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# Penal Issues

## CESDIP

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## Custodial Facilities for Juveniles : between Institutional Rationales and Professional Practices Comparing Juvenile Correctional Facilities, Juvenile Wings in Correctional Centres and Custodial Educational Centres

**Francis BAILLEAU** discusses findings from a research project on custodial facilities for juveniles, conducted in collaboration with **Nathalie GOURMELON** (CIRAP-ENAP) and **Philip MILBURN** (Laboratoire Printemps, UMR CNRS-UVSQ). Their project received financial aid from the « Law and Justice » Research Mission. **Kathia BARBIER** and **Nadia BEDIAR** contributed to data collection.

The setting up, by the Perben I Act in 2002, of a new type of custodial facility exclusively designed for juveniles, the so called *Établissements Pénitentiaires pour Mineurs* (Juvenile Correctional Facilities, JCF hereafter), elicited many questions and controversies as it revived a utopia, as old as prison itself: turning the time spent in detention into a time for education and rehabilitation, to avoid recidivism among juvenile offenders<sup>1</sup>.

The research presented here, drawing upon in-depth observation and analysis of the first two JCFs in operation, aimed at understanding the revival or transformation of the tension between an educational and a custodial goal. To bring out a number of effects of the dominance of the correctional institution within these establishments, the plan was to conduct parallel in-depth investigations in two *Centres Éducatifs Fermés* (Custodial Educational Centres, CEC hereafter), another institution set up by the same 2002 Act. The first year of the study led to a change of mind and to the decision to extend the investigations to other types of custodial facilities: two other JCFs and two juvenile wings in correctional centres (*Quartiers mineurs en maison d'arrêt*, JW hereafter). The analysis has been mainly focused on the stakes inherent to JCFs, while CECs and JWs were considered within the broader issue of the organisation of juveniles' deprivation of freedom.

### Description of the Different Types of Custodial Facilities

These new correctional facilities were set up jointly by two Directorates of the French Ministry of Justice, the *Protection judiciaire de la jeunesse* (Youth Protection, YP hereafter) and the *Administration Pénitentiaire* (Corrections Administration, CA hereafter). Both departments developed their conceptions of a new model for custodial management of youth in opposition to two other types of facility. For the YP, the idea was to break with traditional educational practices as they were found in residential care facilities, to adjust them to the confining, restrictive prison environment. Emphasis was to be put on a new educational model incorporating constraint as a core element<sup>2</sup>. As to the Corrections Administration, its concern was twofold: designing a custodial scheme and environment where security and disciplinary pressures would not clash with the necessary education and rehabilitation of youthful offenders, so as to avoid recidivism; simultaneously it aimed at sheltering juvenile inmates from any contact with adult ones. The solution to combining these two requirements, imposed by the designers of the JCF project, took the form of an institutional innovation, work in twosomes constantly associating, in the everyday living spaces of the facility, an educator and a correctional officer. The contrast with juvenile wings in correctional centres is also visible in a new prison architecture, where the main physical security components such as walls, watchtowers, solitary confinement block, searchlights, and barbed wire fencing are either inconspicuous, out of sight, or eliminated. In addition, independent spaces, well signalled within the prison environment, are devoted to sociocultural activities and medical care, with considerable space also reserved for outdoor and indoor sports.

Four administrations (Corrections, Youth Protection, National Education, and Health) are represented in these new correctional facilities, and have to cooperate. The Corrections administration has the overall charge of the facility, since JCFs are, first and foremost, prisons. This gives the CA control over the activities of the YP and the educational services, which are also controlled each by their respective administrations. The health services, on the other hand, retain their independence with respect to the Corrections. They are instructed to respect medical confidentiality in their work, and are not subservient to this administration.

CECs and Juvenile wings in correctional centres are also custodial facilities for juvenile offenders, but their goals and organisation differ. CECs are primarily educational facilities, where youths are confined for judicial supervision. These facilities are run by the YP. The staff is mostly composed of educators (men and women) attached to the YP or otherwise holding a nationally recognised diploma. Their role is to provide educational and social monitoring, simultaneously making sure that the youths respect the judicial supervision orders and security rules. Both these functions are carried out through an educational scheme that does not rest on any of the proactive surveillance resources specific to custodial facilities.

Juvenile wings are well-oiled set-ups within prisons, since they have two centuries of experience with juveniles behind them. They are located in correctional centres, but theoretically the youths have no contact with adult offenders, except for girls, who are committed to

<sup>1</sup> YVOREL É., 2007, *Les enfants de l'ombre. La vie quotidienne des jeunes détenus au XX<sup>e</sup> siècle en France métropolitaine*, Rennes, Presses Universitaires de Rennes.

