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When Punishment Doesn't Work: The Ideology and Infrastructure of Restorative Justice in Public Schools

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When Punishment Doesn't Work:
The Ideology and Infrastructure of Restorative Justice in Public Schools

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
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Abstract

Using interview data collected over a span of three months, this project serves as a case study and critique of the recent orientation toward restorative justice as an alternative to a punitive orientation and as a means to address racially disproportionate suspension rates in schools. In this paper, I argue that the attempts we see today to address disproportionate suspension rates and opt for less punitive methods of governance, in general, do little to undo a history of punitive discipline which upholds racial, economic, and gendered hierarchies. I am less concerned with the individual intention of every actor within the school. For the most part, the teachers and administrators I spoke to all prioritize the general safety and welfare of their students. That being said, teachers and administrators are responsible for addressing the systematic reliance on surveillance tactics, zero-tolerance policies, and exclusion, as these practices reinforce structural oppression at large. Moreover, I argue that attempts to achieve justice in schools will ultimately fail, enforcing the same systems they are trying to eliminate unless they are responsive to the hegemonic hierarchies and structural racism of larger American society.

“Schools can be seen as the most powerful alternatives to jails and prisons. Unless the current structures of violence are eliminated from schools in impoverished communities of color-- including the presence of armed security guards and police-- and unless schools become places that encourage the joy of learning, these schools will remain the major conduits to prisons. The alternative would be to transform schools into vehicles for decarceration.”

- Angela Davis

Table of Contents

Introduction	1
Chapter 1: The Punitive Turn.....	6
How the Punitive Turn Permeated into Schools.....	11
Chapter 2: Recent Responses to Punition: Restorative Justice.....	21
Restorative Justice in Schools.....	23
Case Study of Restorative Justice: Enrichment Alliance.....	27
Role of Governmental/NGO Advocacy.....	31
Chapter 3: Castleton High School.....	35
A History of Reform Efforts and Debates at Castleton.....	35
Reforms Now.....	42
Unintended Consequences of Reform Efforts.....	54
Punitive Logic Persists.....	58
A Concluding Case Study: Lane Community School and its Alternative Path to Restorative Justice.....	71
Conclusion.....	79

Introduction

On a sunny Friday afternoon in Murfreesboro, Tennessee in the spring of 2016 four Black girls under the age of 12 were arrested at their elementary school for not intervening in a fight. The video documenting the incident revealed two boys ages 5 and 6 “throwing feeble punches at a larger boy as he walked away” while other students stood and watched, some yelling inaudibly seemingly trying to break it up. The police department got ahold of the video, resulting in their unsubstantiated pursuit to arrest the 10 kids who were accused of “failing to stop the fight.” The principal pleaded to call their parents before they were taken to jail, but the officers refused. The sixth-grader was handcuffed, crying, as the principal fearfully obeyed the orders in an effort to not get arrested himself. The police wound up arresting 11 kids in total, using a charge called “criminal responsibility.” This is not an isolated occurrence. The year of this incident, Rutherford County, where this school is located, jailed “986 children for a total of 7,932 days.”¹ Furthermore, Rutherford County is not unique. Students of color are being criminalized across the country as schools rely on the criminal justice system to maintain control. The violent tactics of control and trauma inflicted on students are glaring in this case, but it does not take an incident of this caliber to reveal the need for change. This is what a strictly punitive system looks like... and it is horrifying.

Almost a thousand miles away on the East Coast, we find Castleton High School, a school that, over the last 5 or so years, has been attempting to transition to more restorative methods of discipline as an alternative to traditional punitive methods of punishment. However,

¹ ProPublica & Nashville Public Radio, “Black Children in Tennessee Were Jailed for a Crime That Doesn't Exist,” HuffPost (HuffPost, October 8, 2021), https://www.huffpost.com/entry/black-children-were-jailed-for-a-crime-that-doesnt-exist-almost-nothing-happened-to-the-adults-in-charge_n_6160b573e4b0cc44c50c9c02.

an incident recalled to me by the assistant principal reveals this may not be as simple as it seems. A father of a young boy who was suspended from Castleton requested to have a meeting in an effort to lessen the number of days of suspension. At the meeting, the administrators showed him the surveillance footage of the incident. In an effort to come to an agreement, the principal offered to allow the boy to come back earlier if he participated in a restorative discussion. The other student agreed, so everyone was on board for him to come back early. However, when offered this compromise, the boy refused. The assistant principal said, “all he had to do was show up and sit at the table and he refused to do it... so the meeting was pointless.” She expressed frustration at the “stubbornness” of some of the students.

There are moments when punitive logic is so spectacularly visible, like at Murfreesboro elementary school, and there are other times when it seems much more understated and mundane, like, in this case, at Castleton High School. Nonetheless, it persists even when there is a conscious effort to pursue restorative justice. The blatant paradox of using surveillance footage to prompt a “restorative session” is the clearest indication of the continued reliance on punitive tactics of control. In addition, the “restorative conversation” is only offered as a trivial piece within a broader procedure of suspension, retribution, and exclusion. Although this meeting at Castleton may seem completely contradictory, even promising, compared to the aggression exhibited by the police in the school in Tennessee, a similar punitive structure underlies both situations.

How is it possible to be using punitive methods of surveillance to attempt to restore relationships with students who have been harmed? How is it that Castleton staff propose a restorative conversation only after they have suspended the student in question? What does this

say about the relationship between a punitive approach to discipline and an alternative approach of restorative justice?

The recent trend toward restorative justice reflects a perception that punitive methods are not working. We are finding that they actually are not reducing suspension rates, in fact, they are being distributed disproportionately, targeting young people of color (Black girls, above all). People are desperately looking for alternatives, however, often attempts to institute these alternatives do not negate a deeply rooted reliance on punishment. Punishment and restorative practices are not polar opposites. Adopting restorative practices does not mean the structures that have governed the community, and society at large, vanish. New practices, especially when there is a disconnect between day-to-day practices and proclaimed ideologies, continue to persist within a punitive structure, upholding the same racialized hierarchies and discriminatory practices under a new name.

Currently, full implementation of restorative justice is far from being actualized at the large majority of schools in New York and across the country. Data on suspension rates or formal proclamations of innovative and culturally responsive programming are not able to capture the reality of students' experiences across the country. In my research, I focus on Castleton High School, a public high school located in New York State, and situate it within a trajectory of attempts to address a legacy of harsh punitive practices within schools. I draw attention to the distinction between the ethos/ideology that educational institutions formally articulate and the infrastructure that underpins everyday operations and relations. This distinction is not cut and dry and there is, in fact, much overlap between these ideologies and practices. However, I have discovered, through my interviews, moments that indicate that there is often a disconnect. Restorative practices must be promoted on the level of both "ideology" and "infrastructure,"

"plan" and "practice" at the same time. When these do not line up, and punitive methods that have been embedded within our school system for years persist, a school will consistently struggle to make substantial change.

Methodology

For my research, I utilized secondary sources and news reporting on the history of debate and practice relating to school discipline. I focused on theorists and activists such as Monique Morris, Bruce Western, Savannah Shange, Bryan Warnick, and Campbell Scribner. News sources allowed me to gain insight into popular discourse and the media's portrayal of disciplinary shifts and educational reforms. In an effort to provide confidentiality to the individuals and organizations that I have worked with, there are certain moments in which I include quotations from organizational documents or news sources, but I do not provide the citation. If I did provide the accurate citation, the identity of the participating individuals and organizations would be immediately obvious.

I interviewed staff, faculty members, teachers, and directors at Enrichment Alliance, Castleton High School, Woodbury Collective, and Lane Community School (all pseudonyms). Enrichment Alliance is a nonprofit organization that utilized restorative justice techniques within its programming and led educational programs for teachers across the state to learn how to implement restorative practices. Castleton High School is the school I will focus on primarily, exploring their recent attempts to transition from punitive disciplinary methods to more restorative. Woodbury Collective is a nonprofit organization that has contracted someone to lead this training at Castleton. And finally, Lane Community School is another smaller charter school,

about 2 hours away in a more urban setting, that has been practicing restorative justice since its founding. I have chosen to focus on these institutions/organizations in order to show the scope of work being done with regard to restorative justice in educational spaces today. Each of these institutions occupies a different position within the restorative justice landscape: from advocacy organizations and consultants to schools both successfully utilizing restorative practices and struggling with implementation. By looking at these institutions altogether, I hope to give readers a broad view of the ideologies, practices, and challenges that shape restorative justice work.

I identified these institutions and sought out interviews with my interlocutors through my networks at Bard and through other social justice work that I have been involved with. My basic recruitment approach was to intentionally focus on these educational institutions/advocacy organizations and seek interviewees within those organizations, drawing on social connections, networks, and recommendations. I was connected to the schools through the Bard MAT program and my own personal network. I have previously worked with other programs at Enrichment Alliance.

In the interviews, I was interested in the administrators' and teachers' perspectives on changes in modes of punishment over time and more foundational goals surrounding how pedagogy is intertwined with discipline. From the Enrichment Alliance, I learned about the work of an organization implementing and advocating for restorative practices. From my interviews with members of Castleton High School, I gained insight into the struggles the community is facing when tasked with implementing new practices and shifting ideological structures. And finally, my interview with the director of Lane Community School provided me with an exemplary case of how restorative justice can be integrated from the very inception of a school community.

Chapter 1: The Punitive Turn

Methods of discipline in schools have not always been as punitive and retributive as they are today. In order to construct alternatives to the current reliance on punitive discipline in schools, we need to understand how punishment emerged in schools as a part of a larger shift in other domains of society, including law enforcement, criminal justice, and the provision of social assistance. There is widespread agreement among social theorists that there was a major shift throughout the 1970s in these domains, however, theorists emphasize different factors to explain this shift. I will outline a few of the major debates around what caused the broader punitive turn. Sociologist David Garland emphasizes structural and cultural changes that came from late modernity, while theorists like Bruce Western and Lois Wacquant utilize racial conflict theory, emphasizing the legacy of slavery and Jim Crow and the consequences of racial anxieties prompted by the Civil Rights movement. It is necessary to understand the political and social context in the 1970s within which punitive measures began to permeate into school discipline and specifically shape the experience of students of color. To understand the detrimental effects and counterproductive nature of punitive disciplinary methods in schools, we must first lay the foundational context of the punitive turn. I argue that we can achieve a wide-ranging conception of the punitive turn by drawing on the theories of three prominent sociologists. From Garland, we can understand how the rejection of the rehabilitative ideal was prompted by larger cultural shifts and how those shifts influenced the state's role in crime control. Wacquant and Western, meanwhile, allow us to see just how intertwined the punitive turn was with race relations, with Wacquant emphasizing the legacy of slavery and Western emphasizing tough-on-crime rhetoric disguising fears post-integration. These theorists' perspectives on the punitive turn help us to

understand the racialized punishment we see today and the reliance on educational institutions to protect certain groups of students and control others.

According to David Garland, in *The Culture of Control*, for most of the 20th century, the dominant approach to crime in the United States and Great Britain could be described as a form of “penal welfarism.” He details the goals of penal welfarism as rehabilitation and the prevention of crime. This approach viewed crime as a “sign of an underachieving social process,” and it looked to “the state to assist those who had been deprived of the economic, social, and psychological provision necessary for proper social adjustment and law-abiding conduct.”² Under this system, “the state was to be an agent of reform as well as repression, of care as well as control, of welfare as well as punishment.”³ In particular, the criminal justice system was expected to treat “disadvantaged criminals” as clients in need of support, which manifested in treatment programs, social reform efforts, and public services. Garland argues that within this framework, “the prison was viewed as a problematic institution, necessary as a last resort, but counterproductive and poorly oriented to correctionalist goals.”⁴ Advocates of penal welfarism wanted to avoid the reliance on prisons, as they did not offer much in regards to the services and treatment programs that they thought would correct behavior and reform delinquent criminals. Not surprisingly, due to this dominant ideology, through much of the 20th century “imprisonment rates in America and Britain decreased in relation to the number of crimes committed and offenders convicted.”⁵

However, starting around 1970, Garland claims there was “an astonishingly sudden draining away of support for the ideal of rehabilitation” as well as a dramatic embrace of a

² David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002), 15.

³ *ibid*, 39.

⁴ *ibid*, 14.

⁵ *ibid*.

forthright punitive approach.⁶ He notes changes in employment patterns, inequality, and rising crime rates as influencing this shift. In place of penal welfarism, a harsh punitive approach became widely accepted. This turn toward a punitive approach permeated many different areas of society, and Garland documents these changes in the language and attitudes of academics, participants in the criminal justice system, politicians, and the general public. According to Garland,

Within a very short time it became common to regard the core value of the whole penal welfare framework not just as an impossible ideal but... as an unworthy, even dangerous policy objective... When faith in this ideal collapsed, it began to unravel the whole fabric of assumptions, values, and practices upon which modern penalty had been built.⁷

The previous goal of rehabilitation was “routinely subordinated to other penal goals, particularly retribution, incapacitation, and the management of risk.”⁸ Programs were no longer shaped by correctionalist ideals, but rather an underlying mentality of vengeance. To achieve justice under this model, it required that the person committing a crime suffer in return. Incapacitation, for Garland, often involved lengthier sentencing and a greater reliance on punitive punishment. Management of risk entailed monitoring and controlling the possibility of criminal behavior, which worked simultaneously with retributive punishment and the goal of incapacitation.

Punishment as a response to societal problems dramatically reversed the trends of the 20th century and this resulted in an increase in the prison population. In the United States in 1980, the total prison population was 329,000... eight years later, the prison population had essentially doubled, to 627,000.⁹ Instead of previously seeing prison as a last resort but ultimately counterproductive, under this new orientation, the prison was normalized as a routine part of society. The prison came to be viewed “not as a mechanism of reform or rehabilitation,

⁶ *ibid.*, 8.

⁷ *ibid.*

⁸ *ibid.*

⁹ Michael Waldman et al., “The History of Mass Incarceration,” Brennan Center for Justice, April 5, 2022, <https://www.brennancenter.org/our-work/analysis-opinion/history-mass-incarceration>.

but as a means of incapacitation and punishment that satisfied popular political demands for public safety and harsh retribution.”¹⁰ Underlying these shifts, Garland argues, was a changing assumption that the state cannot fix these problems. Generally, people were losing faith in the competency of the state. Instead, the popular discontent sparked the government’s retreat from addressing these social problems and its reorientation toward isolating the “perpetrators” and protecting the rest of the population.

Garland emphasizes structural and cultural changes at large, identifying changing race relations and the challenging of traditional racial hierarchies as a piece of this, but not the central causal mechanism. For Garland, the punitive turn is crucially connected to the state’s reaction to these changes. Other theorists, however, like Wacquant and Western discuss how the punitive turn was primarily a reassertion of white supremacy and a backlash to the Civil Rights Movement.

