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# Referral Orders: Some Reflections on Policy Transfer and 'What Works'

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## Abstract

In a recent article in this journal, John Muncie (2002) argued that contemporary youth justice was increasingly influenced by ideas imported from abroad. Most notably, he suggested, the dominant influence consisted of a 'partial and piecemeal' selection of elements of restorative justice from Australasia and Scotland, together with the utilization of a more American-influenced 'what works' agenda. Using the example of Referral Orders, this article challenges his contention that this provides a 'dubious basis for reform'. We argue that in fact the Referral Orders' pilots were both a positive example of policy transfer and, though not unproblematic, were also illustrative of some of the important aspects of the 'what works' agenda.

## The New Youth Justice and Policy Transfer

In an earlier article in this journal (Earle and Newburn, 2002), it was argued that the introduction of Referral Orders to the youth justice system in England and Wales has generated interesting and largely productive tensions for both practitioners and policy makers. To a significant degree these tensions are only to be expected given how recent the reforms are and, in part, how challenging they are. In a paper in the same issue of the journal, John Muncie (2002) contended that some of the dangers and difficulties in contemporary youth justice are the result of the unthinking transposition of policies from other jurisdictions to the UK. In particular, he suggested that the positive potential of restorative justice was being undermined by the dominant influence of North American punitiveness and, more specifically, the impact of 'what works' ideology. Whilst agreeing in part with his analysis, we wish to depart from it in two crucial respects. First, we question the extent to which policy transfer in this area can be characterised as 'unthinking'. Second, whilst we concur with Muncie's argument that any unthinking application of 'what works' notions is not a good basis for criminal justice reform, in our view the introduction of Referral Orders was a positive illustration of how evaluation can be built into the reform process.

On coming to power New Labour was determined that the 'nothing works' pessimism of previous eras would not be the hallmark of its new youth justice (indeed, its penal policy and practice generally). Much of the impetus for this came from the Treasury which sought to ensure not only value for money, but demanded an evidence-base for the proposals it was being asked to fund. A Comprehensive Spending Review had resulted in a demand that the Home Office provide a summary of 'what works' or, failing that, 'what is promising' (Goldblatt and Lewis, 1998). Like much of New Labour's criminal justice programme in its first administration, 'what works' was one of many ideas imported from other jurisdictions – in this case the United States (see Newburn, 2002a). Among the other apparently American imports were so-called 'zero tolerance policing', three strikes sentencing, the drugs czar and youth curfews (Newburn, 2002b). Despite the visibility of American influence within youth justice policy, arguably the most notable import – the ideas and practices associated with restorative

justice – was primarily drawn from other parts of the globe particularly Australia and New Zealand (however, see Marshall and Merry, 1990, in respect of US origins).

## **Referral Orders and Restorative Justice**

The influence of communitarian thinking, which was very visible in the Home Office's consultation document (Home Office, 1997a), and a major White Paper (Home Office, 1997b), both published almost immediately after the 1997 General Election, found form in the central place accorded to restorative justice in New Labour's youth justice. Initially, this was most visible in relation to reparation in the Crime and Disorder Act 1998, and to the support given to experiments such as that with restorative cautioning initiated by the Thames Valley police force in southern England under the direction of its Chief Constable, Charles Pollard (Young and Goold, 1999). The Referral Order represents the latest and arguably most significant attempt, to draw on restorative justice principles in the youth justice arena.

The Referral Order was flagged up in the Government's White Paper, *No More Excuses* (Home Office, 1997b), though it wasn't called a Referral Order at that point. The disposal involves referring the young offender to a youth offender panel. The intention is that the panel will provide a forum away from the formality of the court. As Crawford (2002) argues, the panels draw on at least three sources: the Scottish Children's Hearings system (Hallett et al., 1998); the experience of family group conferencing (Morris and Maxwell, 2000); and, the history of victim-offender mediation in England and Wales (Marshall and Merry, 1990) and restorative cautioning (Young, 2000).

