

Training Guide on Alternatives to Imprisonment III



Pre-trial Non-custodial Measures

SERIES FAZENDO JUSTIÇA | COLLECTION ALTERNATIVES TO IMPRISONMENT



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Guide on
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Imprisonment III

**Pre-trial
Non-custodial
Measures**

BRASÍLIA, 2023

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This document was produced under the Project BRA/14/011 – Strengthening the Management of the Brazilian Prison System, between DEPEN and UNDP Brazil, and updated, diagrammed and printed under Project BRA/18/019 - Strengthening Monitoring and Inspection of the Prison and Socio-Educational System, between CNJ and UNDP Brazil, implemented in partnership with DEPEN.



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International cataloging data in publication (CIP)

B823t

Brazil. National Council of Justice.

Training Guide on Alternatives to Imprisonment III : pre-trial non-custodial measures / National Council of Justice, United Nations Development Programme, National Secretariat for Penal Policies ; coordination of Luís Geraldo Sant'Ana Lanfredi ... [et al.]. Brasília : National Council of Justice, 2023.

Original title: Guia de formação em alternativas penais III: medidas cautelares diversas da prisão.

Includes bibliography.

44p.: photos, graphics. (Series Fazendo Justiça. Collection Alternatives to imprisonment).

Also available in electronic format.

ISBN NÃO POSSUI AINDA

ISBN 978-65-88014-03-5 (Collection)

1. Criminal policy. 2. Alternatives to imprisonment. I. Title. II. United Nations Development Programme. III. National Secretariat for Penal Policies. IV. Lanfredi, Luís Geraldo Sant'Ana (Coord.). V. Series.

CDU 343

CDD 345

Librarian: Phillipe de Freitas Campos | CRB1 3282

Series Fazendo Justiça Coordination: Luís Geraldo Sant'Ana Lanfredi; Victor Martins Pimenta; Ricardo de Lins e Horta; Valdirene Daufemback; Talles Andrade de Souza; Débora Neto Zampier

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Support: Fazendo Justiça Communication

Layout: Estúdio Pictograma

Proofreading: Orientse

Photos: Cover, p. 7, p. 9, p. 12, p. 13, p. 14, p. 15, p. 16, p. 17, p. 18, p. 19 and p. 22 - CNJ; p. 11 and p. 24 - Unsplash

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* The original publication was conceived in 2020 within the scope of the Justiça Presente/Fazendo Justiça Program throughout the administration of the President of the Federal Supreme Court and the National Council of Justice, Minister José Antonio Dias Toffoli.

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PREFACE

The National Council of Justice (CNJ), in partnership with the Brazilian Ministry of Justice and Public Security (MJSP) and the United Nations Development Program (UNDP Brazil), jointly developed the Programa Fazendo Justiça (Doing Justice Program), which comprises a set of initiatives aimed at addressing systemic challenges related to deprivation of liberty throughout the Criminal and Juvenile Justice in Brazil.

The program aligns with the United Nations Sustainable Development Goals, specifically Goal 16 – Peace, Justice and Strong Institutions, to promote access to justice and strengthen institutions based on social inclusion.

The strategy proposes the creation or improvement of structures and services in the Brazilian Executive and Judiciary Systems, as well as the promotion of professional training, publication of knowledge products, and support in the production of regulations. There are 29 initiatives carried out simultaneously with different stakeholders, focusing on achieving tangible and sustainable results. Among them, the ‘International Articulation and Protection of Human Rights’ initiative seeks to promote the exchange of experiences between Brazil and other countries in the field of public policies on the Criminal and Juvenile Justice.

The program is currently in its third stage, which aims to consolidate the changes made and transfer the knowledge accumulated. The publications bring together the experiences developed and synthesize the knowledge produced during the first three stages, in addition to supporting professional training activities for a broad audience in the field.

Therefore, guides, manuals, researches and models were created in order to relate technical and normative knowledge to the reality observed in different regions of the country. These resources identified best practices and guidelines for the immediate and facilitated management of incidents.

To share its knowledge and communicate successful experiences to a wider audience, the program translated its main titles into English and Spanish. This strategy also involves promoting events, courses, and training in collaboration with international partners, as well as disseminating these translated knowledge products to spread good practices and inspire social transformation on a global scale.

Rosa Weber

President of the Federal Supreme Court and the National Council of Justice

INTRODUCTION

This Guide integrates the didactic material for training and sensitization of the actors that make up the field of alternatives to imprisonment and is the result of a specialized consultancy by the United Nations Development Programme – UNDP Brazil, in partnership with the General Coordination of Alternatives to Imprisonment – CGAP/DEPEN of the Ministry of Justice and was subsidized by several meetings between experts and public servants working in the field of the Criminal Justice System in Brazil.

In Guide I, we present the history of the national policy of alternatives to imprisonment from a critical analysis of incarceration, with conceptual standards of the Management Model in Alternatives to Imprisonment, considering the postulates, principles and guidelines for alternatives to imprisonment in Brazil and the follow-up of alternatives to imprisonment by the Integrated Center of Alternatives to Imprisonment. In Guide II, we present Restorative Justice as a transversal methodology that should permeate the professionals' outlook in relation to all modalities of alternatives to imprisonment.

In this Guide III, we present Pre-trial Non-custodial Measures. The abusive number of pre-trial detentions in Brazil, the illegalities perceived from the moment they are ordered, and the abusive length of time that most of these pre-trial detentions last, indicate the need for the policy of alternative sentencing to set up qualified teams to work with custody hearings for people who have been granted their freedom, with or without pre-trial non-custodial measures applied.

Ideally, the Integrated Centers for Alternatives to Imprisonment should start working with custody hearings and, to this end, this Guide presents the pre-trial non-custodial measures and the methodology for monitoring by the Centers, the fluxes and procedures aimed at effectively promoting the de-sentencing of people and access to rights.

In Guide IV, we present the follow-up methodologies to the subsequent modalities of alternatives to imprisonment: plea bargaining for low-level offences, non-custodial penalties, deferred prosecution agreement and suspended sentence. For all these modalities, concepts, procedures, workflows and working tools will be presented.

The last publication, Guide V, will present the accountability measures for men who commit violence against women, detailing the accountability services for men, such as Therapeutic Groups, as provided by the Maria da Penha Law.

With this material, we will have the entire Model of Management in Penal Alternatives systematized in a didactic format for the proper understanding and dissemination of alternatives to imprisonment in Brazil, with the primary objective of contributing to a minimal, decarcerating and restorative criminal law intervention in Brazil.

