



Corrections & Mental Health

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Gender, race, and mental illness in the criminal justice system

by Melissa Thompson, Ph.D.

Abstract: Mentally ill persons are increasingly being confined in American jails and prisons. Social factors such as gender and race have generally been ignored in assessments of this rising penal population. This article examines race- and gender-related factors in the criminal justice treatment of mentally ill persons. Using federal and local statistics on the hospitalization and/ or incarceration of mentally ill persons, this article finds that psychiatric need is not the only factor criminal justice decision-makers take into account when seeking psychiatric explanations for criminal behavior. Instead, demographic, family, economic, and criminal factors are all important in predicting which defendants will be the recipients of psychiatric evaluations in the justice system. In this context, gender and race are important considerations. Violent women, for example, are more likely to be evaluated for psychiatric conditions, while African-American men are less likely to receive psychiatric evaluation. A constructive response to these findings involves social policies that address the unmet needs and provide adequate treatment equally to those mentally ill prisoners who require it.

Keywords: Race, gender, mentally ill offenders, differential treatment, psychiatric treatment, mental health evaluation, jails, prisons, hospitalization.

Introduction

A staggering number of persons with mental illness are confined in U.S. prisons and jails. According to the U.S. Department of Justice (2006), more than half of all prison and jail inmates have (or had in the past) a mental health problem. This means that approximately 705,600 state prison inmates, 78,800 Federal prisoners, and 479,900 inmates in local jails

have mental health problems (U.S. Department of Justice, 2006). When combined with an estimated 678,000 individuals with mental health problems on probation (U.S. Department of Justice, 1999; 2007), it is clear that the U.S. criminal justice system is the primary source of social control for almost two million offenders with mental health problems.

Since the 1970s, the incarceration rate has grown by almost 600 percent (U.S. Department of Justice, 2000; 2009); at the same time, the rate of persons in mental hospitals has significantly decreased. At its peak, the rate of hospitalization for a mental disorder was 339 persons hospitalized for every 100,000 persons in the population in 1955 (Mechanic and Rochefort, 1990). Since then, the rate of mental hospital admissions has declined dramatically: from a rate of 283 admissions in 1990, down to 89 in 2004 (National Center for Health Statistics, 2008). Furthermore, the number of available non-correctional mental health beds in the United States has significantly decreased, with a 1986 rate of 112 mental health beds per 100,000 persons in the U.S. reduced to 71 per 100,000 only 18 years later in 2004 (National Center for Health Statistics, 2008).

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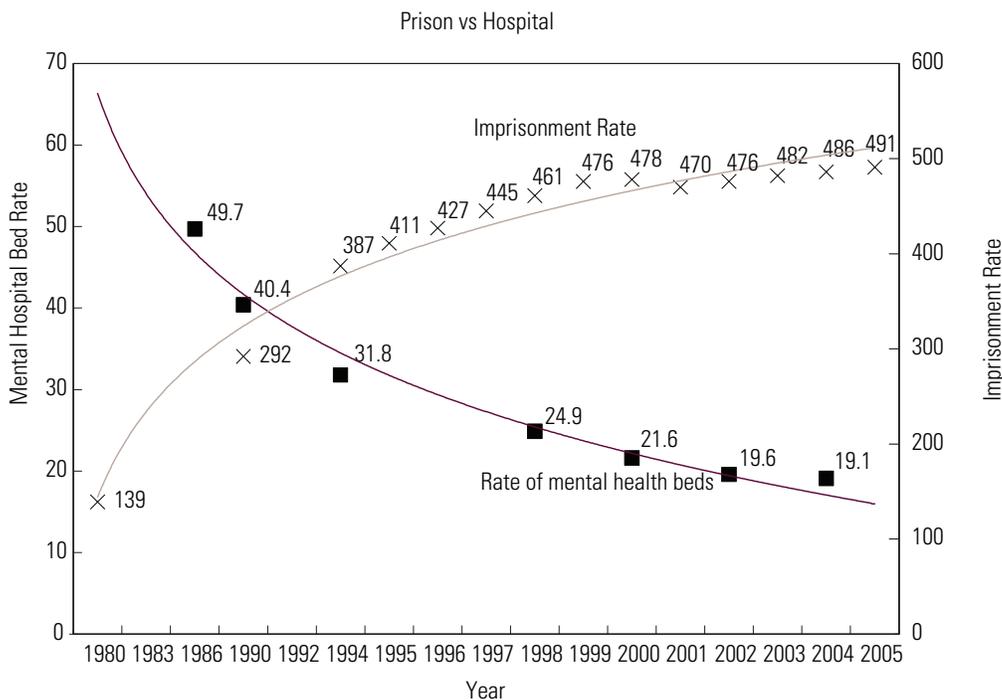
Meanwhile, the number of prisoners continues to grow. Regardless of the causes, the effect of these trends is a significant increase in the number and rate of individuals with mental illness being handled by the criminal justice system and a disproportionately high rate of mental illness in the U.S. correctional system compared to persons outside the justice system.

