DEFERRED ENTRY OF JUDGMENT

AUTHORITY: Welfare and Institutions Code (WIC) Sections 780, 782, 790-795, 827, 828,

and 831

Rules 5.800 (Deferred Entry of Judgment), 5.830 (Sealing of Records), and 5.840 (Dismissal of Petition and Sealing of Records Section 786) of the

California Rules of Court

Victim's Bill of Rights Act 2008 (Marsy's Law) California Constitution, Article 1, Section 28

RESCINDS: Procedure Manual Item 2-5-012, dated 05/16/18

FORMS: Juvenile Court Report Face Sheet Worksheet (F057-4086W)

Juvenile Data Sheet (F057-4193AW)

Authorization for Release of Student

Records/Counseling Information (F057-4016)

Authorization for Release of Medical, Dental,

Psychiatric, Psychological Information (F057-7004)
Investigation Form Letters (Computer Generated)
Appointment Letter 4094AF, Arresting Officer Letter 9193
Victim Restitution Letter 4114AF

Record Check Request – Juvenile (F057-9914)
Record Check Request – Adult (F057-1064)

Child Abuse Index Information Request

Sealing of Records Outcome Sheet/Distribution

of Sealing of Records (ICMS Generated Form)

PURPOSE: To provide a guide for preparing reports and case management of Deferred

Entry of Judgment (DEJ) to include initial suitability report to the Court; supervision and preparation of motion for dispositional hearing, and sealing

of DEJ records.

GENERAL INFORMATION

The following procedure outlines the eligibility and suitability of a youth for DEJ, supervision of such cases, and reports associated with DEJ.

The district attorney **can** determine that a youth who is at least fourteen (14) years old at time of hearing for a felony charge is eligible to defer judgment pending a period of probation. Specifically, the court may grant a deferred entry of judgment in lieu of a jurisdictional and disposition hearing with respect to any offense charged in the petition. The youth must admit to each allegation contained in the petition and waive times for the pronouncement of judgment. Should the youth successfully complete the period of probation determined by the court (no sooner than twelve [12] months and no later than thirty-six [36] months from the date of the referral to the program), the court shall dismiss the charges against the youth, the offense is deemed never to have happened, and all records will be ordered sealed.

II. ELIGIBILITY

- A. Whenever a youth is a person described in WIC 602 because of the commission of a felony offense, he/she is eligible for Deferred Entry of Judgment if <u>all</u> of the following circumstances apply.
 - 1. The youth has not previously been declared to be a ward of the court for the commission of a felony offense.
 - 2. The offense charged is not a WIC 707(b) offense.
 - 3. The youth has not previously been committed to the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.
 - 4. The youth's record does not indicate that probation has ever been revoked without being completed.
 - 5. The youth is at least fourteen (14) years of age at the time of the hearing.
 - 6. The youth is eligible for probation pursuant to Penal Code (PC) Section 1203.06.
 - 7. The offense charged is not specific to certain offenses specified in PC 289 when the victim was prevented from resisting due to being rendered unconscious or when the victim was at the time incapable of giving consent.
- B. Before filing a petition alleging a felony offense, or as soon as possible after the filing, the district attorney shall determine whether or not all eligibility circumstances (1-7 above) apply.
- C. If the youth is found eligible and suitable for DEJ, the district attorney shall file a written declaration with the court or state for the record the grounds upon which determination is based, and shall make this information available to the youth and the youth's attorney.
- D. The Court may grant DEJ at this time, or the Court may order Probation to prepare a report with recommendation as to the suitability of the youth for DEJ.

