



PODER
JUDICIÁRIO



CONSELHO
NACIONAL
DE JUSTIÇA

O Brasil faz a justiça

HANDBOOK OF THE IMPRISONED PERSON

ENGLISH VERSION

2ND EDITION – 2012





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FOLLOW ME

Prisoner, follow me in the solitude of you cell
And I will carry you in the way of the recovery and peace
I am leaning on you. Search me with the heart
of the condemned bandit, to whom I pardoned all crimes
by the force of the repentance and the hope of salvation.
Call me. I will hear your outcry.
I will take your armed hands on mine and I will make you
a pacific land worker.
Follow me

I am supporting you, I am your shadow.
I will open the jails of your spirit,
I will light up not only your dark cell,
But also, the dark cell of your understanding.
Follow me.

Young, I will exempt you of the vice and the failure.
Of the destructive drug and I will make you right
By the tortuous ways.
Follow me.

Cora Coralina (1889-1985)
Poetess of Goias State

2012 Conselho Nacional de Justiça

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PRESENTATION

The National Council of Justice, through the Começar de Novo Project (Start Again Project), searches for rebuild the way for citizenship and promote actions for prisoners' social reinsertion, egresses from penitentiary system and persons subjected to measures and alternative punishments.

The condemned person must fulfill its punishment in accordance to the conditions imposed by the sentence, if it does not happen, he/she can suffer sanctions and lose benefits, as it will be seen ahead. However, even subjected to punishment, he/she has rights, mainly those inherent to the natural person, as the right for life, health, dignity and others.

This handbook will help you to understand your rights, duties and guarantees. The doubts can be clarified by the judge responsible for criminal execution, prosecuting attorney or public defender which inspect or take care in your prison unit.

CONVICT OR TEMPORARY PRISONER?

The convict person is the one who was already condemned, and is sentenced with no right to appeal (that is, the decision has transited in *rem judicata*). The temporary prisoner is the one who does not have a definitive conviction yet, but has been jailed in *flagrante delicto*, temporary prison or preventively. The temporary prisoner must always be placed in **different cells** at the prison unit from the convicts.

PRISONER'S DUTIES

The Penal Executions Law (art. 39) has established 10 duties for the prisoner, convict or temporary. Moreover, the convict must fulfill the punishment in accordance with the imposed conditions of the sentence. These are their duties:

- Disciplined behavior and precise fulfillment of the sentence.
- Submission to the public employee and respect to anyone which he/she shall have relationship.
- Be polite and respectful with the other convicts;
- Opposed behavior to individual or collective movements of escape or subversion to the order and discipline.
- Execution of the works, tasks and received orders.
- Submission to the disciplinary sanction imposed.
- Reparation to the victim and its successors.
- Reparation to the State, when possible, of the costs of his/her maintenance, by means of proportional discounting of the payment of the work.
- Personal hygiene and cleanliness of the cell or lodging.
- Conservation of personal objects.

PRISONER'S RIGHTS

After conviction, during a certain period ruled by the sentence, the convict loses the right to remain on free and suffers other restriction foreseen in law or as consequence of the sentence. But, it is important to remember that even retired in a cell you have rights, in particular the inherent ones to the natural person. Know more about your rights:

MATERIAL ASSISTANCE

It is the supply of feeding, clothes, satisfactory installations and others. In case of disease and if you need differentiated feeding, the direction of the prison unit shall provide it, in accordance to the medical prescription. The same shall happen to the prisoner woman who is breast feeding her baby. In case of the installations, the prisoner has the right of, at least, possess a mattress and bed sheet to sleep. Personal hygiene objects as toothbrushes, dental cream, toilet soap and others of hygiene kit must be given to you regularly.

HEALTH ASSISTANCE

Health assistance done by professionals of health area – doctors, nurses, dentists, psychologists, dietitians and others – is your right.

If you need health treatment and there isn't a professional at the prison unit, you shall be directed to another place after been authorized by the prison administration.

JUDICIAL ASSISTANCE

The State must offer free and integral judicial assistance to all prisoners that need it.

Moreover, the prisoner has right to the legal service (by the Public Defender or constituted lawyer) in a private room.

