

Episode 163-- Responding to the Oxford High School Shooting ...

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SPEAKERS

Jon Lowy, JJ Janflone, Kris Brown, D.A. Clark, Kelly Sampson



JJ Janflone 00:08

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JJ Janflone 00:38

Hey, everybody, welcome back to another episode of Red, Blue and Brady. I'm JJ Janflone, one of your hosts, and I'm so thankful and happy to have all of you with us. As we enter these winter holiday months and things are chaotic and messy and sometimes really, really hard, I want to thank you all for giving time and attention to gun violence prevention. It's, it's so so important. This evening, Kelly and I were lucky enough to be joined by three amazing guests. And when I say evening, I mean evening. It is late. I am recording this for y'all in the midnight hour, which I think just shows how much our guests care about gun violence prevention. You know, this was their Friday. So Kelly and I were joined by two former podcast guests and Brady staff members that I know you all love as much as we do. Kris Brown, President of Brady, and then Jonathan Lowy, Head Legal Counsel and Vice President of Legal here at Brady, Coming to us all the way from the Bronx in New York, we have been, we have been blessed to have Miss Darcelle Denise Clark, the 13th District Attorney for Bronx County, and one of the heads of Prosecutors Against Gun Violence, an absolutely phenomenal organization that is really trying to attack gun violence in a holistic way. Together, we're all talking about the realities of gun violence in 2021, what it means to see school shootings again across the national news and what responsibility parents and guardians of children have when they bring a firearm into the home.



D.A. Clark 02:16

Miss Darcelle Clark is the elected District Attorney here in Bronx, New York, county of 15

I am Darcelle Clark. I am the elected District Attorney here in Bronx, New York, county of 1.5 million people. I have been the district attorney for, I'm completing my fifth year. So I'm in my second term of a four year term. So I'm starting the first year of my second term. Before becoming District Attorney, I was a judge here in the state of New York for 16 years, both on the trial level and the appellate level. And I started my career as an assistant district attorney in this very office. So that's who I am. I am also the co-chair of Prosecutors Against Gun Violence.



JJ Janflone 02:59

And we absolutely will talk a little bit more about Prosecutors Against Gun Violence in a moment. But for now, I'm going to pivot over to Team Brady. Lowy, do you want to kick us off?



Jon Lowy 03:10

Sure. I'm Jon Lowy. I'm Vice President of Legal here at Brady and very happy to be here. And thank you D.A. Clark. As I told you before, my father was a proud child of the Bronx, so, so thank you for all of your service.



D.A. Clark 03:29

Thank you.



JJ Janflone 03:30

And Kris, I don't think, not a child of the Bronx, but.



JJ Janflone 03:34

My grandmother was a child of the Bronx.



D.A. Clark 03:36

Okay, good.



Kris Brown 03:37

So, yeah.



Kelly Sampson 03:37

There you go. Ok, we're good now.



Kris Brown 03:40

Yes, whether by birth or some other association, I appreciate you and your service so much. And I have to say that Prosecutors Against Gun Violence is such an amazing partner to Brady. We appreciate everything that that organization is doing. And I'm Kris Brown, by the way. I am President of Brady, one of the nation's oldest and boldest gun violence prevention organizations and proud to be here.



Kelly Sampson 04:07

I'm not a child of the Bronx, but I've been. Hopefully that counts for something. And D.A. Clark, I was wondering if you could tell our listeners a little bit about Prosecutors Against Gun Violence, who you are and what you do.



D.A. Clark 04:20

Well, we started in 2014. It started under the leadership of Manhattan District Attorney, a New York County District Attorney here in New York, Cyrus Vance Jr. as well as L.A. City Attorney, Mike Feuer. They came up with the idea and what Prosecutors Against Gun Violence or PAGV, as we're also known, it's a nonpartisan group of leading prosecutors who focuses on gun violence prevention strategies. And we do that anywhere from policy advocacy and to improving the enforcement of existing laws. It's many voices obviously because no prosecutor, one prosecutor is insane. But I know that I can speak for every prosecutor there is that there's no prosecutor who's in favor of gun violence. So that's why we work together to reach common grounds, on the issues that we can, to promote, you know, anything that will help combat the gun violence that threatens the public health and the public safety in our communities. So I took over the leadership this year in November of 2015. So now the co-chairs and myself, Bronx County D.A., as well as Joyce Dudley, who is the district attorney of Santa Barbara County in California. So she sends her regards and welcomes as well. She sent me out here on a Friday to do this work. But, you know, we're working on this together. And we're going to continue to do all we can to, you know, urge the federal and state level governments to make sure that they prioritize gun violence, really, as a national health crisis, which it is, has become.



