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# Beyond Managerialism in Criminal Justice

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*Abstract: This article reviews changes which public sector managerialism has imposed upon the criminal justice agencies, especially the courts. It presents both theoretical and empirical evidence to suggest that the relevance of managerialism is now receding as contemporary concerns and conditions are encouraging a focus on new priorities and a post-managerial style of organisation. Finally, it explores the implications for criminal justice and considers the ways in which post-managerialism is likely to develop in that context.*

What has been the impact of a decade of managerialism on the institutions responsible for criminal justice? Has the emphasis placed on the efficient deployment and management of resources been at the expense of concern with other aspects of criminal justice policy? Should the managerial agenda of the past ten years be understood as a temporary diversion from a longer-term pattern of criminal justice development or has it refashioned the agenda more permanently? Most important, what happens next? In this article we consider these questions by first reviewing the changes which public sector managerialism (or 'New Public Management' as many scholars refer to the phenomenon) has imposed upon the criminal justice agencies, especially the courts. We then consider both theoretical and empirical evidence which suggests that the relevance of managerialism is now receding as contemporary concerns and conditions encourage a focus on new priorities and a post-managerial style of organisation. The article then proceeds by exploring the implications for criminal justice and the ways in which post-managerialism is likely to develop in that context.

## Managerialism and Criminal Justice

The various traits of public sector managerialism have been amply described and commented upon in the literature of public administration in recent

\* This article represents the last collaborative project of Michael Willson and John Raine, the piece having been prepared only a few months before Michael died in July 1996, at the age of just 47, after a brave two year fight against cancer. Michael cared deeply about the state of criminal justice and this article reveals many of his concerns in this context as well as capturing much of his natural optimism and vision for the future.

## DISPLAY 1

*Doctrinal Components of New Public Management (after Hood 1991)*

- Hands-on professional management
- Explicit standards and measures of performance
- Greater emphasis on output controls
- Shift to disaggregation of units
- Shift to greater competition
- Stress on private sector styles of management practice
- Stress on greater discipline and parsimony in resource use

## DISPLAY 2

*Components of New Public Management (after Dunleavy 1994)*

- **Competition Components**
  - e.g. Purchaser-provider split; Next Steps Agencies etc.
  - CCT and market testing
  - Consumer-tagged financing (i.e. linking funding to clients)
  - Deregulation (i.e. freedom to manage and encouragement of entrepreneurialism)
- **Disaggregation Components**
  - e.g. Growth of Next Steps agencies
  - Development of stronger organisational leadership
  - Establishment of independent institutions (e.g. regulatory/inspection bodies)
  - Formula funding of new single-purpose organisations
  - Competition by comparison/league tables etc.
  - Push towards de-professionalisation (including consumer evaluations)
- **Incentive Components**
  - e.g. Privatisation of asset ownership (including the Private Finance Initiative)
  - Light touch regulation, compelling efficiency but from an 'arms length' position
  - Development of charging
  - Deprivileging staff, e.g. ending 'sheltered' pay formulae and national agreements
  - Increased pay differentials; especially through increasing pay of top managers
  - Performance related pay
  - Mandatory efficiency dividends each year replacing 'last year's plus inflation' budgeting

years (see, for example, Hood 1991; Pollitt 1990; Dunleavy 1994; Hughes 1994). To differing degrees, the organisational culture and ways of working of the criminal justice agencies, like all other public sector organisations, have been transformed in recent years by the wave of managerialism in part promoted and imposed by 'new right' politicians as they have sought to inject private sector principles and practices into the public sector but which have also come to be seen as having a status and significance above party politics; as global phenomena of our time. Indeed, Hood (1991) describes 'New Public Management' as one of five megatrends in public administration alongside those of 'less government' 'internationalisation', 'privatisation' and 'automation'.