Wacquant outlines, in his article entitled “Deadly Symbiosis,” the historical linkages of all “peculiar institutions” that have enslaved and policed Black people throughout history.¹¹ The phrase “peculiar institution” referred to slavery, but for Wacquant, the carceral/caste systems that followed were no different. For him, the punitive turn represents yet another shift in the means by which white supremacy reasserts itself in new political and social circumstances. Just like slavery and the era of Jim Crow, Wacquant sees the “ghetto” as another form of social control, targeting and criminalizing Black communities. The rate of incarceration for African Americans has exceeded beyond most other societies, Wacquant argues, due, in part, to “the upsurge in Black incarceration in the past three decades as a result of the obsolescence of the ghetto as a device for caste control and the correlative need for a substitute apparatus for keeping (unskilled) African Americans ‘in their place’ i.e. in a subordinate and confined position in physical, social,

¹⁰ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002), 14.

¹¹Loïc Wacquant, “Deadly Symbiosis: When Ghetto and Prison Meet and Mesh,” *Mass Imprisonment: Social Causes and Consequences*, 2001, pp. 82-120, <https://doi.org/10.4135/9781446221228.n8>, 95.

and symbolic space.”¹² Generally, Wacquant’s argument explaining the punitive turn centers around the goal of upholding racial domination under changing societal and political circumstances.

Western constructs an argument similarly focused on race relations, although he refrains from Wacquant’s assertion that the punitive turn was simply another manifestation of white supremacy. Instead, he takes a more nuanced view and holds that the punitive turn was the result of a confluence of factors. He believes that the prison boom and increasing punitiveness of crime control in the 1970s came from responses to race relations in the 1960s and rising crime rates.¹³ From the 1950s to the late 1960s, the Civil Rights movement fueled political and social changes on a massive scale, pushing for abolishing institutional racial segregation, and achieving breakthroughs in anti-discriminatory legislation. Not only were there significant civil rights reforms, but the general public also was gaining consciousness that forced a more deliberate reconciliation with the history and present conditions of racial oppression.

The Civil Rights movement and its resulting social disruptions “fueled the anxieties and resentments of the working-class whites. These disaffected whites increasingly turned to the Republican Party through the 1970s and 1980s, drawn by a law-an-order message that drew veiled connections between civil rights activism and violent crime among blacks in inner cities.”¹⁴ Deeply internalized fears of integration were masked by a widespread support of law and order rhetoric that the Republican party exploited by advocating for “tough-on-crime” policies. This backlash and the resulting punitive turn, Western argues, “disappointed the promise of the civil rights movement, and its burdens fell heavily on disadvantaged African Americans.” It “left America more divided... with a whole generation of young black men with

¹² *ibid*, 97.

¹³ *ibid*, 5

¹⁴ *ibid*, 4.

little schooling.”¹⁵ To a greater degree than Garland and Wacquant, Western identifies the origins of the punitive turn in the specific racial issues that animated the 1960s and 70s.

Despite their varying explanatory frameworks, there is consensus among these authors that there was a broad shift toward a punitive attitude. I have chosen these three accounts to emphasize the centrality of larger social transformations, shifting perceptions of state responsibility, and enduring race relations/hierarchies. My research is reflective of these wider societal shifts, with an emphasis on the repercussions of racialized punishment in schools.

How the Punitive Turn Permeated into Schools

Prior to the punitive turn, schools adopted a mentality reflective of the ideas of penal welfarism. There was a commonly evoked goal of education as a leveler which enabled upward mobility and assisted young people who were not coming from places of privilege to enjoy occupational and social success. The ideal was that educational institutions would give everyone the tools to succeed, even kids with particular needs or challenges that required additional attention and care. As the broader society shifted away from penal welfarism, the general public lost confidence in the state’s ability to remedy social problems. This was also reflected in the disciplinary practices in schools. The consensus shifted to an exclusionary discourse where only some students were deserving of a right to be in an educational environment and others, through their misconduct, forfeited this right. The role of the school was no longer to level the playing field and support all students, but instead to exclude and punish students who were thought to be

¹⁵ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002), 10.

disruptive and “unfit.” In accordance with Garland’s analysis of the punitive turn, the public’s perception of the failure of the state also extended to educational institutions. The belief that schools were incapable of “fixing” kids led to the presumption that, instead, schools must classify them, exclude them, and punish them. Systems of school governance, like the methods of surveillance and the standards for suspension as a disciplinary tool, shifted as a result. This shift in perspective in turn resulted in the reinforcement of racial, class, and gendered hierarchies.

By the late 1970s, the criminalization of schools was increasing and methods of education were becoming more and more intertwined with practices in the criminal justice system. New tactics of surveillance were being used to control students, especially students of color. Schools became high-security environments with harsher school discipline. Metal detectors, cameras, hall monitors, and other modes of surveillance made it easier and more efficient to maintain control over every individual student. Simultaneously, the consequences of “acting out” became more punitive, with a greater emphasis on suspension and other forms of exclusion and ostracization that became intertwined with the criminal justice system. These practices in schools that pushed students, especially students of color, into the criminal justice system came to be known as the “school-to-prison pipeline.” Punishment and discipline took priority over providing a safe space for students to learn, and there became a new imperative within educational institutions that was not aligned with pedagogical goals.

Increased Surveillance

One aspect of this new orientation was increased surveillance of students. Over time security practices in schools have changed from a “focus on property crime and thefts to a

concern about individual victimizations and toward today's broad security operations," states Christopher A. Mallett, a professor of juvenile delinquency. In his book, *The School-to-Prison Pipeline: A Comprehensive Assessment*, Mallett points to the statistic that nearly 6% of all public schools make random use of metal detectors, impacting 11% of all students; 36% of schools utilize security cameras, impacting 58% of all students; and 42% of schools employ security guards, impacting almost 65% of all students (U.S. Department of Education, 2014a).¹⁶ These tactics of control are concentrated in "low-income and inner-city public schools."¹⁶ Security and safety became increasingly associated with the amount of resources being used to control and monitor students.

Zero-Tolerance Policies

Just as the criminal justice system adopted policies such as mandatory minimum sentencing and three-strikes policies that limited punitive discretion, schools adopted zero-tolerance policies that did the same. As in the broader criminal justice system, these policies mandated strict disciplinary consequences for particular misconduct without sensitivity to the circumstances of particular individuals.

The American Psychological Association issued a Zero Tolerance Task force report in 2006 which explained the rigidity of zero-tolerance policies. As the APA noted, these policies require specific and harsh punishments for specific defiant, disruptive, or violent behaviors without considering situational factors. Many of the punitive methods of punishment developing around this time would fit this description, including the Jefferson Code which I will discuss later. This report details a link between these zero-tolerance policies and increased contact with

¹⁶ Christopher A. Mallett, *The School-to-Prison Pipeline: A Comprehensive Assessment* (New York, NY: Springer Publishing Company, 2016).

the juvenile criminal justice system, stating that “the increased reliance on more severe consequences in response to student disruption has also resulted in an increase of referrals to the juvenile justice system for infractions that were once handled in school.”¹⁷

In John Simons’ *Governing Through Crime*, he describes how the Safe Schools Act, also known as the Gun-Free Schools Act, led to an increased adoption of zero-tolerance policies. This act was adopted in 1994, under Bill Clinton, requiring schools to adopt more stringent policies to ensure schools are safe and free from violence.¹⁸ The law “cracks down on possession of a gun on school grounds or a school bus and also supports school districts in implementing effective school safety plans.”¹⁹ Simon argues that “the right to go to school in a safe environment has been transformed from a set of expectations for administrators to a zero-sum game between aggressors who are criminals or criminals in the making, and their victims...”²⁰ This retributive outlook assumed that in order to create safe schools, those causing harm must be excluded, expelled, or suspended. In those cases, excluded students were sent to “the streets or special schools full of expelled students that are the supermax prisons of the education system.”²¹ Punitive policies, such as zero-tolerance practices, are intended to ensure a safe environment for all. However, they do this by classifying students as worthy or unworthy, and the punitive practices continue disproportionately to target students of color and increase the connections between schools and the criminal justice system. According to the Department of Education’s data on the 2017-2018 school year, “about 15% of K-12 public school students are Black, but

¹⁷ “APA Zero Tolerance Task Force Report,” American Psychological Association (American Psychological Association), accessed April 29, 2022, <https://www.apa.org/pubs/reports/zero-tolerance>, 856.

¹⁸ “Text - H.R.2455 - 103rd Congress (1993-1994): Safe Schools Act of 1994,” accessed April 30, 2022, <https://www.congress.gov/bill/103rd-congress/house-bill/2455/text>.

¹⁹ “School Safety,” Safe Act, accessed April 29, 2022, <https://safeact.ny.gov/school-safety#:~:text=Overview,implementing%20effective%20school%20safety%20plans>.

²⁰ Jonathan Simon, *Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Oxford: Oxford University Press, 2009) 222.

²¹ *ibid.*

they make up more than 30% of students who are suspended, expelled, or arrested.”²² This racial disproportionality is, unfortunately, the predictable outcome of a shift toward zero-tolerance policies and greater punitive disciplinary practices in schools.

Increasing Suspension

For some administrators, teachers, and members of the general public concerned with safety and security at schools, suspensions seem like a crucial option for maintaining order. By removing someone causing a disturbance, it can be assumed that this would create a safer environment for the rest of the students. However, the fairness and effectiveness of this method must be evaluated. When these practices drastically target students of color and do not offer the opportunity to restore relationships or repair harm, who is benefitting and who is being harmed by a suspension? Data from the ACLU shows that nationally, “Black students lost 66 days of instruction compared to just 14 days for White students. This difference of 52 more days lost for Blacks students than whites means that Black students lost nearly 5 times the amount of instruction as Whites.”²³ Thus, the disproportionate removal of students of color has drastic effects on their potential for success, i.e. their ability to thrive in classes, their ability to foster meaningful relationships at school, their ability to utilize the resources at school, etc. Black students are punished for acting in ways that are seen as “deviant,” “unproductive.” or even “violent” while possible underlying causes are not addressed. This increasing reliance on suspension is happening simultaneously with expanding criminalization of students who are

²² Office for Civil Rights, U.S. Department of Education, Civil Rights Data Collection, accessed April 30, 2022, <https://www2.ed.gov/about/offices/list/ocr/data.html>

²³ “11 Million Days Lost - Aclu.org,” accessed April 30, 2022, https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf?source=post_page-----

being pushed out of schools due to the overall expansiveness of the carceral state and punitive methods of punishment.

Symbiosis of Educators and Law Enforcement

Beginning in the 1970s, school administrators began to rely more on police intervention, even for relatively harmless behavioral issues. At the same time, police officers increasingly treat student absences as a criminal matter and not as something the school can handle internally.

There was a growing symbiosis of educators and law enforcement officials. A manifestation of this symbiosis is the practice of students being arrested during the school day. The incident that I discussed in the introduction of this project, in which the students were arrested for not intervening in a fight, is a clear example of this situation. Instead of any kind of sensitivity to the situations of these children or giving priority to their education, the only reaction that the school had was to turn to the criminal justice system to intervene in an especially violent, traumatizing, and counterproductive manner. These were kids under the age of 12. Arrested. In a space that is supposed to be keeping them safe and educating them.

There is a tradeoff between a punitive response to misbehavior and educational goals. When students are not only explicitly excluded from school, but incarcerated, they lose equal access to education and potentially other opportunities for the rest of their lives.

These approaches have also prompted a reliance on police within schools to enforce rules and maintain order. Often, these police officers are given the title “School Resource Officers” or SROs. They became widespread in the 1990s as The Office of Community Oriented Policing Services (COPS Office) supported the hiring of SROs in an attempt to build trust and mutual respect between police and communities. The COPS office is a state agency established through

a provision in the Violent Crime Control and Law Enforcement Act of 1994, the “largest crime bill in the history of the country which provided substantial funding including \$9.7 billion in funding for prisons and \$6.1 billion in funding for prevention programs...”²⁴ SROs are considered “law enforcement officers who engage in community-oriented policing activities and who are assigned to work in collaboration with schools and community-based organizations.” They are either employed by the local police department or by the schools themselves. “In 1975, only 1% of schools reported having police officers on-site, but by 2018, approximately 58% of schools had at least one sworn law enforcement official present during the school week.”²⁵ In short, their presence has dramatically increased since the punitive turn.

Inevitably, as components of an increasingly punitive criminal justice system are introduced, the educational priorities that exist are transformed and compromised. SROs are associated with higher rates of arrest at school, accelerating the school-to-prison pipeline. In a space where students are supposed to be learning and empowered, they are criminalized and punished, depriving them of quality education and teaching them that society views them as criminals who are unworthy of respect. In particular, students of color are overwhelmingly targeted for arrests and other disciplinary action. “Black students were arrested [at school] at a rate 3 times that of white students. In some states, they were 8 times as likely to be arrested.”²⁶ We must carefully examine the harm that increasing police presence may cause to students, especially children of color, children living in poverty, and immigrant children. By having a figure that may represent violence and oppression to a vulnerable child, the goals of building autonomy, maintaining collective problem-solving, and providing unconditional support and

²⁴ New OJP Resources, accessed April 29, 2022, <https://www.ncjrs.gov/txtfiles/billfs.txt>.

²⁵ Stefanie Dion Jones, “The Prevalence and the Price of Police in Schools,” Neag School of Education, October 27, 2020, <https://education.uconn.edu/2020/10/27/the-prevalence-and-the-price-of-police-in-schools/>.

²⁶ ACLU Staff, “Cops and No Counselors,” American Civil Liberties Union (American Civil Liberties Union, February 27, 2019), <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>.

belonging become much more difficult to achieve. “Even if a young person does not personally experience unjust treatment by police, the experiences of others in their community can have vicarious effects. Such institutional and physical violence has detrimental effects on youth, causing elevated levels of stress, fear, trauma, and anxiety that strain cognitive functions and overall health.”²⁷ Any variation of police in schools inevitably will inflict trauma, discomfort, and potentially violence on students of color specifically, given the legacy of racism embedded within our criminal justice system.

How, one might ask, can someone trained in law enforcement adequately uphold values of education when police violence has been historically employed to control and target certain groups of people? Roughly 25% of school police, according to an ACLU report, stated that they had no experience with youth before working in schools. “Police are trained to focus on law and order, not student social and emotional well-being. This lack of training and education undermines effective behavior management. The tools of law enforcement... include pepper spray, handcuffs, tasers, and guns, and are ill-suited to the classroom.”²⁸ In many schools, there are substantially more resources devoted to law enforcement than to other integral positions, like counselors, nurses, school psychologists, etc. “14 million students are in schools with police but no counselor, nurse, psychologist, or social worker.”²⁹

The criminalization of students within schools substantially determines the whole school climate, creating punitive structures that continue to marginalize students of color. Monique Morris’s book *Pushout* details the experiences of Black girls in schools across the country. She

²⁷ Stefanie Dion Jones, “The Prevalence and the Price of Police in Schools,” Neag School of Education, October 27, 2020, <https://education.uconn.edu/2020/10/27/the-prevalence-and-the-price-of-police-in-schools/>.

²⁸ ACLU Staff, “Cops and No Counselors,” American Civil Liberties Union (American Civil Liberties Union, February 27, 2019), <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>.