## **Evaluating the Referral Order Pilots**

Part 1 of the Youth Justice and Criminal Evidence Act 1999 introduced Referral Orders as an almost mandatory sentence imposed in the youth or magistrates' courts on 10–17 year olds pleading guilty at a first court appearance (Goldson, 2000a). As a result, the only alternative form of sentence for a young person pleading guilty at this stage is a custodial sentence (if the offence merits it), an absolute discharge, or a hospital order. The new order involves referring the young person to a Youth Offender Panel (YOP) made up of two trained volunteers from the community and a representative from the local Youth Offending Team. The young person, if under 16, must be accompanied at the panel by a parent or other relevant adult(s), and the victim may also be invited to attend. The YOP will draw up and agree a contract which, when signed, activates the order made by the court. Courts may make an order of between 3 and 12 months. The work of the panel is to be governed by the principles 'underlying the concept of restorative justice', defined by the Home Office as 'restoration, reintegration and responsibility' (Home Office, 2000).

The Referral Order was first introduced in 11 pilot areas in England and Wales between March and August 2000. The pilots were intensively evaluated by researchers from Goldsmiths College (University of London), Leeds University and Kent University. All aspects of the pilots were scrutinized, including the recruitment and training of volunteer panel members, the running of panels, the experiences of all key participants, and the costs of the whole exercise (Earle and Newburn, 2002). Over 160 youth offender panels were observed by the evaluation team. Seven surveys (focusing on the views of Youth Offending Team [YOT] staff, magistrates, justices clerks and panel members) were undertaken, as were over 350 interviews (with YOT staff, offenders, victims, parents and panel members).

The evaluation was overseen by a multi-agency steering group chaired by a representative from the Youth Justice Board for England and Wales (YJB) and incorporating representation from the Home Office, Lord Chancellor's Department, Department for Education and Employment (now Education and Skills), police, YOTs, Victim Support, Nacro and the

Restorative Justice Consortium. This met at monthly intervals during the whole of the pilot period and oversaw not only the evaluation but, crucially, the operation of the pilots themselves. Moreover, the central role of the Steering Group was to collect evidence and provide advice to inform the national roll-out of Referral Orders from April 2002.

However Referral Orders are interpreted and understood, there can be little doubt that they represent a relatively radical departure in youth justice practice in England and Wales. Indeed, alongside the establishment of the YJB and the introduction of YOTs, Referral Orders are arguably key to understanding the so-called 'new youth justice'. They reflect the increasing influence of restorative justice within criminal justice policy, and they remain perhaps its most explicit expression to date.

In what follows we want to briefly examine some of the more restorative justice influenced aspects of the operation of the Referral Order and, more particularly, to challenge the idea that current practice in this area is 'partial and piecemeal' (Muncie, 2002).

## **The Experience of Referral Orders**

A defining theme of restorative justice is its emphasis on the idea that 'crime' is better recognised as a breach of localized social relations between individual people, rather than a general category of behaviour sanctioned exclusively by the state agencies of law enforcement (Johnstone, 2002). One of the innovations of the Referral Order is that it sets in motion a series of procedures that involve a broad spectrum of local people in constructing the response to a crime committed by a young person. Many new faces are thus introduced to the field of youth justice by the Referral Order, notably victims, volunteers from the community and parents/carers of young people who offend. The research and evaluation therefore, paid particular attention to the experience and perspectives of these new participants in the process.

### **(1) Community panel members**

Once Referral Orders are fully implemented across England and Wales some 6,000 volunteers will be required to serve as Community Panel Members (CPMs). This represents a substantial and significant advance of lay participation in the administration of justice. The participation of members of the community has been controversial, perhaps in part because of fears that they might be a channel for vindictive, punitive or otherwise inappropriate sentiments into youth justice forums. No evidence of such sentiments was uncovered in the course of the evaluation. Panel members indicated in the survey that they were principally motivated by 'an interest in issues of young people and crime' and a 'desire to give something back to the community'. Nearly all those volunteers from minority ethnic communities identified their 'understanding of cultural or ethnic diversity' as a key skill.