The arrival in criminal justice of managerialism was somewhat slower than in most other parts of the UK public sector, notably local and central government. This was partly because of the high political priority afforded to law and order by the new Conservative government in 1979 and partly because of the cultural segregation and organisational positioning of the criminal justice agencies – especially the courts, with their constitutional protection through the doctrine of the Separation of Powers – at one remove from the mainstream of public administration. However, by the mid-1990s elements of most of the components of the New Public Management described by Hood (1991), and summarised in *Display 1*, were present. The second stage of the New Public Management, the promotion of the market mechanisms of contracting, also developed more slowly but elements of most of the characteristics described by Dunleavy (1994) and summarised in *Display 2*, can now also be found in criminal justice. Indeed, most of the criminal justice initiatives which the government took from the mid-1980s onwards appeared to contain, or were founded upon, elements of the public sector managerialist agenda (Lacey 1994). Focus on purpose appeared to be eclipsed by the consideration of process and the medium became the message.

### **The Managerialist Agenda in Criminal Justice**

For more than a decade, the managerialist agenda has held steady as criminal justice policy has changed, first in favour of, and then against, less incarceration, punishment in the community, more frequent use of cautioning and so on. Indeed, the cumulative effect of the pursuit of managerialist goals has perhaps had greater impact on the criminal justice system than the policy agenda which has shifted around in response to the changing emphases of the political leadership at the Home Office. As we have argued elsewhere (Raine and Willson 1993, 1995), the incoming government of 1979 seemed to see criminal justice – and most other public institutions – as spendthrift, idiosyncratic and unaccountable. Accordingly, a three-pronged strategy was employed; cash limits and emphasis on efficiency to engender a more financially aware and prudent approach; greater standardisation in policies and practices to curb the autonomy of the professionals and reduce their idiosyncrasies; and reorganisation of the agencies into stronger hierarchies, supported by target setting and performance monitoring to effect

greater control and to sharpen accountability. The consequences of this strategy may be seen in all aspects of the work of the agencies of criminal justice. Below we summarise the main manifestations of all this under the headings of *productivity*, *cost-efficiency* and *consumerism*. It will be seen that, within its own terms of reference, managerialism has accomplished a great deal, although it can be argued that a price has been paid in terms of neglect of other, more traditional, themes of criminal justice, such as '*protection of human rights*', '*reduction of crime and delinquency*' and '*promotion of due process*' (Raine and Willson 1995).

### *Productivity*

The concern with productivity can best be understood in terms of a preoccupation with more efficient processing of cases and files within criminal justice; the economists' or management accountants' version of optimal performance rather than whether confidence in the rule of law is produced. Optimal performance requires that there be no bottlenecks; in which criminal justice is seen primarily in 'system' terms and with emphasis placed on the 'interconnectedness' of the agencies, the flows of cases or information between them and on the alternative methods of undertaking the tasks in order to achieve faster throughput. This perspective increasingly found favour at the Home Office through the 1980s and the politicians and civil servants there worked hard to instil a stronger 'systems' viewpoint and to encourage the agencies to recognise and respond to their interdependence (Pullenger 1985). Such systems thinking led, for example, to the establishment of inter-agency working groups and of court user groups. It also formed part of the rationale for a host of 'system-flow-improving' initiatives; for example, in the prosecution and courts' context, the case management/case streaming tactics in which the longer, more difficult, cases – the exceptions – were filtered and separately listed following the conduct of pre-trial reviews; or in prosecution terms, filtered out altogether through 'discontinuance'; the resort to more stipendiary magistrates who, though more expensive than the lay justices, had the reputation for 'getting on with the business' in the courtroom. It was apparent in the moves to delegate more judicial powers to magistrates' clerks (Magistrates' Courts (Miscellaneous Amendments) Rules 1993) thus saving potential delays involved in arranging special courts and justices' attendances. It was apparent in the countenancing of a range of other practices such as plea-bargaining, sentencing discounts for those pleading guilty, the more extensive use made of 'paper courts' at which guilty pleas would be acceptable in writing for certain relatively minor categories of offence, and the abolition of the lengthy committal hearings for cases being sent for trial at the Crown Court (to be replaced by simpler transfer proceedings). Also to be seen in this light were the (largely unsuccessful) attempts to introduce performance-related pay as incentives to senior police officers, senior probation officers and justices' clerks to improve their organisations' performance in terms of throughput.

