



REPORT FOR ACTION

Improving Services to Youth with Experience in the Criminal Justice System

Date: April 24, 2017

To: Economic Development Committee

From: General Manager, Toronto Employment & Social Services and
Executive Director, Social Development, Finance and Administration

Wards: All

SUMMARY

A criminal record, or even an encounter with the criminal justice system, can make it increasingly difficult to secure employment. For youth in general, and for certain populations such as racialized youth, who are over-represented in the criminal justice system, the challenges can be much greater. This report highlights a number of recent trends that are increasing the challenges facing individuals with criminal records who are seeking to re-enter the labour market, or upgrade their skills or participate in voluntary activities as a way to improve their employment prospects. The report subsequently identifies steps the City is taking, or can take, to address the issues being faced by unemployed and underemployed residents who have experience with the criminal justice system to support their efforts to increased their employability and obtain employment.

RECOMMENDATIONS

The General Manager, Toronto Employment and Social Services and the Executive Director, Social Development Finance & Administration, recommends that:

1. City Council direct the General Manager, Toronto Employment and Social Services in partnership with the Executive Director, Social Development Finance & Administration, to work with the Ministry of Community Safety and Correctional Services (MCSCS) and Employment Ontario to expand the existing Employment Connections table by including appropriate city divisions, and select employers, educational institutions, training providers and residents to inform the development of a co-ordinated city approach to more effectively address the service needs of individuals with criminal records.

FINANCIAL IMPACT

There are no financial implications arising from this report.

DECISION HISTORY

Not applicable.

ISSUE BACKGROUND

Individuals who have experience with the criminal justice system face specific and significant challenges related to participation in the labour market.¹ In Canada, approximately 3.8 million people (roughly 20% of the adult male population) have a record of criminal conviction². Annually, the criminal court system in Ontario processes more than half a million charges³. A criminal record, or even an encounter with the criminal justice system, makes it increasingly difficult to secure employment. For marginalized, racialized, and youth populations, the challenges are much greater. In particular, youth between the ages of 12–29 are over-represented in the criminal justice system. While youth represent 23% of Ontario's population, they account for 56% of all individuals charged with a crime⁴.

Toronto's demographic composition is quite different compared to the rest of the nation. Over half (51%) of Toronto residents are born outside of the country, compared to 22% nationally⁵. In addition, 49% of those living in Toronto (1,264,395 people) identified as a visible minority, compared to 19% nationally⁶. According to census data, Toronto's median household income was the lowest of all municipalities in the GTHA, ranking 6th, and the incidence of low-income in Toronto (19.3%) is significantly greater than in Canada (14.9%), Ontario (13.9%) and the rest of the GTHA (11.5%)⁷.

Toronto's unique demographic composition - combined with the precarious nature of the labour market, the high cost of living in Toronto, the increasing length of stay for social assistance recipients, the rapidly changing labour market, and the growing trend among employers to require police record checks as part of company hiring practices - have overwhelmingly negative impacts on individuals with criminal records and make it

¹ City of Toronto, Economic Development & Culture. Toronto at a Glance 2015

² <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2015/ccrso-2015-en.pdf>

³ <http://news.nationalpost.com/news/canada/courting-disaster-the-long-long-wait-for-justice-in-ontario>

⁴ McMurtry and Curling 2008

⁵ http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=1e68f40f9aae0410VgnVCM10000071d60f89R CRD&WT.rd_id=demographics

⁶ http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=1e68f40f9aae0410VgnVCM10000071d60f89R CRD&WT.rd_id=demographics

⁷ http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=1e68f40f9aae0410VgnVCM10000071d60f89R CRD&WT.rd_id=demographics

increasingly difficult for these individuals to access employment, educational or training opportunities.

Given this context, the adoption of the City's Poverty Reduction Strategy provides a strong platform to better align and coordinate City services aimed at addressing poverty on a city-wide scale. Reflecting this strategic focus, as well as an increased emphasis on service integration and service improvement, the City is more deliberately targeting services and supports to address the needs of vulnerable residents.

This report also reinforces the work of the Toronto Youth Equity Strategy (TYES) by outlining ways the City can better support the inclusion of marginalized and racialized youth into the economic mainstream, which is consistent with a key focus of the Economic Development Committee.