What has been largely ignored to date is the role of social factors such as race and gender in affecting the receipt of mental health treatment among these populations. This article seeks to summarize recent research findings on how race and gender affect mental health treatment in the criminal justice system.

The Mentally Ill & the Criminal Justice System

Since its peak in the 1950s, the rate of hospitalization for severely mentally ill individuals has dramatically declined. As Figure 1 shows, the rates of hospitalization (or beds available for hospitalization) have declined dramatically since the 1980s. At the same time, the rate of incarceration in prisons and jail has dramatically increased. Although we cannot know whether these individuals moved from the mental health system directly into the criminal justice system, there does appear to be a relationship between the criminal justice and mental health systems. This relationship is complex but essentially reciprocal, with increased hospital admissions in times of fewer jail admissions and decreased hospital admissions when jail and prison populations increase (Rothman, 1980; Hochstedler, 1986; Cirincione et al., 1992; Torrey et al., 1992; Miller 1993; Cirincione, Steadman, and Monahan, 1994; Teplin &

FIGURE 1: Rate (per 100,000) of Imprisonment and Beds in State and County Mental Hospitals, with Trend Lines



Source: Data from U.S. Department of Justice (2009) and National Center for Health Statistics (2008).

Voit, 1996; Hiday, 1999; Liska et al., 1999; National Center for Health Statistics, 2008).

Concerns regarding mental illness and the criminal justice system include the difficulties mentally ill prisoners face coping in prisons, due largely to inadequate mental health treatment. One issue that has been raised focuses on medication as the sole treatment for prisoners. There have also been concerns regarding a tendency to treat mental illness in segregation, which has a negative impact on the socialization and adjustment of the mentally ill.

There are apparent race and gender differences in the definition of and access to treatment while incarcerated. With respect to gender, according to a 2006 Bureau of Justice Statistics report (the most recent year available), 55 percent of male inmates in state prisoners had suffered a mental health problem in the past as opposed to 73 percent of females. Within jails, Steadman et al. (2009) report serious mental illness prevalence rates of approximately 14.5 percent for men and 31 percent for women booked into jails. To some extent, these gender

differences may reflect differences in labeling on the part of the criminal justice system. For example, research has suggested that the likelihood of mental health placement significantly increases if female prisoners engage in prison violence and/or other role-incongruent aggressive acts (Baskin et al. 1989). In contrast, male inmates who participate in similar acts (but ones that are role-congruent) are placed in disciplinary confinement (Baskin et al., 1989). Women who engage in violent offenses are also disproportionately medicated compared to males in the criminal justice system (Auerhahn & Leonard, 2000), which results in female prison inmates being medicated at two to ten times the rate of their male counterparts (Auerhahn & Leonard, 2000). Luskin (2001) explains that part of the gender difference in receipt of psychiatric treatment has to do with perceptions of dangerousness. Luskin (2001) notes that due to the larger physical size and strength of men, they are often seen as more dangerous than women and thus are less likely to get diverted into mental health programs. Thus, research on gender and mental health treatment in the criminal justice systems points to significant gender differences, with women labeled as “mentally ill” and men labeled as “criminal” for similar behavior.

