for which the formal internal complaints process is the only means of recourse for prisoners, it is essential that this process be effective, transparent and equitable. Unfortunately, we have been contacted by many prisoners who have detailed gross miscarriages of justice in relation to these processes. These complaints to the JAIL hotline include, but are not limited to: inadequate access to medical attention, inadequate access to food and shelter (i.e. no heat in their cells or warm jackets when accessing yard time), as well as reprisal for having made a complaint in the first place.

In recent months, the inadequate administration of and resolution to the complaints process, coupled with exacerbated harms to prisoners caused by the COVID-19 pandemic that include frequent lockdowns and segregation-like conditions, have led to multiple hunger strikes at the jail. These strikes see groups of prisoners putting their health and safety on the line in order to advocate for basic necessities such as liquid soap, nutritious food, and access to resources like books and news outlets to educate themselves. The institutional response to these extreme yet reasonable calls for aid from prisoners has seen negotiated agreements that are quickly and systematically discarded once the strikes have lost media attention.

PART IV: RECOMMENDATIONS AND DEMANDS

While it is our position that no form of human caging is just, we believe that some of the harms resulting from inadequate oversight of such caging can be achieved. To this end, we have listened to the voices of people imprisoned at OCDC, through the JAIL hotline, in order to develop the following recommendations:

1. Blue Complaint Forms and writing utensils must be available at all unit desks.
2. Additional electronic devices to make and track complaints must be provided to prisoners.
3. Appeal processes should be made available for internal complaints to be escalated out of the jail for meaningful assessment.
4. Objective third parties, not jail staff, should make assessments and orders on complaints.
5. Under no circumstances should jail officers be able to screen complaints.

CONCLUSION

While we oppose imprisonment – which has proven to be an ineffective, costly and unjust practice – we support the above recommendations in order to address some of the myriad harms that human caging inflict on community members pushed to the margins. Without adequate recourse and oversight, prisoners become further vulnerable to a system that is already extremely dangerous, violent, and punitive. It is imperative that these recommendations be implemented immediately.

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