This report is also an opportunity to respond one of the issues repeatedly raised by Black Torontonians during 41 Community Conversations on anti-Black racism between January to March, 2017. Given the overrepresentation of Black people in the criminal justice system, community members spoke about the need for governments to work together to tackle criminal records as a barrier to employment for Black youth. The report, The Toronto Action Plan to Confront Anti-Black Racism, will be considered at the June meeting of Executive Committee.

Following a brief overview of the key issues affecting youth who have experience with the criminal justice system, this report outlines a number of steps the City is taking, as an employer and service provider, to improve access to employment opportunities and to develop innovative approaches to the design and delivery of youth services, and specifically employment services for youth, that better support this group to prepare for, find and sustain employment.

Issues Facing Youth Who have Experience with the Criminal Justice System

Statistics Canada police-reported data show that young adults aged 18 to 24 have the highest rates of criminal offending of any age group. In 2014, there were over 183,000 young adults accused in police-reported criminal incidents.⁸ In addition, marginalized and racialized populations are over represented in the justice system. The 2011/12 Annual Report of the Office of the Correctional Investigator (OCI) identified Black inmates as one of the fastest growing populations in federal corrections. Over the last 10 years, the number of federally incarcerated Black inmates has increased by 75% with Black inmates now accounting for 9.3% of the total federal prison population while representing just 2.9% of the Canadian population.⁹

Recent changes to federal legislation affecting record suspensions, as well as the increasing use of police reference checks by employers have heightened issues faced by individuals with criminal records with respect to accessing employment, or even accessing certain services or volunteer or educational opportunities.

⁸ <http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14561-eng.htm>

⁹ <http://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20131126-eng.aspx#toc1>

The Impact of Recent Legislative Changes

In 2012, the federal government introduced new legislation governing record suspensions, formerly known as pardons (The Safe Streets and Communities Act, formerly known as Bill C-10), making it more challenging for individuals to have their criminal records removed from the Canadian Police Information Centre (CPIC) database. The new laws have doubled the waiting period to apply for a record suspension, made several offences ineligible, increased use of mandatory minimum sentences, and increased the application fee from \$150 to \$631.

These changes have resulted in a steep drop in the number of Canadians seeking a record suspension. According to an annual report on record suspensions by the Parole Board of Canada¹⁰, applications have declined by 58.5%, from 29,849 applications in 2011/12 to 12,384 applications in 2015/16. As a result, there has been a significant impact on individuals with criminal records and on certain communities at large.

Increasing Use of Police Reference Checks

An increasing number of Canadian organizations – employers, volunteer organizations, educational institutions, and governments – are now routinely incorporating police record checks into their hiring practices.¹¹

Provincially, Bill 168, An Act to Amend the Ontario Health and Safety Act (OHSA) with respect to violence in the workplace and other matters, came into effect June 2010. Bill 168 introduced new challenges for employers, requiring them to assess the risks of workplace violence, and create policies to respond to these risks. In response to this Bill, many Ontario employers have responded to their new obligations by going beyond what the legislation mandates, thus expanding the use of police record checks to screen for risk. Although the OHSA specifically lays out that it "does not require employers or supervisors to do criminal background checks or to otherwise seek out information on workers or other people who are likely to be in the workplace", many employers have introduced this practice.¹²

Further, non-conviction records can be routinely disclosed on police record checks and can include: absolute or conditional discharges, charges that have been withdrawn or dismissed, stays of proceedings and acquittals.¹³ Hence, the fact that non-conviction records may also be disclosed further negatively affects an individual's employment, volunteering and academic prospects.

¹⁰ <https://www.canada.ca/en/parole-board/corporate/transparency/reporting-to-canadians/record-suspension-report-to-parliament-2015-2016.html>

¹¹ <http://www.ccla.org/recordchecks/falsepromises>

¹² <https://www.labour.gov.on.ca/english/hs/pubs/wpvh/violence.php>

¹³ <http://www.torontopolice.on.ca/prcp/records.php>

There has been widespread agreement in academic research that past criminal convictions are not correlated with a likelihood to commit a work-related offence in the future.¹⁴ There are obvious circumstances where it is legally required to request police record checks (e.g., for people who will be working with vulnerable populations). However, the expanding use of reference checks is making it increasingly difficult for many populations who may have contact with the criminal justice system or with police, such as those with mental health issues, homeless populations, and Aboriginal and racialized populations - to reintegrate and to access opportunities to do so.¹⁵

Taken together, the effect of new legislation governing record suspensions and an increasing use of police reference by employers is that ex-offenders are facing ever greater challenges re-integrating into the social and economic mainstream, including longer periods of deep poverty which makes it difficult for them to pursue pathways to success.