EDUCATIONAL ASSISTANCE

The Federal Constitution establishes education as a right of everyone, which shall not be different for prisoners. Besides, education is one of the best ways to reintegrate the prisoner to society, as well to form conscientious citizens.

Being the basic education free and obligatory, it must be provided in every prison unit and available to all convicts.

RELIGIOUS ASSISTANCE

All prisoners have freedom of religion, as well as the right that such cults happen inside the prison unit.

The prison unit must have an adequate place for the exercise of any cult, without distinction of religion, belief and conscience.

Furthermore, if you are an agricultural worker the proof of this condition can be done, for example, by means of the registration in an agricultural workers association or union and witnesses.

SOCIAL ASSISTANCE

It is the aid to the prisoner and his/her family, looking for the solution of problems related to the attainment of benefits of social welfare, personal documents, orientation and support on problems inside the prison unit.

The work realized by the social assistance is important to reestablish the pacific and ordinate return of the prisoner to society.

IMPRISONMENT ALLOWANCE

What is the imprisonment allowance?

It is a social welfare benefit, a value paid by Social Welfare solely to the dependents (wife, partner and children) of the prisoner, ever since observed certain requirements foreseen in law.

Who have the right to the imprisonment allowance?

If you are imprisoned and before your prison you worked with employment bond (social card) or if you contributed as autonomous to the National Institute of Social Security (INSS), your family probably has the right to this benefit..

Furthermore, if you are an agricultural worker, the proof of this condition can be done, for example, by means of the registration on an agricultural workers association or union and witnesses.



Pay-attention: the imprisonment allowance is a protection to your family/dependants, by means of a monthly payment which can help to provide economically its necessities. If you, even on prison, are receiving your salary by the enterprise or other social welfare benefits such as disability benefit, retirement pension or allowance of permanence on service, you will not have the right to receive the imprisonment allowance.

Another important thing: The Federal Constitution (the major law of our country) says that the imprisonment allowance is a right for low income prisoner.

How much is the IMPRISONMENT ALLOWANCE?

The value of the imprisonment allowance is the one you should have right if you were a retired by disability at the time of your prison.



LOOK FOR A PUBLIC DEFENDER OR A SOCIAL ASSISTANT WHO TAKES WORKS AT YOUR PRISON UNIT TO ANSWER YOUR DOUBTS, TO KNOW WHERE YOUR FAMILY MUST GO TO RECEIVE THE BENEFIT AND WHICH ARE THE NECESSARY DOCUMENTS.



PAY ATTENTION!!!

If you are on open conditions or on conditional release, you will not have the right to receive the imprisonment allowance; but, if on closed or semi-open conditions, or even if it is a temporary prison, your family can search for this right.

The prisoner's family can also phone the number 135 (INSS Call Center) or search for an INSS agency, where will be given information about requirements and necessary documents to obtain this benefit.

RIGHT TO RECEIVE VISITS

The visit of the family on penitentiaries is very important to the imprisoned person, and then this reinforces the affective bonds and help in the resocialization process.

In each judicial court the judge can establish especial rules, such as restriction to the entrance of children and adolescents, entrance just in especial days... etc.

INTIMATE VISIT

The prisoner can receive intimate visits from his/hers partner or spouse on fixed days and at a proper place, as long as the person is registered as expected and authorized by security and discipline.

These intimate meetings will be always dependent on prisoner's behavior, security of the penitentiary and conditions of the prison unit, and the health preservation of the involved people and the best interest of the family.

The interruption of these visits can occur because of moral issues or if there is a risk for the security of the establishment and prisoners' order.

CERTIFICATE OF PUNISHMENT TO BE FULFILLED

The prisoner will receive the certificate of punishment to be fulfilled in the following terms, according to the Resolution nº 113 of the National Council of Justice (CNJ):

- I in the period of sixty days, counted from the first day of the arrest;
- II in the period of sixty days, to count of the restart of the fulfillment of the privative punishment of freedom; and
- III Privative punishment of freedom until the last day of January of each year.