²⁹ *ibid.*

argues that with the capacity to inflict strict punishment more often, misbehavior, especially by marginalized students, can be interpreted as a “violation of rules, laws or agreements.”³⁰

Assertion of Agency

Students of color who are forced into this oppressive system of punishment within schools often subconsciously develop strategies of disengagement and resistance that are important to draw attention to. Damien Sojoyner, in his article “Another Life is Possible,” describes the act of dropping out as a radical act of refusal. This is not a conscious maneuver to change the system, but a rejection of a system in which one feels criminalized and oppressed. This analysis is not to romanticize this resistance, but rather to condemn the system that forces students into this position. Sojoyner asks, can we blame Black kids for dropping out of school at a higher rate than white kids? Developing his concept of Black Fugitivity, he casts dropping out and disengagement as radical political acts. Indeed, this language of “fugitivity” draws direct historical linkages between the varied ways that Black people have sought freedom from oppressive and violent structures, beginning with slavery. This theory complements Wacquant’s assertion that systems of white supremacy may have revised their tactics to fit the social and political circumstances, but have essentially maintained the same goals of controlling, exploiting, and oppressing Black people throughout centuries. By using this term, Sojoyner is suggesting a historical analogy between kids dropping out of school and slaves fleeing the plantation. In this view, dropping out is simply another instance in which Black people have refused the terms of white supremacy.

In conclusion, the punitive turn in schools does not make them safer. Instead, it results in the disaffection of Black, Brown, and working-class white students. In addition, dropping out, a

³⁰ Monique W. Morris, *Pushout: The Criminalization of Black Girls in Schools* (New York: New Press, 2018), 26.

tactic employed by some to resist this increasingly carceral system, is becoming increasingly criminalized. It is therefore deeply counterproductive to rely on punitive approaches. They produce the very conduct that increased surveillance, reliance on suspension, and police presence are supposed to prevent. As I shall discuss in chapters 2 and 3, the practice of restorative justice is one way that educators are trying to address these institutional norms and arrangements that target Black youth.

Chapter 2: Responses to Punition, Restorative Justice

Conflict and harm are unavoidable in societal relations. How to address them, however, can vary. Restorative justice can be thought of today as an alternative to the punitive approach that governs our criminal justice system and most schools' disciplinary policies today. Instead of punishing a crime because some sort of rule of law was broken by an "offender," restorative justice seeks to strengthen relationships, support those who have been harmed, and figure out how all involved parties can collectively repair this harm.

Howard Zehr is an American criminologist who has pioneered research on restorative justice in the criminal justice system. In his book, *Changing Lenses*, he asks, "does the criminal justice system actually help victims and offenders?" and "What does justice look like for those who have been harmed?" He puts these questions at the forefront of the conversation about alternatives to the punitive systems we heavily rely on in the criminal justice system. He underscores the differentiation between retributive justice and restorative justice. This clear distinction between the two allows us to analyze effectively the punishment techniques that exist today in schools. In retributive justice, "crime is a violation of the state, defined by lawbreaking and guilt. Justice determines blame and administers pain in a contest between the offender and the state-directed by systematic rules."³¹ In restorative justice, crime is a violation of people and relationships, creating "obligations to make things right." Justice involves "a victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance."³²

³¹ Howard Zehr, *Changing Lenses: Restorative Justice for Our Times* (Harrisonburg, VA: Herald Press, 2015), 183.

³² *ibid*, 184.

In our criminal justice system under the retributive methods, neither the victim nor the person who has caused harm has any say over the punishment. Harm is so personal that only a victim can truly answer what they need to fully recover. When someone who causes harm is punished without input or even attention to the needs of the person who has been impacted, there is no recovery happening, just retributive goals of causing harm to someone who has caused harm. This punitive approach at most might address material losses, but it does nothing to address the psychological impact. Zehr points out that “the symbolic value of losses may be as important as or more important than the actual material losses.”³³ With this understanding, a retributive punishment for the person who has caused harm will do very little to restore the victim’s sense of control.

To be sure, restorative practices, or at least certain aspects of them, can be painful too. To challenge a student to confront that they have caused harm is scary. It can be painful to have a conversation with someone who has harmed you, as well. Restorative practices require trust, commitment, and accountability, which can be painful for everyone involved in that they require processes that can seem daunting and even mortifying to both the person who has caused harm and the person who has experienced harm.

The key to restorative justice is to acknowledge and respond to harm, rather than eliminate it, which is consistent with how the legal and prison system operates today. Zehr argues that the legal system as we know it maintains power over all parties involved, instead of returning power to the victim and allowing them to have autonomy in the process of seeking justice or reconciliation. The experience of punishment, as we know it, is not rehabilitating the individual who caused harm either. Instead, it strips them of their sense of worth and freedom that might be involved in the reason for committing the harm in the first place. Following

³³ Ibid, 32

whatever incident took place, the “offender” is a bystander who is continuously stripped of autonomy and a say in the repercussions of the actions. They are not given the ability to think critically of their actions or engage with the harm they have caused. Restorative justice, on the other hand, recognizes the moral worth of everyone involved. Justice cannot simply be done to and for the victim. All parties must feel needed and listened to in the process.

Restorative Justice in Schools

As I previously discussed, the retributive mindset prevalent during the punitive turn in society as a whole also permeated into discourse and practice surrounding discipline in schools. Similarly, as criminologists like Zehr have been reimagining the possibility of restoration within the criminal justice system, advocates, teachers, community members, etc. have been championing a shift to restorative justice in schools. To address the current disproportionalities that continue to funnel marginalized students into the criminal justice system, many argue an alternative approach is necessary. Research has proven that punitive, zero-tolerance methods do not reduce the incidents of disruptive behavior and indeed exacerbate racial, economic, and gender disparities.³⁴ Monique Morris addresses the current crisis we face in which Black girls, in particular, are disproportionately punished, put in unsafe learning environments, and excluded from opportunities to flourish. When punitive systems are in place, Black and Brown students are more likely to end up entangled in the criminal justice system. Morris says that “even one suspension is associated with increased probability of future contact with the criminal legal

³⁴ Bryan R. Warnick and Campbell F. Scribner, “Discipline, Punishment, and the Moral Community of Schools,” *Theory and Research in Education* 18, no. 1 (October 2020): pp. 98-116, <https://doi.org/10.1177/1477878520904943>. 105.

system.”³⁵ Thus, educators must figure out how to create and operate “thriving learning spaces” that “reject tools of oppression and criminalization.”³⁶

In their 2020 article “Discipline, Punishment, and the Moral Community of Schools,” Warnick and Scribner argue that punitive methods are incompatible with the fundamental goals of education. When retributive tactics such as suspension and expulsion are employed for minor offenses, students are not learning to take responsibility for their actions. In addition, what is causing the behavior is not being addressed. The use of suspension and expulsion require “very little of students in terms of reflection and engagement... and they do not offer the opportunity for ‘collective problem solving, learning, and growth.’”³⁷ When methods of discipline fail to uphold these principles, there is a risk that students can become alienated from education and even more generally from being affirmed as valuable members of the community.

Rather than alienating students from learning and making schools a site of punishment, Warnick and Scribner argue that we must orient all aspects of education, including discipline, toward the goals of inclusion, restoration, and understanding. They assert that “rather than just removing students from classrooms, restorative dialogue moves students toward these goals, and they do so in perhaps the most relevant way imaginable: the students are solving real social problems with their peers and teachers.”³⁸ Schools must recognize that students are not “finished moral beings,” which is what zero-tolerance policies seem to assume. Instead, Warnick and Scribner insist that schools are moral communities where everyone is learning and developing together. “Zero tolerance policies, particularly when paired with exclusionary discipline, seem to forget this basic characteristic of schools as moral communities.”³⁹ It is a continual process to

³⁵ Monique W. Morris, *Pushout: The Criminalization of Black Girls in Schools* (New York: New Press, 2018), 25.

³⁶ *ibid.*, 11.

³⁷ Bryan R. Warnick and Campbell F. Scribner, “Discipline, Punishment, and the Moral Community of Schools,” *Theory and Research in Education* 18, no. 1 (October 2020): pp. 98-116, <https://doi.org/10.1177/1477878520904943>, 105.

³⁸ *ibid.*, 109.

³⁹ *ibid.*

create supportive, responsive, and inclusive communities, and these goals are greatly compromised by a reliance on punitive disciplinary methods.

Advocates also argue that restorative justice offers the means to mitigate systems of oppression that marginalize and exclude students of color, specifically Black girls. Monique Morris, in her book *Sing a Rhythm, Dance a Blues*, which followed her first book *Pushout*, explores potential solutions to the crisis that is shutting Black girls out of school and into the criminal justice system. She explores restorative approaches that teachers should be using to educate Black and Brown girls. Morris argues that we must reevaluate our priorities, focusing on how to implement strategies that empower and uplift the most marginalized students. By approaching students with empathy and a lens toward healing, she contends, we can help them regain autonomy and trust in the community and themselves. Morris found that when “educators respond to misbehavior with less punishment and more empathy, as by rearranging seating or simply talking with students directly about their actions, suspension rates decrease and students’ respect for authority increases.”⁴⁰

Structures of violence and punishment are deeply embedded in schools, Morris argues. The need to punish, to isolate, to suppress, to intimidate, and to arrest is supported through “robust infrastructure” that underlies every institution in our society. To counter this and develop and sustain a counter-narrative, it takes educators to look beyond the assumption that intimidation changes behavior.⁴¹ The assumption that removing those exhibiting problematic behavior will fix the problems is a band-aid solution that does not address what has caused the issue to occur, where that individual might need extra support, and how those impacted can reconcile and grow as a community. When students are removed due to insubordination, we cannot expect them to

⁴⁰ Monique W. Morris, *Sing a Rhythm, Dance a Blues: Education for the Liberation of Black and Brown Girls* (S.I.: NEW PRESS, 2022), 56.

⁴¹ *Sing a Rhythm, Dance a Blues*, Morris 222

reconcile with and continue to operate under the structures that are excluding and oppressing them. Dissent and refusal, therefore, may be forms of critical thinking and responses to their social environment. I will expand on this idea later. “Exclusionary discipline might give a school a momentary reprieve from conflict, but it does nothing to dismantle the structures that produce the conflict in the first place.”⁴²

Even when there are alternatives to suspension, sometimes girls (and other students) of color are still not offered these alternatives. As we will see later in my later discussion of Castleton High School (see page 53), administrators commonly perceive them as “unwilling to participate in restorative circles or other processes intended to mitigate or avoid exclusionary discipline.” However, Morris found that the main issue is not the girls’ unwillingness to participate, but rather “their capacity to do so in the moment.”⁴³ If the intention is to promote healing, Black girls specifically cannot be expected to know how to facilitate this kind of conversation on their own. They are set up for failure when they are offered this alternative but do not have the resources to know how to approach it. Teachers should, instead, approach misbehavior by asking questions such as “what specifically has happened to provoke this behavior? What support do I need in the classroom to restore relationships of safety and trust in school? How can I work with my students, their parents, and school leadership to change the conditions in my classroom so that girls of color can learn effectively?”⁴⁴ In Morris’ view, teachers and administrators have a responsibility to respond to the needs and trauma of their students, especially girls of color. Students must be supported in developing autonomy and responsibility, which comes not from punitive attitudes, but from restorative practices that forge productive teacher-student relationships.⁴⁵

⁴² *ibid*, 31.

⁴³ *ibid*, 27.

⁴⁴ *ibid*, 37.

⁴⁵ *ibid*, 56.

Case Study of Restorative Justice: Enrichment Alliance

Over the last 10 years, Enrichment Alliance, an organization working in Upstate New York and New York City, has not only been transitioning from punitive methods of discipline to restorative practices itself but also creating programs to share this knowledge with other educators. During our interviews, Genesis and Rebecca, two leaders in this organization, outlined the foundational principles behind this shift, how it is being implemented, and its results. Genesis, who has been at Enrichment Alliance for 30 years, discussed their shift in philosophy in working with youth in their summer program; work that she is doing with BOCES; and new programs implementing restorative practices in New York City Schools. Rebecca, a trained restorative justice educator, had more hands-on experience in teaching and leading work with schools that are embarking on this transition.

In my interview with Rebecca, she distinguishes between restorative justice and restorative practices. She describes restorative justice as a broad paradigm that involves a whole community. It requires a cultural shift that is deeper than one-off sessions, which might be thought of as quick fixes to behavior issues. Restorative practices, by contrast, are the tools for attempting to develop such a community. Rebecca addresses how some educators, over the past decade, have seen this new wave of “restorative justice” as merely an alternative to suspension. This perspective fails to integrate the practice into a broader cultural shift, as it does not see restorative justice as necessitating a paradigm shift. In order to achieve restorative justice, according to the Enrichment Alliance, these practices must be part of a long-term commitment, one that is informed by the organization’s core values of supporting a shared vision, learning together, building authentic relationships, dismantling barriers to participation, and restoring connections. These values, in turn, must be embodied in everyday classroom environments

through practices like “reflective protocols,” “affective statements,” and “check-ins.” Reflective protocols after a conflict may include empathetic listening and learning how to communicate with “I” statements, or affective statements, which invite students to express their feelings in a non-accusatory way. Finally, check-ins are necessary to strengthen relationships and sustain an underlying culture of support. Check-ins are quick meetings that help to create environments to build the foundation where kids feel like they belong. Then, when there is an issue, everyone involved is able to leverage all of that foundation to repair harm.

Genesis uses the metaphor of a garden to emphasize the importance of restorative practices. She says, “if you have a garden and your lettuce is not growing, you do not yell at the lettuce.” With kids, instead of saying ‘what’s wrong with you,’ we have changed our perspective to asking ‘what happened.’” It is about collaboratively reaching a place of understanding rather than punishing a child for the resulting behavior.

Enrichment Alliance staff members also emphasize the physiological underpinnings that influence behavior. For most people, Genesis explains, the part of the brain responsible for judgment is not developed until the age of 25. Therefore, adults are asking kids to engage with something they might not have the capacity to engage with, especially when they are under stress. “You would not punish someone for having a disability,” Genesis says, “so you cannot punish someone for not having the emotional or mental capacity.”

The Enrichment Alliance also recognizes the importance of young people’s emotional capacity to participate in restorative practices. As Genesis points out, their ability to participate fully can be influenced by the physical space they occupy. When, after a behavior issue, kids are sent to a physical space that does not promote reconciliation and repair, it is counterproductive to the goals. One shift that Genesis explained was adjusting the physical presentation of these

rooms in order to promote reflection and repair. She expressed that they no longer looked like “dungeons” and actually were spaces to “reflect with visuals, sensory things to help one reset, and become calm and smooth.” She also highlighted the importance of changing the language of reflection to focus much more on “what happened? What were you feeling? What support do you need to address this?” rather than a rigid punitive response.

Although both Genesis and Rebecca pointed to significant changes, they both emphasized the length of the commitment necessary for this project to succeed. They tell schools that it will take 4-5 years before they will see a difference. In order to truly embed these principles and structures in day-to-day life, it takes time and a consistent commitment to justice, which includes aiming to repair harm and create pathways to empowerment and ownership.