The Ontario Works (OW) Context

An increasingly challenging and precarious labour market – driven by forces such as automation and globalization – has contributed greatly to the growing length of stay on OW in Toronto. OW clients are staying on social assistance longer and are more distant from the labour market, indicating a growing intensity of need among OW clients. It is well documented that the longer a person is out of the labour market, the more difficult it becomes to build the necessary skills to remain competitive and re-enter the workforce. As a result, there is greater recognition that programs and services that support life stabilization may be needed as a preparatory step towards positive outcomes, including stable employment.

Analysis of the OW caseload in Toronto has highlighted that a much larger proportion of OW clients now face greater barriers to obtaining employment and, often, require more intensive supports to find and keep work. A criminal record or even a non-conviction record serves as a very serious impediment to low income resident's efforts to obtain employment, many of whom are from marginalized and racialized groups.

Currently, available data indicates that over 6,000 Toronto OW recipients have a criminal record, representing 7% of the total caseload. This number is based on individuals who self-reported this information and, as such, the actual number is undoubtedly higher. Of the individuals who self-reported having a criminal record:

- 86% are single, 81% are male, and 73% are over the age of 30
- 90% are currently unemployed

Almost half have been on OW for more than 3 years and have declared that they are unprepared for employment. Only 6% are enrolled in school or training programs. Common barriers reported: poor health, a lack of education and skills, transportation, and addiction(s) and substance abuse.

¹⁴ <http://www.ccla.org/recordchecks/falsepromises>

¹⁵ <http://www.ccla.org/recordchecks/falsepromises>

Further, from September to October 2016, TESS conducted 52 interviews with OW recipients who had criminal records. The findings from the interviews provided a clearer picture of the struggles and barriers which make re-integration challenging.

The findings highlighted that:

- 51% of respondents declared that they have been looking for work for more than 12 months
- 89% of respondents declared that having police record has changed their career choice and/or job search efforts
- 79% of respondents have been asked for a criminal record check from an employer
- 83% of respondents have not applied for a record suspension.

The largest barriers were identified by OW clients as: access to supports to seek a record suspension, education/skills upgrading, and access to employers with inclusive hiring practices. When asked how TESS can help them, respondents indicated that access to employers who hire individuals who have experience with the criminal justice system, assistance with employment preparation (soft skills development/work placement/job fairs/referrals), education/skills upgrading and assistance with record suspensions would be valuable supports.

COMMENTS

Addressing Key Issues Facing Individuals with Experience with the Criminal Justice System

Toronto is one of the world's top cities in which to live and work. Yet, a significant proportion of our city's low-income residents lack the connections, opportunities and the skills necessary to find work. In an already challenging environment, individuals with criminal records find it increasingly difficult to move ahead.

There are a number of steps the City has been taking and can take to address challenges facing unemployed and underemployed residents who have experience with the criminal justice system and are seeking to re-enter the labour market. These steps include both actions the City can take directly and actions that involve advocating to or working with other governments to tackle specific issues that create undue obstacles for people with criminal records.

Five separate areas are discussed, including a brief overview of the steps the City is now taking, or proposing to take to address ongoing issues and concerns. These areas include:

1. Simplifying the process to obtain record suspensions
2. Advancing inclusive hiring practices
3. Developing an integrated service response
4. Collecting and analyzing relevant data
5. Advancing innovative service delivery approaches

1. Simplifying the Process to Obtain Record Suspensions

A record suspension allows people who were convicted of a criminal offence, but have completed their sentence and demonstrated law-abiding behaviour, to have their criminal record sealed. For many, the record suspension program is vital to supporting successful reintegration into society, as it can better enable an individual to access employment, educational and training opportunities, among other things. However, the many benefits associated with a record suspension are offset by the challenges of obtaining a suspension, given the legislative changes noted above.

