

Change without Leadership? The Implementation of the Reform of Police Custody in France

Joël Ficet, Christian Mouhanna

Centre national de la recherche scientifique (CNRS, France)

OBJECT OF RESEARCH

The interviews conducted with officers from the French *Police Nationale* in the framework of COMPOSITE's Work Package 7 ("leadership in police organisations") revealed an unexpected phenomenon: apart from the top-managers (*commissaires*), all the police officers claimed that no 'leaders' or 'champions' were involved in change processes in their respective units and expressed dissatisfaction with what they portrayed as very impersonal change management. Yet, they admitted that most reforms were effectively implemented – unless they were repealed by political authorities! How can such a contradiction be explained? Is change possible without leadership? The purpose of this research is to answer these questions through the analysis of a specific reform which the interviewees themselves have identified as 'exemplary' of change management in the *Police Nationale*: the recent law on the rules of custody (April 2011). By empirically observing the implementation of the law at both local and national levels, we ambition to find out if there is a specific French 'style' of change management and if the notion of 'leadership' is relevant to analyse it.

BACKGROUND OF THE RESEARCH

The police custody (*garde à vue*, or GAV) is an early phase of the investigation process during which a suspect is detained in a police station for questioning without being charged. The French police custody system is notoriously tough. Until April 2011, although the length of the custody supposedly could not exceed 24 hours, suspects could in specific cases be held for up to 96 hours without being charged. The only access to a lawyer was a 30-minute visit to check whether the suspect was well, not for legal discussions. The police also had no obligation to make the documents pertaining to the case available to the lawyers, which made it very difficult for the latter to organise a defence. All these elements, combined with a very high number of GAVs (about 800.000 in 2009) have fed an old-age controversy on the legitimacy of the rules of custody. It finally became obvious that a reform was needed after several decisions by the European Court for Human directly incriminated the French judicial system for not guaranteeing a fair trial to the accused; one of the most recurrent criticisms pinpointed the lack of protection for individuals during custody and especially the lack of access to legal counsel.

The combination of these factors led the government to introduce a bill in October 2010, which was adopted by the Parliament on 14th April 2011. The main innovations were:

- The right of the accused to enquire a counsel as soon as he or she is taken into custody.
- The right to remain silent until a counsel is present and the lack of validity of confessions made outside of a counsel's presence.
- The access for the counsel to all the documents pertaining to the case.
- The right of the accused to contact his or her family and employer.

The entry into force of the bill had been initially fixed on the beginning of July, which left a short deadline to organise the transition. However, the transition phase was even more shortened due to a decision by the *Cour de Cassation* (French highest jurisdiction) which imposed the immediate application of the law, starting from the day after it was passed by the Parliament. For police units, this meant modifying the premises, reassigning some of the staff members, adapting the proceedings writing software, and finding tools of coordination with the bars of lawyers to ensure the constant availability of legal assistance – especially at night. All of these changes had to be effective in just a few days, otherwise all the proceedings would be considered invalid by the courts.

Despite the hostility of police officers – for whom the reform impedes the investigation's efficiency –, most of the police units have rapidly found solutions to these problems. By means of this research, we hope to check whether these solutions match the expectations of the legislator and identify the factors that explain the success or failure of the change. Our aim is to compare specifically the impact of political factors (consensus on the objectives of the reform in the public opinion, accompanying measures of the reform), organisational factors (structure of the unit, human resources, financial means etc.), cultural factors (professional values) and leadership factors (attitudes and behaviour of the managers) by monitoring the change.

DESIGN

The research is based on qualitative methods and will be conducted in the Police zone of Beauvais, a city in northern France, in June and September 2013. Therefore, around 15 interviews with police officers of the Beauvais police zone will be conducted. The senior officers (*commissaires*) will be interviewed as 'leaders' in charge of explaining the change to the operatives and making decisions about the implementation of new legal provisions. The other interviews will be conducted with operational officers, mainly with officers legally qualified to take a suspect into custody (*officiers de police judiciaire*).

Police officers are not the only protagonists regarding the custody process. To fully understand the consequences of each factor, interviews will also be conducted with members of the bar of lawyers.

Finally, the research team will also meet several stakeholders who are involved in the monitoring of the law at a political level (a specific committee composed of advisers to the minister of justice, experts, members of Parliament and high civil servants had been set up to ensure the follow-up of the bill).



The local police authorities have also agreed upon the direct observation regarding the practical implementation of the new rules of custody. However, since custody is a crucial part of the judicial proceedings, the recourse to participative observation as a method will depend on the agreement of each participating individual and lawyer.