PUNISHMENT FULFILMENT REGIMES

CLOSED CONDITION

If you are fulfilling punishment in closed condition, you will may right to the following legal benefits:

- Progress to semi-open conditions
- Remission of punishment
- Parole
- Authorization to leave
- Indult
- Commutation of punishment

Read more in the next section!

SEMI-OPEN CONDITION

You may have the following legal benefits:

- Progress to open conditions
- Remission of punishment
- Parole
- Indult

- Commutation of punishment
- Authorization to leave
- Temporary leaves
- External work
- Technical Training, High School Education or University Education

OPEN CONDITION

The open condition is based on self-discipline and responsibility of the convict.

You may have the following rights in this condition:

- Parole
- Indult
- Commutation of punishment

BENEFITS

REGIME PROGRESSION

It is the right to change from a hard regime to another. The permission depends on the fulfillment of objective (fulfillment time punishment) and subjective (merit) requirements. The requirements are different for those who have committed a hideous crime or not. See:

1. Progression to SEMI-OPEN CONDITION

If you fulfill all requirements needed to alter your regime to semi-open condition, you will be allowed to work outside the prison unit. You will also have the right to make supplementary courses, technical training or go to high school, or college, the requirements are different for those who have committed a hideous crime or not. Check:

Requirements to the convicts who have not committed HIDEOUS CRIME

- Fulfillment of 1/6 (one sixth) of punishment on prior condition.
If you want to know how many years it is, you just need to divide

your punishment time by six.

- For example, if you have been sentenced to 9 years on closed condition, you can have the right to ask for regime progression to semi-open may after fulfilling 1 year and six months.

(Punishment time) $9 \times$ (ratio of the time to be fulfilled)

$9 \times 1 : 6 = 1,5$ (time to be fulfilled – 1 year and six months)

- Good behavior certified by the director's unit.



PAY ATTENTION!!!

If you were sentenced by hideous crime and it happened **BEFORE** March 29th, 2007 you may also have right to semi-open condition after fulfilling 1/6 of punishment.

Requirements for convicts who have committed HIDEOUS CRIME

- If you are a primary defendant and you have committed hideous crime **AFTER** March 29th, 2007, you will need to fulfill 2/5 (two fifths) of your punishment time to claim regime progression to semi-open condition.

For example, if you have been sentenced to fulfill 18 years on closed condition, divide this time by five and then multiply by two.

(Punishment time) $18 \times$ (ratio of the time to be fulfilled)

$18 \times 2 : 5 = 7,2$ (time to be fulfilled – 7 years, 2 months and 12 days)

- That is, you may have right to claim semi-open condition after 7 years, 2 months and 12 days.
- If you are recidivist, you only have this right after have fulfilled 3/5 (three fifths) of your punishment time. The calculations are

done in the same way: divide this time by five and then multiply by three.

(Punishment time) 18 x (ratio of the time to be fulfilled)

$18 \times 3 : 5 = 7,2$ (time to be fulfilled – 10 years, 9 months and 18 days)

- Good behavior certified by the director's unit.



PAY ATTENTION !!!

Nowadays, since the *Stare Decisis Doctrine* number 26 of the Supreme Federal Court (in Portuguese, *Supremo Tribunal Federal*, STF), in the fulfillment of punishment for hideous crime or similar, the judge can require that the prisoner be subjected to a criminological examination.

1.1. External Jobs

As the semi-open condition allows you to work outside the unit during the day, you will be able to present a letter for work purposes at the prison unit where you are in serving time. The unit will provide a visit of a social assistant at the pointed job, making a report which will be sent to the Penal Execution Court, in which the judge will decide on the permission to leave prison for an external job.

It is necessary that you have fulfilled at least 1/6 (one sixth) of the punishment to have the right to EXTERNAL JOB.

1.2. Technical Training, High School Education or University Education

Study at a public or private school is also a right to for those on semi-open condition and hours of classes count for punishment remission and it is required to be enrolled on recognized course. It is also essential that you have fulfilled 1/6 (one sixth) of the punishment.