III. SUITABILITY

- A. The DEJ Suitability Report is prepared by a deputy probation officer (DPO) from the Juvenile Investigations Unit if the youth is not currently on probation.
- B. A **Juvenile F**ield **Unit** or **Juvenile A**dmin **Unit** DPO may be ordered to complete a DEJ Suitability Report if a youth on formal or informal probation for a misdemeanor offense has a subsequent petition for a felony offense.
- C. A Preplea Report with DEJ suitability will be completed per Procedure Manual Item (PMI) 2-5-002 (Probation Officer's Report to the Juvenile Court).
- D. Specific suitability criteria that must be assessed in the DEJ Suitability Report are:
 - 1. The youth's age, maturity, educational background, family relationships; demonstrable motivation, any treatment history, and any other mitigating

- or aggravating factors regarding the benefit the youth would derive from education, treatment, and rehabilitation efforts.
- 2. The programs best suited to assist the youth and the youth's family.
- 3. Assessment of suitability factors should support recommendation for or against DEJ.
- E. The nature of the felony offense is not a reason to find the youth unsuitable. Other factors including the youth's level of sophistication and role in the offense can, however, be considered.
- F. Should concerns for the youth's safety or the safety of the community arise, the needs of the youth and the ability of Probation to take immediate action should also be considered.
- G. Evaluate case factors (per PMI 2-5-002 [Probation Officer's Report to the **Juvenile Court**]) and include foundation for which court orders are appropriate.

IV. RESTITUTION

- A. The intent of the court is to set the restitution amount at the time the youth is placed on DEJ.
- B. At the time the DEJ report is ordered, the DEJ Unit clerk will:
 - 1. Send an email advising the Restitution Investigation Unit Supervising Collection Officer that the report has been ordered and include:
 - a. Assigned DPO name
 - b. Court date
 - c. Dictation date
 - 2. Send a copy of or scan into On Base
 - a. Petition
 - b. Police report
 - c. Disposition Sheet
- C. The Restitution Investigation Unit will:
 - 1. Attempt to contact victim(s) by phone.
 - 2. Send out restitution letters to victim(s).
 - 3. Complete restitution investigation and notify the assigned DPO of the outcome.
 - 4. Document all efforts in the Integrated Case Management System (ICMS).

D. Assigned DPO will:

- 1. Review ICMS notes the Restitution Investigation Unit financial officer has made and include efforts made in the report.
- 2. Include victim impact comments when available and the amount of restitution owed to each victim. Efforts to contact the victim(s) by phone, in person, or via letter should be documented in the report, as well in the ICMS Electronic Contact Report (ECR) Notes. This should be in addition to efforts made by the financial officer. Refer to PMI 1-1-117 (Juvenile Victim Services) for specifics.

V. RECOMMENDATIONS

- A. Search and Seizure shall be ordered in all DEJ cases.
- B. Custody time shall not be recommended.
- C. Set a Disposition/Dismissal Hearing at one (1) year. The recommendation should read:

"It is further recommended that the matter be continued to [date-twelve (12) months from date of the initial DEJ order], (_____) and that all parties be ordered to return to Court on that date."

- D. Additional court orders can also include:
 - 1. Participate in a program of therapy or counseling and furnish proof of compliance as directed by the probation officer.
 - 2. Complete (_____) hours of community volunteer service and provide proof of compliance as directed by the probation officer.
 - 3. Contribute (\$_____) to a bona fide charity and provide proof to the probation officer of said contribution.
 - 4. Complete a (<u>legal awareness/substance abuse</u>) education program and provide verification thereof as directed by the probation officer.
 - 5. Pay restitution with the amount to be set by the Court through the probation officer, subject to a restitution hearing if the **youth** requests.
 - 6. Not use, possess, or be under the influence of alcohol, illegal drugs, narcotics, or controlled substances. Submit to alcohol/drug testing as directed by the Court/Probation. Pay pro rata share of drug testing, subject to ability to pay. Failure to test will be considered a positive test.
 - 7. Attend a school/program approved by Probation without unexcused absence. Report any absence to Probation by 10:00 a.m. the same day.
 - 8. Participate in any educational program as directed by the probation officer.

- 9. Obey all school rules.
- 10. **Youth** to abide by curfew between the hours of 10:00 p.m. and 6:00 a.m. unless with a parent or prior approval from probation officer, seven days per week.
- 11 Violate no law
- 12. Neither use nor possess any firearms, weapons, or weapon replicas.
- E. Any other conditions consistent with the needs of the youth and the factors that led to the youth's conduct may be recommended.

VI. SUPERVISION

- A. DEJ cases are supervised by a **Juvenile** Admin **Unit** DPO and level of supervision will be provided as the case dynamics require and workload allows.
- B. A youth declared a WIC 602 ward for a misdemeanor offense is eligible for DEJ on a subsequent felony offense. In those cases, supervision should remain with the field DPO.

