

Research Report

Restorative Justice conferencing and the youth offender: exploring the role of oral language competence

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(Received 12 January 2010; accepted 25 May 2010)

Abstract

Background: Restorative Justice is an approach to responding to youth offending that aims to be collaborative and conciliatory rather than adversarial. In this respect, it is a welcome innovation in justice, welfare, and educational settings, and is gaining favour around the world. To date, however, the Restorative Justice literature has not considered the possible implications of unidentified language impairment in the young offenders who are asked to participate in face-to-face conferences with their victim(s).

Aims: The aims of this paper are (1) to bring two paradigms together: Restorative Justice on the one hand, and the literature on language and social cognition impairments in vulnerable and socially marginalized young people on the other; (2) to stimulate awareness and interest in this aspect of public policy and practice by speech–language pathologists; and (3) to suggest some research questions that need to be tackled from an oral language competence perspective.

Methods & Procedures: A narrative review of the relevant literature pertaining to both Restorative Justice and oral language competence in vulnerable young people was conducted, with particular emphasis on the implications of the undetected language impairments as a source of possible unintended harm to both victims and offenders in Restorative Justice conferences.

Main Contribution: This is the first paper that specifically addresses the oral language skills of vulnerable and socially marginalized young people with respect to their capacity to participate in Restorative Justice conferences.

Conclusions: It is important that speech–language pathologists contribute their specialized knowledge and clinical skills to public policy-making and debate, and practice that pertains to marginalized young people who may have undetected oral language impairments. Speech–language pathology as a profession is well positioned to plan and execute important programmes of research on this growing approach to dealing with youth offending and reducing recidivism.

Keywords: Restorative Justice, young offenders, language impairment.

What this paper adds

What is already known on this subject

Restorative Justice conferencing is on the rise internationally and stands to improve the passage of young people through the justice and welfare sectors. Young people from socially disadvantaged and/or marginalized backgrounds face an elevated risk of undiagnosed language impairments (often with a background of behaviour difficulties), and this translates into life-long social and economic disadvantage. There is a small body of international literature addressing the forensic implications of language impairment in high-risk young people.

What this paper adds

This paper brings two paradigms together: Restorative Justice conferencing and language impairment in marginalized youth. It argues that unidentified language impairment is a factor that needs to be considered in Restorative Justice implementation and evaluation, so that unintended adverse consequences for offenders and their victim(s) can be minimized.

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Introduction

In the last two decades there has been growing interest in, and commitment to, approaches to dealing with young offenders that promote prosocial values and collaborative, rather than confrontational resolution of the social, financial, and emotional costs associated with crime and other forms of antisocial activity. Such moves are consistent with shifts to more enlightened frameworks for understanding youth offending, for example considering this within a social determinants of health model (for example, Stephenson 2007), and emphasizing the importance of social marginalization as a determinant of antisocial activity. Growing evidence in recent years has also emphasized links between impulsive decision-making and poorly developed prefrontal regions in the adolescent brain (for example, Casey *et al.* 2008), and has influenced the way in which youth crime (and its management) is conceptualized.

It is now well recognized that young people who become formally engaged with youth justice services commonly have problematic histories characterized by factors such as compromised early attachment (O'Connor and Scott 2006), social and economic disadvantage (Stephenson 2007), and chaotic family structures (often in households headed by a single parent) with exposure to domestic violence, directly or vicariously, and high levels of associated stress (Caffo *et al.* 2006). Young offenders are known to display higher rates of learning disability than their non-offending peers (Putnins 1999, Snowling *et al.* 2000), are three times more likely to display language problems than their non-offending peers (Larson and McKinley 1995, Sanger *et al.* 2001), and disengage early from the education system. This reduces not only their chances of acquiring marketable skills that promote success in the workplace, but also the extent to which the school environment can act as a protective factor by providing exposure to prosocial role models and values.

A significant proportion of young people who engage with youth justice services are, or have been, clients of child-protection services (Stewart *et al.* 2008). It is also well established that children who grow up in families where one or other parent has a mental illness are vulnerable to a range of internalizing and externalizing psychiatric disturbances across the lifespan (for example, Fernbacher *et al.* 2009). Evidence in recent years also shows strong links between conduct disorders in childhood and language/learning disabilities (Law and Plunkett 2009, Law *et al.* 2009), though the nature of this relationship (correlational due to shared risk factors versus causal in one or both directions) remains to be determined). This relationship is significant however given that conduct disorder on its own elevates the risk of involvement with youth justice services and,

as will be argued throughout this paper, those young people with language difficulties can be expected to face additional challenges in their passage through the justice system.

Not surprisingly, young offenders are at higher risk of mental health problems and substance abuse across the life-span (Ryan and Redding 2004), and are costly to the tax-payer, by virtue of their need to access a range of publicly funded services—across the health, housing, welfare, law enforcement, and training sectors. It is important to note that being a young offender is, in itself, a serious health issue. An examination of the coronial records of 2849 deaths of young people in Victoria, Australia (Coffey *et al.* 2003), showed that being a young male offender carries with it a risk of death before the age of 21 (all-cause mortality) that is 9.2 times higher than that of non-offending peers. For young female offenders, this risk can be multiplied 41.3 times. Reducing recidivism in young offenders is a key target of early intervention efforts, given the importance of altering risk trajectories as early as possible.

In the UK, it was estimated in 2006 (Hartshorne 2006) that a 16-year-old male with speech, language and social deficits would cost the community an average of £200 000, assuming a custodial sentence could be averted; if not, in excess of a further £100 000 can be added to the bill. Another UK-based analysis (Barrett *et al.* 2006) reported that an estimated £1000 million per year is spent on 'processing and dealing with young offenders' (p. 541). Of note, these workers observed that depressed mood in the young person is a particular marker of cost, as this tends to be associated both with higher rates of early risk (for example, history of child abuse/neglect) and a need for more intensive and ongoing interventions. A similar picture emerges from the cost analysis conducted by Romeo *et al.* (2006), who pointed out that antisocial behaviour typically becomes evident in the preschool years, and is highly treatment resistant if not rectified prior to adolescence. Given recent evidence (Law *et al.* 2009) that language impairment in childhood increases the risk of a range of mental health problems and related psychosocial disadvantage in later life, this attaches a high level of importance to early identification and remediation of language impairments, particularly where other psychosocial risk factors are present.

