

FIRST REPORT
OF
THE FEDERAL JUDICIAL CENTER
TO
THE JUDICIAL CONFERENCE OF THE UNITED STATES

March 1968 to August 1968

THE FEDERAL JUDICIAL CENTER
SUPREME COURT BUILDING
WASHINGTON, D.C. 20543

REPORT OF THE BOARD OF THE
FEDERAL JUDICIAL CENTER

The Board, in accordance with § 623 (a) (3) of the Act creating the Federal Judicial Center, makes this its first report to the Judicial Conference of the United States.

I. BOARD MEETINGS

The first meeting of the Board was held in Washington, D. C. on March 2, 1968, with all members present. Mr. Justice Clark was named as the first Director and will serve until his 70th birthday, i. e., September 23, 1969, in accordance with the statute. The Board considered its budget for the fiscal year ended June 30, 1968, and approved the previous request made through the Administrative Office for an allowance of \$83,000. The budget for the fiscal year 1969 was set at \$538,000 and the Director was directed to file a request therefor with the Bureau of the Budget and the Congress. The Board also considered available housing facilities for the Center and inspected the facilities at Bolling Air Force Base. The Director was authorized

to secure accommodations either at the Base or the Dolley Madison House on Lafayette Square, which was being renovated. The Board also considered the general organization of the staff as outlined by the report of the Ad Hoc Committee previously appointed by the Chief Justice. The Board adopted the general provisions of the recommendations of the Ad Hoc Committee and the Director was requested to make nominations for Deputy and Assistant Directors, as well as a Professional Assistant. A list of research projects, including those previously considered and approved by the Judicial Conference of the United States was discussed and priorities assigned, as will hereafter be noted.

On June 4, 1968, the Board held its second meeting in Denver, Colorado, during the time of the seminar for newly appointed United States District Court Judges. This seminar was under the supervision of the Committee on Trial Practice and Technique, Chief Judge Alfred P. Murrah being the Chairman, and a majority of this Board was scheduled to be present to attend the seminar as instructors. All of the members of the Board were present except Judge Wade H. McCree, Jr., who unfortunately was unable to be present because of a prior setting of hearings in the Court of Appeals for the Sixth Circuit. At this meeting the Board approved projects previously

undertaken by the Director and, as hereafter noted, made suggestions as to future projects. Discussion was had as to the conduct of the seminars for newly appointed judges and it was decided that they should be conducted under the Murrah Committee until the presently scheduled seminars were completed. It was decided, on the recommendation of the Director, that no Deputy be selected for the present. The Director made suggestions as to the appointment of two Assistant Directors and several names were considered. As a result of this discussion the Center has now employed Richard Braun as an Assistant Director in charge of Education and Training, and Roger Cramton as Assistant Director in charge of Research. Miss Alice O'Donnell was selected by the Board to be a Professional Assistant.

The next meeting of the Board will be held in Washington, D.C., on Friday and Saturday, November 1 and 2. This coincides with the third seminar for newly appointed judges, which is scheduled for October 25 through November 1st. It will be held at the Dolley Madison House in Washington, which we anticipate will be ready for occupancy at that time.

II. ADVISORY COMMITTEE MEETINGS

Acting upon the suggestion of the Ad Hoc Committee, which was approved by the Judicial Conference of the United States, the Board of Directors organized six advisory committees for the Center. These committees are all now serving and each is made up of seven distinguished members, not only from the judiciary but from other disciplines such as business, education, science, medical research, public administration, industry and publications. The official titles of the committees are: Operations and Appraisal, Research, Continuing Education, Innovation and Development, Federal-State Relations, and Library and Publications. For your ready reference a list of the membership of each of the committees is attached. Two of the committees have held meetings.

The Committee on Research met in Washington on June 27, 1968, under the chairmanship of Judge Harry A. Blackmun. The committee discussed and made recommendations as to research projects as well as the organization of a staff on research activities.