1.3. Temporary Leave

On semi-open condition you may request five leaves per year, for a period of seven days each one, on periods predetermined by the judge of the Execution Court. To sue this benefit, you need to take into consideration the following requirements:

- If you are a primary defendant, you must have fulfilled 1/6 (one sixth) of the punishment.
- If you are recidivist (have committed a new crime after been sentenced, or 5 years before fulfilling the punishment of the prior crime), you will need to fill ¼ (one fourth) of the punishment time.
- Good behavior certified by the director's unit.
- Interval of 45 days between each leave.



PAY ATTENTION!!!

You will lose the right to leave the unit if you do not return on the determined day or arrive delayed. In this case, you will be considered as escapee and will have done a serious fault, losing the redeemed time.

2. Progression to OPEN CONDITION

In the open condition you can leave during the day to work, study, stay with your family and return at the established hour. However, you will stay in the prison unit during the weekend (Saturday and Sunday) and on holidays. The following requirements are needed to change from semi-open to open condition.

Requirements to the convicts who have not committed HIDEOUS CRIME:

- Fulfillment of 1/6 (one sixth) of the punishment time on semi-open condition (See as it is calculated on page 12).

- Good behavior certified by the director's unit.
- The fulfillment of 1/6 is possible if you have committed hideous crime BEFORE March 28th, 2007

Requirements to the convicts who have committed HIDEOUS CRIME:

- If you are a primary defendant and you have committed hideous crime AFTER March 28th, 2007 you will need to fulfill 2/5 (two fifths) of your punishment.
- If you are recidivist, you will need to full 3/5 (three fifths) of the punishment time (See as it is calculated on page 12).
- Good behavior certified by the director's unit.

3. Punishment Remission

Remission a prisoner allows to diminish part of the punishment time through work, study and artistic-cultural activities.

- See as the time is counted to the decrease of punishment:
- For each three (3) days of work one is redeemed, that is, diminished one (1) day of punishment.
- For each 12 hours of course or activity it is also diminished one (1) day of punishment.

It is the responsibility of the prison unit to monthly send, to the Judge of the Penal Execution Court, information about the prisoners who are working and also their worked-days. The remission is a benefit and is granted by the Judge of the Penal Execution Court. See as the requirement is done in the section "models".



PAY ATTENTION!!!

The Law 12.433/2011 previews that the judge can revoke, in case of grave foul, up to 1/3 (one third) of the redeemed time.

4. Conditional Release (Parole)

It is the opportunity you have to fulfill the remaining time of punishment freely, since you keep on the imposed conditions by the Judge of the Penal Execution Court in the sentence which allows the conditional release. The requirements are:

- If you are a primary defendant and have good parole record, that is not charged with any other crime, you need to have fulfilled 1/3 (one third) of the punishment.
- If you are recidivist (have committed a new crime after been sentenced, or 5 years before fulfill the punishment of the prior crime), or if you have bad record, you will need to fulfill half of the punishment to have this benefit.

- If you were sentenced by hideous crime you must to fulfill 2/3 (two thirds) of the punishment, as long as you have not been sentenced by the same crime during 5 years.

(Punishment time) 18 x (ratio of the time to be fulfilled)

$18 \times 2 : 3 = 12$ (time to be fulfilled – 12 years)

- Good behavior certified by the director's unit.



PAY ATTENTION!!!

If you are awarded with the benefit of parole and commit another crime during the legality of this release, this benefit will be REVOKED, with the following consequences:

- a) Loss of freedom.
- b) Loss of the time you were free.
- c) Impossibility of another parole until you have fulfilled the **WHOLE** punishment.

5. Exit Permission (art. 120 from LEP)

The Penal Execution Law allows your leave with guard, since the granted appropriately by director's unit, only in case of death or serious illness of the partner, consort, ascendant, descendent or brother or even when you have the necessity of medical treatment.

6. Punishment Indulgence and Commutation

The indult is the total forgiveness and punishment extinction, being the most known the Christmas Indult. The commutation is the punishment decrease, calculated on the remained punishment to be fulfilled. Both are granted by the President of Republic once a year by means of a decree. In the decree, the President declares the requirements to have the benefit of indult or commutation.