Restorative Justice: an overview

Clearly, this is a highly challenging population, in whom the risk of intergenerational transfer of a range of psychosocial problems is high. It is pleasing in many respects, then, that important and welcome shifts in conceptualizing youth offending have also seen a global rise of the Restorative Justice movement—a more

collaborative, and less adversarial approach than traditional applications of criminal justice. Restorative Justice is only implemented with the agreement of the victim(s) and where the offender enters a guilty plea. Restorative Justice has been defined as 'a range of informal justice practices designed to require offenders to take responsibility for their wrongdoing and to meet the needs of affected victims and communities' (Strang 2001: 2). It may be used as part of a diversionary process, or in conjunction with a criminal conviction. Central to definitions and discussion of Restorative Justice approaches are concepts such as the following:

- Understanding and taking responsibility for wrongdoing.
- Balancing the needs of all parties—offender, victim, and community.
- Acknowledgement and resolution of harm caused by the wrong-doing.
- Restoration of trust and respect.
- Reparation of damage/loss suffered as a result of the wrong-doing.
- Reconciliation between affected parties.
- Repair of damage to relationships.

Restorative Justice conferences typically revolve around a group of people coming together to discuss and resolve complex issues that may be highly emotionally charged. Importantly, the conduct in question is not necessarily *criminal* in nature, but it does involve a violation of rights, and results in some kind of harm to a victim or victims (for example, physical, emotional, financial). Restorative Justice conferences are typically held in community settings, but their use with young people in custodial settings, although in its infancy, is on the rise (Williams 2004). Restorative Justice programmes have also emerged in a range of settings outside the law enforcement arena, such as in schools and some workplaces, and are present in many parts of the world for example, Australia, New Zealand, the United Kingdom, Canada, Western Europe, and parts of the USA (Roche 2006).

In his historical critique of Restorative Justice, Roche (2006) referred to its 'golden threads' as 'an emphasis on informal, inclusive deliberation, rather than adjudication, and a determination to find outcomes that minimize harm and strengthen relationships' (p. 218). The following description, taken from McCold and Wachtel (2003): 2 captures the essence of Restorative Justice as it is typically described:

Restorative practices provide an opportunity for those who have been most affected by an incident to come together to share their feelings, describe how they were affected and develop a plan to repair the harm done or prevent a reoccurrence. The restorative approach is reintegrative, allowing the offender to make amends and shed the offender label.

As may be seen in the types of vocabulary used above, there is a central assumption behind Restorative Justice conferencing that the wrong doing has caused a tear in the social fabric, resulting in direct harm to the victim(s) and indirect harm to the perpetrator (who might, in many cases, also be viewed as a victim in a broader sense, by virtue of social marginalization, low educational attainment, lack of economic opportunity, etc.). Words such as 'repair' and 'restore' assume, however, that the default position was one in which all parties lived harmoniously, with equitable access to opportunity and advantage. Unfortunately, this is not generally the case. Further difficulties with Restorative Justice conferencing include the fact that there is not a universally applied set of guidelines for its application, so the risk exists that in some hands, what passes for *restorative* justice is, in fact more akin to *retributive* justice—that is, overtly or covertly aimed at addressing the needs of the victim(s), without considering possible therapeutic outcomes for the offender. Roche (2006) points out that some programmes that pre-dated Restorative Justice (for example, indigenous peace-making rituals) have been 're-branded' as Restorative Justice, and there has been a flourish of new programmes created internationally in recent years which are called Restorative Justice, but which may vary along some important dimensions. There is also debate in the feminist literature about the appropriateness of Restorative Justice in the context of family violence, given the gendered nature of the power imbalances usually involved, and the fact that such violence is typically part of a broader picture of coercion and control (Strang and Braithwaite 2002). Restorative Justice conferences may involve as few as two participants (perpetrator and mediator), or over a hundred, in situations where large numbers claim to have been affected by the offence. Conferences typically last 1–1.5 hours, but may go for considerably longer (Roche 2006).

Desired outcomes of Restorative Justice conferencing include, but are not limited to, reductions in re-offending. Other outcome variables by which its success can be measured include reductions in victims' psychological trauma, diversion away from the criminal justice system (with consequent societal financial savings), reductions in victims' desire for revenge, and degree of satisfaction with justice processes for both victims and perpetrators (Sherman and Strang 2007). For a recently developed intervention, the body of evaluation research that already exists on Restorative Justice is impressive. Restorative Justice programmes have been subjected to some rigorous evaluations, using both experimental (for example, McCold and Wachtel 1998) and quasi-experimental (for example, Strang *et al.* 2006) methodologies. Evidence to date shows definite

benefits of Restorative Justice across a range of outcome variables. Interestingly, it appears to be of greater benefit in instances where interpersonal violence has been a factor, as compared to property-only offences. This may reflect the emotional salience of victims' responses in the conferencing context.

This paper is concerned with a particular type of social marginalization that has been hitherto overlooked in the Restorative Justice discourse—the oral language competence of young offenders. This is considered with respect to the research evidence on language skills in at-risk youth, the language processing and production demands of Restorative Justice conferencing, and the potential unintended consequences of Restorative Justice approaches in the context of hidden language impairment. A central thesis of this paper is that speech–language pathologists possess a specialized and privileged knowledge-base about oral language competence, but need to more assertively apply this knowledge by contributing to debate on emerging public policy issues such as Restorative Justice. As will be outlined below, such existing evidence shows that approximately 22% of young offenders in comparison to 5% of adolescents in the general population have language problems (Larson and McKinley 1995, Sanger *et al.* 2001), and in some studies, this estimate is as high as 52% (for example, Snow and Powell 2008).

