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Criminal justice as a production line: ASAP and the managerialization of criminal justice in the Netherlands

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journals.sagepub.com/home/euc**Renze Salet and Jan Terpstra**

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Abstract

Since the 1990s criminal justice systems in West European countries have increasingly been affected by the process of managerialization. The managerialization of criminal justice may result in fundamental tensions between different sets of values: efficiency and cost-effectiveness against values such as the rule of law or careful decision-making. This article concentrates on one example of the managerialization of criminal justice: the policy programme ASAP (As Soon As Possible) in the Netherlands, aimed at making the settlement of cases of high-volume petty crime both faster and more efficient. The introduction of ASAP has resulted in a strong standardization of work processes and strict time limits, for both the police and the public prosecution service. In this article we analyse how ASAP operates in practice and to what degree the policy goals of ASAP are realized. This analysis shows that the introduction of ASAP has transformed an important part of the Dutch criminal justice system into an assembly or production line. This example of the managerialization of criminal justice has resulted in important tensions between, on the one hand, managerial values and, on the other, the values of occupational (legal) professionalism.

Keywords

Criminal justice, managerialism, police, NPM

Introduction

Since the 1980s, the public sector of many countries has been confronted with an increasing emphasis on efficiency, effectiveness and economy. In imitation of what was supposed to be the normal practices of the private (commercial) sector, public services were seen as needing to improve their productivity, and were increasingly subjected to tighter

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managerial control and stricter performance management. Many of these measures have been based on what is called the New Managerialism, which is closely related to the discourse on the New Public Management (NPM) (Clarke and Newman, 1997; McLaughlin and Murji, 2001; Osborne and Gaebler, 1993; Pollitt, 1993).

Although the New Managerialism has often been seen as a worldwide movement, in fact its influence differs between countries. Especially in the Anglo-Saxon world, its impact has been very significant. In most of the Central and especially South European countries, the effect of the New Managerialism has been less important (Kickert, 2007; Pollitt and Bouckaert, 2000). From the early 1990s, this process of managerialization has also occurred in the police and the criminal justice system, initially especially in the Anglo-Saxon countries, and often somewhat later than in other public sectors (Freiberg, 2005; McLaughlin and Muncie, 2000; McLaughlin and Murji, 2001; McLaughlin et al., 2001; Painter, 2005; Raine and Wilson, 1997; Senior et al., 2007). In the following years, the police and criminal justice agencies in some of the continental West European countries were also increasingly affected by these processes of managerialization, although its impact often remained relatively modest compared with most of the Anglo-Saxon countries (Beyens and Scheirs, 2010; Lange and Schenk, 2003, 2004; Ritsert and Pekar, 2009; Terpstra and Trommel, 2009; Van Sluis et al., 2008).

Since the 1980s, there has been much debate about what is distinctive about New Managerialism. Following Clarke and Newman (1997), it can be understood as a cultural formation referring to a set of managerial views, values and practices, legitimated by the supposed superiority of private sector management and aimed at improving the performance and efficiency of the public sector. However, as has often been previously noted, the New Managerialism does not represent a coherent complex of ideas but consists of many often contradictory views, techniques and practices, drawn from a wide variety of sources (Ferlie et al., 1996; Hood, 1991; McLaughlin and Murji, 2001).

The New Managerialism is generally seen as a strategy to reduce the power of both bureaucrats and professionals, once valued as the pillars of the modern welfare state. With the rise of the New Managerialism, they have been framed as 'old-fashioned' symbols of the ineffectiveness and waste of the public sector (Clarke and Newman, 1997; Pollitt, 1993). According to Pollitt (1993), the measures imposed on bureaucrats and professionals to limit their discretion and to improve efficiency were often based on a sort of neo-Taylorism, with its strong emphasis on standardization of work processes, strict time limits and quantitative performance management. The main difference from classic Taylorism is that it is now applied to public services. New Managerialism has resulted in many conflicts because of the fundamental clash between different sets of values: efficiency and cost-effectiveness against professional or bureaucratic values such as the rule of law or justice (Freiberg, 2005; Jones, 1993; McLaughlin et al., 2001).

To understand the impact of the New Managerialism on public sector services, Evetts (2009) made a distinction between two ideal types of professionalism. In her view, the New Managerialism is promoting a new 'organizational' professionalism, undermining the classic, 'occupational' professionalism. Organizational professionalism emphasizes a discourse of control, hierarchical structure, standardization of work procedures, and external forms of regulation and accountability. Occupational professionalism, on the other hand, is manifested by a discourse of collegial authority, trust, practitioner

autonomy, discretion and control by professional codes. Occupational values seem harder to maintain in organizations with standardized work practices and performance measures. Although, in general, the New Managerialism seems to have had a negative impact on the room for occupational professionalism, according to Evetts (2009) there are both changes and continuities in professionalism. For instance, she assumed that occupational discourse and control will remain strong in occupational groups such as law, and generally also in continental West European countries (Evetts, 2009: 255).

Evetts' framework seems to be highly relevant for the following analysis of the impact of managerialization on criminal justice in the Netherlands. In terms of the impact of NPM on the public sector, the Netherlands seems to have a middle position between the Anglo-Saxon world and most of the continental European countries. In the Netherlands, the managerialization of criminal justice has mainly concentrated on the improvement of the effectiveness and efficiency of the organizations involved. In contrast to some other countries, the Dutch policy agenda for managerialization did not contain measures of marketization or commercialization of criminal justice agencies.