Both survey and interview data indicate that community panel members were very supportive of youth offender panels and of the restorative justice approach. These data, as well as our observation of panels, suggest that they were confident and effective in running panels as inclusive and participative forums. Panel members' main area of complaint was the low level of victim attendance. Where they had experience of victim participation, it was seen significantly to alter the dynamics of the panel, most often in a progressive manner (we return to this below).

A central feature of restorative justice is the intention to establish reparation as an aspect of any response to a crime, an attempt, on the part of the offender, to make amends for the harm imposed by their actions. It was clear that community panel members, particularly as they became more familiar with their role and the expectations of them, could bring valuable insights and pressure to bear on the provision of local resources and the delivery of reparation:

*The panel members do see things from a broader perspective and they are a fairly strong and confident group of people. If they see things that are causing concern – like kids consistently coming from the same school – then they will write to the LEA and say something. One of our panel members is so concerned about one of the schools that he has been to speak to the governors and almost issued them with an ultimatum to start putting their house in order. They can do things like that and it seems to have more impact coming from them as members of the community.* (Referral Order Co-ordinator).

That said, some panel members expressed dismay at what they perceived to be the limited extent and variety of reparation services available locally. A majority (61 per cent) disagreed that there were sufficient programmes of activity available to young offenders, and a similar proportion (58 per cent) attributed this to inadequate local resources. The overall impression gained in the evaluation was one in which the energy, commitment and enthusiasm of volunteers was a significant factor in the development of the pilot process. Panel members were keen to maintain their independence from the YOT, but also recognized that their relationship needed to be based on mutual respect. This generates an interesting dynamic as the diverse personalities of different YOT personnel and panel members are brought together by the increasing numbers of Referral Orders. Despite some misgivings about working with community panel members and the perceived challenge to the professional expertise of YOT staff, it was universally recognized by Referral Order Co-ordinators that the community panel members were becoming increasingly capable and competent. In several areas the YOT officers were playing a lesser role at the meetings, the overall approach was to 'let them get on with it'. The sheer commitment of the community panel members had been appreciated: 'It is the community panel members who have sustained us throughout with their commitment and their enthusiasm – they keep us going' (Referral Order Co-ordinator).

The involvement of lay panel members also adds an important challenge to the way YOTs work: how are they to integrate and use the skills of the panel members and respond to their different views and experiences? The panel creates a new and dynamic interface between members of the public and YOTs. As such it offers vibrant opportunities for greater public participation in criminal justice (see Crawford 2001). At best it can facilitate the 'opening up' of what may, at times, be introspective and insular professional cultures. As one of the Referral Order Managers noted: 'The panels are a powerful organisation. They [community panel members] are a very confident group of people. They are a force to be reckoned with.'

## **(2) Young people, parents and carers**

Much of the Referral Order's radical participative potential hinges on the active involvement of young offenders, their parents, and, where possible, victims and members of the wider community. They are intended to establish a forum in which to discuss collectively the offence, the harm caused, how to deal with the aftermath of the offence, and its implications for the future. It is envisaged that they offer a stake in decision making, an opportunity for 'voice' (Hirschman, 1970), to those otherwise excluded or silenced by the more formal operation of criminal justice procedures of decision making. Our interviews with young people and their parents tended to confirm that a new and distinctive process of deliberation had been established and, furthermore, was recognized as such by the participants.