What does the literature tell us about oral language competence and disadvantage in early life?

Snow (2009a: 102) defined oral language competence as:

The ability to engage successfully with a range of communication partners via the spoken word, in order to conduct a wide variety of personal, social, educational, commercial and professional relationships. Such engagement should be reciprocal at the level appropriate to the nature of the interpersonal relationship and should conform to a range of developmental, cultural, and socio-linguistic norms. Oral language competence also confers the ability to progress to reading and writing at an educationally and developmentally timely juncture, provided adequate and appropriate instruction is provided.

Oral language competence, therefore, refers to a range of everyday verbal skills, in both the receptive and expressive domains. Being able to engage flexibly and competently in a range of different types of discourse (conversation, narrative, procedural, expository) is central to negotiating the business of everyday life. Oral language competence is the means by which we form and maintain relationships, and make a variety of needs known—from enquiring about the availability of an item in a shop, to expressing an opinion in a discussion with friends, narrating a story to share one's own experiences with others, taking part in a job

interview, making a telephone enquiry, giving and receiving directions—the list is virtually infinite. In addition to supporting the transition to literacy, in the early–mid primary school years, oral language competence expands to accommodate the processing and use of various non-literal forms, such as humour, sarcasm, metaphor and local idiom (Paul 2006). Oral language competence also involves monitoring thinking (metacognition), and processing of both others' verbal and non-verbal communication for changes in affective state and/or signs that one's own message may have been misunderstood (social cognition). Additionally, it includes thinking in more intentional and abstract ways about language forms and word meanings (metalinguistics) (Westby 2004).

There is good evidence to show that young people with language problems are at high risk for displaying emotional and/or behaviour disturbance. However, the literature on mechanisms of comorbidity between language impairment and behavioural/emotional disturbance is complex. While high rates of comorbidity have been described between the two in both cross sectional studies (for example, Cohen *et al.* 1993, van Daal *et al.* 2007, Lindsay and Dockrell 2000, Lundervold *et al.* 2008, Mackie and Law 2010), and longitudinal study designs (for example, Beitchman *et al.* 1999, 2001, Lindsay *et al.* 2007) actual underlying mechanisms are difficult to elucidate, with both causal and correlative processes having been canvassed in the literature (for example, see Law and Plunkett 2009). In considering the possible etiological pathways at work, Beitchman *et al.* (2001) speculated that the role of language in social regulation, perspective taking, and mediating interpersonal exchanges with others may account for the adverse psychosocial outcomes in boys with developmental language problems. In a longitudinal follow-up of a group of language impaired children into early adulthood, Voci *et al.* (2006) showed that adolescents with a history of language impairment were at high-risk for social phobia. These workers suggested that young people with language impairments may become hypersensitive to negative feedback and may in effect be 'primed' to expect negative outcomes in interpersonal exchanges. Failure to consider this comorbidity between communication and behavioural disorders in young offenders may result in inadvertent negative outcomes from Restorative Justice conferences, such as further harm to victims who may feel that the young person's apology lacks authenticity.

Children who have been identified in their early years as having a language impairment are also at higher risk than their peers of social exclusion and bullying (Conti-Ramsden and Botting 2004, Fujiki *et al.* 2001) and a range of mental health problems, such as social anxiety and depression (Cohen 2002). Longitudinal

research suggests that language impairment in the developmental years may be associated with problematic substance use in early adulthood (Beitchman *et al.* 1999, 2001), and also with reduced social and emotional independence in adolescence (Conti-Ramsden and Durkin 2008). Of equal concern, are links between young children's expressive and receptive language abilities and teacher ratings of social competence (Botting and Conti-Ramsden 2000, Longoria *et al.* 2009), and the fact that children with language impairments have difficulty inferring speaker affective state during the comprehension process (Ford and Milosky 2008).

Notably, however, most studies deal with children whose language impairments have been detected, and more often than not, diagnosed as *specific* language impairment (SLI). As noted elsewhere, however (Snow 2009a), children who do not meet diagnostic criteria for SLI, but whose pervasive patterns of reduced oral language competence might be termed '*non-specific* language impairment' face a raft of disadvantages, the scale and scope of which are yet to be charted. Youth offenders exemplify 'non-specific language impairment', but have too often 'fallen between the cracks', rarely receiving adequate language services (Snow and Powell 2008). These young people are vulnerable to subtle and entrenched discrimination and marginalization across the life-span. Such young people will also be at a greater disadvantage than their non language-impaired peers when they come into contact with law enforcement and other government agencies, and as such, are a focus of this paper.

Both the quantity and quality of language to which children are exposed in early life reflect the social gradient on which their parents, by virtue of educational and occupational attainment, are located. Hart and Risley's (1995) work on children being reared in three different social strata according to parents' education/employment levels showed that by age 3, children of professional parents were hearing an average of 2153 words per hour, compared to the 616 words per hour being heard by children of parents on welfare benefits (with the children of working-class parents sitting in between these two extremes and hearing an average of 1251 words per hour). This means that children from more socially advantaged backgrounds were hearing 3.5 times more words per hour than were their welfare counterparts—an enormous 'headstart' with respect not only to vocabulary exposure, but also syntactic complexity (for example, sentence embedding) and, more broadly, parental attention, shared focus, and opportunities for emotional bonding. More recently, Locke *et al.* (2002) showed that nursery children reared in poverty performed well below expected levels on a range of measures of oral language

skill, in spite of comparable overall cognitive skills. These workers also found that socio-economic differences were particularly marked for boys, further emphasizing the cumulative risks associated with gender and social disadvantage. Hart and Risley (1995) observed that although other aspects of parenting are also important for the development of language, the amount of talking that goes on between child and parent 'may be most important for the language-based analytic and symbolic competencies upon which advanced education and a global economy depend. These competencies may become increasingly important as society separates into technological and service sectors' (pp. 192–193). Walker *et al.* (1994) showed that the language decrements noted in young children reared in socially disadvantaged environments persist into the school years, and manifest as compromised academic attainment.