Race may also affect whether or not one receives a mental health label and possible treatment. According to 2006 data from the Bureau of Justice Statistics, 62 percent of white inmates, 55 percent of black inmates, and 46 percent of Hispanic inmates had suffered a mental health problem in the past. Although inconsistent, there is evidence that race might play a role in the diversion of convicted offenders into the mental health system in lieu of prison (Luskin, 2001). Some have argued that behavior that actually reflects severe mental pathology in racial minorities (and African Americans in particular) is often ignored or considered to be criminal behavior rather than mental illness (Kutchins & Kirk, 1997:225), perhaps due to stereotypes of African Americans which frequently focus on criminality and violence (Devine & Elliot, 1995; Quillian & Pager, 2001; Sniderman & Piazza, 1993). Therefore, because African American behavior tends to be interpreted as criminal rather than of mental illness (Kutchins & Kirk, 1997; Thomas et al., 1999), there is likely to be less access to mental health treatment for African Americans, both in the community and within the criminal justice system.

Key Research Findings in Mental Illness and the Criminal Justice System

Data Sources

My research (Thompson, 2005, 2010a, 2010b) is primarily based on two data sources: original data collected in a Midwestern county, and the analysis of national corrections data available from the Bureau of Justice Statistics. The original data collection in a large Midwestern urban county gathered information on which felony defendants were selected to be psychiatrically evaluated to determine mental status at the time of the offense, and these cases were compared to felony defendants who were not selected for a psychiatric evaluation. The purpose of these evaluations was to determine whether the defendant met the criteria for an insanity defense. These decisions to seek a psychiatric evaluation are typically made by lawyers and judges—who rarely have expertise in mental health—and the evidence from this analysis provides us with the information that laypeople use to determine who might be considered mentally ill and therefore less responsible (or not at all responsible) for their criminal behavior.

The second data source used is secondary data available from the Bureau of Justice Statistics (BJS). The BJS provides data from surveys of various corrections populations and several of those surveys include questions about mental illness history and any treatment received for this illness while serving out the sentence. This analysis uses nationally representative data from the 1995 Survey of Adults on Probation (U.S. Department of Justice, 1995), the 1996 Survey of Inmates in Local Jails (U.S. Department of Justice, 1996), and from the 1997 Survey of Inmates in State and Federal Correctional Facilities (U.S. Department of Justice, 1997). The focus of these analyses is on the factors that predict which offenders receive mental health treatment in the criminal justice system.

Predictors of Psychiatric Evaluations

I first consider the factors that best predict which defendants receive a psychiatric evaluation to determine mental status at the time of the criminal offense. I find that although psychiatric history and mental health need are—as might be expected—the best predictors of psychiatric evaluations, it does not appear that psychiatric need is the only factor criminal justice decision-makers take into account

when seeking alternative (psychiatric) explanations for criminal behavior. Instead, demographic, family, economic, and criminal factors are all important in predicting which defendants will be the recipients of psychiatric evaluations in the justice system. In particular, I find that gender and race are important considerations.

Gender. My research found that violent women are particularly likely to be psychiatrically evaluated (see Figure 2). This is especially apparent for offenders without any history of mental health problems. Whereas both men and women with a history of mental health problems are likely to receive a psychiatric evaluation, violent women without any history of mental illness are especially likely to be evaluated, even more so than violent men without a mental illness history (74 percent for violent non-mentally ill women, and 57 percent for similar men). These results suggest that women who engage in violence are considered to be especially “bizarre” and therefore in need of a mental health evaluation. There is also evidence that women without children receive evaluations more often than mothers and men. These results may indicate that women who violate two gender roles by committing acts of violence and by failing to have traditional nurturing relationships (i.e., have children) are considered to be especially in need of a psychiatric evaluation, and possible subsequent treatment.