In this article, we take a closer look at the consequences of the managerialization of criminal justice by concentrating on one specific example: ASAP (As Soon As Possible), the literal translation of the Dutch abbreviation ZSM, used for a strategy introduced in the Netherlands in 2011 to make the processing of cases of high-volume (petty) crime faster and more efficient. This programme is based on close cooperation between the police, the public prosecution service and other criminal justice agencies. The main argument put forward by the Dutch government for introducing this programme was that in the preceding years it took too much time to process these cases (on average, about nine months) (Algemene Rekenkamer, 2012; Zuiderwijk et al., 2012) and that many prosecutable cases were not prosecuted at all.

ASAP can be seen as an example of the managerialization of criminal justice. Its aims are the improvement of efficiency and effectiveness and the reduction of costs by reorganizing the internal working processes of the criminal justice agencies. The introduction of ASAP streamlined and standardized the process for handling cases of high-volume crime, which has considerably reduced the discretion of police officers in particular. The working process was restructured, resulting in a production or assembly line with a fixed sequence of operations that have to be strictly followed (often within certain time limits), an example of what Pollitt (1993) has called the neo-Taylorization of professional work. This new procedure also tries to bridge the organizational fragmentation between the agencies involved. The work of the separate agencies is now conceived as one integral process, governed by strict procedures and a stronger steering role for the public prosecutor. In this process, computer systems operate both for the storage of data and as the means of communication between the agencies. They also determine the formats in which information about criminal cases and offenders must be communicated.

One of the main elements of this new procedure is that it allows the public prosecutor to make decisions about criminal sanctions without the involvement of the court. This is one of the main reasons why ASAP has caused much debate and concern. It was feared that the emphasis on speed and efficiency in the procedures might conflict with fundamental values of criminal justice. Using Evetts' (2009) perspective, it might be expected that ASAP, as an example of the managerialization of criminal justice, might

contribute to tensions between managerial values and the values and legal safeguards of the criminal justice system (or what Evetts called ‘occupational professional values’). In this article, based on an extensive empirical study of ASAP in practice (Salet and Terpstra, 2017), we will try to show if and how these tensions operate in ASAP. In order to show these tensions, we cannot restrict ourselves to one or two aspects of ASAP, but we have to look at the combination of the interrelated and interdependent goals of this programme. The ASAP policy programme has several interrelated goals. ASAP should result in more, and more ‘structural’, attention being paid by the police and the public prosecutor to cases of petty crime. It should also promote cooperation between the agencies involved. This should result in fast, but careful and ‘meaningful’, settlements in the prosecution of cases of petty crime. In this study, we focus on the questions of whether and how these goals are realized in practice. By using Evetts’ framework in the analysis of ASAP, we can investigate the wider consequences of the managerialization of criminal justice. Before we turn to our study, we first present a short description of the criminal justice system in the Netherlands and the policy goals of ASAP.

Criminal justice in the Netherlands

The main agencies of the Dutch criminal justice system are the police, the public prosecution service and the courts (Tak, 2008). Since 2013, the Netherlands has had a single national police force, with 10 (non-autonomous) regional units (Terpstra, 2013). In every region (with an average population of about 1.7 million people), there is one ‘ASAP unit’, often located in a (former) police station. At the ASAP unit, the police, the public prosecution agency and the other partners involved cooperate and work together. All the local police stations in the region send the relevant information about their cases of petty crime to this central unit, where decisions are made about the prosecution of the case. Originally, the policy aim was that ASAP in all regions should be organized in a uniform way and should have standardized procedures.

In the Netherlands, as far as the enforcement of criminal law and criminal investigation is concerned, the police should operate under what is legally called the ‘authority’ of the public prosecutor. In practice, the Dutch police have considerable discretion with regard to criminal investigation. Usually, the prosecutor will be involved only in decisions about the investigation of cases of serious and complex crimes. Since the introduction of ASAP, the public prosecutor has been involved more strongly and more directly in decisions made about the investigation of petty crime (Jacobs and Van Kampen, 2014; Lindeman, 2017).

In the Netherlands, decisions about the prosecution of criminal cases are made by the public prosecution agency on the basis of the information obtained in the police investigation. The public prosecution service has the discretion to decide to forbear from prosecution, if this is viewed as relevant, even if formally there might be grounds for penal sanctions (the so-called opportunity principle). In the Netherlands in 2015, about 50 percent of all criminal cases that were referred by the police to the public prosecution agency were not taken to court. In those cases, the public prosecutor opted for a dismissal or chose to settle the case in some other way (Van Tulder et al., 2016).

Since 2008, in certain circumstances the public prosecutor has also had the power to impose a punishment (a so-called penal order – *strafbeschikking*) on the offender without the involvement of the court. This penal order may consist of a fine or the duty to pay financial compensation to the victim, or to do (unpaid) community service. It may also consist of other demands with which the offender should comply (Tak, 2008). The use of penal orders should create the opportunity for ASAP to settle cases more efficiently and within a much shorter time than was usual in the past. In fact, in the past it often took many months to bring a case before the court. Through the use of the penal order, the bringing of cases before the court could be avoided, so that ASAP would result in a much faster settlement of cases of petty crime (Jacobs and Van Kampen, 2014).