DISCIPLINE

Discipline is an act of contribution to the rules which you must submit yourself, with respect to the agents and authorities. Disciplinary faults are classified in: small, average and serious and can make difficult or disable the attainment of benefits.

Small and average faults and its consequences are specified by the rules of the prison unit and the state of the federation where you are.

7. Serious Faults

As you have seen in this handbook, serious faults cause loss of benefits, even the time you had redeemed, as consequence of the work or studies. See the serious faults foreseen in the article 50 of the Penal Execution Law.

The prisoner commits serious fault if:

- Encourage or participate to subvert order or discipline.
- Run away.
- Possess without authorization an instrument that can offend the physical integrity of somebody else.
- Promote work accident.
- Disregard, in the open condition, the imposed condition. Do not observe the duties foreseen in item 2 (submission to the public employee and respect to anyone which he/she shall have relationship) and 5 (execution of the works, tasks and received orders) of art. 39.
- Have in his possession, use or provide telephone device, radio or similar, that allows communication with other prisoners or external environment.
- Commit a felony crime.

8. Base Date for benefits

CONCEPT

It is the initial term/mark used to initiate the counting of time for the benefit; it is the beginning of the punishment fulfillment. There will be modification in some cases during the punishment fulfillment. For example: recapture, progression or conditional regression.

SANCTIONS

The sanctions, as consequence of serious faults, can be a verbal warning, reprimand, suspension or restriction of rights, isolation in one's cell or other adequate place and, in most serious cases, Differentiated Disciplinary Regime (RDD).

Differentiated Disciplinary Regime (RDD)

What is RDD?

It is a set of rigid norms that rules the execution of the punishment (when the defendant is already sentenced) or the temporary prisoner custody.

Who will be subject of RDD?

The imprisoned person, who practices a felony crime, causes subversion of order or of the internal discipline. And also, will be subject of RDD everyone who presents high risk to order and security of the penal unit or society; and every suspect person of participation in crime organization, group or gang.

Who determines the RDD?

If you have done anyone of the acts detailed in the previous question, your inclusion on RDD must be required by the director's unit or other administrative authority to the able to judge, who will have 15 days to render judgment. Before, the Judge must listen to the Public Ministry and Defense (Public Defender or attorney).

Which are the consequences of RDD?

If you are integrated on RDD, you will be taken to an individual cell, having right to receive visits of two people per week each visit having duration of two hours and sunbath will be reduced to only two hours daily. RDD is for 360 days.

Transference for a Maximum Security Federal Penitentiary

The inclusion of the prisoner in a maximum security federal penitentiary will be exceptional and for a determined period, according to the Law nº 11.671/08, and the Decret 6.877/09.

The period of permanency must not be superior to 360 (three hundred and sixty) days, renewable, exceptionally, when requested by the origin judge, observed the requirements of the transference.

The administrative authority, the Public Ministry and the himself prisoner are legitimated to require the process of transference, which will start if the judge considers the transference necessary.

Do you want to know more?

The Public Defense shall answer other doubts. The judicial assistance done by the Defense is free.



Look for the days of audience of the Public Defense of your unit and talk to the Public Defender. It is your RIGHT and nobody can forbid it.

ANNEXES

Habeas Corpus Form

The *habeas corpus* form is just a suggestion, since this legal remedy discharge formalities.

APPLICATION FOR WRIT OF HABEAS CORPUS		
Personal Data of the Imprisoned Person		
NAME	INFOPEN	CPF (Natural Persons Register)
Mother	Father	
Place where is Imprisoned		
Date of Imprisonment	Place of Imprisonment	
Reason of Imprisonment		
Coprincipal		
Name	Function	
Indicate (X) the Illegal Coercion (violated right):		
<input type="checkbox"/> Absence of just cause		
<input type="checkbox"/> Excess of Period of Imprisonment		
<input type="checkbox"/> Process nullity		
<input type="checkbox"/> Extinct punishment		
<input type="checkbox"/> Regime progression dismissal		
<input type="checkbox"/> Conditional release dismissal		
<input type="checkbox"/> Others. Specify:		

Indicate (X) the Imprisonment type:

- Temporary
- Definitive conviction

In case of "definitive conviction", indicate:

--

Judge's Conviction or Court of Conviction	Place of Conviction (District/Court)
---	--------------------------------------

--	--

Judge's Execution or Court of execution	Place of Execution
---	--------------------

--	--

In case of "temporary imprisonment", indicate:

Judge who ruled the Temporary Imprisonment or Court	Place of Ruling
---	-----------------

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Additional Information

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(Please, continue on the other side)

The filling of the gaps can be done by the prisoner or anyone, who knows some information, being able to leave the gaps in blank on which the information he/she does not know.