(In)attention to Race and Class Disparities

Rebecca describes restorative justice as requiring community building, de-escalation practices, and creating a foundational structure that is familiar and trusted. This requires attention not only to what happens in a crisis, but must be established in all aspects of the community. “As folks have become more aware that suspensions are not a productive disciplinary tool and more motivated to keep suspension numbers down... the main alternative that is offered is restorative justice... but a lot of schools are not ready for this or they are not actually ideologically aligned with this.” To illustrate the absurdity of the narrow focus that is all too common, Rebecca says that some schools have simply renamed their detention room as their “restorative room” and their incident reports as “restorative reflection sheets.” In order to truly address the structural racism embedded in punitive practices both within and outside of school, restorative practices must identify and implement ways to truly uplift and educate all students. Without addressing race

specifically, new systems and procedures will have the same implicit biases that have always targeted Black students.

In Rebecca's experience, restorative justice reforms have more frequently been initiated at majority Black and Brown schools. The schools that are most intertwined with the criminal justice system are often the ones where restorative practices are being given more attention. A contradiction that she points out is that sometimes we are "trying to create a sense of belonging but the kids still have to go through metal detectors to get into schools." These are the schools where restorative practices are most desperately needed. At the same time, these are the schools where it is hardest to implement because of the additional constraints.

"It is really hard to get teachers to act a different way when they are in a system that continues to interact with them in a punitive way," Rebecca says. When teachers are also punitively regulated and assessed, and schools are constantly being evaluated, it is hard to create a different culture within this larger institutional framework. Punitive systems not only cause a lot of suffering but also take a lot of work: "we are putting all this energy into a system that is not letting us heal." An effort to reduce punishment without at the same time addressing broader issues of race and class are likely to fail. As long as these larger institutional forces remain in place, individuals who are trying to implement reforms are likely to become frustrated and view their efforts as futile.

In addition, if there is a failure to attend to the existing social injustices, the implementation of restorative practices may simply reproduce and reinforce the disparities. Rebecca says, "Just a little bit of restorative justice can be dangerous because it can be weaponized, so how do you make sure it is happening with integrity? Absent a lens that looks at race, class, and power, it is very hard to pursue restorative justice with integrity." If a school or

teacher is distinguishing themselves as “restorative” because of a few workshops. they could potentially feel a type of immunity or superiority, instead of seeing it as an ongoing process to transform the whole structure. This is when the idea of restorative justice could be weaponized because it is being used for an ulterior motive: to avoid addressing inequities causing discrimination and discrepancies in punishment, but still be presenting this enlightened facade.

Rebecca says, “when a conflict happens, it is not about an infraction, but rather a relationship. It is not just about focusing on the discipline code and the violation, but what is at the root of this and how do we repair any relationships that were harmed.” The school needs to be an environment where relationships are being fostered and where mistakes can be made and where “errors do not become life sentences.”⁴⁶ Rebecca’s position is similar to the one adopted by Warnick and Scribner. In their view, “a violation or a failure to make a responsible choice is not a good thing, but is viewed as an opportunity to develop - it definitely does call for a response - it's not to be ignored - but the response has to be suited toward the goal of development for all involved.”⁴⁷ Disruptions cause learning and development to be interrupted for all. Restoring a positive environment requires directly addressing the disruption. This calls for attention to both those who are causing and those who are affected by the disruption. An appropriate response that is properly inclusive for all must, at a minimum, avoid reinforcing existing hierarchies, and ideally, help to dismantle them.

⁴⁶ Warnick, Bryan R., and Campbell F. Scribner. “Discipline, Punishment, and the Moral Community of Schools.” *Theory and Research in Education* 18, no. 1 (2020): 98–116. <https://doi.org/10.1177/1477878520904943>, 108.

⁴⁷ Warnick, Bryan R., and Campbell F. Scribner. “Discipline, Punishment, and the Moral Community of Schools.” *Theory and Research in Education* 18, no. 1 (2020): 98–116. <https://doi.org/10.1177/1477878520904943>.

Role of Governmental/NGO Advocacy

In recent years, some policymakers, elected officials, and advocates have sought to promote restorative justice at the local and state levels through a combination of policy change and grassroots implementation. In these efforts, the state government has typically provided the legislative frameworks and policy initiatives that schools must adopt as well as some funding, although it is often inadequate. This framework may include tasking schools with mitigating racial disparities or lower suspension rates and increasing graduation rates. It is not the state government or elected officials, however, who are actually involved in these mitigation efforts, but people working on the ground in schools and non-governmental organizations that support them.

Currently, in New York State there is a proposed bill that lays out specific criteria to minimize the reliance on suspension as a disciplinary measure. The Judge Judith S. Kaye Solutions Not Suspensions Bill, formally Senate Bill S7198, is currently in committee.⁴⁸ This bill requires schools to come up with alternatives to suspensions that still hold students accountable, but do not harm or ostracize the student in the process. The bill proposes amendments to Educational Law § 2801 that would require districts to develop “a code of conduct to promote and sustain a safe, respectful and supportive school environment.”⁴⁹ This bill clearly challenges the current disparities and inequities in our school discipline processes. It does not, however, offer any tangible support toward undertaking this huge adjustment. Providing things like “alternative education” during removal/suspension takes resources, funding, time, and

⁴⁸ Ny State Senate Bill S7198,” NY State Senate, April 14, 2022, <https://www.nysenate.gov/legislation/bills/2021/s7198>.

⁴⁹“New York State Assembly,” Bill Search and Legislative Information | New York State Assembly, accessed April 29, 2022, https://nvassembly.gov/leg/?default_fld=&leg_video=1&bn=A05197&term=2021&Summary=Y&Memo=Y.

training.⁵⁰ Although the aim is admirable, so far, the resources have not been provided. For schools that are underfunded and are struggling with resources and time to adequately educate students, a mandate like this without funding makes it difficult to see how they could succeed, even with the best of intentions. Without a commitment to increased funding and accessible resources and support, bills like these do not support any real change without the effort of those on the ground, like NGOs and community members.

In addition to the state legislature's reform efforts, the Civil Rights Bureau of the New York State Attorney General's Office also is playing a role in pushing for school reforms. Rather than aiming to change the law, however, the Bureau seeks to enforce existing anti-discrimination laws. While the example of the bill currently in committee is a potential change to the law, the Civil Rights Bureau's policy relates to the enforcement of currently existing non-discrimination law. This dynamic was evident in Albany in 2015 when, after a state investigation revealed disproportionality in suspension rates, the Civil Rights Bureau put pressure on the Albany school district to make changes. This pressure resulted in an agreement to "ensure its policies and practices no longer discriminate against students based on their race, ethnicity or disability."⁵¹ Of course, the lack of clarity in this directive left it up to the individual actors within the school to figure out how to implement it. Not only do they have to adjust discipline procedures to comply with these requirements, but they are expected to do this without any additional funding or resources.

Whether backed by resources or not, governmental mandates must be implemented by local administrators and teachers. Often, they turn to experts and NGOs to support their reform

⁵⁰"New York State Assembly," Bill Search and Legislative Information | New York State Assembly, accessed April 29, 2022, https://nyassembly.gov/leg/?default_fld=&leg_video=1&bn=A05197&term=2021&Summary=Y&Actions=Y&Floor%26nbspVotes=Y&Memo=Y.

⁵¹Bethany Bump, "Schneiderman: Albany Schools Must Reform Discipline Policies," Times Union (Times Union, December 16, 2015), <https://www.timesunion.com/tuplus-local/article/Schneiderman-Albany-schools-must-reform-6701089.php>.

efforts. Enrichment Alliance, which I spoke about previously, is an example of a non-governmental organization that has a significant impact on perceptions of educational reform and innovative ways to shift disciplinary methods. Like Enrichment Alliance, Woodbury Collective is another organization that offers restorative justice training in schools to “provide alternatives to suspension and encourage reflection and growth.” As I will discuss below, Castleton, the school I am focusing on, has contracted a restorative justice trainer from Woodbury Collective to facilitate workshops and act as a resource for teachers.

Talia, director of Lane Community School, which I will also discuss later, describes her perspective on state mandates saying that she used to be dismissive of the value of these top-down approaches that failed to provide adequate funding. Of course, she continues to believe that it would be ideal and lead to more substantial change if these mandates were backed up by real resources. Talia now sees, however, that “if policy is where you want it to be, it gives all the people who were scared chances to do the right thing.” If she already is attempting to implement restorative practices within her school and the state more explicitly values such reforms, it gives her the backing to respond to skeptics and provide legitimacy to her efforts.

Successful reforms ultimately depend on hands-on administrators and teachers. There still remains an important role for government officials by providing a framework that supports reforms and resources for these changes. In the absence of supportive state resources, however, individual school districts often turn to NGOs for assistance with the actual implementation of restorative practices. Enrichment Alliance has been engaged in precisely this work. Successful implementation requires buy-in from all parties in these efforts.

Chapter 3: Castleton High School

Currently, full implementation of restorative justice is far from being actualized at the large majority of schools in New York and across the country. Building on the interviews I conducted with Castleton High School teachers and staff, I outline several countervailing forces which continue to uphold punitive disciplinary methods, preventing any real change from gaining traction. Above all, though, I discern a fundamental disconnect between the ethos/ideology of restorative justice that educational institutions formally articulate and the infrastructure and everyday procedures that they use in an attempt to implement these ideals. To be sure, this tension between theory and practice is not cut and dry and there is, in fact, much overlap between schools' formal ideologies and their practices. Nevertheless, I have discovered, through my interviews, moments that indicate substantial gaps between ideology and practice that undermine the success of the reform efforts. In the end, then, I argue that restorative justice must be promoted on the level of both "ideology" and "infrastructure," "plan" and "practice" at the same time. When these do not line up, a school will struggle to create a robust alternative to punishment.

A History of Reform Efforts and Debates at Castleton

Operating since around 1915 with a current enrollment of 1,883 students, Castleton High School has had the goal of supporting growth in an effort to enable students to reach their full potential. Discipline, however, has been a topic of concern for years, guiding decades of reform efforts.

The Jefferson Committee was established in 1987 at a campus-sponsored retreat. Administration and faculty began to model structures of community forums and decision-making around disciplinary issues. This committee was guided by the principles of Thomas Jefferson, who thought a school should produce:

1. A person who knows his rights.
2. A person who knows how to defend his rights.
3. A person who is self-determining and who is not intimidated by experts.
4. A person who possesses useful knowledge.
5. A person who knows the ways of the human heart to such an extent that he or she cannot be cheated or fooled.⁵²

Jefferson regarded these principles as important characteristics of democratic citizens and citizenship. Jefferson's principles fit into a broader discussion of the purpose and goals of education. The members of the Jefferson Committee likely were inspired by and tried to realize this vision.

Larger Context of Educational Theorizing

I propose using the theorists Durkheim and Dewey to help us to understand this broader vision of education and the possible motivations of the Jefferson code. Durkheim was one of the first theorists to develop a theory of education centered on creating social bonds and deterring deviant behavior. Education, for him, was a matter of developing a moral sense that allowed the child to integrate into society. Internalizing the proper social norms and developing a character suitable for a particular community is essential to a child's educational experience.⁵³

⁵² Paula Denton, "Shared Rule-Making in Practice: The Jefferson Committee at [Castleton] High School.," *American Secondary Education* 31, no. 3 (2003): p.76.

⁵³ Emile Durkheim, *Education in Sociology*. Quoted in Grace Barnes "Emile Durkheim's Contribution to the Sociology of Education." *Journal of Educational Thought* V.11 (1977) p. 216.

In addition to internalizing the relevant norms, Durkheim also held that education requires the development of autonomy, so children have the ability to question these norms and traditions. “To teach morality is neither to preach nor to indoctrinate,” he explains.⁵⁴ Specifically regarding discipline, he holds that it must not present as an arbitrary constraint. If an individual submits passively to the authoritative rule, there is no room for developing any sense of autonomy. Durkheim pointed to a delicate balance between the two extremes: uncritically, dogmatically accepting societies’ rules, on the one hand, and excess or unconstrained individualism, on the other hand. You see this balance reflected in the expectation embedded in the Jefferson Committee’s goal that students be “self-determining and ... not intimidated by experts.” At the same time there is also a need to enforce the relevant norms of respect and safety among students.

Although Durkheim recognized that a crucial goal of education was to integrate students into society by internalizing the relevant social norms, it remained ambiguous how to identify the norms that would be appropriate for the kind of society that we want. For this, we must turn to the work of John Dewey. Around the turn of the 20th century, John Dewey and others introduced a new model of education that is known as part of the progressive education movement. Like Durkheim, Dewey was interested in the role of education in character formation. More specifically, he was interested in education for democratic citizenship, in which a society of equals collectively worked out solutions to their problems. This ideal, he thought, must inform the practice of education, including its methods of discipline.

During its formative years, the Jefferson Committee was focused on developing a broad commitment to democratic citizenship similar to the one envisioned by Dewey and, more

⁵⁴ Emile Durkheim, *Education in Sociology*. Quoted in Grace Barnes “Emile Durkheim's Contribution to the Sociology of Education. *Journal of educational thought*. V.11 (1977) p. 220

indirectly, Durkheim. It viewed this code as a continually evolving document that was reexamined yearly through committee meetings that operated democratically, involving active participation and voting. The committee is composed of members of all different groups within the school-- students, teachers, and administrators. When a change is proposed, each group votes on the change and if the majority agrees, the change will be brought to the Board of Education for approval. In 2000, the Committee at Castleton was tasked with creating a code of conduct, later called the Jefferson Code, that would clearly outline disciplinary standards. With the development of this code, the committee began to focus on anti-discriminatory principles and the racist effects of purely punitive methods of discipline.

In a study from 2002 that examines the Code, the author describes the process of making an adjustment to the code based on a particular incident.

A few years ago, [the assistant principal] said, a group of students performed a set of plays that included scenarios in which some characters were gay. Afterward, they endured ‘comments in the halls’ slurring them about their sexual orientation. ‘It made them think about what protections they had,’ she said. They looked at the code and didn’t see anything relating to their situation. They brought the issue to the [Jefferson] Committee’s public meeting to ask that the problem be addressed in the code. Over a series of meetings, the committee voted to add language to the code that broadened the issue beyond sexual orientation. It is now a Level III offense to verbally assault and/or abuse someone based on sexual orientation in addition to racial, ethnic, sexual, or other differences with up to five days suspension as a consequence.⁵⁵

This was an important step toward implementing and realizing the stated ideals of the Jefferson Committee. Instead of simply being mere abstract principles, instances like this necessitated

⁵⁵ *ibid.*

greater attention to students' lived experiences and the inequities that they face. At the same time, however, the broad concern with democratic citizenship narrowed to focus on disciplinary practices.

In 2010, a Castleton High School task force found that school administrators were devoting a substantial amount of their time to disciplinary issues. They found that the high school administrators were spending “around 80 percent of their time on discipline, a trend school officials have been trying to change.”⁵⁶ In addition to issues of how much time was being devoted to discipline, disproportionality has also been a concern as reform efforts have ensued. In 2017, an analysis by the state of New York recommended that Castleton “review and revise discipline policies,” in part in order to look for racialized disproportionality in disciplinary practices. Clearly, attention to disproportionality and a focus on continuously revising disciplinary procedures have been priorities for a while.

