

THE AMERICAN CIVIL LIBERTIES UNION OF MICHIGAN

Who We Are

Since our founding in 1920, The American Civil Liberties Union has led the fight in the courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed to all people in this country by the Constitution and laws of the United States.

What We Do

To accomplish our goals we use all tools at our disposal: public education, legislative advocacy, organizing, and litigation. Nationwide, we have over 500,000 active members and supporters, nearly 200 staff attorneys, thousands of volunteer attorneys, and a network of affiliate offices in every state.

In Michigan, we have grown to over 22,000 active members and supporters since we were formally established in the state in 1959. As one of the top affiliates in the country, we have 27 full-time staff who are attorneys, lobbyists, communications specialists, organizers and administrative personnel. The ACLU of Michigan has a presence across the state with our headquarters in Detroit and offices in Lansing, Grand Rapids, and Flint.

Who We Fight For

Our mission to fight government abuse and vigorously defend individual freedoms knows no party bounds. We regularly join in coalition with conservatives and progressive alike (and everyone in between) on a wide array of issues.

<u>Issues We Work On</u>

Smart Justice and Mass Incarceration – The ACLU of Michigan's Fair Justice Smart Justice campaign focuses on the "front end" of the criminal justice system—from policing to sentencing—seeking to reduce Michigan's prison population, reallocate state resources to alternatives to incarceration, improve prison conditions, and help returning citizens successfully re-enter society.

Reproductive Freedom – Working in collaboration with allies around the state, we work to ensure that every woman can make the best decision for herself and her family about whether and when to have a child without undue political interference.

Gay, Lesbian, and Transgender Rights - The ACLU of Michigan's LGBT project takes a lead role in the campaign to combat LGBT discrimination. We were instrumental in building a powerful business coalition in support of including sexual orientation and gender identity as protected classes in Michigan's Elliott-Larsen Civil Rights Act.

Voting Rights – We work to protect and expand the freedom to vote, through advocacy and litigation. Voting is a fundamental right upon which all of our civil liberties rest. We support proven



measures that ensure election integrity, security, and accuracy while guaranteeing that eligible voters are able to exercise their right to vote.

Education – All children in Michigan should receive a high quality education. The ACLU advocates that all children, particularly the most disenfranchised, have equity in their opportunity to receive a quality public education. Our priorities include efforts to dismantle the school-to-prison-pipeline, supporting quality literacy intervention, and advocating for more resources for students with disabilities.

Immigration – The ACLU believes that the guarantees of the Constitution apply to all, including noncitizen residents. Our work is focused on state-based issues affecting our immigrant and refugee communities, such as deportation, racial profiling, employment discrimination, and access to public resources.

Privacy and Technology – We work to expand the right to privacy, increase the control individuals have over their personal information, and ensure civil liberties are not compromised by technological innovation. We work with stakeholders and the Michigan Legislature on issues such as medical and genetic privacy, surveillance by law enforcement and government entities, consumer, financial, and workplace privacy.

Religious Liberty - We safeguard the First Amendment's guarantee of religious liberty by ensuring that laws neither promote religion nor interfere with its free exercise.

Free Speech - The fight for freedom of speech, the press, association, assembly and petition have been the bedrock of the ACLU's mission since our founding in 1920. We work to champion freedom of expression in its myriad forms –through protest, media, online speech, and the arts.

Please contact Shelli Weisberg, Political Director, for questions or information:

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Federal Legislative Agenda 2017

Introduction

Our goal is to reach every member of Michigan's Congressional Delegation and convey the importance of protecting and preserving the civil rights of all Americans, and to remind them that their constituents care deeply about civil rights and will vote in 2018!

Throughout his campaign, President Trump articulated positions on immigration, Muslims, torture, abortion and the First Amendment that would trample civil liberties and undermine the fundamental American values of freedom and fairness for all people. Taken together, his statements and policy proposals would blatantly violate the inalienable rights guaranteed by the Constitution, federal and international law, and the basic norms of a free and decent society.

In the early days of 2017, the Congressional agenda is pretty well set. We anticipate a repeal of the Affordable Care Act, including Planned Parenthood defunding, overturning Obama midnight rules, and rolling back environmental protections. Attacks on Immigration laws and policies will be mostly an executive branch initiative in the early going, with congressional action to follow.