It was recommended that this staff be small and that most research projects of major proportions be farmed out to appropriate agencies, public and private; that the Director of the Center maintain liaison with such agencies and oversee all such projects. All of the committee members were present except Professor Maurice Rosenberg, who was on assignment in Europe, and Judge

Hubert Will, who was in trial. The committee approved research projects such as the compilation of a loose leaf judge's desk or bench book for United States District Judges; the development of a method of selection of the panels for the hearing of cases in the United States Courts of Appeals so as to avoid duplication of assignment and the conservation of the time of the Chief Judge; and an evaluation of psychiatric treatment administered defendants and prisoners in the federal system. With reference to the last named program, Dr. Stanley F. Yolles, a member of the committee and Director of the National Institute of Mental Health, suggested that a visiting group be organized to inspect the Springfield Penitentiary. This committee, including Dr. Yolles, as well as the Director of the Administrative Office, two psychiatrists from the Mayo Clinic, and the Chairman of the committee, will call at the Penitentiary during the month of October, 1968. The committee adopted the practice of conducting a continuous flow of correspondence among its members, under Judge Blackmun's direction. This has been most helpful not only to the committee, but to the Board as well.

The Innovation and Development Committee, under the Chairmanship of Judge Griffin B. Bell, met at the Supreme Court on August 9, 1968. All the members were present and, in addition,

four representatives of the Mitre Corporation. These representatives explained and summarized to the committee their report on the potential of systems analysis techniques in the study of the federal courts. After extensive discussion and evaluation, it was recommended that Mitre be requested to make two short-term studies; one, to test the accuracy of the weighted case load index presently used by the Administrative Office; and, two, to establish case termination profiles and determine the relationship of termination dates to court congestion. In this connection Mitre will also consider the problem of the effects of concentration of counsel on the congestion of dockets. These studies will be made on the civil dockets in several of the District Courts, including Philadelphia and Chicago. We are pleased to advise that all of this work by the Mitre Corporation, as well as its initial report, is being done by it at no cost to the Center and as a pro bono publico contribution to the effort of the Center to improve the administration of justice.

III. BUDGET

As previously stated, the Center originally requested a budget of \$83,000 for the balance of the fiscal year, 1968. However the Congress did not make any appropriation until the end of

June and this amount was cut to \$40,000. This included cost of office equipment, supplies, etc. Fortunately, however, the Congress placed a proviso in the budget which permitted us to obligate the funds appropriated subsequent to July 1, 1968. We then made contracts for the purchase of equipment, supplies, etc. and for specific projects with the Institute of Judicial Administration. These projects are now being put into effect.

The Center requested an appropriation of \$538,000 for the fiscal year, 1969. On account of the effective date of the Act, the application was not processed until after the Appropriation Committee of the House had already closed its hearings. It was therefore necessary for the Center to secure a hearing before the Senate. The Center renewed its request at this hearing, for \$538,000; however, the Appropriation Committee reduced this to \$300,000, which sum was appropriated by the Congress and approved by the President. While this is a considerable cut from our request, the Appropriation Committee in its explanation indicated that the cut was occasioned by the fact that we would not be able to complete our staff for several months and the money would not, therefore, be necessary. In this regard we have been quite fortunate in securing the services of the personnel heretofore mentioned. Save for Miss O'Donnell,

however, the other employees will not be placed on the Center payroll until a later date. Under present planning Mr. Cramton will start on or about September 16, 1968, and Mr. Braun will report on or about October 14, 1968. At that time it will be necessary for us to secure stenographic assistance as well as other office personnel.

It may be necessary for us to secure a supplemental appropriation from the Congress if our projects develop with the speed that we anticipate. However, we shall first attempt to secure financing of projects through grants to the agency conducting the same for us, such as we did with reference to the criminal docket program in Brooklyn. [See Project (1), page 8, this Report.]

IV. PROJECTS IN PROGRESS.

(1) Criminal Calendar, Eastern District of New York, Brooklyn.

Through an \$8000 grant to the Institute of Judicial Administration from the National Defender Program of the National Legal Aid and Defender Association, all criminal cases in this District are being computerized and information as to counsel, nature of the case, time of filing, disposition, etc., stored. A computer

program, designed to control the calendar, will then be devised by the experts in that field with a view of eliminating the backlog in criminal cases. The Center anticipates that the storage of information will be completed by September 15, 1968, and that the program should be designed shortly thereafter and placed in operation. This program is a pilot project and its findings will be utilized in other Districts where adaptable. With the exception of the District Courts in some of the metropolitan areas, most of the criminal dockets are current, but this study may give us information that will be helpful to all other Districts, particularly those such as the District of Columbia where the tendency for backlogging is present.