ASAP: Policy goals and debate

Although ‘ZSM’ literally means ‘As Fast As Possible’, the policy goals of ASAP are much broader than just promoting the swift settlement of criminal cases (Jacobs and Van Kampen, 2014). Still (and certainly at the beginning), the creation of rapid procedures was an important goal. The objective of the Dutch Minister of Safety and Justice was that, within four years, ASAP should result in decisions in at least two-thirds of all cases of petty crime in the Netherlands being made within a month, either by imposing a penal order or by bringing the case to court. To accomplish this goal, the police and the public prosecution agency should create ‘astute and simple’ procedures, should cooperate closely, and should follow highly standardized, more or less uniform, procedures throughout the whole country.

In the Netherlands in the years before the introduction of ASAP, it was increasingly felt that the criminal justice system was failing to pay enough attention to the problem of petty crime. Many of the cases reported to the police were never investigated, even if there were substantial allegations against a suspected person. In other cases, files were stored away without ever resulting in prosecution. In the view of some important opinion leaders in this field, this lack of adequate reaction to cases of petty crime proved that there was a serious ‘crisis in the investigation of crime’ in the Netherlands (Heijmans, 2010; Kop, 2012). This was why the introduction of ASAP should contribute to more, and more ‘structural’, attention being paid by the police and the public prosecutor to the problem of high-volume crime.

Because a strong emphasis on rapid procedures might conflict with important criminal justice values, in the policy documents it has often been stressed that the speed of the ASAP procedure should not hamper the care with which decisions are made by the public prosecutor. According to the Minister, a fair trial also had to be ensured in this procedure. The professional practitioners should be able to make ‘thorough’ and ‘tailor-made’ decisions of ‘high quality’, taking into account the specific circumstances of the individual case (Kamerstukken II, 2011/2012).

To realize both a swift and careful settlement of cases of petty crime, the police, the public prosecution service and other agencies (such as Child Protection, the Probation Service and Victim Support) should cooperate closely by working in one location, at the office of the ASAP unit. This implies that the partner agencies should provide relevant information at an early stage to enable the public prosecutors to make their decisions.

The policy documents also suggest that the ASAP decisions are a more or less joined-up responsibility of the actors involved.

Finally, ASAP should contribute to what are called 'meaningful interventions'. Despite its central position in the ASAP policy discourse, the exact meaning of this concept remains somewhat obscure. In the policy documents, it is said that a 'meaningful intervention' should be recognizable, visible and noticeable to suspects, victims and society in general. It should also do justice to the specific context and individual circumstances of the person involved (Landelijk programma ZSM, 2013).

In the Netherlands over the past few years, there has been much debate about ASAP. On the one hand, the ASAP policy has been strongly supported by the Ministry of Security and Justice, the public prosecution service and the national police. On the other hand, ASAP has been strongly criticized and has caused much concern, especially among criminal lawyers. As has been mentioned before, from the beginning it was feared that ASAP might have adverse effects on the care with which decisions were made in the settlement of criminal cases. It was assumed that, as a consequence of the emphasis on speed in procedures, errors and miscarriages of justice might arise and that the fundamental values of criminal justice, such as due process, legal protection and the 'quality' of decision-making, might be put under pressure. According to a study by the Netherlands' Supreme Court, there were serious shortcomings in terms of the thoroughness and carefulness of decisions about penal orders (Knigge and De Jonge van Ellemet, 2014). Moreover, the question was raised of whether ASAP would have negative effects on procedural justice as perceived by the actors involved (Jacobs and Van Kampen, 2014). Some legal experts suggested that the protection of the legal rights of the ASAP suspect was inadequate (Kwakman, 2012; Van Kampen, 2013). In the view of some people, the position of legal aid in the ASAP procedure was too weak and unclear (Jacobs and Van Kampen, 2014; Leliveld, 2012; Spronken, 2012). According to some criminal lawyers, the introduction of the ASAP procedure implied the factual abandonment of the fundamental presumption of innocence. Finally, both Spronken (2012) and Leliveld (2012) claimed that the ASAP procedure promoted the risk that suspects might willingly confess their guilt and accept a penal order in the hope of early release, without understanding the (legal) consequences of their decisions.

Much of this criticism and concern about ASAP can be understood in relation to the classic tension between what might be called instrumental and legal values in criminal justice. It is assumed that the enhancement of efficiency and effectiveness in criminal justice might have a negative impact on the fundamental values of criminal justice, such as due process, legal certainty or legal protection. On the other hand, it may also be assumed that a strong emphasis on these due process values might result in an inefficient system of criminal justice (Freiberg, 2005; Packer, 1964; Skolnick, 1967).

These tensions between instrumental and criminal justice values can also be found in the original policy design of ASAP itself. On the one hand, the introduction of ASAP was aimed at promoting the standardization of work processes, laid much emphasis on fixed time limits and speed, and reduced the autonomy of the professionals involved, especially that of the police. On the other hand, however, the policy goals of ASAP have also stressed the importance of careful decision-making, the need to consider the individual rights and circumstances of both the offender and the victim, and the accomplishment of

‘meaningful interventions’. As a result, it must be concluded that, even at the level of the policy goals, ASAP is inherently based upon contradictory values and principles.