The final result of this work should support the induction role of the National Council of Justice, as well as the Superior Councils of the Public Prosecutor's Office and Public Defender's Office, providing the necessary firmness and alignment so that the states and civil society are stimulated, guided and supported for the dissemination and implementation of the policy of alternative sentencing in order to counteract the growing mass incarceration in Brazil.

We wish everyone a good reading! We hope that the references recorded here will serve as guidelines for the Public Authorities and also as a beacon for the actions of control and participation of civil society in the processes of formulation, implementation, monitoring and evaluation of public policies developed in the field of alternatives to imprisonment.



This material was produced from the *Handbook of Alternatives to Imprisonment Management* published by the National Council of Justice in 2020, now systematized here as a Guide for training and raising awareness of all the institutions and people working in the field of penal sentencing in Brazil.

In the Handbook of Management you will find more about each topic listed in the Guides in greater detail. To access the complete *Handbook of Alternatives to Imprisonment Management*, use the QR Code on the side (clickable on the web version).



1 The Right to Freedom and the Law of Pre-trial Non-custodial Measures



**“37.2% of the cases surveyed
in which defendants were
in pre-trial detention
were not sentenced to
prison at the final point
of the proceedings.”**

Brazil is the third country that incarcerates the most in the world today, and according to data from the National Penitentiary Department (MJ, 2017), more than 40% of the country's prison population consists of people deprived of their liberty who, without conviction, are awaiting trial. IPEA research conducted in 2014 indicates “the systematic, abusive and disproportionate use of pre-trial detention by the justice system in the country,” considering that in “37.2% of the cases researched in which the defendants were imprisoned before a trial, there was no sentence to prison at the end of the process.”

In raw numbers, this means a total of about 90,000 men and women incarcerated in cases that should be acquitted or have alternative sentences applied at the end of the process.

The Law of Pre-trial Non-custodial Measures, Federal Law nº 12,403, was introduced in 2011 with the aim of curbing the use of pre-trial detention by expanding the range of possibilities of pre-trial non-custodial measures, introducing in the criminal legal system several alternatives to prison and unconditional freedom.

It is important to affirm that the Federal Constitution defends the dignity of the human being in its 1st article, III, and ratifies freedom as a universal right of human beings. It also states that no one shall be deprived of their liberty or property without due process of law (art. 5, LIV) and neither may any person be considered guilty until the final judgment of criminal conviction (art. 5, LVII).

The Law of Pre-trial Non-custodial Measures has altered provisions in the Code of Criminal Procedure, permeating the whole criminal prosecution with a view to replacing pre-trial detention. The judge should consider granting provisional freedom without conditions or with pre-trial non-custodial measures, rather than maintaining the person in custody.

The main change brought to the penal system by Law 12,403/2011 is greater control over pre-trial detention, with limits expressed in the law and an increase in the list of pre-trial non-custodial measures. The law also expands the powers of the police authority, since it gives the police station chief the power to grant provisional release on bail in crimes punishable by custodial sentences *in abstractu* of up to 4 (four) years, either imprisonment or detention. In the previous legislation this

measure was restricted to crimes punishable by simple imprisonment or detention.

A pre-trial non-custodial measure may not be applied when the offense is not punishable by a custodial sentence, cumulatively or separately (art. 283, § 1º, e - CPP¹). The law also foresees the impossibility of its imposition, as well as pre-trial detention, to crimes for which a plea bargain can be made, and in cases where a deferred prosecution agreement is proposed and accepted, as provided for in Federal Law nº 9,099/1995, which deals with the Special Criminal Courts and minor offences.

In an attempt to assess the impact of this law, two surveys were conducted by the Sou da Paz Institute and the Association for Prison Reform (Sou da Paz, ARP, 2014). The surveys showed that the Law of Pre-trial Non-custodial Measures has already produced a positive result in reducing the use of pre-trial detention, although its impact is still modest.

In São Paulo, between 2011 and 2012, the number of arrests fell from 87.9% to 61.3%. In Rio de Janeiro, in the same period, the reduction was more timid, from 83.8% to 72.3%. However, these studies indicate that this path of the law was assertive, and should be accompanied by monitoring of its application so that its effects produce more substantive results in terms of reducing incarceration.

The Federal Constitution proclaims the dignity of the person in its 1st article, III, and ratifies freedom as a universal right of human beings.

¹ According to Brazilian Criminal Procedure Code (CPP) a pre-trial non-custodial measure may not be applied when the offense is not punishable by a custodial sentence, cumulatively or separately (art. 283, § 1º).



2

The Detention Control Hearing

Despite the legal provision for immediate forwarding of a copy of the arrest record for analysis by the competent judge on the need to maintain the arrest (art. 306, CPP), in practice, what occurred in Brazil until the institution of the detention control hearing was that the person remained in custody for months before a first contact with the judge.

With the dissemination of detention control hearings in Brazil, which consists in ensuring the rapid presentation of the prisoner to a judge in cases of in flagrante offense arrest, the effective reduction of provisional imprisonment is sought, because this hearing is a qualified space for the decision on the in flagrante delicto arrest, allowing better conditions for analyzing the particularities of the case, the extension of the concession of

freedom, determining the revocation of the detention with or without pre-trial non-custodial measure.

The detention control hearing allowed for compliance with international law standards to which Brazil is a signatory, such as the Inter-American Convention on Human Rights (Pact of San José of Costa Rica), ratified by Brazil since 1998.

The Pact of San José de Costa Rica assures that “every detained person shall be brought promptly before a judge or other authorities authorized by law to exercise judicial functions” (art. 7).

The celerity determined in this international treaty should be able to promote the reduction of illegal arrests through revocation of the detention or conditional release, besides being a necessary procedure to verify the occurrence of ill-treatment and torture to the prisoner.

Resolution nº 213, of December 15, 2015, of the National Council of Justice (CNJ), provides for the presentation of every arrested person to the judicial authority within 24 hours, and its Protocols I and II deal with “Procedures for the application and follow-up of pre-trial non-custodial measures for detainees presented in detention control hearings” and “Procedures for hearing, recording and forwarding of reports of torture and other cruel, inhuman or degrading treatment”.

These instruments are fundamental because they present, in a detailed way, the procedures to be followed and respected by all the actors involved in the detention control hearing, as well as outline the appropriate conditions for the monitoring of pre-trial non-custodial measures.