PETITION MODEL

Honorable Judge,

After have analyzed the records,
 _____ herein undersigned, comes on the presence of
 Your Honor request the following:

- Progression to semi-open condition;
- Progression to open condition;
- Conditional release;
- Confection of Account of Punishment Liquidation;
- Punishment Attest
- Punishment Extinction. Cause: Punishment fulfillment.
- Notify by writing
- Punishment Commutation
- Replead the request for pages _____
- Imprisonment discharge
- Punishment remission
- Temporary Leave
- Others

Comments: _____

_____/_____/_____/_____
 Place, Month Day, Year

 Petitioner

FRACTION FOR BENEFITS

ORDINARY CRIME – PRIMARY DEFENDANT

- 1/6 – REGIME PROGRESSION
- 1/6 – EXTERNAL WORK
- 1/6 – TEMPORARY LEAVE
- 1/3 – CONDITIONAL RELEASE

ORDINARY CRIME – RECIDIVIST

- 1/6 – REGIME PROGRESSION
- ¼ – TEMPORARY LEAVE
- ½ – CONDITIONAL RELEASE

HIDEOUS CRIME – PRIMARY DEFENDANT

- 2/5 – REGIME PROGRESSION
- 2/5 – TEMPORARY LEAVE (if the prisoner has already regime progression)
- 2/3 – CONDITIONAL RELEASE

HIDEOUS CRIME – RECIDIVIST

- 3/5 – REGIME PROGRESSION
- 3/5 of the hideous crime – TEMPORARY LEAVE (if the prisoner has already regime progression)
- THERE IS NOT CONDITIONAL RELEASE

ORDINARY CRIME + HIDEOUS CRIME – PRIMARY DEFENDANT

- 1/6 OF ORDINARY CRIME + 2/5 OF HIDEOUS CRIME – REGIME PROGRESSION.
- 2/3 OF HIDEOUS CRIME + 1/3 OF ORDINARY CRIME – CONDITIONAL RELEASE

ORDINARY CRIME + HIDEOUS CRIME – RECIDIVIST

- 3/5 OF HIDEOUS CRIME + 1/6 OF ORDINARY CRIME – REGIME PROGRESSION.
- 3/5 OF HIDEOUS CRIME + 1/6 OF ORDINARY CRIME – TEMPORARY LEAVE (if the prisoner has already regime progression)
- 2/3 OF HIDEOUS CRIME + ½ OF ORDINARY CRIME, since the habituality does not be hideous crime – CONDITIONAL RELEASE
- SPECIFIC RECIDIVIST + OF ORDINARY CRIME = FULFILL THE WHOLE PUNISHMENT OF THE HIDEOUS CRIME + 1/3 OF ORDINARY CRIME (P) – CONDITIONAL RELEASE
- WHOLE PUNISHMENT OF THE HIDEOUS CRIME + ½ OF ORDINARY CRIME (R) – CONDITIONAL RELEASE

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PUBLIC DEFENDER OF THE STATE OF THE FEDERAL DISTRICT

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Fax: + 55 (83) 3221-6315

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Fax: + 55 (51) 3211-2233 (51) 3211-2233 - Extension 2021

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E-mail: gabinete@dpe.rs.gov.br, corregedoria@dpe.rs.gov.br

, defensorageral@dpe.rs.gov.br

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Cell phone: + 55 (95) 9959-4240 (95) 9959-4240

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Fax: + 55 (79) 3179-7446

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Fax: + 55 (63) 3218-6739

Site: www.defensoria.to.gov.br

E-mail: gabinete@defensoria.to.gov.br

IMPORTANT NOTES

We suggest you to take your notes here.

