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Position Paper In Opposition To The Legalization of Drugs

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ACQUISITIONS

Executive Summary

The Regional Drug Initiative Task Force (RDI) opposes the legalization, the controlled legalization, and the decriminalization of illicit drugs. This position was adopted formally by the Task Force on September 18, 1990 and the Task Force continues to oppose the legalization of drugs. RDI originally published "A Paper in Opposition to the Legalization of Drugs" in September, 1990. Since that time, renewed interest in the issue and new information on the topic called for an updating of this publication.

The reasons RDI opposes any form of legalization are grouped into three areas: health, workplace, and criminal justice. The use of drugs and their impact on health is one of grave concern, not only because of the deleterious effects of drugs, but also because of the long-term demands placed on health care systems and the associated financial cost. Other topics requiring consideration when talking of legalization of drugs include worker safety and productivity issues which dominate the list of concerns from employers. The business community has shown the positive effects of strong drug control programs in the workplace. It is essential to business that public policy support its efforts to promote drug-free work environments. A policy of legalization runs counter to business efforts in this arena.

The impact of drug use in this country is readily apparent when looking at the criminal justice system. However, the responsibility for having a positive impact on this country's drug problem does not rest solely with the criminal justice system. To charge the criminal justice system with full responsibility for the problem is to ignore the medical and workplace impacts of drug use. Removing legal prohibitions and lowering drug costs would clearly create a broader and more frequent demand for drugs. Mathea Falco, in *The Making of a Drug-Free America*, states, "...there is general agreement that drug abuse would increase under legalization. In the absence of any empirical evidence, estimates vary widely, ranging from a low of 250,000 new addicts to a high of 20 million. Eihan Nadelmann of Princeton University, a leading proponent of legalization, concedes that 'all the benefits of legalization would be for naught, however, if millions more people were to become drug abusers,' and notes that 'our experience with alcohol and tobacco provides ample warnings.'" (1) It is reasonable to assume that this would, in turn, result in a surge of drug-related medical and workplace incidents. The RDI Task Force has concluded that legalization of drugs would not only displace society's costs from the criminal justice arena to the health care system and the workplace, but would increase those costs extensively.

This is not to ignore the importance of the need for expanding treatment capacity, improving treatment programs, and making treatment more available for those in need. A policy of legalization would be equivalent to exposing the population to a highly contagious and debilitating disease without providing an effective cure. Treatment can be effective, but relapse is not uncommon. While it is recognized that criminal sanctions by themselves do not cure drug abuse, they serve as both a precipitating factor for entry into treatment and as a coercive force in maintaining people in treatment. According to Dr. Peter Bell, this is especially important in view of the finding that minorities enter treatment at later stages of addiction than nonminorities and that the criminal justice system can be the critical impetus in engaging minority members in treatment. (2)

TABLE OF CONTENTS

Introduction	2
Position	2
Definitions	2
Consequences	2
Health Issues	3
Drug-Affected Babies	3
Impact on School Settings	3
Physical Effects	4
Child Abuse	4
Drug Abuse Warning Network	4
Workplace Issues	4
Drug Policy Impacts	5
Crime and the Criminal Justice System	5
Prohibition	5
Enforcement Costs and Impacts	6
Drugs and Violent Crime	6
Black Market	6
Conclusions	7
Treatment	7

Introduction

The issue of legalization of drugs continues to be a topic of discussion at local, state and national levels. Entire organizations such as NORML and the Drug Policy Foundation are devoted to achieving legalization of marijuana and other drugs. Prominent individuals such as former Secretary of State George Schultz, author William F. Buckley, Jr., Federal Judge Robert Sweet, Baltimore Mayor Kurt L. Schmoke, and economist Milton Friedman have all taken public positions in support of various degrees of legalization. Because of the frequent requests received by the Regional Drug Initiative for information on the topic, the RDI Task Force directed a review of available information and the preparation of a position paper in opposition to the legalization of drugs. The original paper was published in September of 1990. Continuing concern by RDI prompted this update.

Position

The RDI Task Force opposes the legalization, the controlled legalization, and/or the decriminalization of illicit drugs. These three aspects of the "legalization" argument are frequently intermingled.