As a result of these changes¹⁶:

- individuals convicted of more than three indictable offences (each with a sentence of two years or more) are ineligible for a record suspension
- the waiting period to apply for a record suspension has increased from 3 to 5 years for all summary conviction offences, and from 5 to 10 years for all indictable offences
- applicants must have completed all of their sentences and associated terms before applying for a record suspension. This includes:
 - all fines, surcharges, costs, restitution and compensation orders (for individuals with multiple charges, a fine is imposed on each charge);
 - all sentences of imprisonment, conditional sentences, including parole and statutory release;
 - any probation order(s).

These changes have imposed additional burdens on individuals who have served their sentences and are seeking to re-enter the job market.¹⁷ There is also a disproportional impact on racialized and newcomer populations, who are overrepresented in the criminal justice system.

The federal government recently completed a series of consultations as part of its review of the Criminal Records Act. Specifically, the review looked at record suspensions to ensure they were:

- consistent with the Government of Canada's goals to increase public safety;
- providing value for money;
- evidence-based; and
- aligned with the Charter of Rights and Freedoms and Canadian values.

The government will release the findings from this review in spring 2017.

¹⁶ https://www.canada.ca/content/dam/canada/paroleboard/migration/003/093/rs_guide-en.pdf

¹⁷ <http://johnhoward.on.ca/wp-content/uploads/2014/07/johnhoward-ontario-help-wanted.pdf>

As noted earlier, two significant barriers facing city residents related to the current legislation are the cost of obtaining a record suspension (\$631) and the increased waiting periods (5 or 10 years) that make it increasingly difficult for people to apply for a record suspension. The cost of obtaining a record suspension is not covered through any income support programs (e.g., Ontario Works, Ontario Disability Support Program) and, thus, makes it difficult for low income City residents to apply for a record suspension.

To that end, upon the release of the federal government's findings, City staff should meet with their federal counterparts to discuss steps that can be taken to support positive changes to legislation that would reduce barriers for people with criminal records.

2. Advancing Inclusive Hiring Practices

Many international campaigns, such as Ban the Box, are part of larger Fair Chance reforms which seek to eliminate barriers to employment for ex-offenders, and provide opportunities for individuals re-entering the workforce. These approaches demonstrate how organizations and firms are changing hiring practices or supporting increased community action to ensure individuals with criminal records can re-integrate into society.¹⁸ To date, over 100 employers have joined the campaign in the United States alone.¹⁹

The City's fair hiring practices are in line with many international campaigns advocating for employers to remove the requirement for police record checks. The City only requires police record checks in circumstances where an individual will "work directly with or in the vicinity of children or vulnerable persons".²⁰

As one of Canada's Best Diversity Employers and one of Canada's Top 100 Employers, the City can more actively increase awareness about the need for the broader adoption of more inclusive hiring practices, which ensure that:

- all residents, including those with criminal records, have access to available jobs, programs and services.
- fairness is embedded into hiring practices as well as into programs and services to ensure they meet the needs of all Torontonians, including those with criminal records.
- opportunities are available to all residents that appropriately respond to the diverse needs and interests of Torontonians while aiming to reduce social and economic exclusion.

¹⁸ Ashleigh Fryer, Obama Administration, U.S. Attorneys Unite Around #ReentryWeek Pledge to Create Second Chances for People Returning Home, Justice Center

¹⁹ <http://pcastarchive.net/PCAST4/www.whitehouse.gov/issues/criminal-justice/fair-chance-pledge.html>

²⁰ Police Reference Check Policy:

<http://we.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/63ba3b5d2ab240e085257eff0077cde4?OpenDocument>

It is suggested that steps on how this may be achieved be part of the mandate of multi stakeholder table, the establishment of which is discussed below.

3. Developing an Integrated Service Response

As with many complex issues, solutions to address barriers facing people with criminal records, or with experience with the criminal justice system, will require cross divisional action, as well as the involvement of a range of stakeholders.

Given the magnitude of this issue, solutions will require a coordinated and planned approach at the City government and city level. To this end, the City will actively work with a wide range of stakeholders to increase education and awareness surrounding the issue of criminal records and develop strategies that promote inclusion and re-integration.