Considering that this is a recently implemented procedure in the country, one realizes that there are still many steps to be taken for the detention control hearing, in all the courts, to comply with the existing norms and that its purpose, especially in relation to the granting of provisional release, becomes effective.

According to data from the National Council of Justice, by December 2016, 174,000 hearings have been held throughout the country since 2015. Of these, 54% resulted in pre-trial detention, and 46% in provisional release.

In “Implementation of detention control hearings in Brazil: Analysis of experiences and

recommendations for improvement” (Depen, 2016), the need for states to update their procedures in accordance with Resolution CNJ nº 213/2015 is highlighted, in order to ensure that the routines are in line with the norms, as well as to promote effective results. The document also points out the need for the Public Defender's Office and state Public Prosecutor's Offices to update or institutionalize their rules considering their constitutional powers in relation to prison control hearings.

Despite the still timid results regarding the disimprisonment of people, we understand the detention control hearing as a necessary and innovative inter-institutional procedure, and this becomes a fundamental space for the alternatives to imprisonment to actually contribute to the disimprisonment of people, as foreseen in the Detention Control Hearings Project present in the Technical Cooperation Agreement nº 007/2015, signed between the National Council of Justice (CNJ) and the Ministry of Justice (MJ).

Considering the importance of the detention control hearings, based on the elements already pointed out and having as guidance the Resolution CNJ nº 213/2015 and the guidelines of the National Policy on Alternatives to Imprisonment, it is essential the articulation between the various entities that make up the Criminal Justice System, including the Judiciary, the Public Defender's Office, the Public Prosecutor's Office and the Police, as well as the Executive at the municipal, state and federal levels and civil society. Each of these institutions must fulfil their responsibilities by adhering to the hearing's own procedures, in particular, the granting of provisional release in all cases that are legally possible.



3

The access to rights and precautionary measures

In accordance with art. 310 of the The Law of Pre-trial Non-Custodial Measures, upon receiving the prison record in flagrante delicto, the judge must loosen the illegal imprisonment; grant provisional release, with or without bail, or convert detention in flagrante into precautionary when the requirements has been presented as appear in the art. 312 and have been considered inadequate or inefficient the same precautionary measures and diverse of detention.

Precautionary measures other than imprisonment are presented exhaustively in art. 319, which means that the judicial determination must stick to the measures enumerated in the law.

According to the Criminal Procedure Code, the precautionary measures should still be used

with moderation. However, as stated in the report of the Defense Institute of the Right of Defense – IDDD (2016), in practice the application was automated of precautionary measures, with the exception of the granting provisional release without determination of the precautionary measure. In São Paulo, between February 2015 and March 2016, only at 0.32% of cases were granted releasal without the application of precautionary measure.

The IDDD study (2016) also pointed out to the following items:

- there are cases of compulsory driving to social assistance services or health as a form of precautionary control;

- determination of unforeseen legally measures;
- in the vast majority of cases, the pre-trial non-custodial measures are applied without a defined term, in analogy to security measures, violating the principle of the provisional nature of the measure.

These findings point to the challenges posed to the recent configuration of detention control hearings, as a privileged locus for the guarantee of the rights of the person arrested *in flagrante delicto* to be adequately taken care of.

The detention control hearing should prioritize the liberty of the person arrested, guaranteeing the presumption of innocence until a possible conviction.

Furthermore, the detention control measures should always be adopted as a result of a grounded decision and in accordance with the Cooperation Agreements signed between the National Council of Justice and the Ministry of Justice, meeting the following purposes (Resolution nº 213/2015 of CNJ, protocol I):

- I) The promotion of the autonomy and citizenship of the person;
- II) Encouraging the participation of the community;
- III) The accountability and maintenance of the person's bond with the community, with the guarantee of his/her individual and social rights; and
- IV) The restoration of social relations.

As also provided by Resolution nº 213/2015 of the CNJ, the pre-trial non-custodial measures applied in detention control hearings will be referred for a follow-up in services established, preferably, under the State Executive Branch, usually called Integrated Centers of Alternatives to Imprisonment, as well as the Electronic Monitoring Centers, in specific cases.

In a considerable number of cases that reach the detention control hearings, it is possible to see that the arrest is maintained or a non-custodial measure is ordered for social and public health reasons (for example, in cases where people are homeless or drug users). In cases where there is a need for access to rights, the referral of the person to social assistance in the protection network should be considered a priority, rather than the application of pre-trial non-custodial measures.

Thus, the decisions handed down in custody hearings should aggregate new paradigms, radically opposed to those attached to imprisonment, guaranteeing the rights of the people presented there, with autonomy and freedom.





4 The reception and monitoring of the person from the detention control hearings



In situations where a pre-trial non-custodial measure is applied, there must be previous articulation with the Justice System so that the “Periodic Court Appearance” be held monthly at the headquarters of the Integrated Center for Alternatives to Imprisonment.

In order for the Integrated Center for Alternatives to Imprisonment to be set up with the detention control hearings, it is essential to establish a Technical Cooperation Agreement between the Court of Justice, the Public Prosecutor's Office, the Public Defender's Office and the State Government. There is a model of the Term, with the content to be attached to it, published in full in the Depen's Handbook of Alternatives to Imprisonment Management

The attendance of people who have their freedom granted in detention control hearings, at the Integrated Center for Alternatives to Imprisonment, can be done independently of the determination of a pre-trial non-custodial measure. It is important that the existence of the Center can contribute to the reduction in the application of criminal sanctions, through the access to rights

by people with disabilities.

In cases where there is no restraining order, the person must be attended to and made aware by a professional from the Center, right after the hearing, about the social protection services available, according to the raised demands.

In situations where there is application of a pre-trial non-custodial measure, prior articulation must be made with the Justice System so that the "periodic appearance in court" can be held monthly at the headquarters of the Integrated Center for Alternatives to Imprisonment.

The Center is considered an extension of the court for this measure, and is not an extra-legal measure. Under no circumstances should "Appearance in Court" be applied concurrently



From the time of the service carried out through the pre-trial non-custodial measure of “compulsory appearance”, the Center will have to build the individualization of the person's accompaniment, according to specificities, needs and possibilities.

with “Appearance at the Center”.

Among the pre-trial non-custodial measures applied, the Integrated Center of Alternatives to Imprisonment will be responsible for the “compulsory appearance” follow-up. The other pre-trial non-custodial measures should be directly followed-up by the Criminal Courts or by the Electronic Monitoring Center. However, it should be observed the application of less severe measures in detriment of electronic monitoring.