Definitions

For the purposes of this paper each of these terms is defined as follows:

Complete Legalization—Illicit drugs would be treated as a commercial product with little or no restriction on selling, advertising, or use. All legal sanctions and controls would be eliminated. No federal, state, or regulatory body would be required to oversee production, marketing, or distribution.

Controlled Legalization—Production and distribution of drugs would be regulated and controlled. Limits on amounts and age of purchaser would be required. There would be no criminal or civil sanction for possessing, manufacturing, or distributing drugs unless these activities occurred in violation of the regulatory system.

Decriminalization—Decriminalization restructures current criminal sanctions maintaining criminal penalties for manufacture and distribution but eliminating criminal sanctions for use. It recommends civil sanctions for possession of small amounts of drugs. (3)

Consequences

While it is difficult to project into the future with unerring accuracy, there are some logical conclusions that can be drawn when considering the possibility of a

policy which would legalize drugs. For example, legalization would eliminate a set of crimes currently enforced by the criminal justice system — an apparent consequence. Other consequences also require consideration.

Legalization would also produce both greater availability of drugs throughout the general population and an increased access to drugs by the general population. With both availability and access increased, it is a logical consequence that use would increase. In *The New Republic* essay "Crackdown" authors James Q. Wilson and John J. DiIulio, Jr., on the issue of increased use, cite cocaine as just such an example. When cocaine was used in its powdered form, it was expensive and use was by the more affluent groups in society. When it became available as crack cocaine, it was significantly cheaper and consequently more widely used. In fact, with the advent of crack cocaine, use increased sharply. (4) Similar concerns about increases in the use of heroin as it becomes more available in smokeable form are now being raised.

As price serves to regulate use, so too, do social norms and values. A public policy of legalization would remove the current legal taboos from drug use, taboos which currently serve to restrict use. Elimination of these legal sanctions would lead to increased use. The U.S. experience with Prohibition is an example of the consequences of removing a legal sanction. Though Prohibition, when in effect, did not eliminate alcohol consumption, it reduced alcohol consumption significantly. What followed after the repeal of Prohibition was an increase in alcohol consumption. (5) An even more telling and current example of increased drug use comes from Zurich, Switzerland. In an effort to curb AIDS the Zurich Public Health Department established a needle exchange program located in Platzspitz Park, known as "Needle Park" because the city has given it over to drug users. The exchange program dispensed 2,000 free syringes and needles a day in 1986 when the program began. By 1990, the number had climbed to 8,000 a day. According to Dr. Albert Wettstein, Zurich's public health officer,

"This free and unlimited access has given us a spiraling number of users and although it has cut down on the percentage of AIDS victims, it has quadrupled the number of drug users in the past four years... Our burglary rate and the number of prostitutes has also increased, and that is a direct result of this drug usage." (6)

By 1991, what had begun as an effort to control and contain drug use among addicted persons had become a magnet for drug users. In recognition of the crime, violence and expense of financing services for addicts from other cities, the Platzspitz Park program was closed in February, 1992. (7)

Health Issues

The use of drugs and the impact on health is one of grave concern, not only because of the deleterious effects of drugs, but also because of the long term demands placed on health care systems and the associated financial costs. The health issues alone affect individuals prenatally, during infancy, childhood, and on through adulthood.

Drug-Affected Babies

In 1988 the Office for Substance Abuse Prevention estimated that 375,000 newborns annually faced the possibility of health damage due to their mothers' drug abuse. (8) Current estimates of drug-exposed babies available from the U.S. Department of Health and Human Services range from 1 to 2 per cent of live births (40,000 to 75,000) to 11 percent of live births (375,000). (9) Oregon saw a sharp rise in annual births of drug-affected babies between 1987 and 1989 with 154 such births in 1987 and as many as 532 newborns in 1989. In 1990, 1991, and 1992 the numbers of drug-affected newborns show steady declines but still remain unacceptably high. (10)

Initial studies regarding crack use by pregnant women found that use produced spasms in the baby's blood vessels which resulted in restricting the flow of oxygen and nutrients. Fetal growth, including head and brain size, may be impaired, strokes and seizures may occur and malformations of kidneys, genitals, intestines, and spinal cord may develop. (11,12) Larger cocaine doses can rupture the placenta, putting both mother and fetus in further danger. At birth these babies show tremors, irritability, and extreme lethargy. While some symptoms

may disappear shortly after birth, the underlying damage remains and exhibits itself in developmental delays, lack of motor control and extreme sensitivities to normal day-to-day stimuli. (13)