Two Australian longitudinal studies of large birth cohorts (Bor *et al.* 2004, Smart *et al.* 2003) have reported that language difficulties in the early years increase the risk of antisocial behaviour at age 14. The authors of both studies have argued therefore that overcoming oral language deficits in the early years should be a focus of prevention and early intervention strategies aimed at reducing the prevalence of antisocial behaviour in the lives of young people. It is significant then, that large, population-based longitudinal prevention initiatives, such as the Pathways to Prevention Project in Australia (Homel *et al.* 2006) have had as a central focus, the promotion of strong oral language competence in young children, in an effort to reduce the occurrence of antisocial behaviour in later childhood/adolescence.

Adding further weight to concerns about links between language deficits and behaviour problems, the verbal skills of school-excluded boys (aged 8–16) were found by Ripley and Yuill (2005), to be significantly impaired in comparison to the skills of age-matched, non-excluded peers. Two findings of this study are particularly noteworthy: between-group differences were not accounted for by differences on measures of non-verbal IQ, and none of the excluded boys had previously been identified as language impaired. These findings have recently been confirmed by Clegg *et al.* (2009), who further commented on the 'hard to reach' nature of this group for research purposes. This reduces the likelihood that adequate sample sizes will be achieved and stands to perpetuate and further the disadvantage experienced by this already marginalized group.

Finally, there is now a small but significant body of international literature dealing with the oral language skills of youth offenders. In the United States, Sanger and co-workers have conducted a number of detailed analyses of the oral language skills of both male and female youth offenders, and have consistently reported

that around 20% performed in the clinical range on measures of both expressive and receptive language ability, but had not been previously identified as needing speech–language pathology services (Sanger *et al.* 1997, 2001a, 2001b). Interviews with young offenders with language problems revealed recurring themes of low self-efficacy with respect to oral language competence, for example, ‘I feel stupid when I don’t know a word in reading; I have trouble talking with authority figures; I don’t understand what I read; and I have trouble paying attention’ (Sanger *et al.* 2001). In the UK, Bryan and co-workers (Bryan 2004, Bryan *et al.* 2007) have also reported alarming rates of language impairment in young offenders—ranging between 66% and 90% (Bryan *et al.* 2007). In Australia, Snow and Powell (2004, 2005, 2008) have also described clear and robust patterns of language impairment in young male offenders. In their 2008 study, these workers found that over 50% of youths completing community based orders have a clinically significant (but again, previously undetected) oral language impairment. These workers found that deficits exist across the receptive and expressive domain, and particularly compromise the use and understanding of narrative and of non-literal language. Like Ripley and Yuill (2005), Snow and Powell (2008) found that non-verbal IQ did not differentiate the offending from the non-offending youths—hence the language problems cannot be ‘explained away’ as artefact of low IQ.

The rates of language impairment reported in these studies vary considerably, and a range of methodological factors probably account for this variability, for example, samples selected (community versus custodial), measures employed, and cut-off points for operationalizing language impairment. However, in all studies, the rates are alarmingly high, and a consistent feature is the previously *undetected* nature of the language impairment described. This raises a myriad of concerns with respect to the interactions that at-risk young people have with law enforcement and related welfare agencies. Those young people whose oral language deficits are *not* detected may be mistakenly labelled as unmotivated, rude, or lazy (Snow and Powell 2008), resulting in further alienation from mainstream values and opportunity. Too often, the consequences for young offenders of language problems are either not considered or are underestimated. For example, Sanger *et al.* (2001) showed that nearly one in five youths residing in a correctional facility had problems defining terms such as verify, priority, occupation, competent, caution, flammable, expiration date, and no vacancy. Knowledge of terms such as these is important not only for successful academic performance and everyday conversational interactions, but for the young person’s fair passage through the justice system.

Given the rise of Restorative Justice practices, what might these undetected oral language deficits mean in this context?

Restorative Justice conferences, are, by definition, *conversational* processes. The basic medium by which the business of a Restorative Justice conference is transacted is the verbal exchange between parties of information, experiences, and feelings. The following excerpts from Strang *et al.*’s (2006) description of Restorative Justice practices are of key relevance to concerns raised in this paper (emphasis added by the present authors).

- The purpose of the conference is to hold offenders accountable for their actions, *asking them to articulate* responsibility for their behavior, and *to agree to try to repair the harm* they have caused. The conference also provides an opportunity for the *victims to find out why* the crime occurred, *to ask questions of their offender*, and *to describe the full consequences* of what happened.
- Sitting with all participants in a circle, the facilitator . . . usually begins the conference by *asking the offender to talk about what happened at the time of the offense*.
- The facilitator then *invites the victim to talk* about the emotional and material effects of the offense.
- After the parties have *said all they want to say* about what happened and how they were affected, the facilitator’s task is to turn *discussion toward an outcome agreement* aimed at repairing the harm that has occurred.

Strang and Sherman (2009) observed that Restorative Justice conferences are often highly emotional encounters, with minimal involvement by the facilitator, and an ‘emphasis on direct, unmediated communication between those most affected by the crime’. In addition to these representative descriptors of Restorative Justice, the New South Wales Department of Corrective Services website (New South Wales Department of Corrective Services 2010) refers to the fact that it is important that all parties taking part in a Restorative Justice conference are ‘*able to say honestly what they think and feel throughout the process*’ (again, emphasis added). In this context, the word ‘able’ should be considered more widely than its connotation of opportunity, to also include *capacity*.