(2) Civil Docket Calendar Control, Southern
District of New York, New York City

Prior to the creation of the Center, the Administrative Office had stored in a computer a list of all of the civil cases in the federal system, including the number, style, and nature of the case. Unfortunately the names of the counsel handling the cases, and other pertinent data, was not obtained. Through the good offices of Chief Judge Sidney Sugarman and Judge Harold R. Tyler, Jr., we were able to have a study made by International Business Machines Corporation, which indicated that this information, as well as other data, was necessary for a proper appraisal of the operation of the docket in the Southern District. We are therefore presently storing in the

computer this additional information as to all of the civil cases {approximately 12,000} now pending. We hope to be able to complete this operation shortly. This will give Chief Judge Sugarman complete information on all civil cases in the District and will permit the International Business Machine Corporation to draw up a program which it will propose to Chief Judge Sugarman for the automatic calendaring of the civil docket. If this proposal is satisfactory it will be used to inaugurate a pilot project in this District. The program will include five civil calendars: Jury, personal injury and death; jury, other than personal injury and death; non-jury, personal injury and death; non-jury, other than personal injury and death; and admiralty.

(3) Calendar Study, Eastern District
of Pennsylvania, Philadelphia

Last year the Administrative Office initiated a program in Philadelphia with reference to its backlog. Some 2500 cases have been computerized and case dispositions since that time have increased some 31%. A comprehensive program covering the entire docket has now been devised by Chief Judge Thomas J. Clary and Judge A. Leon Higginbotham, Jr. The program calls for the computerization of the remainder of the docket and a study of dispositions

heretofore made, with a view of obtaining a termination profile that will indicate where the docket is clogged. We will then be able to appriase the concentration of counsel as well as cases. There are 7000 civil cases on the Philadelphia docket; however, since we are studying the termination profiles it will entail considerable additional work and we therefore anticipate the entire project will take about a year to complete. We believe that a good percentage of the cases will be disposed of during that period.

(4) Study of the Jury System - United States District Court - Western District of Missouri, Kansas City

At the time of the creation of the Center the Judicial Conference of the United States had created a Jury Committee with Judge Irving R. Kaufman as its Chairman, assisted by Judge A. Leon Higginbotham, Jr. The Committee had been able to secure assistance from the American Bar Foundation, which had assigned a Research Attorney, Fredric A. Merrill, to do an appraisal of the problem. This has now been completed and we have made arrangements with Chief Judge William H. Becker and Mr. J. C. Truman, Clerk of his Court, to permit a task force under the direction of Mr. Merrill, to conduct a comprehensive study of the actual jury operation in the Western District, beginning at the time of the next jury docket in September. The study is aimed at a determination of the present utilization of jurors and its purpose

is not only to secure more efficiency in operation but a saving in expense. The project calls for daily observation of all phases of jury operation, extending from number and method of calling, the selection, utilization of time, and possibilities of reduction in number. The changes required by the new legislation pertaining to selection of jurors points up the necessity for this study. The fact that the Congress has doubled the pay for jurors emphasizes the necessity for the courts operating with a view to using as few a number of jurors as is consistent with good administration. Statistics accumulated by the Administrative Office indicate that the present jury call is excessive and it is to be hoped that this study will enable a saving in this area.

(5) Study of the Probation System

Last May the Chief Probation Officer, Ben S. Meeker, and Professor Hans W. Mattick of the University of Chicago Law School, and an Associate Director of the Center for Studies in Criminal Justice, requested that our Director and the Director of the Administrative Office, meet with them in Chicago during the time of the Seventh Circuit Conference. Professor Mattick is presently in charge of a study, "Probation Officer -- Case Aide Project", being conducted by the Center for Studies in Criminal Justice,