Currently, Social Development, Finance & Administration (SDF&A) and Toronto Employment & Social Services (TESS) are part of the Employment Connections table - a network comprised staff from the Ministry of Community Safety and Correctional Services (MCSCS), Employment Ontario, and other non-profit community agencies. This table works to increase opportunities for youth on probation or parole by:

- Increasing access to pre-employment training and support
- Sharing best practices for working with youth in conflict with the law
- Educating employers
- Increasing Access to employment and training opportunities
- Developing partnerships and networks
- Hosting an annual Job Fair

It is being proposed that this existing table be expanded to include representation from selected employers, educational institutions, training providers and residents, to develop more effective strategies to reduce barriers facing individuals with criminal records while increasing opportunities for them to access employment, education and related supports and services. As noted above, the table's mandate could include the advancement of inclusive hiring practices, specifically related to individuals with criminal records.

4. Collecting and Analyzing Relevant Data

As the City's recent report Opportunities and Issues in Using Disaggregated Population Data stated, data can be a powerful tool to understand and explain the living conditions experienced by people across the city. Information about the lives and experiences of Torontonians is essential for the City of Toronto to develop evidence-based policies and strategies. In this regard, without proper data, it is very difficult to create programming or to track the progress of particular groups to inform larger policy change.

The Count Me In! Collecting Human Rights Based Data report by the Ontario Human Rights Commission (OHRC) argues that collecting data specific to race, disability, sexual orientation and other Ontario Human Rights Code grounds - as long as it is

collected in a way that follows accepted data collection techniques, privacy and other applicable legislation – is permitted and viewed as purposeful if collected to²¹:

- monitor and evaluate discrimination
- identify and remove systemic barriers
- lessen or prevent disadvantage
- promote substantive equality for people identified by Code grounds

Recently, some notable changes have been announced specific to anti-racism and the collection of data to support policy and program enhancement. These include the Toronto Police's Transformational Task Force report Action Plan: The Way Forward which highlights the need for additional strategies to address police distrust among youth and especially Black youth²², and the Province's A Better Way Forward: Ontario's 3-Year Anti-Racism Strategic Plan which outlines, among other things, the need to address the disproportionate number of Black males involved in the youth justice and justice systems.²³

The collection of data specific to gender, ethnicity, race and gender orientation can be essential to the examination and potential elimination of any disparities that may exist among certain populations.

Council has directed the Equity, Diversity, and Human Rights Division to work with City Divisions to develop a disaggregated data collection strategy. As part of the development of this strategy, staff from TESS and SDF&A will work with the Equity, Diversity, and Human Rights Division to determine where there are opportunities to expand the collection of data required to develop more effective approaches to reducing barriers related to criminal records among OW clients and low income residents more generally.

5. Advancing Innovative Service Delivery Approaches

Consistent with the PRS, and with other key City strategies, City divisions, including TESS and SDF&A, have been designing and implementing new approaches to address the service needs of low income residents. These include initiatives that are specifically geared to addressing the barriers faced by individuals with a criminal record, or who have experience with the criminal justice system. There are also a broader range of actions being taken that seek to improve the delivery of services to social assistance clients overall.

What follows are a number of steps the City is taking to better support individuals with criminal records through innovative service delivery approaches.

Piloting Intensive Case Management Models

²¹ http://www.ohrc.on.ca/sites/default/files/attachments/Count_me_in!_Collecting_human_rights_based_data.pdf

²² <https://www.torontopolice.on.ca/TheWayForward/files/action-plan.pdf>

²³ <https://www.ontario.ca/page/better-way-forward-ontarios-3-year-anti-racism-strategic-plan>

In the City's 2017 City Poverty Reduction Work plan, TESS has committed to support innovative intensive case management approaches and access to key social, health and financial services for clients who are distant from the labour market. One of the pilots that TESS has funded, and is delivering in partnership with community partners, is a construction skills training program that involves black youth, aged 18-29, in receipt of Ontario Works with criminal records. TESS is partnering with the Labour Education Centre (LEC) to provide the hands on constructions skills training component and the Centre for Young Black Professionals (CEE) to provide the culturally sensitive intensive case management component of the program.