We anticipate that most if not all of the President's nominations will be confirmed by the Senate, which will in some cases present unprecedented challenges across a sweeping range of issues—from civil rights to abortion rights to immigrants' rights to national security. Without exception, their records show them to be ideologues and hard-liners whom we can expect to undermine the agencies they represent and subvert the government's responsibility to serve the public interest and advance civil liberties and civil rights.

Legislation will be advanced on a number of topics of interest to us and blocking movement in the Senate will be crucial. Priority #1 is to hold on to 41 Senators necessary to block bad legislation using the filibuster. In the House of Representatives where the GOP has a 240-193 (with two vacancies) advantage, we will concentrate on lobbying moderate and libertarian minded Republicans to align with the Democrats. We may be able to block harmful bills from coming to the floor if we seek out Republicans in moderate districts or who are at odds with traditional conservatives.

In Michigan, all incumbents were re-elected (Congressional Districts 2-9, 11-14). Jack Bergman (R), a retired U.S. Marine Corps General won CD 1 and Paul Mitchell (R), a 2014 candidate won CD 10. The 1st Congressional District is comprised of Michigan's Upper Peninsula. The 10th Congressional District is located in the "thumb" of Michigan and includes Macomb County, which is a largely conservative county. Both districts are more rural and turned out a lot of support for Trump.

Michigan's Democratic Senators and five U.S. Representatives can be expected to largely support the ACLU's positions but we will not take that for granted. We will keep them engaged. We will be diligent about keeping them aligned with our issues, and gracious about thanking them regularly for their support. Among the Republicans in Michigan's delegation, Representative Fred Upton abstained from endorsing Trump and publicly called on him to step down from the election. Representative Justin Amash (CD2), a Libertarian –leaning constitutionalist, was not supportive of Trump and has continued to publicly disavow Trump's policies.

What is clear is that President Trump is going to act on the key issues he addressed during the campaign, which included increased policing, rolling back reproductive rights, and attacking immigration through targeted bans and aggressive surveillance. His "Muslim ban" Executive Order was the first wave of horrific and discriminatory policy and we expect more. Michigan has a large and diverse immigrant population throughout the state and is slated to receive thousands of Syrian refugees. Our Republican

delegation supports extreme measures to limit immigration and is hostile to reproductive rights, including overturning Roe v. Wade.

The ACLU's Approach

With an office in every state and a dedicated office in the nation's capital, the ACLU has the geographic and political reach to generate maximum impact in Congress. ACLU membership nationwide increased by 60% in the weeks after the election to over 1,000,000 members. In Michigan, we have over 22,000 members who can be tapped to contact legislators in their districts, as well as hundreds more who have contacted us eager to help in any way they can. This is a powerful force and voice that we can organize and deploy.

The ACLU's local and national reach includes partnerships with numerous organizations, including non-profits and conservative groups. Even as we strongly criticize administration positions and challenge them in court, the ACLU will continue to work with conservative and Republican partners on issues where we have been able to forge bipartisan support, such as criminal justice reform and government surveillance. By building on these conservative alliances we will have opportunities, openly or behind closed doors, to influence flawed policies and legislation—especially with the many conservatives who share our concerns about the direction of the Trump administration. In many instances, our only recourse will be through the courts and we are hard at work preparing for litigation as needed.

You can make a tremendous difference by committing to join with the ACLU in making our voices heard - clearly, consistently, and loudly. We know that face-to-face meetings, telephone calls, and letters make an impact. Reach out to your neighbors and friends to organize regular contact with your federal and state elected officials and the ACLU will provide you with resources, materials and support.

Advocacy Infrastructure

Organize groups for each Congressional and State Senate district anchored by a contact person who can coordinate with a designated ACLU staff.

Four Opportunity Areas:

- 1. Town halls Elected officials regularly hold public in-district events to show that they are listening to constituents. Make them listen to you, and report out when they don't.
- 2. Photo op events Elected officials love cutting ribbons and kissing babies back home. Don't let them get photo-ops without questions about racism, authoritarianism, immigration, and the issues that concern you.
- 3. District office meetings and gatherings Every member of Congress has one or several district offices and state legislators have offices in Lansing and host in-district "coffee hours" (see attached). Go there. Demand a meeting. Drop in. Report to the world if they refuse to listen.
- 4. Coordinated calls Calls are a light lift but can have impact. Organize your local group to barrage your elected officials at an opportune moment and on a specific issue.