<sup>2</sup> BOTBOL M., CHOQUET L.H., 2008, La prise en compte de la contrainte dans l'action éducative à l'égard des mineurs délinquants. Une lecture renouvelée du droit pénal des mineurs, *Cahiers Philosophiques*, 116, 9-24.

women's wards. Correctional officers are the only adults in charge of these imprisoned youths. Schooling and educational action services have been added over the years, as a complement, but they are mere service-providers, in a subservient position to the Corrections administration. However, their standing as external contributors within JWs does not preclude interactions between them and in-house professionals from Corrections and Youth Protection. Such a collaborative functioning of professionals from the four administrations in the JWs provides a useful point of comparison, indicative of what exactly is the JCFs added value, as they are supposed, by way of interdisciplinary cooperation, to grant juveniles an improved detention situation.

The objective of this research is to determine the specific effects of the JCF as an institution :

- i) on the dynamics between institutional operation (the custodial procedures defined by official regulations) and professional practices,
- ii) on interactions between the actors and the institutions,
- iii) among the actors themselves differentiated by the administration to which they belong to (« interdisciplinarity »), and
- iv) between institutional actors and young inmates.

In this perspective, a sociology of treatment, along with a sociology of work and of professional practices was called up. Not a prison sociology, then, concerned with the inmates' situation, with the effects of confinement or with the prison inbuilt coercive discipline alone.

JCFs, like any institution of this kind, are based on an initial project framed within a set of public regulations. These condition and restrict the operation of the institution by defining rules, civil servants statutes, buildings, and financial resources. The hypothesis is that the social reality of these facilities and their effects on the inmates cannot be reduced to this operation. Rather, they are to be found in the facilities' actual operation by the actors involved, with their own professional, personal or regulatory rationales. These practices adapt themselves to the institutional context rather than mechanically enforce its rules. This analytical approach is particularly appropriate to these facilities, as they carry out a project unprecedented in France, based in particular on « interdisciplinarity », claimed to be the main contribution to the new custodial response to juvenile offending. What is at stake here, and perhaps even the main challenge for the four administrations involved, is the pooling of their practices and values in a shared institutional space. This represents a major subject for sociological analysis.

### One Model and a Number of Establishments

One of the main conclusions from our investigations is the extreme variety of actual situations in the different custodial fa-

cilities for juveniles, despite the homogeneity of both the regulatory framework and the architecture.

These establishments necessarily respect some legal rules, shared by every establishment attached to the Corrections Administration and pertaining to deprivation of freedom and restrictions imposed on inmates. Compliance with these rules is checked by CA and YP inspectors as well as by the Controller General of Custodial Facilities. JCFs, being an experimental program, are in the public eye, and are therefore inspected frequently and in addition, as many incidents marred the first phase of their operation, further inspections were conducted specifically focussed on those incidents.

A revived relationship with the Education and Health departments, both traditional partners of the Corrections Administration, was developed on the basis of a new approach to detention induced by the choice of an « open » architectural model. These partners' professional practices, very clearly defined and recognised by the CA, were only marginally challenged when they joined the new type of correctional facility – and even so, not in all JCFs. The challenge was quite different for the YP. In this new prison context, educators came up against professional practices that were conflicting with the particular skills they had developed since 1945, when, breaking its moorings with the Corrections Administration, an independently headed Directorate within the Ministry of Justice was created<sup>3</sup>. Most of the YP personnel felt the development of these new practices and public investment in these penal facilities to be regressive, and many spoke out against the project. The administration therefore, had to rely essentially, at first, on just-graduated trainees or on workers under contract. The staffing of JCFs with educational professionals, who benefit there from stronger standing there than in JWs, also compelled the correctional staff to operate in-depth changes in their working habits. More specifically, they had to work in full view of other professionals, in addition to being constantly visible to the young inmates, owing to the « village square » architecture<sup>4</sup>.

The tension resulting from the simultaneous presence of these different professionals is particularly perceptible when we turn away from the well-defined domain of

<sup>3</sup>To understand the importance of this emancipation and its symbolic role, see GAILLAC H., 1971, *Les maisons de correction, 1830-1945*, Paris, Cujas. The author describes what is clearly the founding narrative of a new type of response to juvenile delinquency, permitted by the inaugural ordonnance pénale dated February 2, 1945, which turned its back to prisons for juveniles.

<sup>4</sup>Buildings are set up around a central square composed of a tree-planted area and a playing field, enclosed on one side by the socio-educational and medical facilities and the administrative buildings, and on the other side, by a curved range of ten-person detention units, the inside gym and the solitary confinement wing. Thanks to this architectural set-up the young inmates whose cell windows look out on the central square witness everything that goes on there.

normal, trouble-free functioning of detention, to take a look at issues of discipline, punishment, and differential regimes. In other words, at issues of security and order in the custodial areas and during movements between the different activity poles.

