



PART 5

Who's Looking? Who's Listening?

"One day every three months it would be good; [the trays] would be full because they had a kitchen inspection."

— *formerly incarcerated person*

This section examines the meager systems of accountability that have often failed to ensure food safety and quality, allowing the violations of health and dignity we've detailed in the earlier installments of *Eating Behind Bars*.

In the world beyond the prison gate, commercial and other large-scale kitchens are subject to rigorous health inspections. Inspectors show up without advance notice, are not shy to document violations, and can force kitchens to close until the problems are remedied. In this way, health departments protect the dining public. Kitchens in prisons are not subject to anywhere near the same degree of independent external oversight.

A quick clean-up

Prisons that are subject to health department inspections—and in some states they aren't—typically know ahead of time when an inspection will take place. The same is true of an audit by the American Correctional Association and internal reviews by the correctional agency itself. As Theo told us, “When they do come in, the kitchen is spotless, the correct portion sizes are served. One day every three months it would be good, [the trays] would be full because they had a kitchen inspection.” Our surveys and interviews suggest that a quick clean-up to present a sanitary kitchen and safe food handling is routine in both public and private correctional facilities.

Internal monitoring may also be lax, but it's impossible to know because there's little transparency in this regard.

In our survey of state correctional agencies, we requested examples of health inspections. The 20 copies we received were uniformly favorable reviews incompatible with the food safety issues revealed in our own investigation. In South Carolina, for example, the Department of Health and Environmental Control inspects prison kitchens. In 2016, Turbeville Correctional Center received a score of 93%—yet a video recorded in the same year showed maggots crawling in the facility's cornmeal.¹

While about 80% of all state correctional facilities are accredited by the American Correctional Association, which requires meeting certain food service standards, those standards are vague. Maintaining accreditation requires an audit just once every three years, always with advance notice. Our investigation did not indicate that ACA accreditation adequately addresses any of the many problems with food quality and safety that this report raises.

Internal monitoring may also be lax, but it's impossible to know because there is little transparency in this regard. Like restaurants, facilities are required to make a range of daily or weekly checks regarding food freshness, food temperature, sanitation and hygiene, etc. Many state agencies require facilities to log and report these numbers, but rarely share data with the public.

Examples of ACA standards²

These are three of the 16 ACA standards that pertain to food service in adult correctional facilities.

4-4313

Food service operations are supervised by a full-time staff member who is experienced in food service management.

4-4317

Written policy, procedure, and practice require that food service staff plan menus in advance and substantially follow the plan and that the planning and preparing of all meals take into consideration food flavor, texture, temperature, appearance, and palatability.

4-4326

Written policy, procedure, and practice provide that meals are served under conditions that minimize regimentation, although there should be direct supervision by staff members.

“Some facilities I go into once a year; some it’s in the contract but they tell me not to come because of the budget [or] because there are no problems.”

— corrections dietitian

The monitoring and inspections that do occur focus narrowly on sanitation, safety, and equipment—not the nutritional quality of the food and certainly not the degree to which the food served is appetizing. While most state correctional agencies—nearly two-thirds of the 35 that responded to our survey—report that they require a nutrition professional to review planned menus, there was far less consistency in using those professionals to monitor the nutritional quality of the meals that are actually served. As one corrections dietitian explained, “Some facilities I go into once a year; some it’s in the contract but they tell me not to come because of the budget [or] because there are no problems.” Another dietitian points out that because the nutritional quality of food deteriorates over time, meal components that have been sitting in storage for months or even years don’t necessarily offer the same nutrient profile as the approved menus do. Quality control in many prisons comes down to a conscientious food service manager or a concerned warden.

The gap between policy and practice

This graphic contrasts the language that is commonly used in official DOC policy with the observations of people who have been incarcerated, to demonstrate the considerable gap between what is stated in policy and what happens in practice.

Meals that are nutritious and appealing

POLICY	PRACTICE
<ul style="list-style-type: none"> • "provides or makes available nutritious, visually appealing and cost effective meals" - Arizona DOC • "to provide all inmates with nutritionally adequate meals that are of appropriate quantity and quality" - Massachusetts DOC • "nutritionally balanced and served in an appetizing manner" - New Mexico DOC 	<ul style="list-style-type: none"> • "In most institutions, the food was barely edible." • "Always hungry." • "Inadequate, gross, unappetizing." • "No one deserves undercooked food." • "It doesn't have to be exotic, just edible and nutritious."