I interviewed Raina, an assistant principal who has been working in this role for four years. Prior to taking on this administrative role, she was an English teacher at the school for 10 years. She says that in 2016, the school district teamed up with a research task force at an institute in New York City to collect data on discipline. Unsurprisingly, they found that there was a disproportionate number of Black students being disciplined compared to white students. She says, “this caused us to do a lot of work as a district with regard to who gets referrals and why,” and to question the “language” around punishment and what behavior is actually worth disciplining. “There has been a lot more recently in terms of restorative options.” For example, “if a student is caught with a flask and weed... that would be enough to suspend them for months and it is so hard for a kid to come back from that. We have things in place where if they do XYZ,

⁵⁶ Kyle Wind, “[Castleton] High School Transgressors May Be Judged by Their Peers,” Daily Freeman (Daily Freeman, July 22, 2021), [https://www.dailyfreeman.com/news/\[castleton\]-high-school-transgressors-may-be-judged-by-their-peers/article_68c57222-5489-53d8-bc6f-cddcb50fd5c6.html](https://www.dailyfreeman.com/news/[castleton]-high-school-transgressors-may-be-judged-by-their-peers/article_68c57222-5489-53d8-bc6f-cddcb50fd5c6.html).

they still are suspended but they have the opportunity to come back sooner. As an administrator, that is something that has changed and I feel strongly about.”

Over the past 5 years, due to pressure from outside the school as well, there have been efforts to shift some functions of the school’s disciplinary procedures. At the city level, parents, community members, and other organizations have had influence over the priorities and functioning of discipline at the high school. Community buy-in is incredibly important to the image and sustaining of the school. If community members are not in support of programs, commitments, and values that the school is prioritizing, they have the potential to disrupt the operations of the institution, or at least attempt to disrupt it. This was especially apparent in a petition that was circulated by a local advocacy organization in 2020. The organization collected over 1800 signatures, forcing the school board to give attention to this issue. The petition addressed the issue of School Resource Officers and the relationship between the school district and the local criminal justice system. It demanded: “1. an immediate and permanent cancellation of contracts with the local Police Department and all law enforcement, 2. a commitment to reinvest those funds into Mental Health and Community Resources for the children in the district, and 3. an investigation of all complaints of Police Violence and Misconduct that have been reported to the school district.” This petition gained traction, forcing the administration to respond to these concerns, especially the issue of School Resource Officers.

At the beginning of November 2021, the school board vice-president responded to recommendations about the School Resource Officer program, which was a key criticism from the community. He stated, “through our community forums, letters and emails from the community members, the Board learned that a whole segment of our community has suffered personal or family member trauma due to past negative interactions with law enforcement, in

particular, our communities of color.” One change that was presented in response was that the SROs would no longer wear a standard police uniform at the middle school. The attire would not change, however, at the high school. In addition, defending the SRO program, the Vice President of the school board noted how the SRO program is necessary to ensure the school’s safety, provide daily traffic control, expedite response to threats, and create “positive, supportive relationships between law enforcement and our children.” Despite this defense of the program, the administration and school board were put in a position where they had to adjust the statement of intent for the SROs. The vice president of the school board said that they decided the SRO program is a part of the community which promotes a healthy and safe environment for everyone.

The amount of money being funneled into police presence in the schools continues to stir up controversy around who is truly being prioritized in the SRO program. A member of the organization that generated and circulated this petition named Beth Kapps stated, “Our community members are outraged that the school district pays almost \$400,000 a year for police to be in school, adding to the national crisis of the school-to-prison pipeline... [The] fact that there are police in schools with children is criminal.”⁵⁷ Many community members see the spending of this money on policing as not only depriving students of money for resources they need but also perpetuating a space of harm for Black and brown students.

It is not just the community that is concerned about how this money is being spent and the continued marginalization of students under this system. Even some teachers see the targeting of students of color as a real concern. Cassidy, a Black literature teacher who has worked at the school for about 10 years, tells me in an interview that “you see the same demographic being targeted all the time -- the poor white kids, the Black and Brown kids, the

⁵⁷ *ibid.*

recent immigrant kids.” Another teacher, Tom, described “different schools” within Castleton, and the group of students you are working with has a “big effect on the way you perceive the school itself.” The school continues to be racially segregated and many members of the community believe that law enforcement and methods of discipline that mimic it are counterproductive to dismantling systemic inequalities and discrimination at school.

Clearly, there are diverse perspectives on issues of school discipline and safety, with all sides adamant about their position. Overall, however, there have been long-standing concerns about disproportionality and restructuring discipline methods to limit the punitive and discriminatory nature of traditional structures. Amid this long-standing pushback against a lot of the punitive disciplinary methods, including discussions on school resource officers, Castleton High School has focused its attention on a few key adjustments, which I will explore now.

Reforms Now

Through newly formed committees, opportunities for educating the school community on professional development days, and adjustments in the code of conduct, the administration hopes to shift the culture of discipline, focusing more on de-escalation and prevention rather than punitive methods that target the minority students.

Contracting a Restorative Justice Coordinator

In attempts to transform their methods of punishment and introduce new restorative workshops and techniques into day-to-day practice, there has been a consultant, Mary (pseudonym), contracted by the school from Woodbury Collective, the organization that I mentioned previously. The county funds this position with the goal of providing schools with support around the integration of restorative justice practices. The RJ coordinator should facilitate restorative practices with students, parents, teachers, school staff, and community members as an alternative to out-of-school suspension; coordinate the reentry of students returning to school; facilitate mediation circles; provide professional development for all members of the community; and act as a liaison to connect students with additional resources.

I interviewed Mary, the individual who has been placed in Castleton High School to fulfill this role. She has a background working in case management at Castleton High School and has always been involved with juvenile justice for most of her career. She talked a little about the nature of restorative justice, describing how everyone is supposed to benefit because “relationships are honored, and that is the guiding factor.” Decisions are made by taking relationships into account and treating each other with respect. She said that it is easier to have equitable systems under restorative justice. She distinguished restorative justice from retribution, as does Howard Zehr, in describing how retribution is based on the idea of everyone getting equal punishment that is based on being adequately punished for the offense. Punitive discipline is relatively easy, she describes. It can be a lot easier to be cut off from consequences than to hear the direct impacts of your actions. Facing people who you have hurt is hard, but Mary thinks kids should have the opportunity, and if “you are not willing to take responsibility for what you did,” Mary said, “you should still get suspended.” Even someone trained in restorative justice and hired to train others, like Mary, still has difficulty overcoming an underlying punitive orientation.

In our interview, one of the first things she pointed out was the need to focus on everyday interactions in the school. This includes things like the hall monitor reminding students to get to class. To ensure there is sincere community progress, even interactions like this must not be punitive. By paying attention to tone and resisting the urge to treat others as part of an ingrained hierarchy, she described how a cultural shift could occur. The second key point was about the practice of circle keeping. She said doing community circles builds relationships and a sense of community. This allows people to diffuse emotional tensions and reduce classroom behaviors that get in the way of being able to learn effectively. If students who have caused harm are willing to, Mary can act as a resource to support restorative circles happening with people they have impacted and an agreement about how to make things ‘right.’ The third component of our interview revealed the methods by which she is imparting this knowledge on members of the school community, precisely through lecture hall presentations and opt-in workshops. Mary has the task of bringing these new ideas and practices mostly to teachers and administrators. She does pinpoint key barriers that I will discuss later. According to Mary, Castleton has been trying to be restorative for a long time and it is all well-intentioned, but there has not been a clear implementation. She said, “the words have been put out there in the code of conduct and newsletters, but it has not really been implemented.”

The Jefferson Code Revisited

The Jefferson code, developed out of the committee that I have previously discussed, outlines, at a district level, the current policy regarding infractions and punishments. Mary’s workshops are not directly attempting to change this code, but to provide alternative avenues for relationship building and restoring community before and when there is harm caused. However,

this code has been adjusted over the past four years. Incorporating more alternatives like mediated discussions and Peer Court have been some of these more recent adjustments. Cassidy, a teacher at Castleton, says in an interview that the Jefferson Code has been modified to be more restorative, “but the actual implementation is not consistent and is not really happening across the board.” I will talk more about whether or not these new adjustments are truly disrupting hierarchical structures later. For now, it is important to understand how The Jefferson Code exists and what its structure is. Currently, the code outlines four levels of “offenses” and details the hearing and appeal process as well as the range of consequences that correspond to each one. This code is implemented district-wide:

Level one offenses: Level one offenses include things like unexcused tardiness to school/class, disruptive behavior on school property, foul or offensive language or gesture during a school-sponsored activity, etc. The hearing appeal process for offenses such as these involves informal hearings before the person imposing the disciplinary consequences and/or mediation.⁵⁸ Consequences may be verbal reprimand and/or short-term detention.⁵⁹ Voluntary alternative consequences may include community service or consequences issued by Peer Court (I will discuss Peer Court further on page 46).

Level two offenses: Level two offenses include things like insubordinate absence from class/school, being disrespectful to staff, possession, distribution, or use of unauthorized medicines, continuing or repeating Level I offenses after prior corrective measures have

⁵⁸ Quoted in the Jefferson code: “Students are encouraged to see their assistant principals for mediation services if they are in a conflict with another student and cannot resolve it on their own. If students are suspended for fighting, mediation between the disputants is mandated on the first day of their return to campus. The assistant principal will make the arrangements for the session(s).”

⁵⁹ Quoted in the Jefferson code: “Students will be assigned school detention for Level I and II disciplinary infractions as stated in the student Jefferson Code of Conduct. Detention may be served with a teacher during the ninth period if the detention is assigned by the teacher. Detention assigned through an administrative office will be served in the designated detention room(s) before school, during lunch, and/or 9th period. Failure to serve detention will be considered insubordination, and will result in more serious consequences.”

been taken, etc. The hearing appeal process for offenses such as these involves an informal hearing before the assistant principal, vice-principal, or their designee and/or mediation. Consequences may include up to three days of assignment to the in-school suspension program or consequences issued by Peer Court.

Level three offenses: Level three offenses include things like action, verbal assault and/or abuse based on differences, foul or offensive language or gestures used in a software in any fraudulent or destructive manner, including confrontational manner, confrontations involving physical contact, student-to-person threat, bullying and/or harassment, willful and deliberate attempt to leave or actually leaving the campus, etc.

The hearing appeal process for offenses such as these involves expanded informal administrative hearing and/ or mediation, or superintendent's hearing as provided by law where there is a potential for criminal charges. Consequences may include up to 5 days suspension or preferable 5 days assignment to the in-school suspension program.

Level four offenses: Level three offenses include things like bringing and/or possessing unauthorized weapons to school or a school-sponsored activity, falsification of official school documents, assault or reckless conduct which causes physical, emotional, psychological injury, etc. The hearing appeal process for offenses such as these involves a superintendent's hearing as provided by law and consequences may include expulsion and/or longer suspension as authorized by the laws of New York State and/or more than five days assignment to the in-school suspension program.⁶⁰

⁶⁰ Quoted in the Jefferson code: "A short-term out of school suspension can last from one to five days. During that time, students are not allowed on the campus during the day session. They cannot attend any school-sponsored activities. Physical conflicts will result in at least five days suspension out of school for both combatants. Mandated mediation session(s) will be required of the disputants upon their return to the CHS campus. Students are entitled to attend the Night School Suspension Program in order to receive assignments from their teachers and to maintain class attendance. Students who do not attend will not receive assignments or attendance credit as per the attendance policy. Long-term suspension from school (more than five days), is the consequence of severe or persistent violations of the Code of Conduct. A Superintendent's Hearing will be held and notice of the hearing date, time and place will be mailed to the student's parent or guardian. The student has the right to be represented by an attorney and present witnesses in his/her defense."

This rigid formulation of infractions with corresponding punishments upholds a zero-tolerance approach, which, as I have previously noted, leaves little room for understanding the specific circumstances of the students.

In-School Suspension

According to the student/parent handbook, when assigned to In-School Suspension (ISS), students must report directly to room 300B by 7:50 am. Lateness to ISS must be made up per the direction of the staff member in charge. When students are absent on the day ISS is assigned, they must report to ISS the day they return to school. Students are to comply with all rules of the ISS room. Students and teachers see out-of-school suspension (OSS) as even more punitive. Recently, there has also been a shift to make the space of in-school suspensions more focused on supporting academics instead of just being put into an isolated space with no engagement. Tom, an English teacher who has been more involved recently in ISS describes how it has shifted over the past few years. He says, “it used to be that students were given ISS as an alternative to OSS. They would go to the ISS room and there would be a pair of teaching assistants and their teachers would send them with work to do, where they theoretically would do it.” Mostly it was a place for students to be sent to for the day. They were told to “stay quiet and serve their time.” This is akin to incarceration, a troubling reality to reform advocates. A couple of years ago, Tom describes, they started assigning teachers to the room to provide academic support/enrichment to the students. Tom says, “when I go into ISS, I have a period when I am there as an English teacher and my job is to help students with their work, to provide English enrichment....just the fact that I have even been sent down there into that room to be there in that space as an academic person... That is one change that has happened and it does speak to the direction we are trying

to go.” Instead of the traditional method of sending students down there simply to punish and exclude, they are now seeing the importance of using this space to catch up on work and provide them with some extra academic support.

Peer Court

Over the last few years, Castleton High School has developed a “Peer Court,” enacting a peer-to-peer model of addressing disciplinary infractions. This is described, in the Castleton parent/teacher handbook, as “providing an environment for students to learn about the justice system and courtroom procedures while providing alternative consequences to their peers through the principles of restorative justice.” The goal of Peer Court is to be judged not by the administration or teachers for wrongdoings, but by a group of your own peers. It is run by Mike (pseudonym), a faculty advisor, and trained students. The process of Peer Court involves speaking to a Peer Court advisor, and setting up a trial during an extra class period. The Peer Court then decides on appropriate consequences. This may be writing an apology or making a presentation, says Mike. Peer Court then has to check back in with the student who committed an infraction, to make sure they follow through on what has been decided. Overall, this takes about 3 times the amount of time it would take for the process of serving ISS, says Debbie (pseudonym), a graduate of Castleton herself who is now a history teacher there.

The Board of Education granted the student court authority over some low-level disciplinary matters, with a guiding principle of “restorative justice.” Debbie was a member of the County Youth Court when she was in high school, saying that it has now transitioned to Peer Court. Unlike the prior county youth court, Peer Court does not deal with any outside agencies.

The intent, Debbie says, is to practice a restorative approach and make it predominantly run by the students.

Mike is the faculty advisor for this initiative. In an interview with the local news, he says, “the idea behind the [Castleton] High School Peer Court... is not to determine guilt but provide more constructive discipline than traditional punishments like detention.” It also is a learning experience for the students who choose to be involved. “For the students who participate — whether as trained judges, jurors, or advocates who take an oath of confidentiality — the experience will provide conflict resolution training, leadership experience, the chance to conduct community service, and refinement of consensus-building skills,” says Mike. The intention is that it is more about repairing relationships with other students, teachers, or the community with the support of your peers instead of a traditionally punitive method. These aims have clearly shifted since the priorities evident in the founding of the Jefferson Committee, although some overlap still exists. In particular, there is a greater emphasis on relationship building and commitment to equity within the community, but there is still a focus on self-determination, defining oneself, and knowing one’s rights.