The increased fragility of professional landmarks for workers from the two main administrative corps called upon to cooperate within JCFs took different forms in the four facilities studied. The positions and commitments of CA and YP personnel working in pairs within the JCFs may, simplistically, be divided into four types of attitudes: support, withdrawal, challenging, and confusion. These attitudes are rarely encountered « pure » within the twosomes, and they are expressed differently by different types of personnel. They may also vary over time, depending on the situation: when the facility opens, when a major incident or a change in managerial staff occurs, or at cruising speed. The attitudes of Health and Education administration personnel working in those correctional facilities may be reduced, grossly, to two contrasting stances: either they fall back on their validated professional skills without questioning traditional practices, or they participate actively in the various institutional cooperation schemes and consent to share information with the other professions within the boundaries of each profession's ethics.

These attitudes and personal stances can be accounted for by a number of internal and external factors: the history of the first months of operation, the type of inmate population, the institutional origins of workers, and relations with the milieu. These various factors are effective over different lapses of time, but the conditions prevailing at the outset are strikingly important for subsequent functioning. The history of the different establishments shows how in spite of similar nationally defined regulations, a staff recruited from the same reservoir, and the same organisation chart, each JCF develops its own operational equation without departing from the broad outline of national instructions. Establishments are all enormously affected by this equation, to the point where one wonders whether, beyond the legal rules governing their operation and the enrolment of the inmates, they are all based on the same model.

What accounts for this diversity? Although these Juvenile correctional facilities opened only recently, each has its own history of events that led them to invent adjustment strategies acceptable to the various services and types of personnel. Over and beyond the options chosen in any given issue (differential regimes, suicide prevention, installing of duckboards, order-maintenance measures, and so on), a certain type of relationship develops between the various agents within the JCF, and often continues over time, even following changes in the staff. The actual functioning of the twosomes reflects the relationships built in other social spaces (relationship between the various administrations, with the union representatives, or within committees).

Another explanation of the differences observed between these establishments dwells in each local facility. The occupancy rate is a major factor, as is the number and types of the *département*'s<sup>5</sup> socio-educational facilities, which partly determine the type of youths committed to the JCF. The personality of the managerial staff is also decisive in introducing some broad operational procedures in response to local contexts.

### Educational Action in Custodial Contexts

Whereas JCFs were designed to be prisons with an educational goal, the YP services are hardly in an institutional and professional position to develop any specific tools within this stringent context. Their action is torn between educational activities, preparation for release and day-to-day relations with the youths. The correctional officer-educator twosome scheme has indubitably facilitated relationship between agents from the two administrations, but although their professional relations are now pacific on the whole, mutual distrust fostered by the two differing institutional rationales still prevails. Actually, the twosomes focus on regulating the inmates' everyday life, which is central to custody but secondary from the educational perspective, much more concerned with relating to the outside world and preparing the youngsters for release. This harks back to a major contrast between the custodial and educational rationales, due less to the type of professional and relational practices with the youths than to the different time frames implied by the institutional rationales and professional skills. The educators' time frame involves projection, looking forward to when the inmate will leave the prison world. Their attitudes toward them are guided by that prospect, which is why they devote a great deal of time to personal relations with them, and to maintaining ties to the outside world. The professional time frame of correctional officers is the present of detention, based on the management of security through order-maintenance and discipline inside the walls. The hybrid admixture of incarceration and education on which JCFs are predicated is clearly problematic, then, as it precludes the full development of either of these two institutional and professional rationales.

Custodial Educational Centres and Juvenile wings do not face these difficulties to the same extent. Whereas the CEC definitely has a constraining dimension, it is nonetheless dedicated to educational action, in the eyes of both judges and staff members, and for its youthful inmates as well. The compelling character of admission and supervision is clearly stated, but the purpose is educational. As for the JW's, their custodial rationale is clearly asserted by all involved, even if the activities there do not necessarily differ enormously from those in JCFs. And yet, paradoxically, security ar-

rangements are apparently less rigid in JW's than in some JCFs, in which semi-disciplinary measures<sup>6</sup> and the differential regime system<sup>7</sup> are sometimes enforced much more systematically and are a cause of concern in relations among the staff and with the institution.

There are three types of difficulties inherent to the various combinations of education and detention.

The first has to do with institutional dynamics. Custodial and educational (including schoolroom) rationales collide, owing to their differing time frames, the prison-specific security and disciplinary requirements, and the very definition of situations, subject to conflicting interpretations.

The second type of difficulties relates to professional attitudes: agents from different administrations infuse their work with these young inmates with different meanings. While schooling and medical care are separate, well-defined functions within the prison world, the educational and custodial aspects are competing functions. The values attached to them are superposed within a same space and time, in which both educators and correctional officers set their action. Confusion over missions, reported in several instances, produces confusion over the sense of working in a custodial environment. This does not occur in Custodial Educational Centres and Juvenile wings of correctional centres, where it is clear which professional action prevails. In JCFs on the other hand, the many veins in which educators work, including sharing everyday life and cultural and technical activities, one-to-one talks and preparation of a post-detention project, can hardly be coherent inasmuch as these veins are all developed in a prison context, with the detention regime, the uniformed correction officers and the prison discipline as constant reminders.

