



## *Training for trainee prison officers*

*Department of law and public service*



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# 1. INTRODUCTION

For the first time, the AFA and the Ministerial statistical service for internal security (SSMSI) are jointly publishing a study on breaches of probity. This publication is part of the objectives of the National Multi-Annual Anti-Corruption Plan (PNPLC) 2020 to 2022, published on 9 January 2020.

In France in 2021, the police and gendarmerie recorded 800 breaches of probity. Between 2016 and 2021, they increased by 28%, or an average of 5% per year. These offences include corruption, influence peddling, illegal acquisition of interest, misappropriation of public funds, favouritism, and embezzlement. The increase in breaches of probity is linked in particular to corruption offences (+46% over the period), which account for almost a third of all such breaches. Public corruption accounts for 68% of these cases. Active bribery (17%) is slightly more common than passive bribery (12%). Other offences are often committed in conjunction with offences related to breaches of probity; half of these related offences involve fraud or deceit.

These crimes are concentrated in medium-sized conurbations, though their geographical distribution varies from one region to another. On a per capita basis, Corsica and the overseas departments are more affected by breaches of probity than metropolitan France. The misappropriation of public funds is a particular problem in the overseas collectivities.

Most of the defendants are individuals, whereas half of the victims are legal entities. Men predominate among both defendants and victims. On average, defendants charged with breaches of probity are older than defendants accused of all offences combined. The majority are aged between 45 and 54, and 95% are French nationals.

## 2. DEFINITION

### 2.1. CORRUPTION

#### 2.1.1. Definition in the French *Larousse* dictionary

*Action de corrompre, de soudoyer quelqu'un* (“The act of corrupting or bribing someone”).

*Corrompre* (“to corrupt”): *rendre mauvais* (“to make bad”)

Example: *Ces données sont corrompues* (“These data are corrupted”)

#### Common use:

Corruption is defined as an act whereby a person vested with a specific function, whether public or private, solicits or accepts a gift, an offer, or a promise with a view to performing or not performing an act that falls, directly or indirectly, within the scope of his or her responsibilities.

Corruption therefore implies the perpetrator's violation of the duties of his or her office.

## 3. LEGAL FRAMEWORK

### 3.1. CORRUPTION IS A CRIMINAL OFFENCE

Corruption (Article 432-11 of the French Penal Code) is the act of *'a person in a position of public authority, entrusted with a public service mission or holding a public electoral mandate, soliciting or agreeing, without right, at any time, directly or indirectly, to offers, promises, gifts, presents or advantages of any kind, for himself or others [...]'*.

The offence is constituted by the combination of 3 elements:

1. A person exercising a public function, namely:
  - A person acting in an official capacity
  - A person entrusted with a public service mission
  - A person holding an elected office
2. Soliciting, or obtaining without solicitation, an advantage
3. The performance or non-performance of any of his or her duties

**Note:** it is not necessary for the act to have been carried out; intent alone is sufficient to constitute a corruption offence.

Article R122-14 of the French Penal Code states that:

*"Prison staff may not employ the persons entrusted to them for personal purposes, nor may they accept from them, directly or indirectly, gifts or benefits of any kind whatsoever.*

*They may not take on any message or mission, or buy or sell any product or service on behalf of the persons entrusted to them.*

*They may not hand over to or receive from such persons any sums of money, objects, or substances whatsoever, except in the cases provided for by law.*

*They must not permit or facilitate any communication between prisoners or between prisoners and the outside world that is not authorised by law.*

*They must not act, either directly or indirectly, in relation to the persons entrusted to them in order to influence their means of defence or the choice of defenders'*

In the French Penitentiary Code, Book I, Title II, Ethics (Articles D120-1 to R123-5), several articles refer to probity and exemplarity and indicate the expected professional attitudes and reflexes to protect oneself and the institution from attempted corruption.