Starting from the service carried out through the pre-trial non-custodial measure of “compulsory appearance”, the Center must build the individualization of the person's accompaniment, according to his/her specificities, needs and possibilities.

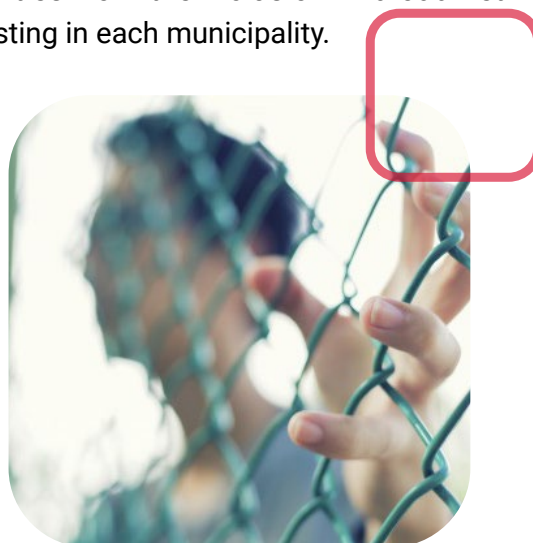
In many states, there are already centers that deal with non-custodial penalties and it is proposed that these centers may gradually, from the readjustment of resources and structures and from the understanding previously signed with the Justice System, expand the scope of the policy,

including the care of people in detention control hearings and after the release, to follow-up the pre-trial non-custodial measures.

It is important that each state evaluate the effective conditions to expand its work fronts, since to work with custody hearings it is necessary to assign resources, expand the technical team and establish new work routines, which will be presented here.

It is understood, on the other hand, that it is extremely necessary that the states constitute this service, seeking greater effectiveness of detention control hearings regarding the granting of liberty and access to rights by people who have been provisionally arrested, as well as contributing to the reduction of indicators of violence and criminality.

In this sense, the Integrated Centers for Penal Alternatives should not work only with the bias of criminal enforcement, but seek to ensure a comprehensive follow-up of people, considering the individualities and socio-cultural contexts, contributing to the minimization of social vulnerabilities from the inclusion in broad networks existing in each municipality.





CIAP

CENTRAL
INTEGRADA DE
ALTERNATIVAS
PENAIIS

5

The Integrated Center for Alternatives to Imprisonment



To develop the work of regularly providing services to the public released in detention control hearings with pre-trial non-custodial measures, the State Executive Branch must structure an Integrated Center of Alternatives to Imprisonment in its own headquarters, outside the judicial environment.

To develop the work of regularly providing services to the public released in detention control hearings with non-custodial measures, the state Executive Branch must structure an Integrated Center of Alternatives to Imprisonment in its own headquarters, outside the judicial environment. However, it is essential that rooms be made available in the Criminal Courthouse or in the same building where the detention control hearings are held, to provide assistance to the person before and after the hearing. The Integrated Center for Alternatives to Imprisonment is responsible for:

b

Carrying out psychosocial welcoming, voluntary referrals to the social network based on the specificities of each case, and following-up compliance with the Non-custodial measure, seeking to promote the autonomy and protagonism of the person, the restoration of family, social and community ties and understanding/resignification of the processes of criminalization, conflicts and violence experienced, as well as the search for reversal of social vulnerabilities;

d

Ensuring the respect for generational, social, ethnical/racial, gender/sexuality, origin and nationality, income and social class, religion, belief, among other diversities, as to the referrals and fulfillment of the non-custodial measure;

a

Guaranteeing emergency assistance to the person, considering the immediate needs to participate in the hearing and return home, and should consider:

- Assistance before the detention control hearing: food, clothing, shoes, ambulatory health care;
- Assistance after the hearing: transportation to return home;

We recommend the use of cash benefits, previously articulated with the Justice System, to guarantee the assistance highlighted here;

c

Ensuring the right to information for people serving a pre-trial non-custodial measure, regarding the procedural status, the services and assistance offered, and the conditions under which the measure is being;

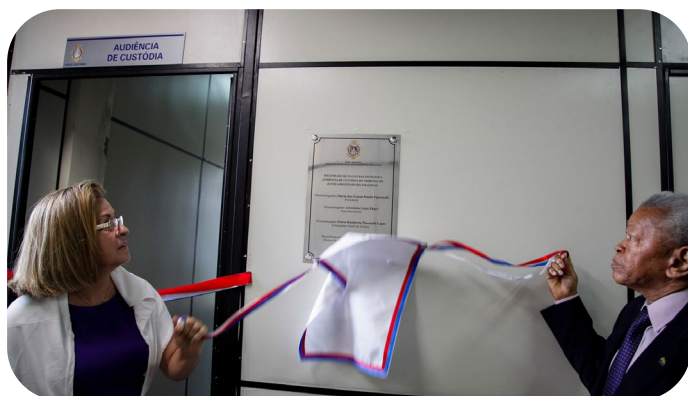


e

Ensuring the necessary referrals for the realization of the rights to instruction or to medical or psychiatric treatment that may be necessary;

f

Creating and maintaining a partner network for the referral of people based on social demands;



g

Setting up and participating in broad social assistance networks for the inclusion of people, with emphasis on the following areas:

- housing;
- health care;
- education;
- treatment for users of alcohol and other psychoactive substances;
- mental health;
- work, income and professional qualification;
- social assistance;
- legal aid;
- access to culture and leisure;

h

Following up the fulfillment of the pre-trial non-custodial measure through direct contact with the person, ensuring the necessary support;

i

Ensuring the collection, storage and management of information about the public, contributing quantitative and qualitative statistical data for studies on detention control hearings and pre-trial non-custodial measures.





6

The methodology of reception and follow-up by the Center



The technical staff of the Regional Offices is made up of a multidisciplinary team with interdisciplinary actions, composed of professionals in the areas of social and human sciences, with preferentially psychologists, social workers and lawyers.

It must be emphasized that the legal professional will never assume the attributions of a public defender, but will only act in the orientation/information about the serving of the alternatives to imprisonment. If the person assisted needs a public defender, they must be referred to the Public

Defender's Office. The same applies to the work of psychologists, who will not assume clinical attributions and are not competent to issue psychological reports. If necessary, they should be referred to the specialized network and follow-up on the procedures.