ACLU can provide:

- Federal, State and local office information, including contact information, staff, coffee hours, Twitter handle.
- Updates on pertinent legislative action, including background, ACLU position summary, committee hearings, and scheduled votes.

- Congressional and state level committee assignments and interest areas so you can invite elected officials to participate in discussions, events, and towns halls.
- Talking Points and policy positions on a variety of civil liberties issues.
- Contact Shelli Weisberg, Political Director sweisberg@aclumich.org.

Major Threats to Civil Liberties in a Trump Administration

In the immediate term, we are especially concerned about threats against immigrants, people of color, women, the LGBT community, the First Amendment, and core civil rights.

A) Driving Immigrants Out of America

Ratcheting up fear and hatred of immigrants was an overarching strategy of the Trump campaign. President Trump's advisors and cabinet nominations signal that he will adopt contentious anti-immigrant strategies such as those favored by advisor Kris Kobach, who pioneered immigration policies from the failed post-9/11 National Security Entry-Exit Registration System (NSEERS) to the Arizona-style laws and policies designed to make life so miserable for immigrants that they choose to "self-deport."

- Racial profiling, illegal arrests, and abusive enforcement: President Trump frequently spoke
 of deporting two to three million immigrants who are "criminals" or "gang members." Because
 Trump has failed to define those terms, we expect that he may target immigrants who have had
 any brush with the criminal justice system, including people with minor convictions who were deprioritized for deportation by the Obama administration and individuals whose names appear in
 law enforcement gang databases, which are notoriously inaccurate and rely upon racial profiling.
- **Immigration raids:** In workplaces and apartment buildings where low-income, working immigrant families are concentrated. Because the President has an affinity for high-profile, headline-grabbing tactics, he is likely to aggrandize terrorizing raids last seen in force during the most recent Bush administration.
- **Immigration enforcement in schools, hospitals, and churches**: We anticipate that the Trump administration may rescind the multiple policy memoranda that currently regard such sensitive locations as off limits to surveillance and raids.
- Abusive Immigration and Customs Enforcement (ICE) detainer practices: ICE detainers are documents issued based solely upon the decision of an Immigration and Customs Enforcement agent, directing a law enforcement agency to keep an individual jailed even after the legal basis for detention has ended (e.g., the person has been acquitted, criminal charges have been dropped, or the sentence has been served). Under pressure from successful ACLU litigation and resistance by states and municipalities, the Obama administration instituted limited reforms of its ICE detainer practices. We expect Trump to return to more abusive detainer policies, which have led in the past to the detention even of U.S. citizens based on racial profiling and other illegal actions by law enforcement and ICE agents.
- Rampant due process violations as immigrants are crammed through the deportation pipeline: Trump's threat to immediately deport two to three million immigrants is impossible to carry out without massive violations of due process. The immigration court system is already overloaded. In order to carry out its threat, the Trump administration will have to not only force immigration courts to rush through cases, leaving immigrants without a fair hearing to raise their

defenses to deportation, but also bypass the immigration courts altogether through summary removal processes that deprive immigrants and asylum seekers of any opportunity to be heard in court.