#### Article R122-1

*'Prison staff must be loyal to the institutions of the Republic. They must have integrity, impartiality, and probity. He must never lose their dignity under any circumstances'*

#### Article R122-3

*'Prison staff must refrain from any act or statement, written or otherwise, likely to undermine the security and good order of establishments and services and must perform their duties in*

*such a way as not to prejudice the proper performance of the tasks entrusted to the public prison service'*

#### Article R122-7

*'Staff who witness conduct prohibited by this Code must make every effort to put a stop to it and to bring it to the attention of their superiors. If such conduct constitutes a criminal offence, it shall also be brought to the attention of the public prosecutor'*

#### Article R122-12

*'Prison staff must at all times conduct themselves and carry out their duties in such a way that their example has a positive influence on the people in their care and commands their respect'.*

### **3.2. ACTIVE CORRUPTION**

#### Art 433-1 of the French Penal Code

*'When a natural or legal person obtains or attempts to obtain, in return for gifts, promises, or advantages, from a person exercising a public function, the performance, delay, or non-performance of an act pertaining to his function or an act facilitated by him'.*

This third party is referred to as the corrupter.

### **3.3. PASSIVE CORRUPTION**

#### Art 432-11 of the French Penal Code

*'When a person exercising a public function takes advantage of this function by soliciting or accepting gifts, promises, or advantages with a view to performing or not performing an act pertaining to their function'.*

This person is referred to as corrupt.

## **4. "DÉFENSE D'AIMER"**

On mood'énap you can listen to the testimony of a prison warden convicted of corruption, who told his story in a book entitled ***Défense d'aimer*** [*Forbidden Love*].

Based on what you have heard and/or read, please identify the vulnerability and protective factors described by the warden.

## **5. "THE SLIDE"**

While the video is being shown, please identify and note below the vulnerability and protective factors of the person during their work as a prison officer.

Vulnerability factors	Protective factors

## 5.1. VULNERABILITY FACTORS

### 5.1.1. Within the professional environment

#### 5.1.1.1. Difficult integration

Poor integration within one's institution and one's team can lead to anxiety and poor well-being and therefore make the employee vulnerable. They may tend to seek recognition from the incarcerated population. This search for recognition can result in illegal acts on behalf of the incarcerated population.

For example: bringing in products at the request of incarcerated persons, even if such products are not prohibited.

#### 5.1.1.2. Poor approach to hierarchical support

The role of a manager is, *inter alia*, to support employees in their tasks and to listen to them when they encounter difficulties in carrying out their professional duties, including in situations where their professional integrity is called into question.

Prison staff must report to their superiors, including on any difficulties they may encounter, in order to find solutions. It is most important that staff are loyal to the institution and therefore report any breaches of the rules and accept the consequences.

Often, an admitted difficulty or error also reveals a malfunction in the establishment's practices and can therefore be used to stop it. For the agent in question, this encourages them to correct their professional practices.

#### 5.1.1.3. An isolated post

Some positions are far from the cell blocks where searches, inspections, and observations are among a guard's regular responsibilities.

These other posts – surveillance posts, commonly referred to as "fixed posts" – put guards are in 'close proximity' to inmates classified as auxiliaries. Working together on a daily basis can lead to specific, more individualised relationships, which may become a breeding ground for corruption. In addition, when physically distant from the core of the prison and at times with less supervisory support, alone at their post, surveillance staff may lose certain professional reflexes and thus put themselves in danger. Professional isolation is therefore a factor in vulnerability.

Examples of fixed positions: laundry guard, canteen guard, kitchen guard, workshop guard, sports instructor/guard, etc.

#### 5.1.1.4. Positioning in relation to the prison population

A prison is a microcosm where everyone observes everyone else's actions; for staff, it is their job to do so, while for inmates it is an occupation.

Inmates wanting "privileges" will spot the officer who shows laxity, lack of interest in their job, lack of motivation, etc.

