Chapter 12
The Promise, Pitfalls, and Context of Restorative Justice:
Through a Lens of Communication Disorders

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ABSTRACT

This chapter addresses the promises and pitfalls of restorative justice (RJ) practices for youth with communication disorders. This chapter begins with the historical context, the current zero-tolerance policies and other harsh, exclusionary discipline measures used in schools and (in)justice system, harming Black disabled students disproportionately. This chapter then addresses the promise of RJ as a way to challenge zero-tolerance while building inclusive communities that focus on the growth of young people in community. This chapter provides a step-by-step discussion of a restorative circle, a practice based on talking, listening, and processing emotions. Speech-language pathologists are called upon to learn about the promise of RJ, engage in restorative practices, and then utilize their specific knowledge of communication disorders to develop universal design circles so that youth with communication disorders and other invisible disabilities can be included and the promise of restorative justice fully realized.

INTRODUCTION

Restorative Justice (RJ) is both philosophy and practice with roots in Native American societies. The practice is built upon a philosophy that humanity flourishes through community (Pranis, 2005), and strong communities develop through practices grounded in values of empathy, care, inclusion and responsibility to one another (Zehr et al., 2015). Restorative Justice Practices (RJP) include interactions grounded in the philosophy of RJ and include "restorative questioning, restorative chats or dialogue, victim-offender mediation, restorative circles, and community conferencing" (Morrison and Vaandering, 2012; Zehr et al., 2015). A common RJP utilized in schools is the Circle, a space created by individu-

als coming together to build community or repair harm with an understanding that all students belong, all humans cause harm to others and having a way to address the harm committed without excluding.

In contrast, the U.S. is organized around capitalism as both the economic order and the ideological framing for all social institutions. Schooling, a central institution in the U.S., is thus structured toward creating human capital. Rather than focusing on human development, schooling prioritizes a curriculum designed to shape students for futures of building economic capital as workers. The idea is that a strong nation has a "competitive" workforce that results in a strong economy. In this arrangement young people are ranked, sorted and socialized to see that some humans are more valuable than others (Kozol, 2005; Lipman, 2004; Giroux, 1984; Shor and Freire, 1987). Exclusionary and punitive practices are used to both mark the boundaries of accepted behaviors and to serve as a warning to all students that they must conform or they too will face exclusion. Avoiding exclusion is a difficult for students -- disabled, Black, immigrant, and poor -- entering an educational system in which they are already perceived as unable to conform, less valuable and excludable (Stanford and Muhammad, 2018). The standardization of curriculum and testing used to rank, sort and promote students ignores existing inequality and differences among students and in society. In circular fashion, then, test scores are used to justify on-going practices that devalue, exclude and reproduce systemic inequality (Lipman, 2004). Not surprisingly, Black disabled students face push-out at the highest rates of all groups.

This chapter will begin with the historical context of RJP in schools and the justice system within the context of zero-tolerance policies over the past four decades. The analysis pays particular attention to the way zero-tolerance measures, those uncompromising, punitive measures that function to exclude rather than help children develop, have functioned to disproportionately punish and exclude children with disabilities (Duncan, 2014). Effectively challenging and shifting away from current hierarchical, punitive and exclusion-based practices in schools will require that RJ practices are inclusive (Hayes and Snow, 2013; Burnett and Thorsborne, 2015; Dalmage, Michaels, and Balgoyen, 2016). Using a step-by-step overview of one particular RJ practice – the Circle – this chapter will clarify the promise and highlight the challenges of RJ in schools. Most RJ practices, including the Circle, are based on talking, dialogue, reflection on emotions, building empathy and support. Speech-language pathologists (SLPs) are encouraged to learn about RJ, participate in the Circle process, and then utilize their expertise on communication disorders to develop universal design RJ practices. If students with communication disorders and other disabilities are excluded because of their disabilities, then the promise of RJ will not be realized. For this reason, this chapter concludes with a call to action. SLPs have important knowledge and insight that could and should be mobilized toward much needed awareness and inclusivity of youth with communication disorders in RJ practices.

BACKGROUND: CONTEXTUALIZING THE RISE OF RESTORATIVE JUSTICE IN THE U.S.

In the spring of 2014, Lawrence, a tall, fit, nice looking, Black, 17-year old, stood respectfully before the Judge in a Chicago courtroom. With his hands behind his back, he fidgeted with the cuff of his purple sweatshirt. The color of his sweatshirt and pants marked his assigned pod, or unit, in juvenile detention. In 2014, Lawrence was one of the 60,000 children confined at a cost of approximately $100,000 per child. In 2020, the "average state cost for the secure confinement of a young person is now $588 per day, or $214,620 per year" (Justice Policy Institute, 2020) -- almost ten times the $22,000 per child allotment

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