

INFORMATION GUIDE

and communication support for
foreign persons arrested in
Rio Grande do Sul



FICHA TÉCNICA

O PRESENTE GUIA É FRUTO DO CONVÊNIO INTERINSTITUCIONAL FIRMADO ENTRE OS SEGUINTE PARCEIROS:

DEFENSORIA PÚBLICA DO ESTADO DO RIO GRANDE DO SUL (DPE-RS)
SECRETARIA DE SISTEMAS PENAL E SOCIOEDUCATIVO DO RIO GRANDE DO SUL (SSPS)
SUPERINTENDÊNCIA DOS SERVIÇOS PENITENCIÁRIOS (SUSEPE)
UNIVERSIDADE FEDERAL DO RIO GRANDE DO SUL (UFRGS)

PRESIDENTE DA REPÚBLICA

Luiz Inácio Lula da Silva

GOVERNADOR DO ESTADO DO RIO GRANDE DO SUL

Eduardo Leite

SECRETÁRIO DE SISTEMAS PENAL E SOCIOEDUCATIVO DO RIO GRANDE DO SUL

Luiz Henrique Viana

SECRETÁRIO ADJUNTO DE SISTEMAS PENAL E SOCIOEDUCATIVO

Cesar Kurtz Rossato

SUPERINTENDENTE DOS SERVIÇOS PENITENCIÁRIOS

Mateus Schwartz dos Anjos

DIRETORA DO DEPARTAMENTO DE TRATAMENTO PENAL DA SUSEPE

Rita Leonardi

DIRETORA DO DEPARTAMENTO DE POLÍTICAS PENAIIS DA SSPS

Cátia Lara Martins

DIRETORA DO NÚCLEO DE DEFESA EM EXECUÇÃO PENAL DA DPE-RS (NUDEP)

Cíntia Luzzatto

**COORDENADOR DO NÚCLEO DE ESTUDOS, PESQUISA E EXTENSÃO
SOBRE MIGRAÇÕES DA UFRGS (NEPEMIGRA)**

Fabian Domingues

COORDENAÇÃO-GERAL DO PROJETO:

Pâmela Marconatto Marques

(CÁTEDRA SERGIO VIEIRA DE MELLO/UFRGS-ACNUR/NEPEMIGRA)

COORDENADORES E COORDENADORAS DE ÁREA DO PROJETO:

Camila Vencato Neumann (Susepe)

Carlos Marcondes Jr (DPE-RS)

Cesar Kurtz Rossato (SSPS)

Pâmela Marconatto Marques (CSVM/UFRGS-ACNUR/NEPEMIGRA)

EQUIPE RESPONSÁVEL PELA ELABORAÇÃO DO GUIA

EQUIPE TÉCNICA DA SSPS:

Catlen Padilha de Oliveira

Márcia Gabriela Lemos

EQUIPE TÉCNICA DA SUSEPE:

Aline Ghidini Mallmann

Camila Ferreira da Rosa

Rosane Lazzarotto Garcez

EQUIPE JURÍDICA DO NUDEP (DPE-RS):

Carlos Marcondes Jr.

EQUIPE ACADÊMICA DO NEPEMIGRA (UFRGS):

Alexandra Aponte

Gaelfie Ngouaka

Lara Sosa Márquez

Magdala Antoine

Pâmela Marconatto Marques

Rebecca Bernard

COORDENAÇÃO-GERAL DAS SAÍDAS DE CAMPO:

Camila Vencato Neumann

INTEGRANTES DAS EQUIPES QUE REALIZARAM AS SAÍDAS DE CAMPO:

Camila Ferreira da Rosa (Susepe)

Camila Vencato Neumann (Susepe)

Márcia Gabriela Lemos (SSPS)

Tatiana Firckel (Susepe)

Kimberly Barbosa da Rosa (UFRGS)

Lídia Caroline Ritter (UFRGS)

Rosane Lazzarotto Garcez (Susepe)

Carlos Marcondes Jr. (DPE-RS)

MEDIADORAS E MEDIADORES INTERCULTURAIS ATUANTES

NAS SAÍDAS DE CAMPO:

Alexandra Aponte (Venezuela)
Gaelfie Ngouaka (Congo)
Lara Sosa Márquez (Uruguai)
Quhong Jiang (China)
Rebecca Bernard (Haiti)
Serigne Bamba Toure (Senegal)
Yamila Florencia Ribeiro dos Santos (Argentina)

MEDIADORAS E MEDIADORES INTERCULTURAIS ATUANTES NA TRADUÇÃO E REVISÃO DOS GUIAS:

Abigail Wilkie (revisora de inglês)
Absa Wade (tradutora de wolof)
Alexandra Aponte (revisora de espanhol)
Serigne Bamba Toure (revisor de wolof)
Gaelfie Ngouaka (tradutora de francês)
Lara Sosa Márquez (tradutora de espanhol e inglês)
Magdala Antoine (tradutora de crioulo haitiano)
Marcel Metogbe (revisor de francês)
Rebecca Bernard (revisora de crioulo haitiano)

DIAGRAMAÇÃO DOS GUIAS:

Jürgen Mayrhofer (Ascom SSPS)
Bruno Girardi (Ascom SSPS)

1

What is it for?

THIS GUIDE IS DESIGNED TO HELP YOU UNDERSTAND WHAT YOUR DAILY LIFE IN PRISON WILL BE LIKE, WHAT WILL HAPPEN TO YOUR FAMILY, WHO YOU CAN ASK FOR SUPPORT WHILE YOU ARE IN PRISON, AND FINALLY, SO YOU CAN UNDERSTAND HOW JUSTICE WORKS IN BRAZIL WHEN SOMEONE COMMITS A CRIME.



IF YOU HAVE DIFFICULTY UNDERSTANDING AND SPEAKING PORTUGUESE, YOU CAN USE THIS GUIDE TO COMMUNICATE WITH PRISON OFFICIALS (THE PRISON WORKERS) WHO HAVE A COPY OF THIS MATERIAL IN PORTUGUESE AND POINT OUT THE ISSUE YOU WANT TO TALK ABOUT.

AT THIS POINT, YOU SHOULD HAVE GONE THROUGH THE TRIAGE, WHERE THEY IDENTIFIED YOU WITH A PHOTOGRAPH, FINGERPRINTS, REGISTRATION AND INDIVIDUAL INSPECTION.



THIS IS STANDARD PRISON PROCEDURE. WHAT WILL HAPPEN FROM NOW ON IS DESCRIBED BELOW.

DAILY LIFE IN THE PRISION

WHAT WILL MY DAY-TO-DAY LIFE IN PRISON BE LIKE?
EACH PRISON HAS ITS OWN ROUTINE, BUT GENERALLY IT IS:

1



MORNING CONFERENCE

5



AFTERNOON
CONFERENCE

2



BREAKFAST

6



AFTERNOON
COFFEE

3



RELEASE TO THE
PATIO

7



LUNCH

4



RETURN FROM THE PATIO
FOR LUNCH

8



NIGHT CONFERENCE

THE “CONFERENCES” ARE COUNTING OF THE PRISONERS AND CHECKING THAT EVERYONE IS PRESENT.



AFTER THE MORNING AND AFTERNOON CONFERENCES (RECOUNTS), THERE ARE ALSO MOVEMENTS FOR THOSE WHO WILL WORK, HAVE HEALTH CARE ATTENDANCE, TECHNICAL TEAM ASSISTANCE AND EDUCATIONAL ACTIVITIES. IN ADDITION, RELIGIOUS ACTIVITIES ON DAYS DETERMINED BY THE PRISON MANAGEMENT, DRIVING TO HEARINGS, LEGAL ASSISTANCE, ETC.



2

Will I be able to study while in prison?