Meeting safety and sanitation requirements

POLICY	PRACTICE
<ul style="list-style-type: none"> • "We adhere to the highest standards of food safety and institutional security." - Idaho DOC • "prepared and served in a manner that meets established governmental health and safety codes." - Colorado DOC • "prepared under sanitary conditions and served in an appetizing manner." - Alabama DOC 	<ul style="list-style-type: none"> • "Spoiled. Roaches in the kitchen." • "Never the right temperature." • "The only time that the kitchen would be cleaned is when there was an inspection by the health department."

Supporting human dignity and rehabilitation

POLICY	PRACTICE
<ul style="list-style-type: none"> • "We know that you rely on us to make wise decisions in preparing a menu that will help you on your path toward reentering society." - Montana State Prison • "to promote the physical and mental well-being of offenders in Department facilities" - Indiana DOC 	<ul style="list-style-type: none"> • "They don't care about us as people." • "Labels that state 'not fit for human consumption.'" • "The food they serve in jails and prisons should be considered cruel and unusual punishment."

OVERSIGHT & FEEDBACK

**"Feedback? Oh no! You ate it or you didn't."**

What about the incarcerated people who rely on this food? Do their views matter? Only 12 states in our survey reported having any kind of policy (and only two with written policies) about incorporating incarcerated people's input in the menus. Those policies ranged from "word of mouth" to testing recipes in small batches and soliciting feedback from incarcerated people before integrating them into menus statewide. A few outlier agencies, including the Washington Department of Corrections, engage incarcerated people in menu development, routinely survey residents of all facilities about the appeal of the food served, and reportedly remove items with low ratings from the menu.

70%

of survey respondents said they never had a choice in what they were served

In most prisons, however, the only avenue to express discontent or make constructive suggestions is the grievance process, which our exploration suggests can be frustrating and futile.

"Feedback? Oh no! You ate it or you didn't," Kayla told us, reflecting on her years in a Southern prison. "You could put in a grievance but it was basically a waste of paper." The fact that some staff cling to the belief that incarcerated people will lie to get what they want undermines the grievance process.

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— Kayla, incarcerated 2.5 years

Michelle described the gamble some people take in filing a grievance: If the complaint is relayed to food service staff you might end up with even worse food on your tray, or if you encourage others to complain, you might be "written up for 'inciting a riot' and sent to the hole." Indeed, when one enterprising incarcerated person compared every meal served over the course of a month with the state's master menu and dietary requirements, revealing the considerable discrepancies, he was sent to solitary confinement for a month, then transferred to a facility a hundred miles away without explanation. His account has since been published by the Marshall Project.³

10%

of survey respondents agreed that when they gave an opinion about a meal, it was taken seriously by the cooks or food manager

As many experts have observed, the prison grievance process is designed to protect the facility and the state, and rarely functions as a tool to aid incarcerated people—which is why the process is arduous and confusing.⁴ In many states, for example, incarcerated people must first document attempts at informal resolution, such as talking to an officer in the dining hall. But that can be awkward or intimidating, and there's never a way to prove the conversation even took place. Between extensive paperwork, arbitrary rules, and complex submission procedures, filing a complaint is difficult and time-consuming, and may not spark a meaningful response.⁵ Low volume of grievances, therefore, can't necessarily be equated with good food.

For members of the public seeking to hold prisons accountable, information about grievances is not easy to get. When University of Michigan law students at the school's Prison Information Project sought to obtain nationwide grievance policies and information about actual grievances filed through the Freedom of Information Act process, they faced difficult-to-find contact information, lengthy delays in response time, and exorbitant fees. Much of the information they were able to collect consisted of vague statistics, such as numbers of grievances by category (e.g., medical, property, food services, etc.) and proportion denied. Very few states provided details about the nature of the complaints. Arizona's list of [Food Grievance Appeals](#) is a notable exception, providing insight into the types of grievances lodged, such as "mice droppings in food," "time between insulin injection and meals," "food menu inhumane," and a plethora regarding "food portions."⁶