Race. This research also found strong and consistent evidence that African American defendants are less likely than non-African Americans (this group was almost entirely Caucasian) to receive psychiatric evaluations to determine mental status at the time of the offense, despite statistical controls for mental health and criminal history (see Figure 3). Among criminal defendants with a history of mental illness, over 94 percent received an evaluation. This is the same for both African American and non-African American defendants. The noteworthy difference, however, is that among the group without an apparent mental illness, with these non-African Americans significantly more likely than African Americans to be psychiatrically evaluated (46 percent versus 31 percent). This seems to indicate that when there are clearly “objective” factors to consider—including previous psychiatric diagnoses and hospitalizations—then decision-makers rely on this information to determine which defendants should be evaluated. But when there is an absence of

objective factors to consider, decision-makers may fall back on assumptions about the typical offender. Most notably, court actors send non-African American offenders out for explanations for seemingly “abnormal” criminal behavior and seek no further intervention for African American defendants.

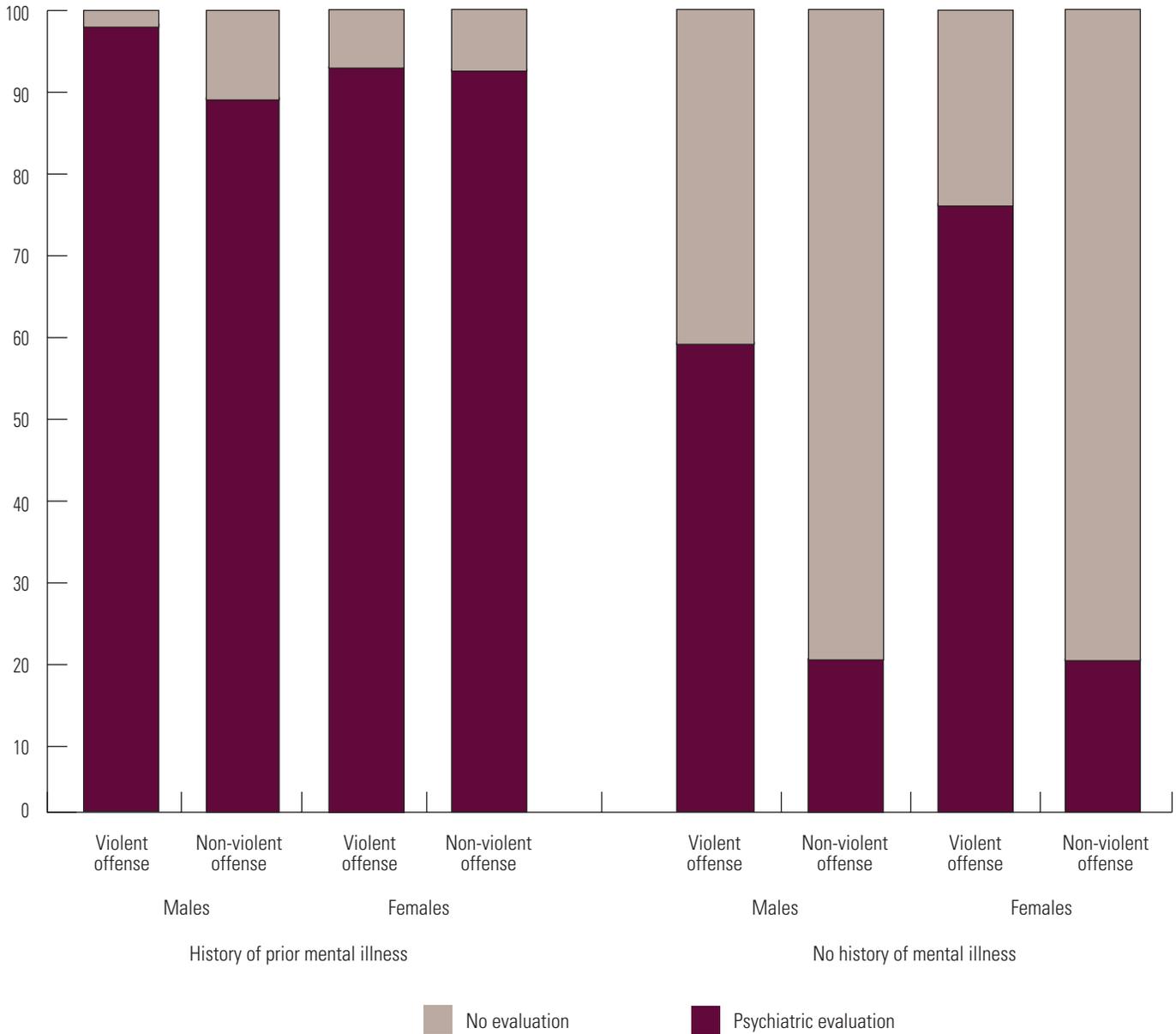
Receipt of Psychiatric Treatment in the Criminal Justice System