VII. VIOLATIONS

- A. If the youth is not complying with the terms and conditions ordered by court, a Disposition Hearing can be scheduled.
- B. A "Motion for Disposition Hearing" is prepared and includes:
 - 1. The date the youth was placed on DEJ
 - 2. The youth's court orders
 - 3. Date of indoctrination
 - 4. How the youth violated the court orders-be specific.
- C. Pursuant to WIC 793(a), DEJ shall be lifted under the following circumstances:
 - 1. If it appears to the prosecuting attorney, the court, or Probation that the youth is not performing satisfactorily in the assigned program or is not complying with the terms of probation, or that the youth is not benefitting from education, treatment, or rehabilitation, the court shall lift the deferred entry of judgment and schedule a Disposition Hearing.
 - 2. If after accepting DEJ and during the period in which DEJ was granted, the youth is convicted of, or declared to be a person described in WIC 602 for the commission of, any felony offense or of any two misdemeanor offenses committed on separate occasions, the judge shall enter judgment and schedule a Disposition Hearing.
 - 3. If the youth is convicted of, or found to be a person described in WIC 602, because of the commission of one misdemeanor offense, or multiple

misdemeanor offenses committed during a single occasion, the court many enter judgment and schedule a Disposition Hearing.

- 4. If the youth pleads guilty to any adult charges that they committed while on DEJ.
- D. The hearing must be set within ten (10) court days from the date the motion is filed.

VIII. PROGRESS REVIEWS

- A. The court may order a Progress Review to address:
 - 1. Restitution if it was not set at the time DEJ was ordered
 - 2. Update on voluntary community service (VCS) hours
 - 3. Testing results
 - 4. School attendance/behavior
 - 5. Counseling programs the youth was referred to
 - 6. Include when Marsy's Law Victim Rights Notification letter was sent.
- B. A Disposition/Dismissal Hearing is set for twelve (12) months after the court granted DEJ.
- C. Verify VCS hours before completing report.
- D. Verify youth has successfully completed all treatment programs and include this in progress report.
- E. The DPO is to prepare the Progress Report and include:
 - 1. The youth's court orders and if the youth has complied with all sanctions including financial obligations.
 - 2. Specifics regarding the youth's progress during that year.
 - 3. Information on school progress, attendance, and behavior.
 - 4. When preparing for the DEJ Disposition/Dismissal Hearing, contact the victim to notify them of the possible termination of the youth's probation.
- F. At the Progress Review Hearing, the court may:
 - 1. Set a subsequent Progress Review Hearing.
 - 2. Find that the youth has not complied satisfactorily with conditions imposed, find the youth is a ward of the court pursuant to WIC 602, and set a Dispositional Hearing.

3. Find that the youth has complied satisfactorily with conditions imposed, dismiss the petition, and order the arrest deemed never to have occurred and all records be sealed pursuant to WIC 793(c).

G. DEJ Disposition/Dismissal Hearings:

1. Favorable Progress Recommendation should read:

In view of the foregoing, it is respectfully recommended that the Court find the minor has complied with the terms and conditions of Deferred Entry of Judgment. Further, that Court Case # ____ dated ____ be dismissed as to all counts, pursuant to Section 790 WIC; and, pursuant to Section 793 WIC, that the arrest be deemed never to have occurred and all records relative to the offense be sealed.

- 2. Poor Progress on DEJ/Further supervision warranted.
 - a. In view of the foregoing, it is respectfully recommended that:
 - (1) The matter be continued to _____ for further Progress Review/ Dispositional hearing.
 - (2) The minor be (declared/continued) a ward of the Court under Section 602 WIC and be released to and remain in the custody of the (parents/mother/father/guardian) under the (usual/prior) terms and conditions of probation.
 - (3) Any additional terms and conditions including DNA testing, Restitution fine, etc. as appropriate when wardship is recommended.