A COMMITMENT TO OVERSIGHT



OVERSIGHT & FEEDBACK

In Washington State, the Office of the Corrections Ombuds (OCO) investigates and monitors complaints related to the health, safety, welfare, and rights of people incarcerated in the state. In 2019, the office reported on a food survey conducted at the Washington State Penitentiary in the wake of food strikes in 2018 and 2019. The survey results uncovered dissatisfaction with quantity ("We are grown men, we should be fed accordingly"), quality ("the worst mess I've ever tasted, smelled, and seen"), and recognition of human dignity ("They will give us hog slop just to save a nickel"). Respondents expressed concern about the decline in food quality since the centralization of food preparation by Correctional Industries. The survey also provided an opportunity for suggestions, such as increasing portion size, serving sauces and gravies on the side, and allowing some choice in meals (such as offering both a hot entree and a sandwich alternative). The report provides a level of detail and candor typically unavailable to those outside the department of corrections, and offers advocates and policymakers a degree of transparency into the prison food experience—an important step toward positive change.

Since the release of the report, the department of corrections has worked with the OCO to implement changes across the state (including switching out unpopular menu items and repairing broken equipment that contributed to burnt food), and continued to meet regularly with OCO staff to work on further solutions. The DOC is also working with a dietitian at the state's department of health to assist with the development of a quality assurance assessment and serve as a third-party reviewer of prison meals.

Across the country, the Correctional Association of New York (CANY) is an independent organization with the authority under state law to monitor prisons. Founded in 1844, CANY provides independent oversight of the 52 prisons in New York in order to promote transparency and accountability, safeguard the human and civil rights of incarcerated people, eliminate harmful practices and policies, and decrease the use of incarceration in New York.

CANY is beginning to explore the issue of food in New York's prisons. Executive Director Jennifer Scaife explains that people incarcerated in the state's facilities frequently bring up food as an area of grave concern, so the organization has distributed a survey to understand the problem further. With CANY able to scrutinize policies and practices and share its discoveries with lawmakers and the general public, the organization is poised to advocate for improvements to prison food in New York.

Cruel and unusual—a high bar to meet

Given the futility and lack of trust in the internal grievance process, in most states the courts are the only oversight and avenue to change—and the legal hurdles are high. Generally litigants have to prove that the poor quality of the food constitutes cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution, or breaks some other state or federal law.

The judge added that to meet the legal standard of “cruel and unusual,” facility staff would have had to serve the offending food with deliberate indifference.

Unfortunately, “cruel and unusual” isn’t clearly defined and is therefore subject to the opinion of the judge hearing any given case. In 2019, a federal judge threw out a class action lawsuit by a group of currently and formerly incarcerated people in Oregon who argued that they were served food that was spoiled and labeled unfit for human consumption at four of the state’s correctional facilities. The judge dismissed the case, writing in his decision that the Eighth Amendment only requires that food be adequate to maintain health and that plaintiffs “produced no medical records corroborating any decline in health, or any evidence that they suffered from a serious medical condition as a result of the food.” The judge added that to meet the legal standard of “cruel and unusual,” facility staff would have had to serve the offending food with deliberate indifference.⁷

Some lawsuits challenge the constitutionality of the daily diet. In a current case against the New Jersey Department of Corrections, Raymond Skelton, who has been incarcerated for

“[The department is] literally killing inmates from the inside out.”

– Raymond Skelton, who is suing the New Jersey DOC

nearly a decade, contends that the food in the state's prisons is medically inadvisable for more than 12,000 incarcerated people like him who suffer chronic diseases including diabetes and high blood pressure. His attorney contends that the department is depriving people of the fruits and vegetables that provide necessary nutrients for health, “literally killing inmates from the inside out.”⁸ Such cases are difficult to win, however. In a similar lawsuit against the Virginia Department of Corrections in 2018, the judge dismissed the case on the grounds that the food provided did not “present any health risk of constitutional significance under the Eighth Amendment.”⁹

