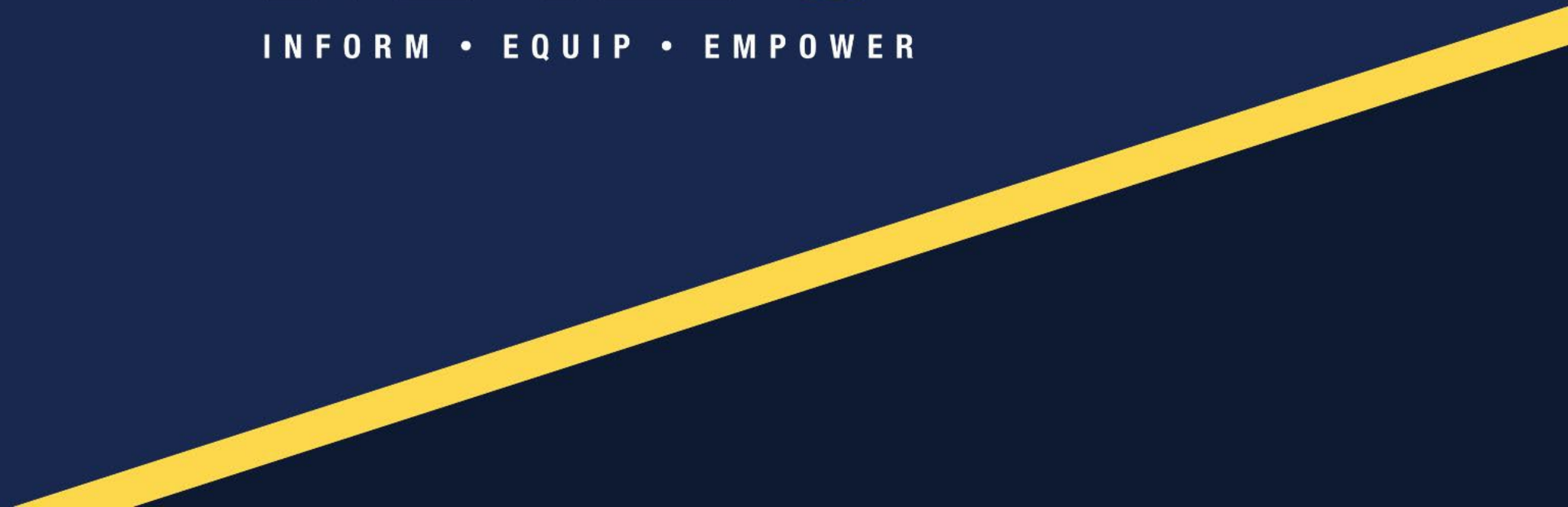




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Restorative Justice

March 2025

- What is Restorative Justice?
- How did it start?
- How did it spread?
- RJ and the Federal Government
- RJ in Schools
- How to FIGHT Back: Arguments
- How to FIGHT Back: Take Action

What is RJ?

- **RJ = Restorative Justice**
 - Alternative theory of crime and justice than traditionally followed
 - Focuses on the **needs** of victims and perpetrators through reparations and rehabilitation rather than punitive punishment
 - **Other names and key terms:** Restorative Discipline, Transformative Justice / Discipline, Healing Circles, Positive Behavior Instruction System (PBIS), Multi-Tiered System of Support (MTSS)
- **Historical Background**
 - First appeared in 1958
 - Spread quietly, mainly in the justice system, until 2014 when it jumped to education especially in public schools

What is RJ?

Core Principles

- Focuses on the **harm** caused and addressing the **needs** of those affected (including the offender)
- Offenders should make reparations or restitution to the victim

RJ *sounds great* – but the theory does not deliver in execution

- Supports “reverse” discrimination
- Emphasizes that the traditional justice system has been unfair to minority groups so they should not have consequences

Impact on Education

- Kids quickly learn to game the system
- Leads escalating behavior – violence that intimidates students and makes learning impossible

How did RJ Start?