Changes in policing powers and practices too, could be understood similarly in terms of their leading to greater productivity in the courts. For

example, until 1993, when the Home Secretary announced a clamp-down in one of the 'get tough' initiatives, the Home Office had seemed happy enough to condone the increasingly widespread use of police cautioning because it seemed no less effective than prosecution and yet saved the courts, as well as the police, a great deal of work. Similarly the police were given the power in 1986 to use fixed penalties for a larger number of minor (mainly traffic) offences, again as alternatives to prosecution in the courts. More recently, under the Criminal Justice and Public Order Act 1994, the police have been given the power to attach conditions to 'police bail' (Raine and Willson 1995) thus cutting out the need for some remand hearings at court.

### *Cost-efficiency*

In many respects, the quest for cost-efficiency in the administration of justice has always been a concern of government and Solomon in all his glory, and Henry VII – 'the best businessman who ever sat on the English throne' – would both have expressed interest in how it could be done. However, compared with such earlier times, almost all of the policy initiatives of the 1980s and 1990s seemed to contain a strong element of the concern to contain expenditure and reduce unit costs. Indeed, many were explicitly based on it. The introduction of cash limited grant, for example, for the probation and magistrates' courts in 1992, and for the police in 1995, represented a very significant step in the direction of stronger Treasury control of expenditure in criminal justice by replacing a hitherto open-ended Home Office funding arrangement with a regime in which a limited amount of money was distributed by formulae that would penalise the inefficient. Fixed fees were also introduced, despite much hostility among private solicitors, to cap the escalating costs of legal aid in criminal cases in magistrates' courts, and a scheme of fixed fees for criminal injuries compensation was also introduced (although the legality of this was challenged in the higher courts). More recently the Lord Chancellor announced his intention to introduce 'no win no fee' arrangements for lawyers, initially for the civil courts only, but presumably with the possibility of extension to the criminal courts as well if the measure proved successful in containing costs. Similarly, the management accountants' preoccupation with cost-efficiency led to the development of management information systems for each of the agencies and the publication of league tables of performance statistics and the like to highlight and expose inefficiency. The Inspectorates of Constabularies and of Probation became increasingly interested in efficiency issues and a new Inspectorate for Magistrates' Courts was established in 1993 with a similar agenda.

Cost-efficiency also underlay a series of government initiatives to rationalise the number of territorial areas through which criminal justice was organised. There were plans, for example, to rationalise the number of police areas and the number of probation areas, but these met with strong resistance from within the local services. Similar opposition was mounted in the magistrates' courts to the Lord Chancellor's plan to halve the number of magistrates' courts committee areas (Lord Chancellor's Department

1992). In the Crown Prosecution Service, on the other hand, established in 1986 as a national organisation, and therefore free of all the historical local ties, a rationalisation in the territorial sub-structure was implemented in 1993, reducing the number of areas from 31 to just 13.

As in other parts of the public sector, greater cost control and containment was sought through privatisation (and most recently through the Private Finance Initiative), notably of some prisons; through the promotion of competitive tendering for a range of support services, such as prisoner escort duties. Encouragement has also been given to further 'civilianisation' of police functions and to the greater use of the independent/voluntary sector by the probation service and for victim/witness support services (Raine and Smith 1991). Moreover, the establishment of a Courts Services Agency in 1995, separating the organisational and service management responsibilities of the higher courts from the policy-making responsibilities within the Lord Chancellor's Department was designed to make the costs of court administration more transparent and therefore more controllable.