However, following the analysis of Evetts (2009), who made a distinction between organizational and occupational professionalism, one might assume that certain values may be important from both perspectives. For instance, the ASAP goal to settle cases within a very short time limit may be perceived as important both from a managerial or an organizational perspective, and from a legal (occupational) professional perspective. In other words, the relationship between different sets of values that are involved in the managerialization of criminal justice may be more complex than is often assumed.

In this article, we will deal with the question of how ASAP operates in practice. We will see how and to what extent the five main policy goals of ASAP are realized: to promote more attention by the police and criminal justice agencies to the settlement of cases of petty crime, to strengthen cooperation between the main actors involved, to increase speed in procedures, to realize care in decision-making, and to create ‘meaningful interventions’. The main perspective of the following analysis is focused on the relationship between the managerial and criminal justice values – or what Evetts (2009) called ‘organizational and occupational values’ – of ASAP in practice. With this study, we also try to gain a better understanding of the consequences of the managerialization of criminal justice.

Research methods

To answer these questions, we carried out a study to evaluate the ways in which ASAP operates in practice (Salet and Terpstra, 2017). A case-study approach was used to get a detailed view of the practices of ASAP, and to ascertain what kinds of processes, patterns and factors are relevant for understanding how ASAP operates and why (Yin, 2013).

In this study, we focused on four different cases, that is, ASAP units. These units represent four (of the 10) different police regions (and court districts) in the Netherlands. These four regions were selected because information available in advance of the fieldwork suggested some relevant differences in the organization of ASAP.

For each ASAP unit that we studied, we also included three or four police stations. From here, after the process of criminal investigation, the police sent the records and files of the criminal cases to the central ASAP unit in the region. The research was undertaken in 13 police stations and the case studies were conducted between October 2014 and August 2015.

Four different methods were used to collect empirical data. First, we studied the work processes at the ASAP units, how decisions were made, what contributions were made by the different partners, and how they collaborated. At the 13 local police stations, we analysed how police officers handled cases of high-volume crime and how the police work was related to the processes at the ASAP unit. To obtain information about these processes at the ASAP units and the local police stations, we interviewed 160 officers representing the agencies involved. The duration of these interviews varied considerably, from 10 minutes to more than 2 hours.

Second, we made observations of the daily work at the ASAP units and police stations. We also observed the processes of decision-making at the ASAP unit for 44

different cases of petty crime. These cases were selected at random on the days on which the observations were conducted. The selected cases varied from shoplifting of cans of beer by a person who was an alcoholic, through vandalism by a group of teenagers, to domestic violence and serious drugs offences. For these 44 cases, all the information available in the files and computer systems was also collected. The information from both files and observations (and, in some cases, also from additional interviews) was used to evaluate the quality and carefulness of the decisions made in these 44 cases. This part of the evaluation study was done by a legal scholar working in the criminal law department of Radboud University. His evaluation concentrated on the question of whether there was sufficient legal evidence for the decisions that were made, and whether the decisions made were in accordance with the seriousness of the criminal act and the personal circumstances of the suspect.

Third, we conducted interviews by telephone with 17 (legal aid) lawyers who had been involved in ASAP cases. Each of these lawyers was from one of the four ASAP regions that we studied. Through these interviews, we tried to gain additional information about the work practices of ASAP from an outsider's perspective. On average, each interview lasted for about 20 minutes.

Finally, we analysed how much time it took for ASAP to process its cases. This analysis was based on available registration data for the first six months of 2015. This analysis suffered from some serious limitations because the data were available only at an aggregated level. As a result, it was almost impossible to analyse these data at the individual (case) level. Moreover, it was difficult to compare the data about ASAP with the situation before the introduction of ASAP because it was not entirely clear whether ASAP and pre-ASAP cases were really comparable. Next, the available data referred only to the time period of the ASAP procedure as such. However, in a considerable number of ASAP cases, the final decision was to bring the case before the court after all. It could often take another couple of months before the case was settled by the court. The ASAP registration data did not contain any information about this latter process. As a result, they may have suggested an overly positive image of the time needed for the settlement of these cases of petty crime. In the following analysis, we will try to take this into account.

ASAP in practice: Five goals

The central question for the evaluation of ASAP is to what extent and how its objects are attained. Following the debate about the impact of the managerialization of public institutions, we will also deal with the question of the tensions that arise between the different sets of values involved in the practices of ASAP. These questions will be dealt with for each of the ASAP goals mentioned previously. The empirical data used are retrieved from the study of ASAP in practice (Salet and Terpstra, 2017).

Attention

The introduction of ASAP was seen as the most important strategy in promoting the policy that the police and the public prosecution service should pay more attention to cases of petty crime. It was assumed that this would be realized by creating highly

standardized and uniform work processes in ASAP. However, our study shows that there are still important differences in these work processes and in the way in which ASAP is organized. These differences concern both the procedural and organizational aspects of ASAP. For example, prosecutors specializing in youth cases are not represented at every ASAP unit. Also, some local police teams have separate units for handling cases of suspects caught red-handed, while other teams do not have such a separate unit. Regional and local variations in context (for instance, the level of crime and the number of cases to be dealt with) contribute to these differences. Differences in local views about work procedures and organizational structures are relevant too, in spite of the policy emphasis on the need for national uniformity and standardization.