JJ Janflone 06:01

So unfortunately, why we're gathered here today is there was a school shooting in Oxford, Michigan, that left eight people injured and four students dead. Those students were 16 year old Tate Myre, 17 year old Madisyn Baldwin, 14 year old Hana St. Juliana, and 17 year old Justin Shilling. The shooter, in that case, who is himself 15, the weapon he used, was given to him by his parents after they purchased it at a Black Friday sale. So today, we are here to discuss the shooting, what it means when the shootings hit the national news more broadly, and, of course, some other facts of the case in terms of you know, his, his parents' responsibility. I want to start off though, from the beginning, you know, for folks who have worked in in gun violence prevention for so long, what's your first response or reaction when you see news like this? What was your first response to the Oxford High shooting?



JJ Janflone 07:05

I can speak on behalf of myself. When we lose 100 people a day to gun violence, more than 200 additional people are shot. And it's horrible and depressing to live in a country that is as wealthy and capable as the United States of solving many, many different problems and have this uniquely American crisis remain unresolved. And what is more depressing, and I know that all of us share this view, earnestly, is that most people who die from gun violence and who are injured by gun violence in this country, we never read about them. And we never hear about them. But the impact of the loss of their life, on their families, on their friends, on their communities, that doesn't end, it doesn't go away. And the trauma associated with that, especially in Black and Brown communities where everyday gun violence is ripping the fabric of communities, where it is easier to get a gun that maybe unlawfully sold than it is to get a library card in many instances, to us is unconscionable and needs to change. That's a long winded answer, because all of those thoughts go through my mind. And that's why I think the work that's being done in coalition with partners like PAGV, is so critically important. Because D.A. Clark, what you said about it being an epidemic, I think is absolutely true. And it needs to be treated like that, because it's no one solution. The legal system needs to play a role, absolutely. Enforcement, better policy, and how we engage with communities across this country has to be very different around this issue.



Jon Lowy 08:40

So I began at Brady in in 1997, and a few weeks in there was a school shooting in Pearl Mississippi, which we thought was a huge deal, sort of thing that could really change the conversation on gun violence. A few weeks later, there was another school shooting West Paducah, Kentucky. Now that, of course, was going to change something. There were several more, there were, and then a year later there was Columbine. And you know, so when another school shooting happens, it just, it really makes me ashamed in some ways of, of this, this great country because every other comparable country, one of these incidents will wake them up and it will be a national emergency to change things and to prevent this sort of bloodshed. And, and, you know, our leaders have watched for decades, American slaughter, not just in the high profile shootings, but in the everyday shootings, as Kris says, don't make as much press. And they've done so little. And there's a lot of us who've done a lot, and a lot of states have done a lot. But Congress, it really is appalling and embarrassing, and I'm ashamed of it.



D.A. Clark 10:24

And for me, you know, again, once, you know, obviously, the sorrow for, you know, more families to suffer, the trauma for more kids in school. All they did was get up that morning, to go to school and want to learn, and some of them never returned home. You know, they'll never see their families again and their families will never see them. And that'll be, you know, in the heads of those colleagues of there from now on. So when I hear that, you know, it's devastating sorrow to those survivors. But again, just anger on my part, because it's like, how many times do we have to go through this. And for the school shootings is one thing, but there's so many more than just these mass school shootings, right here in Bronx County. Today is December 17. We have had 580 people shot in the Bronx. Nobody knows about that. I know about it. I know about every single one of them. So when I say it's an epidemic, it is, because

people are being shot. Kids are being shot. People are losing their lives. We have young people being killed on a daily basis. So we really, really, really have to work hard to get something done to stop this violence, to stop the flow of guns. And I'm in New York. We have some of the strictest gun laws in this country. And yet and still 580 people have been shot. These guns are coming here. Right on the street where my office is, there's no gun shops, but yet and still these guns are getting into the hands of people. So you know, it's something that we must tackle. It's something that needs to be depoliticized. You know, because every time one, one of these public shootings happen, oh, you're pouncing on that you're making it, you're politicizing it. No, it's a health crisis. It's an epidemic. Just like any others, we need to tackle it before it spreads. And unfortunately, it's continuing to spread.