### *Consumerism*

As in other areas of the public sector, since the late 1980s, the consumerist bandwagon rolled steadily and relentlessly into criminal justice creating visible improvements in many aspects of the service provided to users. In a sense, this was a highly subversive strategy in that it involved redefinition of criminal justice as a service industry concerned with customer care rather than as a regulatory function of government as understood during the previous 2,000 years of British history (Kings Solomon and Henry VII would probably have had some difficulty in comprehending the concept of customer care!). Nevertheless, much of the effort was devoted to improving the environment within which criminal justice is dispensed, through the provision of better facilities at police stations and courts, improved sign-posting and information, reduced waiting times, more training for front-line staff in dealing with the public and so on. Such consumerist efforts, intended to make the criminal justice process less unpleasant and more comprehensible, were, of course, to be welcomed. However, the closure of many smaller police stations and courthouses, particularly in rural areas, has probably counterbalanced some of the gains by reducing accessibility (Raine and Willson 1996).

In addition to physical service provision issues, the preoccupation with consumerist principles has led to a greater commitment to 'user control' – a concept which provided the underpinning ethos of the Citizen's Charter initiative in 1991 (Cabinet Office 1991), and which would have been especially attractive to the government because it offered the prospect of added pressure on the public agencies to be more cost-efficient and productive. This was evident, for example, in the enthusiasm in the Lord Chancellor's Department and Home Office for court user groups, for complaints procedures and surveys of user reactions to the service provided at courts and for the publication of annual reports, charters and the like.

Two particular foci have been witnesses and victims. Here a combination of increased media attention, the campaigning work of organisations such

as Victim Support and Justice For Victims, and the desire of government to implement initiatives in keeping with the spirit and purposes of the Citizen's Charter served to ensure that more is now being done to improve the experiences of victims and witnesses in the criminal justice system (Home Office 1990). As a result, not only is the subject of improved facilities for such parties at courts high on the agenda of the Lord Chancellor's Department, but funding has also been made available for volunteer-run 'witness services' at many court centres around the country to provide information, advice and emotional support for those having to attend for hearings (Raine and Smith 1991). Moreover, these days the judiciary is expected to take the victim's viewpoint into consideration in determining sentences, particularly in serious cases.

### **The Legacy of Managerialism**

The managerialist preoccupations with productivity, cost-efficiency and consumerism have thus now been firmly located within criminal justice and the effects are now readily apparent in all the constituent organisations. As we have argued elsewhere (Raine and Willson 1995), there have been benefits and disbenefits from the change to a managerialist culture and, accordingly, cases can be made both in favour and against what has happened. The preoccupation with *productivity*, illustrated in the initiatives to systematise criminal justice, to establish time-limits and other 'processing' and 'throughput' standards, for example, has certainly addressed the roots of growing tardiness and delay which have increasingly characterised the administration of justice in many parts of the country although, as so often the case when national standards are set, the effect has been to undermine best performance by encouraging convergence towards the average – with mediocre performance becoming the norm.

Similarly, the preoccupation with *cost-efficiency* has certainly attacked the culture of carelessness and weak financial accountability that had characterised criminal justice previously, as it did other parts of the public sector. But initiatives like cash-limited grant have inevitably put many justice agencies under pressure to cut service standards by organisational rationalisation and to bring managerial and money-spinning considerations more explicitly into the justice arena. The extent to which 'due process' has been thus compromised in the dispensation of justice remains a debatable point (Green 1992; Raine and Willson 1993). However, even the conclusions of the Royal Commission on Criminal Justice, commissioned in the wake of the revelation of serious miscarriages of justice (Runciman 1993) have been criticised as reflecting too much the values of parsimony and cost-efficiency (Field and Thomas 1994).

The preoccupation with *consumerism* too is generally regarded to have brought about benefits particularly in terms of greater sensitivity towards those who, for one reason or another, were to become caught up in criminal justice. It has challenged the complacency of the 'providing' agencies and their professionals on whose terms the criminal justice process has largely been organised and it has exposed criminal justice to a form of



public scrutiny which in turn, has engendered important changes, for example, in the way the judiciary is appointed and in the way victims are treated. But at the same time, the associated focus on 'service' has arguably served to undermine the authority of the courts and to redefine their role in a way that risked putting 'customer' or 'user' interests above those of the community at large and which put 'service provision' ahead of 'regulation' of law and order (Raine and Willson 1995).