This 15 week joint initiative has resulted in all 14 youth being registered with Unions and 10 out of the 14 youth already securing well paid unionized jobs in the Construction sector. A second cohort is currently being enrolled in this program. This has been an extremely successful partnership which has achieved very positive outcomes both for the participants and for the organizations involved.

A similar project is now being developed with Woodgreen Community Services through TESS Purchase of Employment Services program. This initiative is a 12 week Digital Tech Program for a group of 12 Black youth, receiving Ontario Works, aged 18-29 with contact with the criminal justice system. The program intends to connect youth who are facing multiple barriers to entry level opportunities within the Digital Technology/IT sector. The program will combine the use of the skills training with integrated, culturally sensitive wrap-around case management to enable participants to succeed and pursue careers in the Digital Technology/IT sector.

Employment Connections

TESS and SDF&A have been part of Employment Connections (noted earlier) for several years. The committee seeks to better connect youth and adults who have experience in the justice system with employment and training opportunities. As part of this work, an annual Job Fair is open exclusively to youth 18-29 that are currently on probation or parole.

In 2016, over 20 employers attended the annual Job Fair showcasing opportunities exclusively for people with criminal records. Collectively, TESS and SDF&A were able to register 250 youth to attend the Employment Connections job fair.

Criminal Record Information Sessions

Recognizing the impact that criminal records have on OW recipients, TESS organized a series of Criminal Record Information Sessions in 2016. The sessions, facilitated in partnership with legal clinics, provided information on the record suspension process, how TESS can support clients through the process, as well as tips on looking for work with a criminal record. A total of 108 OW clients attended the information sessions.

Police Record Checks and Employment: A Learning Forum

As part of Workforce Development Month, TESS, in partnership with SDF&A, hosted a learning forum geared towards job seekers with criminal justice involvement, City staff,

community partners, and employers that are open to learning more about adopting inclusive hiring practices. The day consisted of three presentations as well as breakout sessions, on the following topics:

- Unpacking Police Record Checks as a Barrier to Employment
- Understanding the Lived Experience of a Job Seeker with a Police Record
- Promising Practices from the Private Sector: Employers with inclusive, rights-respecting hiring practices will be invited to discuss best practices, challenges and successes in hiring employees with police records.

Ensuring Relevant TESS Programs Provide Opportunities for Clients with Experience in the Justice System

As part of TESS' annual program reviews, a number of TESS led programs will be enhanced to better respond to the needs of clients more distant from the labour market, including those with criminal records, including:

- Revising the division's Request for Proposal (RFP) process for contracted services to include service offerings for sector/occupation specific skill training with wrap around case management support for clients with experience in the justice system.
- Ensuring the Investing in Neighbourhoods (IIN) program targets positions for clients with experience in the justice system.
- Providing opportunities through the Job Incentive Program (JIP) for clients with experience in the justice system.

YouthWorx

To improve employment outcomes for youth, including those with criminal records, SDF&A works closely with TCHC to refer youth, some of whom have criminal records, to this annual summer employment program targeted for youth between the ages of 14-29. A key program feature is the "Open Call" job fairs where youth are provided with an opportunity to attend an initial interview on the spot, therefore, eliminating the barriers that criminal records may pose as part of traditional hiring practices. In 2016, there were 110 summer employment positions available. Over 600 youth attended the Open Calls and 557 interviews were conducted.

Taken together, these approaches provide a foundation that the City can build upon to provide more targeted supports to people, notably youth, with criminal records to better connect them to available programs, services and employment and training opportunities.

Conclusion

In a City as successful as Toronto, many low-income residents still lack the connections, opportunities and the skills necessary to find work. In an already challenging environment, individuals with criminal records find it increasingly difficult to move ahead. Barriers imposed by recent legislative changes, employer hiring practices, the changing labour market, and the growing proportion of OW recipients staying on the caseload for longer periods of time, make it very difficult for youth with criminal records to transition into adequate training, employment or academic opportunities.

Through the approaches discussed in this report, City divisions, working with employers, local communities, residents and other governments, will continue to take steps to reduce the barriers now facing youth with criminal records. The expanded Employment Connections table will provide an important vehicle for these efforts.

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