K

Kelly Sampson 10:24

I think what you're getting at too, and talking about the 580 people who were shot in the Bronx this year, and how many of us don't hear about that, we don't see it, but you do, kind of gets at the unique position that you're in as a prosecutor, to be able to speak to the reality of gun violence in all its forms, and how gun violence for many people can be an everyday experience.

D

D.A. Clark 12:45

And people get desensitized to it. That's the scary part, too. I live in this county as well. So when, when my constituents say they hear gun violence, guess who else hears it? So do I. You know, and I'm alarmed about it. You know what? People don't even call. You know, it gets to the point now that it's an everyday thing. That can't be an everyday occurrence. That can't be okay. And we have to, you know, make it so.



JJ Janflone 13:10

Well, no, and I think that that gets directly to you know, when Gen Z is posting sort of even memes about school shootings and things, I think sometimes the response online is like, oh, you know, they're being callous. But in reality, it's just these are, these are children reacting to trauma.

D

D.A. Clark 13:25

Yeah, that unaddressed trauma is also what leads to more shootings, because they feel like they gotta have a gun to protect themselves. They feel like I, I'm gonna get them before they get me. We have to give options to our young people and to people in our communities, for them to know that there's alternatives to violence to deal with what they're dealing with. But we also need to make sure that we get them the counseling and the treatment that they need for the trauma that they're experiencing right in their own communities. The schools need, you know, to deal with this, the hospitals, the community based organizations. We need to make it mandatory that people get that kind of help, because they don't really understand how it is affecting them until it's too late.

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JJ Janflone 14:11

Well, and before I jump into this question, I want to make it clear again, to all of our listeners, I'm the only person on this call that does not have a legal degree. So please be kind and gentle to me. But you know, in this Oxford case, the parents were recently charged with four counts of involuntary manslaughter because as the prosecutor stated, quote: "charges were warranted because the parents could have stopped the attack", alleging that they kept an unsecured gun in the home despite concerns about their son's behavior. And I wondering, in as much as you can, legally, can you explain to our listeners what these these charges mean?



Jon Lowy 14:47

I mean, let me speak generally rather than, than-



JJ Janflone 14:49

Yeah.



Jon Lowy 14:50

-particularly about facts at first, because I, I just don't want to sort of, yeah, prejudge the whole facts of the case. But, but I mean, for, just more generally, if there are going to be charges in a case like this, one possibility is violation of a child access prevention law, which is a law that about 30 states have that, that requires, essentially requires guns to be locked up to to prevent child access. But then, you know, beyond that there can be charges like reckless endangerment, I mean, that, of a firearm, or in this case, it is a lower form, and D.A. Clark can speak much more intelligently than I can about it, but lower form of actually homicide, apparently, because of the knowledge that it appears that these parents had about, you know, about their son and, and perhaps the son's plans.



D.A. Clark 15:50

Yeah, I, you know, again, we're not allowed to, you know, comment on, you know, pending paid cases and investigations. So, you know, I don't want to speak to the evidence that the Michigan prosecutor has. That, that is within their discretion to charge what they want. But what I think it does highlight is that it is now really time once again, to perhaps move for a national movement towards a safe storage law in every state. And something like safe storage is bipartisan, because that means, gun owners, I'm not saying you can't have your gun. Have your gun, but store it safely so no one can get to it. And you know, and those who don't own won't have any, so they don't have to store it. But that's where prosecutors can get together. That's where, nationally, we need to get public health officials involved to say why we need it because that, you know, doctors and hospitals can just come forward and talk about how many cases they see of kids shot accidentally in their homes, people with mental illness having access to guns in homes that are not safely stored, somebody's going through a crisis, picks up a gun, harms themselves or someone else.