YES. IF YOU ARE INTERESTED IN STUDYING, YOU CAN TELL THE TECHNICAL TEAM, OR THE PRISON MANAGEMENT AND THEY WILL FORWARD YOUR REQUEST.

IF THERE ARE VACANCIES, YOU CAN START YOUR STUDIES, INCLUDING TAKING PORTUGUESE CLASSES. IF YOU HAVE COMMUNICATION DIFFICULTIES, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



3

Will I be able to work while in prison?

YES. IF YOU ARE INTERESTED IN WORKING, YOU CAN TELL THE TECHNICAL TEAM, OR THE PRISON MANAGEMENT AND THEY WILL FORWARD YOUR REQUEST.

IF THERE ARE VACANCIES, THEN YOU CAN START YOUR WORK. IF YOU HAVE COMMUNICATION DIFFICULTIES, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



Will I be able to practice my religion while in prison?

4

YES. YOUR RELIGIOUS BELIEF WILL BE RESPECTED, WHATEVER IT MAY BE. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.





5

I am sick. Can I get medical and dental care in prison?

YES, YOU CAN REQUEST YOUR NEED FOR MEDICAL CARE FROM PENITENTIARY STAFF BY POINTING TO THIS QUESTION AND THEY WILL MAKE THE APPROPRIATE REFERRAL.

WHILE YOU ARE A PRISONER IN BRAZIL, IT IS THE DUTY OF THE BRAZILIAN STATE TO TAKE CARE OF YOUR HEALTH, EVEN IF YOU DO NOT HAVE REGULARIZED YOUR BRAZILIAN DOCUMENTATION. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



6

I use continuous medication. How do I continue treatment while in prison?

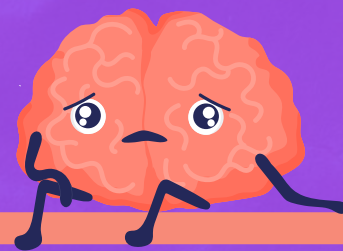
YOU NEED TO REPORT THAT YOU USE MEDICATION TO THE PRISON STAFF, WHO WILL MAKE THE APPROPRIATE REFERRAL. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



I am feeling depressed.

Who can I talk to?

7



YOU CAN ASK FOR PSYCHOLOGICAL ASSISTANCE FROM THE PRISON STAFF. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



I am an LGBTQIA+ person. Does this change my status in prison?



THERE ARE SPECIFIC ENTITIES AND ORGANIZATIONS FOR PEOPLE WHO DECLARE THEMSELVES LGBTQIA+ AND YOU CAN FIND OUT FROM THE PRISON TECHNICAL TEAM ABOUT WHO THEY ARE AND HOW TO GET IN TOUCH WITH THEM IN THE UNIT WHERE YOU ARE ARRESTED OR IMPRISONED. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



9

I have different food needs (I am allergic, or my religion does not allow certain foods). Will that be respected while I'm in prison?



YES, THE PRISON WILL DO WHAT IT CAN TO GUARANTEE THIS DIFFERENTIATED DIET. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



FAMILY



10

Will I be able to talk to my family while I'm in prison? How?

YES, YOU WILL BE ABLE TO SPEAK WITH YOUR FAMILY AND THEY WILL ALSO BE ABLE TO VISIT YOU IN PRISON (ON THE RIGHT DAYS FOR THAT). IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



My entire family lives abroad or in another city in Brazil. Is there any possibility of contacting them?

11

YES. IF THEY LIVE IN ANOTHER COUNTRY OR CITY, IT IS POSSIBLE TO MAKE VIDEO CALLS, WITH THE SUPPORT OF THE PRISON STAFF, WHO WILL CONTACT YOUR FAMILY MEMBERS AND WHENEVER NECESSARY, YOU MUST REQUEST CONSULAR SUPPORT. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.



12

Can my family visit me in the prison, even without a Brazilian document?



YES, THEY CAN. IF THEY ARE PHYSICALLY IN BRAZIL, THEY DO NOT NEED TO HAVE BRAZILIAN DOCUMENTS TO CARRY OUT THE VISITS. JUST GO TO A HEADQUARTERS OF THE GENERAL INSTITUTE OF EXPERTISE (IGP), COLLECT FINGERPRINTS (YOU DON'T NEED TO MAKE A DOCUMENT, JUST COLLECT FINGERPRINTS, SAYING IT'S TO VISIT A PRISONER).

AFTER THAT, THEY JUST NEED TO REGISTER AT THE PRISON, PRESENTING ANY PERSONAL IDENTIFICATION DOCUMENT. IF YOU NEED ANY SUPPORT IN THIS REGARD, JUST LOOK FOR A SERVER AND POINT TO THIS QUESTION.

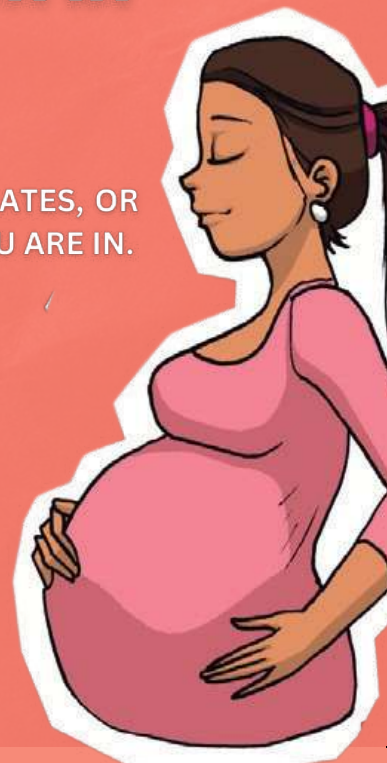


13

I'm pregnant. How is my situation now that I'm in prison?

YOU WILL BE ABLE TO STAY IN A COMMON CELL, WITH THE OTHER INMATES, OR IN A MATERNAL AND CHILD UNIT. THIS WILL DEPEND ON THE PRISON YOU ARE IN.

IN ANY CASE, PRENATAL CARE (HEALTH CARE FOR PREGNANT WOMEN) MAY BE OFFERED, EITHER IN THE PRISON (IF IT HAS A BASIC HEALTH UNIT), OR IN A PUBLIC SERVICE OF REFERENCE IN THE CITY WHERE YOU ARE IMPRISONED. THE BIRTH WILL BE IN A HOSPITAL. FOR OTHER QUESTIONS ON THIS TOPIC, CONSULT THE TECHNICAL TEAM POINTING TO THIS QUESTION.



14

What will happen to my young child(ren) now that I am in prison?



THE TECHNICAL TEAM WILL FORWARD THE SITUATION, CHECKING WHO CAN TAKE CARE OF THE CHILDREN UNTIL THE MOTHER'S SITUATION IS DEFINED. FOR OTHER QUESTIONS ON THIS TOPIC, CONSULT THE TECHNICAL TEAM POINTING TO THIS QUESTION.



15

Until I was arrested, I worked with a formal contract and supported my family. How will they be now? Can my family receive any benefits while I am in prison?

IN SOME CASES, WHEN SOMEONE WHO WORKED WITH A FORMAL CONTRACT IS ARRESTED AND REMAINS IN A CLOSED REGIME, FAMILY MEMBERS (DEPENDENTS) CAN RECEIVE A SOCIAL SECURITY BENEFIT, PAID BY THE INSS (CALLED THE "IMPRISONMENT AID").

IN THIS CASE, THE DEPENDENTS OF THE ARRESTED PERSON (THEIR FAMILY MEMBERS) SHOULD CONTACT THE INSS FOR MORE INFORMATION. THIS ISSUE DOES NOT DEPEND ON THE CRIMINAL PROCESS ITSELF. FOR OTHER QUESTIONS ON THIS TOPIC, CONSULT THE TECHNICAL TEAM POINTING TO THIS QUESTION, THEY WILL CONSULT THE PUBLIC DEFENDER'S OFFICE TO HELP YOU.