The third type of difficulty lies in the ambiguous meaning, for the youths involved, of a stay in one of these JCFs. Youths may experience detention in a Custodial Educational Centre as punishment, but the professionals, irrespective of their methods and principles, provide an educational response, whether the youth adheres to it or not. A stay in a juvenile wing is perceived as punishment, a sentence to temporary confinement and the tough life in prison. Its retributive character is reasserted by the workers. In JCFs, these two rationales are blurred, and difficult for the young inmates to perceive.

<sup>6</sup>These are measures in which the twosome handles minor incidents directly, without reporting them officially and demanding a disciplinary procedure, which takes longer since it requires an investigation followed by the meeting of a disciplinary commission within a week of the incident.

<sup>7</sup>Differential regimes are based on a rating of young inmates according to behavioural criteria and respect of prison discipline. Depending on the facility, this rating may imply that a youth is committed to a unit where all members share the same regime, or that, within a given unit, he/she is submitted to a different regime than their co-inmates.

Juvenile Correctional Facilities are therefore located halfway between the other two custodial solutions. Characteristically, they induce tension between punitive incarceration (to which school and medical care remain satellites, as in JW's) and educational action, all-pervasive although not viewed as the main purpose of the stay.

This unclear, hybrid identity therefore tends to locate JCFs somewhere between the CEC (many JCF inmates were previously committed to CECs) and the JW, which tends to be viewed as the « real » prison for juveniles, to which youths are sent if they do not adjust to the JCF, owing to behavioural problems judged intractable by the correctional officers and upper echelons. Thus, transferrals are a source of latent tension between the Correctional Administration and Youth Protection personnel, since they sanction a purely custodial regime and point up the failure of the educational action conducted in the JCF. This tends to result in a pattern of penal tracks, along increasingly severe custodial facilities, from CEC to JCF to JW. Although not all youths follow that course, staff and inmates share the same perception of this system of gradual punishment, irrespective of whether they support or criticize it.

### Conclusion

Whereas young inmates definitely enjoy better physical living conditions in these new prison facilities for juveniles, the contradictions between educational and punitive goals within a confined space arise once again. The main inbuilt difficulties of this type of dual assignment are well known since the 19th century, and have yet to be resolved. They are: management of a vulnerable population of young offenders, weight of collective life, confined space, imposed proximity with young inmates, constant tension, lack of control over the admittance and release decisions of the inmates, surveillance of person flows of all sorts, sharing of activities and tasks with the young inmates, personal relations with offenders vs surveillance and punishment.

The twosome scheme, one of the JCFs' main innovations, obliges YP educators and correctional officers to work together within the custodial space, and therefore demands that they be capable of adjusting to the new conditions under which they use their skills and know-how. How can you learn to handle the strain put upon your professional identity when it is threatened by the presence of the other in an enclosed space? How can you accept to work differently under the eye of another professional, without losing your identity, under the eye, also, of young inmates who are all too prompt to identify people with their traditional roles?

This is the challenge faced by the new correctional facility for juveniles. To respond to it, both administrations must be able to provide genuine occupational training for those workers assigned to JCFs. But that is not enough. The central administrative departments and the managers of these facilities must be capable of taking

<sup>5</sup>The *département* is a basic administrative division of the French territory.

into account and compensating for the difficulties involved in this new profession, exposed to the tension between custodial and educational rationales.

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### Methodology

Aside from some statistics collected in the different facilities and used mostly for descriptive purposes, this investigation was essentially qualitative. It took the form of formal, in-depth interviews with staff members from each category of personnel. Interview guidelines were specific for each corps, with some overlapping questions, however. The researchers also attended a variety of inter-disciplinary meetings, mostly the weekly living-unit staff meeting and meetings at the upper echelons, bringing together agents from the four departments working in the JCFs, as well as some more specific meetings (of disciplinary boards, for instance). This provided a substantial corpus of discursive material, which was exploited and analysed as a whole. In addition, the observations and informal discussions that took place during the stays in the facilities were cross-correlated with the interview information.

# Études & Données Pénales

## LES ÉTABLISSEMENTS PRIVATIFS DE LIBERTÉ POUR MINEURS : ENTRE LOGIQUES INSTITUTIONNELLES ET PRATIQUES PROFESSIONNELLES

Une comparaison entre Établissements  
Pénitentiaires pour Mineurs (EPM),  
Quartiers Mineurs en maison d'arrêt (QM)  
et Centres Éducatifs Fermés (CEF)

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