Other lawsuits focus on breaches of sanitation and hygiene in the eating environment. In 2019, incarcerated people at the California Substance Abuse Treatment and State Prison at Corcoran filed a case against the state over conditions at a facility dining hall where a seriously damaged roof meant that mice, bird droppings, dead bird parts, and maggots were actually falling onto tables and trays while people were eating. In that case, the judge ruled that the unsanitary conditions created a serious hazard to health and ordered staff to provide an alternative dining area until repairs could be made.¹⁰

Even departments of correction occasionally seek legal remedies in food-related cases. The Washington Department of Corrections is currently suing the federal government over decades of chemical runoff from an Air Force base that has contaminated facility water sources and tainted food produced at the Airway Heights Corrections Center, one of two food factories that supplies meal items to prisons across the state.¹¹

Food as punishment

Perhaps the most salient example of oversight not functioning as it should is the widespread use of food as a disciplinary tool. We spoke with a number of leaders and frontline staff in the corrections profession who assured us that food is not and should never be used as a form of punishment. The American

Nutraloaf recipe

Based on the Delaware
Department of Correction recipe

INGREDIENTS

- Pineapple chunks
- Tomato puree
- Chopped spinach
- Sliced potatoes
- Cheese sauce mix
- Nonfat dry milk
- Oatmeal
- Rice
- Carrots
- Wheat bread
- Salad oil

COOKING INSTRUCTIONS

Thoroughly mix all ingredients and
place in bread pans.

Bake at 350 degrees until done.

18

STATES STILL SERVE NUTRALOAF

Delaware, Florida, Indiana, Iowa,
Kansas, Michigan, Montana,
Nevada, New Mexico, North
Carolina, Ohio, Oregon, South
Carolina, Texas, Vermont, Virginia,
Washington, Wisconsin.

14

STATES DON'T SERVE NUTRALOAF

Arkansas, California, Georgia,
Idaho, Maryland, Massachusetts,
Minnesota, Nebraska, New York,
Oklahoma, Pennsylvania, South
Dakota, West Virginia, Wyoming.

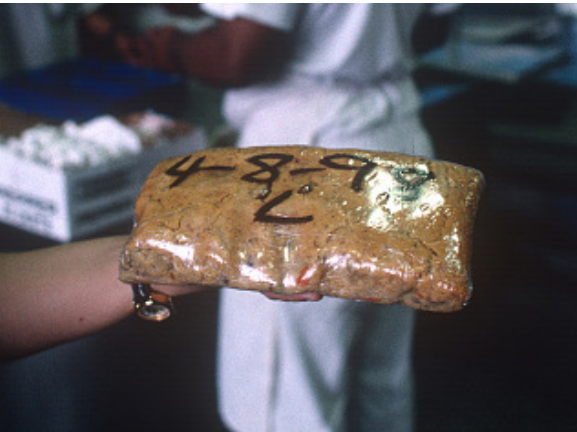
We do not have reliable data on the use ofutraloaf in the following states:
Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Illinois, Kentucky,
Louisiana, Maine, Mississippi, Missouri, New Hampshire, New Jersey, North
Dakota, Rhode Island, Tennessee, Utah.

**“The food there
was designed to
slowly break your
body and mind.”**

— *formerly incarcerated
survey respondent*

Correctional Association, to which over 900 facilities look for guidance, urges state correctional agencies and individual prisons to provide a written policy “precluding the use of food as a disciplinary measure.”¹² Yet, the stories of food being used as punishment and discipline that formerly incarcerated people shared with us suggest that the age-old practice of punishing people by withholding food or serving disgusting food persists in many prisons, both in practice and in some cases enshrined in policy as well. As one person we surveyed wrote, “The food there was designed to slowly break your body and mind.”

The food service policies in at least 36 states require or allow the use of an alternative meal as a disciplinary measure. Many states are vague in their descriptions of these alternatives, mentioning, for example, that “bagged meals” or “finger foods” are to be served in lieu of the standard tray. At least 18 states



↑ A disciplinary loaf is prepared at Ferguson Unit in Texas in 1997

Source: Getty Images

“If you got sent to the hole, they would only feed you two meals a day. At 5 a.m. you’d get the first tray, and at 11 a.m. the second tray with the loaf. Then you had about 18 hours before you got to eat again. People were eating toothpaste and toilet paper just to have something in their stomach.”