16

I had a son in Brazil, but I don't have the documentation in order and the government wants to extradite me. What can I do?

IF YOU HAD A CHILD IN BRAZILIAN TERRITORY, EVEN IF THE FATHER OR MOTHER ARE FOREIGNERS LIKE YOU, YOU HAVE THE RIGHT TO REGULARIZE YOUR DOCUMENTS AND REMAIN IN THE COUNTRY.

HOWEVER, IF A FOREIGN COUNTRY REQUESTS YOUR EXTRADITION, YOU MAY BE EXTRADITED TO FACE CRIMINAL PROCEEDINGS IN THAT OTHER COUNTRY. IF YOU ARE FREE IN OTHER COUNTRIES, YOU CAN RETURN TO BRAZIL LATER, IF YOU HAVE A BRAZILIAN SON OR DAUGHTER.

FOR OTHER QUESTIONS ON THIS TOPIC, CONSULT THE TECHNICAL TEAM POINTING TO THIS QUESTION, THEY WILL CONSULT THE PUBLIC DEFENDER'S OFFICE TO HELP YOU.





I was arrested, my documentation is in order, I have a young daughter or son, but I don't have a good relationship with the child's mother (or grandmother, or anyone who stayed with the child), who doesn't want to bring the child to visit me in prison.

How can I have contact with my daughter or my son?



YOU SHOULD TALK TO THE PENITENTIARY STAFF, SO THAT THEY CAN TRY TO ARRANGE WITH THE PERSON WHO HAS CUSTODY OF THE CHILD TO MAKE TELEVISITS (VISITS BY VIDEO CALL, LIKE ON THE PHONE).

IF THIS IS NOT POSSIBLE, OR IF YOU REALLY WANT A FACE-TO-FACE VISIT, THIS ISSUE MAY HAVE TO BE DECIDED BY A JUDGE.

IN THAT CASE, ASK TO SPEAK WITH THE PUBLIC DEFENDER'S OFFICE OR YOUR LAWYER AND POINT TO THIS QUESTION.



SUPPORT NETWORK

18

Who can help me while I'm in prison?



YOU HAVE THE RIGHT TO CONTACT ORGANIZATIONS THAT REPRESENT YOUR COUNTRY IN BRAZIL,

THE MOST COMMON BEING THE CONSULATE.
THE CONSULATE WORK AS AN OFFICIAL HOME OF YOUR HOME-COUNTRY IN BRAZIL.

FOR EXAMPLE, IF YOU ARE HAITIAN, THE HAITIAN CONSULATE SERVES AS AN OFFICIAL HAITIAN HOME IN BRAZIL. THESE OFFICIAL HOUSES ARE ADVISED IN CASES SUCH AS REPATRIATIONS, ARRESTS, HOSPITALIZATIONS, BUT ALSO PROVIDE SERVICES SUCH AS ISSUING VISAS AND PASSPORTS, LEGALIZING DOCUMENTS, AMONG OTHER FUNCTIONS.

THEREFORE, IF YOU ARE HAVING PROBLEMS ABROAD, THE FIRST INSTITUTION TO BE SOUGHT IS THE CONSULATE OF YOUR COUNTRY.

ANOTHER POSSIBILITY IS TO GET IN TOUCH WITH REPRESENTATIVES OF AN ASSOCIATION OF MIGRANTS FROM YOUR COUNTRY OF ORIGIN BASED IN RIO GRANDE DO SUL.

IF, FOR EXAMPLE, YOU COME FROM SENEGAL, THERE IS THE POSSIBILITY OF REQUESTING A CONVERSATION WITH THE ASSOCIAÇÃO DOS SENEGALESES DE PORTO ALEGRE-RS.

THE ASSOCIATION CAN, AMONG OTHER THINGS, CONTACT ANY OF YOUR RELATIVES, ACTIVATE SUPPORT NETWORKS FOR YOUR FAMILY AND FACILITATE YOUR REINTEGRATION AFTER LEAVING PRISON.

ANOTHER IMPORTANT INSTITUTION IS THE PUBLIC DEFENDER'S OFFICE, WHICH PROVIDES FREE LEGAL ADVICE TO PEOPLE IN NEED, WHETHER IN PRISON OR NOT, WHO NEED TO RESOLVE A LEGAL ISSUE OR NEED GUIDANCE IN THAT REGARD.

19

I don't have Brazilian documents and my original documents (from my country) were lost. What should I do?

YOU CAN EXPLAIN THIS TO A PENITENTIARY OFFICIAL AND HE WILL DIRECT THE REQUEST TO THE TECHNICAL TEAM OR THE MANAGEMENT OF THE PRISON TO BE ABLE TO HELP YOU WITH THIS.



20

I hear a lot about CPF? What is it for?

THE CPF (INDIVIDUAL TAXPAYER REGISTRATION) IS A NUMBER USED TO IDENTIFY PEOPLE THROUGHOUT BRAZIL.

EACH PERSON HAS ONE, AND IT WILL NEVER BE THE SAME AS SOMEONE ELSE'S. IT IS EQUIVALENT TO THE DNI/IDENTITY CARD OF NEIGHBORING COUNTRIES.

THROUGH THIS DOCUMENT, THE AUTHORITY (JUDGE, POLICE...) CAN VERIFY YOUR NAME, DATE OF BIRTH, WHERE YOU WERE BORN, NATIONALITY (COUNTRY WHERE YOU WERE BORN), FATHER'S AND MOTHER'S NAME, ADDRESS, AMONG OTHER INFORMATION.



21

My sentence is over, or not over yet but I'm already on parole. Who can help me after this exit?

IF YOU HAVEN'T CONTACTED ANY MIGRANT ASSOCIATION YET, NOW IS THE TIME TO DO SO. LOOK FOR A SUSEPE PENITENTIARY SERVER AND POINT TO THIS QUESTION, ASKING FOR HELP TO TALK TO AN ASSOCIATION THAT CAN SUPPORT YOU IN LEAVING PRISON.

IF YOU ARE IN PORTO ALEGRE, CANOAS, ARROIO DOS RATOS, GUAÍBA AND CHARQUEADAS (VEC PORTO ALEGRE PROCESSES) YOU CAN ALSO BE ASSISTED BY THE SOCIAL OFFICE, LOCATED AT RUA DES.ANDRÉ DA ROCHA, ON THE CORNER OF TRAVESSA TUYUTY.



CRIMINAL PROCEDURE IN BRAZIL: SENTENCE OF PENALTY; EXTRADITION; FREEDOM

22

Who participates in the Brazilian criminal justice system and what are their functions?

- THE JUDGE (JUDICIARY POWER): IS WHO DECIDES THE PROCESS AND THE PRISON. HE IS THE ONE WHO HEARS YOU AND THE WITNESSES IN THE HEARING, AND IN THE END DECIDES WHETHER YOU WILL BE CONVICTED OR ACQUITTED.



- THE PROSECUTOR (DISTRICT ATTORNEY): HE IS THE ONE WHO ACCUSES, THAT IS, HE IS ALMOST ALWAYS THE ONE WHO FILES A CRIMINAL CASE AGAINST SOMEONE, ASKING THAT THIS PERSON BE CONVICTED OF HAVING COMMITTED A CRIME.



- THE PUBLIC DEFENDER: IS WHO DEFENDS YOU, THAT IS, WHO DEFENDS YOU, ASKS FOR YOUR FREEDOM, ACCOMPANIES YOU IN HEARINGS AND ASKS THE JUDGE NOT TO CONDEMN YOU, OR, IF HE CONDEMNS YOU, TO APPLY THE FAIREST PENALTY. THE PUBLIC DEFENDER'S SERVICES ARE FREE.