As may be seen from the examples above, the Restorative Justice conference is one that inherently and significantly taxes both expressive and receptive language skills. In the course of a Restorative Justice conference, the young offender is asked to listen to and comprehend sometimes complex, and emotionally charged narratives delivered by people who have been affected by their wrong-doing. It is to be expected that information processing skills will be particularly vulnerable in situations where Restorative Justice conferences are attended by large numbers, where stress levels are elevated for the offender, and/or where several people are

talking at once. In addition to the demands placed on working memory (storage and processing functions), meaningful participation in a Restorative Justice conference draws on a range of verbally mediated executive functions, such as response inhibition and planning, and formulation of a response. These tasks need to be undertaken in real time, while displaying appropriate non-verbal behaviour (physical proximity to other speakers, body position and posture, use of eye gaze, tone of voice, and facial expressions), and reading the affective state of others from their non-verbal behaviour. Social cognition (perspective taking, the ability to identify verbal and non-verbal cues about another's affective state and to infer intended, though unspoken meaning) has been shown to be impaired in a range of language impaired populations and to impact on competence in interacting with peers (for example, Botting and Conti-Ramsden 2000, Ford and Milosky 2008). Marton *et al.* (2005) studied the social cognition skills of children with SLI and found 'The reactions of these children reflected the tendency of often departing the scene without resolving the conflict or expecting a third person to solve the conflict in an attempt to avoid the negotiation process' (p. 155). In a Restorative Justice context, this could mean excessive deferral to the mediator for communicative assistance. Marton *et al.* also described a tendency of children with SLI to make inappropriate comments that belied a lack of understanding of the other person's perspective, and/or to revert to clichés. None of these behaviours will be facilitative in the Restorative Justice conference setting, and may simply serve to create an impression of shallowness, low credibility, and/or low empathy for the victim. Such outcomes would obviously be undesirable for victims, and may serve to stigmatize the young offender further. These young people may lack the skills necessary to interact appropriately during conversational interactions. More specifically, they may lack the skills in choosing vocabulary and organizing their thoughts in pragmatically appropriate ways (Sanger *et al.* 2000).

In addition to the processing demands of Restorative Justice conferences, the young offender needs to draw on a range of expressive language skills, including narrative discourse, to 'tell their story' in a plausible and sincere way to those affected by their wrong-doing. A number of studies have identified impaired narrative discourse in children with SLI (for example, Newman and McGregor 2006; Weatherell *et al.* 2007), and narrative competence has been shown to be both quantitatively and qualitatively compromised in adolescent male offenders (Snow and Powell 2005). Hedberg and Stoel-Gammon (1996) observed that individuals who lack adequate narrative discourse skills 'will have difficulty reconstructing their own experiences and sharing them with others' (p. 68). Vallance

et al. (1999) emphasized narrative discourse as the tool which enables speakers to both describe characters and events *and* explain reasons for actions. These workers observed that language difficulties may not become apparent until the speaker 'is required to respond to an unfamiliar topic or formulate answers to specific questions in extended discourse, especially when the answers are expected to be complete and fully explained' (p. 702). This of course, goes to the heart of what is likely to be asked of a young person in a Restorative Justice conference, and raises the possibility that in some instances, unidentified language impairment will impede a young person's otherwise sincere desire to oblige with goodwill in a Restorative Justice setting. Another factor that should be considered with respect to expressive language skills is the possible role played by script knowledge in masking an unidentified language impairment. Scripts are said to represent an individual's knowledge about everyday goal-oriented events which are so familiar and ritualized that their performance is stereotyped in terms of the temporal ordering of events, main characters and setting (Abbott *et al.* 1985, Nelson 1981). A young person with a reasonable grasp of everyday social scripts may cope adequately with the greetings and 'ground rules' stage of a Restorative Justice conference, but then struggle when the linguistic demands become more novel and complex.

Many high-risk young people have had deficient experiences of attachment and this can bode poorly for the development of empathy, and for the development of linguistic competence (Snow 2009b). An important cornerstone of empathy is the ability to form shared mental representations with others, and language provides an important scaffold by which such affective attunement occurs. *Alexithymia* (lack of words to describe emotions) has been described in a range of psychiatric problems, such as depression, substance abuse, post-traumatic stress, schizophrenia, autism/Asperger's syndrome, and borderline personality disorder (for reviews, see Moriguchi *et al.* 2007, and Vanheule *et al.* 2007). Because mental health problems are over-represented in the youth offender population (Barrett *et al.* 2006), it is important to consider the possibility that alexithymia is a further constraint on young offenders' ability to engage in a Restorative Justice conference—both in order to 'tune in' to another's affective state and to use appropriate words to describe their own. Vanheule *et al.* (2007) observed that 'alexithymic patients have a tendency towards social conformity and conflict avoidance, and they tend to approach others in an unempathic, cold, or detached way' (p. 110). These workers also noted that people with alexithymia tend to have chaotic interpersonal relationships. Recent functional magnetic resonance imaging data links alexithymia in adults with under-activation in the left dorsolateral

prefrontal cortex (Moriguchi *et al.* 2007), which is noteworthy given the role of this region in executive functions (Darby and Walsh 2005). Alexithymia, while not a psychiatric disorder in itself, may be a feature in the interpersonal style of young people who have been exposed to emotional trauma, and should be considered as a possibility in the language profiles of young people with social–emotional disturbances (Way *et al.* 2007). It should also be remembered that language impairments in themselves increase the risk of maltreatment in early childhood (Snow 2009b), irrespective of the presence of other risks for offending.

Conclusions and recommendations

Language deficits are invisible, so there is no way for those taking part in a Restorative Justice conference (the mediator and/or victim) to know that the young offender may be compromised in his/her ability to process what others are saying (and conveying non-verbally) and/or to express their own perspective and tell their story, and do so with a level of perceived genuineness that is commensurate with how they actually feel. As noted previously, young offenders who have undetected language impairments run the risk of appearing lazy, rude, or unmotivated, and this may be damaging in a Restorative Justice conference, for both the victim and the offender. Speech–language pathologists have an important role to play in advocating for those whose compromised language skills result in social disadvantage and marginalization. This is difficult enough in instances where the needs of one individual are concerned, and where a diagnosis has been made (for example, SLI). The evidence reviewed here suggests, however, that speech–language pathologists need to advocate at broad policy, population, and practice levels, to ensure that an innovative and otherwise promising intervention such as Restorative Justice does not have unintended consequences that go unrealized. Criminal Justice personnel need to be made aware of the significant possibility of undetected language impairment in youth offenders, and the ways in which this could result in inadvertent disadvantage in the justice system. Routine referral for speech–language pathology assessment of young people on entry to the justice system represents an opportunity to assess language functioning and make recommendations both about suitability for cross-examination, Restorative Justice conferencing, and for educational/vocational training. This in turn could reduce the already considerable social marginalization characterizing these young lives.