Ninety young people were interviewed about their experiences of Referral Orders. Included in the sample were those whose orders had been revoked, breached or who had reoffended. Our findings show that young people generally felt they were being treated fairly and with respect. Some 84 per cent agreed that they were treated with respect; 86 per cent agreed that the panel members were fair; 91 per cent agreed that they understood what was going on at the panel; 75 per cent agreed that they did not feel pushed into anything they disagreed with; and 87 per cent agreed that they had an opportunity to explain their side of things. Such

findings suggest that panels are fairer, and accord more respect to the parties, than do courts. The greatest discrepancy between court and the panel for the young people was having the opportunity to explain their side of things at the initial panel meeting. For many, they welcomed the opportunity to speak for themselves and to be listened to by the panel members. One young person commented: 'I had people talking to me that showed me respect and told me what I am capable of'.

By and large, parents and young people felt that contracts were appropriate. When asked, 81 per cent of young people disagreed with the suggestion that their contracts were too harsh. Parents also tended to disagree (83 per cent) that their child's contract was too harsh. Three quarters of young people agreed that their contract was useful, and a slightly larger number (78 per cent), agreed that it had helped keep them out of trouble. When asked about the value and impact of the contract for the young people and the family, parents were generally very positive. Seventy two per cent agreed that the contract elements were 'useful'. Overall, it seemed clear that the young people felt the referral order panel to be fairer and more transparent than their experience of appearing in court for the first time.

### **(3) Victims**

The involvement of victims was both lower than was originally anticipated, and significantly lower than comparative experiences from restorative justice initiatives around the world. A victim attended a panel meeting in only 13 per cent of the cases where we have firm data that there was an identifiable victim. Of the 76 victims interviewed more than half (44) were personal or individual victims, and the remaining 32 were corporate representatives. Of the total interviewed, 46 victims (61 per cent) had attended a panel meeting and 39 per cent had not.

Initial reactions to the invitation to attend a YOP appeared to be rather mixed. About one third admitted to being extremely apprehensive and nervous about attending the meeting and were unsure whether they wanted to. While 30 per cent of victims said they were 'very', 'somewhat' or a 'little' nervous about attending the meeting, 65 per cent said that they were 'not at all' nervous. The majority of victims appeared to have approached the meeting with a fairly open mind and either did not have any preconceived expectations, or did not expect too much from the meeting. Over three quarters (78 per cent) said that the opportunity to express their feelings and speak directly to the offender had been a very important influence on their decision to attend the panel meeting.

Half the victims interviewed felt that it was 'very' or 'somewhat' important that they attended to ensure that they would be repaid for their harm or loss. Many acknowledged that the offender would never be able to repair the harm. Forty three per cent of victims felt that it was very important that they should have a say in how the problem was resolved. Ensuring that the penalty for the offence was appropriate was not a motivating factor for 52 per cent.

The victims' experiences of the initial panel meeting were overwhelmingly positive. Nearly all victims agreed that they had understood what was going on at the panel meeting (94 per cent); that they had been given the opportunity to express their views (92 per cent), and explain the loss and harm that had resulted from the offence (91 per cent). Ninety one per cent also agreed that they had been treated with respect, (more than half of whom strongly agreed); 85 per cent felt that the community panel members had been fair (the majority of whom strongly agreed); and 84 per cent agreed that the panel had been sympathetic towards them (roughly half of whom strongly agreed). Furthermore, victims generally felt that they were given sufficient opportunity to voice their views and feelings and contribute to the panel process. For instance, 92 per cent agreed that they had the opportunity to express their views in the panel (the majority of whom strongly agreed). Most felt that all sides had been given a fair chance to bring out all the facts (78 per cent) and that the panel had taken account of what they had said when deciding what should be done (70 per cent).

## **Panels**

As decision-making forums, Youth Offender Panels (YOPs) are 'potentially one of the most radical aspects of the entire youth justice reform agenda' (Dignan and Marsh, 2001, 99). The intention is that YOP meetings should be held as locally as possible to where the young person lives. The move away from court is meant to be both physical and conceptual. YOPs adopt a conference-type approach to decision-making that is intended to be inclusive and centred on the parties affected by the crime incident. As such, they mark a significant shift away from a court-based judicial model in which the parties are 'represented' rather than directly speak for themselves. Panel meetings are not merely 'one off' events, but entail structured meetings over the lifetime of the Referral Order. As a result, panels convene periodically to review developments as well as support, discuss, and where appropriate congratulate, the offender on progress made. They both monitor and moderate the fulfilment of the contract.