- **Border wall and militarization**: Whether or not it completes a physical border wall, the Trump administration will almost certainly further militarize the border and bring border-style abuses further into the interior of the country. U.S. Border Patrol agents crowed about Trump's election and declared that the "handcuffs are off" signaling that they will be given free rein to engage in lawless tactics without regard to civil rights and civil liberties.
- Targeting "Dreamers": The Trump administration will likely end the Deferred Action for Childhood Arrivals (DACA) program for young immigrants brought to the United States as children. We expect he will revoke or, at minimum, end renewals of the deferred action status (which provided a temporary shield from deportation) and availability of work authorization documents. This would force nearly 750,000 Dreamers out of the workforce and expose them and their undocumented family members to detention and deportation.
- **Defunding or otherwise penalizing "sanctuary" cities and states**: Sanctuary cities and states have policies limiting participation in immigration enforcement and providing services to residents without regard to their immigration status. The Trump administration, potentially with the help of Congress, will likely attempt to defund or penalize these communities with the goal of forcing them to turn over immigrants to the Department of Homeland Security for detention and deportation.
- Ballooning immigration detention: President Trump has said he will end "catch and release" and detain even more immigrants than President Obama—who detained more than any previous president. The federal government currently detains over 40,000 immigrants every day. Many of them are subject to detention without any custody hearing. And perversely, those with the strongest claims to stay in the United States are the ones detained for the longest time months or even years while they litigate their cases through the overloaded immigration courts. An increase in detention will subject potentially hundreds of thousands of immigrants, including longtime lawful permanent residents, asylum seekers, and families, to immigration "jail." Worse, in order to detain greater numbers of people, the administration will have to increase "bed space" by working with private prison corporations who notoriously run immigration jails with abominable and dangerous conditions.
- Targeting Muslims: Trump has vowed to use the power of the federal government to target
 Muslims, including in immigration policy. He has variously threatened to ban the admission of
 Muslim immigrants, to reduce refugee resettlement from predominantly Muslim countries, to
 subject Muslim immigrants to "extreme vetting" and ideological testing, and to revive the failed
 NSEERS registration policy or other similar practices targeting Muslim immigrants.

B) Attacks on Reproductive Rights

Trump's election - and the sweeping majorities won by the Republican Party - has further emboldened already brazen opponents of reproductive rights. We are braced for an all-out attack at the federal and state levels, especially the right to access abortion. A proposal to defund Planned Parenthood will likely the first priority.

• **Defunding Reproductive Healthcare**: The new administration is poised to defund Planned Parenthood, putting at risk the millions of women who depend upon it each year for health services, family planning, and abortion. We expect the threats to come from several sources - Congress, the new administration, and the states - and to affect numerous funding streams that are critical to the ability of Planned Parenthood and other health care entities to provide comprehensive health services to vulnerable populations, including low-income people, undocumented people, and young people. Congress may attach to a budget reconciliation measure a provision denying Planned Parenthood any Medicaid reimbursement. As a budget measure it can bypass the filibuster and be on Trump's desk in a matter of weeks.

- Expanded Religious Refusals: Current law provides a number of exemptions for health care entities that refuse to provide, cover, or even refer a patient for an abortion. We may well see this administration, like the Bush administration before it, try to expand these existing regulations to cover contraception as well as abortion. We also expect the Trump administration to push the Conscience Protection Act, a bill that would expand and make permanent the Weldon Amendment, a broad refusals measure that dissuades states from advancing protections for abortion. In addition, we expect the administration to permit Catholic hospitals now one in six hospitals in the country to continue to put religion over medicine and to give government funds to organizations that, in the name of religion, refuse to provide services otherwise required of federal grantees.
- **Assaults on Contraceptive Access**: In addition to pushing protections for entities that object to providing contraception, the administration will almost surely either end the birth control component of the Affordable Care Act (ACA) whether by repealing the ACA or withdrawing the birth control mandate or radically undermine it by granting exemptions to business and nonprofit entities that object. We have no doubt that we will see proposals to criminalize abortion care by banning certain procedures and placing onerous requirements on providers.

C) Trampling the First Amendment

President Trump has vociferously expressed contempt for the First Amendment. He's sought to discriminate against citizens solely on the basis of their religion, championed a loosening of libel laws, suggested that flag-burning protesters should be jailed or stripped of their citizenship - unconstitutional on two counts - and called for whistleblower Edward Snowden to be executed. We can't predict his immediate agenda, but we can be sure it won't be good.

- Rampant Islamophobia: President Trump's statements and appointees suggest a wide range of potential actions against Muslims. In his first week in office he issued and EO that effectively tried to halt to the admission of travelers or immigrants from predominantly Muslim or Arab countries. In the same vein, we expect an end to resettlement of refugees from Syria and Iraq, and possibly other countries. We know that the administration is designing a discriminatory "extreme vetting" process that will likely include registration, interrogations, and ideological hoops for Arab or Muslim immigrants seeking permanent residency or citizenship.
- Surveillance of Minority Communities and Protestors: The Trump administration could resurrect warrantless wiretapping and surveillance programs under questionable, but existing, authority. Those programs could be targeted at minority communities, activists, or even political opponents, raising serious First and Fourth Amendment concerns. It is very likely that the public would remain largely unaware of such programs, absent internal leaks.
- **Eroding Privacy**: The Trump administration may expand the federal collection and retention of Americans' private information through surveillance and other means. For example, rolling back surveillance policies that limit collection, use, and retention of information. With limited exceptions, all policies limiting the retention, collection, and use of information collected under executive order are a matter of executive policies the Trump administration could weaken by adopting lower standards for law enforcement to access the contents of Americans' emails or to track their locations. While some federal agencies now have policies requiring a warrant before agents can obtain such information, the Trump administration could adopt more lenient standards.