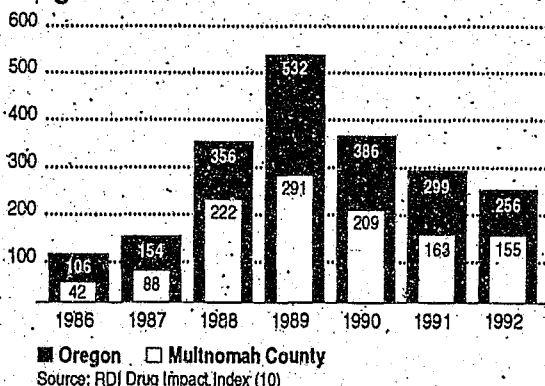
More recent studies confirm the medical complications experienced by infants with fetal exposure to drugs. Authors D.G. Van Dyke and A.A. Fox in the March, 1990 *Journal of Learning Disabilities* note, "There is a growing body of data showing that fetal exposure to cocaine, phenylcyclidine hydrochloride (PCP), and other CNS-active drugs results in infants and children with abnormal brain wave patterns, short-term neurologic signs, depression of interactive behavior, and poor organizational responses to environmental stimuli." (14) And in an article published in *Pediatrics* in February, 1992, Dr. Ira Chasnoff wrote "...a general consensus has been established that cocaine has a role in producing an increased risk of maternal complications, including abruptio placentae, pregnancy loss, and preterm labor and risk for fetal/neonatal problems including intrauterine growth retardation, reduced head circumference, prematurity, and increased perinatal mortality." (15) Other research has provided some encouragement by identifying the positive impacts on child development resulting from responsive caretaking of affected infants (16) and stress the need for additional data on impacts from dysfunctional parenting that occur in family units where either drug or alcohol abuse is present.

"Infants born to drug- and alcohol-abusing mothers are clearly at risk for developmental and behavioral problems because of both prenatal exposure and dysfunctional parenting." (17)

Impact on School Settings

Schools are addressing the problems of children who are exposed to drugs before birth, as well as those children who are raised in a drug-using environment. Many of these children experience emotional as well as developmental problems. School officials are aware that drug-affected children as a group have a higher likelihood of short attention spans and hyperactivity. Drug-affected children also exhibit an inability to adjust to new surroundings easily and have difficulty in following directions. All these traits can lead to failure in school settings. (18) Studies on adolescent drug use suggest that it can impede physical development, as well as learning abilities. (19) These children present a challenge to school systems if they are to become productive members of our communities and work forces in the future. Though it is difficult to assign costs resulting from the additional demands placed on institutions and public

Drug -Affected Babies: Annual Births



services because of drug use, it is fair to assume that there already is a significant financial impact which will only be exacerbated should any form of legalization go into effect.

In a comprehensive review of over 30 years of research Drs. J. David Hawkins and Richard Catalano have identified fifteen risk factors which predispose adolescents to drug abuse. Included in the list of risk factors are: 1) parental drug use/favorable attitudes toward use; 2) friends who use drugs; 3) favorable attitudes towards drugs; 4) laws and norms favorable toward use; and 5) availability of drugs. All of these risk factors will be increased with legalization and the sanctioning by society of use of currently illegal drugs. (20)

Physical Effects

The physical effects of drug use on adults are well documented. Cocaine use causes a number of medical complications including acute myocardial infarction, cardiac arrhythmias, acute rupture of the ascending aorta, central nervous system complications, such as seizures and strokes, obstetrical complications, intestinal and other miscellaneous complications. (21) Increased numbers of AIDS cases are being seen as a direct result of the drug-induced judgment impairment which leads to both unsafe sexual practices and shared needle use. Dr. David Smith, Director of the Haight Ashbury Free Clinic in San Francisco, reports that his program is seeing an alarming rise in AIDS patients in users of both crack cocaine and "ice," neither of which is administered intravenously. The impact of increased drug use on the medical care system is profound.