This officer, whose demotivation leaves them potentially vulnerable, may become a more easily corruptible target.

Having lost their professional bearings, a "weakened" agent is sometimes seduced or even fascinated by the world of criminality, delinquency, and easy money... and thus gradually crosses the "red line" without realising it until it's too late.

Some inmates – charismatic "smooth talkers" – easily spot "vulnerable" officers, those sensitive to their "aura", and then implement seduction strategies, blurring boundaries and defences in order to corrupt the officers more easily.

### **5.1.2. Within the personal environment**

#### 5.1.2.1. Family connections

When one's family environment is peaceful, their family structure guarantees psycho-affective and social balance. When it is not, however, this structure may be a source of vulnerability.

When starting their careers, prison staff often find themselves far from their loved ones and their usual environment. This difficulty, which sometimes represents a source of stress, is a weakening factor with regard to corruption, as it can lead to a lack of vigilance, with intrusive personal preoccupations taking precedence over the essential rigour of the professional behaviours that contribute to the safety of inmates.

Family ties and structures are not intangible elements. Families can either protect or undermine individuals.

"Events" in the family (divorce, death, illness, geographical separation, etc.) can make individuals more vulnerable. And conversely, a seemingly well-structured family can also be a source of poor well-being for individuals.

#### 5.1.2.2. Social and friendship network

Being in daily contact with a population in distress, and in an enclosed environment, may represent a source of difficulties.

It is therefore important for prison staff to have a balanced social life outside the prison environment.

This balance can be achieved through sporting or cultural activities, but also by maintaining a circle of friends that allows everyone to relax and decompress.

### 5.1.3. Personality

We all have our own personalities with our qualities, faults, strengths, and weaknesses. Our personalities are partly determined by our cultural, family, and social heritage, and are shaped by the events that punctuate our lives. We all have certain reference values which must be identified in order to measure our individual risks with regard to corruption.

#### 5.1.3.1. Personality traits

Certain personality traits represent vulnerability factors.

Examples:

- Some people are naive and therefore not very suspicious, while others are constantly on alert, sometimes to an exaggerated degree.
- You may experience difficulties if you do not know what exactly is the "right distance" from inmates.
- You may have a fascination with the world of criminality and delinquency. This fascination, often fuelled by books, films, and TV series that portray a distorted reality, may lead to equivocal attitudes and positions that represent potential risks.
- You may also have difficulty asserting yourself or expressing opposition firmly and calmly.

These examples of personality traits are not exhaustive. They should encourage you to question yourself. The point is to get to know yourself better so that you can improve your professional interactions.

#### 5.1.3.2. Relationship with money

We have all heard the expressions "he has a hole in his pocket" and "the more he has, the more he needs".

These expressions describe those who have difficulty managing their finances and who thrive on excessive consumerism, or others who have an excessive attraction to money, sometimes even easy money....

If you have this sort of relationship with money, make sure that you keep it to yourself; don't share it with your colleagues or with inmates.

A prison officer with permanent financial difficulties or who lies to "burn through cash" is easily corruptible.

#### 5.1.3.3. Values

The work of the Prison Service is based on values that every prison officer must share and endorse. If this is not the case for even one officer, then our whole administration, our institutions, our services, our officers, and ultimately the safety of society will be put at risk.

The values suggested or enshrined in the Penitentiary Ethics Code – **Integrity, exemplarity, probity, and loyalty** – serve to protect prison officers and the entire prison service.



On the other hand, if you are unable to combine your personal values with those of the Prison Service, or even reject the latter, then you are highly vulnerable to corruption and unable to carry out the duties of a prison guard with integrity.

## **6. WHAT IS MY RISK OF CORRUPTION TODAY AND TOMORROW?**

Identifying our own vulnerability and protective factors allows all of us to be vigilant with regard to corruption risks, and thus to protect ourselves, our colleagues, our institutions, and our society at large.