### Taking Stock

Whatever viewpoint is taken about the legacy of managerialism in criminal justice, and despite a certain inevitability about its arrival given the parallel developments taking place in public administration around the western world during the 1980s, it is important to recognise that this was only one model for organising work. Quinn (1988) suggests that we can identify at least three other distinct organisational models, which we describe here as the bureaucratic, the competitive market and the collaborative partnership. Further, it is the argument of this paper that managerialism is on the wane and that other forms of organising work which better match contemporary concerns and conditions are coming to the fore.

In the post-war period until the early 1980s the administrative *bureaucratic* way of organising work was dominant in the courts as well as in local and central government. Arguably this approach was reasonably well suited to the prevailing conditions of relative stability and to times when a slow rhythm to work and a degree of duplication were considered fair prices to pay for what Hood (1991) refers to as the *theta* and *lambda* values of fairness, honesty and robustness.

Growing public dissatisfaction in the late 1970s with the bureaucratic approach promoted the government's commitment towards the New Public Management and gave legitimacy and emphasis to the new preoccupations of productivity, cost-efficiency and consumerism. This *managerial* approach built on the stability of existing knowledge and expertise but allowed people to use them in a more dynamic way. The emphasis could be on shorter time-lines and the achievement of more immediate gains in operational performance through the setting of objectives and targets, through strengthening systems of control and through clarifying the allocation of responsibilities and accountabilities. The *sigma* values of economy and leanness come to the fore in the managerial world.

Emerging from this managerial approach in the mid-1980s, particularly in the mainstream of public administration (health care, central and local government), was a different set of government policies, this time elevating the *competitive market* as the medium by which work was best organised. Whereas the managerial approach had emphasised hierarchies of control and efficiency, the competitive market approach now emphasised entrepreneurial activity and the use of (usually) short-term contracts with providers of services. Instead of relying on the new middle managers to make things work, the idea now was that work could be organised through being specified in contract tenders. These market mechanisms complement conditions

of rapid change and uncertainty which create both opportunity and risk, rather than, as some argue (Walsh 1995) in the long-term regulatory environment of government. The contracting out of much local authority work, the formation of hospital trusts and fund-holding GP practices in the National Health Service were obvious examples of this third approach being applied in ordering the work of government. The decision to contract out prisoner escort duties rather than to try to organise them more efficiently or the contracting out of the duties of the bailiff are further examples from the sphere of criminal justice.

One consequence of the fragmentation of agencies within the contracting format has been the fragmentation of responsibility. Under this regime, no-one would be operationally responsible for the whole. Inevitably, managers have come to see the advantages to themselves in being free of responsibility for supervising service delivery, free of the large-scale staff management duties and free to focus on policy making and the management of contracts with independent providers. Dunleavy (1994), in talking of 'bureau-shaping incentives' describes how self-interest on the part of public managers is increasingly determining new organisational forms comprising small elites of staff, driven by an ethos of 'keep it simple', rather than the 'empire building' ethos traditionally associated with the public sector. Which prison governors, for example, having now experienced a period without the responsibility for prisoner escort duties because of contracting out would press to regain the function? Similarly, which magistrates' clerk, having negotiated a satisfactory arrangement with firms of bailiffs for undertaking fine enforcement work would wish to re-employ staff and to bear the associated overheads and responsibilities, particularly if budgets are to remain severely constrained?