Despite these differences, the introduction of ASAP has contributed to more attention being paid to petty crime, both by the police and by the public prosecution service. Since the introduction of ASAP, most of the local police teams have set up small units with a couple of officers who specialize in the processing of cases of petty crime. Because of these special units and their more or less clear procedures for handling these cases, police officers are now better prepared to do this work. The introduction of ASAP has now made many of these officers feel that their work on cases of petty crime does not end as just a stored file, but that, within a realistic time limit, a decision will be made by the public prosecutor. As a result, the police now respond more often to cases of petty crime. In their view, now, as several officers put it, 'it makes more sense to pay attention to the case of a well-known repeat offender'.

However, even after the introduction of ASAP, cases are still being shelved. Precise information on the numbers of cases being shelved before and after the introduction of ASAP is not available. However, our observations and interviews show that this still happens quite often. An ASAP officer explains:

With regard to cases with suspects who are summoned to the police station, cases are still being shelved. Police officers have to summon the suspect during their day shifts. If they only have one or two day shifts each month, it may take some time before the police officer has the time to handle the case.

An important factor here is that many of these special police units have to deal with both cases of suspects who are caught red-handed and cases with suspects who are summoned to the police station. Owing to strict time limits, the cases of suspects caught red-handed must be given priority. As a result, the other cases (in some places, even considerable numbers of cases) are often still being shelved.

In the past, police officers in the Netherlands often complained that they were not well informed about the decisions made by the public prosecutor and the court in cases on which they had been working (Terpstra and Kort, 2016). With the introduction of ASAP, these officers generally get more information about the outcome of the prosecution process. However, this does not mean that police officers now have a more positive view of the outcome of the criminal justice process than in the past (Terpstra and Kort, 2016). Paradoxically, because they are now better informed about the decisions made by criminal justice agencies, the police officers are often strengthened in their view that criminals

do not get the sanctions they deserve. As one of the police officers noted: 'Now, with ASAP, they see how soft criminal law sanctions often are.'

Cooperation

As was mentioned before, since the introduction of ASAP the public prosecutor has been involved more strongly and directly in decisions made about the investigation of petty crime. With ASAP, the public prosecutor has a stronger steering role in the processing of cases of petty crime, both in the procedures that are used and in the decision-making. For example, the public prosecutor tries to steer the police investigation:

At the ASAP unit, the public prosecutor starts his day shift with an examination of the cases reported the night before. In a journal also meant for the police officers involved in the case, he poses several questions about the case that the police officers should investigate. In a burglary case, the prosecutor writes down: Was the door locked? How did the perpetrators get into the house? What does the suspect declare? Are there any CCTV recordings available?

(Field notes based on observations at one of the ASAP units)

The introduction of ASAP also implies that the police work processes are more standardized. The procedures that the police should follow, the kind of information police officers should collect, how they should communicate this information, and what formats should be used are laid down in more detail. There are also several deadlines and waiting periods that police officers have to take into account (for example, they can summon a suspect to the police station for an interrogation only after 7 or 10 days). The combination of both a stronger steering role by the public prosecutor and a far-reaching standardization of work processes means that, in general, police officers have less autonomy and flexibility in their work with regard to cases of petty crime. A public prosecutor explains: 'Police officers have to get used to the fact that they should not shelve their cases any more and that they should investigate a case immediately. They should get results in a couple of hours.' This feeling of a loss of autonomy is even stronger because now police officers are more often asked for additional information or to undertake further investigations, such as taking statements from more witnesses or carrying out a neighbourhood investigation. According to police officers, the additional information that is requested is not always relevant. For example, in a case of shoplifting, with the suspect caught red-handed, even though there was a witness (the shop's security officer) and a CCTV recording of the incident, a police officer was asked to go back to the shop and question the owner to ask if the stolen item really belonged to him. These kinds of situations make it understandable that police officers feel that ASAP contributes to a loss of autonomy, discretion and flexibility.

One of the goals of the introduction of ASAP was to narrow the distance between the police and the public prosecution service. In some respects, this aim has been realized: representatives of the police, the public prosecution agency and other agencies now work together at the ASAP unit. An ASAP police officer thinks: 'The ASAP unit has a flat structure. This is a positive thing. We are able to contact the public prosecutor

immediately and also the representatives of the other agencies.’ However, seen from the perspective of the rank-and-file at the local police stations, the distance between the police and the public prosecution service has often become even greater. In the past, at some local police stations, there was an officer from the public prosecution service who worked there a couple of days a week. This allowed direct and personal communication between the police and the public prosecution service. With the introduction of ASAP, this position has been lost. Nowadays, many police officers experience what they call ‘a loss of personal and warm’ relationships, because normally they can communicate with the ASAP unit (and representatives of the public prosecution service) only by means of computer systems (what they call ‘a cold transfer of information’).