• **Crackdown on Journalists and Whistleblowers**: With one-party control in Washington and in many state capitals, the role of the press as a major check and balance on government abuse will be vital - and the press will increasingly have to rely on sources willing to take risks. If the reporting on the Department of Energy is any indication, we may see witch hunts against federal civil service employees who hold views at odds with the Trump administration.

D) Attacks on LGBT Rights

LGBT rights are poised for the battleground in the Trump years, at both the federal and state levels. President Trump has surrounded himself with the most profoundly anti-LGBT cabinet imaginable; almost every nominated secretary has a robust history of anti-LGBT positions and, in many cases, activism. The LGBT community made striking advances under President Obama, but core parts of the new LGBT protections came through executive agency actions that President Trump and his cabinet can try to unwind. In addition, the continued Republican control of Congress and expanded Republican control of state legislatures and governor's mansions portends a significant increase in anti-LGBT legislative proposals in Congress and the states.

The Threats We Face

- Rescinding Federal LGBT Protections: The Obama administration created protections for LGBT people against discrimination in access to health care, housing, and jobs and services provided by federal contractors. So far, Trump has vowed to uphold those protections, but increased pressure from his "base" and his cabinet could result in changes or revisions to regulations. In addition, the United States military withdrew a ban on open service by transgender people, which the Trump administration could reinstate through internal Defense Department rules.
- Expanding Religious Exemptions to Undermine LGBT Equality: We are aware of a potential EO allowing for expansive religious refusals that would swallow federal protections. The Trump administration could also undo LGBT equality protections is by inserting religious exemptions into any rules that aren't withdrawn altogether. Religious exemptions would allow religious business owners, organizations, and individuals to discriminate openly against LGBT people and others, all in the name of religion, creating a massive loophole that would all but obliterate the current non-discrimination rules. We will likely also see expanded efforts to pass the so-called "First Amendment Defense Act", which would allow expressly anti-LGBT and anti-woman discrimination with taxpayer dollars.
- Exploiting Transphobia: In the wake of significant progress on LGBT rights over the last eight years, opponents of LGBT equality have sought to stop further progress by exploiting the public's lack of familiarity with and understanding of transgender people. Under the Trump administration, this is likely to take the form of revoking helpful guidance from the Department of Education and the DOJ about civil rights protections for transgender students, as well as dropping the DOJ's lawsuit against North Carolina over its anti-transgender law, known as House Bill 2. In the states, LGBT discrimination will likely show up in anti-transgender legislation designed to mandate government discrimination against Trans people by way of prohibiting public accommodations.

E) Core Civil Rights and Liberties & the Prospect of an "Anti-Justice" Department

Sen. Jeff Sessions has been unabashed in expressing hostility to racial justice, immigrants' rights, LGBT rights, abolishment of capital punishment, and abortion rights. With his confirmation to head the DOJ, we face the possibility that the department's Civil Rights Division will not only fail to enforce federal civil rights laws, but it may actively seek to deploy those laws *against* minorities and vulnerable groups.

