



Old school punishments are giving way to more respectful resolutions. As executive director of Restorative Justice for Oakland Youth, FANIA DAVIS can see programs like hers working to stop the school-to-prison pipeline.

WHERE DIGNITY IS PART OF THE SCHOOL DAY

Fania Davis

TOMMY, AN AGITATED 14-YEAR-OLD HIGH SCHOOL STUDENT in Oakland, Calif., was in the hallway cursing out his teacher at the top of his lungs. A few minutes earlier, in the classroom, he'd called her a "b____" after she twice told him to lift his head from the desk and sit up straight. Eric Butler, the school coordinator for Restorative Justice for Oakland Youth (RJOY—the author is executive director of the organization) heard the ruckus and rushed to the scene. The principal also heard it and appeared. Though Butler tried to engage him in conversation, Tommy was in a rage and heard nothing. He even took a swing at Butler that missed. Grabbing the walkie-talkie to call security, the principal angrily told Tommy he would be suspended.

"I don't care if I'm suspended. I don't care about anything," Tommy defiantly responded. Butler asked the

principal to allow him to try a restorative approach with Tommy instead of suspending him.

Butler immediately began to try to reach Tommy's mother. This angered Tommy even more. "Don't call my momma. She ain't gonna do nothing. I don't care about her either."

"Is everything OK?" The concern in Butler's voice produced a noticeable shift in Tommy's energy.

"No, everything is not OK."

"What's wrong?" Eric asked. Tommy was mistrustful and wouldn't say anything else. "Man, you took a swing at me, I didn't fight back. I'm just trying my best to keep you in school. You know I'm not trying to hurt you. Come to my classroom. Let's talk."

They walked together to the restorative justice room. Slowly, the boy began to open up and share what was weighing on him. His mom, who had been successfully doing drug rehabilitation, had relapsed. She'd been out

for three days. The 14-year-old was going home every night to a motherless household and two younger siblings. He had been holding it together as best he could, even getting his brother and sister breakfast and getting them off to school. He had his head down on the desk in class that day because he was exhausted from sleepless nights and worry.

After the principal heard Tommy's story, he said, "We were about to put this kid out of school, when what he really deserved was a medal."

Eric tracked down Tommy's mother, did some prep work, and facilitated a restorative justice circle with her, Tommy, the teacher, and the principal. Using a technique borrowed from indigenous traditions, each had a turn with the talking piece, an object that has a special meaning to the group. It moves from person to person, tracing a circle. The person holding the talking piece is the only one talking, and the

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» holder speaks with respect and from the heart. Everyone else in the circle listens with respect and from the heart.

As Tommy held the talking piece, he told his story. On the day of the incident, he had not slept, and he was hungry and scared. He felt the teacher was nagging him. He'd lost it. Tommy apologized. He passed the talking piece to his teacher and heard her story.

Earlier in the year another student had assaulted her. She was terrified it was about to happen again with Tommy. After the incident with Tommy, as much as she loved teaching, she had considered quitting. Tommy apologized again for the outburst and offered to make amends by helping her with after-school chores

that of a police officer, a judge, or a 14-year-old youth.

If the school had responded in the usual way by suspending Tommy, harm would have been replicated, not healed. Punitive justice asks only what rule or law was broken, who did it, and how they should be punished. It responds to the original harm with more harm. Restorative justice asks who was harmed, what are the needs and obligations of all affected, and how do they figure out how to heal the harm.

Had punitive discipline ruled the day, Tommy's story would have gone unheard and his needs unmet. Had he been suspended, Tommy's chances of engaging in violence and being incarcerated would have dramatically increased.

Exclusionary discipline policies such as suspensions, expulsions, and school-based arrests are increasingly being used to address even the most minor infractions: a 5-year-old girl's temper tantrum, a child doodling on her desk with erasable ink, or adolescent students having a milk fight in the cafeteria. Use of suspensions has almost doubled since the 1970's. Black students are disproportionately impacted. According to data from the U.S. Office of Civil Rights, black students are three times more likely to be suspended than their white counterparts for comparable offenses.

Overreliance on exclusionary school discipline that disproportionately impacts African American youth led

RJOY'S 2007 MIDDLE SCHOOL PILOT ELIMINATED VIOLENCE AND EXPULSIONS, WHILE REDUCING SCHOOL SUSPENSION RATES BY 87 PERCENT.

for the next few weeks. The teacher agreed to show more compassion in the future if she noticed a student's head down on the desk.