Data ____ | ____ | ____ *Defender* _____

Notes _____

Data ____ | ____ | ____ *Defender* _____

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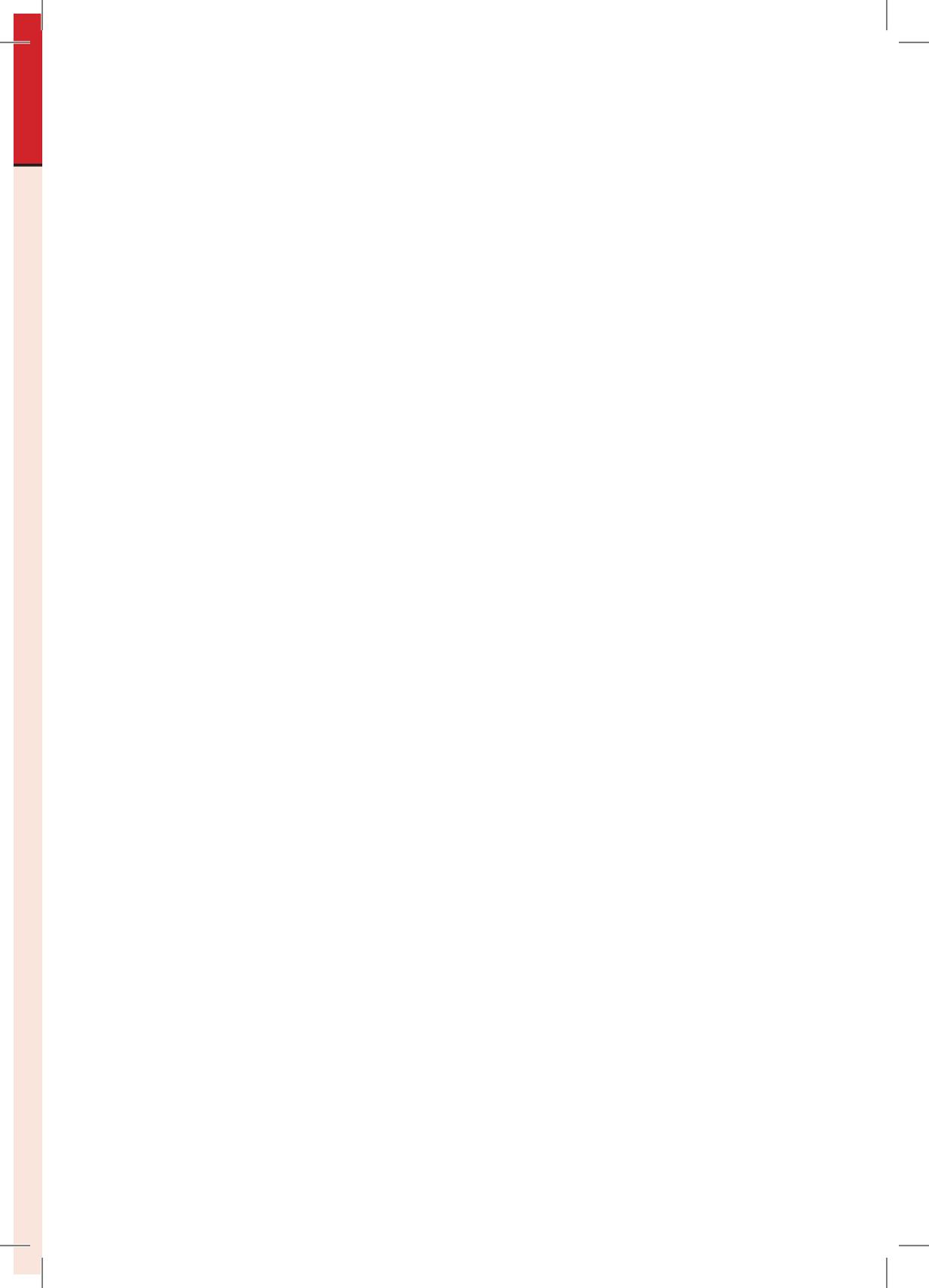
Notes

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