Given that Restorative Justice conferencing is now well-established in many parts of the world, there is a need for speech–language pathologists to engage in policy debate and research that investigates language

competence as a variable, both with respect to levels of engagement, and stakeholder satisfaction with the process. Rates of recidivism following Restorative Justice conferencing also need to be investigated as a function of language competence in the young offender. Speech–language pathologists have just as important a role to play in ensuring access to ‘natural justice’ as they do to ensuring that formal justice processes do not inadvertently discriminate against vulnerable young people who may already run the risk of remaining on the margins of mainstream society.

References

- ABBOTT, V., BLACK, J. B. and SMITH, E. E., 1985, The representation of scripts in memory. *Journal of Memory and Language*, **24**, 179–199.
- BARRETT, B., BYFORD, S., CHITSABESAN, P. and KENNING, C., 2006, Mental health provision for young offenders: service use and cost. *British Journal of Psychiatry*, **188**, 541–546.
- BEITCHMAN, J. H., DOUGLAS, L., WILSON, B., JOHNSON, C., YOUNG, A., ATKINSON, L., ESCOBAR, M. and TABACK, N., 1999, Adolescent substance use disorders: findings from a 14-year follow-up of speech/language impaired and control children. *Journal of Clinical Child Psychology*, **28**, 312–321.
- BEITCHMAN, J. H., WILSON, B., JOHNSON, C. J., ATKINSON, L., YOUNG, A., ADLAF, E., ESCOBAR, M. and DOUGLAS, L., 2001, Fourteen year follow-up of speech/language-impaired and control children: psychiatric outcome. *Journal of the American Academy of Child and Adolescent Psychiatry*, **40**, 75–82.
- BOR, W., MCGEE, T. R. and FAGAN, A. A., 2004, Early risk factors for adolescent antisocial behaviour: an Australian longitudinal study. *Australian and New Zealand Journal of Psychiatry*, **38**, 365–372.
- BOTTING, N. and CONTI-RAMSDEN, G., 2000, Social and behavioural difficulties in children with language impairment. *Child Language Teaching and Therapy*, **16**, 105–120.
- BRYAN, K., 2004, Preliminary study of the prevalence of speech and language difficulties in young offenders. *International Journal of Language and Communication Disorders*, **39**, 391–400.
- BRYAN, K., FREER, J. and FURLONG, C., 2007, Language and communication difficulties in juvenile offenders. *International Journal of Language and Communication Disorders*, **42**, 505–520.
- CAFFO, E., STRIK LEVERS, L. and FORRESI, B., 2006, Child abuse and neglect: a mental health perspective. In M. E. Garraida and M. Flament (eds), *Working with Children and Adolescents. An Evidence-Based Approach to Risk and Resilience* (Lanham, MD: Aronson), pp. 95–128.
- CASEY, B. J., JONES, R. M. and HARE, T. A., 2008, The adolescent brain. *Annals of the New York Academy of Science*, **1124**, 111–126.
- CLEGG, J., STACKHOUSE, J., FINCH, K., MURPHY, C. and NICHOLLS, S., 2009, Language abilities of secondary age pupils at risk of school exclusion: a preliminary report. *Child Language Teaching and Therapy*, **25**, 123–140.
- COFFEY, C., VEIT, F., WOLFE, R., CINI, E. and PATTON, G. C., 2003, Mortality in young offenders: retrospective cohort study. *British Medical Journal*, **326**, 1064–1068.
- COHEN, N., DAVINE, M., HORODEZKY, N., LIPSETT, L. and ISAACSON, L., 1993, Unsuspected language impairment in psychiatrically disturbed children: prevalence and language