Raina, the assistant principal, says that “it tends to be minor infractions [that go to Peer Court] because something serious needs to be addressed and handled quickly.” In addition, she says that students have a choice to use Peer Court or not, and many times they do not want to do that. “Picture this,” she says, “I have a student who continues to be late and previously served In-School Suspension. The behavior has not improved. I could say, ‘Do you want to go to Peer Court or serve another day of ISS?’ The student would hear what Peer Court is and then say, ‘Can I just do ISS?’” Thus, even when more student-centered and restorative alternatives are available, students are not always willing or prepared to utilize them, she explains. Instead, they

continue to opt for more punitive disciplinary action. This situation is just one example of how students and other community members are socialized into punishment, in other words, they have come to treat reactive punishments as routine and appropriate. I will explore this further on page 66.

Why These Reforms Have Limited Impact

Despite the efforts represented by these recent reforms, there has been limited change in the underlying punitive outlook. The failure to make significant change has been noticed by participants and this has produced a culture of people being overburdened and pessimistic about the depth of the school's commitment to reform. To be sure, restorative justice is not a transformation that can be consolidated overnight. It takes time and consistent prioritization to reorient institutional commitments and day-to-day practices. But even recognizing these difficulties, there are problems with the approach that Castleton has taken.

Pressures on Teachers

At an infrastructural and logistical level, teachers are being overworked, with high demands and rigid requirements, and students lack the capacity to integrate new practices into their already busy schedules. These day-to-day logistical commitments can get in the way of real transformative changes. The infrastructure continues to uphold punishment and it is up to the individuals to adopt new practices with little professional or personal benefit. Whether or not to adopt these new practices becomes up to the individual teacher and if they choose to practice

community circles, restorative relationship building, and alternative consequences. This can lead to a lack of commitment and inconsistent implementation.

In addition, if the standards teachers are trying to reach and the benchmarks they are aiming for are not prioritizing a commitment to shifting disciplinary methods, then what incentive do they have to transform their daily procedures? The structure of their jobs does not allow for the appropriate integration of policy reforms in the classroom. With a sort of opt-in system, incorporating something like restorative practices into the curriculum does not fall under the technical terms of one's professional obligations. According to the assistant principal, teachers are recommended for tenure after four years of good teaching observation scores and a recommendation from the principal. This also means that there should be nothing of concern in their files. The current criteria for tenure do not include evidence of commitment to restorative justice.

When asked what her goals are in supporting the teachers, assistant principal Raina says that the staff are “feeling beat up.... They are constantly given more things to do. They are annoyed. There are massive sub shortages. They are being told ‘make sure you are in the hall, make sure you are doing attendance, make sure you are checking on masks, you also have to do these benchmarks’.... on and on. They are so demoralized.” Raina then feels like it is her immediate responsibility to make these overworked teachers feel heard and taken care of. This leaves little room for a shift in practices. She says that the teachers are “not even close to being able to think about restorative practices right now because they are just trying to get through the day.” It becomes like a signifier of the teachers' worth, then, if the administration supports a punitive disciplinary action, like sending students to in-school suspension because they no longer have to deal with a disruptive kid. Raina says, “I don't get pleasure in giving ISS. I think it helps

the teachers feel hard, and my hope is that it is the last time the students are in ISS.” This vicious cycle of punishment makes it impossible to break away. When the immediate expectations and challenges are so abundant, it seems almost impossible for teachers to take on a shift in practice that would align with the new priorities of the reforms. The resources, time, and experience are not there and there is little push to make it a priority. Workshops on restorative justice are “few and far between,” and it is in addition to a myriad of other workshops on, for example, data-driven instruction. As Debbie notes, “it’s one of those other things, not our main priority.” She says it feels like this is added to the top of a long list of things schools are tasked with doing.

Tight and Inflexible Schedule

In addition to the pressures on teachers, another obstacle is the tight and inflexible schedule. Students, as well as teachers and administrators, are in a fast-paced environment desperately trying to keep up with a rigid schedule that prioritizes standardization and conformity over independence and individualized care. The schedule is not set up to permit check-in circles every period or to allow for students to have the time they need in between classes to foster relationships and feel at home.

When restorative practices, like circles and mediated discussions, are not built into the structure of the school, it seems impossible for a teacher to appropriately and effectively incorporate another agenda item into their already overwhelming schedule. Within an institution that is rigid and prioritizes efficiency and production of good scores, even well-intentioned teachers do not have the time to adopt extra lessons and workshopping around restorative practices. Often the ideal plans are not upheld by on-the-ground practice. This is not necessarily the fault of the individual teachers, but the lack of flexibility, constraints, and aspects of the

organizational structure of schools. Even if teachers wanted to devote a substantial amount of classroom time to check-ins and community building, they are governed by punitive structures as well, which force them into a position where they are deciding between fulfilling state testing expectations or creating a culture of safety and security.

Debbie describes an experience she had with a class recently that reveals even well-meaning teachers are very limited by the circumstances. She says, “I had a class yesterday that I got really frustrated with. Today when we came back to school I apologized and explained why I was frustrated... I asked for feedback from them about how experiences like this might work better in the future.” Ideally, Debbie says this could have taken up a whole class time where she could have an in-depth circle discussion devoted to this conversation. She says, “think about the amount of time it would take to build a culture where a student could say, ‘that lesson was boring and that is why I was talking to someone else.’” Building a culture of honesty without fear of harsh disciplinary repercussions takes prioritization. For a teacher to be able to respond to a comment like that, as well, takes the ability for them not to take things personally. It also takes a sincere commitment on the teacher’s part to build relationships that are not contingent on their uncontested authority. It takes a time commitment that is extremely difficult on top of all of the demands placed on teachers and students. The reality is Debbie has to “be on them about their work, their attendance, grade their work, and get through a ridiculously large curriculum.”

Cassidy states that school districts, school boards, and parents are “unwilling to adjust scheduling to accommodate being able to actually sit in a circle in your classroom and ask your students how their day is.” With 43-minute class periods, 7 separate classes a day, and only 5 minutes between classes, teachers are already extremely burdened and will be hard-pressed to find additional time to implement new practices. “Even for well-meaning teachers who want to

make a change, you just don't do it effectively,” says Cassidy, “our school system is not designed to give people time. It is a business model that wants to pump out effective and little workers as quickly as possible.” She continues that the alternative is “the idea of coming together as a family in your classroom and learning together.”

It is especially hard after coming back from remote learning during covid. The students are reintegrating into a system of many rules all at once. “You have to be in your seat at 7:44, you have to be on time, you have to wear your mask, you have to follow the dress code, you cannot be on your phone.... there are so many things that you’re asking them to do,” Raina says. It becomes hard to adopt new methods under these circumstances. It is challenging enough to think about all of these restrictions that govern every minute of the day while trying to transform the way you are thinking about interactions down to the tone of your voice, Raina explains.

Unintended Consequences of Reform Efforts

Despite proclaiming a commitment to instituting restorative practices, addressing institutional racism, and eliminating disproportionality in punishment, there are still deeply ingrained perceptions and attitudes that limit the potential for real change. Not only is the infrastructure extremely limiting, but teachers’ perception that the reform attempts are not being backed by a robust ideological commitment on the part of the school and the district also hinders their ability to make this a priority. The school district is announcing ideological commitments and priorities, but they aren't being reflected or embodied in school infrastructures and day-to-day practices. Teachers are being tasked with implementing new practices as a kind of bandage to real institutional change. Without ideology that is consistent with the structures of

discipline that are now being advocated for, it causes frustration and unrealistic expectations for all members of a school community. Hence, robust change isn't actually taking place.

Lack of Commitment/Prioritization

The foundational ideology and goals of education should be reflected in the functioning of the school on all levels, including in discipline. When practices that are being carried out day-to-day do not reflect the proclaimed commitments, it becomes clear that this is not or cannot be a priority. Often, schools can lose sight of aspirational principles that foster safe supportive communities when they have so many more immediate concerns. It is near impossible, however, to add a restorative justice initiative to the periphery of the school. It must be central to the ideology.

Priorities like test scores, conformity, structure, and order are sometimes counterproductive to truly embracing new forms of restoring relationships and building community. These priorities are also intrinsically inconsistent with ideals such as self-exploration, community-building, reflection, and emotional vulnerability. When the values that the school is preaching are so distant from the practices and standards of social behavior, it leaves the actors involved feeling pessimistic and uncertain about the sincerity of what ideology is being presented.

As I explored earlier, there is a history of reform efforts specifically geared toward discipline. However, there is a consensus amongst the teachers I have spoken to, that these reform efforts, although maybe well-intentioned, do not have the support backing them to truly shift the culture of the school. Like Cassidy, who questions “whether or not this restorative justice thing is going to last or if it is just a new fad,” teachers question how the implementation

is going to be achieved if it is not given a real priority. Debbie also states that “schools are notorious for trying new ideas, but not actually trying them fully. They last about 3 years and fizzle out. And then it is the next popular term or phrase in education,” says Debbie. There is a general perception that restorative practices are just another “hot topic” that will eventually fizzle out. Debbie says that this has been the reality in the past.

Much of the pressure is coming from the district, demanding a certain practice without supporting the infrastructure to allow these practices to successfully integrate into the community. “According to the district, I may be trained in restorative justice,” Debbie says, but “not really trained in a meaningful way that lasts and is a part of everyday practice.” If a teacher did want to rethink what they are socialized to do and step back to approach a situation differently, they need training and coaching that supports this. If those tools are not accessible, it is easy to fall back into old patterns.

A lack of deep commitment to these reforms is also evident in Tom’s critique of the new restorative justice training. He says, “the people who are not on board are not going to be brought on board by an informative presentation that shows the good things [that come from implementing restorative practices]. At some point, we are going to have to make a decision to commit to this as a school, and right now I do not know where we are going with this and I do not know what the strategy or the plan is as a school, as a district.” He expressed frustration with being on board with these ideas but lacked clarity about the overall goals and level of ideological commitment.

Mismatch between “Ends” and “Means”

Even in the attempts to implement these new practices, the methods of presenting them follow the same punitive structure that the community is trying to undo. For a new practice to be successful, its implementation must be consistent with the principles of the proclaimed ideology. Just as it would be futile to yell at a child telling them to use a gentle tone of voice, it is ineffective to give a short PowerPoint presentation where the expert/authority speaks and everyone listens passively about how to integrate meaningful restorative practices into the classroom.

Mary, the restorative justice coordinator, describes the workshops that she has begun to implement at Castleton High School. Although she is trained and has a deep understanding of the ideology of restorative justice, she describes how difficult it is to run these workshops when there is a lack of structural commitment. The teachers, she explains, did not have a say in what they were getting trained in. She presented on superintendent day and left wondering, “is anyone actually going to use this?” The space where this took place was a lecture hall. She showed a PowerPoint to a large group of staff. The structure of this session, Mary expresses, did not allow her to get to the heart of restorative practices. She even expresses that “I would not count on anyone to be able to do restorative practices after this training.” The way this lecture was structured is presented not as a uniform prioritization of a cultural shift, but as a short passive activity that allows for a box to be checked off. The presentation advocated for a restorative approach, but it did not actually embody and practice it. We can see here a mismatch between “ends” and “means” that is reflective of the lack of commitment that I noted before.

In addition, it is unrealistic to assume that a teacher can implement a disciplinary strategy that they themselves are not being governed by. To truly undo the punitive nature of this school system, it must be practiced at all levels of the school, including toward the teachers. Teachers

express the lack of consistency in implementing these practices for them. Debbie states, “I have not seen restorative practice in terms of the faculty.” She talks about how the administration encourages trauma-informed teachers and a commitment to teachers’ self-care, yet the trauma that has happened to teachers over the past few years is not sufficiently addressed. In addition, faculty who have done something wrong are punished in a punitive manner. Debbie says, “we are not seeing it in practice, but yet we are tasked with implementing it.” You can not achieve the ideal “end” without the “means” being consistent with that goal.

Why Punitive Logic Persists

Even if fully implemented without any of the constraints discussed above, Castleton’s efforts at restorative justice would continue to uphold a punitive logic. Although formally unbiased, against a background of implicit bias and distrust, these reforms still disproportionately affect Black and brown students. This backdrop of implicit bias and distrust compromises the reform efforts. Day-to-day social practices are deeply entrenched and strengthened by interactions, schedules, policies, and procedures. When a student comes into this environment, they quickly learn how things operate: what behavior is unacceptable, how to skip class without the teacher knowing, how to get a good grade, where to sit in the cafeteria, etc. They learn the codes of the community and then emulate them, in turn teaching others to live similarly.

If punitive methods of punishment that target Black and brown students have dominated the culture of the school for years, these norms are ingrained implicitly in day-to-day activities and expectations. In other words, students, teachers, administrators, and parents all become socialized into puniton especially when directed at racial minorities. It is assumed that such

systems of penalization are impartial, such that everyone theoretically receives equal punishment for the same form of misconduct. If administrators are content with their assumption of impartiality, however, they neglect the students' perspectives, which often perceive disparities in the implementation of punishments.

The reforms that administrators have put in place only address the formal rules rather than the students' varying circumstances and perceptions of those rules. The Jefferson Code is a clear example of where these formal rules exist. If a student is disrespectful to staff, for example, according to the Jefferson Code, there would be an informal hearing before the assistant principal and then they may get three days of in-school suspension or another consequence issued by Peer Court. The reality, however, is that students have differing circumstances, social positions, and levels of (dis)trust in these rigid policies. Thus, even when the disciplinary system is applied "impartially," its effects are going to impact different groups (in terms of race, class, gender, socioeconomic status, etc.) in different ways. One of my conclusions is that until entrenched structures of marginalization are addressed, new disciplinary practices are not going to make any real difference.

In Savannah Shange's book *Progressive Dystopia: Abolition, Anti Blackness, and Schooling in San Francisco*, she coins the term "carceral progressivism" to "illuminate the paradoxical dynamic in which social reform practices, particularly those that target inequities in communities of color, can perpetuate antiblack racism even as they seek to eliminate it."⁶¹ Despite the sincere pursuit to dismantle punitive systems, the alternatives often reenact the same discriminatory logic, as we see at Castleton. Shange references Wacquant's concept of "carceral continuum," revealing that carcerality extends beyond the scope of imprisonment but to other

⁶¹ Savannah Shange, *Progressive Dystopia: Abolition, Antiracism, + Schooling San Francisco* (Durham: Duke University Press, 2019), 14.

social welfare programs. She sees this term as reflective of a variety of measures and practices that aim to “contain” young people of color. In the case of my research, I apply this to phenomena associated with the school-to-prison pipeline. However, even when a school is consciously aware of this dynamic, it seems unrealistic to hope that the alternative structures will truly reform anti-Black racism.