Taking responsibility, Tommy's mother apologized to her son and all present. She rededicated herself to treatment and was referred to the campus drug rehabilitation counselor. After the circle and with follow-up, Tommy's family life, grades, and behavior improved. The teacher remained at the school.

Restoration, not punishment

Nelson Mandela's adage, "I destroy my enemies when I make them my friends" captures the profoundly inclusive nature of restorative justice (RJ). The hallmark of RJ is intentionally bringing together people with seemingly diametrically opposed viewpoints—particularly people who have harmed with people who have been harmed—in a carefully prepared face-to-face encounter where everyone listens and speaks with respect and from the heart no matter their differences. The talking piece is a powerful equalizer, allowing everyone's voice to be heard and honored, whether

Suspension likely would have exacerbated harm on all sides—to Tommy, his teacher, his family, and ultimately, his community. His teacher would have been deprived of hearing Tommy's story. She might have quit teaching and remained trapped in trauma.

If Tommy had been suspended and left unsupervised—as most suspended students are—he would have been behind in his coursework when he returned. Trapped in an under-resourced school without adequate tutoring and counseling, Tommy would have had a hard time catching up.

According to a national study, he would have been three times more likely to drop out by 10th grade than students who had never been suspended.

Worse, had Tommy dropped out, his chances of being incarcerated later in life would have tripled. Seventy-five percent of the nation's inmates are high school dropouts.

Getting kids out of the pipeline

The school-to-prison pipeline refers to the alarming national trend of punishing and criminalizing our youth instead of educating and nurturing

the U.S. Departments of Justice and Education recently to announce the launch of a national initiative to help schools and districts meet their legal obligation to administer discipline without unlawfully discriminating. At the January 8, 2014 release of a Guidance Package on equitable and effective school discipline, U.S. Secretary of Education Arne Duncan said, "Racial discrimination in school discipline is a real problem today, and not just an issue from 40 to 50 years ago."

According to a study by the Centers for Disease Control, a student's sense of belonging to a high school community is a top protective factor against violence and incarceration. In addition to convening restorative justice circles like Tommy's, RJOY also uses circles proactively to deepen relationships and create a school culture of connectivity, thereby reducing the likelihood that harm will occur.

A UC Berkeley Law study found RJOY's 2007 middle school pilot eliminated violence and expulsions, while reducing school suspension rates by 87 percent. After two years



YES! PHOTO BY LANE HARTWELL

Fania Davis, executive director of Restorative Justice for Oakland Youth, with students from Ralph Bunche High School in Oakland.


of training and participation in RJ practices, whenever conflict arose, RJOY middle school students knew how to respond by coming to the RJ room to ask for a talking piece and space to facilitate a circle. Today, at one of the RJOY school sites, student suspensions decreased 74 percent after two years and referrals for violence fell 77 percent after one year. Racial disparity in discipline was eliminated. Graduation rates and test scores increased.

In Oakland, RJOY is successfully influencing the school district to make the approach in Tommy's case the new norm. The restorative justice model has been so successful in the schools where RJOY has worked that, in 2010,

the Oakland school board passed a resolution adopting RJ as a system-wide alternative to zero-tolerance discipline and as a way of creating stronger and healthier school communities.

Young high school students in Oakland with failing grades and multiple incarcerations who were not expected to graduate not only graduate but achieve 3.0-plus GPAs. Some have become class valedictorians. Girls who have been long-time enemies become friends after sitting in a peacemaking circle. Instead of fighting, students come into the restorative justice room and ask for a talking piece and circle. Youth and adults who walk into a circle feeling anger toward one another end up embracing. Youth report they are doing

circles at home with their families. High school graduates are returning to their schools to ask for circles to address conflict outside the school.

Oakland is considered one of the most violent cities in the nation. However, today hundreds of Oakland students are learning a new habit. Instead of resorting to violence, they are being empowered to engage in restorative processes that bring together persons harmed with persons responsible for harm in a safe and respectful space, promoting dialogue, accountability, a deeper sense of community, and healing. 

Fania Davis is co-founder and executive director of Restorative Justice for Oakland Youth. She practiced civil rights law for 27 years. Her Ph.D. in indigenous studies led to her work in restorative justice.