- THE PRIVATE LAWYER: IS A PRIVATE PROFESSIONAL, HIRED AND THAT YOU OR YOUR FAMILY MEMBERS WILL HAVE TO PAY, WHO CAN ALSO DEFEND YOU, ASK FOR YOUR FREEDOM, ACCOMPANY YOU IN HEARINGS AND ASK THE JUDGE TO ACQUIT YOU.



WHEN YOU ARE ACCUSED OF A CRIME, IN ORDER TO BE ABLE TO DEFEND YOURSELF YOU NEED TO CHOOSE BETWEEN BEING REPRESENTED BY THE PUBLIC DEFENDER'S OFFICE OR BY A PRIVATE LAWYER, CHOSEN AND PAID BY YOU.



IN BRAZIL NO ONE IS CRIMINALLY PROSECUTED WITHOUT A DEFENSE, IF YOU CANNOT AFFORD A PRIVATE LAWYER, THE PUBLIC DEFENDER WILL DEFEND YOU.



23

Who can arrest me?



WHO CAN ORDER YOU TO BE ARRESTED IS THE JUDGE



BUT WHO WILL REALLY ARREST YOU (PICK YOU UP, HANDCUFF YOU) WILL BE A POLICE OFFICER (FEDERAL, CIVIL OR MILITARY).



Who can decide that I will remain imprisoned?

24



JUST A JUDGE

25

Why was I arrested?



THERE COULD BE SEVERAL REASONS.

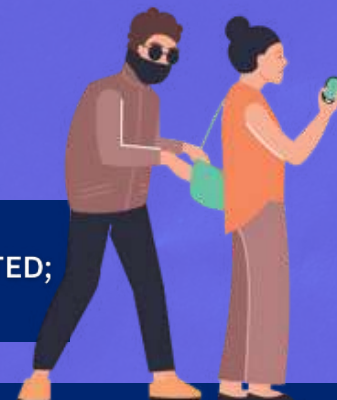


IT TAKES AN ORDER FROM A JUDGE DEMANDING YOU TO BE ARRESTED OR KEPT IN CUSTODY.



THE GROUNDS FOR ARREST CAN BE

- A CRIME ALREADY COMMITTED;



- BEING CAUGHT COMMITTING THE CRIME (IN THE ACT);



- PRE-TRIAL DETENTION (YOU ARE SUSPECTED OF COMMITTING A CRIME, BUT THE INVESTIGATION HAS NOT YET BEEN COMPLETED. OR THE INVESTIGATION HAS ENDED, BUT THE PROCESS IS STILL ONGOING, AND THE JUDGE DECIDES THAT YOU WILL BE HELD IN CUSTODY FOR THE DURATION OF THE INVESTIGATION OR THE PROCESS);



- YOU WERE ACCUSED OF HAVING COMMITTED A CRIME IN ANOTHER COUNTRY, SO THE COUNTRY'S GOVERNMENT ASKS BRAZIL TO ARREST YOU AND SEND YOU (EXTRADITE) THERE, TO RESPOND TO THE PROCESS OR TO SERVE THE SENTENCE.

26

I was arrested, but I still don't quite understand why. How can I understand the crime attributed to me?



IN THAT CASE, LOOK FOR A PRISON SERVER AND POINT TO THIS QUESTION. HE MAY CALL YOUR PUBLIC DEFENDER TO CLARIFY YOUR DOUBTS.



27

Who is responsible for making my legal defense?

YOUR LAWYER OR THE PUBLIC DEFENDER.



28

Who can release me?

ONLY A JUDGE CAN ORDER YOUR RELEASE.





29

How long will my imprisonment last?

IF THERE IS A CONVICTION, IT DEPENDS ON THE TOTAL SENTENCE THE JUDGE GAVE YOU. IF IT IS PRE-TRIAL DETENTION (THAT IS, YOU WAIT FOR THE PROCESS WHILE YOU ARE IN PRISON), THERE IS NO CERTAIN TIME, IT WILL DEPEND ON HOW LONG THE PROCESS LASTS.

THE JUDGE MUST REVIEW YOUR ARREST EVERY 90 DAYS. THAT DOESN'T MEAN HE'S GOING TO LET YOU GO. BUT NO MORE THAN 90 DAYS WILL GO BY WITHOUT YOUR ARREST STATUS BEING REVIEWED AGAIN. IF YOU WANT TO UNDERSTAND THIS QUESTION BETTER, LOOK FOR A PRISON SERVER AND POINT TO THIS QUESTION. HE MAY CALL YOUR PUBLIC DEFENDER TO CLARIFY YOUR DOUBTS.



30

No one from the Public Defender's Office has come to talk to me yet. Does this mean that I can be judged without being heard?

NO. IN BRAZIL, YOU WILL NEVER BE DEFENSELESS IN THE PROCESS AND WILL NEVER BE TRIED WITHOUT BEING DEFENDED.

IF YOU DO NOT HIRE A LAWYER TO DEFEND YOU, THE PUBLIC DEFENDER'S OFFICE WILL AUTOMATICALLY START TO ACT IN THE CASE, AND WILL DEFEND YOU, EVEN IF YOU ARE NOT AWARE OF IT AT FIRST.

YOU WILL NOT BE TRIED WITHOUT BEING HEARD, UNLESS, AFTER YOUR RELEASE, YOU ARE CALLED TO SPEAK AND DO NOT APPEAR AT THE HEARING.

WHENEVER YOU ARE ARRESTED, YOU HAVE THE RIGHT TO SPEAK WITH YOUR LAWYER OR THE PUBLIC DEFENDER. YOU CAN ASK THAT THE PUBLIC DEFENDER'S OFFICE BE CALLED TO GUIDE YOU. IF THIS IS NOT POSSIBLE AT THE MOMENT, THE PUBLIC DEFENDER WILL STILL BE DEFENDING THE CASE, AND WHEN THE DAY OF THE HEARING ARRIVES, YOU WILL TALK TO HIM BEFORE THAT.



31

When will I be able to speak with the Judge?



IF YOU HAVE JUST BEEN ARRESTED, YOU WILL PROBABLY SPEAK TO THE JUDGE WITHIN 24 HOURS, IN WHAT IS CALLED A “CUSTODY HEARING”.

IF YOU ARE IN PRE-TRIAL DETENTION, YOU WILL SPEAK TO THE JUDGE ON THE DAY OF THE HEARING, TO DEAL WITH THE CASE (“INSTRUCTION”), IF YOU ARE NOT RELEASED EARLIER.

32

Will I have the same rights/treatment as a Brazilian person?

YES. IN CRIMINAL PROCEEDINGS, YOU HAVE THE SAME RIGHTS AS A BRAZILIAN PRISONER, EVEN IF YOU ARE NOT IN A REGULAR MIGRATORY SITUATION IN BRAZIL.

THAT IS, YOU WILL HAVE THE SAME TREATMENT AS BRAZILIAN PEOPLE, INCLUDING LEGAL AND HEALTH ASSISTANCE.



33

What is “pre-trial detention” and how do I know if this is my situation?

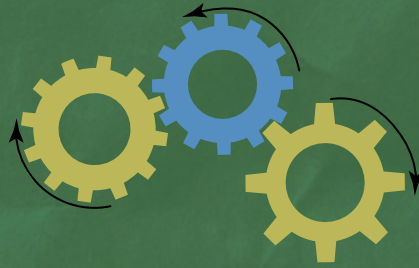
PRE-TRIAL DETENTION IS WHAT HAPPENS WHEN THERE IS STILL NO CONVICTION IN THE PROCESS, THAT IS, THE JUDGE HAS DETERMINED THAT YOU WAIT IN PRISON FOR THE HEARINGS OF THE PROCESS, TO LATER BE CONVICTED OR ACQUITTED (NOT GUILTY).