concerning probation. This study has had the cooperation of the Probation Service and will employ sub-professional case aides on a part time basis to help professional probation supervisors work with offenders. A training staff will be employed to assist in intensive training and orientation of the case aides. An experimental supervisory unit will be formed to supervise 40 case aides who will work with approximately 100 probationers, parolees and releasees, selected at random. The aides will contact the probationers at least once or twice a week. At the end of a reasonable trial period this experimental project will be compared with the regular probation supervisory process. This evaluation will reflect a treatment typology that will aid the service in determining the most fruitful supervisory relationships. It will also be addressed to the problem of the manpower shortage and corrections, the utilization of sub-professionals and a rational division of labor between professionals and sub-professionals. The project has recently been funded by the National Institute of Mental Health. Professor Mattick has requested the cooperation of the Center with his staff in completing this study and we have agreed to place the study under our aegis.

Another probation project on somewhat similar lines has just been completed at the University of California (Berkeley), and

is known as the San Francisco Project. It has to do with research concerning presentence and supervisory practices. Four Probation Officers are assigned reduced case loads and then results are compared with four Probation Officers who carry a "normal case load." The study presently indicates that violations of parole occur at approximately the same rate in each group. It has been suggested that the Federal Judicial Center test the procedure in two other districts in order to determine whether the results are the same. If these studies point to the same conclusion, it may require a re-evaluation of the case load of probation officers. This would permit the utilization of his time in the solution of other problems, or perhaps a reduction in the force.

(6) Study of Systems Procedures
in the Federal Courts.

The statute creating the Center provides that it "study and determine ways in which automatic data processing and systems procedures may be applied to the administration of the courts of the United States . . ." and to "consider and

to recommend to both public and private agencies aspects of the operation of the courts of the United States deemed worthy of special study." As has been previously stated, the Mitre Corporation, at the request of the Center, made a study of court congestion in the federal courts with a view to applying systems analytic techniques to this major court problem. In the study Mitre considered the relative advantages of the master calendar and individual assignment calendaring systems by studying systems in the Eastern District of Pennsylvania (Philadelphia), and in the Northern District of Illinois (Chicago) where these varying techniques are used. Though the report dated August 5, 1968, by Mitre is inconclusive, on the calendaring process, it suggests that other details must be obtained before an appraisal of the respective systems can be made. The Center has authorized this further study and it is expected that after obtaining this additional data that a tentative appraisal may be in the making.

(7) Reorganization of the Clerk's Office,
Eastern District of Louisiana, New Orleans

Some months ago the Chief Judge of the Eastern District requested the Administrative Office to make an appraisal of the Clerk's Office in the District. Additional judges had been authorized and appointed in the District, which, along with the increase in filings, placed an unusually heavy burden upon the Clerk's Office. The investigation of the Administrative Office indicated that outside assistance should be obtained and the Center was able to secure the services of the Auerbach Corporation in this regard. Two senior analysts have been assigned to work on a study of the Clerk's Office along with one employee of the Administrative Office. This force reported to Chief Judge E. Gordon West and is now at work in New Orleans under the supervision of Judge Herbert Christenberry. The project is a pilot one for the purpose of determining the necessary business practices and controls that would produce an efficient operation of the Clerk's Office in a multiple judge district. It is expected that the report will be completed this fall and that it will be adaptable to other Clerks offices throughout the country.

(8) The Judge's Desk or Bench Book

The Center is now preparing a desk or bench book for United States District Judges. It has circulated a request to all District Judges to send in forms and other material that they frequently use in the disposition of cases. We have received a most gratifying response. A group of analysts are now going over the various forms submitted and will select those which in their opinion would be helpful. These, along with the forms which are rejected, will be made available to a committee of District Court Judges composed of: Judge Hubert L. Will, Judge John F. Dooling, Jr., and Judge Robert E. Maxwell. The committee will make a final decision on the composition of the book. The book will be in a loose leaf form and the Center will furnish continuing service to keep it up to date.

This desk or bench book will not include pattern jury instructions. During the course of gathering materials on this book we were informed of the Judicial Conference Committee on pattern jury instructions under the chairmanship of Judge William Doyle. Judge Doyle has now indicated he would like the Center to correlate the work of his committee and we contemplate organizing a loose leaf book on pattern jury instructions which we would also circulate to the District Court Judges.