My research next considered the factors that best predict which convicted offenders receive psychiatric treatment in the criminal justice system. In particular, I was interested in which offenders receive psychiatric treatment while on probation, in jail (sentenced for a felony offense), or in prison. Similarly to the above results, I find that although psychiatric history and mental health need are the best predictors of psychiatric treatment, it does not appear that need is the only factor taken into account when psychiatric treatment is offered and used. Instead, social characteristics—including gender and race—are also important in predicting who receives psychiatric treatment in the justice system.

Gender. Within the corrections system, female offenders appear to be funneled into mental health treatment at a greater rate than similar male offenders. Female mentally ill offenders are significantly more likely than similar males to report receiving mental health treatment while on probation, in jail, and in prison. I further find that among non-mentally ill individuals (or offenders who report not having a “mental or emotional condition”), female jail and prison inmates are still quite likely to receive psychiatric treatment—more so than non-mentally ill males. Within prison, females are significantly more likely to be treated with psychiatric medication than are male prisoners, suggesting that psychiatric medication may be the treatment of choice in women’s prisons, whereas hospitalization is much more pronounced in men’s prisons.

Race. Within the corrections system, I find that African American offenders receive significantly less mental health treatment than do non-African Americans, even after controlling for mental health status. Self-reported mentally ill African American offenders are significantly less likely than similar non-African Americans to report receiving mental health treatment while on probation, in jail, and in prison. With respect to the type of psychiatric treatment

Figure 2: Percentage of Defendants in the Sample Psychiatrically Evaluated by Gender



Source: Thompson 2005, 2010a.

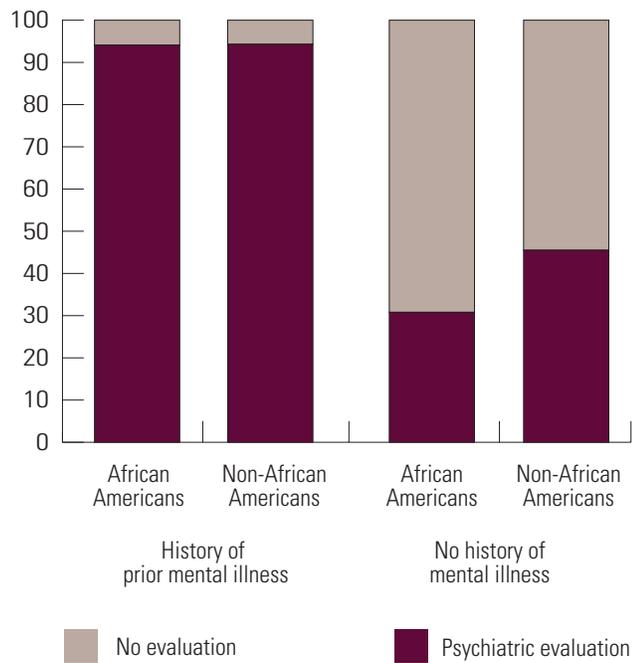
received, African Americans are significantly less likely to receive psychiatric medication or counseling in prison than are non-African Americans; this suggests that the African Americans who do receive treatment in prison tend to receive much of their treatment via hospitalization.