The fourth model discussed by Quinn (1988), and described here as the *collaborative partnership*, provides a further contrast in terms of organisational culture. The typical characteristics here are that the work is based around small teams, that co-ordination is achieved through informal networking and consultation, that specialisation is reduced and that there is increased reliance on individual professional responsibility and mutual trust. A key organising factor is the identification of shared values, the respect of common principles and the recognition that colleagues believe in, and are working to, the same goals. The signs of collaborative partnership are less tangible and more subtle than those of managerialism or the hype of the market and are less easily recognised until one looks closely at how the organisation actually accomplishes its work. This model currently appears to be increasingly in vogue among the middle levels of most professional agencies where personal networking is more routinely practised as the means of achieving necessary work co-ordination. While top management may continue to pursue managerial or competitive market strategies, increasing numbers of staff below are finding that the collaborative partnership approach now has more relevance to current circumstances and conditions and offers greater prospect of achievement. To them, the managerial and competitive market mentalities seem increasingly detached from the work in hand and constructive partnerships with contractors essential to the achievement of high standards.

### DISPLAY 3

*The Life Cycle of Organisations (after Quinn 1988)*

UNSTABLE ENVIRONMENT	
<b>Collaborative Partnership</b>  <i>The Team Member</i>  Consultation and discourse Shared values Networks  !Let us be committed!  LONG TIME-LINES	<b>Competitive Market</b>  <i>The Individualist Entrepreneur</i>  Testing the market for potential deals Market mechanisms Contracting  !Make it different!  SHORT TIME-LINES
<b>The Bureaucracy</b>  <i>The Bureaucrat</i>  Consolidation Institutionalisation Patterns of Working Regulations  !Make it robust and make it fair!	<b>Managerialism</b>  <i>The Manager</i>  Objectives, targets and monitoring Productivity and efficiency Hierarchic controls  !Make it efficient and profitable!
STABLE ENVIRONMENT	

### Organisational Cycles

Quinn (1988) develops these arguments a stage further by suggesting that the emphasis in an organisation changes according to whether it can assume stability in its environment and to whether it must operate with short or long time lines (*Display 3*). Further, he suggests that there is a sequence of emphasis as the organisation and its operating environment evolve together over the life cycle of the organisation. Hence, most new organisations are established in an entrepreneurial way into a competitive market in response to identification of new niches and opportunities. If they succeed, the entrepreneur builds on their success by recruiting colleagues, forming teams and establishing more solid organisations that can operate in the still unstable environment with longer time lines. After a year or two – or with rapid growth – the organisation becomes established and the undifferentiated team of colleagues becomes unwieldy, so the organisation claims a more stable environment in which to operate. This third stage permits organisational systems to be consolidated and roles specialised. This is the bureaucratic mode. From this consolidation is likely to develop the wish to exploit the knowledge and expertise that has been consolidated to achieve increased performance – the essence of the managerial mode. Accordingly, the emphasis in the organisation changes to the managerial mode and growth, efficiency and profit are achieved. But, fast moving environments

are usually time-limited and the stabilities upon which the organisation's capacity to be productive and cost-efficient themselves change. Emphasis must soon be placed not just on operating in short time lines but on being more responsive in the short term to the market and consumers. Hence the competitive market mode comes to the fore again. However the competitive market is a tough and restless place in which to operate and requires a mentality and morality of the quick deal which is neither conducive to running a large organisation nor to effective long-term productivity. The emphasis starts to change again, this time to the collaborative partnership of the team.

Quinn's main argument is that there is a cycle to organisational life: over time, the emphasis in the culture of an organisation changes and evolves. The model appears to illuminate well the shifts in the style of UK government from bureaucracy to managerialism and then to the competitive market described in the previous section. Further, it explains why the quieter collaborative partnership model so often found operating underneath the official competitive market or managerial badge is just now in 1995 coming to the fore. The model also predicts the eventual emergence of a 'new bureaucracy' in which stability and a slower pace of operation are deliberately sought and institutionalised consolidating what has been learnt in the technical and social arenas (maybe leading to a reduction in the intensification of work and a corresponding increase in the amount of time available to staff in which to fulfil their own lives).