If these reform efforts fail to recognize the stresses caused by the implicit racial hierarchy in many school environments they may inadvertently perpetuate these very injustices. If at the most basic level, a student does not feel seen and supported in their identity, the ability to be open to learning is limited. If “restorative justice” is a proclaimed goal of these reforms, students who experience stress and a lack of safety are missing key prerequisites that would allow for these reforms to be effective. Black girls, in particular, lack this sense of safety because of the lingering marginalization and exclusion that they experience. This marginalization is class-based, racialized, and gendered in complex ways. This absence of a sense of safety is a product of entrenched structural inequalities. Restorative justice requires “a climate in which collective responsibility, accountability, and trust form a new normal that is expected not only from students, but also from the administrators, the teachers, and others who are involved in the school’s daily activities.”⁶² Accountability and trust can only come authentically from an overall sense of security and empowerment that everyone in the community is prioritizing.

Morris notes that many Black girls and other marginalized groups lack this basic sense of safety. Black and Brown girls disproportionately experience “housing instability, hunger, parental substance use disorder, and childhood sexual assault, as well as historical trauma.”⁶³ When Black and Brown girls “act out” or do not follow the rules, they are often treated like they

⁶² Monique W. Morris, *Sing a Rhythm, Dance a Blues: Education for the Liberation of Black and Brown Girls* (S.I.: NEW PRESS, 2022), 37.

⁶³ *ibid.*, 45.

are the problem. Rarely are their personal circumstances considered when constructing new methods of discipline. In addition, distrust of the new disciplinary practices results from a more general alienation from a curriculum that contributes to the exclusion and marginalization of Black and Brown students. The “patriarchal heteronormative Eurocentric nature of most pedagogical approaches and academic content” sets up Black and Brown students for a “lifelong narrative of exclusion and marginalization.” To truly eliminate stress and ensure that Black and Brown students have a sense of safety - intellectually, emotionally, and psychologically - there must be curriculum and environmental conditions that “are free from racism, sexism, homophobia, transphobia, and other forms of bias.” Morris argues that “a Violent curriculum -- one that triggers historical trauma by carelessly handling academic content -- can be just as destructive to learning as physical violence.”⁶⁴ When students feel unsafe and are disengaged from the classroom activities, acceptance and participation in new forms of discipline are very unlikely. It is the school’s responsibility to create an environment where students feel safe and trusting and engaged with what they are learning.

In addition to creating an inclusive curriculum, it is necessary for members of the community to recognize their own biases and maintain openness.⁶⁵ Morris says, “safety is not a condition that can be implemented. It must be co-constructed through a set of agreements with all of those involved in the creation of a learning space. In schools, students must collaborate with adults in deciding what constitutes ‘safety’ on campus.”⁶⁶ These agreements include everything from a safe curriculum, to considering individual circumstances, to critiquing internal biases. Temporary new practices will do nothing to the culture of the school if nothing is being done to change the conditions of discrimination, unequal punishment, exclusion, and puniton.

⁶⁴ *ibid*, 57.

⁶⁵ *Ibid*, 30.

⁶⁶ *ibid*.

Such reforms are merely “additive” rather than being “integral” in a way that addresses the underlying insecurity and distrust that is often found in the implicit culture of the school.

At Castleton, there is evidence that the additive reforms are not addressing day-to-day operations. All members of the community continue to be socialized into punishment, so top-down mandates can hardly address the underlying culture. Mary, the newly hired restorative justice coordinator, describes how as “a human being... we respond to things habitually and it is easy to respond in a way that you always have.” It takes resources and security to be able to step back and make a choice about how to approach things in a different way. In addition, the change needs to simultaneously stem from a bottom-up approach. These circumstances, like everyday routines, cannot be disrupted simply by a top-down mandate. Mary talks about a “bitterness that can come from a top-down approach” that she notices in the teachers who see this as just another task on the long list of what is expected of them. Mandates and state data collecting can make the school aware of disproportionality, but it takes individuals on the ground changing behaviors, getting out of habits, and laying down new ones.

Young people and teachers alike at Castleton cannot be expected to shift their social norms when, for all of their lives thus far, everything from teacher-student interactions, solving conflicts, following rules, and implicit norms have operated under a certain ideology. The Castleton reforms are merely additive and fail to engage with this underlying culture of distrust and alienation. The continued existence of this culture results in Black and Brown students still being marginalized and excluded from the goals of the reform efforts.

Who is Still Getting Punished by ISS?

As I have already discussed, one key reform effort at Castleton is the new reliance on in-school suspension instead of out-of-school suspension. The space designated for in-school suspension has been presented as an opportunity to catch up on work with support from a teacher. However, we must question who is still getting punished. Is this penalty being applied evenly and appropriately? Is it a form of restorative justice, or merely a new form of the same punitive approach?

Many of the actions that are resulting in suspensions can be understood as some form of insubordination. Cassidy suggests that there is a lack of clarity about the idea of “insubordination.” This continues to leave room for discrimination and disproportionality in these processes, even as changes are being made. This “vague category of insubordination,” Cassidy says, “leaves it open to so much bias so you see the same disproportionality playing out.” Shifts in the Jefferson Code that allow for more opportunities for ISS continue to leave room for discretion and racialized/gendered disproportionality. Cassidy says a lot of things her white colleagues would take as a student being disrespectful, “I do not take it that way. I do not take it personally. I allow them to take a break, take a walk, and not immediately go to default--kicking a student out, not letting them explain themselves, etc.” Furthermore, in the case of insubordination, there seems to be a missed opportunity for dialogue. After all, insubordination is typically disobedience of a teacher’s instructions, and this is evidence of a breach in the relationship between teacher and student that needs to be repaired. Cassidy’s approach, which focuses on relationship building, should be employed more broadly, but the evidence suggests that it is not widespread. Another teacher also references this disproportionality by expressing that in addition to the names being predominantly students of color on the list of students with ISS, there is also “disproportionality in the opposite direction in terms of AP and honors

courses... These two go hand in hand,” Debbie says. From the interview data I have collected, it can be assumed that data would support the assessment that there are still substantially more students of color being suspended.⁶⁷

Even if there is now a teacher helping kids in ISS with their homework, they are still being punished in a punitive method and excluded from their class and community. If a student breaks a rule, they are still suffering consequences instead of being given the resources and support to mend relationships and foster resilience to prevent further alienation and acting out. If a student is still feeling excluded, they are still likely to experience stress and uncertainty, and this makes it extremely difficult for restorative practices to succeed.

Is Peer Court Really Restorative?

Peer Court, in addition to ISS, substantially misses the mark of restorative justice, as it upholds hierarchical structures and passive learning instead of engaging in real uplifting community building. The methods are still retributive and do not adequately address entrenched structures of marginalization. Peer Court is represented as being one of Castleton’s most significant changes toward practicing restorative justice. However, it assumes a sense of “peerness” that might not actually exist in a community with embedded racial segregation and hierarchies. The premise of Peer Court presumes that students are ruling on incidents of misconduct with students who are considered equals. Yet, when we look at Peer Court, the “peerness” of the students involved is doubtful. Mary describes that Peer Court is well-intentioned, but still implements retributive justice. “It still does not provide a fair process for kids who are in trouble,” she says. Especially when the kids who are on Peer Court are

⁶⁷ After requesting data on rates of discipline in regards to race, I learned that this is not publicly accessible information.

majority white, upper-middle-class, while the majority of the kids facing Peer Court are students of color and less privileged. Mary notes this saying there are “racial divides” in this system. She questions, “are you really being judged by a jury of your peers if no one looks like you?”

The perceived bias and unfairness of this system lead to distrust which undermines the goal of implementing restorative justice. But in addition, even if the biases were removed, a more fair system of handing out punishments would still be a form of retributivism. A truly restorative practice would have to be sensitive to the background conditions that students face and Peer Court does not have the ability to do this.

In principle, Peer Court may be a good idea, but there are lingering inequalities even within this system. There is a presumption that a basic sense of safety exists within this environment because the students who appear before the court are being judged by their “peers.” This assumes a sense of solidarity and equality that we cannot take for granted. Classes are largely segregated by race, socioeconomic status, and the stratification of learning opportunities. Educators have a responsibility to make learning spaces responsive to trauma, rather than conducive to it. A Black student who has been discriminated against, whose history is not being respected in the classroom, and who, as the data shows, is more likely to be dealing with additional challenges outside of school might not feel in a safe position to engage in restorative discussions. Administrators disregard the psychological effects of stratification on every student if they envision a more fair process and outcome being conducted in this way. A Black student going up in front of a committee of all white students, likely in high-achieving classes with a privilege that allows them to be on Peer Court as an extracurricular activity, is potentially traumatizing and definitely ill-suited to repair harm and mend relationships. These psychological

effects, as I have discussed, require a commitment to safety and addressing a legacy of racialized harm within the school.

Actors in the School Still Have Punition as the Default

Teachers, students, and families are all socialized into punition. In a high-stress, quick-paced, rigid environment, it is not unsurprising that individuals fall back into the tactics they have used their entire lives.

The first members of the community I will discuss are teachers. Just as students learn how to abide by the rules of conduct, and engage in social interaction, while attempting to fulfill their academic responsibilities, teachers also adhere to norms and social codes that are embedded within the structure of the school. Cassidy says that teachers “stick with what is familiar.” To make restorative justice really work, “everything has to change and folks are not willing to take that risk.” One factor especially contributing to this commitment to tradition is the fact that many teachers are alums of the school. Consequently, they often feel more authority to resist change. Even if there are alternatives in place, it is easier to occupy similar roles and perform consistent practices that one always has. When teachers are socialized to respond in a particular way to someone on their phone in class, for example, it seems difficult to employ any alternative tactics of controlling students’ behavior. Debbie says, “it is hard not to take student behavior personally. They are on their phones constantly, meanwhile, I’ve spent hours poring over a lesson.” Teachers have learned, just as most people have, to take things personally. When someone feels like they have been personally attacked, one typically enables a defensive mechanism to protect themselves. This often results, not in conscientious listening and understanding, but quick punitive discipline. The perception of an alternative such as conscientious listening may seem in

the moment to be like a “rub on the back and giving them a lollipop,” says Debbie, “and to a certain extent this does happen.” This indicates that teachers, for many reasons, do not have the resources to escape this punitive logic and see any alternative as not inflicting a necessary and appropriate consequence. Another teacher expressed an incident when she ran into a girl avoiding class in the bathroom. She says, unapologetically, “I pulled her from the bathroom and was like ‘you have to go’ and she was like ‘I don’t want to.’” The teacher’s response was: “‘there are so many things at work that I do not want to do and yet I have to.... Let's go..’” In the moment of confrontation, a teacher might not have the resources and time to approach situations like this in any other way than they have been conditioned to. A lot of the referrals to ISS come from this psychological need to punish, and this reaction is socialized into teachers. When teachers are in a position where they are not receiving the support they need to adopt different tactics, it is easy to continue to uphold punitive systems that dominate the culture of the school.

Students, like teachers, are also socialized into this punitive environment. When students are constantly anticipating a retributive consequence for misbehavior, new methods and attempts at reforms can feel stressful and arbitrary. When students do not have the resources to engage in new methods of learning and interacting, such as in restorative circles, they cannot be expected to accept these mysterious new methods with open arms. Morris, in *Sing a Rhythm, Dance a Blues*, distinguishes between Black girls’ abstract “willingness to participate” in restorative circles versus their “capacity to do so in the moment.”⁶⁸ Sometimes it may seem like students are being inflexible and avoidant, but Morris points out that they cannot be expected to immediately know how to operate in a structure that is different from the one they have been socialized into.

⁶⁸ Monique W. Morris, *Sing a Rhythm, Dance a Blues: Education for the Liberation of Black and Brown Girls* (S.I.: NEW PRESS, 2022), 27.

Raina, the assistant principal at Castleton, says that kids often choose ISS instead of an alternative like a mediated discussion. She says that the prospect of sitting down with the person they got into a conflict with to discuss it seems so daunting or infuriating that they would rather take the suspension. In instances like these, I would suggest that it is not the case that kids are simply unwilling to adopt these new practices. It is rather a situation where they do not possess the resources and experiences they need to engage in them. It is dismissive of the real issue to assume these kids are simply not cooperating. Raina says, “if there is a fight, there is sometimes when I am like, ‘would you consider less of a suspension if you sat down with the person to discuss?’ You would think that it would be like yes, but instead, they often say, no, I am not talking to that ****.” Raina also noted an incident that I referenced in the introduction where a student was facing a suspension and his father came in to talk to the administration about the punishment. After discussion, it was agreed that the student could opt for a mediated discussion to lessen the punishment. However, the student refused, saying that he did not want to come back early if it meant he had to sit in a mediated conversation with this other person. So, Raina says, “he had a five-day suspension and the meeting was pointless.” Black students in particular, as I have discussed, often lack the foundational sense of safety that would allow them to engage with these new methods. The chronic stress that Black students experience results from being socialized into a system that does not promote their autonomy. Unless it is a priority in the community to confront these biases and reliance on punishment, students will continue to live under structures that uphold marginalization and retribution.

In addition to the background socialization of teachers and students, effective restorative practices must also recognize the role of families and communities. Parents and families have a significant impact on the culture of the community, the priorities of the administration, and the

disciplinary methods used. Discipline is so personal and transformative, that parents often have a lot to say about how their kids are treated in this regard. Debbie describes parent socialization into punishment as being a real difficulty when trying to make change. She says, “a lot of times parents will be like, give my kid x many days for ISS, why are we entertaining this?” Parents often turn to more conventional and punitive forms of discipline, skeptical of unfamiliar methods. Community buy-in on restorative justice approaches is a challenge. Raina, the assistant principal, references one incident that she says represents a common narrative. She describes a fight that broke out between two tenth-grade girls. The one who instigated the fight was allowed to come back after 30 days of missed school. This is 6 weeks of missed school. She did a lot to prove that she was remorseful and learned from this mistake, earning a slightly lesser suspension. To do this, she had to go to night school and have counseling/anger management sessions. The other family pressed charges, resulting in an order of protection. When the student returned to school after serving her suspension, the parents were upset, and insisted: “I want my daughter escorted to class” and “how do I know this is not going to happen again?” Raina recalls that she was thinking “okay... she has paid quite a price at this point. Do we need to victimize her even more and have an adult bring her to class? No.” She says, “the problem is when you are dealing with the parent of the kid that was wronged, they don’t want to hear anything about restorative practices.” In the examples I have outlined, the parents are looking for punitive modes of discipline, however, at the same time, there are situations where parents want leniency for their child. Even in this case, though, the more lenient outcome is still punitive. Punition remains the default framework.

Restorative practices must be promoted both through and day to day activities and policies, as well as the official values and goals, affirmed by the school. When these do not line

up, a school will struggle to implement new practices. As a result of socialization into punishment, when everyone is presented with alternatives, they do not view these alternatives as effective, attractive, or even possible. Changes in schools' management of social relations must be simultaneously "top-down" and "bottom-up." If the intention is to reduce rates of expulsion or make the racial disparities less drastic, then what should be informing the changes? If the goals are not based on the needs of the students but rather the appearance of the district, then they cannot truly make disciplinary methods better suited to those victims of punitive practices. When the solutions to these issues are coming from the top, outside force, they are unable to truly be adapted to fit the needs of the students and teachers. Only teachers know how much time they have in a period to engage in an introductory circle. Only teachers know how learning changes when students feel comfortable expressing their needs. If the implementation and infrastructure are not consistent with the ideology of the plan to shift school discipline, nothing on the ground in everyday practice can actually change.