The Origins



RJ: Key Practitioners & Texts

Restorative Justice Overview

- Challenges traditional American views using psychology and legal theory
- Incorporates liberal and progressive Christianity
 - Liberal Christianity – applied modern knowledge like psychology
 - Progressive Christianity – emphasized an idealized focus on social justice

Origins of the Term *Restorative Justice*

- First used by a German Theologian in the 1950s
- American use began in 1958 by Professor Albert Eglash
- Picked up by Howard Zehr in the 1990s

RJ: Key Practitioners & Texts

- Albert Eglash's Background
 - Worked with Detroit nonprofits to rehabilitate criminals
 - Focused on African American teenagers
 - Criticized the legal system's focus on crime and punishment
 - Developed the concept of "Creative Restitution"
- Primary Concern in Restitution and Reparations
 - Focus on the damage caused
 - Attention to the victim's needs
- Constructive and Redeeming Acts
 - Directed by the perpetrator
 - First towards the victim

Howard Zehr's Influence

- The “Grandfather” of the RJ movement
 - Drew on his Mennonite faith
 - Mennonite faith opposes “the American myth of rugged individualism” and embraces “pacifism, economic and ecological stewardship, and community”
- Key Text: ***Changing Lenses: A New Focus for Crime and Justice***
 - Written by Howard Zehr, published in 1990 and considered the “key text” in the RJ movement
 - A critique of traditional justice
 - Questions the relevance of actual needs in the justice process
 - Blames individualistic concepts of guilt and freedom
 - Argues that crimes committed by members of minority communities “ignores the social, economic, and psychological context” ...

Zehr's Theories and Examples

- Restorative Justice Theory
 - Considers social, economic, and psychological context
 - Justice for offenders without reference to social setting
- Zehr's Argument
 - Punishment under criminal justice system is unfair to perpetrators
 - Argues that alternative methods of healing should be established
- EXAMPLE Scenario to Apply RJ - Overview:
 - Some boys explode a pipe bomb in the front yard of a school principal, causing fear among family and neighbors
 - The Principal and family meet with boys who exploded a pipe bomb
 - Meeting helped boys understand the gravity of their actions

Questions: Restorative Justice Meetings

- Acknowledgment of Wrongs
 - Are the wrongs being acknowledged?
- Addressing Needs of the Harmed
 - Are the needs of those who were harmed being addressed?
- Understanding and Accepting Responsibility
 - Is the one who committed the harm being encouraged to understand the damage and accept their obligation to make right the wrong?
- Involvement in the Solution
 - Are those involved or affected being invited to be part of the solution?
- Showing Concern for Everyone
 - Is concern being shown for everyone involved?

Critique of Zehr's Arguments

- Victims' Counseling Needs
 - Victims often require counseling after a crime, but this was understood and handled by psychologists without involving perpetrators
 - Psychology was well-versed in PTSD by 1990
 - Black teenagers in cities like Detroit often committed crimes for a reason
 - Racial restrictions and outsourcing of blue-collar labor limited job opportunities
- Zehr's Focus
 - Zehr didn't aim to change bad policies encouraging bad behavior
 - Similar to Critical Race theorists, he used bad policies to target American law foundations
- Restorative Justice Bottom Line
 - Claim: Addressing people's emotional needs (which can't be measured!) – **FALSE!**
 - **FACT:** RJ lets criminals escape punishment by demonstrating remorse, *whether it's genuine or just lip service*

How did RJ Spread?

1970s to 2010s

From Religion to Academia

- Initial Spread through Religious Networks
 - Zehr's influence via Mennonite networks like MCC
 - Adoption by liberal Christians and organizations like Presbyterian-funded Criminal Justice program
 - Prison Fellowship Ministries and Victim Offender Mediation Association
- Influence in Education
 - Sue Duncan's children's center in Chicago focusing on minority students
 - Projects involving Restorative Justice embraced by Duncan's daughter Sarah
- Migration to Academia and International Organizations
 - Spread to small colleges, state universities, and the United Nations in the 1980s and 1990s
- Adoption by Elite Law Schools
 - Embraced by Harvard, Yale, UCLA, Stanford, and the University of Chicago in the 1990s and 2000s
- Support from Public Interest Law Nonprofits

Government Involvement

- **Weaponization of Civil Rights Offices**
 - Started with Clinton White House
 - Liberal bureaucrats and affirmative action appointees
- **Obama Administration's Aggressive Push**
 - Affirmative Action targeted American kids by applying RJ to the education system
- **Broward County's P.R.O.M.I.S.E. Program**
 - Implemented in 2013: **P**reventing **R**ecidivism through **O**pportunities, **M**entoring, **I**nterventions, **S**upport & **E**ducation
 - Stated goal to correct disparity in student arrests
 - Students with misdemeanors received help instead of jail
- **Robert Runcie as Key Figure**
 - Previously Superintendent of Chicago Public Schools (not known for high academics)
 - Superintendent of Broward County Public Schools

The Federal Government and Restorative Justice

5 Key Figures in Restorative Justice Initiatives

1. President Barack Obama

- Harvard Law graduate and supporter of Restorative Justice

2. Attorney General Eric Holder

- Columbia Law graduate advocating for policy changes

3. Secretary of Education Arne Duncan

- Had family ties to Restorative Justice

4. Assistant Attorney General Jocelyn Samuels

- DEI advocate

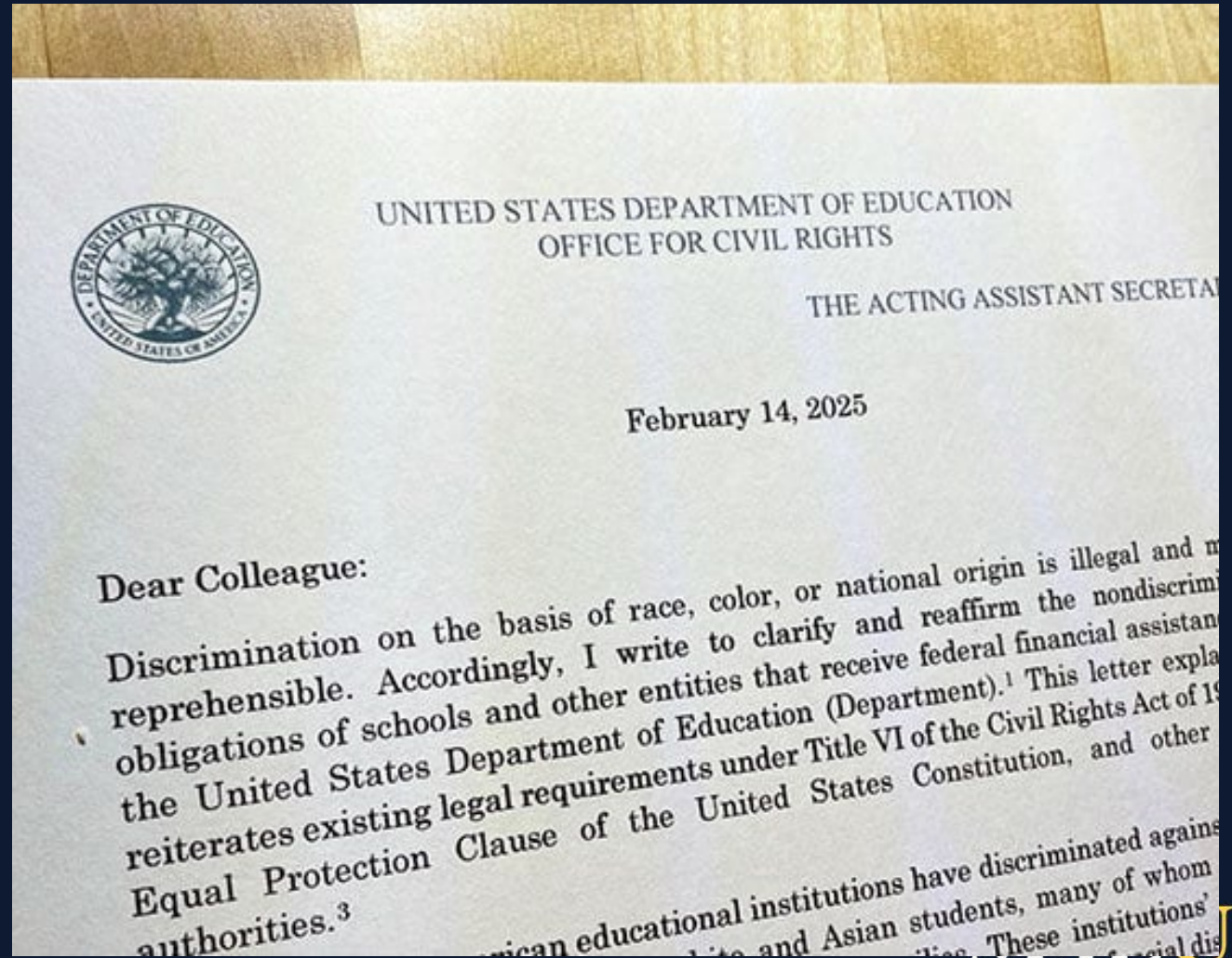
5. Assistant Secretary of Education Catherine Lhamon