This collaborative partnership culture is, we argue, the post-managerial model which is increasingly coming to characterise work in and between organisations in the mid/late 1990s. Essentially, we are describing the move from operating in the volatile short term to the volatile long term where the characteristics of the 'team' culture are most appropriate. Effort is redirected to consolidate what is worthwhile and to establish stability to allow the maximum use of knowledge already acquired. Furthermore, the emphasis on explicit values and shared purpose would seem to lead to a situation in which the focus on process and medium which have so dominated the short-time-line 1980s and early 1990s is followed by more careful planning. Form, we suggest, begins to follow, rather than lead, function.

Fox and Miller (1995) come to similar conclusions in their discussion of post-modernism in management and the necessity to deconstruct the activities as well as the context in which they are conducted. Discourse in the form of significant discussion about purpose and patterns becomes a core activity exactly as in the collaborative partnership mode.

Support for the notion that managerialism might have run its course comes from many directions, not just the weariness of those who survived the eighties but have lost their taste for work. Hargrove and Glidewell's (1990) book on *Impossible Jobs in Public Management* presents a set of important and easily recognised arguments about the costs of pushing the managerial agenda too hard.

The transition from the high point of the managerial and competitive market cultures with their emphasis upon the short term is also of interest because it is echoed in other parts of society. The free market may be very

creative at one level as it encourages new and more efficient practices by challenging precedent, custom and tradition, but in their place may well be left a greater degree social instability, insecurity and stress. Doubts are being expressed about the overall benefits of the short-term horizons of managerialism and the competitive market and one scents a wistful regard for a time when change was not endemic. And this has provided sustenance to a broader movement that we refer to as 'the new morality' and which is increasingly beginning to shape the emerging public policy agenda.

### The New Morality

This might, in part at least, be understood as a reaction to negative images of 'the state of society' illustrated, for example, by allegations of 'sleaze' in government (Nolan 1995), concern about 'top peoples' pay', about homelessness, about the social marginalisation of the economically disadvantaged, about the flat rate community charge (poll tax) and the frequency with which non-payers, including an alarming number of single parent mothers have been imprisoned, about a less caring society in general in which key public services have been squeezed in pursuit of tax cuts for the better off. But more fundamentally, much of the momentum here has been derived from the changing nature of political discourse:

. . . Many people adopted positions whose rigid theology and demonology were reminiscent of a religious code. Their beliefs had a passion. But not, following the collapse of communism, these conflicts have fallen apart. Arguments about how to run an economy have become dull, taken over by technocrats. A vacuum has been left. Politics has moved on. The new battle is over ethics and morality. The economy seems beyond our control. We can only bemoan its unfair and cruel outcomes. But we can still influence public ethics. The behaviour of politicians, law and order, family values and standards in the media preoccupy us. Great moral questions dwarf the old economic issues. And the feminisation of society means that feelings have now won proper public respect alongside rationality. (*The Independent*, leader, 20 January 1995)

One trait of this new morality, then, is a new form of polity. Another is the heightened concern with democracy and particularly the *democratisation of public institutions*. This has been much stimulated by the critical reaction to the development of a 'quangocracy' in British public administration and inspired and shaped by reform-seeking movements such as Charter 88. Linked to all this are the growing expressions of concern about the erosion of civil liberties, about the shortcomings of a 'first past the post' electoral system, about the extent of patronage, about the erosion of civil rights and the extension of various forms of mass protest and trespass into the criminal law (Criminal Justice and Public Order Act 1994), and about the increasing dominance of the central government viewpoint in this country (witnessed, for example, in the capping by central government of the spending of separately elected local authorities).

A further trait of the new morality is found in the recent interest in communitarian ideas (Etzioni 1995) and the renewed emphasis on the importance of locality within society. In Britain, this has come after a decade

and a half in which the dominant polity has been highly individualistic in nature; and in many senses the appeal of these ideas can be understood as a reaction to the tide of centralisation in political and administrative power that has characterised this period. This is illustrated most obviously in the diminution of the role of local government in terms of numbers of authorities, the extent of their functional responsibilities and of their discretion and influence.