To stimulate cooperation, representatives of the different agencies involved work together at the same location (the ASAP unit), mostly in one room. This should promote easier consultation between the representatives of the participating agencies about the criminal cases on which they are working. Both in interviews and in policy documents, it is often suggested that, at the ASAP units, decisions are made collectively, with more or less equal sparring partners. For example, an officer at an ASAP unit says: ‘The police officer at the ASAP unit should discuss with the public prosecutor what kind of information the local police officers should gather in order to make a decision.’ These observations show that, in fact, the public prosecutor still dominates the decision-making process. The other participants are expected to provide relevant information only to the public prosecutor. If one of the partners tries to interfere in the decision-making process, in which they have no formal standing, this is not always appreciated and may even cause annoyance to the public prosecutor, who may feel that this may harm his or her position, authority and responsibility. An ASAP police officer reports: ‘Especially in the beginning, all the representatives tended to interfere in the decision-making process of the public prosecutor. For example, a probation officer tried to meddle in cases. Public prosecutors were not charmed by this meddling in their cases.’ Both the fact that workers from other agencies have a lower professional ‘status’ or ‘capital’ (Beyens and Scheirs, 2010: 322) and the ‘judicial ownership’ (Tata et al., 2008) as perceived by the public prosecutor may be relevant in understanding this process.

Speed

Before the introduction of ASAP, the average time for processing cases of petty crime was almost nine months (Zuiderwijk et al., 2012). Registration data show that, nationwide, in the first six months of 2015 a large majority of all ASAP cases (83 percent) were settled within a month. Almost half of the cases (48 percent) (mainly with suspects caught red-handed) were settled within a day.

These data suggest highly positive results for ASAP in terms of the time needed to process cases of petty crime. However, the data refer only to the time needed to make an ASAP decision. In many cases, and in contrast to the original policy ambitions, this is not the final decision in the criminal justice process. In almost 75 percent of all cases, the ASAP process results in a writ, a dismissal or a transfer to another department of the public prosecution agency, instead of a final judgment. Several factors are relevant in understanding this. In many cases, the public prosecutor needs more time to make the

decision. Because this time is not available, the case is almost automatically taken to court. In some other cases, the legal aid lawyer advises the suspect not to accept the penal order but, instead, to go to court. This may take another three months. This implies that the goal of ASAP to impose a sentence or other sanction immediately after the criminal act is mostly not realized in practice. Still, however, nowadays the processing of cases of petty crime generally takes less time than before the introduction of ASAP (although we do not know the difference in time exactly). This also implies that the policy assumption that ASAP would rely to a great extent on the use of the penal order is hardly realized. In barely 10 percent of all cases is a penal order imposed. The factors and circumstances that have contributed to this low percentage will be dealt with in the concluding section.

Carefulness

In the public debate about ASAP, it has often been suggested that the strong emphasis on rapid procedures might have negative consequences for the quality and carefulness of the ASAP settlement. The judicial analysis of 44 ASAP cases, however, does not show that, in general, there is a lack of care in the ASAP decisions. This was only the case in 3 of the 44 decisions that were studied, where conclusive evidence was lacking and additional investigation would have been relevant. Still, in these cases, it was decided to impose criminal sanctions. Each of these cases was relatively complex because several offenders were involved. For example, in a case of burglary, it was decided to drop the case against the suspect because of a lack of evidence. However, the files contained information about a possible fellow-suspect who had not yet been traced. The obvious conclusion would have been to trace and question the fellow-suspect before dropping the case.

However, the interviews and observations, especially at the ASAP units, show that the way in which ASAP operates in practice creates some serious risks with regard to careful decision-making. Important risks follow from the fact that ASAP decisions about the imposition of penal orders and other sanctions rely to a great extent only on oral communication and information. For instance, the public prosecutor uses the oral information delivered by the police officer, who also works in the ASAP unit, to make his or her decision. Often, the only information about the case available to this police officer at the ASAP unit is derived from the police reports sent by the local police officers. However, at busy moments, these police officers do not always have the time to read the whole report. As a consequence, the public prosecutor may make a decision about the sanctioning of the offender on the basis of incomplete information.

Because it is generally realized that this procedure may result in wrongful decisions, afterwards an assistant to the prosecutor should investigate whether the ASAP decisions have been made in line with the information in the police reports and other available documents. That means that, in some cases, the assistant is the first person to read the (complete) file, although by this stage the decision has already been made. If, after having read the file, the assistant concludes that a different decision should have been made, he or she should refer the case back to the public prosecutor. In practice, this does not always happen. For example, a public prosecutor reflects: 'At the ASAP unit there is no one who gives a dissenting opinion: they all accept your decision.' Observations show

that giving a dissenting opinion may be quite problematic, mainly because the assistant has a much lower position in the hierarchy of the public prosecution service. Not all prosecutors are receptive to criticism, especially from lower positions in the hierarchy. There may be doubts about whether the assistant will have enough time to read the whole file thoroughly, review the decision made and, if necessary, refer the case back to the public prosecutor and convince him or her that a wrongful decision was made that should be revised. For example, according to an assistant at the ASAP unit:

In some cases the decision of the prosecutor is not correct or something is missing in the file. In those cases we are supposed to go back to the prosecutor. I know that some assistants never go back to the prosecutor, because they presume a priori that the decision of the public prosecutor is the right one. . . . In addition, if we are very busy, we also actually don't have the time to read the complete case thoroughly.

Besides the hierarchical relationship and the difference in professional status (Beyens and Scheirs, 2010; Tata et al., 2008) that may make this a difficult job, existing views and frames may also be hard to change. This is also the case if criminal investigation and prosecution are concerned (Salet, 2017). This common practice is especially risky if it concerns a penal order, because in that case the court will not be involved and will not be able to revise a wrongful decision, should this prove to be necessary.