D

D.A. Clark 17:05

You know, it's not only just picking up the gun and committing a crime out on the street. It doesn't even have to leave the house for something to happen. So I think it's a great time to start talking about that nonpartisan issue of, or that bipartisan issue of, you know, safe storage of guns throughout all of the states. It's time. Once again, it takes a tragedy to bring these things up. But that's the only time it seems like when you have people's attention, that things go forward. Look, we've had a racial reckoning in this country that we haven't seen in decades. But that's because people had to see live and in living color, you know, a police officer, you know, kill an unarmed man, you know, on TV, not that it hasn't happened, that has been happening, you know, for a long time. But that, you know, prompted a real movement. You know, every time one of these things happen, I'm hoping this is going to prompt that movement. But even if it doesn't, that doesn't mean that stakeholders like us can't continue to push to make sure that it happens.



JJ Janflone 18:10

I think that's such an important point. Because, ultimately, as we said before, there's a role for policy, there's a role for enforcement. But there are 400 million guns in this country. A couple of years ago, it used to be true that 4.6 million children lived in homes with loaded and unsecured guns. That number is now 5.4 million. And what you're saying I think is so important, because one of the greatest protective things that a parent can do, if they choose to have a gun in the home, is to safely store that gun. And that means unloaded and locked, ammunition separate, just that simple. Everyone needs to end family fire. And it's such a tragedy when it happens. But when you do that, you also stop other kinds of violence, certainly suicide, which, with a loaded and unsecured gun, you have a 500 times increased risk in your house of experiencing a suicide with a gun and it's so tragic. Two thirds of all gun deaths are suicide and 75% of school shooters get their guns from a home where safe storage is not happening. So I think that's such a critically important point and why Brady, years ago, focused on creating this term 'family fire'. And our campaign to end family fire is safe storage, something the NRA abandoned 30-40 years ago for its, its firearm owners. But it's something that we together can have conversations with friends and colleagues and family and really push that message.



JJ Janflone 19:01

Kind of to that end, you know, do safe storage laws, do child access prevention laws, do do they work? Are they effective?

J

Jon Lowy 20:00

They save lives. There have been studies of them that have shown somewhere between 17 to 23% decline in unintentional shooting deaths of children with these laws. And particularly, where there are laws that have the potential for felony prosecution, those have greater impact. So, you know, a lot of times in the gun issue, people sort of say, oh, a law isn't going to make a difference. There's so many guns out there. And that's just simply untrue. And this is, this is one case that we actually have the science. And we know if you pass these laws, particularly with stiff penalties, lives will be saved, mostly of children.

K

Kelly Sampson 20:41

The case that you all have made, at least like the ethical and moral case around what a parent or a caregiver should do with a gun that they bring into their home, which is take reasonable, effective measures to keep it safe, makes a lot of common sense. But we know that there are many states and jurisdictions that don't have child access prevention laws or safe storage laws. And so I'm wondering if you could share with listeners a little bit about what, what is the argument that the opposition to these sorts of laws is trying to make? Why, why don't more states have these sorts of laws in place? They seem so logical.

J

Jon Lowy 21:19

I mean, you know, obviously, the gun lobby, you know, fights almost every law. And this is an example of just some of the hypocrisy you have in the gun lobby, because every major gun manufacturer, if you buy a gun, their manual will say, you know, store your gun locked, unloaded, away from children. As Kris said, the NRA has talked this up but they want to have it both ways. They want to say that they're telling people to store guns safely, but they don't want any teeth in it, partly because they want to market guns to people, you know, on fear and basically get them to think that they need a gun at their bedside loaded, unsafely stored because, you know, that's what led them to buy the gun in the first place. And so, you know, they really do want to have it both ways. But, you know, most gun owners support this sort of thing, like most gun owners support background checks on gun sales. And, you know, a big part of it is these gun owners have got to step up and realize, you know, the NRA is taking my money, and they're arguing for policies which I disagree with.



JJ Janflone 22:32

Yeah, John, I think you're exactly right. The NRA and other organizations that I have heard talk about things like child access prevention laws, or the Brady law, or extreme risk laws, or any law designed to make Americans more safe. A big undergirding of those arguments is this. The NRA exists to sell more guns to more people, regardless of the consequences. That's what they want. And a child access prevention law inherently is recognizing that there is a potential risk from the firearm in your home. And the NRA for 40 years, more maybe, has denied that there is any risk. Unfortunately, we Americans experience that risk and the tragedy of it every day. So really, that's more, I think, the underlying reason you find other arguments they make, none of which hold any water. But it's all premised on the notion that if they admit in any respect, that firearms have risks, then they have to change everything about themselves and potentially risk selling more guns based on fear. And they don't want to do that.