To help you identify your vulnerability and protective factors, use Pass-Anticor and complete the coloured target available on Mood'énap – the "Corruption risks" self-training module



## **7. HOW CAN WE END CORRUPTION?**

According to the *Larousse* dictionary, one of the first meanings of the French noun "*corruption*" is decomposition, the rotting of a material and, by extension, the rotting of a public entity, a state, or a society.

A corrupted prison officer often finds themselves trapped between the inmates who are exerting pressure on them and their feeling of having betrayed their institution and their colleagues.

### **7.1. PERSONAL ENVIRONMENT**

It may be easier to tell those close to you about your situation than your colleagues or superiors.

#### **7.1.1. Family**

A family member could become your confidant. Some people close to you may have noticed that your mood has changed, or that you seem worried. They may alert you by asking questions about these changes. Pay close attention to what they say, as they know you well and can serve as a "beacon" to help you find solutions quickly.

### **7.1.2. Social and friendship network**

Just as it may be easier to talk to a family member than to someone in your professional environment, it may be easier to talk to a friend.

In both cases, talking about it can only free you from the feeling of being trapped.

Subconsciously, you may expect your friends and family to help motivate you to break this corruptive process by pushing you to talk to your superiors about it, or you may hope that they will do it for you by contacting your management.

## **7.2. PROFESSIONAL ENVIRONMENT**

Remember that if the process has not yet started, but an inmate has made a proposal, you must immediately report this to your supervisors; you must also draw up an incident report on the inmate as well as a professional report explaining the situation.

If the process has started, it can always be stopped... Who can you talk to?

### **7.2.1. Talk to a colleague:**

A corrupted prison officer may talk to a colleague in their institution or from their academy class in order to get a distanced opinion on the situation as well as some objective advice.

### **7.2.2. Talk to a manager at the institution:**

Management must take action and/or inform the judicial authorities if they observe any professional misconduct or a criminal offence. However, if they are informed early enough, they may be able to put an end to the corrupt practices and thus protect the "at-risk" officer and the institution concerned.

### **7.2.3. Talk to the judicial authorities**

The law provides for direct contact with the Public Prosecutor's Office. Article 40 of the French Penal Procedure Code: *'Any constituted authority, public officer, or civil servant who, in the performance of his duties, acquires knowledge of a crime or offence is required to notify the public prosecutor without delay and to forward to this magistrate all information, reports, and acts relating thereto'*.

### **7.2.4. Whistleblowers**

A whistleblower is a person who reports an unlawful act or a risk of harm to the public interest of which they have become aware in the course of their duties.

According to Article 6 of the Sapin II Act of 9 December 2016

*'A whistleblower is a natural person who discloses or reports, disinterestedly and in good faith, a crime or misdemeanour [...] of which he or she has personal knowledge'*.

The Sapin II Act aims to strengthen the protection of whistleblowers. This law creates the Anti-Corruption Agency (AFA)



([www.agencefrancaise-anticorruption.gouv.fr](http://www.agencefrancaise-anticorruption.gouv.fr)) whose role is, *inter alia*, to:

- Protect whistleblowers against reprisals (disciplinary action, dismissal, etc.) and guarantee the protection of their rights.
- Guarantee the strict confidentiality of their identity.

Responsible by law with helping the competent authorities and those who come into contact with them to prevent and uncover breaches of probity, the AFA receives and processes reports from individuals, most of which are sent electronically. These reports, which are sometimes anonymous, describe situations that may involve individuals or legal entities under private or public law.

The reports may warrant a specific response from the Director of the AFA or may be forwarded for reference or jurisdiction to another department or another administrative or judicial authority, where appropriate, on the basis of Article 40 of the French Penal Procedure Code.