IX. SEALING OF DEJ RECORDS

Complete information pertaining to court ordered sealing of juvenile records can be found in Procedure Manual Item (PMI) 2-5-010 (Sealing/Release/Destruction of Juvenile Records Pursuant to Welfare and Institutions Code 786). The below are the steps to take when the court orders a full or partial seals on DEJ cases.

A. Full Sealing of Record

If the only petition contained in the youth's probation file and ICMS records is that for which the youth was granted their records sealed, the youth's entire record can be sealed.

- 1. The assigned DPO will:
 - a. Make appropriate victim notifications if there are victims associated with the matter being sealed. The DPO will verify in ICMS or check with the Victim Services Coordinator to see if the victim(s) have requested to be notified of matters in which the right of the victim is at issue.

- (1) If the victim has asserted their right and requested to be notified, the DPO will contact the victim via telephone, explain the purpose of the phone call and inform them of the record sealing and their right to an action for civil damages pursuant to WIC 656.2. If necessary, also provide them with the Victim/Witness Assistance Program contact information (714-935-7074) for additional assistance.
- (2) The DPO shall make an ICMS-ECR entry documenting the conversation.
- (3) The California Constitution, Article 1, Section 28, Section (b) provides specific enumerated rights to victims. See Procedure Manual Item (PMI) 1-1-117 (Juvenile Victim Services) for further information.
- b. Complete a Termination Chrono.
- c. Initiate the WIC 793(c) sealing of record process via ICMS.



in the top left box.



(4) Select the youth's name when it appears and select the



This will prompt the system to update with all of the facilities and programs that the youth has been housed at or participated in (e.g. Juvenile Hall, YGC, YLA, PPP, JCWP, None). If there are others not identified, select "Other" and specify in the "Other" box. Select from the drop down box or input as indicated the following information into the screen: assigned supervising probation officer (SPO), the court case #(s) to be sealed (as indicated on the Minute Order, Modification for Petition, and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 or the Notice of Compliance of Sealing of Records-verify that documents match), the date the record was ordered to be sealed pursuant to "WIC 793(c)." Also,

make any necessary notations in the NOTES Section.

Once this information is entered, select



(6) This will generate the Sealing of Records Outcome Sheet/Distribution of Sealing of Records, as well as notify the appropriate parties to route all files/paperwork (i.e. facility files, PPP paperwork, etc.) to the requesting DPO. Print a copy and put in the front of the youth's file.



(7) Maintain the file until all requested files/documents have been received. Once received, the assigned DPO will check them in as being received via the



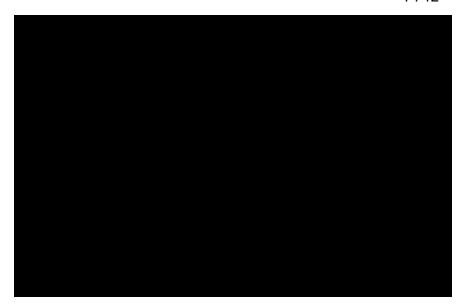
(8) Select the and select go to open the sealing document.



d. Next to each requested file/documents (e.g. JH, YGC, JCWP, etc.), check that the packet was received and input the date received.



e. Once all materials pertaining to the Sealing of Record petition have been received, place all including, but not limited to the petition, Disposition Sheets, Minute Orders, police reports, facility files, PPP/JCWP documents, etc., in a manila envelope. The envelope needs to be labeled with the youth's last name, first name, DL#, and date of birth and then placed in the file.



- f. Submit the above to the assigned SPO for review.
- 2. The SPO will review the file and all documentation to ensure that the Minute Order, Modification for Petition, and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 790 or the Notice of Compliance of Sealing of Records match and that all documentation to be sealed is correct. If complete, the SPO will initial on the Sealing of Record Outcome Sheet/Distribution of Sealing of Records form. Once completed, the SPO will forward this form and the above-referenced items to the unit clerk.
- 3. The unit clerk will process the termination and log out/route the file to MOB-SOR Desk (786) in ICMS File Request/Transfer screen.
- 4. The Records Unit/Clerical Services Unit office specialist (OS) verifies the Dismissal and Sealing of Records-Welfare and Institutions Code Section 790 court form and all relevant information pertaining to the record seal for accuracy and completes the record seal.