TO FIND OUT IF THIS IS YOUR SITUATION, THERE ARE TWO WAYS: A) IF YOU ARE SURE THAT YOU HAVE NEVER BEEN CONVICTED OF A CRIME AND THAT YOU ARE NOT “OWING A SENTENCE”, THE ARREST IS PREVENTIVE; B) IF YOU ARE NOT SURE WHETHER OR NOT YOU HAVE A CONVICTION AND SENTENCE TO SERVE, YOU CAN GO THROUGH LEGAL ASSISTANCE, THE PUBLIC DEFENDER OR YOUR LAWYER.

AS A PRISONER, BRAZIL'S CONSTITUTION ALSO GRANTS YOU THE “RIGHT TO PETITION” – MEANING ANY QUESTIONS YOU HAVE, YOU CAN WRITE AND ASK PRISON OFFICIALS TO FORWARD THEM DIRECTLY TO YOUR PROCESS. SO, THIS QUESTION CAN BE ANSWERED.



34



How will my case/process go?

SOME TIME AFTER YOU ARE ARRESTED (IF IT IS PREVENTIVE DETENTION), THE PUBLIC PROSECUTION SERVICE WILL REPORT YOU FOR THE CRIME THEY ARE ATTRIBUTING TO YOU (I.E.: THE PROSECUTOR, WHO ACCUSES YOU, WILL ASK THE JUDGE TO PROSECUTE YOU AND CONVICT YOU OF THE CRIME).

FROM THEN ON, A PIECE OF PAPER WILL ARRIVE FOR YOU (CALLED A "CITATION"), WHICH WILL CONTAIN IN WRITING THE ACCUSATION THAT THE PROSECUTOR IS MAKING.

DON'T WORRY, NOBODY CAN BE CRIMINALLY PROSECUTED WITHOUT A DEFENSE IN BRAZIL. SO, IF A PRIVATE LAWYER IS NOT HIRED TO DEFEND YOU, THE PUBLIC DEFENDER WILL AUTOMATICALLY DEFEND YOU.

AFTERWARDS, THE JUDGE WILL SCHEDULE A HEARING TO HEAR THE WITNESSES, VICTIMS (IF ANY), AND WILL ALSO HEAR YOU. AT THESE TIMES, YOU WILL ALWAYS BE ACCOMPANIED BY YOUR LAWYER OR THE PUBLIC DEFENDER WHO HANDLES YOUR CASE.

AFTERWARDS, THE PROSECUTOR WILL PRESENT THE FINAL ACCUSATION, AND YOUR LAWYER OR PUBLIC DEFENDER WILL MAKE THE DEFENSE. THEN, PROBABLY A FEW DAYS AFTER THE HEARING, THE JUDGE WILL DECIDE WHETHER TO CONVICT YOU OR ACQUIT YOU (THAT IS, DECLARE YOU INNOCENT).

IF HE CONVICTS YOU, HE WILL TELL YOU WHAT SENTENCE YOU WILL HAVE TO SERVE, AND WHETHER IT IS IN A CLOSED, SEMI-OPEN, OPEN, OR OTHER SENTENCE THAT IS NOT PRISON.

EVEN SO, IF YOU ARE CONVICTED, YOUR DEFENSE WILL LIKELY APPEAL TO OTHER JUDGES TO REVIEW THE CASE AGAIN, WHICH MAY ACQUIT YOU OR LOWER YOUR SENTENCE.

IF YOU WANT TO BETTER UNDERSTAND ALL THIS, LOOK FOR A SERVER AND ASK TO SPEAK WITH YOUR LAWYER OR PUBLIC DEFENDER, POINTING TO THIS QUESTION.



35

How long will I be in prison?



IF YOU ARE ON PREVENTIVE DETENTION, YOU WILL LIKELY BE DETAINED UNTIL THE NEXT HEARING, WHEN YOUR SITUATION WILL BE REVIEWED AGAIN.

IF YOU HAVE ALREADY BEEN CONVICTED BY THE JUDGE, THEN THE DOCUMENT CALLED THE “EXECUTION GUIDE” (OR “REPORT OF THE ENFORCEABLE PROCEDURAL SITUATION”) WILL STATE THE DATES WHEN THE “BENEFITS” (I.E., YOUR RIGHTS TO IMPROVE THE SITUATION, SUCH AS SWITCHING TO A MORE BENEFICIAL REGIME – PROGRESSION, AND PAROLE).

THIS DOCUMENT WILL ALSO TELL YOU WHAT THE PREDICTION IS FOR THE END OF YOUR SENTENCE.

36

What happens after I receive a conviction in Brazil?

AFTER SOMEONE IS CONVICTED, A “PENALTY EXECUTION PROCESS” BEGINS. THAT IS, YOU BEGIN TO SERVE THAT SENTENCE THAT THE JUDGE IMPOSED, RECEIVING, AS TIME PASSES, SOME “BENEFITS” (THAT IS, RIGHTS TO IMPROVE YOUR SITUATION - REGIME PROGRESSION AND PAROLE).

IT MAY ALSO BE THAT IN THE PROGRESSION OF THE REGIME YOU RECEIVE THE RIGHT TO SERVE YOUR SENTENCE AT HOME, WITH OR WITHOUT AN ANKLE MONITOR.



37

If I am convicted, will I remain in prison?



IT DEPENDS. IF YOUR DETENTION IS PREVENTIVE AND YOU ARE CONVICTED, THE SENTENCE MAY NOT BE IMPRISONMENT (FOR EXAMPLE, SENTENCES RESTRICTING RIGHTS, SUCH AS COMMUNITY SERVICE).

IT MAY ALSO BE THAT YOU ARE SENTENCED TO A PRISON SENTENCE, BUT IN A REGIME THAT IS NOT CLOSED - FOR EXAMPLE, DIRECTLY TO THE SEMI-OPEN OR OPEN REGIME, WHICH CAN BE SERVED IN A SPECIFIC PRISON, OR AT HOME, WITH OR WITHOUT AN ANKLE MONITOR.

38

What does extradition mean?