Child Abuse

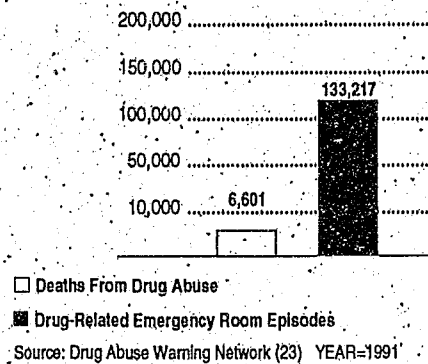
Tragic consequences of drug use by pregnant women is only one aspect of the impact of drug use in the health arena. Oregon, like other states, has experienced an increase in the number of incidents of physical abuse and threat of harm to children. The Children's Services Division ascribes these increases to the growing problems of substance abuse within families. Suspected drug and alcohol problems within families of child abuse victims more than tripled in Oregon between 1983 and 1989 and was found to be the second most common stress indicator in families of child abuse victims. (22)

Drug Abuse Warning Network

Annual data from the Drug Abuse Warning Network (DAWN) clearly illustrates the burden carried by both private and public hospitals due to drug-related hospital emergency room visits. Hospitals in the 21 metropolitan areas, participating in DAWN reported 133,217 drug-related emergency room episodes and 6,601 deaths from drug abuse in 1991. (23)

Given this information it is difficult to imagine how anything other than increases in drug use would occur

Reporting Hospitals from 21 Metropolitan Areas



as a result of any form of legalization. (24) It is even more difficult to imagine that increased use would not result in a larger number of births of drug-affected babies as well as an increase in the associated health problems of adolescents and adults, further taxing the health care system. Legalization would aggravate already serious health problems. A public policy supporting legalization fails to protect the general population from increased health problems, and fails to protect the most fragile and innocent of the victims of drug use, infants and children.

Workplace Issues

"Drug Abuse cost the U.S. economy \$76 billion (in 1991) — up from \$44 billion in 1986 — and the figure will climb to \$150 billion by 1997..." (25) Economics are not the only losses businesses suffer as a result of drug use. The loss of life stemming from drug related accidents has been well documented. No business or service industry has been untouched but the media has highlighted accidents in the transportation industry. Some examples are:

- In Durango, Colorado, a commuter airliner crashed leaving nine dead. The pilot tested positive for cocaine.
- Forty-eight train wrecks in the past decade were directly attributable to drug and alcohol abuse. In one incident, the fatal crash of two commuter trains in Mount Vernon, New York, all five railroad workers involved tested positive for illegal drug use including the engineer who was killed in the wreck.
- Sixteen people were killed and 170 injured when a Conrail engine rear-ended a passenger train. The engineer ran several warning signals before merging into the path of the high speed Amtrack passenger train. He later tested positive for marijuana.

■ A bus company found that 30% of the applicants for experienced driver positions tested positive for drug use. (26)

■ One trucking company began drug testing at the request of their drivers. On the day of the test 50% of the drivers tested positive for drugs. (27)

Drug Policy Impacts

Oregon employers have become increasingly aware of national trends relating to employee drug use on the job. In the metropolitan Portland area, some businesses have pioneered efforts to address drugs in the workplace issues before they could become problematic. These businesses achieved positive results by establishing drug policies and programs. Hoffman Construction experienced a 17% reduction in worker's compensation claims. In 1987, three years after adoption of a strong drug control program, Hoffman's workers' compensation losses dropped from \$986,000 to \$118,000. (28) Northwest Natural Gas Company experienced similar success with a 27% drop in days lost from accidents and a 14% reduction in illness absentees following implementation of a drug and alcohol policy and a smoking policy as part of the employee health and wellness program. An Omark Industries Chainsaw Division has seen their drug test failure rate drop by 12% to 15%. (29)

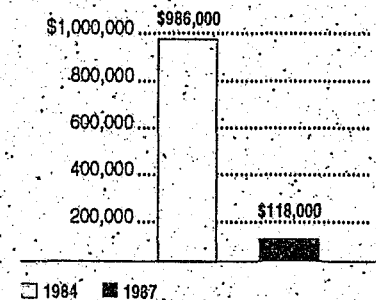
Business and industry have not taken a position favoring legalization of drugs. On the contrary, in Oregon there has been an aggressive effort by the Regional Drug Initiative and the Oregon Business Council (OBC) to inform and persuade all businesses to realize their responsibility and provide drug-free workplaces. Since February 1989, OBC companies providing an Employee Assistance Program or rehabilitation opportunities have increased from 87% to 100%.