In addition to sealing traditional department files, the Records Unit/Clerical Services Unit OS seals all information associated with the client or court case number in ICMS. Once sealed, this information will no longer be visible in the ICMS screens and reports. ECR notes and Risk Needs information will hide all notes created before the petition filed date of the first non-sealed case number. Sealed records can only be accessed by specific designated positions/functions associated with DEJ, diversion, programming eligibility, and research. As such, staff associated with these functions will be provided access on a need to know, right to know basis.

Once all pertinent records are sealed, the Records Unit/Clerical Services Unit OS will forward the *Acknowledgement of Juvenile Records Sealed* (JV-591) to the Juvenile Court Services Division Director for final signature pertaining to the sealing. Once signed and returned to the Sealing of Record Clerk, copies are made for the probation file and the original is ponied to court within fifteen (15) days of sealing. Include ICMS updates as to the dates they were sent to the DA and back to the Court.

5. All sealed files will remain secured in the Sealing of Record Office-MOB **2nd** floor by date of sealing. The file will remain there until it is scheduled to be destroyed according to the destruction timelines outlined in PMIs 2-5-009 (Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 781) and 2-5-010 (Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 786).

B. Partial Sealing of Record

A partial sealing of record is needed when there are other Applications for Petition handled informally by Probation, OCDE cases or when the youth was placed on court ordered WIC 602, 654.2, or 725 probation.

- 1. The assigned DPO will:
 - a. Make appropriate victim notifications if there are victims associated with the matter being sealed. The DPO will verify in ICMS or check with the Victim Services Coordinator to see if the victim(s) have requested to be notified of matters in which the right of the victim is at issue.
 - (1) If the victim has asserted their right and requested to be notified, the DPO will contact the victim via telephone, explain the purpose of the phone call and inform them of the record sealing and their right to an action for civil damages pursuant to WIC 656.2. If necessary, also provide them with the Victim/Witness Assistance Program contact information (714-935-7074) for additional assistance.
 - (2) The DPO shall make an ICMS-ECR entry documenting the conversation.
 - b. Complete a Termination Chrono for the records to be sealed.
 - c. Initiate the WIC 793(c) sealing of record process via ICMS.
 - (1) From the ICMS Juvenile drop down select







(3) Enter the in the top left box.



(4) Select the youth's name when it appears and select the box.



(5)

This will prompt the system to update with all of the facilities and programs that the youth has been housed at or participated in (e.g. Juvenile Hall, YGC, YLA, PPP, JCWP, None). If there are others not identified, select "Other" and specify in the "Other" box. Select from the drop down box or input as indicated the following information into the screen: assigned assigned SPO, the court case #(s) to be sealed (as indicated on the Minute Order, Modification for Petition, and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 or the Notice of Compliance of Sealing of Records-verify that documents match), the date the record was ordered to be sealed pursuant to "WIC 790." Also, make any notations in the NOTES Section that are needed.

Once this information is entered, select "Save" at the top right corner.



(6) This will generate the Sealing of Records Outcome Sheet/Distribution of Sealing of Records. Print a copy and put in the front of the youth's file.

Note: If multiple cases are ordered sealed, above steps III. B.1.c.1.-6. will need to be completed for each sealed case.



(7) Maintain the file until all requested files/documents have been received. Once received, the assigned DPO will check them in as being received via the



(8) Select the and select go to open the sealing document.



(9) Next to each requested file/documents (e.g. JH, YGC, JCWP, etc.), check that the packet was received and input the date received.



(10) Once all materials pertaining to the Sealing of Record petition have been received, place all including, but not limited to the petition, Disposition Sheets, Minute Orders, police reports, facility files, PPP/JCWP documents, etc., in a manila envelope. The envelope needs to be labeled with the youth's last name, first name, DL#, and date of birth, and court case numbers. The envelope is then placed in the file. For cases in which the matter ordered sealed was initially handled informally by probation and failed diversion, these records are also to be sealed.

Note: Those items remaining in the file need to be reviewed and redacted, if needed, pursuant to PMI 2-6-008 (Destruction or Redaction of Juvenile Records Pursuant to Health and Safety Code 11361.5).