But the crucial component underlying all these traits of the new morality is, we argue, the shift from a preoccupation with the core values of the management accountant – cost-efficiency and productivity – to a concern with other, more humanitarian, values (Jacobs 1992; Rutherford 1993).

### **Post-Managerial Criminal Justice**

In pondering the relevance of all this to criminal justice, it would immediately seem that post-managerialism, with its key defining characteristic being a new moral base, is in greater harmony with the values and priorities traditionally associated with criminal justice than managerialism which has never sat comfortably alongside the core idea of Separation of Powers and independence of the judiciary. So what are the implications for criminal justice? And how should the agencies be preparing themselves for the future?

First we would anticipate some re-definition of the role and function of criminal justice to reflect more strongly its status as a regulatory institution (governing, and therefore long-termist), as opposed to that of a service industry (consumer-oriented and short-termist). We would expect some retreat from performance-related pay, short-term contracts and so on. Indeed, arguably the fashion for the short term is itself short term and will increasingly give way in criminal justice to a focus on longer timelines, particularly in the development of policy.

Second, we might expect greater attention to be paid to crime prevention – even to the extent of increasing nursery education – and correspondingly less emphasis to be given to management indicators such as arrest rates and court case completions. Similarly, we might expect more attention be given to rehabilitative work to reduce the propensity of offending in adolescent years and correspondingly less attention to the objective of ensuring that a particular individual does not offend during the next six weeks of their bail while awaiting trial.

Third, we might expect a stronger emphasis on the connectedness between criminal justice and the wider setting of social policy and between crime and social disadvantage in its various forms. Moreover, in the spirit of the collaborative partnership model, we might anticipate more collaboration and policy conformance between social policy agencies with (as well as between) criminal justice agencies. For example stronger links might be forged at the national level between departments responsible for policy in housing, education, health and criminal justice – as is already becoming characteristic at a local level.

But most significantly, and again, consistent with Quinn's ideas, we would anticipate the post-managerial agenda in criminal justice being much more

focussed upon long-term policy development than has been the case in recent years. In this respect, we would envisage a return to more fundamental empirical, research-based and less polemical forms of policy development; to policy making of the kind which led, for instance, to the Police and Criminal Evidence Act 1984, the establishment of an independent prosecution service (the CPS) in 1986 – and the Criminal Justice Act 1991, which we regard as ‘hangovers’ into a managerial age from an earlier period when humanitarian and judicial considerations played a more significant part in shaping criminal justice. Some other features which we would identify as characteristic of the post-managerial agenda that we envisage are described in *Display 4* below.

#### DISPLAY 4

##### *Characteristics of Managerialism and Post-Managerialism in Criminal Justice*

<b>Managerialism and competitive market</b>	<b>Post-managerialism</b>
Crime control	Due process
Deterrent sentencing	Proportionality in sentencing
Efficiency and economy	Fairness and security as well as efficiency
Management standards	Professional standards
Consumerist orientation	Community orientation
Political leadership	Professional leadership
Short-term perspective	Longer-term perspective
Experimentalist	Considered innovation/stability valued
Centrally driven	Locally determined priorities
Centrally-made appointments	Locally-selected/elected personnel
Standardisation and uniformity	Diversity valued
Interdependence	Independence, especially of the judiciary
Resource allocation to reward performance/as incentives	Resource allocation to solve problems and meet needs

## Conclusion

Attempts to anticipate the future are fraught with difficulties. But that said, certain patterns seem set to play a significant part in the re-orientation of criminal justice in the years immediately ahead. The managerialist culture has dominated the organisation of criminal justice agencies in recent years and has significantly changed their orientation, value base and ways of working. Although the particular characteristics and priorities of the emerging post-managerial agenda are still 'in the melting pot', the broad picture is increasingly apparent. And after at least a decade of, in many respects, harsh, but perhaps appropriate, managerial medicine, there is now the prospect of a tonic in the shape of serious reconstruction work on the value base, the institutional framework and ways of working of criminal justice.

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