A Concluding Case Study:

Lane Community School and its Alternative Path to Restorative Justice

In an effort to explore an alternative approach to restorative justice, I turn to Lane Community School (pseudonym). I see encouraging signs at this school indicating efforts to implement less punitive methods. Lane Community School is in a city much bigger than Castleton about 100 miles away. I interviewed Talia (pseudonym), who founded this school in

2007. This public charter school is dedicated to culturally responsive education and restorative justice. For the purposes of my research, it serves as an exemplary community committed to empowerment and undoing structural inequities, although there are still reservations I will explore.

This school has 432 students, a majority of whom are Hispanic and Black, and a student/teacher ratio of 9.86. According to their mission statement, “the culture of [Lane Community School] expresses the symbiosis between youth development and community, both in and out of the classroom. Lively exchange of questions and ideas is constant throughout the day.” As a community, they value encouraging leadership and accountability, making “social learning purposeful.” I intend to outline some of the core commitments and values at this school that allow for the practice of restorative justice to truly integrate into the community, such as a commitment to foundational ideology, support beyond the classroom, a deep belief in students, and commitment to relationships.

Commitment to Foundational Ideology

At the most fundamental level, Lane Community School has a clear commitment to a consistent ideology that is carried through in day-to-day practices. Talia spoke to me about how their individualized support and community-building practices fit into their educational ideology. Lane community school did not always distinguish itself as a “restorative justice school.” They simply had been implementing their philosophies on how to educate their community, and people externally distinguished their practices as “restorative.” Talia recounted that “three or four years into the school someone came in and was like, ‘hey, we want to do a film about your restorative justice program.’ And I was like, ‘I don’t know what restorative justice is... I’ve never heard that

word in my life.”” Once they explained what they meant, it resonated with Talia and the practices they have been using since they began the school. Talia and other administrators decided that they wanted to call themselves a restorative justice school to build relationships with other schools. This interaction revealed a commitment not to the label of “restorative justice” or what the implications may be on their image, but to deep philosophies of education that are prevalent in their day-to-day practices. Unlike some schools that start with a punitive structure and try to integrate practices that reflect an ideology that is not yet embedded in the community, with Lane Community school the ideology and commitment to relational accountability and restoration were founding principles. When these structures are based on real ideological commitments, the support for students will be overarching and not specialized and restricted. For example, Talia referenced a time when a sophomore came to her and told her that another student had gotten arrested. Then, there was a spree for about a couple of years, “we were just going to court all the time.” This level of trust is so important and gets established both in and out of the classroom. A consistent educational ideology requires more than just in-class additive activities. Trust is so crucial to restorative justice because the only way the person committing harm can take responsibility for their actions is if they feel safe in doing so. The only way someone who has been harmed can feel safe enough to listen and express their feelings is if there is enough trust. What sustains trust is a commitment to deepening supportive, safe relationships.

Talia says, “It’s better to start with the environment and then build the structures... but you can build some structures and slowly make space for the environment.” Ideally, she describes, it is the general attitude that informs the practice, not the specific class content or external mandates.

Deep Belief in Students/Commitment to Relationships

It was clear in my interview with Talia that she believes in her students, deeply. She believes they are capable of not only adhering to principles of restorative justice but also of leading the conversations and creating and sustaining these priorities. It is crucial that adults believe in the potential of all students. Talia says, “it sounds crazy because obviously, all people who work in schools believe that children are good... they come into it wanting to believe in kids. So it is confusing to me why people lose it so quickly. But I think it’s just because of the system. And it is really hard when kids don’t listen to you.” Talia’s words echo the words of Monique Morris, who insists that schools must be “places where adults believe in the promise of all children... [this is] essential for healthy relationships to flourish.”⁶⁹

It seems self-explanatory, but when so much in our education systems are telling us to punish, to evaluate, and to judge, this fundamental view can get distorted, often resulting in a mentality that there is a sharp distinction between “good” and “bad” kids. A deep commitment to the good in every student also means not taking misbehavior personally, or allowing misbehavior to define your feelings toward a student. Often what leads to punitive responses is when a teacher feels personally attacked instead of confronting how the cause of the behavior is rooted in a student’s unmet need. An unmet need might be something they are dealing with in their family that is not being addressed, or they are getting bullied at school, or they do not have enough money to pay for their lunch. One cannot predict what a student is going through, but when they are met with a punitive response, the potential to get at this root cause is limited. Talia says, “the kids are just not disrespectful to me, ever. They curse me out, they’re angry, but it’s never about me and it does not come across this way.” This is not an easy attitude to adopt, because it does seem like they are being disrespectful, but with a radical belief in the good in

⁶⁹ *ibid*, 11.

every student, these behaviors are simply suggestions of an unmet need. Cultivating this “don’t-take-it-personally” attitude is challenging and exhausting, Talia explains. It is necessary that everyone has extensive support systems when this work is draining. With support systems in place, it is easier to not fall into patterns of punitive, defensive behavior.

Having this commitment to the good in every student allows students to gain confidence and ownership over their own community. Talia says that “I suggest to people that when the staff or administration is reluctant, get a group of kids to do it. When teachers see kids buying into it, then you slowly begin this shift.” Student-led peer mediations are an example of “getting a group of kids to do it.” Student-led peer mediations represent just one case of “getting a group of kids to do it.” With confidence in the vast capacity for students to lead change, there is a deeply embedded culture of ownership and leadership for everyone, not just the white affluent students.

Talia says that she aims to make students feel toward teachers and staff that, “you believed in me and you gave me a second chance.” It is about relationships. Sustaining and deepening relationships lends itself naturally to practices of restorative justice. Howard Zehr discusses the significance of relationships in restorative justice, saying that what is foundational is to promote “repair, reconciliation, and reassurance.”⁷⁰ These core values are upheld through relationships that are built on confidence and ownership.

A deep belief in students applies both to the victims and the person “misbehaving” or causing harm. If the student who is misbehaving or causing harm is not responsive to the restorative ideologies and continues to disrupt and inflict harm, there must be structures in place to address this. Talia describes having real trouble with one student acting out and not being responsive to practices of reconciliation and restoration. What the administration and teachers decided to do and have continued to do since is to facilitate circles with the kids he had been

⁷⁰ Howard Zehr, *Changing Lenses: Restorative Justice for Our Times* (Harrisonburg, VA: Herald Press, 2015), 183.

victimizing. The intention is to secure deep relationships between students being affected in any way by the kid's actions. By providing them with the tools, resources, and support they need to mend the pain they felt and build deeper relationships with others in the community, the pattern of victimization and bullying, Talia expresses, will likely fade. Lane faculty are not asking students to make peace with their bullies. It is understandable and significant that these students are harmed by the actions of another student. Supporting systems that will prevent the alienation of these students even further while simultaneously attempting to engage with restorative practices is ideal, Talia expresses. When students are able to convey the harm they feel, get the support they need, and understand that the people who are often hurt go after others, ideologies of restoration become embedded in the relations between students as well. Howard Zehr discusses this need to focus on the victims of harm: "when people are deprived of something as basic as a sense of autonomy they seek ways to reassert it. Victims need to regain this sense."⁷¹

The example I just described outlined an instance of what to do to support victims. Practices to address the needs of the student causing harm also need to be in place. Zehr describes true justice as "recognizing the role of social context without denying personal responsibility."⁷² This means listening to where there are unmet needs, where students are struggling, and where students need extra support.

Making the Transition to Restorative Justice

In order to transform the school-to-prison pipeline and address criminalization and punishment in schools, restorative justice is, for Talia, a concrete piece to start this shift. Talia says,

⁷¹ *ibid.*

⁷² *ibid.*, 203.

“restorative justice is just a piece of something larger, but it is a very concrete piece and I think it’s a piece the larger world can look into.”

I will now outline three key elements that I took away from my discussion with Talia as being fundamental to truly shifting to a restorative justice-oriented community: 1. extending grace and restoration to teachers, 2. addressing parental buy-in, and 3. extending the commitment to relationships even to those whose role might not traditionally be conducive to restorative justice, like “safety agents.”

First, I will discuss the necessity of applying restorative practices to teachers as well as students. In order for teachers to commit to restorative justice, they must be receiving that same grace and understanding. Talia points out that if a teacher thinks “I am going to get in trouble if something goes wrong in my classroom, like a misbehaving student,” then the shame and punishment become embedded in the need to control their students. This is incompatible with truly reflecting on and understanding negative behavior. Instead of disciplining the teacher, Talia talks about how she tries to strategize with them on ways to handle moments like these.

The second component that Talia discussed was the significance of parental buy-in. She says, “parent workshops are unbelievably powerful when they work.” This connects to the commitment to foundational ideology. She talks about how “the best moments for me are when the kids are like, ‘I did this restorative justice practice with my mom. I made her take the talking stick and she could say whatever she wanted and we switched.’” When these ideologies are embedded within the community, not just as an additive practice, they become integral to how students learn to relate to one another. This, inherently, is brought to relationships outside of the classroom as well.

The third topic that stood out to me was Talia's discussion of "safety agents," similar to what some schools call School Resource Officers. A common concern for a lot of progressives is the presence of police in schools. In an effort to address the school-to-prison pipeline, it seems necessary, to many progressives, to work toward abolishing practices that are inherently tied to the criminal justice system. This may be the case, but in the meantime, Talia talks about the need to include even safety agents in restorative practices and community building. Talia says, "at the beginning of the school, we had a lot of trouble with our safety agents. Now they believe us and trust us and let us do what we want, but it took a lot of work." In the past, these safety agents would engage in much more punitive tactics. Talia says she remembers having to stop safety agents from physically disciplining kids. Over time, however, when the safety agents started to learn from members of the community that it was okay to build relationships with the students, they were open to it. It is something they have to unlearn too, that "we can really care deeply about the students." She says, "no one wants to be in an antagonistic place with the kids, we just feel forced to do that... It is all about building relationships. When we have relationships with the safety agents, we can slowly make change. They see that we care about the kids."

It is crucial, she explains, to see these actors as central to the community. There have been movements to help safety agents, like mass training, but "the people who are safety agents get the least amount of training, they are the poorest paid people in the system, and the school safety program is the largest employer of moms of public school students in the city." As a result, Talia expresses, when we have hatred toward specific actors who are upholding these punitive systems, we forget the larger structures at play.

Even at this school that seems to have a more successful orientation toward abolishing tactics of punishment and racial hierarchies, it is likely that in some ways this logic persists. To me,

calling on police officers to be “collaborators” is a similar illustration of a kind of surrendering to the system. Maybe, for Talia, this is necessary for her to achieve all that she has at Lane Community School, but it is crucial that even here, hegemonic structures continue to be disrupted and reevaluated.

Conclusion

In a classroom at Lane Community school, Talia recounted an incident when a young boy got very agitated and argumentative with the teacher. The assistant principal was called in and the student continued to be disruptive and rude. Within a punitive framework, this would have led to punishment, possibly a suspension. However, at this school, they go down this path only as a last resort. The student went to Talia’s office where he continued to yell, saying that the

assistant principal needed to be fired. The assistant principal, Talia told me, was standing on the other side of the room while he was saying this. After Talia was able to calm him down, she walked him back to class. During this walk, the student said that he was angry because the assistant principal wanted to talk to his mom about the disturbance he caused in class. As they were talking, he said in passing, “you know, me and my mom aren’t even getting along...” Although this source of anxiety was not what the student first emphasized, Talia took this as a key indicator of an unmet need. She recognized the importance of providing this student with support, affirmation, and the opportunity to confide in someone about his challenges at home.

She asked, “what’s going on with you and your mom?” This provided the opportunity for the student to talk further about what may have caused this outburst. Talia said to the student, “I really want you to know how much we all love you and care about you.” She expressed unwavering support and belief in his student. He responded, “I know you guys say you love me, but the people who are supposed to love me don’t love me.” Reflecting on this, she said that “that’s the realest thing he said.” If a school were to respond to this kind of behavior in a punitive way, there is a real possibility that this student would be trapped in a spiral of alienation. Of course, there should be clear expectations regarding behavior and consequences for causing disruptions, but incidents like this reveal the need to be extremely cautious so as not to inflict further harm on the student. Talia writes about incidents like this in her weekly write-ups to remind teachers to maintain a culture of support over punishment. This reasserts the ideology that everyone in the community should strive to recognize the sources of behavioral issues rather than punishing the consequences of unmet needs. Everyone in the community must simultaneously be accountable to relationships within the school and reflective of the fact that everyone is coming from different personal experiences and traumas. This is especially relevant for students who are

marginalized because of their identities, who do not have positive relationships elsewhere in their lives, or who need special attention to ensure they feel secure and supported.

Far too many children across the country are being deprived of suitable learning conditions. Educational spaces have become more increasingly interconnected with the criminal justice system. Recent responses, like the push toward restorative justice, have generally failed to disconnect from the underlying ideology that led to an increase in punishment. My evidence shows that moving away from a punitive orientation is not an easy task. Efforts to implement such alternative practices can be corrupted and all too easily fit into the existing hierarchical structures. Even well-intentioned programs will not displace punishment unless the social bases of hierarchy and bias are addressed. The successes that I have seen are united in challenging punitive hierarchies and encouraging students to take ownership over their relationships, both in times of successful collaboration as well as when there is a breakdown of community through misbehavior. Success depends on a broad commitment among all members of the school community to use this space to undo the effects of the broader societal inequalities and uplift every student, even the ones that are alienated and disruptive.

My account of Lane Community School depicts a more hopeful approach to envisioning a school grounded in principles of restorative justice. However, there are limits to what educators like Talia can achieve because of the injustices and biases in the society in which they operate. Educators and administrators, such as Talia, who sincerely want to implement restorative practices inevitably face difficult decisions regarding how to respond to social pressures to incorporate incursions of the criminal justice system within schools. As a public school, Lane Community school is subject to pressures and demands from people who are not necessarily

committed to ending, and indeed actively opposed to ending, the criminalization of children in schools.

To truly undo the legacy of punishment in schools that continues to punish kids and funnel them into the criminal justice system, there must be an ideology and practical paradigm shift in all aspects of the school system. Changes limited to disciplinary practices are not adequate. This broader paradigm shift must include rethinking how hierarchies are embedded within classes, how curriculums perpetuate certain ideologies, and how the lack of diversity in faculty affects students. A full commitment to restorative justice would require other kinds of innovations.

Schools must orient themselves more fully to the education of democratic citizens. This requires establishing a robust infrastructure that is supportive of student autonomy and respect, and a shift away from an exclusive concern with academic achievement. Current implicit hierarchies and explicit academic rankings are antithetical to this goal. Restorative justice, when adequately implemented, is a necessary part of undoing these hierarchies, but by itself, it is insufficient. Schools are not self-contained, sealed-off institutions. A child's experience in school is formative to the kind of citizens they become and the kind of society we have.

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