This project is under the supervision of Delmar Karlen, at the Institute of Judicial Administration in New York City, and it is anticipated that the desk or bench book will be ready for circulation by January 1, 1969. The pattern jury instruction book will entail a longer period but should be ready for circulation in the spring of 1969.

(9) Assignment of Courts of Appeals
Judges to Panels

Chief Judge Brown of the Fifth Circuit contacted the Center with reference to giving him some assistance in working out a method of assigning judges to panels. The Fifth Circuit, having 15 authorized judges and three Senior Judges, with seven different locations for sittings, and the heaviest docket in the country, brought about a serious problem with reference to assignment. The Circuit wished all of the judges to sit in each of the locations. At the same time it wished the judges to sit with one another as few number of times as possible. In addition, the Circuit has a policy of having two Fifth Circuit judges on each panel. Chief Judge Brown and his Administrative Assistant have been spending considerable time on these assignments.

The Center assigned the problem to the IBM Corporation and to an expert mathematician. While we have not received the

final procedure that these experts suggest, it is indicated that a form be devised which will save Chief Judge Brown and his Administrative Assistant a great portion of time which has been devoted to assignments. This method would be adaptable to all of the larger Circuits, such as the Ninth and the Second.

(10) A Screening Process for the
U. S. Courts of Appeals

A study of the dockets of the Courts of Appeals indicates that there is a severe clogging because of the increase in frivolous appeals. While some of the Circuits have been carrying on a screening process of frivolous appeals alone, this method has some due process problems which it is desirable to obviate. The Center has therefore begun a project in conjunction with the Institute of Judicial Administration and the Chief Judges of the various Circuits to work out a screening process that would meet the requirements of due process and at the same time alleviate the heavy burden now placed upon the Circuits. This project is under the supervision of Delmar Karlen, Director of the Institute, and his associates are appraising the several methods presently in use. A recommendation will then be made as to a method that would, in the view of this group, meet the requirements of due process. It is anticipated that a procedure

similar to that presently used by the Sixth Circuit will be adopted and recommended to the Circuits. This recommendation should be circulated not later than January 1, 1969.

(11) Habeas Corpus Cases

A study of the increase in cases in the District Courts reveals an alarming expansion in the number of habeas corpus applications by state prisoners under 28 U.S.C. § 2254. Indeed, the number has increased tenfold in the last few years. Some of the Districts have worked out a questionnaire which is submitted to the applicant and which aids the court in determining the merits of the application. In addition, some courts have worked out a check system whereby comparison of the application and the record in the state court with the requirements of the federal system permits the judge to come to a ready conclusion as to a determination of the matter. The Center is now gathering information in this area and contemplates the issuance in the near future of an appropriate form that will enable District Judges to appraise such applications in a minimum period of time. At the same time the Center has appointed a Federal-State Relations Advisory Committee which is composed of Supreme Court Justices of the States in an effort to have the states perfect a state post conviction remedy. We believe that this will be of inestimable assistance, not only in the area of Federal-State Relations but also to Federal Judges in the disposition of § 2254 applications. While the

work with the States is necessarily of a longer duration, the forms which the Center will furnish to the District Judges should be ready for circulation within 90 days.

V. SEMINARS FOR JUDGES AND COURT PERSONNEL

The Ad Hoc Committee recommended that seminars be held not only for the newly appointed judges but also for those older in service. As has been indicated, we will hold three seminars during 1968, all of which will be attended by newly appointed District Court Judges only. These seminars have been conducted under the auspices of the Judicial Conference Committee on Trial Practice and Technique. Chief Judge Alfred P. Murrah, the Chairman of this Committee, has directed the seminars in a most able and effective manner. Chief Judge Murrah and the Director of the Center have agreed that the third seminar for newly appointed District Court Judges will be held in Washington, D.C., from October 25 through November 1, 1968. Some 30 student-judges will attend the sessions and 19 instructor-judges have been invited.

The Assistant Director for Education and Training will report for duty on October 14, 1968. As soon as possible thereafter seminars for 1969 will be planned, not only for judges but also for other personnel of the court in keeping with the suggestions of the Ad Hoc Committee approved by the Judicial Conference. The Center will give preference to the training of Clerks, of Referees and of

Probation Officers. We are awaiting action of the Congress on the Magistrates Bill to organize a school for Magistrates.