This study has also shown that, as a result of the emphasis on speed, in some cases the police have not always investigated thoroughly and completely. For instance, a suspect confesses to criminal acts other than the present case about which he is being questioned. Often, it is decided not to investigate these other cases, because this might conflict with the strong emphasis on a swift settlement. For example, according to a police officer: 'If a suspect also confesses to other cases, the representatives at the ASAP unit don't take notice of these other cases. They only concentrate on the case he is being questioned about.' Police officers and lawyers also mentioned some other examples that illustrated the negative consequences of the emphasis on fast work processes, for both suspects and victims. In some cases, suspects accept a penal order, assuming that this will mean that they will not have to remain at the police station any longer and will not have to go to court. In fact, they are usually not aware that this may have some negative consequences for them in the future. According to lawyers, this is the result of both the emphasis on speed in ASAP and the weak position of legal aid in this procedure. In another example, the settlement came so quickly that the victim was no longer able to make his financial claim within the requisite time period. If he wanted to make the suspect legally liable for the damage sustained, he would have to start another expensive and time-consuming civil procedure.

Another recent study showed that problems with the carefulness of ASAP decisions may arise, in particular, if the ASAP unit is confronted with large numbers of cases, especially if these cases are also more complex (Simon Thomas et al., 2016). Our own study has shown that this is the more relevant situation, because in practice there is also a tendency for ASAP to handle more complex cases. However, as our judicial analysis of the 44 cases suggests, these cases require more attention and investigation than ASAP can deliver.

Meaningfulness

The final policy goal of ASAP is to promote what are called 'meaningful interventions'. Of course, this term is vague and obscure. In some cases, the persons who were interviewed were unable to explain what is meant by a meaningful intervention. Still, many of those who were interviewed used this term. 'Meaningful intervention' seems mostly to stand for non-traditional, non-standard, tailor-made, preventive and fast. The specific examples presented generally referred to cases in which a non-standard, alternative decision was made, mostly measures or sanctions outside the domain of classical criminal law responses, such as mediation or social assistance. A public prosecutor gives the following example:

In one case someone attacked another person with a sword. Usually, without ASAP, I would have sent the case to the court. However, based on information from the Victim Support officer and the probation officer, I decided differently. I decided to start mediation. Normally I would not have done so.

Despite the importance of 'meaningful interventions' as a policy goal and the fact that many officers who participate in ASAP believe in them, our study shows that, in fact, most ASAP decisions are standard and are made within the traditional criminal law repertoire, although at least some of these cases seem to have been suitable for an innovative or alternative settlement. A public prosecutor explains: 'ASAP cases usually don't ask for creative measures. For example, in the case of a repeat offender, a conditional dismissal is useless. This means that, as a public prosecutor, you are not able to act creatively. In most cases you send them to the court.' In only a very small number of cases (nationwide, only 4.7 percent of all cases in the first six months of 2015) is it decided to use alternative measures or sanctions, such as administrative measures, mediation or community service. Despite the policy rhetoric of 'meaningful interventions' as a central aspect of ASAP, in practice the term loses much of its meaning and often seems to be no more than a rapid process of decision-making. For example, a public prosecutor says: 'I think that an intervention is meaningful if we are able to steer the investigation by the police, to prevent the police from making unnecessary efforts in the investigation process.'

In order to realize 'meaningful interventions', the ASAP unit needs detailed information about the context of the case and the personal circumstances of the suspects and victims. Our study has shown that the police can play an important role in delivering such information. However, this assumes that police officers are aware of the importance of this information, and that they are able and willing to think about the possibility of alternative measures and solutions. Besides, police officers should feel that they are able to communicate such information effectively to those who take the decisions at the ASAP unit and convince them of their view:

Two police officers hold an interrogation with a women age about 35 (the mother of two small children) who is suspected of the vandalizing of a car and serious intimidation of the elderly owners of the car. The women admits that she often flies into a rage, even when her children are present. The two police officers try to convince her that she has a serious problem, also with

risks for her children. After a while, she accepts that she is in need of help. After the interview, one of the officers decides to call the ASAP unit to suggest that in this case a criminal sanction does not make much sense and that it might be more 'meaningful' to have some form of personal assistance. At the ASAP unit, the decision is made to follow this suggestion. (Field notes based on observations at a local police team)

In practice, however, police officers often feel that the distance to the ASAP unit and the lack of a direct and personal relationship with officers working there make it difficult to deliver this information effectively. Both factors may be relevant to understanding why, in practice, there are only a small number of 'meaningful interventions'. This study has also shown that the emphasis in ASAP on fast procedures and the use of several procedural time limits may conflict with the aim of 'meaningful interventions'. During one of our observations, an interview between a probation officer and a suspect could not be conducted within the legal six-hour time limit in which it was formally permissible to keep him under arrest at the police station. The probation officer wanted this interview to ascertain whether a dismissal on probation would have been a relevant option. Because the six-hour time limit expired before the interview could be achieved, the prosecutor decided to dismiss the case unconditionally, with the result that the suspect was released without any sanction or probation measure whatsoever.