#### Article 122-9 of the French Penal Code

*'A person who discloses a secret protected by law is not criminally liable, provided that such disclosure is **necessary and proportionate** to safeguard the interests in question, that it is made in **compliance with the reporting procedures** defined by law and that the person meets the criteria for defining a whistleblower set out in Article 6 of Law No. 2016-1691 of 9 December 2016 on transparency, combating corruption, and modernising economic life.'*

For all questions relating to ethical obligations and principles, the Ministry of Justice now has an advisory body, the **College of Ethics**: *'All civil servants have the right to consult an ethics officer, who is responsible for providing advice on compliance with ethical obligations and principles'*

The **College of Ethics provides advice** on compliance with the ethical obligations and principles of the civil service (impartiality, probity, secularity, etc.). It also receives **whistleblower reports** and provides expertise to the ethics officers in the inter-regional divisions. It is a strictly advisory body with no hierarchical or disciplinary powers.

It may be contacted:

- By e-mail to [secretariat-deontologie.rh-sg@justice.gouv.fr](mailto:secretariat-deontologie.rh-sg@justice.gouv.fr)
- By post, to 'Collège de déontologie, Ministère de la Justice, 13 place Vendôme 75042 Paris Cedex 01'

The request, which must remain **anonymous**, must include all information and documents required to understand the issue.

The College of Ethics is **responsible for civil servants and contractual employees** of the central administration, the judicial courts, the decentralised departments, public establishments under the supervision of the Ministry of Justice, and departments of the Ministry of Justice with national competence, with the exception of the French Anti-

Corruption Agency. It does not have jurisdiction over members of the Inspectorate General of Justice or magistrates, who have their own college

Internet extract: The College of Ethics in brief:



**Independent**

Reports directly to the Minister of Justice.



**Ethics Officer**

Responsible for answering all your ethical questions.



**Assistance with ethics reviews**

May be consulted by your hierarchical supervisor, in connection with transfer requests and the activities to create a company.



**Whistleblowing officer**

Responsible for receiving reports from whistleblowers at the Ministry.

Each Inter-regional Prison Services Department has its own ethics committee, under various names, which may be contacted in the same manner as the Ministry of Justice's College of Ethics.

[http://intranet.justice.gouv.fr/site/apnet/art\\_pix/Listing\\_referents\\_deontologie\\_.pdf](http://intranet.justice.gouv.fr/site/apnet/art_pix/Listing_referents_deontologie_.pdf)

At ENAP, you can refer your case to the Ethics and Teaching Committee by completing the referral form and sending it to: [deontologie.enap@justice.fr](mailto:deontologie.enap@justice.fr)

## 8. PENALTIES FOR CORRUPT OFFICIALS

### 8.1. Disciplinary:

The maximum penalties may be:

- Dismissal for non-permanent staff
- Termination for permanent staff

Penalties accompanied by a lifetime ban from all public employment.

### 8.2. Criminal:

The French Penal Code (Article 433 -1) provides for significant penalties in cases of influence peddling and active or passive corruption:

- Maximum 10 years' imprisonment
- A fine of €1,000,000, which may be increased to double the proceeds of the offence.

## 9. IMPACT OF A KNOWN ACT OF CORRUPTION.

In the course of your career, you may be confronted with the revelation of an act of corruption committed by an employee of your institution, regardless of their hierarchical position.

This will lead to a feeling of unease throughout the establishment, a loss of confidence, a feeling of insecurity, even rumours and suspicion, and therefore to institutional and personal destabilisation. An entire organisation is affected by the reprehensible actions of one officer. The corrupt officer may be a member of your team whom you trusted and with whom you shared good times, perhaps outside the establishment... Ultimately, you feel betrayed or even "violated".

This situation is emotionally difficult. You may feel anger, disappointment, or guilt at not having "seen". However, you must remain professional and act within the ethical framework of your responsibilities.

If you feel weakened by this event, don't hesitate to talk about it to a friend or family member, a colleague, a supervisor, or the staff psychologist, or to call **0 805 200 215 'Allo Écoute prison staff'**, a free service that guarantees confidentiality and anonymity (immediate psychological support).



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