- The loss of the DOJ as an ally in key areas where we have partnered, often to accomplish pioneering change. In particular, we will likely see renewed efforts to pass the so-called "First Amendment Defense Act" through Congress, which would allow expressly anti-LGBT and anti-woman discrimination with taxpayer dollars.
- An End to Policing the Police: With nearly two dozen investigations and almost 20 settlements, the Obama administration went further than any past administration reining in police misconduct at the state and local levels. We expect the Trump DOJ to undermine these settlements and to slow or stop the pace of new investigations. Trump has made it clear that he will "support the police" a clear signal that we will see neither the volume nor the intensity of investigations into police misconduct that we saw in the Obama administration.
- **Discriminatory Housing and Education**: The DOJ and the Equal Employment Opportunity Commission (EEOC) have been important allies in recent years helping to protect LGBT individuals, people of color, and other vulnerable persons from discrimination. We believe the Trump administration will not only abandon these progressive enforcement actions but also entrench discrimination by focusing instead on efforts to channel public school funds to religious groups and to "protect" religious individuals' rights to discriminate against women and LGBT individuals. We also expect disability rights enforcement to fall by the wayside.
- **Voter Suppression**: We lost the "teeth" of the Voting Rights Act to a Supreme Court ruling in 2013, all but eliminating the DOJ as a tool for combating voter suppression. Now we expect the Trump administration to revive its role perversely, as an engine of voter suppression, actively working to keep millions of eligible, but politically disfavored, Americans from voting.

Resources:

ACLU of Michigan (http://www.aclumich.org/). An invaluable resource for background information, talking points, and avenues to take action on civil rights issues being debated by our lawmakers, updates on our legal docket, and reports and studies to help inform you and your community on issues impacting Michigan citizens. Please use this resource to become familiar with our staff in our headquarters in Detroit and our offices in Lansing, Grand Rapids, and Flint. "And download the Mobile Justice App so you can record, report, and witness police abuse. http://www.aclumich.org/MobileJusticeMI

Indivisible Guide (https://www.indivisibleguide.com/) to help organize ACLU local teams (actionhttp://aclumich.org/content/get-involved). This document examines lessons from the Tea Party's rise and recommends two key strategic components: A local strategy targeting individual Members of Congress (MoCs) and a defensive approach purely focused on stopping Trump from implementing an agenda built on racism, authoritarianism, and corruption.

<u>The Reclaim Project</u> (http://www.reclaimproject.org). This a local organization with the aim of providing resources to women seeking reproductive health care, such as fees for transportation, lodging, meals, babysitting, and fees for translation services.

<u>Find your Michigan Senator</u> - http://www.senate.michigan.gov/fysbyaddress.html
Find your House Representative-http://www.house.mi.gov/mhrpublic/frmFindARep.aspx

Contact the Governor - http://www.michigan.gov/snyder/0,4668,7-277-57827---,00.html

<u>Michigan Votes (http://www.michiganvotes.org/).</u> A great resource to follow all that is happening at the State Capitol, including bills introduced and votes taken by you own State lawmakers.

Rogan's List (http://roganslist.blogspot.com/). This is a daily list of news and meaningful action items complied by a university librarian who is an information and fact-checking geek. Even if you have only five minutes to spare on any given day, your participation counts and this site makes it easy.

<u>Everyday Project</u> (https://www.everydayproject.org/). Provides the resources to take one action per day for the first 45 days of the administration of the 45th President.

Wall of Us (https://www.wall-of-us.org/). This site suggests we build a wall – a wall of resistance to President Trump. They outline four concrete acts of resistance every week. "OUR MISSION: To make it simply irresistible for Americans to become active participants in rebuilding our democracy."

Countable (https://www.countable.us/). This is actually an App that makes it easy to know and understand what is happening in Congress and provides a streamlined process of contacting your lawmaker. This is a very informative and simple-to-use App to stay in the know and make your voice heard.

Congressional Districts

District 1: Jack Berman (GOP) (1/3/17) Watersmeet

District 2: Bill Huizenga (GOP (1/3/11) Zeeland

District 3: Justin Amash (GOP) (1/5/11) Cascade

District 4: John Moolenaar (GOP) (1/5/11) Midland

District 5: Dan Kildee (Dem) (1/3/13) Flint Township

District 6: Fred Upton (GOP) 1/3/87) St. Joseph

District 7: Tim Walberg (GOP) (1/3/11) Tipton

District 8: Mike Bishop (GOP) (1/3/15) Rochester

District 9: Sander Levin (Dem) (1/3/83) Royal Oak

District 10: Paul Mitchell (GOP) (1/3/17) Thomas

District 11: David Trott (GOP) (1/3/15) Birmingham

District 12: Debbie Dingell (Dem) 1/3/15) Dearborn

District 13: John Conyers (Dem) (1/3/65) Detroit

District 14: Brenda Lawrence (Dem) (1/3/15) Southfield

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