It is essential to the business community that public policy supports its efforts to promote drug-free work environments. A policy of legalization would undermine the progress made by business and industry to provide

safe work environments and to retain drug-abusing employees as productive members of the workforce. Drug-free workers and work-sites are essential to the United States competing effectively in international business markets.

Worker's Compensation Costs

Hoffman Construction Company



Source: Oregon Business Council

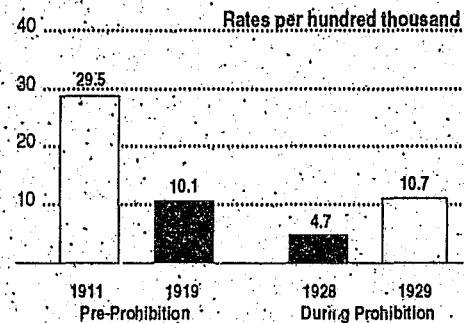
Crime and the Criminal Justice System

Perhaps the loudest argument favoring legalization of drugs is based on the highly visible impact of drug use on criminal justice systems across the country. Nowhere else has the impact been more concentrated or more easily counted. The public sector impact is far more open to public scrutiny than the impact on private care systems, the medical establishment, or business operations. The intellectualized examinations of the high cost of prosecuting drug crimes often put forth by proponents of legalization fail to take into account the high cost of not prosecuting drug crimes and ignore both the human factor and the insidious and addictive nature of drugs.

Prohibition

Legalization proponents appear to have adopted the position that the drug problem is not one of drug use, but of drug prohibition. (30) They further argue that prohibition has been and continues to be ineffective. However, the experience this country had with the Volstead Act of 1920 and the 18th Amendment, most commonly known as Prohibition, actually supports the effectiveness of prohibition. The amendment prohibited the commercial manufacture and distribution of alcoholic beverages; it did not prohibit use or production for one's own consumption. Alcohol consumption actually declined sharply when Prohibition went into effect, falling to 20-40% of its pre-Prohibition level. In the later years of Prohibition alcohol consumption crept up to 60-70% of its pre-Prohibition value. (31) Contrary to many

Admissions To State Mental Hospitals for Alcohol Psychosis and Cirrhosis Death Rates



popularly held opinions, the violent crime rate did not increase dramatically during prohibition, although organized crime may have become more visible. Prohibition did not end alcohol use; however, it succeeded in reducing by one-third the consumption of a drug that had wide historical and popular sanction. The real lesson of Prohibition is that government can affect the consumption of drugs through laws. (32)

Enforcement Costs and Impacts

The cost of enforcement of drug laws is not insignificant. For 1990 the total Federal budget authority for anti-drug programs was \$7.9 billion. If one is to measure the depth of commitment to the Drug War by the federal spending authority attached to it, the United States has yet to wage a war on drugs in the financial sense. For example, in the late 1960's the annual price tag for the Vietnam War was \$35 billion per year. (33) More federal money is put into public transportation subsidies than into drug enforcement. There are more police personnel committed to protecting the members of Congress than there are Federal drug agents. (34) Other countries have had experiences with drug epidemics in the past. Those that have been most successful have applied strong enforcement in conjunction with public education and user rehabilitation. (35) Some examples include:

- Japan routed an amphetamine epidemic after World War II and a growing heroin problem in the late '50's and early '60's through aggressive law enforcement and the stigmatization and rehabilitation of users.
- Great Britain discovered that allowing doctors to prescribe heroin created a large black market and led to an increase in its drug problems.
- Spain relaxed drug laws in 1983 and has experienced a recent spurt in cocaine and heroin addiction. A crackdown on drug pushers is now underway.
- Amsterdam, frequently cited by pro-legalization elements as a city successfully coping with a drug problem, is rethinking its liberal drug policies as legalization has led to an increase in certain crimes. (36)

Liberalizing drug laws would result in an increase in drug use, drug addiction, and drug related criminal activity. Particularly with cocaine, Dr. Frank Gawin at Yale and Dr. Everett Ellinwood at Duke report the following:

"...a substantial percentage of all high dose binge users become uninhibited, impulsive, hypersexual, compulsive, irritable, and hyperactive. Their moods vacillate dramatically, leading at times to violence and homicide." (37)

The responsibility for having a positive impact on this country's drug problem does not rest solely with the criminal justice system. To charge the criminal justice system with full responsibility for the problem is to ignore the medical and workplace impacts of drug use.