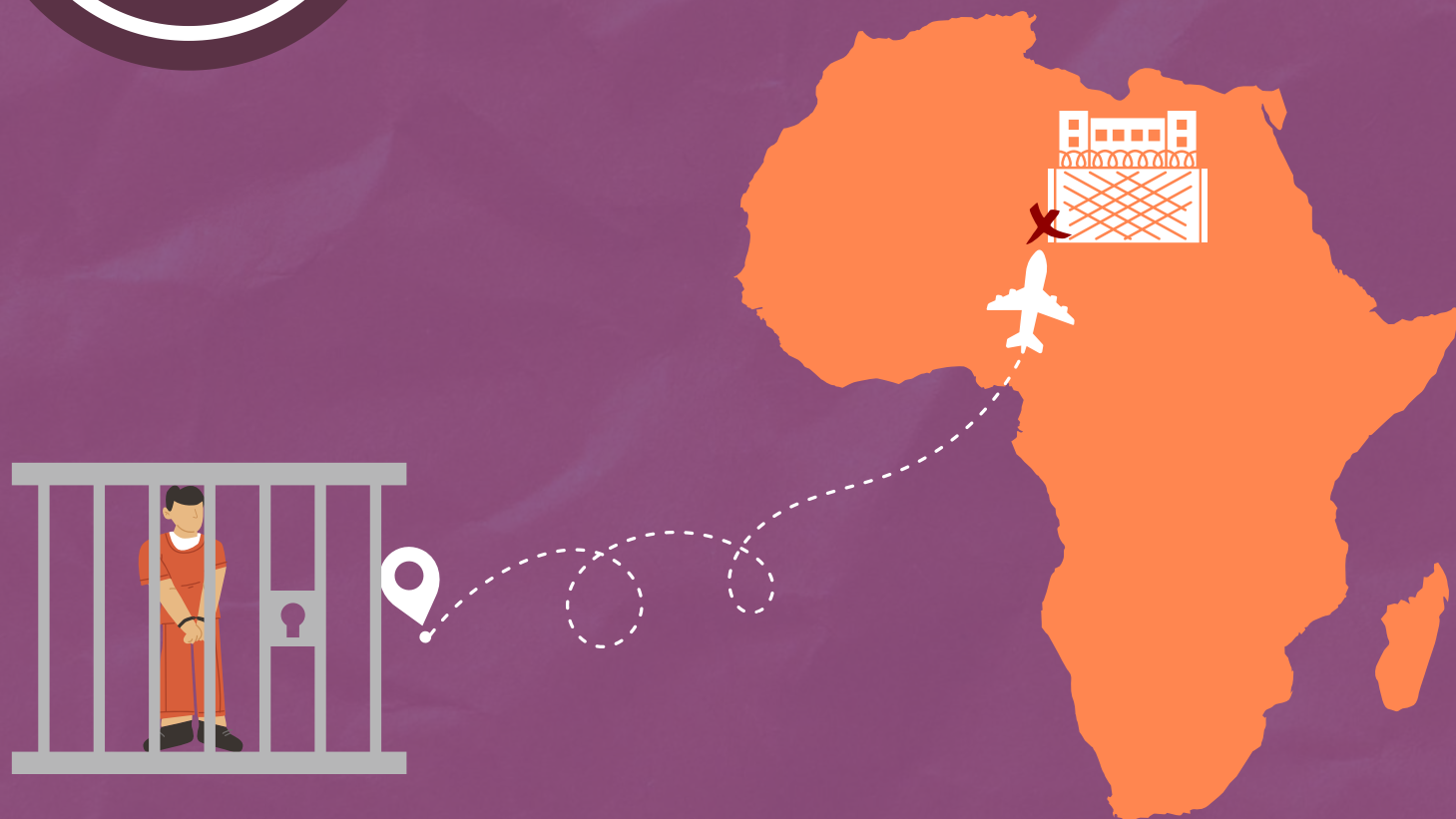
EXTRADITION IS WHEN A COUNTRY A ASKS ANOTHER COUNTRY B TO SEND A PERSON ACCUSED IN A CRIMINAL CASE, OR CONVICTED, BACK TO THAT COUNTRY A.

THAT IS: EXTRADITION MAY OCCUR, FOR EXAMPLE, IF SOMEONE IS IN BRAZIL TODAY, BUT ALSO RESPOND TO CRIMINAL PROCEEDINGS IN A FOREIGN COUNTRY, FOR EXAMPLE THE UNITED STATES. THAT COUNTRY CAN ASK BRAZIL TO “RETURN” THAT PERSON, SO THAT THEY RESPOND TO CRIMINAL PROCEEDINGS THERE.

ANOTHER COMMON EXAMPLE: YOU MAY BE SERVING A SENTENCE IN BRAZIL AND YOUR COUNTRY OF ORIGIN ASKS BRAZIL TO EXTRADITE YOU. THIS MEANS THAT YOUR COUNTRY ASKS BRAZIL, AT THE END OF YOUR SENTENCE HERE, TO SEND YOU BACK THERE, SO THAT YOU CAN RESPOND TO ANOTHER CRIMINAL CASE THERE.

39

Can I be transferred to a prison in my country and respond to the process there?



IF YOU ARE ARRESTED RESPONDING TO A BRAZILIAN CRIMINAL CASE, IT WILL PROBABLY NOT BE POSSIBLE TO TRANSFER ABROAD WHILE THIS PROCESS IS RUNNING HERE (UNLESS YOU ARE RELEASED BEFORE THE END OF THE PROCESS, AND THE JUDGE AUTHORIZES YOU TO MOVE TO ANOTHER COUNTRY).

HOWEVER, AFTER YOU HAVE BEEN CONVICTED, IN SOME CASES IT IS POSSIBLE FOR YOU TO BE TRANSFERRED BACK TO YOUR COUNTRY TO SERVE YOUR BRAZILIAN SENTENCE THERE (IF BOTH BRAZIL AND YOUR COUNTRY AGREE WITH THIS).

AFTER THE CONVICTION, IF THIS TRANSFER IS IN YOUR INTEREST, TALK TO YOUR LAWYER OR PUBLIC DEFENDER ABOUT IT. YOU CAN ALSO SEND A NOTE/LETTER TO THE JUDGE (TO BE SENT BY THE PRISON TO YOUR EXECUTION PROCESS) EXPRESSING THIS INTEREST.

40

I received a letter about Expulsion from the National Territory. What does that mean?



EXPULSION FROM BRAZIL INDICATES THAT BRAZILIAN AUTHORITIES WILL NOT AUTHORIZE A PERSON TO REMAIN IN BRAZIL. THAT PERSON WILL THEN RECEIVE A LETTER WITH THAT INFORMATION.

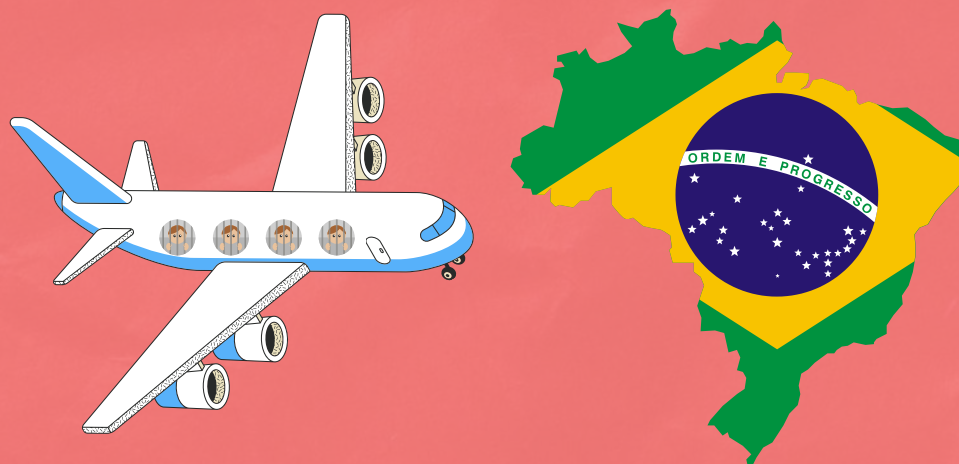
THAT IS: IF YOU ARE ARRESTED IN BRAZIL AND RECEIVED AN EXPULSION LETTER, THIS MEANS THAT, AFTER BEING RELEASED, YOU WILL NOT BE AUTHORIZED TO CONTINUE LIVING LEGALLY IN BRAZIL.

EXPULSION DOES NOT NECESSARILY MEAN THAT YOU ARE BEING ACCUSED OF A NEW CRIME, BUT SIMPLY THAT THE IMMIGRATION AUTHORITIES WILL NOT ALLOW YOU TO REMAIN IN THE COUNTRY AFTER YOU ARE RELEASED.

IN THIS CASE, WITH SOME EXCEPTIONS, YOU WILL HAVE TO PAY THE COSTS OF THE RETURN TICKET

41

I was arrested in my country by Interpol, and, after a while, they brought me directly to Brazil. Can I utilize the time I was imprisoned there, or will this time be wasted?



IF THAT HAPPENED, BRAZIL PROBABLY ASKED FOR YOUR ARREST AND EXTRADITION. THAT IS: BRAZIL WANTED TO PROSECUTE YOU CRIMINALLY HERE, OR YOU WERE CRIMINALLY CONVICTED HERE, AND BRAZIL WANTED YOU TO START SERVING YOUR PRISON SENTENCE.