One of the principal tasks of the community panel members at the initial panel meeting is to encourage participatory discussion and provide an environment in which young people and others feel able and willing to communicate. We sought to measure the contribution of the various parties to panel deliberations. Despite some commentators' fears that young people would be marginalised in a roomful of adults at panel meetings (Haines, 2000, 70), the observation data suggest that many young people played an active role in panel meetings. Only 11 per cent of young people made just monosyllabic responses or said nothing during their panel meeting, whilst almost half (49 per cent) made lengthy and full contributions.

The young person is most likely to be accompanied to a panel by their mother, followed by their father or both parents (attendance of a parent or adult carer is mandatory if the young person is under 16). The contributions of parents to the panels were recorded as either 'lengthy or full' or 'short but several' in over 90 per cent of our observations. Monosyllabic or negligible contributions from either were rare. Fathers, when they attended, tended to be slightly more vocal than mothers.

Our observations indicate that 'ground rules' for panels were observed completely in 90 per cent of panels. Where there were infractions they were minor and non-abusive. There were no threats of violence during any of the panel meetings that were observed. In general, it appears that initial panels were largely successful at achieving a potentially 'restorative atmosphere'. Panel members were predominantly considered to be non-judgmental by observers.

The ultimate aim of initial panel meetings is to agree a contract with the young offender through negotiation. The published Guidance states that 'contracts should be negotiated with offenders, not imposed on them' (Home Office, 2000, para. 8.16). Furthermore, it states that 'agreeing the contract should be led by the community panel members, who should be encouraged to suggest interventions for inclusion in contracts that draw on community rather than just youth offending team resources' (Home Office, 2000, para. 3.56). Our observations also took account of the process through which contracts were formulated and agreed, and sought to assess the extent to which parties contributed to contractual outcomes.

In total, 329 contract elements were proposed during these observed panels. Almost 90 per cent of the elements in contracts were suggested by either the community panel members or the YOT panel member. This is perhaps unsurprising. However, it suggests that more could be done to encourage other members of the panel to contribute to drawing up the terms of the contract. It is noteworthy that victims suggested only 14 per cent of the elements considered for contracts in panels that they attended, though this is still substantially higher than the number of elements suggested by young offenders (5 per cent) or their supporters (2 per cent) in all panel meetings.

The negotiation of contract elements is intended to be a 'two-way agreement' that the young person actively agrees to undertake. Observers assessed whether or not they thought the young person actively or passively accepted the elements that went into their contract. Four fifths (81

per cent) of the elements assessed by observers were 'actively' accepted by young people, while the other fifth appeared to be only 'passively' accepted. It is important to remember that a contract might include elements of both, that is, some elements that were actively agreed as well as some passively accepted. Overall it suggests a reasonably collaborative approach is being achieved in panels. However, our observation that young people were only rarely reminded at the start of a panel that they could terminate the meeting, or ask for more time to consider the proposed contract, suggests that greater emphasis could be placed on the context in which panel negotiations take place. The imposition of the order in court no doubt carries a coercive load that needs to be acknowledged and, where possible, limited. Reminding the young person of their right not to participate and return to court, albeit for an alternative sentence, could enhance the guidelines' emphasis that a contract is to be negotiated rather than imposed.