Just as business has demonstrated an increasing ability to manage the impact of drugs in the workplace by strong drug control policies so can government. Tough drug enforcement, detection, and education programs in the military, for example, have brought about a 62% drop in drug use among U.S. Navy personnel. (38)

Drugs and Violent Crime

Many proponents of legalization hold the mistaken belief that drug users commit crimes solely to support expensive drug habits. They argue that a reduction in the cost of drugs would cause a decrease in the level of drug related crime. Unfortunately, the more likely outcome would be that cheaper legal drugs would increase the level of both violent person crimes and property crimes. In Philadelphia, for example, 50% of the child abuse fatalities involve parents who are heavy users of cocaine. (39) In actuality, cheaper legal cocaine would result in more children murdered as well as more babies born drug-affected. A recent Department of Justice report showed that more than 80% of criminals arrested for violent felonies were on drugs when they committed their crime. Rapes, assaults, and murders that are unrelated to a need for drug funds are included in these statistics. (40)

Black Market

Another element in the argument for legalization is an assumption that the black market in drugs is not only the major problem, but would disappear altogether with legalization. Unless the government was prepared to provide all drugs to anyone, of any age, at any time, day or night — an unconscionable public position — a black market would continue to exist. According to Dr. Arnold M. Washton,

"...in short, any attempt to limit legal distribution would encourage a thriving black market for willing buyers who prefer to acquire their drug supplies without rules or hassles. For many of the same reasons, legalization of heroin has failed in Great Britain and Italy. It is unlikely that legalization of cocaine/crack would fare any better here in the U.S." (41)

Removing legal prohibitions and lowering drug costs clearly would create a broader and more frequent demand for drugs. Increased drug use would result in a surge in incidents of random violence and higher crime rates.

Conclusions

After careful review of the available materials both favoring and opposing the legalization of drugs, the RDI Task Force has concluded that legalization of drugs would not only displace society's costs from the criminal justice arena to the health care system and the workplace but would increase those costs extensively. Legalization of drugs would result in more, not less, use. Greater use of drugs would escalate drug-related damage to individuals and to communities and businesses. A policy of legalization would be equivalent to exposing the population to a highly contagious and debilitating disease without effective cures.

Treatment

This is not to ignore the importance of and the need for expanding treatment capacity, improving treatment, and making it more available to those in need. In his *Commentary* essay, "Against the Legalization of Drugs," James Q. Wilson states, "One thing that can often make it (treatment) more effective is compulsion." Douglas Anglin of UCLA, in common with many other researchers, has found that the longer one stays in a treatment program, the better the chances of a reduction in drug dependency. But he, again like most other researchers, has found that drop-out rates are high. He has also found, however, that patients who enter treatment under legal compulsion stay in the program longer than those not subject to such pressure. His research on the California Civil Commitment Program, for example, found that heroin users involved with its required drug testing program had over the long term a lower rate of heroin use than similar addicts who were free of such constraints. If for many addicts compulsion is a useful component of treatment, it is not clear how compulsion could be achieved in a society in which purchasing, possessing, and using the drug were legal. (42) Treatment can be effective but relapse is not uncommon. While it is recognized that criminal sanctions by themselves do not cure drug abuse, they serve as both a precipitating factor for entry into treatment and as a coercive power in maintaining people in treatment. (43)

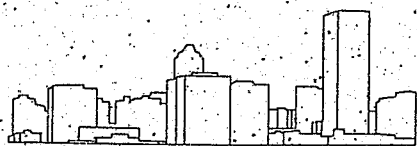
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REGIONAL DRUG INITIATIVE

Catalyst for a Drug-Free Community

The Regional Drug Initiative (RDI) is a private task force of concerned policy makers from business, education, government, health care, law enforcement, treatment providers and community groups.

RDI is committed to establishing a drug-free community.

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