- (11) Print out a Chrono History Sheet and circle, <u>in red ink</u>, all entries the unit clerk is to delete from ICMS.
- (12) Submit the above to the assigned SPO for review.
- 2. The SPO will review the file and all documentation to ensure that the Minute Order, Modification for Petition, and/or the Order for Sealing of Juvenile Records, Dismissal and Sealing of Records-Welfare and Institutions Code Section 790 or the Notice of Compliance of Sealing of Records match and that all documentation to be sealed is correct. If complete, the SPO will initial on the Sealing of Record Outcome Sheet/Distribution of Sealing of Records form. Once completed, the SPO will forward this form and the above-referenced items to the unit clerk.
- 3. The unit clerk will log out/route the sealing packet(s) to MOB-4 SOR Desk (786) via the ICMS File Request/Transfer screen.
- 4. The Records Unit/Clerical Services Unit OS verifies the Dismissal and Sealing of Records-Welfare and Institutions Code Section 786 court form and all relevant information pertaining to the record seal for accuracy and verifies the partial seal and forward the Acknowledgment of Juvenile Records Sealed to the Juvenile Court Services Division Director for final signature pertaining to the seal. Once signed and returned to the Records Unit/Clerical Services Unit OS, copies are made for the probation files and the original is ponied to the court with fifteen (15) days of sealing.
- 5. The sealed file will remain secured in the Sealing of Record Office-MOB 2nd floor by date of sealing until scheduled to be destroyed according to the destruction timelines outlined **PMIs** in 2-5-009 (Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 781) and 2-5-010 (Sealing/Release/Destruction of Juvenile Court Records Pursuant to Welfare and Institutions Code 786).

X. UNSATISFACTORY COMPLETION OF DEJ

A. The DPO will track the case regarding the outcome in court at the last hearing.

- B. If DEJ was terminated and wardship was declared, the DPO will determine if the youth still appears on their caseload and/or if the DPO assignment has been changed to a field officer.
 - 1. If the officer assignment has not changed, the DPO will proceed with the Termination Chrono.
 - 2. If the officer assignment has changed, the unit clerk will be asked to change it back to the last DEJ DPO. A Termination Chrono will be prepared.
 - 3. An email message will be sent to the SPO, advising that a Termination Chrono is waiting for approval on the youth. If necessary, the DPO will forward the youth's probation file to the new Field DPO.
 - 4. The SPO will process and approve the Termination Chrono and forward the DPO's email to the unit clerk, advising that the Termination Chrono on the youth is ready to be completed and printed.
 - 5. The unit clerk will process the Termination Chrono, print the report, and forward the Termination Chrono to the new DPO for inclusion in the Probation file. If the officer assignment was changed back to the former DEJ DPO, the clerk will reassign the case to the new Field DPO.

XI. ACCESSING SEALED DEJ RECORDS

- A. Pursuant to WIC 793(c), when a youth's DEJ records have been ordered sealed, the sealed matter is deemed never to have occurred and the records may only be accessed for the limited purpose of determining whether the youth is eligible for DEJ.
- B. Pursuant to WICs 786 and 787, notwithstanding any other law, a record sealed pursuant to WIC 781 or 786 may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law, including Title IV-B and Title IV-E compliance. This includes DEJ cases.

XII. DESTRUCTION GUIDELINES

DEJ records that have been ordered sealed shall be destroyed five (5) years after the order to seal and after the youth reaches the age of twenty-one (21).

REFERENCES:

Procedures:	1-1-117	Juvenile Victim Services
	2-5-002	Probation Officer's Report to the Juvenile Court
	2-5-003	Juvenile Court Report Recommendations
	2-5-009	Sealing/Release/Destruction of Juvenile Records
		Pursuant to Welfare and Institutions Code 781
	2-5-010	Sealing/Release/Destruction of Juvenile Records
		Pursuant to Welfare and Institutions Code 786

	2-6-008	Destruction or Redaction of Juvenile Records Pursuant to Health and Safety Code 11361.5
Policies:	B-1 B-3 B-4	Case Confidentiality-Client's Rights to Privacy Case File Management and Security Sensitive Cases

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APPROVED BY: