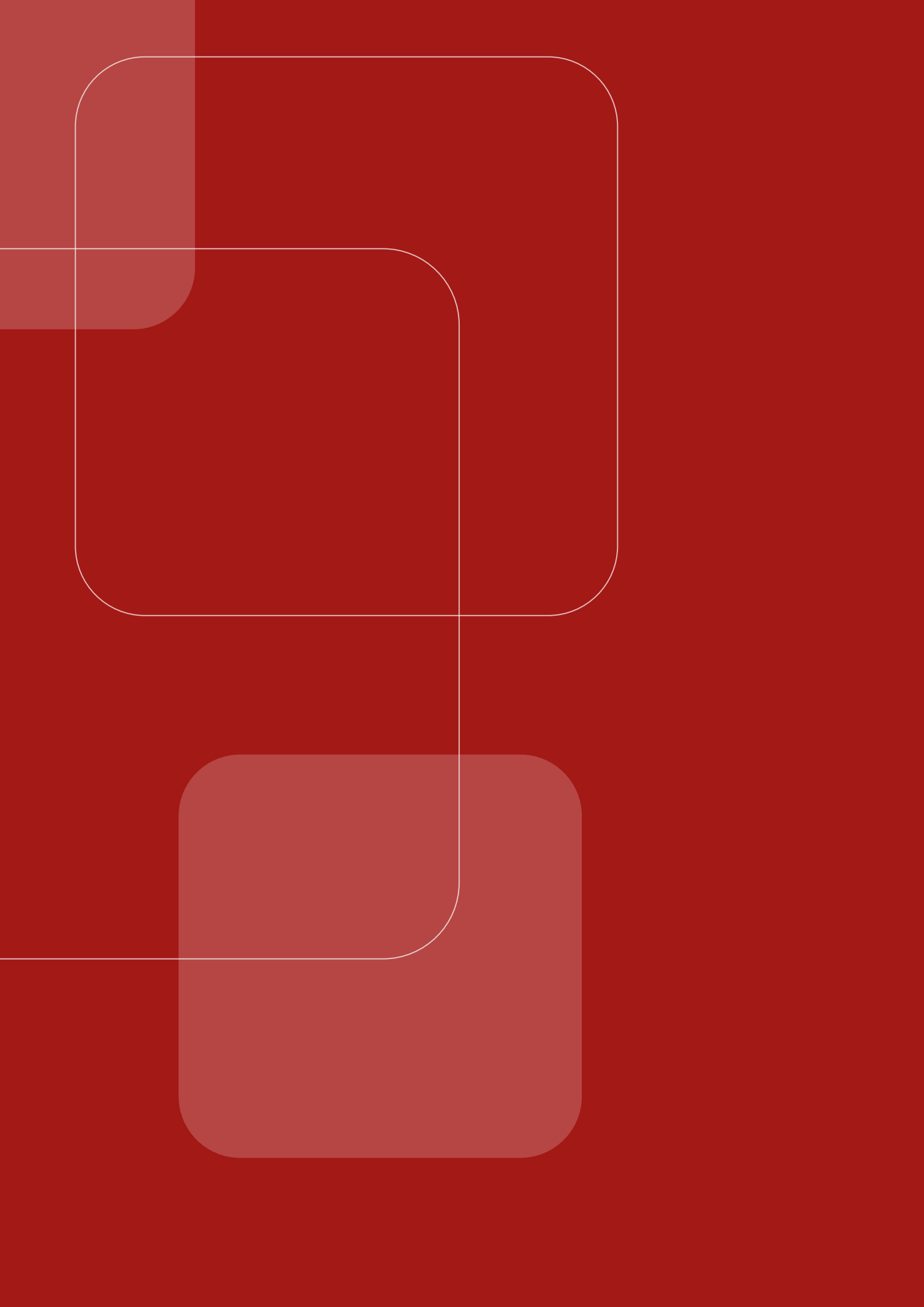


# Training Guide on Alternatives to Imprisonment V

Restraining orders  
and other liability  
actions for men who  
commit violence  
against women

FAZENDO JUSTIÇA SERIES | ALTERNATIVES TO IMPRISONMENT COLLECTION





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Training  
Guide on  
Alternatives to  
Imprisonment V

Restraining orders  
and other liability  
actions for men who  
commit violence  
against women

**BRASÍLIA, 2023**



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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

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This Guide integrates the educational 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 Program - UNDP/UN, in partnership with the National Coordination of Alternatives to Imprisonment - CGAP/DEPEN of the Ministry of Justice. It 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 on alternatives to imprisonment from a critical analysis on incarceration, with conceptual standards of the Management Model on Alternatives to Imprisonment, considering the postulates, principles and guidelines for alternative sentencing in Brazil and the follow-up of alternatives to imprisonment by the Integrated Centre for Alternatives to Imprisonment. Guide II was dedicated to Restorative Justice, as a transversal methodology that must permeate the professionals' outlook in relation to all modalities of alternatives to imprisonment. In Guide III, we present the Pre-trial Non-custodial Measures, considering the need for actions focused on the decarceration of people, and the abusive number of pre-trial detentions in Brazil today. Guide IV aggregates the follow-up methodologies to the subsequent modalities of alternatives to imprisonment: Pre-prosecution transaction, non-custodial sentences, conditional discharge and suspended sentence. For all these modalities, concepts, procedures, workflows and working tools have been presented.

This Guide V presents the liability measures for men who commit violence against women, with details on liability services for men, such as Reflective Practice Groups, according to the Maria da Penha Law.

This material systematize the entire Management Model on Alternatives to Imprisonment in a didactic format for the proper understanding and dissemination of alternatives to imprisonment, with the key objective of contributing to a minimal, decarcerating and restorative penal enforcement in Brazil.

The result of this study should support the induction role of the National Council of Justice, as well as the Superior Councils of the Public Prosecution Office and Public Defender's Office, providing the necessary robustness and alignment so that the states and civil society are fostered, guided and

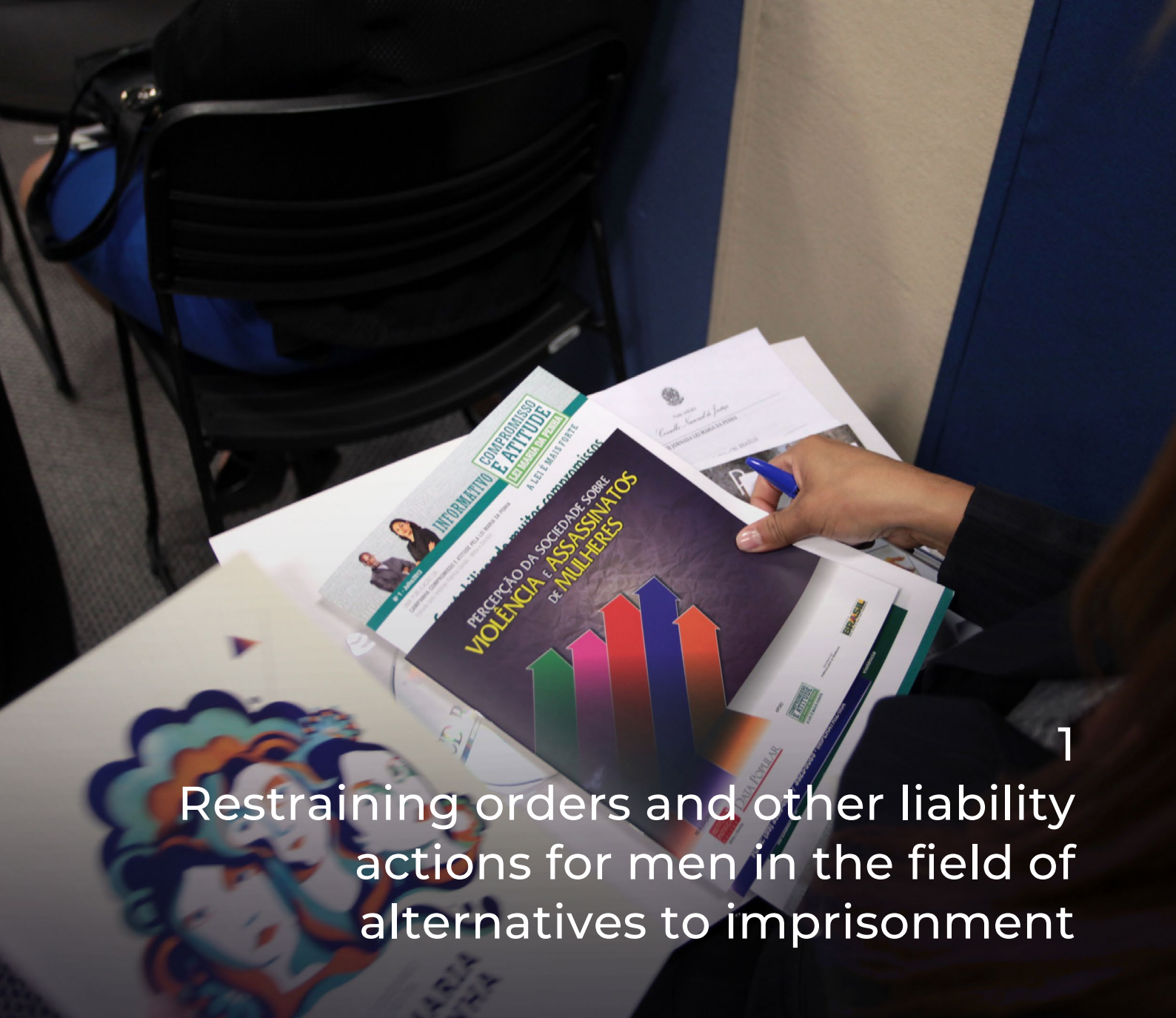
supported for the dissemination and implementation of the policy of alternative sentencing in order to counteract the growing mass incarceration in Brazil.

We wish everyone a good reading! We hope that the references recorded here will serve as guidelines for 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 *Alternatives to Imprisonment* published by the National Council of Justice in 2020, now systematised here as a Guide for the training and awareness of all institutions and people working in the field of alternatives to imprisonment in Brazil. You will find more detailed information on each topic listed in the Management.**

**To access the complete of *Alternatives to Imprisonment*, use the QR Code on the side (clickable on the web version).**



# 1 Restraining orders and other liability actions for men in the field of alternatives to imprisonment

The Maria da Penha Law emerged to confront domestic and family violence against women, and highlights the need to consolidate an affirmative and systemic policy, based on the understanding that we are facing a cultural and historical phenomenon of great complexity.

The law imposes challenges to public and private institutions to create a broad and efficient network to combat violence against women. It also provides innovative protection mechanisms, and highlights those that, even though they already existed when the law was passed, need special attention and greater investment from the State.

The actions necessary to confront violence against women are: the establishment of immediate restraining orders for women in violent contexts; the creation, consolidation and strengthening of an assistance network (shelters, women's reference centres, specialised services within the justice system); the development of campaigns and prevention activities focused on combating toxic masculinity and promoting women's rights, and the creation of continuous qualification and training programmes for legal professionals working in this field, among others.

Regarding the actions with men who commit violence against women, the law also innovates by proposing the creation of educational centres, the mandatory attendance to educational programs and the restraining orders that determine conditions to be met by them. In this sense, this document refers to the follow-up of restraining orders and other actions that integrate liability services for men provided in the Maria da Penha Law.

Restraining orders and other liability services for men, within the scope of alternatives to imprisonment, as already announced in Guide 1, has occurred from a change in the design of the national policy conducted by the General Coordination of Alternatives to Imprisonment (CGAP / DEPEN / MJ), which sought to add other alternatives to imprisonment.

Alternatives to imprisonment must break with a concept of mere retribution for the crime on the part of the State and aggregate new paradigms, radically opposed to those attached to imprisonment, especially with regard to the accountability of the people involved, the repair of damage when possible and the restoration of affected assets, so that the adequacy of the measure and its compliance translate into the real resolution of the problem for the people involved in the case brought to the criminal sphere.

Restraining orders and other accountability actions for men, by the national policy of alternatives to imprisonment, constitutes a fundamental step for the consolidation and expansion of these practices, from a methodological alignment that seeks to contribute to the reduction of violence against women in Brazil.

Thus, due to the scope of the policy of alternatives to imprisonment, in this document, we do not intend to deepen all aspects of the Maria da Penha Law, stopping at the alignment of a methodology for restraining orders and other liability actions for men, as these are among the modalities of alternatives to imprisonment.

**For the development of this Product and systematization of a methodological guideline, we will treat "liability actions" as any practice of accountability for men, considering:**

**I) The actions expressly provided for in the Maria da Penha Law:**

- A) "that oblige the aggressor" (art. 22);
- B) "Education and Rehabilitation Centres for Offenders" (art. 35, V);
- C) "Compulsory attendance of the offender to recovery and re-education programmes" (art. 45, sole paragraph).

**II) Alternative measures that are developed in a judicial or community context and can be added to accountability actions:**

- A) Reflective Groups;
- B) Restorative Justice.





2

## Maria da Penha law and the structuring of a management model to follow-up the implementation of restraining orders and other liability services for male perpetrators of violence against women

### 2.1. Maria da Penha Law and the criminal justice system

In 2016, the Maria da Penha Law completed 10 years of existence, and many are the dilemmas and challenges still posed to the confrontation of violence against women in Brazil.

A study conducted by Ipea (2013) reveals that the law did not mean a decrease in homicides against women, when comparing the periods before the law.

The Map of Violence published in 2015, placed Brazil in the 5th worst position in the ranking of countries with the highest rate of homicides of women, with 4.8 murders for every 10,000 wom-

en, which means an 8.8% increase in the homicide rate of women in the last decade. If we analyse the data over a longer period, the results become even more alarming. The number of murdered women went from 1,353 in 1980 to 4,762 in 2013, which represents an increase of 252%.

The study also reveals that the proportion of women murdered by their partners is 6.6 times higher than the murder of men by their partners.

According to data from the National Council of Justice (CNJ, 2017), more than one million cases concerning domestic violence against women were processed in the country's courts in 2016, which corresponds, on average, to one case for every 100 Brazilian women. Regarding this total, at least 13,500 were femicides.

De-banalising violence against women and demanding protective mechanisms and adequate responses through the justice system was undeniably one of the great advances that have come with the Maria da Penha Law, the result of a historic conquest with a long history of struggle for justice and the recognition of women's human rights.

However, according to the data shared above, the criminal justice system has been unable to contain the indicators of violence against women, which is a phenomenon of a structural, historical and cultural nature.

Esta ley estableció directrices en la legislación procesal penal para crímenes definidos como de menor potencial ofensivo, que pasaron a ser arbitrados por los Juicios Penales Especiales (Juizados Especiais Criminais - JECRIMs)

It is not only in the field of violence against women that the challenges of the criminal justice system as a response to social problems are perceived. In Guide 1, we discuss more comprehensively the problem regarding the extent of criminal control and the growth of incarceration in Brazil. According to data from IFOPEN (2017), Brazil is the third country that incarcerate the most in the world today, which means an increase of more than 80% of the prison population in the last ten years.

When it comes to violence against women, it is undeniable that the criminal justice system historically acted in a way to protect the aggressor. Once Criminal Law vested crimes practiced

in a familiar context as mitigating circumstances, as the legitimate defence of the honour in the crimes of adultery; discriminatory criminal types as the crimes of seduction and bride kidnapping; extinction of criminal liability with the marriage of the victim with her offender in sexual crimes, etc.

It is also worth noting, even in criminal law tools that in theory intended a more streamlined access to the justice system, such as the Law of Special Courts (9.099/98), regarding the absence of an adequate response to violence against women.

Seeking to ensure greater speed to the Judiciary and having as reference the conciliation between the parties involved, this law established guidelines in the criminal procedural legislation for crimes defined as minor offences, which began to be arbitrated by

Special Criminal Courts (JECRIMs).

In practice, what was found was an extension of punitive control by the state (Karam, 2004) and the confirmation of the criminal justice system's inability to resolve social conflicts and violence such as gender violence.

The Jecrims enabled the disclosure of violence against women, since this was the main demand presented there. However, their inability to solve the violence resulted in a high number of conciliations carried out in a context of pressure or coercion towards women, resulting in agreements centred on the payment of fines and basic food baskets (BFB) by the men.

**This law established guidelines in the criminal procedure legislation for crimes defined as minor offences, which are now arbitrated by the Special Criminal Courts (JECRIMs)**

Although Special Criminal Courts were a space of public formalization of the phenomenon of violence against women, because of the way they "solved" the cases presented there, they constituted an instrument of legitimization and trivialization of violence and disqualification of the violence presented by women, as the complexity of the phenomenon was not taken into account and women's safety was not ensured.

Based on hundreds of reports by women brought to those Courts, it is evident that pre-prosecution transaction<sup>1</sup> or conditional discharge, as they were developed in the JECRIMs, did not prioritise a qualified hearing or the solution of the problem. On the contrary, it only sought the consolidation of an agreement alien to the needs of women and totally disconnected with the violence, generating a feeling of powerlessness, victimization and insecurity in women.

These problems resulted in widespread dissatisfaction among the women who brought the criminal prosecution, centred on legal aspects constituting the text of the law itself, such as the denomination of "minor offence", in addition to operational issues such as the pressure for judicial settlements.

The critique also demanded greater understanding and investment by the State regarding the need for comprehensive assistance to the range of issues surrounding domestic violence against women.

In 2002, in addition to the general discontent with the treatment given to cases of violence against women in the JECRIMs, a consortium of feminist institutions and jurists began to act to propose a new law. This happened after Brazil was condemned by the Inter-American Court of Human Rights of the Organization of American States (OAS) for its omission in the case of violence suffered by Maria da Penha Fernandes.

The Maria da Penha Law resulted in wide-ranging modifications in relation to what was previously in force in Law 9099/95. The most important of which were: the cases ceased to be dealt with by the JECRIMs. Therefore, police inquests were again used to investigate crimes; the crimes in this context ceased to be considered as "minor offences"; the custodial sentence for the crime of domestic violence had its length increased, making it possible for the perpetrator of violence to be imprisoned. In addition, the attribution of pecuniary penalties and other resources for reducing sanctions set forth in the previous law were prevented.



**The crimes in this context are no longer deemed "minor offences"; the prison sentence for the crime of domestic violence had its length increased, and the attribution of pecuniary penalties and other decriminalising resources set forth in the previous law.**

<sup>1</sup> The pre-prosecution transaction ("transação penal") is provided for in Federal Law No. 9,099/95. It is based on the "consent" of the parties, which means the possibility of immediate application of an independent alternative measure of a criminal conviction, respecting the requirements determined in the law itself



Hence, the struggle of women to put an end to violence is not based on the strictly criminal field and since its origin, it has developed wider actions, with political and institutional reach, together with the public power and social movements.

In this context, Brazil has actively participated in various international emancipation movements and has become a signatory to various international treaties such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in 1979; the American Convention on Human Rights and the World Conference on Human Rights in Vienna (1993); the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in Belém (1994); the Platform for Action of the Fourth World Conference on Women, held in Beijing and adopted by the UN (1995); the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW), also adopted by the UN (1999); the Beijing +5 Conference, held in New York (2000).

Despite the fight to end violence against women, this phenomenon has still little visibility when we think about investments in specific public policies to tackle the problem, with insufficient and inadequate responses that are still offered to mitigate gender violence.

This translates into responses centred on punishment that in the vast majority of cases disregards determining aspects of the contexts of conflicts and domestic and family violence, mainly being spaces that continue silencing and re-victimizing women.

The data on violence against women, as well as the advances made by the Maria da

Penha Law within the perspective of full attention to the phenomenon, show that the tightening of the law on the criminal response is inefficient on its own to put an end to violence against women, also it is necessary to expand investments in policies and programs to ensure the implementation of the law, especially regarding preventive and educational actions.

It is necessary to seek solutions that can explain the phenomenon of domestic and family violence, ensure that women are heard in the context of violence, can interrupt the cycle of violence and promote structural changes in gender relations.

The traditional punitive system, centred on imprisonment and the constant demand for tougher responses whenever the system is incapable of responding to conflict and violence, is completely incapable of meeting the aims



En cuanto a los problemas relacionados con el enfrentamiento de la violencia contra la mujer, en *Criminología e feminismo: de la mujer como víctima a la mujer como sujeto de construcción de la ciudadanía*, Vera Regina de Andrade (1996) considera que esta demanda que criminaliza se relaciona a una respuesta eminentemente retributiva". La autora también señala que al igual que la lucha feminista en Europa en la década de 1980, es necesario afirmar la dimensión simbólica de la violencia como elemento central para la construcción de respuestas, lo que lleva a otros campos de interlocución.



of emancipating women, building equality and tackling gender violence, as there is no cultural transformation, no accountability.

A merely punitive system contributes to making gender violence even more invisible, because it is expiatory. It presupposes that with the application of the criminal sanction, justice is implemented, while the elements of a patriarchal structure are reproduced and never contested.

Practices related to structural changes in the symbolic field ought to be implemented, capable of promoting denaturalization of a chauvinist and sexist culture. These practices should not be understood in the strict sense as a service "for men", but as an action aimed at interrupting gender and intra-family violence, for the freedom, safety and dignity of women.

## 2.2. Restraining orders for men

Article 5 of the Maria da Penha Law defines as domestic and family violence against women any action or omission based on gender that causes death, injury, physical, sexual or psychological suffering and moral or property damage,

within the domestic environment, the family and any intimate relationship of affection, in which the aggressor lives or has lived with the victim.

In order for the policy of confronting violence against women to be applied in a comprehensive way, a combination and balance must be sought between measures of prevention, protection, assistance and accountability.

The Maria da Penha Law is innovative as to the possibility of applying restraining orders. These orders aim to ensure the quick protection of women, based on anticipatory/precautionary mechanisms.

These mechanisms can be adopted by the judge at any procedural stage, from the opening of the police enquiry to the judicial stage, and their purpose is to guarantee the protection of women and other family members in situations of violence, as well as to ensure the effectiveness of the criminal proceedings.

Restraining orders are one of the greatest innovations brought by the Maria da Penha Law. According to data from the National Council of Justice (CNJ, 2017), from 2006 to 2016, approximately 196,000 restraining orders were granted. For Nilo Batista,



*Certainly the most creative and praiseworthy sector of the law resides in the. There, various measures are designed that can, at the very least, ensure bearable levels of resolution of domestic and even property conflicts. (BATISTA, 2010, p.12)*

The restrictions on men brought to the law consider the attitudes that the perpetrator of domestic and family violence commonly uses to intimidate, threaten, paralyze and restrict the autonomy, freedom and dignity of women.

Because this type of violence nearly always happens in the domestic environment, it was also necessary for the law to promote restraining measures in this environment for women, children and the elderly. Restraining orders are aimed at ensuring the physical, psychological and material integrity of women and their families.

A large part of the pre-trial non-custodial measures described therein are also of an administrative nature, such as those of a family order, which require the provision of alimony and the restriction or suspension of visiting rights to children, as well as those restricting the possession of firearms.

As these are measures of criminal law enforcement, the consensus is that they are not restricted to the filing of a civil lawsuit and may remain in effect until the final judicial decision, regardless of the lawsuits filed in the civil sphere. This combination of competencies was assertive in the sense of not compartmentalizing

elements that are fully related to domestic and family violence.

The law does not specify a specific rite for the application of restraining orders and there are still controversies about the nature and form of processing them. Considering the precautionary nature and the time that must be respected between the report at the police station and the award by the judge, one should consider a simplified procedure and a more streamlined process, as well as guaranteeing a full understanding of the procedures by people who seek restraining orders.

The case relating to these measures should contain the information required by law, so that these can support the judge's decision in view of objective elements capable of ensuring the award of these measures, as well as safeguarding human rights in the criminal procedure. An inadequate response in this regard delays the granting of measures and jeopardises the protection of women.

The first measure presented in the law consists of the suspension of the possession or restriction on the carrying of weapons by the aggressor and is a key measure for the protection of women's lives.

As there are restrictions related to acquisition and registration of firearms, only civil or military police officers or other law enforcement agents are authorised to own a gun.

The use of a weapon for purposes other than those specific to the exercise of the function, as defined by law, constitutes criminal conduct on the part of the public agent, and should be automatically seized and retained by the police authorities.

In order to have a gun licence suspended, the man does not necessarily have to have used the gun directly in the violence against women.

**According to art. 22 of the Maria da Penha Law, the that the aggressor are:**

- I – suspension of possession or restriction on the carrying of weapons, with communication to the competent body, as per Law no. 10.826, 22 December 2003;;**
- II – removal from the home, residence or place of cohabitation with the victim;**
- III – prohibition of certain conducts, including:**
  - a) being near the victim, her family members and witnesses, establishing a minimum distance between them and the aggressor;
  - b) contact with the victim, her family members and witnesses by any means of communication;
  - c) frequenting certain places in order to preserve the physical and psychological integrity of the victim;
- IV – restriction or suspension of visits to minor dependents, after hearing the multidisciplinary care team or similar service;**
- V – provision of temporary support (child support and/or alimony).**

The context of the violence in itself already calls for this restraining order.

This measure must be reported to the public body, corporation or institution to which the man responds. Their immediate superior must ensure compliance with the court order. If the man fails to do so, he incurs the criminal offence of malfeasance or contempt of court.

The second measure expressed in law is the removal of the aggressor from the home, residence or place of coexistence with the victim. These measures were already provided for before the Maria da Penha law, but in practice they were seldom applied or the timeframe given for the man to move away made it difficult to protect the woman.

This is followed by obligations on the part of the man, who is forbidden from approaching or attempting any contact with the woman, her family members and witnesses, or frequenting certain places.

The distance that the man must keep from the woman, her family members and the house may be established in metres, and it is considered that this compulsory and generic distance makes it unnecessary to issue an exhaustive list of places in the decision, but seeks to preserve the spaces for coexistence, work and sociability of the woman and her family, even if these spaces are public.

The fourth measure determines the restriction or suspension of visits to minor dependents, after hearing the multidisciplinary care team or similar service. This qualified hearing for decision-making is important, as it protects children and adoles-

## The law also provides for the possibility of applying more than one restraining order concomitantly.

cents as well as sheltering them from conflicts and violence, also considering whether the absence of the father does not contribute to increasing harm to the children. However, if there is a risk to the integrity of the woman or children and there are no means of obtaining a prior opinion, the measure can be applied, without the need for a subsequent opinion.

The last measure presented is the provisional maintenance (child support or alimony) by the aggressor. This provision is appropriate when there are children or a relationship of economic dependence used as a means to constrain, oppress and violate, starting with the deprivation of subsistence.

The judge's decision on the application of these measures should be accompanied by a motivation, as it refers to non-custodial measures applied as a precautionary measure.

The measures may be terminated at any time, once the grounds justifying them are found to have elapsed, or may continue until the end of the criminal proceedings.

The archiving of the police inquiry, as well as the retraction against the aggressor generate the immediate failure of the applied measures, in the cases of public criminal action conditioned to legal representation.

As these measures are not exhaustive, it is possible, according to the law, to apply other modalities

ties that the judge deems appropriate (§1), whenever the safety of the victim or circumstances require so.

The law also sets forth the possibility of applying more than one restraining order concomitantly.

The law also mentions legal provisions from the civil branch, widening the range of possibilities, such as the measures present in article 461 of the Code of Civil Procedure.

It is important to consider that also in the "Restraining orders for the victim", there are obligations to men and they should be considered in the liability services, when applied by the judge.

### 2.3. Enforcement possibilities, expected results

The Maria da Penha Law eliminated the possibility of conciliation via pre-prosecution transaction when addressing domestic and family violence against women, as expressed in Law 11.340/06.

According to its article 16, it is possible for the woman who is a victim of domestic violence to drop charges in public criminal prosecution. This waiver will only be accepted in the presence of the judge and until charges are received by the Public Prosecution Office. Crimes against honour (injury, slander and libel) are recurrent examples of domestic and familiar violence. Minor bodily harm no longer requires legal representation of the victim, which makes it impossible for her to waive or drop charges.

With this limitation imposed on dropping the charges, the law intended to guarantee the protection of the woman, as in the context of vio-





**According to the Maria da Penha Law  
(Ley N° 11.340/2006, que crea mecanismos para frenar  
la violencia doméstica y familiar contra las mujeres):**

**Art. 23. The judge may, when necessary, without harm to other measures:**

- I – refer the victim and her dependents to an official or community protection or care programme;
- II – determine the return of the victim and her dependents to their respective home, after the removal of the aggressor;
- III – determine the removal of the victim from the home, without harm to any rights relating to property, child custody and maintenance;
- IV – determine the separation of the couple.

**Art. 24. (1) For protection of jointly owned assets or those privately owned by the woman, the judge may determine, preliminarily, the following measures:**

- I – restitution of goods unduly stolen by the aggressor from the victim;
- II – temporary prohibition for the execution of deeds and contracts of purchase, sale and lease of jointly owned property, except with express judicial authorisation;
- III – suspension of the powers of attorney granted by the victim to the aggressor;
- IV – provision of a security deposit, payable to a court-appointed escrow account, for losses and material damage resulting from the practice of domestic and family violence against the victim.

lence many women are pressured to waive their right to file a claim.

In crimes conditioned to legal representation, studies show that a significant number of criminal prosecutions are interrupted by express manifestation of the woman.

Research conducted by Marília Montenegro (MONTENEGRO, 2015) over three years with the Court of Domestic and Family Violence against Women in the city of Recife pointed out that 52.3% of crimes brought to that court are threats and 25.7% are crimes against honour, among which injury stands out.

It was also found that victims drop their charges in most cases in which such initiative is procedurally permitted to the woman. Waiving a claim does not necessarily mean that the conflict has been resolved. On the contrary, it may indicate the inability of the State to sort out the matter, especially when the only response offered is a punitive one, which is insufficient to attend to the conflicts in the criminal justice system.

Considering that violence is configured in a large number of cases from small unresolved conflicts, which become recurrent and aggravated, the inability of the State to ensure a space for conflict resolution may be resulting in a growing number of violence against women, indicated in this document from the alarming increase in the number of homicides of women.

The perception of the criminal justice system's inability to contribute to an adequate solution to the cases that reach its sphere is expressed in the considerable number of women who drop charges, when this is an actual possibility.

The Maria da Penha Law has removed the application of the provisions of Law 9.099/98,

but it is possible and necessary to think of alternative practices that better welcome and ensure qualified hearing and resolution of the problems presented, for the countless conflicts and cases of violence that reach or not even reach the criminal sphere.

Such practices can be implemented by initiatives of the justice system itself, in public policies or also by civil society institutions, seeking to effectively guarantee qualified spaces for the assistance of women.

There are already some community experiences underway in Brazil, with Restorative Justice methodologies, which can contribute to a culture shift and a greater demand and adhesion of people to these alternative tools for conflict resolution.

Studies on accountability services for men, developed in other countries, also highlight the importance and effectiveness of these practices.

These studies point to the need to work on conflicts in a relational way and, in this sense, it is necessary to build systemic responses, with methodologies that consider women and men involved in the deconstruction of cycles of violence.

Such practices cannot minimize the issue of violence against women; on the contrary, they must have as a reference the gender perspective, the empowerment of women and the rupture with established violence.

One of the arguments that seek to sustain the impossibility of mediation and restorative justice practices in cases of domestic and family violence against women is the issue of the imbalance of power between the parties, which interferes with the possibility of an equitable solution.

However, even or mainly in the penal environment, the process ends up once again silencing women, since the State takes it upon itself to conduct and solve the case, disregarding aspects that may be relevant for them.

In this sense, there is a double process of disempowerment of women, who are denied their autonomy and capacity, first in their domestic and family relations and then by the criminal justice system.

Another key element that justifies the need for the qualification of the means of conflict resolution and breaking the cycle of violence against women is to seek the end or the minimization of revictimization processes (which are also characterized as new violence against women), and is striking in the criminal context, in at least four aspects:

- i. as to the way the system acts, disregarding the active participation of women and viewing them as passive elements in the procedure;**
- ii. by denying their autonomy regarding the desire to continue or not with the, based on the limitations imposed by the law;**
- iii. the responsibility that befalls them when they want to drop charges, in many cases being accused of slanderous accusation or false reporting of a crime or misdemeanour;**
- iv. the guilt that befalls them for being held socially responsible for the effects of the criminalisation and imprisonment of the father of their children or (former) partner.**

It is necessary to consider that criminal representation, initially sought out by the justice system, even if it ultimately leads to the victim dropping charges, cannot be deemed incoherent behaviour. It should not even open space for any type of criminal liability by the State against the woman, since what she seeks are means of conflict resolution and an end to the violence suffered.

Instead of stigmatising and re-victimising these women, appropriate means should be addressed that promote active hearing capable of understanding the context and building solutions that ensure their safety and the interruption of cycles of violence.

The fact that some women are led to minimise or deny violence actually suffered and previously reported (e.g. at the police station) should be seen as a systemic problem of protection and help to break the cycle of violence and solve the problems and family conflicts that have arisen.

The most important thing when considering alternative methodologies is not to give up a criminal response, but to effectively ensure the resolution of the problem and/or break the cycles of violence against women, based on qualified hearing, with liability of the offender and reparation of damages to the victim.

The filing of a claim as an alternative to imprisonment requires adherence to the rules agreed upon in the construction of solutions, as well as the full ability of the woman to make decisions.

When a woman finds herself in a situation of domestic or family violence, her voice is deemed to have been silenced. What is proposed is not the re-establishment of conjugal ties or even rekindling the relationship, since the



autonomy of people regarding whether or not to remain in the relationship is upheld, but the empowerment of the woman, capable of giving an adequate response to solve the problems presented, break with cycles of violence and hold the offender accountable.

## **2.4. Liability services for men**

In addition to the restraining orders that oblige men, the Maria da Penha Law sets forth the creation of "Education and Rehabilitation Centres for Offenders" in Article 35-V, as well as the "compulsory attendance of the offender to recovery and re-education programs", as provided in Article 45, sole paragraph.



The "Guidelines for the Implementation of Accountability and Education Services for Offenders" (SPM, 2008) published by the Secretariat of Policies for Women, brings the following considerations:

**The conception of a 'centre' brings in itself the idea of a space of 'assistance' to the offender, similar to the Women's Reference Centres and the Social Assistance Reference Centres. However, the main objective of the liability and education service for the offender is the follow-up of the sentences and decisions awarded by a competent court regarding the offender. Hence, the service has a mandatory and educational character and not an assistance or 'treatment' nature.**

The law does not specify how these "centres and programmes" or "compulsory attendance" should be structured and does not determine in which procedural phase such services can be used, nor does it specify the form of organisation and methodology of these actions, or conceptualise the proposed actions presented therein as "education", "rehabilitation", "recovery" or "re-education".

However, in relation to the organisation of the service, the same document published by the SPM states that it should be conducted and facilitated through educational and pedagogical activities, preferably in groups.



Even before the Maria da Penha Law, group participation had been adopted as a penalty or restraining order for men in the context of domestic and family violence. However, the Maria da Penha Law grants political legitimacy on the implementation of actions with men who are perpetrators of violence in the most important law for the protection of women in Brazil's history.

There is no consensus as to the appropriate procedural stage for the application of men's participation in liability services. Many criticize its application in reflective practice groups as a restraining order, since they consider it to be an anticipation of punishment. In practice, the participation in groups has been applied as an restraining order, as a condition for a suspended sentence, as a precaution-

ary measure after the release from prison in cases of flagrante delicto or conviction.

According to the Plenary of the Federal Supreme Court, when judging the constitutionality of Article 41 of Law 11.340/2006, Law No. 9099/95 does not apply to crimes committed in a context of domestic and family violence against women, regardless of the penalty provided.

This decision sustains the non-application of the decriminalization statutes of Law 9.099/95 to crimes committed in a context of domestic violence and left still controversial the possibility of applying the conditional discharge ("suspensão condicional do processo") in cases related to the LPM.



Those who were against the application of the conditional discharge justified it on the grounds that it would once again be a decriminalising measure for crimes committed in a context of domestic and family violence against women, and once again impose the condition of "minor offence" on these crimes.

Generally speaking, the conditional discharge<sup>2</sup> is a suspension of the prosecution for a period of two to four years. It is possible when the minimum sentence is equal to or less than one year, when the accused is not a repeat offender and is not being prosecuted for another crime, in addition to the aspects determined by Article 59 of the Brazilian Criminal Code.

The conditional discharge is an alternative way to avoid the commencement of proceedings and its application provides for the monitoring of the accused for two to four years, in addition to providing for the possibility of applying restrictions during the probation period.

Those who advocated for the application of conditional discharge in cases of domestic and family violence argued that this is an autonomous provision, not linked to the Special Criminal Courts and minor offences.

This was the understanding of the judges at the first Permanent Forum of Courts for Domestic and Family Violence against Women (FONAVID), held in November 2009. According to Article 10 of this Forum, Law 11.340/06 does not prevent appli-

cation of the conditional discharge in cases where it is applicable.

One aspect that sustains the consideration of this provision is that it can promote greater celerity and effectiveness

in the protection of women, since the conditions for monitoring the offender can extend for up to four years, which is considerably longer than the time that can culminate in a sentence that restricts the rights of the perpetrator in most cases. However, Precedent 536 of the STJ, published in June 2015, was clear in stating that the conditional discharge and pre-prosecution transaction do not apply to offences subject to the Maria da Penha Law.

Another factor to be considered is the time taken by the State to respond. The long time that elapses from a criminal procedure to a probable conviction can be very harmful in the context of domestic and family violence, as a late response does not provide the immediate safety that many cases require, is not a preventive action, does not contribute to break the cycles of conflict and violence and cannot be considered as an accountability action.

The inclusion in liability services has also been applied in cases of arrest in flagrante delicto, at the time of the detention control hearing<sup>3</sup>, as a protective measure that binds the offender, for the granting of provisional release.

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<sup>2</sup> In Brazil, conditional discharge does not require a finding of guilt

<sup>3</sup> Detention control hearing ("audiência de custódia") is the act in which the arrested person is presented before the judge for him/her to decide on the legality of the arrest, the need for noncustodial measures, to collect evidence of torture or ill-treatment committed against the detainee and promote referrals related to social protection. Its rationale goes back to the American Convention on Human Rights (Pact of San José), the Covenant on Civil and Political Rights, the Code of Criminal Procedure and the CNJ resolutions, among which Resolution No. 213/2015 stands out





### 3 Follow-up on liability actions for men who commit violence against women

**There is still little knowledge and investment for the educational activities with male perpetrators of violence.**

As already pointed out in Guide 1, the model of the Centers for Support and Follow-up of Alternative Penalties and Measures was recognized as an important methodological mechanism for the follow-up of alternatives to imprisonment, as well as the social inclusion of the public served.

Resolution 06, of 25 November 2009, by the National Council on Criminal and Prison Policy (CNPCP), and Resolution 101, of 15 December 2009, by the National Council of Justice (CNJ), attest and recommend this model for the promotion of the policy of alternatives to imprisonment. This recognition was also granted by the United Nations, in its 12<sup>th</sup> Congress, which considered Brazil's alternatives to imprisonment one of the best practices for the reduction of prison overcrowding in the world. The First National Conference on Public Security (CONSEG, 2009) also considered the policy of paramount importance for Brazilian public security.

For the follow-up of restraining orders and other liability services for men, as well as in relation to all modalities of alternatives to imprisonment presented in these Guides, what is proposed is the creation or adaptation of the Integrated Centres of Alternatives to Imprisonment, which must have technical and multidisciplinary teams, from partnerships signed with the Justice System.

Despite the law, in practice there is still little knowledge and investment for the implementation of educational activities with male perpetrators of violence.

It is possible to highlight the creation of some accountability services for men in Brazil, even before the Maria da Penha Law, still in the context of Law 9099. However, these experiences were established more as localised initiatives than as structured public policy, and many of them have suffered or are at risk of discontinuity, due to the lack of resources to become permanent programmes.

As pointed out, for the implementation of alternatives to imprisonment, it is recommended that programs are structured with the Executive Branch. Due to their authority in terms of public policies, the services of alternatives to imprisonment have greater permeability in the Protection Network and in essential services, and are key factors to break the cycle of violence and vulnerability.

The experience with men in contexts of conflict, domestic and family violence indicate demands mainly with the health and social assistance networks, due to the need for addressing issues related to alcohol and substance abuse, besides psychosocial assistance and matters

related to work and income. These demands for social inclusion do not replace accountability actions against violence, but are considered fundamental to an integral and effective work with men.

Therefore, it is not a matter of mere penal enforcement, but of the effectiveness of very broad social networks, which involve the construction of pacts and work routines between various public policy fronts, in addition to the effective participation of civil society.

What is proposed, regarding restraining orders and other accountability services for men with alternatives to imprisonment, is not the structuring of specific "Centres". It is about a follow-up service of the restraining order and other liability actions for men, according to the Maria da Penha Law, along the Integrated Centre for the Follow-up of Alternatives to Imprisonment. This serves to assist men in situations of conflict and domestic and family violence, by fostering and guiding a methodological national policy of alternatives to imprisonment.

In Districts where there are no structured Alternatives to Imprisonment, the Judiciary may seek to articulate with the Executive, so that such a service may be constituted. However, if such a structure is not immediately possible, a partnership with an NGO specialized in gender issues may also be established to develop the actions detailed herein, mainly aiming at the Reflective Practice Groups.

The services of Alternatives to Imprisonment in Brazil have expertise to follow up non-custodial measures and many already develop or are partners of institutions in charge of the implementation of Reflective Practice Groups for men. What

is aimed, then, is to better structure this service, align the follow-up of these practices methodologically, inter-institutionally and systemically.

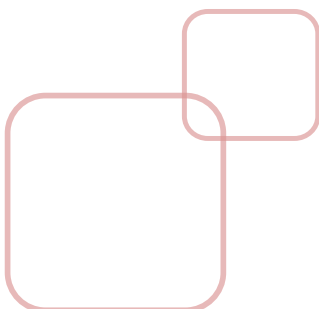
Thus, the structures that will add to this service must be improved and, mainly, promote continuous qualifications and training for the teams that will work in this service.

The follow-up work of the restraining order for men should be guided by attention to the court decision. To do so, spaces for dialogue must be created about the context of the conflicts and violence experienced, always respecting the limits agreed upon in the judicial decision.

For this follow-up to be possible, it is necessary that an understanding and workflow is established between Courts of Domestic Violence or Courts responsible for the granting and enforcement of the measures provided for in the Maria da Penha Law, seeking to align the understanding as to methodology and competencies.

The workflow must be properly constructed, considering the teams' responsibilities, capacities, structures, knowledge and qualifications. The follow-up of restraining orders for men who have perpetrated violence against women should consider the following procedures, which will be further detailed:

- I) **Human Resources**
- II) **Methodological approach**
- III) **Referral by the Judiciary**
- IV) **Place for the performance of practices**
- V) **Reception**
- VI) **Referrals**
- VII) **Follow-up/Routine visits**
- VIII) **Seguimiento of measures**
  - a) With the court responsible for referring and enforcing the measures
  - b) With the man under
  - c) With the municipality's Social Inclusion Network
  - d) With the Women's Protection Network
  - e) Case studies in teams and/or with the network and justice system
  - f) Participation in Network spaces
- IX) **Finishing group**
- X) **management**
- XI) **Incidents**





I

## Human Resources

The technical staff of the Centres is formed by a multidisciplinary team with interdisciplinary action, consisting of professionals in the areas of social and human sciences, including psychology, social services and legal professionals.

To work specifically with and other services regarding the Maria da Penha Law, the Centre must have a staff of professionals who will work on this front. This team must participate in specific training sessions, with minimum workload of 60 hours, focusing on violence against women, domestic and family violence, gender, feminism, and masculinities. It may be an option that the entire team undergoes this training, which increases the capacity to provide services.

The conduct of the practices, especially the ReflectivGroups, should preferably be carried out outside the judicial environment, because the method requires the non-perception of power relations already symbolically instituted.

II

## Methodological approach

The focus of the services for men is to follow up on the judicial measures and decisions determined for men regarding the Maria da Penha Law.

No activity or practice carried out as a service shall be of an assistential, therapeutic or treatment nature.

These services must contribute to raising the awareness of offenders about gender violence as a violation of women's human rights and to holding them accountable for the violence committed, as well as act in an articulated manner with other Women's Protection Network services towards preventing and fighting violence against women.



### III

## Referral by the Judiciary

Referral by the Judiciary to the Centre must be agreed in advance between the institutions, based on well-defined procedures.

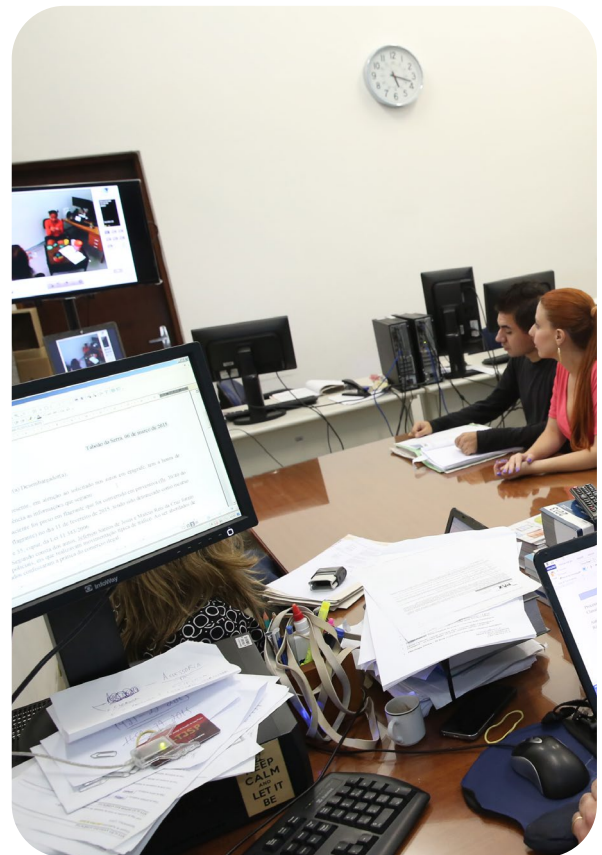
The judge shall determine in the decision that the man must attend the Centre, setting out the conditions of this measure (frequency of attendance, number of hours, estimated end). The team can only do what the measure expressly determines. The measure must state the deadline for the man to appear and the address of the office/service. This measure need for the appear in court, since the Centre will be responsible for attaching periodic reports to the case compliance and incidents.

The measure should be detailed in the minutes of the hearing or sentence and with guidelines on how to comply with it, so that the man can report to the Centre. The minutes should also include an estimate of the court decision's enforceable period.

### IV

## Place for the performance of practices

Ideally, men's accountability services should be structured outside the judicial environment, since the accountability approach requires less hierarchical structures for the development of reflective group methodologies.





**V**

## Welcoming

The person arrives at the Centre after the instructions given during the hearing, presenting a copy of the document which states that they must appear at the Centre. During this first visit, the person will be welcomed by the psychosocial sector. The service is a space for listening where factors such as the physical and psychological situation, understanding of the context of the court order, location and housing, available hours, abilities, and demands for inclusion in specific programmes or treatments are evaluated. This information should be included in a standard form for the first service and is important for the follow-up of the measure and the referral to the network according to the perceived demands.

As this is the first contact, it is important to try to break down the resistance men have when they come to comply with the measure. A comprehensive view of the person should be sought, such as their emotional state, social conditions and interpersonal and family relationships. These are aspects that contribute to building a relationship and routine capable of guiding this service. It also presents the conditions for follow-up, workflows, reinforcing that this is a judicially awarded decision that must be enforced, as the Centre is responsible for including monthly reports in the case file.

The court decision should be read with the person, seeking to clarify any doubts and reinforce their commitment to comply with the measures applied thereto, explaining the consequences in case of non-compliance.

Many men usually arrive at this first meeting with legal doubts and resistance to comply with such order. It is important that this is a space for listening and not only for guidance, as the man's perception of his capacity to be heard by the team may determine the construction of a bond that contributes to the service. If there are urgent demands, the person can be referred for specific care in the network.



**The court decision should be read with the person, seeking to clarify any doubts and reinforce their commitment to comply with the measures applied thereto, explaining the consequences in case of non-compliance.**

## VI

### Referrals

Referrals are made by the team according to the demands presented by the men, perceived by the team or from indications or determinations by the judge.

If there is no court order, referral can only occur with the consent of the man.

It is worth highlighting that for social inclusion in the social protection network or for treatment, in addition to the existence of normative guidelines in this sense, it is important that they are not conducted as a court order but from the awareness of the technical team of the Centre.

A large part of the public that arrives at the Centre are socially vulnerable and referrals to the partner network aim at minimizing these vulnerabilities.

After any referral to other services, the team should follow up on the progress: whether the person has accessed the service and how it was received.

## VII

### Follow-up/Routine visits

The man must return at the intervals determined by the court, and it is recommended that, if he has not taken part in a ReflectiveGroup, this should be done on a monthly basis.

The service can be in Group and individual.

In these follow-up visits, the man must sign the Attendance Form and the Pledge of Commitment; in addition, qualified to try to understand the current context of the situation of conflict and domestic and family violence.

These routine visits aim to offer support and a space for listening and guidance to the people assisted, in order to produce a discussion oriented towards reviewing the attitudes and behaviours that resulted in the court order.

New referrals should also be assessed regarding their suitability or if previous referrals have been effective.

a

**With the court responsible for referring and enforcing the measures**

The Centre should build streamlined workflows. It should hold meetings at reasonable intervals to discuss workflows and cases, inviting other actors from the Justice System and the Women's Protection Network to provide permanent training on of the measures.

The Court, the Centre and the Protection Network institutions should indicate an expert technician from each entity to facilitate the dialogue and procedures.

The Secretariats of the Courts or Tribunals should separate copies of each hearing minutes or issue a specific list every 30 (thirty) days so that the technical teams can monitor the attendance (or not) of the men who received the court order. The Centre must submit a monthly report to the Court, informing about those who did not show up to comply with the court order.

If there are requests from the Courts or Tribunals to measures that the team is not able or competent to, the Centre should contact the Court immediately, seeking dialogue and the construction of alternative solutions.

b

**With the Con el hombre en cumplimiento de la medida**

To law enforcement measures, at each return of the man, during the service, the team must inquire about their compliance, as well as attach a monthly report to the case file, with objective aspects regarding the of the measure.

If the team perceives psychological issues that require qualified analysis, the man should be referred to specialized services in the public health network.

The Centre's psychosocial team is not competent to make psychological evaluations and reports to be attached to the case file, even if it is legally required to do so. The Centre should forward such a demand to a specialised public service.

Monthly compliance reports should be attached to all cases monitored by the Centre, but this periodicity can be agreed directly between the two entites as needed.



### **With the municipality's Social Inclusion Network**

The work of the Network is developed from activities by the Centre aimed at actively participating in referral workflows and routines regarding the public assisted, for social inclusion, access and guarantee of rights.

The partner network of alternative services consists of the Justice System, institutions that receive people for alternative sentences and measures; public facilities and civil society institutions that operate in various areas, which enables the of the person to take place in a comprehensive manner. The mapping and articulation of this network by the Centre allows cases to be forwarded and the reduction of social vulnerabilities of the people being.

While the network of alternative sentencing and measures depends on the free adherence of the institutions to receive the person in alternatives to imprisonment, the Social Protection Network, regardless of the partnership, must receive and meet the specific social demands of the people referred, considering the institutional mission, universality and availability of services.



### **With the Women's Protection Network**

The Centre's team should assign one or more expert technicians to participate actively and periodically in the Protection Network. This participation does not presuppose individual information about the men in compliance with the court order, but by the need to improve the follow-up of the measures, as well as to seek to contribute to the strengthening of the Network.

The Centre may develop reflective practice groups with women in contexts of violence, seeking to work in a comprehensive and relational way in cases of domestic and family violence, but this service should be offered without any obligation to the woman.

The Centre must be careful not to re-victimize and expose women to violence. In this sense, to contact a woman in specific cases, if she is not a member of a women's reflective practice group, such contact should be sought out through the Protection Network.

If a woman in a situation of violence comes to the Centre to seek guidance or information about the man under correctional control at the Centre, the team will be responsible for providing her with general information about the work being done, without breaking the confidentiality of the man's case. It is recommended, in these cases, to refer her to the women's services in the Network.

Requests for information over the network about a man under correctional control should be attached to the case file or requested in the presence of the judge in meetings or case studies. Information can only be shared after a court order is issued. In cases of utmost urgency, one should seek to contact the judge directly to streamline the proceedings.

### **e** Case studies in teams or with the networks and justice system

Case studies should be carried out at the Centre among the team, ensuring an interdisciplinary approach, seeking to define strategies for, approaches and appropriate referrals. The teams may invite actors from the women's protection and social inclusion networks, as well as representatives from the justice system, to discuss cases that require specific assistance/ referrals/knowledge and guidance. Some meetings can be held in court, if the presence of the judge is deemed necessary for a case study; or they can take place at the head-office of an institution in the women's protection or social inclusion network.

### **f** Participation in Network spaces

The Women's Protection and Social Inclusion Networks may have specific meeting routines and it is essential that the team has representations in these spaces, enhancing the strengthening such bonds, the spaces for articulation and case studies.

## **IX**

### **Finishing group**

This activity should take place monthly in the Centre with the presence of men who are in their last attendance. This meeting allows for a systemic view on the context of the measure for men, their perception of issues related to conflict/family violence, as well as their view on the work of the Centre.

## **X**

### **management**

The Centre's procedures must be computerised and periodically updated by the team and documents properly archived, ensuring adequate management. The Centre must build efficient methodologies for collecting, processing and analysing data.

## Incidents

Incidents regarding the enforcement of court decisions are any situation that interferes with the regular compliance of the measure. Irregular compliance is deemed suspension of the law enforcement measure, non-compliance, or any other cause that generates problems or discontinuity in regular compliance. Some of the most recurrent incidents in the enforcement of alternative to imprisonment are:

### Refusal to sign pledges or participate in a meeting contained in the compulsory measure:

The team may try to sensitize the person through individual assistance and guidance as to the consequences of non-compliance. If refusal persists, preventing the due compliance with the methodology, the team will return the case to the Judiciary.

### Failure to attend meetings on the scheduled date:

The team must make phone contact for three consecutive days. If there is a justification and immediate return, compliance continues without interruption. In the case of two continuous absences, if there is no plausible justification, there will be a communication to the court. If there is a justification, such as in cases of illness, accident, work-related or other reasons, the justification should be attached to the case file, resuming compliance.



### Consecutive absences to the follow-up visits determined in the court decision:

In case of two absences regarding matters of compulsory attendance, it will be considered a breach of law and this will be communicated to the court. This number of absences should be agreed in court and duly informed to the man in the first attendance, as well as reinforced to him after the first absence.

### Reports of a crime committed by the man:

If the team becomes acquainted with or the man states that he has committed an offence or violence, the team should:

- i) If the claim is made by a third party, inform that person of the procedures to formalise the complaint, seeking to articulate access and the legal mechanisms for this in a streamlined manner;
- ii) Immediately discuss the case as a team, in order to make the appropriate legal decisions, among which is to make an immediate communication to the court (in case of recurrence of violence against women) and competent bodies, as in the case of crimes under the Brazilian Statute of the Child and Adolescent, the Elderly Statute, etc.



### Non-compliance:

Non-compliance with the measures exclusively leads to immediate communication to the court, and the Centre has no power to take any other action.



Incidents of enforcement are any situation that interferes with the regular performance of the measure





## 4

# Reflective Practice Groups

Interventions with male perpetrators of violence began in the United States in the 1970s, and today there are hundreds of experiences, with diversified methodologies.

What these initiatives have in common is a focus on complementing the work of preventing violence against women.

Despite more than 30 decades of practices around the world, the search for alignment of guidelines to guide interventions with men is recent, with publications on approaches developed in other countries and specifically in Brazil.



*The Platform for Action of the UN's Fourth World Conference on Women, 2005, held in Beijing in 1995, and the Report on Good Practices in Legislation to Address Harmful Practices against Women, by the United Nations Division for the Advancement of Women, UNODC, 2008, encourage governments, private entities and civil society organisations to promote programmes aimed at men responsible for violence against women.*



Research conducted by the Noos Institute (Beiras, 2014) mapped "Services of group attention to men who commit violence against women in Brazil", totalling 25 programmes in different Brazilian states.

This study was important to know the practices, their origins, epistemological and theoretical aspects, methodologies, funding forms and relationship with the justice system. With the exception of some more structured programmes, most of these experiences are very recent and conduct temporary projects, which reveals a fragility, due to the discontinuity of this work.

It is also interesting to note that most of these activities are of a governmental nature, certainly due to the Maria da Penha Law - as practically all of these projects serve men in the context of the law.

As to the methodology employed, they are very diverse, but 89.5% of the institutions revealed that their interventions have a gender perspective; 68.4% highlight masculinities studies; the same number as before states that they act towards human rights, and 47.4% include feminism; 47.4% work with a psycho-educational ap-

proach; 26.3% reveal an integrated multiple perspective, 10.5% being psychoanalytical and 5.3% clinical behavioural.

A greater difference between the experiences is perceived in the number of meetings with men, and this is a key element for the effectiveness of the expected results. Many of the programmes did not disclose, but highlighted a variable number of meetings. The number of meetings, for the projects that answered this item, varies between 20 (Iser/RJ) or 16 (Instituto Albam/MG) to 05 (State Secretariat and Human Rights of Acre) meetings.

This research, carried out by the Noos Institute, also surveyed the institutions that conduct specific groups with women in contexts of domestic and family violence, who are invited to participate voluntarily. These groups contribute so that the context of conflicts and violence are approached in a relational way, with a greater capacity for intervention by the technical teams. The constitution of Reflective Practice Groups for women faces a certain difficulty in adhesion and integral participation due to the voluntary nature of the participation.

**From international systematizations and studies about the same topic in Brazil, brought to this publication or consulted for the drafting of this document, we highlight the *Directrices para el Desarrollo de unas Normas para los Programas Dirigidos a los Hombres Perpetradores de la Violencia Doméstica - Daphne Project: Work with Perpetrators of Domestic Violence in Europe* and the *Criterios de Calidad para Intervenciones con Hombres que Ejercen Violencia en la Pareja - HEVPA* as a framework of the main guidelines to be methodologically observed for the development of Reflective Groups. In addition to the guidelines presented therein, we include others in the methodology that follows, due to the peculiarities of the model presented here, especially considering the group for men as mandatory for enforcement of the court decision and the implementation from the promotion by the Executive Branch.**

Parallel to the reflective practice groups for men, specific groups should be developed for women in contexts of conflict and domestic and family violence, invited to participate on a voluntary basis, which contributes to a better result of the interventions, considering the relational and structural nature of this phenomenon. These groups should be formed based on the awareness of the entities/institutions that assist women in cases of domestic and family violence, such as specialized police stations, courts and protection network. By participating in a reflective practice group, women have a space for qualified listening, which contributes to a feeling of security, in addition to the empowerment and strengthening necessary to break cycles of conflict and violence.

The working procedures for these groups with women should take into account the voluntary nature of women's attendance, and consider the need for an intervention that focuses on women's vulnerabilities and empowerment in order to break cycles of violence.

**Reflective Practice Groups should consider the following procedures, which will be detailed below:**

- I) Entity responsible for incentive and enforcement**
- II) Consensual or compulsory nature**
- III) Capabilities and qualification of the professional team**
- IV) Theoretical or conceptual models**
- V) Quality control, documentation and evaluation of the programme**
- VI) Observing the appropriate format and timing of intervention**
- VII) Role of facilitators**
- VIII) Format of the groups**
- IX) Intervision**
- X) Incidents**
- XI) Compliance**
- XII) Effectiveness evaluation and surveys**



**I**

## Entity responsible for incentive and enforcement

Accountability groups may have community or governmental initiatives. The most suitable is that, even in the case of enforcement of a compulsory measure, it should be carried out outside the judicial environment, due to the reasons already highlighted in this document. If there is no Integrated Centre for Alternatives to Imprisonment in the District, the Judiciary may develop partnerships with gender specialist institutions for the development of Reflective Groups.

**II**

## Consensual or compulsory nature

The men referred by the Justice System as a protective measure or will have compulsory participation. Other men may be invited to participate in the groups, in a consensual and non-judicial way, referred and/or sensitized in other social and community contexts.

For groups with women, they will be encouraged to participate on a voluntary basis, based on prior awareness-raising.

**III**

## Capabilities and qualification of the professional team

The groups must be conducted by professionals, preferably from the Human Sciences, with qualification, specialization or trajectory in the gender perspective, theories of masculinities, knowledge, sensibility and implication about the dynamics of violence against women. The team must also count on permanent and adequate supervision and advising.

The Centre should establish partnerships with civil society institutions specialised in gender issues and capable of developing Reflective Groups.

## IV

### Theoretical or conceptual models

The implementation of the groups should consider the following elements, to be developed in periodic training and studies of the teams:

- a) Gender perspective, prevention of violence against women, masculinities and violence;
- b) Accountability: the work with men who commit violence must be based on their ability to change and accountability regarding conflict and violence, marking the autonomy of men as to their choice from ample possibilities of acting in the face of conflict with a woman;
- c) Women's autonomy and empowerment: both in groups with men and with women, women's autonomy, freedom, dignity and integrity should be addressed, as well as the affirmation and respect for their rights and decisions;
- d) Integration into the Network for combating violence against women;
- e) Integration into the Social Inclusion Network: Social vulnerabilities should encourage referral to other assertive services, regarding specific demands (alcohol, drugs, mental health issues, etc.), without serving to justify violence against women or interrupt the participation of men in the accountability group, considering that they are autonomous and independent problems;
- f) Focus on the central dimensions of men's use of violence: approaches that enable the complexity of the phenomenon of violence perpetrated by men to be understood from multiple socio-cultural, relational and personal factors (cognitive, emotional and behavioural).





**V**

### Quality control, documentation and evaluation of the programme

The program should rely on continuous evaluation of the methodology, if possible with external consultants.

**VI**

### Observing the appropriate format and timing of intervention

This service presupposes group meetings/interventions, and individual consultations can be included because of specific demands and attendance of men. **Regarding the number of meetings, the ideal is attendance from 16 to 20 meetings weekly, each meeting lasting for 02 hours.** It should have a minimum participation of 08 people and a maximum of 20, so that the methodology is functional. Alternative group schedules should be built, which do not affect people's work routine, especially with groups held at night and on weekends. These aspects must be aligned beforehand in court, as they must be expressly included in the minutes of the decision.

**VII**

### Role of facilitators

"Facilitator" is the person who conducts the group and this terminology marks a less hierarchical position of this professional in the meeting. The group does not have a lecture, training, class, therapy, assistance or punishment format. Thus, the facilitator should not assume the position of a teacher, educator, therapist or other positions that crystallize a distance marked by power relations, but should have the ability to promote dialogue, with a reflective nature.

Groups should ideally have the presence of two professionals and it is recommended that there be one woman and one man for groups with men, so that we can re-signify the representations of gender through the facilitators. In the groups for women, it is recommended that there be two female facilitators, since, due to the vulnerability of some women the violence they have suffered, some do not feel comfortable being led by men.





## Format of the groups

### Open group:

An open group is continuous and can include new male participants. Thus, there will be men ending their participation while new participants are being included. The institutions that work with this format highlight the importance of this methodology because men with some time of participation will be less resistant to the approach, many having already adhered to the methodology, understanding its purpose and results, leading them to contribute to welcome new participants, who usually are resistant to participation. An older participant can be encouraged to welcome a newcomer, by explaining the participation agreements and methodology. There is less resistance when a new member is welcomed by someone he considers to be in a similar situation to himself. When a group begins with all the men at the same time, it can take longer for other members to join in, since men tend to form "pacts" of resistance, seeking to hinder the work.

### Mixed group:

The group is predominantly closed, welcoming new members until a certain meeting.



### Closed group:

When a group starts and ends with the same participants. This format contributes to the formation of a group identity, but is more advisable for women's groups, since the feeling of belonging, affection and welcome promoted by a fixed group contributes to the strengthening and empowerment of women. In men's groups, the closed group can lead to resistance and consolidation of behaviors and leaderships that hinder processes of accountability, re-signification and breaking of resistance.

**IX**

### Intervision

Meetings with all professionals of the institution that facilitate groups should be held fortnightly, for case studies, exchange of experiences, training, methodological guidelines. In these meetings, other actors from the network can be invited to discuss cases, according to demand.

**X**

### Incidents

The same procedures specified for incidents already presented in this document on protective measures for men should be followed.

**XI**

### Compliance

The last meeting in the Group should be a moment of evaluation of the man with the others, which requires the facilitators to be attentive to the end of the fulfillment of each of the members, promoting this rite of dismissal.

**XII**

### Effectiveness evaluation and surveys

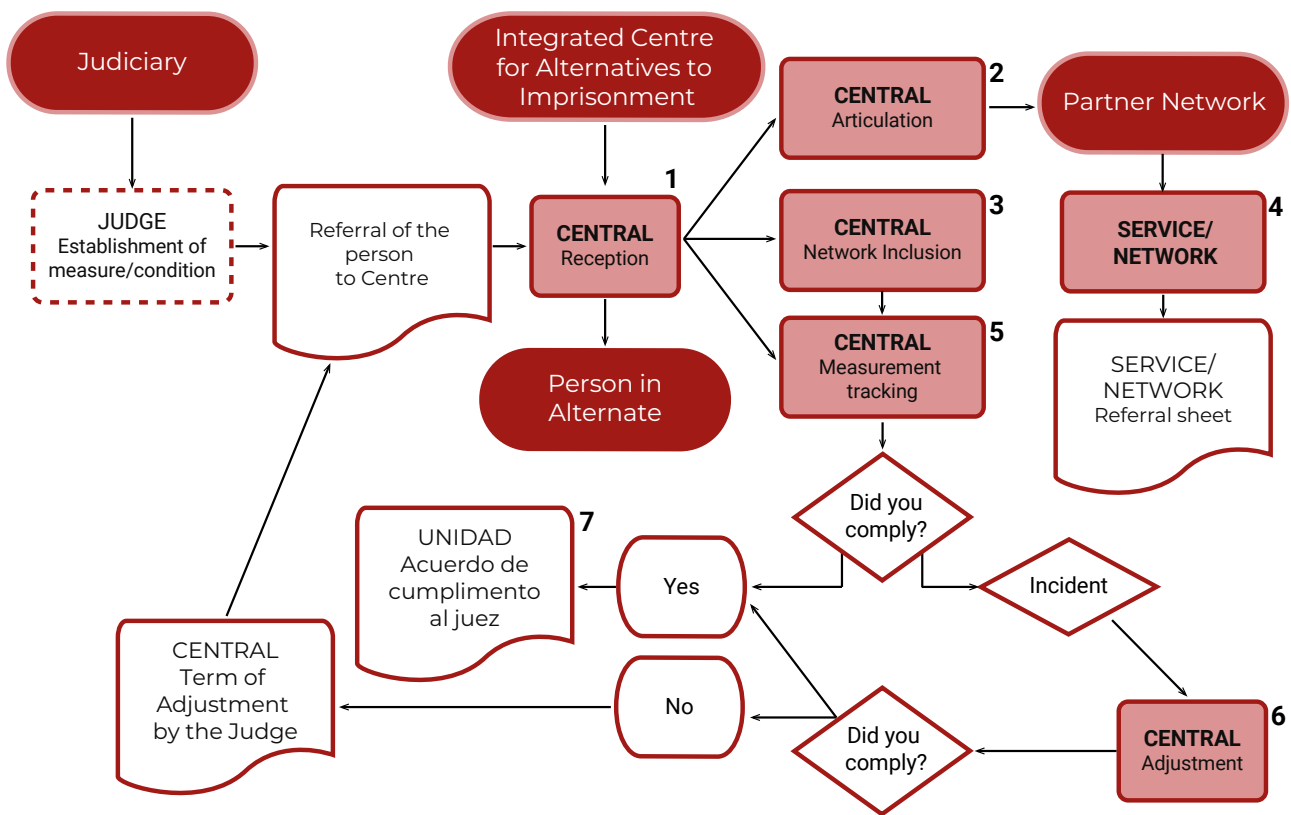
It is important to promote some voluntary meetings with the men after their start in the group, so that it is possible to perceive its effects. It is recommended to meet quarterly for one year or every six months for two years. In addition, the experiences should seek means to conduct quantitative/qualitative surveys in relation to their practice, with external and autonomous institutions.



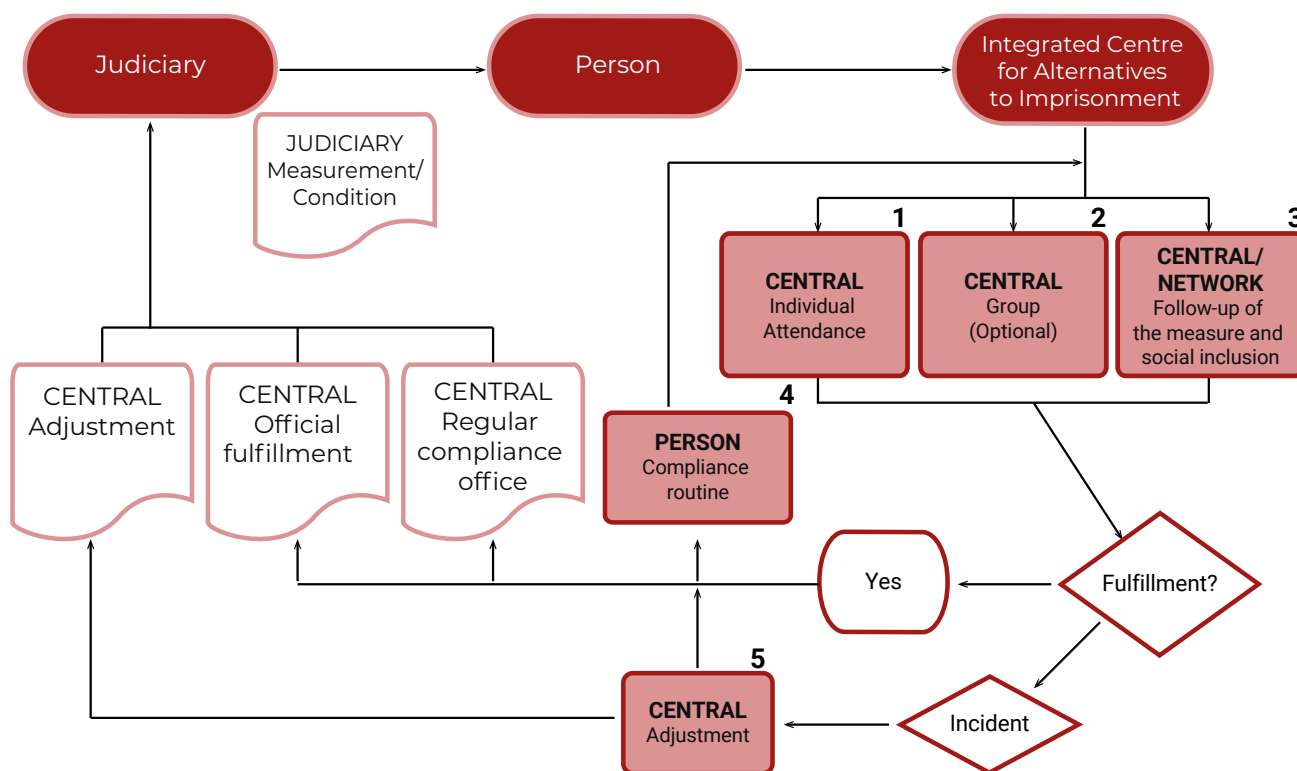
# 5. PROCEDURE WORKFLOWS

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

## 5.1. Processing of the court decision

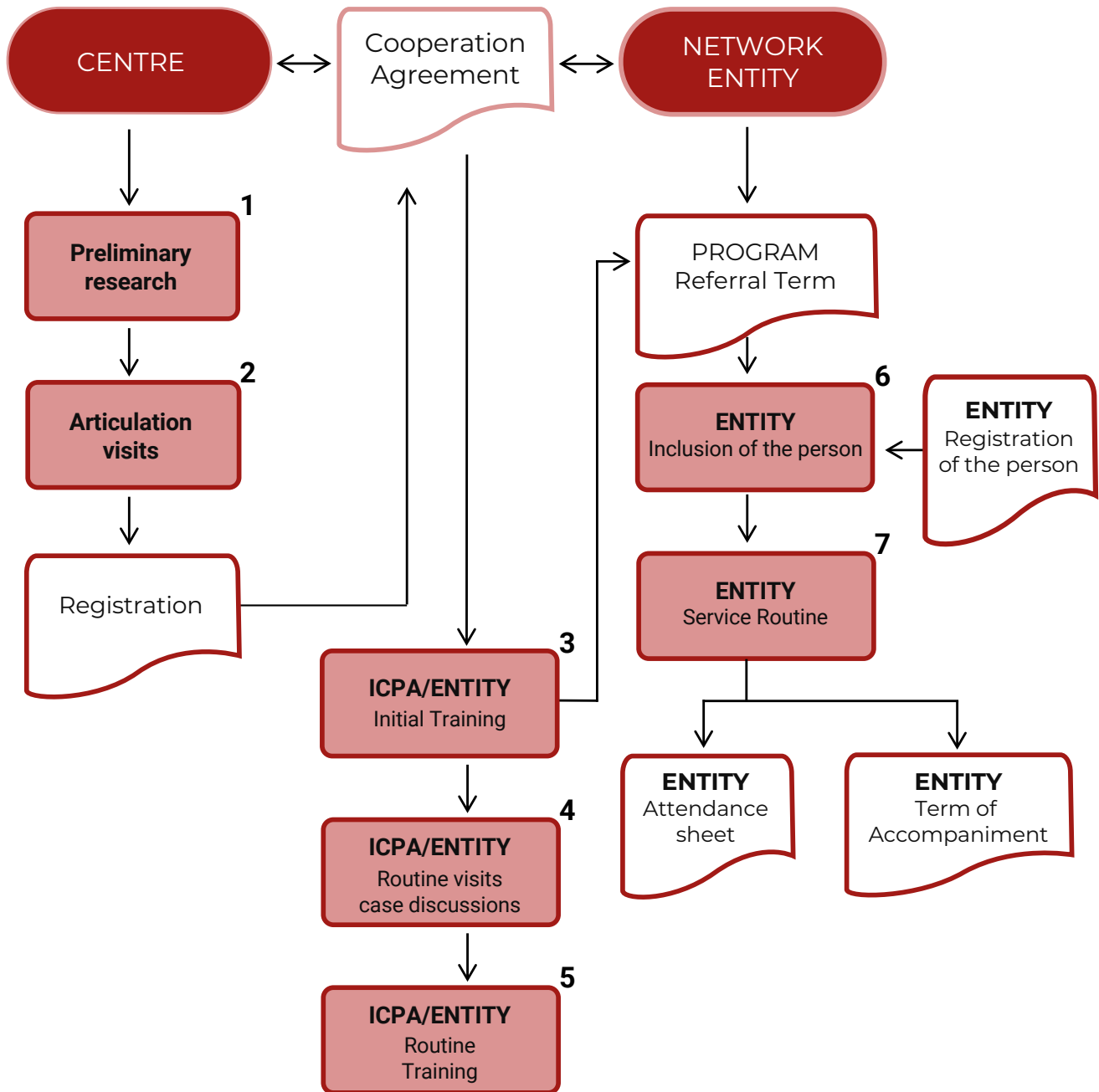


## 5.2. Follow-up of person on alternative sentencing/measure



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

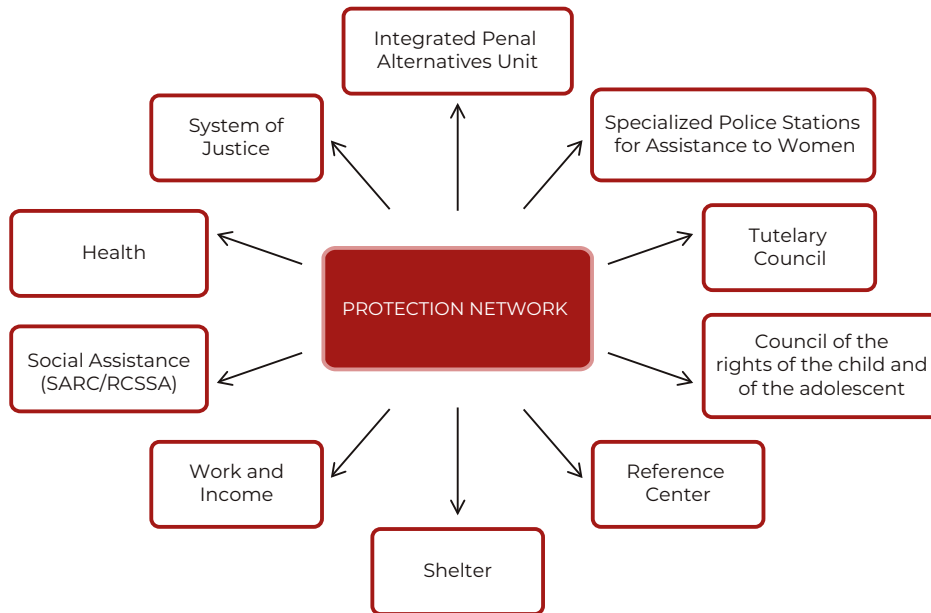
### 5.3. Liaison with Network entities



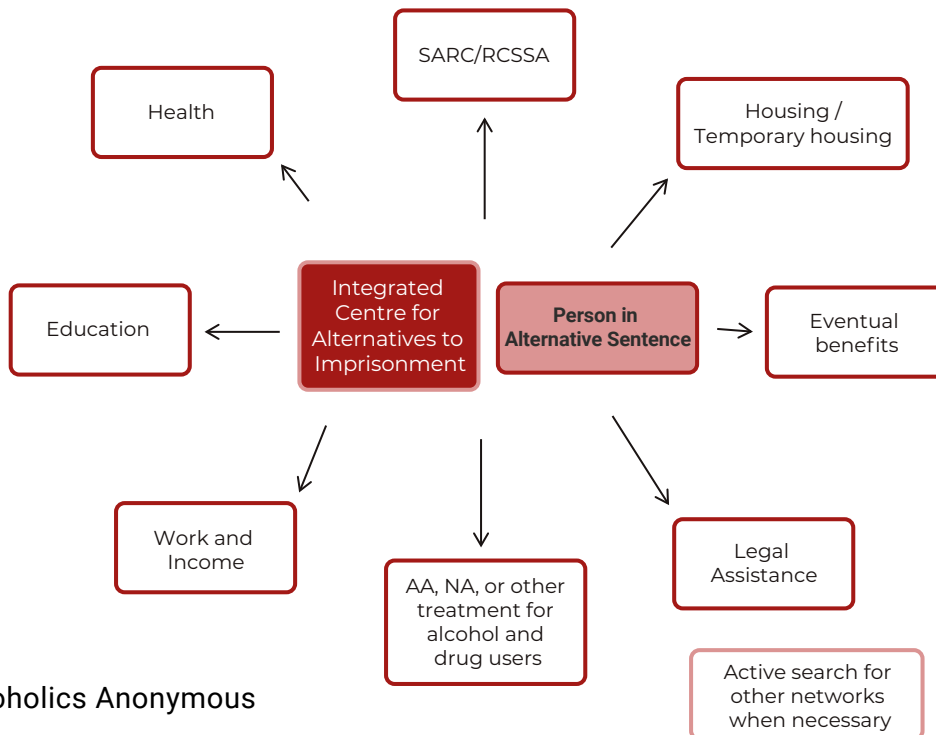
ICPA Integrated Center for Penal Alternatives



## 5.4. Participation of the Centre in the Women's Protection Network



## 5.5. Social inclusion of men in the Network



- AA Alcoholics Anonymous
- SARC Social Assistance Reference Center
- RCSSA Reference Center Specialized in Social Assistance
- NA Narcotics Anonymous

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## KNOWLEDGE PRODUCTS

Publications of the Fazenda Justiça and Justiça Presente series

### PENAL PROPORTIONALITY (AXIS 1)

#### Penal Alternatives Collection

- Management Manual for Penal Alternatives
- Training Guide on Penal Alternatives I – Postulates, Principles and Guidelines for the Policy on Penal Alternatives in Brazil
- Training Guide on Penal Alternatives II – Restorative Justice
- Training Guide on Penal Alternatives III – Miscellaneous Precautionary Measures in Prison
- Training Guide on Penal Alternatives IV – Criminal Transaction, Restrictive Penalties of Law, Conditional Suspension of the Process and Conditional Suspension of the Sentence Depriving Liberty
- Training Guide on Penal Alternatives V - Urgent Protective Measures and other accountability actions for men who commit violence against women
- Diagnosis on the Specialized Courts in Penal Alternatives in Brazil
- National Survey on the Performance of Penal Alternatives Services in the Context of Covid-19

#### Electronic Monitoring Collection

- Management Model for Electronic People Monitoring
- Electronic Monitoring of People: Information for Public Safety Agencies
- Electronic Monitoring of People: Newsletter for the Social Protection Policy Network
- Electronic Monitoring of People: Information for the Justice System
- Electronic Criminal Monitoring: evidence and readings about the policy in Brazil
- Executive Summary Electronic Criminal Monitoring: evidence and readings about the policy in Brazil

#### Collection Strengthening of the Detention Control Hearing

- Handbook on Decision-Making in the Custody Hearing: General Parameters (Executive Summaries in Portuguese / English / Spanish)
- Handbook on Decision Making in the Custody Hearing: Parameters for Specific Crimes and Profiles
- Handbook of Social Protection in the Custody Hearing: Parameters for the Customer Service in Custody (executive summaries in Portuguese / English / Spanish)
- Manual for Preventing and Combating Torture and Ill-treatment in Custody Hearings (executive summaries in Portuguese / English / Spanish)
- Manual on Handcuffs and Other Instruments of Containment in Judicial Hearings: Practical Guidelines for the Implementation of Binding Precedent n. 11 of the STF by the judiciary and Courts (Handbook on Handcuffs and Other Instruments of Restraint in Court Hearings) (Executive summaries – Portuguese / English / Spanish)
- Data Booklet I - General Data on Flagrant Arrest during the Covid-19 Pandemic
- Cadernos de Dados II – Covid-19: Analysis of the Arrest Notice and Preventive Institutional Actions
- Judicial Architecture Handbook for the Custody Hearing

#### Central Collection of Vacancy Regulations

- Vacancy Regulation Center: Manual for the Management of Prison Capacity
- Vacancy Regulation Central Folder

#### Informative Materials

- Custody Hearing Booklet: Important Information for Prisoners and Family Members
- Custody Hearing Report: 6 Years

#### UNODC: Handbooks of Criminal Justice – Portuguese Translations

- Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment
- Handbook on Restorative Justice Programs



## JUVENILE JUSTICE SYSTEM (AXIS 2)

- Booklet I – Guidelines and Bases of the Program – Guide for the Follow-up Program for Adolescents Post-Compliance with Socio-Educational Measure of Restriction and Deprivation of Liberty
- Booklet II – Governance and Institutional Architecture – Guide for the Follow-up Program for adolescents after compliance with socio-educational measure of restriction and deprivation of liberty
- Booklet III – Guidelines and Methodological Approaches – Guide for the Follow-up Program for adolescents after compliance with a socio-educational measure of restriction and deprivation of liberty
- Re-entries and Infraction Reiterations: A Look at the Brazilian Socio-Educational and Prison Systems
- Manual on Concentrated Hearings for the Reassessment of Socio-Educational Measures of Semiliberty and Internment
- CNJ Resolution Manual 367/2021 - The Vacancy Center of the State Socio-Educational Service System
- Handbook for Incidence of Drug Trafficking as One of the Worst Forms of Child Labor
- Manual Recommendation No. 87/2021 – Initial and integrated care for adolescents who are believed to have committed an infraction
- Handbook for Incidence of Drug Trafficking as One of the Worst Forms of Child Labor
- CNJ Resolution Manual 77/2009 – Judicial Inspections in socio-educational care units
- Technical Guidance Manual for Completing the National Register of Inspection in Socio-Educational Units and Programs

## CITIZENSHIP (AXIS 3)

### Political Collection for Egresses

- National Policy for the Care of Persons Released from the Prison System
- Social Offices Management Notebook I: Guide for Application of the Mobilization Methodology for Pre-Graduate People
- Social Offices Management Notebook II: Methodology for Singularization of Assistance to Persons Deprived of Liberty and Released from the Prison System
- Social Office Management Notebook III: Social Office Management and Operation Manual
- Starting Over and Social Office: Convergence Strategy
- Guide for Monitoring Social Offices

### Penitentiary Policy Collection

- Prison Policy Management Model - Booklet I: Conceptual and Principled Foundations
- Prison Policy Management Model - Notebook II: Organizational Architecture and Functionalities
- Prison Policy Management Model - Booklet III: Competencies and Specific Practices of Penitentiary Administration
- Diagnosis of Institutional Arrangements and Proposal of Protocols for the Execution of Public Policies in Prisons
- Community Councils in Brazil

## SYSTEMS AND IDENTIFICATION (AXIS 4)

- Installation and configuration manual of the software for collecting biometrics - version 12.0
- Civil Identification and Biometric Collection Manual
- Civil Identification and Biometric Collection Manual in Prison Units
- Folder Document Now!
- Online Guide with SEEU Technical and Handling Documentation

## MANAGEMENT AND CROSS-CUTTING ISSUES (AXIS 5)

- Manual Resolution No. 287/2019 - Procedures Relating to Indigenous People Accused, Defendants, Convicted or Deprived of Liberty
- Electronic Prison Mutirão Report - 1st Edition Espírito Santo
- Covid-19 Monitoring Report and Recommendation 62/CNJ in Penitentiary Systems and Socio-Educational Measures I
- Covid-19 Monitoring Report and Recommendation 62/CNJ in Penitentiary Systems and Socio-Educational Measures II
- Manual Resolution nº 348/2020 – Procedures related to accused, defendant, convicted or deprived of liberty LGBTI persons
- Report Calculating Prison Costs – National Overview and Necessary Advances
- Manual Resolution nº 369/2021 – Replacement of the deprivation of liberty of pregnant women, mothers, fathers and guardians of children and people with disabilities
- Restorative Justice Network Project – Possibilities and practices in the criminal and socio-educational systems
- Migrant people in the penal and socio-educational systems: guidelines for the implementation of CNJ Resolution nº 405/2021
- Penal Policy Committees - Practical guide for implementation
- Police and Judiciary Dialogues – Investigative steps that require judicial authorization
- Police and Judiciary Dialogues – Incidences of the Judiciary Power in the accountability of perpetrators of homicide crimes: possibilities for improvement
- Police and Judiciary Dialogues – Participation of public security professionals in court hearings as witnesses
- Police and Judiciary Dialogues – Criminal Expertise for Magistrates
- Police and Judiciary Dialogues – Criminal Alternatives Folder: precautionary measures other than imprisonment
- Police and Judiciary Dialogues – Criminal Alternatives Folder: penalties restricting rights, conditional suspension of the process and conditional suspension of the sentence
- Police and Judiciary Dialogues – Folder Maria da Penha Law and urgent protective measures
- Police and Judiciary Dialogues - Electronic Monitoring Folder
- LGBTI People in the Penal System - Booklet for the implementation of CNJ Resolution 348/2020
- LGBTI People in the Socio-Educational System - Booklet for the implementation of CNJ Resolution 348/2020



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