JJ Janflone 23:49

Well, and then I wonder, this is perhaps an unfair question. But, but what do you hope or expect to come of these charges? You know, do you, do you think we're going to see a big change in how parents and guardians are treated legally for not storing their firearm securely?

K

Kris Brown 24:03

My hope is, and I'll let D.A. Clark speak in her role as a prosecutor, but as a mom, as someone who knows a lot of people who have guns in their home, what I hope is that everyone who is looking at that charge, who has guns in the home, really thinks about where they are, and engages in safe storage. Those laws are really designed to ensure that folks understand that there's a penalty, but the penalty should not be after the fact. No prosecutor wants to be in the position of having to charge someone when someone's life is lost. The reason the laws exist is to incense the very behavior that every responsible gun owner absolutely should be engaging in. And as the law must and should be a cautionary tale appropriately so to anyone who does not.

D

D.A. Clark 25:02

As a prosecutor, I don't want to have to prosecute parents who, you know, end up allowing, you know, because of unsafe storage, allows their kids to go out and kill someone. They're going to lose someone too, whether that, that child ends up harming themselves or someone kills them, because of them picking up the gun and going after others, or their child being put away in prison for the rest of their lives, because they do it. So everybody loses on this. I would hope that, you know, an example like this would wake up parents to say, maybe I need to do more to make sure I secure it, so I don't end up like those parents or so my kid doesn't end up in prison for the rest of their life, because of what they did, or that my child's life is not lost, because some other parent didn't do what they had to do. So those are the, you know, the immediate consequences, that, you know, that's, that's real. That's real. That's truth to power on that.

D

D.A. Clark 26:01

But we can also do something less than that. And that's just public campaigns to continue to make the community aware that if you have these guns in your house, it makes so much sense to just store it. That, we, you know, we do these gun buybacks. I'm doing one tomorrow. You know, we raised the price from \$200 per gun to \$500 because people said \$200 wasn't enough. So we're doing that in order to get the guns, but with safe storage, we can give out, you know, storage boxes or locks and things like that. And that has been done in communities, you know, we, we need to do that as well, in order to help parents be able to do. You could give it out at the schools. So rather than there'd be a mass shooting at the school, how about, there'll be a massive giveaway of storage boxes and locks for the parents so that they can safely secure the weapons that they may have in their home. So there's a lot of things that we can do, and a lot of things we can learn from it, not just, you know, the law enforcement side of the, the end result, prosecution. Look, I always say that prosecutors and police should be the last resort, not the first resort. So anything we could do to prevent it, we need to put so much, so many resources into that. So I never have to get involved. So I never have to sit down with another family who lost, you know, a loved one because of gun violence. We have, it's a whole spectrum we can do, the most severe being criminal prosecution of somebody.

J

Jon Lowy 27:28

Okay, another important lesson, I think, from this, is that there are other causes to a shooting, besides just the person who pulls the trigger. And that's, you know, the prosecutor recognized

that to the point of, you know, charging the the parents with a type of murder. But we're also seeing it with, you know, civil lawsuit that's been brought against the school district where they had information, you know, according to two reports, you know, that was pretty damning and pretty clear about the, the risks posed by this young man, and they not only didn't act on it, but they told parents don't worry about it, when they were hearing rumors. And, you know, there's been, you know, talk about, did the gun dealer do what he should have done when, apparently, the, the father was in the store with the, with the son. And that's a lot of what we do at Brady, is we, you know, we go upstream to other potential causes, and, you know, what can the manufacturer do? What can the dealer do? What can other entities do to help prevent tragedies like this? And, you know, instead how are they, you know, helping cause this sort of gun violence?