It is important to build up the workflow of the Centers with the detention control hearings, in order to establish routines of action with the Justice System, capable of better contributing so that these hearings have greater effectiveness regarding the reduction of incarceration of people, reversal of the indicators of conflicts and violence and access to the rights of those in pre-trial detention.

The assistance to people from detention control hearings must consider the following procedures, which will be detailed below:

I

Awareness of Services

A workflow should be constituted at the time of the detention control hearing to assist people, regardless of the application of a pre-trial non-custodial measure.

The first consultations should be held before and immediately after the hearing and, to this end, it is necessary that the Center has a physical structure (service rooms) in the same building where the hearings take place. The purpose of these services, which are not linked to pre-trial non-custodial measures, is to: understand the emergency demands of the person and the need for social inclusion in public policies, support the judge's decision making during the detention control hearing and provide guidance on pre-trial non-custodial measures. From this sensitization, when a Pre-trial non-custodial measure is determined, the person will leave with a new service scheduled for the headquarters of the Integrated Center for Alternatives to Imprisonment, which must be in another space, outside the judicial environment. Only the first appointments should take place in the judicial environment. The scheduling of new appointments must correspond to the deadline determined in the compulsory appearance measure, or to the person's entire willingness and desire to return to the center in cases where there is no determination of compulsory attendance at the Center.

II

Service at the detention control hearing

This is a space for listening, where factors such as the physical and psychological situation, understanding of the criminal procedural context or the pre-trial non-conditional measure imposed, place of residence, and demands for inclusion in programs or specific treatments are evaluated.

This information should be included in a standard form for initial assistance, and is important for meeting emergency needs, ensuring referral to the social protection network, supporting the judge's decision-making during the detention control hearing, and also for the follow-up of the pre-trial non-custodial measure(s), when applied.

A comprehensive view of the person should be sought, such as: emergency needs, emotional state, social conditions and interpersonal and family relations, aspects that contribute to building a relationship and routine capable of guiding the follow-up of the pre-trial non-conditional measure(s), when applied.

It is common that, after the detention control hearing, people arrive with legal doubts about the pre-trial non-custodial measures imposed, and it is up to the team to provide proper guidance on compliance with judicial determinations. It is possible to schedule specific appointments outside the judicial order, as long as there is a demand and the person's consent.

III

The person's return to the Center

The person will be directed and instructed to return to the Integrated Center for Alternatives to Imprisonment in two circumstances:

- If there is a pre-trial non-custodial for compulsory appearance: in this case the return must occur within the time limit judicially determined;
- For psychosocial assistance, regardless of any pre-trial non-custodial measures applied, in which case the attendance is voluntary, based on people's demands;
- Referrals may be made to other public policies or social projects, but these referrals will be made respecting the autonomy and wishes of the people, never in a coercive way.

IV

Compulsory Appearance to the Center

The following activities can be developed as a method to handle cases in which a pre-trial non-custodial measure has been applied and the compulsory appearance has been established at the Center:

- Individual attendances
- Group work: Circles with dynamics and development of themes demanded by the public. Other institutions may also be invited to minister these activities, according to the specialties and needs.



The methodology for group development is published in Guide V.

In cases of therapeutic groups for men who commit domestic and family violence against women, the guidelines contained in Guide V (Responsibilization Actions for men who commit violence against women) should be followed.

V

Referrals to the network

The referrals are made by the team according to the demands presented by the person.

The partner network is made up of public facilities and civil society institutions that operate in several areas, which allows the person being followed-up to be so in a comprehensive way. The mapping and articulation of this network by the Center allows the referral of cases and the reduction of the social vulnerabilities of the people being followed-up.

The referral for social inclusion can only occur with the person's consent. Most of the people who come to the Center have social vulnerabilities and the referral to the partner network aims to minimize these vulnerabilities.

After any referral to social inclusion services, the team must follow up on the progress: whether or not the person has accessed the service; the reasons why they did or refused to do so; how they were received.



You will find more details about the PARTNER NETWORK in Guide I or in the Handbook of Alternatives to Imprisonment Management.



The methodology for following up alternatives to imprisonment is further detailed in Guide IV and in the Handbook of Alternatives to Imprisonment Management.

VI

Deadline for the measure of compulsory appearance at the Center

Pre-trial non-conditional measures should always be linked, immediately upon their determination, to the serving time, with an end date expressed in the act of decision, not allowing measures that are not timely or for the entire course of the process, respecting the principles of temporariness, reasonableness, reasonable duration of the process and the personal minimum. The Center should build this understanding with the Court, recommending a maximum period of six months of mandatory visits to the Center, in cases where such a measure is applied.

VIII

Information Management

It is essential that the Center's procedures be computerized and periodically updated by the team, and that documents be duly archived, ensuring proper information management. The Center must build efficient methodologies for data collection, processing and analysis.

VII

Incidents

Incidents of execution are any situation that interferes with regular compliance with the pre-trial non-custodial measure, considering irregular compliance or non-compliance for various reasons. For each type of incident, the team must assess the best solution, considering the specifics of each person being served, informing the steps taken in the criminal procedure, within the deadlines agreed upon with the Judiciary.

IX

Case studies

Case studies should be conducted at the Center every two weeks, ensuring an interdisciplinary approach, seeking to define follow-up strategies, approaches and appropriate referrals. The teams may meet with partners from the networks, in addition to representatives from the justice system, to discuss cases that require specific assistance/referrals/assistance and guidance.

The Networks may have special meetings and it is essential that the Center be represented in these routines, promoting the strengthening of such spaces, links and articulations.

6.1. Recommendations

In the districts where there are no Integrated Centers for Alternatives to Imprisonment, the Courts of Justice may establish partnerships for the service of caring for the person at the time of the detention control hearing, being the Criminal Courts responsible for the follow-up of the pre-trial non-custodial measures applied.

Greater flexibility must be ensured and objective difficulties must be considered in the conditions under which pre-trial non-conditional measures are carried out, especially for socially vulnerable groups such as drug users, the elderly, people responsible for dependents, homeless people, people with mental disorders, as well as the peculiarities of groups that have historically suffered discrimination and prejudice, such as black people, the LGBTTI population, Indians, among others.

The Integrated Center for Alternatives to Imprisonment should work with the Judiciary to develop agile and speedy fluxes. It should also seek to constantly raise awareness among all professionals who work in detention control hearings with regard to the work developed by the Center, considering the high turnover of professionals who work in these hearings.