Criminal Justice Contact and Mental Health Outcomes

In another research project (Thompson, 2008), I analyze nationally representative data from a survey of respondents aged 12 years or older (U.S. Depart-

ment of Health & Human Services, 2006), wherein respondents provide detailed information regarding illegal drug use, criminal activity, depression, and other factors. By studying the gender differences in the relationships between these key variables, I examine how men and women differently experience depression, drug use, and criminal justice contact. This research demonstrates that individuals who have contact with the criminal justice system tend to be more depressed and more likely to engage in illegal substance use than individuals who have no criminal justice contact. Individuals who are arrested and under correctional supervision are likely

Figure 3: Percentage of Defendants in the Sample Psychiatrically Evaluated by Race



Source: Thompson 2005, 2010a.

to face high levels of stress associated with embarrassment, loss of income, interruption of educational trajectories, family disruption, worry regarding pending court cases, and many other factors; all of these factors may lead to psychiatric distress, which may display itself via substance abuse or depression. In particular, I find that criminal justice contact is particularly likely to increase men’s depression and women’s illegal drug use.

Policy Implications of Research Findings

This article summarizes research indicating that entry into psychiatric treatment within the criminal justice system is determined by more than just “psychiatric need.” Instead, offenders’ race and gender are particularly influential in determining who receives treatment and the type of treatment received. To lessen some of this differential treatment within the criminal justice system, one policy option would be to increase awareness of gender and racial differences in the attribution of mental illness among legal agents. This could result in a more systematic psychiatric labeling process in the criminal justice system. For example, if every felony defendant, or those charged with offenses such as homicide, in the criminal justice system received a brief screen for mental illness, this would help the justice system gauge possible

illness, regardless of gender and race that might color interpretation of events and behaviors. Although jurisdictions vary, most do not currently conduct mental health screenings until after the defendants has been convicted and sentenced. Nearly all U.S. state confinement facilities screen inmates for mental health problems (Beck & Maruschak, 2001), but one policy suggestion is to briefly provide a mental health screen earlier in criminal justice processing. Defendants with indications of mental illness could then be examined more closely to determine whether a full mental health evaluation is necessary.

The criminal justice system should also examine gender and race differences in mental health treatment in the nation’s prisons, jail, and in its probation system. These treatment differences in prisons, jails, and on probation may have long-term consequences, particularly for those with untreated mental disorders, or alternatively, for those receiving more treatment (or more severe treatment) than is necessary.

These findings also point to a need to be aware of the effects of criminal justice interventions on the mental health of offenders. This should also have a gendered focus, providing intensive services to prevent depression among men and drug use among women. These gender-responsive therapies should be examined further, but if it is the case that arrest and criminal justice supervision lead to men’s depression via an interruption in the social controls of work and family, policies might include programs to help offenders find jobs, marital/family counseling, and education. Among women, a policy recommendation might be to seek means to avoid stigmatizing and socially excluding women who have been involved with the criminal justice system. This might involve maintaining access for these women to their children, and seeing that they are not unduly punished by the criminal justice system for being a drug using mother. This does not mean to suggest that criminal justice interventions should not occur when a crime is committed, but instead, to suggest that future criminal activity may be prevented by efforts to reduce or eliminate as many of these stressors as possible. This might include lower bail or shorter sentences to allow arrested individuals to return to their families, workplaces, or schools as soon as possible while awaiting trial or providing additional services for prison/jail inmates to assist with their successful reentry into society.

Conclusion

The research described in this article indicates that psychiatric needs are clearly very important in determining which defendants, probationers, and jail/prison inmates receive psychiatric treatment. It does not appear, however, that psychiatric status is the only relevant factor when seeking explanations for who receives mental health treatment in the criminal justice system. Instead, race and gender are similarly important in predicting which defendants will be the recipients of psychiatric intervention. To the extent that mental illness will continue to be a problem in our nation's corrections system, finding social policies that address unmet needs, and provide adequate treatment equally to those who require it, would be a constructive first step.

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