## Conclusion: New Forums of Justice?

Where does all this leave us? Has the introduction of Referral Orders merely been the unthinking importation of a set of policies from other jurisdictions to our own, without consideration to the realities and possible consequences? Are Referral Orders a radical departure signalling the beginnings of a new youth justice, or merely a palliative distraction in what is a continuing shift towards ever more punitive justice? And, finally, has the positive potential of restorative justice in this area been undermined by North American punitiveness in the form of the 'what works' agenda? Clearly, the answers to such questions are, to say the least, complex.

In relation to the first – the nature of 'policy transfer'<sup>1</sup> – the response is perhaps predictably mixed. Thus, it is important to acknowledge that, as is so often the case with policy-making, much of policy development in this area was executed within very tight timescales. As a consequence, the opportunity for consultation was short. Relatedly, it is far from clear why the particular components that comprise Referral Orders were selected. It was undoubtedly not possible for exhaustive analysis to be undertaken of different models from around the world, given the political realities of policy-making. Despite these limitations it is equally important to note that considerable attention was paid to criminological research during the development of policy, together with information about practical developments in youth justice and restorative justice in both Australasia and North America. The impact of the Scottish experience of Children's Hearings should also not be underestimated. The introduction of Referral Orders appears to us to have been a genuine attempt to utilize lessons from other jurisdictions, even those internal to the United Kingdom, and to create a variant that would be suitable – legally, practically and politically – for domestic circumstances.

Are Referral Orders a radical and enlightened departure in the field of youth justice or just more of the same in a different guise? Of course, the answer lies somewhere in the middle. We concluded in the evaluation reports (Newburn et al., 2001a; 2001b; 2002) that one of the most encouraging aspects of the Referral Order pilots was the experience of the youth offender panels. Within a relatively short period of time the panels have established themselves as constructive, deliberative and participatory forums in which to address young people's offending behaviour. The informal setting of youth offender panels would appear to allow young people, their parents/carers, victims (where they attend), community panel members and YOT advisers opportunities to discuss the nature and consequences of a young person's offending, as well as how to respond to this in ways which seek to repair the harm done and to address the causes of the young person's offending behaviour.

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<sup>1</sup>The use of the term 'policy transfer' in this connection is a form of shorthand. It is clear for a number of reasons that no straightforward process of transfer or 'lesson-drawing' occurred. Most importantly, the Referral Order does not appear to draw too directly from any one particular existing model, but conflates (and some might suggest, confuses) a number of different approaches. Thus it is hard to see it as a clear 'transfer'; rather it is a hybrid, constructed out of a variety of borrowed elements.



Against the expectation of many commentators (Wonnacott, 1999; Ball, 2000; Goldson, 2000b), Referral Orders seem to come remarkably close to providing the basis for a constructive and thoughtful youth justice. They do seem to 'offer children who get caught up in the criminal justice system a stake in, and a hand in, shaping their futures' (Pitts, 2000, 12). That the principles of 'inclusivity, reciprocity, appreciation and tolerance' (ibid, 12), are potentially found in the Referral Order process does not of course necessarily mean that those principles will be effectively operationalised. However, our findings suggest that considerable efforts are being made to ensure that they are.

Establishing a clear 'political status' for children and young people (as the Children's Hearings do in Scotland), by securing their position largely outside the criminal justice system, remains elusive and beyond the scope of the Referral Order. However, by making the order almost mandatory for offenders appearing for the first time in court, some attempt has been made to establish a consistent platform for entry into the criminal justice system. As Goldson (2000b) and Muncie (2002) suggest, this may be at the expense of the principle of trying to keep young people out of such a system in the first place. However, what is clear is that the task of defining the political status of children and young people in the criminal justice system now belongs to a much wider group of people than has previously been the case. Six thousand volunteer community panel members will be recruited to operate panels in every part of England and Wales. The Youth Offender Panel website ([www.youth-offender-panels.org.uk](http://www.youth-offender-panels.org.uk)) recorded over 250,000 hits within three months of its launch, and received around 7,000 specific requests for an application form. More professional staff will be recruited to train volunteers and maintain their participation. More staff and resources will be required to ensure that victims can be meaningfully accommodated in the process. These people will encounter constraints and contradictions in what is expected of them as much as they endeavour to fulfil their own expectations of how best to respond to young people's offending behaviour. However, they are, by all accounts, a force to be reckoned with.