Conclusions

As has been shown in this study, the Dutch policy programme ASAP can be seen as an example of managerialization that has resulted in a far-reaching Taylorization of criminal justice. To a considerable degree, work processes have been standardized and the traditional discretion of professionals (especially police officers) has been reduced, with fixed deadlines and time limits and with thorough managerial control, in terms of both compliance with the work procedures and the decision-making process. In many respects, the introduction of ASAP has transformed this part of the Dutch criminal justice system into an assembly or production line, implying that in the implementation of ASAP the 'human' (or 'interpersonal') factor has been largely eliminated. Relevant actors are more at a distance, both from each other and from the suspect. Direct, personal and oral communication, especially between the police and officers working at the ASAP unit, has been largely replaced by computer systems and computer formats. With some minor exceptions, decisions at the ASAP unit are made only on the basis of distant and indirect information: in general, none of the actors who are involved in the ASAP process of decision-making have had any personal contact with the suspect. In this respect, the officers at the ASAP units often operate not as 'street-level bureaucrats' (Lipsky, 1980) but as 'screen-level bureaucrats' (Bovens and Zouridis, 2002): in many cases, the only information they have about the suspect and the victim is what they see on their computer screens. The emphasis on speed and efficiency in ASAP means that other, more direct and personal, information is often overlooked.

There are important differences in the degree to which the policy goals of ASAP are realized in practice. The introduction of ASAP, with its uniform work processes, has been successful in getting more attention paid by the police and the criminal justice

service to the settlement of cases of petty crime. ASAP has also realized close cooperation between the partner agencies involved (although the notion of collaboration between more or less equal sparring partners has proved to be an illusion). Despite the limitations of the registration data, there is hardly any doubt that, overall, the introduction of ASAP has contributed to a faster settlement of cases of petty crime. However, the expectation that ASAP would also put an end to the phenomenon that many prosecutable cases are shelved for a longer period – or even without any further proceedings – has not been met. Our study has also shown that the emphasis on speed and efficiency is not without serious risks. In ASAP, it can happen that decisions are made on the basis of only oral or even incomplete information. The mechanisms to control and correct ASAP decisions afterwards can hardly be seen as adequate. In other words, ASAP entails important risks with regard to the carefulness of the decisions that are made. According to its policy goals, the introduction of ASAP not only should promote speed in procedure and efficiency, but also should contribute to what is called ‘meaningful interventions’. It is this goal of ASAP in particular that is hardly realized. This illustrates that the managerialization of criminal justice may promote the efficiency of criminal justice, but only inasmuch as routine activities and standard decisions are concerned. It is far less effective with respect to elements that ask for flexibility, alternative approaches and tailor-made solutions. As a consequence, it is in only a very small number of cases that the outcome of the decisions consists of mediation, community service, social assistance or any other measure outside the standard criminal law repertoire. Given the volume of cases and the increasing complexity of the cases that ASAP has to handle, it can be expected that the realization of ‘meaningful interventions’ may become even more difficult.

The ASAP policy seems to have been based upon an overly optimistic view of the managerial reform of criminal justice institutions and professionals. That is the main reason why the original aim, that ASAP decisions would mainly consist of penal orders and would be able to avoid cases being brought before the court, has hardly been realized. In the daily practices of ASAP, this managerial aim often conflicts with the occupational (legal) values of criminal justice professionals. Legal aid lawyers may advise the suspect not to accept the penal order but to take the case to court. What is even more important is that, in practice, even public prosecutors themselves often decide not to impose a sanction but to send the case to court so that more time is available for a careful process of decision-making. This shows that there are serious limits to the extent to which managerial reform can be achieved in criminal justice.

This analysis of ASAP shows how the managerialization of criminal justice results in important tensions between managerial values and the values of occupational (legal) professionalism (Evetts, 2009). The emphasis on speed and efficiency (by means of standardization of work processes, reduction of discretion and stricter control) creates risks for the realization of criminal justice values (such as carefulness in decision-making, due process and legality). The adverse impact of a search for efficiency is especially noticeable if it concerns the aim of ‘meaningful interventions’. This can be understood as typical for standardized production lines. As long as routine activities and standard products are concerned, this may be efficient. However, criminal justice demands tailor-made, individual solutions that may differ from case to case. As a result, the room to look

for alternative solutions outside the field of criminal law seems to be diminished by ASAP.

This analysis has shown that the tensions between managerial values and criminal justice values were built into the ASAP policy from the beginning. We think that it is important to curb the emphasis on speed and efficiency and to create more room for professional discretion and for decisions that take the individual circumstances of both suspects and victims into account. On the other hand, however, it is important to realize that the criminal justice system cannot function satisfactorily without attention being paid to speed and efficiency (see Freiberg, 2005). At the very least, the large numbers of cases that have to be processed call for this. Besides, the rapid settlement of cases of petty crime is important not only from a managerial perspective but also from a criminal justice perspective.

As has been mentioned before, Evetts (2009) assumed that the impact of managerialism and organizational professionalism might be less strong in certain occupational groups such as law and in the continental European countries. However, ASAP is one such example. This shows that the fundamental tensions between managerial and professional values are also relevant for understanding important developments in criminal justice outside the Anglo-Saxon world. Still, it is essential to realize that the impact of the New Managerialism may still differ considerably between nations and systems of criminal justice.

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