The technical teams should seek to guarantee to the people assisted the right to medical and psychosocial attention that may be necessary and requested, safeguarding the voluntary nature of these services, as provided in Article 4 of Law nº 10,216, 2001, and in Article 319, item VII, of Decree-Law nº 3.689, 1941. No person can be forwarded for treatment on a compulsory basis.

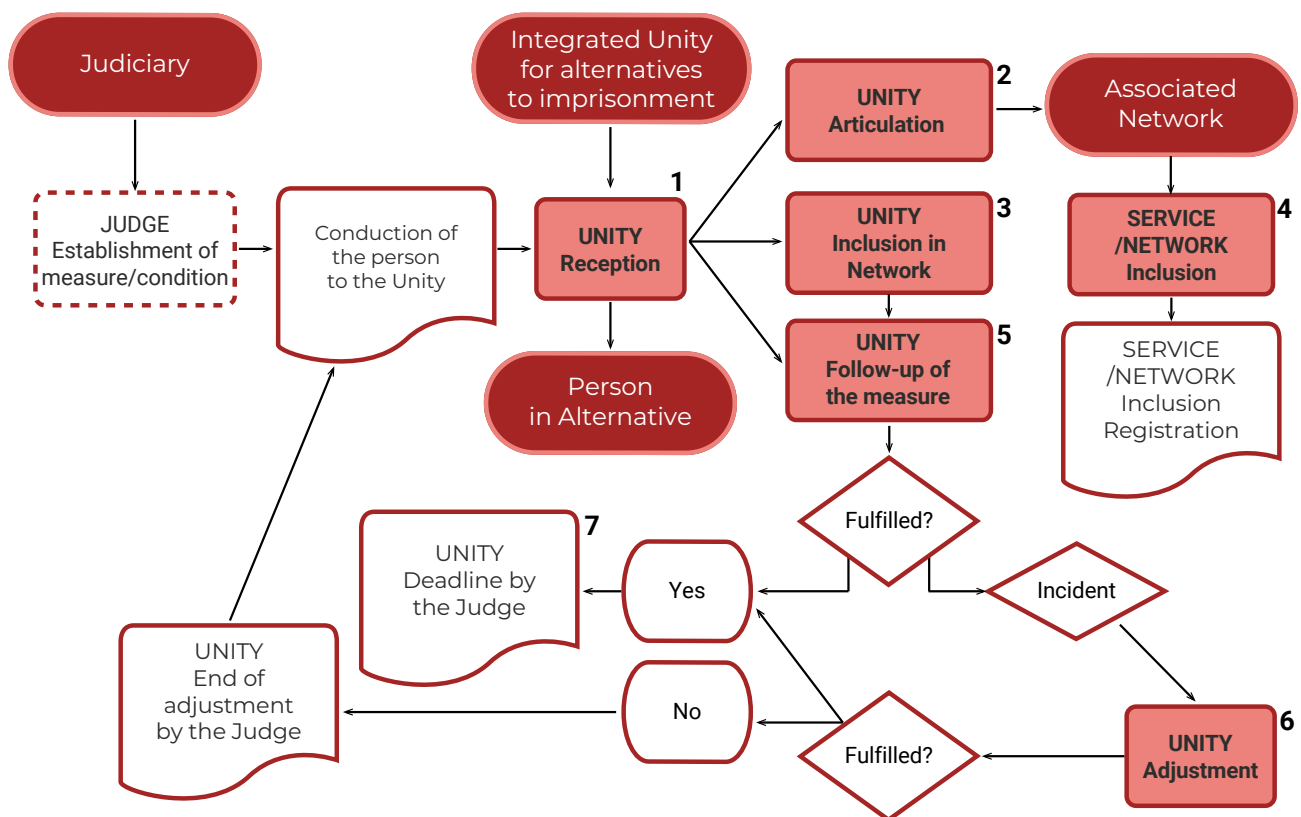
It is not within the competence of the Central's technical teams the referral to additional measures, such as attending courses, going to church, institutionalization in hostels, among others.

Cases that come to the Center for follow-up and that contain determinations of measures with the above content should be returned to the court, in order to align the measure with the methodology of the Center.

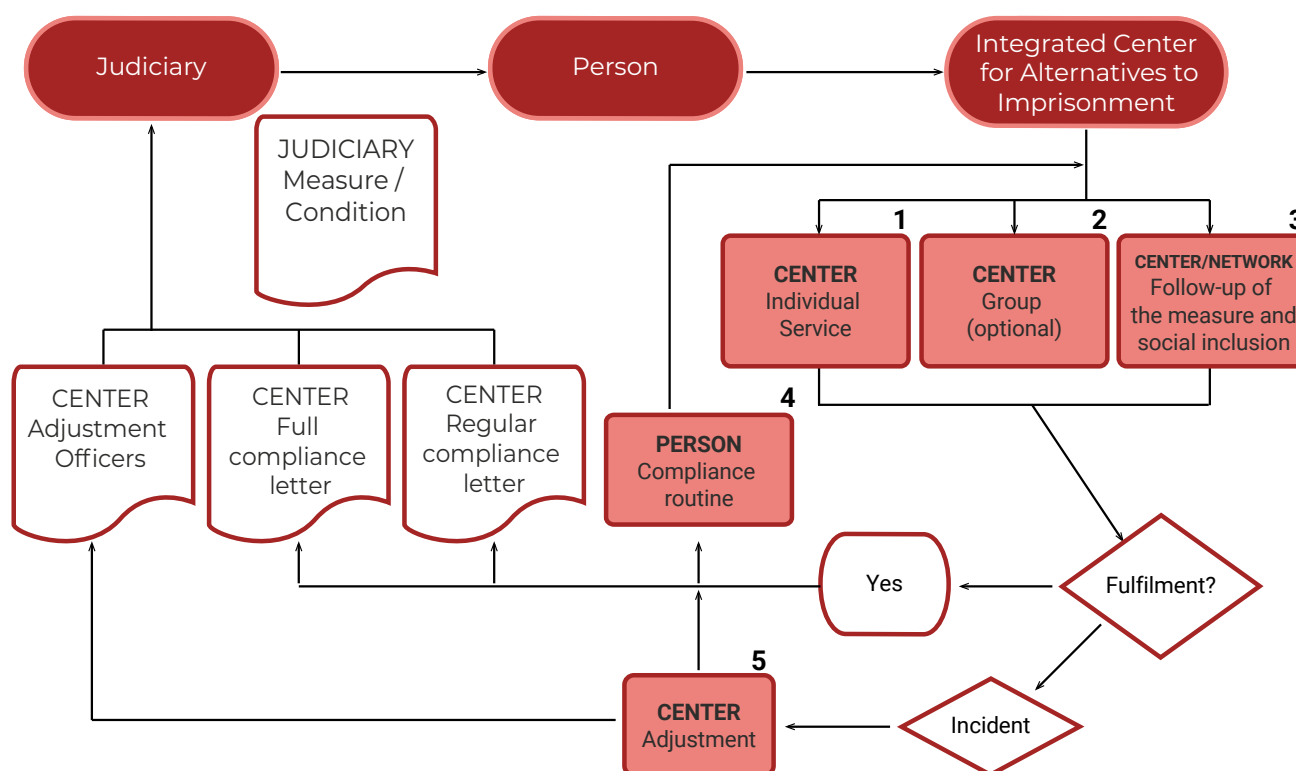
7. PROCEDURAL FLOW

The details of each of the procedures outlined in these flux, as well as the working tools (forms, terms of cooperation, sheets, etc.) for use by the technical team of the Integrated Center for of Alternatives to Imprisonment are fully published in the Handbook of Alternatives to Imprisonment Management.

7.1. The general service flow by the Center

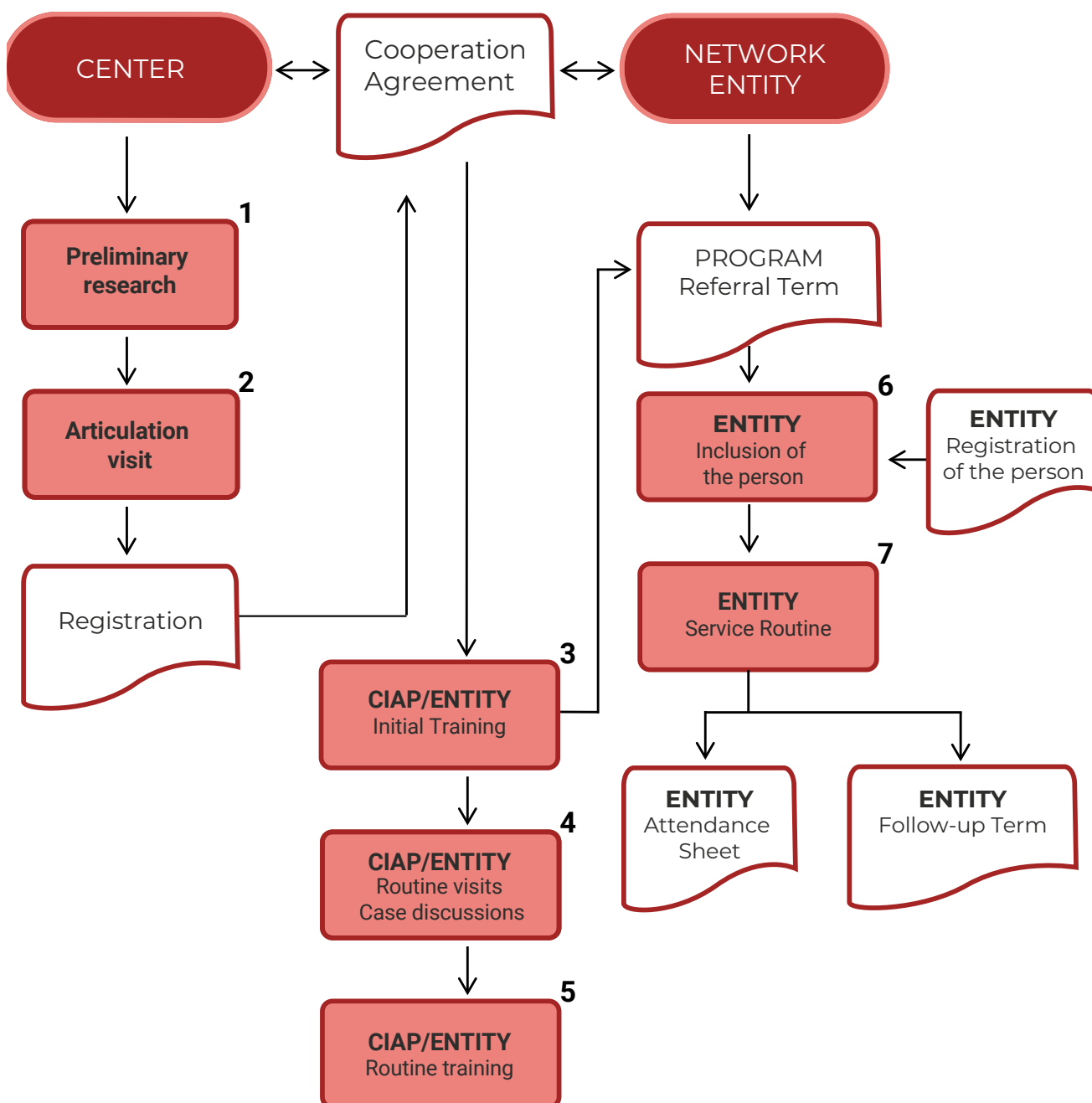


7.2. Follow-up on the pre-trial non-custodial measure

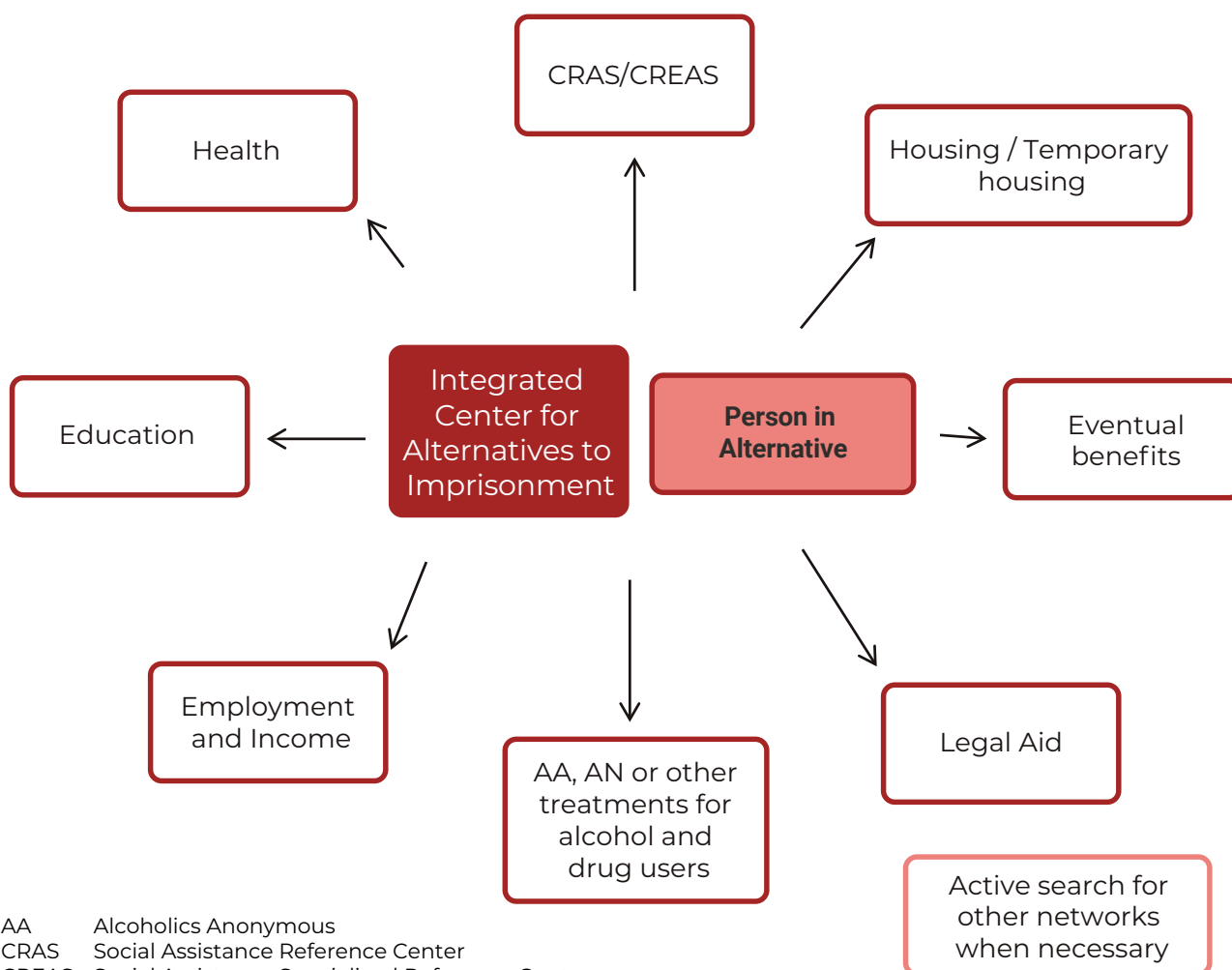


The details of each of the procedures highlighted in these fluxes, as well as the working tools (forms, terms of cooperation, sheets, etc.) to be used by the technical team of the Integrated Center of Alternatives to Imprisonment are fully published in the Handbook of Alternatives to Imprisonment Management.

7.3. Articulation with network entities



7.4. Referral of the person to network services



AA Alcoholics Anonymous
 CRAS Social Assistance Reference Center
 CREAS Social Assistance Specialized Reference Center
 NA Narcotics Anonymous

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TECHNICAL DATA SHEET

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- Manual sobre Programas de Justiça Restaurativa

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- CADERNO III – Orientações e Abordagens Metodológicas – Guia para Programa de acompanhamento a adolescentes pós-cumprimento de medida socioeducativa de restrição e privação de liberdade
- Reentradas e Reiteraões Infracionais: Um Olhar sobre os Sistemas Socioeducativo e Prisional Brasileiros
- Manual sobre Audiências Concentradas para Reavaliação das Medidas Socioeducativas de Semiliberdade e Internação
- Manual Resolução CNJ 367/2021 – A Central de Vagas do Sistema Estadual de Atendimento Socioeducativo
- Manual para Incidência da Temática do Tráfico de Drogas como uma das Piores Formas de Trabalho Infantil
- Manual Recomendação nº 87/2021 – Atendimento inicial e integrado a adolescente a quem se atribua a prática de ato infracional
- Manual para Incidência da Temática do Tráfico de Drogas como uma das Piores Formas de Trabalho Infantil
- Manual Resolução CNJ 77/2009 – Inspeções Judiciais em unidades de atendimento socioeducativo
- Manual de Orientação Técnica para Preenchimento do Cadastro Nacional de Inspeção em Unidades e Programas Socioeducativos
- Guia sobre orçamento público e captação de recursos na política estadual de atendimento socioeducativo
- Sumário Executivo – Guia sobre orçamento público e captação de recursos na política estadual de atendimento socioeducativo

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- Caderno de Gestão dos Escritórios Sociais II: Metodologia para Singularização do Atendimento a Pessoas em Privação de Liberdade e Egressas do Sistema Prisional
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- Começar de Novo e Escritório Social: Estratégia de Convergência
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- Modelo de Gestão da Política Prisional – Caderno II: Arquitetura Organizacional e Funcionalidades
- Modelo de Gestão da Política Prisional – Caderno III: Competências e Práticas Específicas de Administração Penitenciária
- Diagnóstico de Arranjos Institucionais e Proposta de Protocolos para Execução de Políticas Públicas em Prisões
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- Manual de Identificação Civil e Coleta Biométrica
- Manual de Identificação Civil e Coleta Biométrica nas Unidades Prisionais
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- Relatório Mutirão Carcerário Eletrônico – 1ª Edição Espírito Santo
- Relatório de Monitoramento da Covid-19 e da Recomendação 62/CNJ nos Sistemas Penitenciário e de Medidas Socioeducativas I
- Relatório de Monitoramento da Covid-19 e da Recomendação 62/CNJ nos Sistemas Penitenciário e de Medidas Socioeducativas II
- Manual Resolução nº 348/2020 – Procedimentos relativos a pessoas LGBTI acusadas, rés, condenadas ou privadas de liberdade
- Relatório Calculando Custos Prisionais – Panorama Nacional e Avanços Necessários
- Manual Resolução nº 369/2021 – Substituição da privação de liberdade de gestantes, mães, pais e responsáveis por crianças e pessoas com deficiência
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- Fazendo Justiça – Conheça histórias com impactos reais promovidos pelo programa no contexto da privação de liberdade (English and Spanish translation)
- Caderno de orientações técnicas para o mutirão processual penal 2023
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