—Rosa, incarcerated 33 years

still explicitly allow the use of nutraloaf—a purposely tasteless mash of ingredients such as bread, potato, cabbage, ground meat, beans, powdered milk, and oil baked into a dense loaf. Nutraloaf can be served for each meal of the day for up to a week at the discretion of staff.¹³ While a serving of nutraloaf may technically meet the daily nutrient requirements, for many people it’s simply too disgusting to eat, or if they do eat it, they are still hungry afterwards.

Many of the people receiving these alternative meals are in solitary confinement, where at least 61,000 people are housed on any given day.¹⁴ Thirty-six percent of our survey respondents who spent time in solitary confinement say they were served nutraloaf. Even if it’s not “the loaf,” the food is “horrible,” as Marcus recalled of his time in a West Coast prison. “You get eggs that are not even real eggs, and they’re all watery and not really cooked, and maybe three tablespoons of oatmeal. And they do that on purpose, like a continued punishment.” According to Marcus, this is the case whether people are in administrative or disciplinary segregation or in a secure housing unit (SHU) for their own protection.

Michelle, who was incarcerated in the Northeast, also describes the way mealtime is perverted in solitary confinement. “We would have to wait for officers to finish their own food, their breaks, their card games, and then when they decide they want to, we would get fed. You almost always got cold food ... No toast, just a hard piece of bread. Also, the trays for solitary need a lid that shuts to fit through the slot, so they don’t fit the proper portion size.”

Rosa shook her head as she painfully recalled eating in solitary confinement in a Southern facility: “If you got sent to the hole, they would only feed you two meals a day. At 5 a.m. you’d get the first tray, and at 11 a.m. the second tray with the loaf. Then you had about 18 hours before you got to eat again. People were

61%

of survey respondents reported they received less food while in a solitary housing unit than they did in the general population

eating toothpaste and toilet paper just to have something in their stomach."

More than half (61%) of the people we surveyed reported that they received less food while in a solitary housing unit than they did in the general population. Those in solitary confinement are generally unable to supplement this meager fare; commissary access tends to be significantly limited or prohibited altogether.

Our inquiry suggests that the eating experience for people in designated mental health units can be even worse. One woman who spent time in the mental health unit of an East Coast prison was shocked at the lack of basic sanitation: "Women who were menstruating had to hold pads to their bodies with their hands since no underwear was allowed, while they had to eat with their hands because no flatware was allowed."

Food-related disciplinary measures are not limited to people in special housing. Several people told us that getting caught sharing or trading food in the chow hall would result in both parties having to throw away their trays mid-meal, while other officers might be giving out disciplinary tickets to people for "wasting food," because they couldn't or didn't want to eat all the food on their tray. We were told that a housing unit deemed to be disruptive might be fed last, after the food was cold.

Possessing "contraband food"—something as benign as carrying a piece of fruit or bread out of the chow hall to eat as a snack later on—can result in consequences such as extra work detail, losing one's job, or even getting sent to solitary confinement, we were told. We documented accounts of officers smashing and ruining an individual's stash of food from the commissary as punishment for trading snacks on the yard. In one Alabama prison, the warden threatened to withhold food from men whose hairstyles were not in compliance with facility regulations.¹⁵



Food as a mechanism of control

Precisely because food is integral to our identities, it has been deliberately used to dehumanize, humiliate, punish, and control groups of people throughout human history. In Spain during the Inquisition, Nazi Germany, and other anti-Semitic purges, Jewish people were coerced into eating pork, often considered the most offensive of non-kosher foods. Native American tribes, removed from their own land, were severed from their traditional food sources and forced to subsist on government commodities like white flour and lard. Progressive Era reformers in the early 20th century campaigned against the “ethnic” food of immigrants as dangerous to the health and modernization of the American nation. More recently, as thousands of unaccompanied Central American children crossed the southern United States border in 2014 to escape violence in their home countries, many Americans resented tax dollars being used to buy them corn tortillas when the Federal Emergency Management Agency had already purchased flour tortillas. Xenophobia turned a culturally appropriate food staple for already traumatized children into a “luxury” item.

A number of corrections leaders told us that for many years the prevailing attitude among staff was “Fill them up so they go to sleep” by providing plenty of sugary and fat-heavy calories to encourage lethargic and docile behavior.