- and behavioral characteristics. *Journal of the American Academy of Adolescent Psychiatry*, **32**, 595–603.
- COHEN, N. J., 2002, *Language Impairment and Psychopathology in Infants, Children and Adolescents* (Thousand Oaks, CA: Sage).
- CONTI-RAMSDEN, G. and BOTTING, N., 2004, Social difficulties and victimization in children with SLI at 11 years of age. *Journal of Speech, Language and Hearing Research*, **47**, 145–161.
- CONTI-RAMSDEN, G. and DURKIN, K., 2008, Language and independence in adolescents with and without a history of specific language impairment (SLI). *Journal of Speech, Language and Hearing Research*, **51**, 70–83.
- DARBY, D. and WALSH, K. W., 2005, *Walsh's Neuropsychology. A Clinical Approach*, 5th edn (Edinburgh: Elsevier).
- FERNBACHER, S., GOODYEAR, M. and FARHALL, J., 2009, Taking a closer look: a cross-sector audit of families where a parent has a mental illness. *Journal for the Advancement of Mental Health*, **8** (3) (available at <http://www.auseinet.com/journal/vol8iss3/fernbacherpdf>).
- FORD, J. A. and MILOSKY, L. M., 2008, Inference generation during discourse and its relation to social competence: an online investigation of abilities of children with and without language impairment. *Journal of Speech, Language, and Hearing Research*, **51**, 367–380.
- FUJIKI, M., BRINTON, B., ISAACSON, T. and SUMMERS, C., 2001, Social behaviors of children with language impairment on the playground. *Language, Speech, and Hearing Services in Schools*, **32**, 101–113.
- HART, B. and RISLEY, T., 1995, *Meaningful Differences in Everyday Parenting and Intellectual Development in Young American Children* (Baltimore, MD: Brookes).
- HARTSHORNE, M., 2006, *The Cost to the Nation of Children's Poor Communication*. I CAN Talk series—issue 2 (London: I Can).
- HEDBERG, N. L. and STOEL-GAMMON, C., 1996, Narrative analyses: clinical procedures. *Topics in Language Disorders*, **7**, 58–69.
- HOMEL, R., FREIBERG, K., LAMB, C., LEECH, M., CARR, A., HAMPSHIRE, A., HAY, I., ELIAS, G., MANNING, M., TEAGUE, R. and BATCHELOR, S., 2006, *The Pathways to Prevention Project: The First Five Years 1999–2004* (Sydney: Mission Australia and the Key Centre for Ethics, Law, Justice & Governance, Griffith University).
- LARSON, V. L. and MCKINLEY, N., 1995, *Language Disorders in Older Students* (Eau Claire, WI: Thinking Publ).
- LAW, J. and PLUNKETT, C., 2009, The interaction between behaviour and speech and language difficulties: does intervention for one affect outcomes in the other? Technical Report. In *Research Evidence in Education Library* (London: EPPI-Centre, Social Science Research Unit, Institute of Education, University of London).
- LAW, J., RUSH, R., SCHOON, I. and PARSONS, S., 2009, Modeling developmental language difficulties from school entry into adulthood: literacy, mental health, and employment outcomes. *Journal of Speech, Language and Hearing Research*, **52**, 1401–1416.
- LINDSAY, G. and DOCKRELL, J. E., 2000, The behaviour and self-esteem of children with specific speech and language difficulties. *British Journal of Educational Psychology*, **70**, 583–601.
- LINDSAY, G., DOCKRELL, J. E. and STRAND, S., 2007, Longitudinal patterns of behaviour problems in children with specific speech and language difficulties: child and contextual factors. *British Journal of Educational Psychology*, **77**, 811–828.
- LOCKE, A., GINSBORG, J. and PETERS, I., 2002, Development and disadvantage: implications for the early years and beyond. *International Journal of Language and Communication Disorders*, **37**, 3–15.
- LONGORIA, A. Q., PAGE, M. C., HUBBS-TAIT, L. and KENNISON, S. M., 2009, Relationship between kindergarten children's language ability and social competence. *Early Childhood Development and Care*, **179**, 919–929.
- LUNDERVOLD, A. J., HEIMANN, M. and MANGER, T., 2008, Behaviour–emotional characteristics of primary-school children rated as having language problems. *British Journal of Educational Psychology*, **78**, 567–580.
- MACKIE, L. and LAW, J., 2010, Pragmatic language and the child with emotional/behavioural difficulties (EBD): a pilot study exploring the interaction between behaviour and communication disability. *International Journal of Language and Communication Disorders*, **45**(4), 397–410.
- MARTON, K., ABRAMOFF, B. and ROSENZWEIG, S., 2005, Social cognition and language in children with specific language impairment (SLI). *Journal of Communication Disorders*, **38**, 143–162.
- MCCOLD, P. and WACHTEL, T., 1998, *Restorative Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project* (Pipersville, PA: Pipers).
- MCCOLD, P. and WACHTEL, T., 2003, In pursuit of paradigm: a theory of Restorative Justice. Paper presented at the 13th World Congress of Criminology, International Institute for Restorative Practices, Rio de Janeiro, Brazil, 10–15 August 2003 (available at: <http://www.realjustice.org/library/paradigm.html>) (accessed on 5 January 2010).
- MORIGUCHI, Y., DECETY, J., OHNISHI, T., MAEDA, M., MORI, T., NEMOTO, K., MATSUDA, H. and KOMAKI, G., 2007, Empathy and judging other's pain: an fMRI study of alexithymia. *Cerebral Cortex*, **17**, 2223–2234.
- NELSON, K., 1981, Social cognition in a script framework. In J. H. Flavell and L. Ross (eds), *Social Cognitive Development. Frontiers and Possible Futures* (New York, NY: Cambridge University Press), pp. 97–118.
- NEW SOUTH WALES DEPARTMENT OF CORRECTIVE SERVICES, 2010, *What is Restorative Justice?* (Sydney: New South Wales Department of Corrective Services) (available at: http://www.dcs.nsw.gov.au/offender_management/Restorative_Justice/what_is_restorative_justice.asp) (accessed on 11 January 2010).
- NEWMAN, R. M. and MCGREGOR, K. K., 2006, Teachers and laypersons discern quality differences between narratives produced by children with or without SLI. *Journal of Speech, Language, and Hearing Research*, **49**, 1022–1036.
- O'CONNOR, T. G. and SCOTT, S. B. C., 2006, Promoting children's adjustment: parenting research from the perspective of risk and protection. In M. E. Garralda and M. Flament (eds), *Working with Children and Adolescents. An Evidence-Based Approach to Risk and Resilience* (Lanham, MD: Aronson), pp. 67–93.
- PAUL, R., 2006, *Language Disorders from Infancy Through Adolescence: Assessment and Intervention* (St Louis, MO: Mosby Elsevier Science).
- PUTNINS, A. L., 1999, Literacy, numeracy and non-verbal reasoning skills of South Australian young offenders. *Australian Journal of Education*, **43**, 157–171.
- RIPLEY, K. and YUILL, N., 2005, Patterns of language impairment and behaviour in boys excluded from school. *British Journal of Psychology*, **75**, 37–50.
- ROCHE, D., 2006, Dimension of Restorative Justice. *Journal of Social Issues*, **62**, 217–238.