- Yale Law graduate and ACLU veteran

2014 Dear Colleague Letter

2014 “Dear Colleague” Letter

- **Jointly issued** by the Department of Justice and Department of Education
- Advised federally-funded schools on nondiscriminatory discipline administration
- Argued that “racial disparities in the Administration of school discipline” existed and were **violations** of the Civil Rights Act
- Outlined government's intention to investigate based on Disparate Impact



Measuring “Disparate Impact”

The Federal Government threatened investigation into schools based on disparate impact, measured by:

1. Has the discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races?...
2. Is the discipline policy necessary to meet an important educational goal? ...
3. Are there comparably effective **alternative policies or practices**...?

The big problem? The letter makes clear *almost any disciplinary action can qualify for this treatment.*

Trump vs Biden: Responding to the 2014 DCL

- Trump Administration's Rescinded the 2014 Letter
 - **BUT** Schools continued enforcement with support from superintendents and teachers unions
 - Justice Department funded National Center on Restorative Justice (which still exists today)
- Biden Administration's released a 2.0 ... 2023 Version of the Letter
 - Cleverly avoided using the term Disparate Impact, but still shows that *almost anything* can be considered a civil rights infraction
 - Example from the letter: “*a pattern of harsher and more frequent disciplinary actions across types of discipline, schools, and grade levels for Black students than their white peers, resulting in significantly greater lost learning time for Black students.*”
 - Brookings Institution criticized Biden Administration for *not going far enough*

Restorative Justice in Schools

2015 to 2025

Implementation and Practices

Three-tier system of discipline (MTSS)

- Limits on when teachers can discipline students
- Restrictions on calling for administrative support

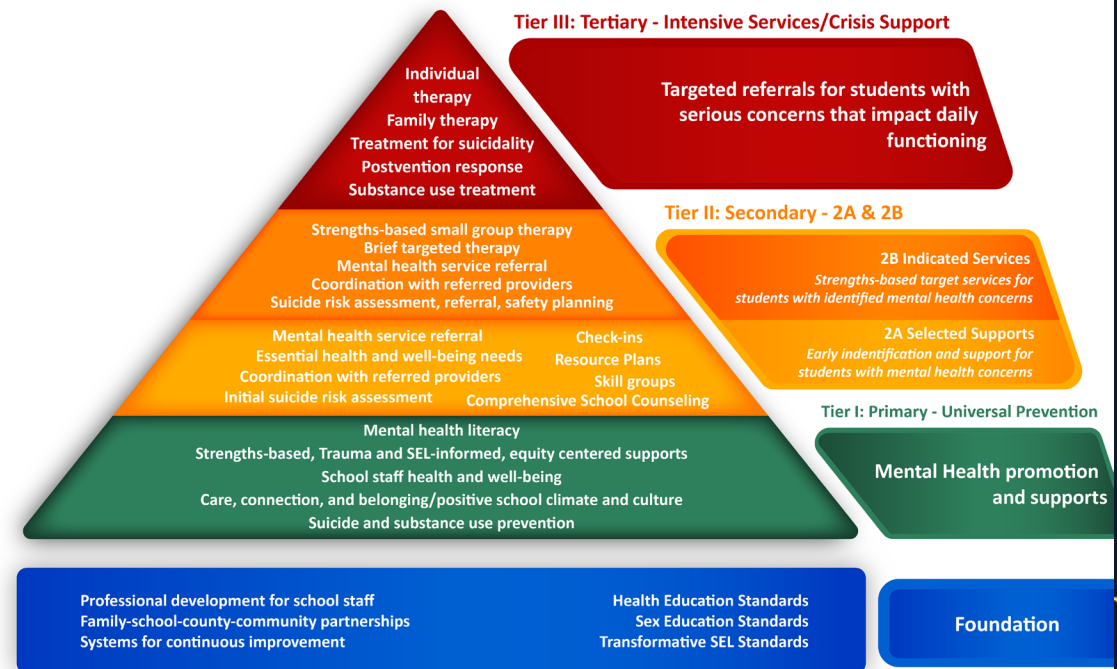
Social Emotional Learning exercises

- Talking the problem out in group healing circles
- Focusing on feelings of offenders and victims

Alternative terms for Restorative Justice

- Restorative / Transformative Practices
- Progressive Discipline
- Positive Behavior Intervention and Supports (PBIS)

Multi-Tiered Systems of Support (MTSS) in Education



Consequences and Criticisms

Restorative Justice and Safety Concerns

- Restorative justice, while aimed at rehabilitating offenders and fostering a sense of community, has raised significant safety concerns, particularly in educational settings.
- Critics argue that the approach can inadvertently compromise the safety of students and teachers by prioritizing rehabilitation over accountability.

Potential Danger to Students and Teachers

- One of the **primary criticisms** of restorative justice is the potential **danger it poses to students and teachers**.
- By focusing on reconciliation and giving offenders multiple chances, the system may fail to adequately address the risks posed by individuals with a history of disruptive or violent behavior.
- This can create an environment where the safety of the school community is jeopardized.

System Treating Repeat Offenders Like First-Time Offenders

- A key criticism of restorative justice is its **tendency to treat repeat offenders as if they were first-time offenders**.
- This approach can **undermine the effectiveness of disciplinary measures** and fail to address the root causes of persistent behavioral issues.
- Critics argue that without appropriate consequences, the system fails to protect the school community from individuals who pose a threat.

2018 Shooting by Nikolas Cruz

- The tragic 2018 shooting by Nikolas Cruz at Marjory Stoneman Douglas High School in Parkland, Florida, is often cited as a **stark example of the dangers of restorative justice practices**.
- Cruz, who had a **well-documented history of behavioral issues**, was able to carry out a devastating attack that resulted in the loss of 17 lives.

Consequences and Criticisms

Broward County's Promise Program

- Broward County's PROMISE Program, which claimed as its goal reducing student arrests by offering “alternatives” to traditional disciplinary measures, has been **heavily criticized** in the wake of the Parkland shooting.
- Critics argue that the program's emphasis on restorative justice created an "endless loop" of violations and second chances, allowing repeat offenders to avoid serious consequences.

Endless Loop of Violations and Second Chances

- The PROMISE Program's approach of treating repeat offenders like first-time offenders has been a major point of contention.
- By continually offering second chances, the system enables a cycle of misconduct, where individuals are not held accountable for their actions.
- This can lead to a lack of deterrence and an increase in disruptive behavior.

Nikolas Cruz's Case

- Nikolas Cruz's case exemplifies the shortcomings of restorative justice in handling individuals with a history of disruptive and destructive behavior.
- Despite numerous violations and red flags, Cruz was allowed to continue attending school, largely due to the PROMISE Program's lenient policies.
- His record of behavioral issues was extensive, yet he was never arrested, highlighting the program's failure to address serious threats adequately.

Consequences and Criticisms

Record of Disruptive and Destructive Behavior

- Cruz had a documented record of disruptive and destructive behavior, including threats and violent actions.
- Despite these alarming signs, the restorative justice approach taken by the PROMISE Program allowed him to remain in the school system without facing significant consequences.
- This **failure to act on warning signs** is a critical point of criticism.

Allowed to Continue Attending School Despite Violations

- The decision to allow Cruz to continue attending school despite numerous violations is seen as a grave oversight.
- Critics argue that restorative justice practices, in this case, prioritized rehabilitation over the safety of the school community, ultimately leading to tragic consequences.

Never Arrested Due to PROMISE Program

- One of the most significant criticisms of the PROMISE Program is that it prevented Cruz from being arrested despite his numerous violations.
- By focusing on restorative justice and avoiding traditional disciplinary measures, the program failed to address the serious threat Cruz posed, ultimately resulting in the devastating Parkland shooting.

Impact on School Safety

- It *appears* to reduce School-Based Arrests
 - Arrests dropped from 1,056 in 2012 to 392 in 2016 (because they just stopped arresting kids)
 - Policy aimed at reducing the 'school to prison pipeline'
- Concerns from Law Enforcement
 - Broward Sheriff's Office Deputy Association opposed the policy
 - Belief that fewer arrests were made to improve school statistics
- Negative Impact on School Environment
 - 50 Teachers and bus drivers left due to policy
 - Severe misbehavior:
 - One student was masturbating inside a classroom
 - [A] teacher was **hit in the face with a tape dispenser**
 - Another educator frequently had to remove all furniture from her class because kids were routinely chucking it around the room at each other

Studies and Reports

- RAND Studies
 - Liberal-progressive think tank in Washington D.C.
 - Conducted studies of schools in Pennsylvania and Maine
- Restorative Justice deemed **ineffective**
 - Failed to solve disciplinary problems, causing more issues instead
 - Even proponents of the method criticized it, but claimed “faulty implementation” in an article titled “The Cart Before the Horse”
 - (A familiar argument....it just wasn’t done right...)

How to **FIGHT** Back

RESPONSES TO COMMON ARGUMENTS AND ACTIONS YOU CAN TAKE TO FIGHT BACK

Fighting Back: Arguments

CLAIM #1: Children who commit offenses do so because of social factors beyond their control and punishing them for these offenses only makes them angrier and more resentful.

RESPONSE: Bad social circumstances caused by government policy make it more that members of certain groups will commit crimes. The answer to bad policy is **political action**, *not relaxing discipline or removing accountability.*

- Racially restrictive housing laws and labor outsourcing – created a bad environment for minority communities for decades
- Schools exist to **teach and protect** students from disruptions, not bear the brunt of bad government policies.

Fighting Back: Arguments

CLAIM #2: The traditional legal system's punitive approach to crime and punishment bleeds into school discipline and hurts kids – it doesn't consider the need for healing and redemption.

RESPONSE: The legal system and the school discipline system aren't designed to address spiritual or psychological needs. They're designed to protect and to teach.

- With abysmally low numbers of students able to hit basic proficiency, schools need to focus on *teaching the basics first*

Fighting Back: Arguments

CLAIM #3: Restorative justice works. It helps victims and offenders “heal” and stops the “school to prison pipeline”.

RESPONSE: RJ encourages offenders, some with serious mental issues, to act out repeatedly because they learn that the consequences are minimal, if any exist at all.

- RJ emphasizes racial division by focusing on “disparate impact” between races
- RJ puts other students in harm’s way and makes it very hard for them to learn due to extreme disruption

Fighting Back: Arguments

CLAIM #4: Parents who are against restorative justice are stopping all students from achieving equal treatment.

RESPONSE: This argument conflates *equity* with *equality*.

- Equity desires equal outcomes, i.e., the same number of suspensions given to “good kids” as to “bad kids”
- Equality desires equal treatment and equal application of disciplinary measures, as defined by policy

Fighting Back: Actions

- 1. Check the school's disciplinary policies and code of conduct**
 - Look for RJ buzzwords like disparate impact, restoration or reparations, and an emphasis on “students’ personal, social, emotional, and behavioral needs”
- 2. Check the school's website for “partner” organizations**
 - Look for RJ buzzwords and programs, “alternative disciplinary programs”, and partnerships for “juvenile justice” clinics
- 3. Enlist help!**
 - If you see signs of RJ in your schools
 - Write to M4L
 - Attend school board meetings to raise concerns
 - Write to your state legislature

What we learned

- What is Restorative Justice?
- How did it start?
- How did it spread?
- RJ in Schools
- How to FIGHT Back: Arguments
- How to FIGHT Back: Take Action

For more information, please check out the RJ Toolkit at <https://m4lu.org/rj-toolkit>

Restorative Justice Timeline

1950s

The first reference to Restorative Justice appears in the writings of a German theologian.

1958

The first American reference to the concept appears, by scholar and Detroit nonprofit participant Albert Eglash, in a short scholarly article.

1970s

Howard Zehr, a Mennonite, blends Eglash's four-page article into a more comprehensive approach, using Mennonite networks to encourage its spread.

1970s-1990s

Thanks to Zehr and several others, Restorative Justice gets picked up by liberal Christian denominations as well as by nonprofits serving mostly minority children in lower income neighborhoods.

Among these is a nonprofit run by **Susan Duncan**, the mother of future Obama Secretary of Education **Arne Duncan**.

1990

Howard Zehr's *Changing Lenses*, the "ur-text" of the Restorative Justice movement, appears.

1990s-2000s

Justice clinics focused on minority offenders spring up at elite law schools and use Restorative Justice, including Harvard, Yale, Stanford, and the University of Chicago. It also spreads among educational and criminal justice nonprofits.

Practitioners who embrace projects involving Restorative Justice include the sister of Arne Duncan, who by this point is the Superintendent of Chicago Public Schools

2013

The first Restorative Justice school policy program, Promise, is pioneered in Broward County by Robert Runcie, the college friend and former Chicago Public School district employee of Secretary of Education Arne Duncan.

According to Runcie, "Some of my staff joke that the Obama administration might have taken our [PROMISE] policies and framework and developed them into national guidelines."

2014

The Offices of Civil Rights of the Justice and Education Departments send out a "Dear Colleague" letter threatening schools with federal civil rights investigations under the "Disparate Impact" standard, a three-part measurement of the effects of school punishment on different groups.

This three part standard leads directly to **Restorative Justice**.

2015-2025

Restorative Justice makes the news in local and national newspapers, think tank reports, and congressional hearings for leading to the breakdown of discipline, attacks on teachers, and a sharp decline in learning across the country.

2018

The Trump Administration rescinds the 2014 Obama "Dear Colleague Letter" but schools continue to practice Restorative Justice.

Nikolas Cruz, a Broward County school district student not disciplined for repeated threats and violence because of the Promise Program, shoots and kills fourteen students and three staff members at Parkland High School in 2018.

2023

The Biden Administration sends out a new "Dear Colleague" letter which removes references to disparate impact but has much the same examples as the Obama letter regarding what constitutes possible discrimination that the federal government will investigate—a more subtle way of pushing Restorative Justice on schools.

Prominent centrist DC think tanks criticize this letter for not going far enough to address discrimination.



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