The appalling instances of food used deliberately as a disciplinary measure in prison are just the tip of the iceberg when it comes to shaming and controlling incarcerated people through food. A number of corrections leaders told us that for many years the prevailing attitude among staff was “Fill them up so they go to sleep” by providing plenty of sugary and fat-heavy calories to encourage lethargic and docile behavior. From references to “feeding times” to the routine appearance of items that arrive marked “Not for human consumption,” food in prison serves as a language that speaks to and about incarcerated people: *You are not worthy. You are less than human.*

These stigmatizing messages ring in the ears of the incarcerated and seep into the larger culture: the grimy tray with unidentifiable slop is not just a caricature in the media, but also a widely recognized symbol of life in prison. When faced with a

Any meaningful improvement in prison food requires listening to incarcerated people and restoring their agency regarding what they eat.

particularly unappetizing meal in a school cafeteria, both kids and adults are likely to compare it to prison food. As a nation, we've come to accept a demeaning correctional food experience as normal, which only further distances us from the actual human beings in prison.

In response to the dehumanization of the prison experience, incarcerated people have long relied on hunger strikes and meal strikes as a symbol of resistance and a tool in the struggle to be treated with respect. Any meaningful improvement in prison food requires listening to incarcerated people and restoring their agency regarding what they eat.

NEXT UP

PART 6: A PATH FORWARD

In the next and final installment, we offer a framework of key insights to encourage and guide change toward a more positive and nourishing eating experience in prison. We share the many benefits of making food a source of healing, health, and dignity in prison.

Endnotes

- 1 S.C. Department of Health and Environmental Control. (2016). *Retail Food Establishment Inspection Report: Turbeville Correctional Center*. [Link here](#); Raskin, H. (2016, December 14). Feeding the prison system: Some inmates buy way around 'institutional cooking'. *The Post and Courier*. [Link here](#)
- 2 American Correctional Association. (2008). ACA Standards for Adult Correctional Institutions. In B. A. Wakeen (ed.), *Nutrition and Foodservice Management in Correctional Facilities: A Guide to Menus, Nutrition, Serving, Protocol, and Security* (3rd edition, pp. 17-23). American Dietetic Association.
- 3 Crabapple, M., & Williams, M. (2020, February 27). *Welcome to 'The Zo' - Episode 2: Adaptation* [Video]. The Marshall Project. [Link here](#)
- 4 Kaul, P., Donley, G., Cavataro, B., Benavides, A., Kincaid, J., & Chatham, J. (2015). *Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey*. Michigan Law Prison Information Project. [Link here](#)
- 5 West Virginia's grievance policy, for example, states that the "inmate may only attach one 8.5 x 11 inch page with writing on a single side. Only one staple may be used to affix the pages together. The inmate may not tear, fold, or affix tape to the forms, except that the forms may be folded and placed into a number 10 envelope." For more information on the complexity of grievance policies across the country, see the Michigan Law Prison Information Project's report, *Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey*.
- 6 The University of Michigan Policy Clearinghouse. (2014). AZ Facilities Grievance Appeals 1/1/2004 to 6/30/2014. [Link here](#)
- 7 Bernstein, M. (2019, July 23). Judge tosses 'bad food' class action suit filed by Oregon prison inmates. *The Oregonian*. [Link here](#)
- 8 Smith, J. (2019, October 4). State's prison food cruel, unusual, federal lawsuit says. *The Daily Journal*. [Link here](#)
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- 11 Sokol, C. (2020, April 25). Washington DOC Sues Federal Government Over Chemicals That Tainted Food From Airway Heights Prison. *The Daily Chronicle*. [Link here](#)
- 12 American Correctional Association. (2008).
- 13 Many state policies specify that the nutraloaf diet is not to exceed seven days; however, after one day of normal meal service, the nutraloaf diet can be resumed for another seven days. For an example, see North Carolina Department of Public Safety, Prisons. (2017, August 1). *Special Management Meals*.
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- 15 Brown, M. (2019, September 13). 'I will not be silent': Alabama prisoner alleges retaliation after speaking to media. *The Montgomery Advertiser*. [Link here](#)



Learn more at
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