In this respect the early Scottish experience of Children's Hearings may be instructive. Just five years after the introduction of panel hearings in Scotland one panel member, Margaret Dobie, commented: 'Panel members find themselves in a position from which they can profoundly influence the community's way of dealing with its problems and they are not going to miss this opportunity' (Martin and Murray, 1976, 228).

Concluding their review of the first five years of Children's Hearings Martin and Murray observed that while it was clear that Scottish society could not be assumed to be a 'unitary' consensual whole it was evident:

*That there are within the community veins of . . . social concern which our system of juvenile justice has been uniquely successful in tapping.*  
(Martin and Murray, 1976, 234).

Such observations about the processes involved in Scottish Children's Hearings bear a striking resemblance to Youth Offender Panels in England and Wales, some 25 years on.

In our view therefore, to a degree the design and introduction of the Referral Order may be seen as a positive example of 'policy transfer'. It is not entirely clear how this process of policy borrowing took place – or what it involved. This would require, as Wacquant (1999) notes, that we 'reconstitute, link by link the long chain of institutions, agents and discursive supports' that made possible the internationalization of such ideas and practices. Nonetheless, even in the absence of such a detailed account, it seems clear that restorative justice ideas and ideals – largely developed and operationalised in other jurisdictions – have been studied, reworked and implanted in other jurisdictions such as England and Wales. These processes of 'lesson-drawing' (Rose, 1993), 'policy convergence' (Bennett, 1991), or 'policy diffusion' (Eyestone, 1977), are far from straightforward; rarely is it the case that a simple transfer or transplant of ideas or policies can be achieved. Restorative justice practices in the UK are far

from perfect (see for example Miers et al., 2001). Nonetheless, the attempt to draw positive lessons from other jurisdictions is a laudable aim, and the Referral Order pilots contain enough that is positive – the establishment of new forums, the involvement of volunteers from local communities, and the prioritization of reparation – to make them a generally welcome and constructive addition to the youth justice process.

Finally, whilst we concur with Muncie (2002) that there are considerable dangers in an unthinking application of the ‘what works’ ideology, it is important not to slip into a broader rejection of empirical research. The importation of the ‘what works’ agenda was part of a governmental attempt to increase the degree of rigour in research generally, and evaluation research more particularly. We would not take issue with the suggestion that ‘what works’ ideas can be, and arguably have been, used too unthinkingly and prescriptively. However, rigorously conducted empirical research is vital in attempting to reduce offending and mitigate crime rates. For too long, criminal justice in general, and youth justice in particular, has proceeded as if evidence were incidental or unimportant. Values and principles are of course vital to the establishment of a just system. Indeed, as with Muncie, we take them to be more fundamental than empirical questions of ‘what works’. However, these are not mutually exclusive matters. We require values and evidence. Research and evaluation should be central to understanding how particular aspects of the system – informed one hopes by these principles and values – work in practice. How, we might ask, would it be possible to know whether Referral Orders are consistent with the values of a just system were it not for empirical research? Moreover, we would argue that it is a hugely positive development that such changes to the justice system are piloted, evaluated and adjusted as a result of evaluation. This was the case for Referral Orders. The evaluation in that case was central to framing national implementation. Significant changes, for example, were made to the training of community panel members, to practices adopted by YOTs with regard to victim involvement, and the period between the order being made and the initial panel being arranged was extended to 20 days, all as a result of the evaluation. The next step should be to continue to monitor and evaluate how national implementation works in practice. An interactive process that involves politicians, policy-makers, practitioners and independent academic researchers in both the design and implementation of policy, is surely the best way of guarding against the dominance of ideology and populist politics in the youth justice system.

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