AS YOU WERE IN ANOTHER COUNTRY, YOU WERE CAPTURED THERE AND BROUGHT HERE TO BE IMPRISONED HERE.

SO, THE TIME THEY LEFT YOU IN PREVENTIVE DETENTION ABROAD AT THE REQUEST OF BRAZIL IS USED FOR THE BRAZILIAN SENTENCE YOU ARE SERVING.

THE INFORMATION ABOUT YOUR ARREST ABROAD WILL AUTOMATICALLY GO INTO THE PROCESS.

42

I was informed that I have the right to temporary outings (“discharge/stroll”) or conditional release, but I have no home in Brazil and no family members here. How can I get these rights?



IF YOU ARE IN THE SEMI-OPEN OR OPEN REGIME, YOU WILL PROBABLY BE ENTITLED TO TEMPORARY OUTINGS.

IF YOU DON'T HAVE FAMILY MEMBERS IN BRAZIL OR PEOPLE WHO CAN OFFER YOU A PLACE TO STAY DURING THESE PERIODS, STILL ASK TO MAKE USE OF THESE “BENEFITS”, WHICH ARE RIGHTS.

IF THE JUDGE HAS NOT AUTHORIZED THESE EXITS, YOUR LAWYER OR THE PUBLIC DEFENDER'S OFFICE WILL BE ABLE TO ANALYZE THE CASE IN ORDER TO TAKE OTHER MEASURES CAPABLE OF ENFORCING THESE RIGHTS.

IN EVERYDAY PRISON LIFE YOU WILL HEAR THE FOLLOWING TERMS:

Closed regime:

IT IS THE MOST SEVERE FORM OF IMPRISONMENT IN BRAZIL. IF YOUR ARREST IS PREVENTIVE, IT WILL BE IN A CLOSED REGIME.

IF YOU ARE ALREADY SERVING A SENTENCE, IT MAY BE THAT YOUR IMPRISONMENT STARTS IN THE CLOSED REGIME AND THEN MOVES ON TO OTHER LIGHTER REGIMES (REGIME PROGRESSION).

EVEN IF YOU ARE ALREADY IN A MILDER REGIME, THERE MAY BE, IN SOME CASES, A RETURN TO A WORSE REGIME, INCLUDING THE CLOSED ONE.



Semi-open regime:

IT IS THE INTERMEDIATE FORM OF PRISON SENTENCE. NOT AS "LIGHT" AS THE OPEN REGIME, NOR AS "SEVERE" AS THE CLOSED REGIME.

THIS REGIME CAN BE FULFILLED IN PENAL ESTABLISHMENTS OTHER THAN THE CLOSED REGIME, WITH THE POSSIBILITY OF GOING OUT TO WORK DURING THE DAY, AND WITH THE POSSIBILITY OF TEMPORARY OUTINGS.

DEPENDING ON THE SITUATION AND THE CITY, THIS REGIME CAN ALSO BE CARRIED OUT UNDER HOUSE ARREST (WITH OR WITHOUT AN ANKLE MONITOR).



Open regime:

IT IS THE MILDEST FORM OF PRISON SENTENCE.

THIS REGIME CAN BE FULFILLED IN PENAL ESTABLISHMENTS OTHER THAN THE CLOSED REGIME AND THE SEMI-OPEN REGIME, WITH THE POSSIBILITY OF GOING OUT TO WORK DURING THE DAY, AND WITH THE POSSIBILITY OF TEMPORARY OUTINGS.

DEPENDING ON THE SITUATION AND THE CITY, THIS REGIME CAN ALSO BE CARRIED OUT UNDER HOME DETENTION (WITH OR WITHOUT AN ANKLE MONITOR).



Temporary outing / discharge / stroll:

IS THE POSSIBILITY THAT PEOPLE IMPRISONED IN A SEMI-OPEN OR OPEN REGIME HAVE, FIVE TIMES A YEAR, TO GO OUT FOR SEVEN DAYS TO VISIT FAMILY MEMBERS, STAY AT HOME, ETC., RETURNING AFTERWARDS TO THE PRISON OR TO HOME DETENTION (RETURN TO WHERE THE PERSON WAS).

THE EXITS AND THEIR RETURNS SHOW TO THE STATE THAT THE PERSON HAS A SENSE OF RESPONSIBILITY AND THAT THEY CAN RECEIVE OTHER “BENEFITS” LATER (SUCH AS THE RIGHT TO PAROLE).

Conditional release:

THIS IS A PERSON'S RIGHT TO LEAVE PRISON (OR HOME DETENTION) WELL BEFORE THE END OF THEIR SENTENCE, AS IF THEY WERE ALREADY “FREE”.

IT IS AS IF THE SENTENCE HAS ALREADY BEEN SERVED, BUT THERE ARE SOME CONDITIONS, WHICH ARE SET BY THE JUDGE WHEN THIS RIGHT IS GRANTED.

IF THE PERSON VIOLATES ONE OF THESE CONDITIONS, HE OR SHE MUST RESUME SERVING HIS OR HER SENTENCE.

IF, ON THE OTHER HAND, HE OR SHE REMAINS FREE FOR THE ENTIRE PERIOD OF PROBATION (THE REMAINING TIME OF THE SENTENCE TO BE SERVED) FULFILLING ALL THE CONDITIONS, AT THE END OF THAT PERIOD, THE SENTENCE IS EXTINGUISHED.

PAD / disciplinary offense:

DURING THE EXECUTION OF THE SENTENCE, AND DURING THE PERIOD OF IMPRISONMENT (EVEN PREVENTIVE), THE PRISONER HAS DUTIES THAT ARE INFORMED WHEN HE OR SHE ENTERS THE PRISON SYSTEM.

IF HE OR SHE DISRESPECTS ONE OF THESE DUTIES AND NORMS OF CONDUCT (WHETHER IN A PENAL INSTITUTION OR UNDER HOUSE ARREST), A “DISCIPLINARY ADMINISTRATIVE PROCEDURE” MAY BE OPENED BY THE PENITENTIARY ADMINISTRATION, WHICH IS NOTHING MORE THAN A FORMAL ACCUSATION THAT THE PERSON COMMITTED A FAULT.

IN THIS PROCEDURE, THE POSSIBILITY OF DEFENSE WILL BE GUARANTEED, AND FOR MORE SERIOUS EFFECTS TO BE PRODUCED IN THE CONVICTION OF THE PERSON (THAT IS, FOR HIM OR HER TO LOSE SOME “BENEFITS”, REGRESSING FROM THE REGIME, FOR EXAMPLE), IT IS NECESSARY THAT A JUDGE ALSO CLARIFIES THE ISSUE.

Ankle monitor:

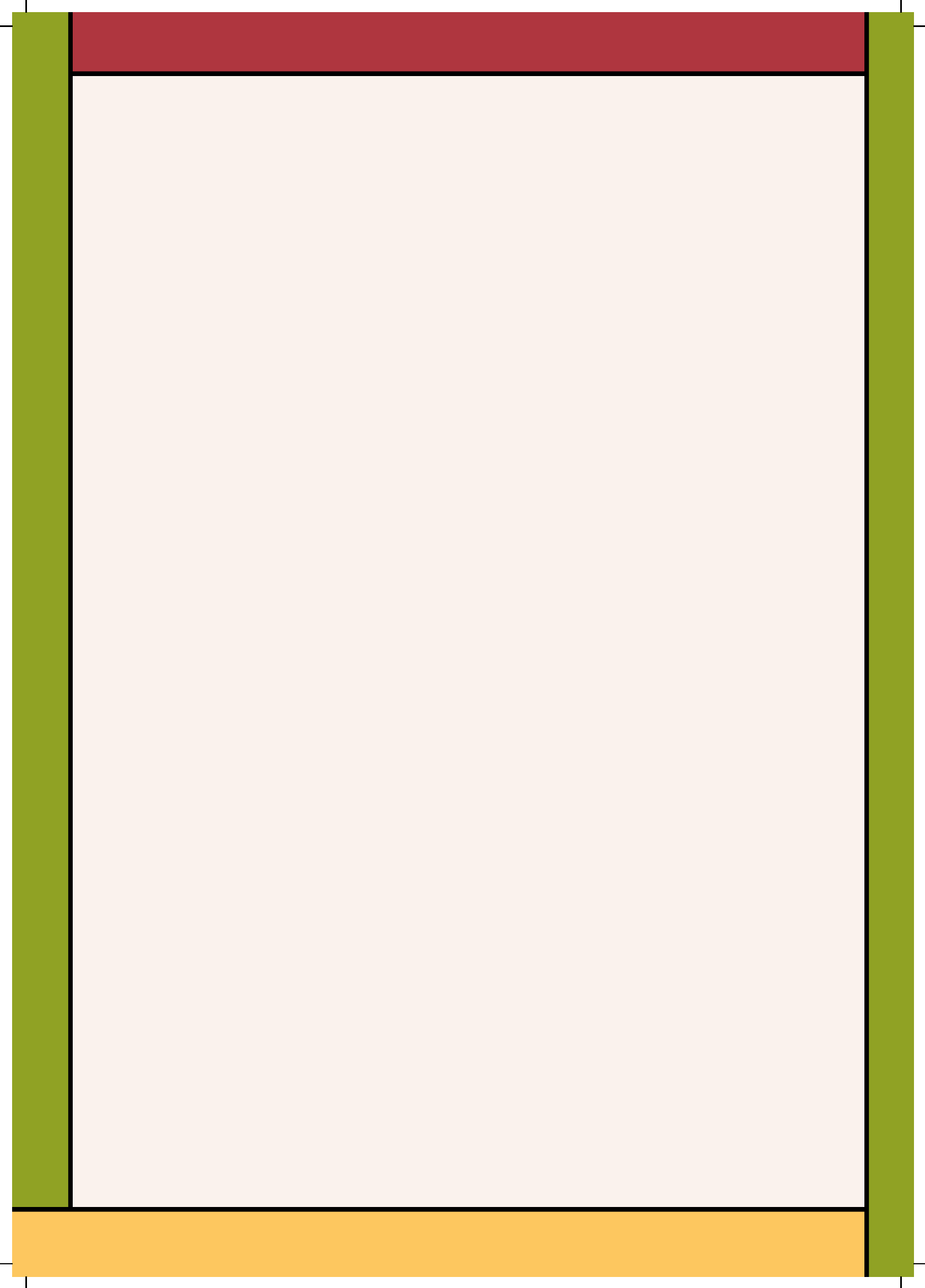
IT IS AN ELECTRONIC DEVICE INSTALLED ON A PERSON'S ANKLE WHEN HE OR SHE IS UNDER HOME DETENTION (IN SOME CASES), OR WHEN HE OR SHE IS SUBJECT TO OTHER RESTRICTIONS (FOR EXAMPLE, KEEPING AWAY FROM SOMEWHERE, OR FROM SOMEONE).

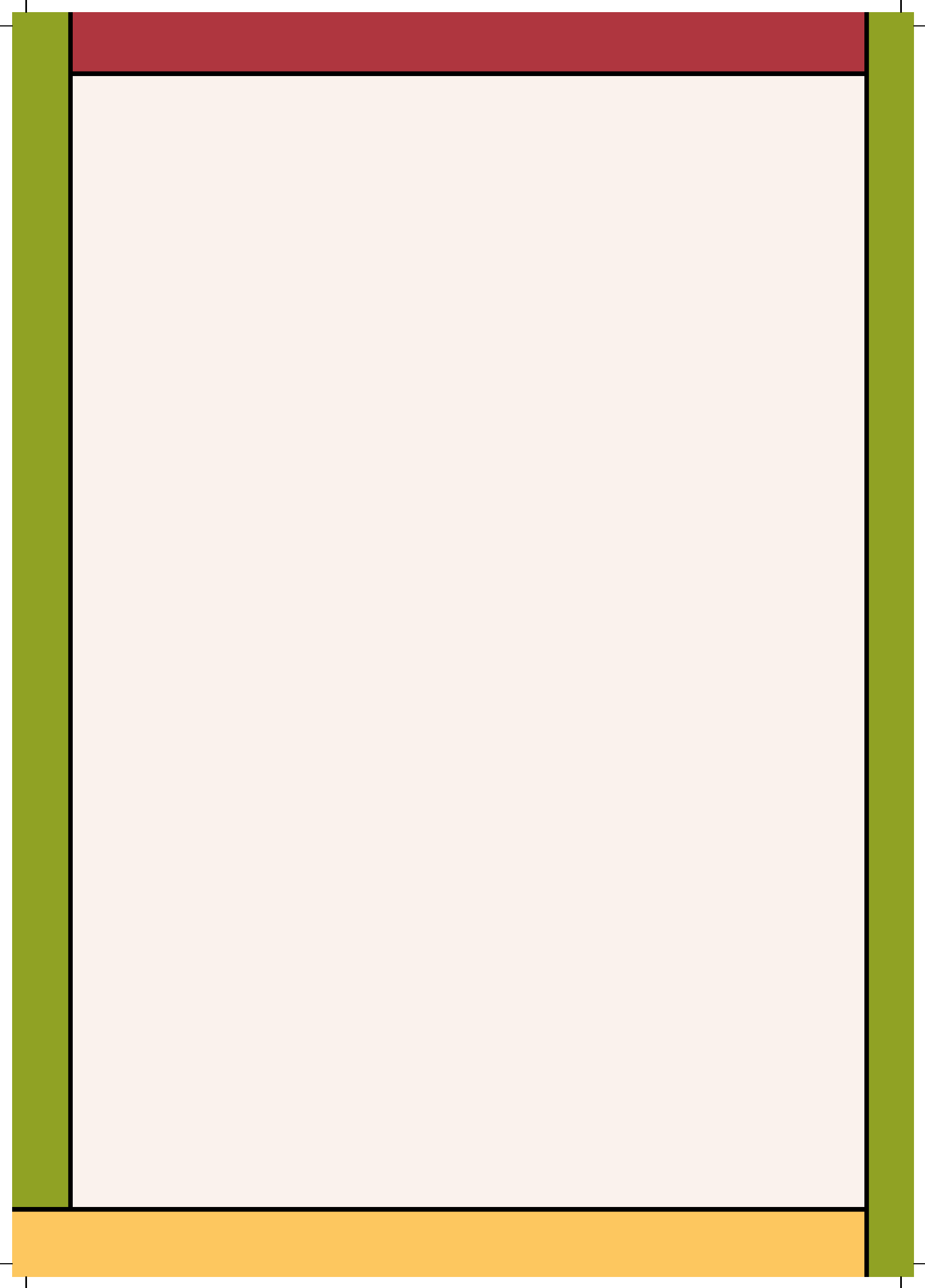
THIS DEVICE GIVES THE STATE THE LOCATION OF THE PERSON IN REAL TIME 24 HOURS A DAY.

IT HAS A BATTERY, WHICH MUST BE RECHARGED AT AN OUTLET, AND THE PERSON WEARING THE ANKLE BRACELET MUST HAVE THE MEANS TO BE CONTACTED BY THE STATE (A CELL PHONE IN CASE THEY NEED TO GET IN TOUCH TO SEE IF THE PERSON HAS ACTUALLY LEFT THE AREA WHERE THEY SHOULD BE).



NOTES







NUDEP

NÚCLEO DE DEFESA EM EXECUÇÃO PENAL
DA DEFENSORIA PÚBLICA DO RIO GRANDE DO SUL