- ROMEO, R., KNAPP, M. and SCOTT, S., 2006, Economic cost of severe antisocial behaviour in children—and who pays for it. *British Journal of Psychiatry*, **188**, 547–553.
- RYAN, E. P. and REDDING, R. E., 2004, A review of mood disorders among juvenile offenders. *Psychiatric Services*, **55**, 1397–1407.
- SANGER, D., CRESWELL, J. W., DWORAK, J. and SCHULTZ, L., 2001a, Cultural analysis of communication behaviors among juveniles in a correctional facility. *Journal of Communication Disorders*, **33**, 31–57.
- SANGER, D., MOORE-BROWN, B. and ALT, E., 2000, Advancing the discussion on communication and violence. *Communication Disorders Quarterly*, **22**, 43–48.
- SANGER, D. D., HUX, K. and BELAU, D., 1997, Oral language skills of female juvenile delinquents. *American Journal of Speech–Language Pathology*, **6**, 70–76.
- SANGER, D. D., MOORE-BROWN, B., MAGNUSSON, B. and SVOBODA, N., 2001b, Prevalence of language problems among adolescent delinquents: a closer look. *Communication Disorders Quarterly*, **23**, 17–26.
- SHERMAN, L. W. and STRANG, H., 2007, *Restorative Justice: The Evidence* (London: Smith Institute).
- SMART, D., VASSALLO, S., SANSON, A., RICHARDSON, N., DUSSUYER, I., MCKENDRY, W., DUSSUYER, I., TOUMBOUROU, J., PRIOR, M. and OBERKLAID, F., 2003, *Patterns and Precursors of Adolescent Antisocial Behaviour. Types, Resiliency and Environmental Influences* (Melbourne: Australian Institute of Family Studies).
- SNOW, P. C., 2009a, Oral language competence and equity of access to education and health. In K. Bryan (ed.), *Communication in Healthcare. Interdisciplinary Communication Studies*, Vol. 1 (Bern: Peter Lang), pp. 101–134.
- SNOW, P. C., 2009b, Child maltreatment, mental health and oral language competence: inviting speech–language pathology to the prevention table. *International Journal of Speech Language Pathology*, **11**, 95–103.
- SNOW, P. C. and POWELL, M. B., 2004, Developmental language disorders and adolescent risk: a public-health advocacy role for speech pathologists? *International Journal of Speech Language Pathology*, **6**, 221–229.
- SNOW, P. C. and POWELL, M. B., 2005, What's the story? An exploration of narrative language abilities in male juvenile offenders. *Psychology, Crime and Law*, **11**, 239–253.
- SNOW, P. C. and POWELL, M. B., 2008, Oral language competence, social skills, and high risk boys: what are juvenile offenders trying to tell us? *Children and Society*, **22**, 16–28.
- SNOWLING, M. J., ADAMS, J. W., BOWYER-CRANE, C. and TOBIN, V., 2000, Levels of literacy among juvenile offenders: the incidence of specific reading disabilities. *Criminal Behaviour and Mental Health*, **10**, 229–241.
- STEPHENSON, M., 2007, *Young People and Offending. Education, Youth Justice, and Social Inclusion* (Devon: Willan).
- STEWART, A., LIVINGSTON, M. and DENNISON, S., 2008, Transitions and turning points: examining the links between child maltreatment and juvenile offending. *Child Abuse and Neglect*, **32**, 51–66.
- STRANG, H., 2001, *Restorative Justice Programs in Australia: A Report to the Criminology Research Council* (Canberra, ACT: Australian Institute of Criminology).
- STRANG, H. and BRAITHWAITE, J., 2002, *Restorative Justice and Family Violence* (New York, NY: Cambridge University Press).
- STRANG, H. and SHERMAN, L., 2009, Effects of face-to-face Restorative Justice conferencing on crime and victim outcomes. A Campbell collaboration review. Paper presented at the 9th Annual Campbell Collaboration Colloquium, Oslo, Norway, 18–20 May 2009.
- STRANG, H., SHERMAN, L., ANGEL, C. M., WOODS, D. J., BENNETT, S., NEWBURY-BIRCH, D. and INKPEN, N., 2006, Victim evaluations of face-to-face Restorative Justice conferences: a quasi-experimental analysis. *Journal of Social Issues*, **62**, 281–306.
- VALLANCE, D. D., IM, N. and COHEN, N. J., 1999, Discourse deficits associated with psychiatric disorders and with language impairments in children. *Journal of Child Psychology and Psychiatry*, **40**, 693–704.
- VAN DAAL, J., VERHOEVEN, L. and BALKOM, H., 2007, Behaviour problems in children with language impairment. *Journal of Child Psychology and Psychiatry*, **48**, 1139–1147.
- VANHEULE, S., DESMET, M., MEGANCK, R. and BOGAERTS, S., 2007, Alexithymia and interpersonal problems. *Journal of Clinical Psychology*, **63**, 109–117.
- VOCI, S. C., BEITCHMAN, J. H., BROWNLIE, E. B. and WILSON, B., 2006, Social anxiety in late adolescence: the importance of early childhood language impairment. *Anxiety Disorders*, **20**, 915–930.
- WALKER, D., GREENWOOD, C., HART, B. and CARTA, J., 1994, Prediction of school outcomes based on early language production and socioeconomic factors. *Child Development*, **65**, 606–621.
- WAY, I., YELSMA, P., VAN METER, A. M. and BLACK-POND, C., 2007, Understanding alexithymia and language skills in children: implications for assessment and intervention. *Language, Speech and Hearing Services in Schools*, **38**, 128–139.
- WEATHERELL, D., BOTTING, N. and CONTI-RAMSDEN, G., 2007, Narrative skills in adolescents with a history of SLI in relation to non-verbal IQ scores. *Child Language Therapy and Teaching*, **23**, 95–113.
- WESTBY, C., 2004, A language perspective on executive functioning, metacognition and self-regulation in reading. In C. A. Stone, E. R. Silliman, B. J. Ehren and K. Apel (eds), *Handbook of Language and Literacy: Development and Disorders* (New York, NY: Guilford), pp. 398–430.
- WILLIAMS, B., 2004, Restorative Justice and incarcerated young offenders. *Youth Justice*, **4**, 191–203.