K

Kelly Sampson 28:46

In hearing what all of you are saying, it kind of just goes to show something that we talk about a lot of Brady, which is that there's not one magic pill that will resolve gun violence, and there's so many levels of responsibility, whether you're talking about gun sellers and the responsibilities that they have, or individual firearms owners and responsibilities they have, or us as a society to make sure that we're thinking through all these options. And so I think it's really important, though, what you said D.A. Clark, which is the best policy would be to prevent something from happening in the first place. And that's like the best public safety measures that we could have. So I'm grateful that you shared that.

J

Jon Lowy 29:24

You know, I think one, another lesson which we should always talk about, in a case like this, is as tragic as it is, as important as it is, when our children are being killed and placed at risk. You know, why aren't we paying attention to the victims in D.A. Clark's community that we're, that she is standing up for her, you know, why aren't they headline news? And we need to do more of that. You know, I will bet you that that all of the 500+ victims combined in the Bronx are not going to get the publicity as you know, one victim in the school shooting. And that isn't to minimize the importance of those victims. But we do need to pay more attention to underserved communities that are not getting the attention they need.

D

D.A. Clark 30:18

That's absolutely right, because when it happens in certain communities, they get all the attention. But in black and brown communities that I represent, it's an everyday occurrence. So it's not, it's not extraordinary. It's just ordinary. And that shouldn't be the case. So, you know, we need to do more. But again, you know, it's just the Bronx, so who cares? Well, I care. And I'm gonna be loud and proud about it, that I want the resources here to do the prevention, as well as to make sure that we have the resolution to the crimes as well. That also keeps my community safe, when we could resolve the crimes and take off the street those individuals who are causing that harm. So that's why we need to do all we can, to front load it, to prevent it, to front load to deal with the trafficking, you know, to hold the gun manufacturers accountable for when they're doing it so they think twice, about, you know, selling that gun, making sure that the background checks are in place, the safe storage, all of those things. So

that's what I meant, the continuum of care, and all the things that need to be done. But you know, you're absolutely right, in a community like mine, you know, by the end of the year, it'll be, you know, what, hopefully, I won't make 600. But guess what, I probably will, you know, it's only the 17th of December. That, you know, this is a shame. And this is still not as bad as it used to be, you know, but we've had two unusual years coming out of COVID. And again, there's just so many things that we need to address that leads to this epidemic that is gun violence in our communities.

 Kris Brown 31:52

One of the things that people always say who are on the other side, how can you be, but on the other side of gun violence prevention activists and people who care is, wait, if gun laws worked, then there should be no issues in places like New York or Illinois with the strongest laws. And I just wanted to make that point really quickly here. They do work. The issue is weaker laws and what happens when gun dealers, few of them, were violating the law and profiting, contribute to an iron pipeline. And we have all of the research about this, that weaker laws in states to the south of New York are contributing to a huge proportion of the guns found in the streets of New York gun crime. And I just want to make that point. Because, yes, we, we know the answers, gun laws do work. If we want to make a big difference, we need to level the playing field across all states and have equally strong laws, and we would make your life a lot easier, and we'd save a lot of lives.

 JJ Janflone 32:58

Couldn't have said it better, Kris, thank you. And of course, you know, folks, if you want to find out more about Prosecutors Against Gun Violence, you can go to prosecutorsagv.org. If you want to learn more about Brady's End Family Fire programs, it's endfamilyfire.org. And you know, as always, so many links in the description of this episode for folks to go educate themselves. But this has been phenomenal. Thank you so much, everybody for choosing to spend your Friday night with Kelly and I.

 JJ Janflone 33:26

Well, everybody, I don't know about you, but I'm so thankful that Kelly and I just got to talk to these, these three guests. And what I'm taking away from this conversation this week, is that, that gun violence is a public health epidemic. And you know, folks would be a little bit burnt out, talking about epidemics. They may not be familiar with sort of with framing gun violence as a, as a public health crisis. But I'm really just going to double down so so hard on, on making sure that folks know that there need to be complex and holistic solutions to this huge, but solvable problem. And as we go into starting to plan for the new year, when people are making New Year's resolutions, I'm really curious as to what all of your resolutions are. So for the rest of December, I'm going to be asking all of you to send in, by emailing me at podcast@bradyunited.org, you know, send me what your New Year's resolutions are for ending gun violence. What are your resolutions for the U.S. this year?

 JJ Janflone 34:28



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Kelly Sampson 34:43

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