There are some 7000 employees in the Federal court system. We hope to reach each one of them, save those who are serving in the Administrative Office. In this way we believe that the efficiency of the court system will be improved.

VI. LIBRARY

One of the greatest needs at the Center and for the federal judiciary generally is for a complete library dealing with subjects related to judicial administration, and in particular to court administration. No such collection is now in existence. We deem this to be a vital and necessary asset to the work of the Center. Preliminary planning has begun, looking toward a library that will be a comprehensive collection of judicial administration source material, kept current and made available to the judiciary. Several names are now being considered for the position of Librarian at the Center.

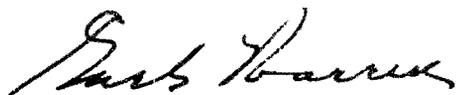
VII. HEADQUARTERS FOR THE CENTER

As previously mentioned, Dolley Madison House will be the office for the Center. It is located at H and Madison Place, N. W., on Lafayette Park. The General Services Administration has indicated that Dolley Madison House may be occupied not later than September 20,

which would be in ample time for us to have it functioning by the time of the seminars for newly appointed District Court Judges. We have therefore called a meeting of the Board of the Center for November 1 and 2, 1968. We are also planning to have a dedication of the building on that day as well as a reception for the Judges attending the seminar. We are also inviting attendance of all the Advisory Committee members, and extend a special invitation to the members of the Judicial Conference who may be in the city at that time.

We are pleased to report that the reception of the Center has been most gratifying, not only among personnel of the Federal Judiciary but by the bar as well as the public. It offers great opportunity for the improvement of the administration of federal justice. The Board is proud to be able to render service in this regard and continues to dedicate both its time and energies to the accomplishment of the high purposes of the Congress in creating the Center.

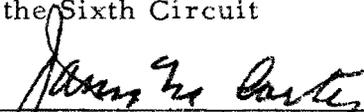
We look forward to your continued support and assistance and extend our deep appreciation for your past cooperation.



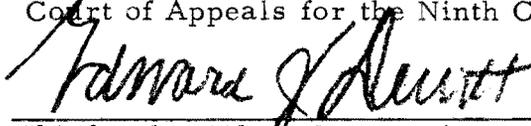
The Chief Justice of the United States
Chairman of the Board



Judge Wade H. McCree, Jr.
United States Court of Appeals
for the Sixth Circuit



Judge James M. Carter, United States
Court of Appeals for the Ninth Circuit



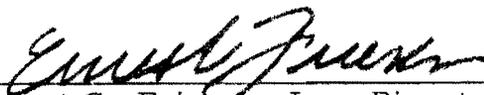
Chief Judge Edward J. Devitt, United
States District Court, St. Paul, Minn.



Judge William A. McRae, Jr., United
States District Court, Jacksonville, Fla.



Judge Harold R. Tyler, Jr., United
States District Court, New York, N. Y.



Ernest C. Friesen, Jr., Director,
Administrative Office, United States
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ADVISORY COMMITTEES
FEDERAL JUDICIAL CENTER

Advisory Committee on Research

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Judge Hubert L. Will, U. S. District Court, Chicago, Illinois 60604
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Advisory Committee on Continuing Education

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Judge Frank J. Murray, U. S. District Court, Boston, Mass. 02109
Judge Frank W. Wilson, U. S. District Court, Chattanooga, Tennessee 37402
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Geoffroy Billo, President, Baker, Voorhis & Co., Inc.,
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Chief Justice Robert W. Calvert
Supreme Court of Texas, Austin, Texas 78711

Chief Justice W. N. Ethridge, Jr.
Supreme Court of Mississippi, Jackson, Mississippi

Chief Justice Oscar R. Knutson
Supreme Court of Minnesota, State Capitol
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Chief Justice Kingsley A. Taft
Supreme Court of Ohio, State House, Columbus, Ohio 43215

Mr. Justice Louis H. Burke, Supreme Court of California
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Mr. Justice Edward E. Pringle, Supreme Court of Colorado
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