

Robin Layton ([00:00](#)):

Good morning and welcome everyone. And isn't it good to have a bit of silence? Hello, my name's Robin Layton and I'll be chairing the session today. And first of all, I'd like to acknowledge that we meeting on the lands of the Ghana people and we pay our respects to their culture and heritage, which is just as important to them today, as it has always been. And we pay our respects to elders past, present, and future, and also recognise other Aboriginal communities within the area of generally of Adelaide. So just before I introduce our wonderful speaker, I have to do some housekeeping. So the housekeeping is of course, please make sure your mobile phone is in the off position. I don't have to announce where the toilets are. That's rather interesting. Maybe they don't have any. No, I, so for those of you that wanted tweet hashtag and Instagram the tweet handle is capital a D L and then FOI capitals. And the hashtag is hashtag capital a D capital I F O I and the Instagram is at ADL FOI or lower case, or hashtag ADI F O L. Did you get on? Good.

Robin Layton ([01:32](#)):

The other thing is not to take any recordings yourselves because radio Adelaide is doing a recording of this particular event. And just to outline what we're you can expect today. So after we hear from Rick, there'll be about 10 minutes time for questions and answers, and you can ask your questions at the back of the room. There's a microphone there. And if you could please ask questions rather than give statements and try and keep them short so that we can ensure that everybody has an opportunity. So now I'd like to introduce our terrific speaker today, who is professor Rick Sarre. Rick Sarre has an enviable reputation in the criminal justice area. He's a professor at the law school at UNSA. And in fact, we have colleagues down there at the moment and he has been in criminology for more than 30 years. And juvenile justice is one of his areas. And he's taught also in the USA and in Sweden, is it yes, very close aren't they, especially at the moment. So he has a very good reputation and he is talking today about restorative justice. And that's been around for some 20 years now, but some people still don't understand what it means, how it can be implemented, whether it's been implemented properly and what its future might be. So I hand over now to Rick to talk on this topic and keep us all informed. So thank you, Rick.

Speaker 2 ([03:17](#)):

[Inaudible].

Rick Sarre ([03:17](#)):

Thank you, Robin. And it's delight to be here this morning, got a gorgeous morning in terms of the sun shining and to have such a lovely crowd. I really appreciate that. Thanks for getting up on a Saturday morning and coming into the city, I've got about 25 minutes to present some ideas for you on this lovely little slide show. The slide show in fact is basically my prompt as well. So I'll be looking down and reading bits and pieces. And as Robin said, after that, I'll sit up there with her and we'll have a little dialogue and take some questions I'm keen to evoke those. So I'm watching the clock up the back there, I'll be finishing it right on half past 10, and then we can have some discussion around this really important topic. Okay. Restorative justice, what's the score card, and I'm going to hit this little button and I'm sure everything will happen.

Rick Sarre ([04:03](#)):

There we go. Right. Does it work in asking that question? There are two key words in that, what's it and what's work. So essentially half of my talk is about the it, and half of my talk is about the work. This is a

definition that was, is probably one of the most famous definitions from Tony Marshall. It goes back 17 or 18 years, a process whereby parties with a stake in a specific offense. Collectedly resolve how to deal with the aftermath of the offense and its implications for the future. It's a bit of a mouthful, but that gives us some idea about the topic that we are moving into. Something has happened, and we need to respond to it in a way, which is affirmative. I gave my own definition in a piece that I wrote some years ago when I talked about restorative justice as a paradigm of possibility.

Rick Sarre ([04:52](#)):

And I said, any justice mechanism that has the aim of repairing the harm caused by crime. So the crime is less likely to happen again. And that little prompt for me is given an example from the high rise, I borrow this from a chap called John Freeman. I'd heard speak on this subject some 20 years ago. And the idea was first being floated around here about the time the young offenders act and the youth court act were being amended 20 years ago to incorporate what's called family conferencing. John Freeman spoke of a story that he knew in England in a high rise. And there were two men and they were both about the same age, both single, both living in a high rise, both sort of unemployed and drifting in and out of casual employment and both antagonistic and both sick, the death of each other, the music, the rubbish, the noise, the late night drinking, et cetera.

Rick Sarre ([05:42](#)):

And one day they both met on the landing that joined their two flats in a high rise like this. One of them go to the other, just one second, too far, where upon the Godi picked up something, a block of water or rubber something rather, or a mallet and whack the other guy over the head causing him a serious injury. The police were called the assailant was arrested because he had a couple of priors. He spent three months behind bars. He came out of jail three months later and went back to live in the same apartment with the same night bath. Now what restorative justice is saying that just absurd. That is just a recipe for the same thing to happen again and potentially for it to go in the other direction. So that's the space where in let's have a quick look at the one, then the other, the traditional model of justice.

Rick Sarre ([06:33](#)):

This is the way in which it usually always works. And as you know, Robin was a judge for many years. She'd be very familiar sitting in the criminal courts. This was the way in which it unfolded crime is a violation of the rules. The state comes along the DPP or the police, depending on which jurisdiction you're in, they prosecute, you blame the perpetrator you find, or they plead guilty. They're punished, they served their sentence and back they come standard fair. That's the way in which we operate. Now, the idea is that restorative justice comes in and says, well, I wonder whether we can do that a little bit differently. Look at these four little tabs here. The offender recognizes the consequences of offending and takes responsibility is a chance for the offender to repair the injuries. There's a chance for the parties to be reconciled if that's possible.

Rick Sarre ([07:25](#)):

And the formal processes tend to take a back seat, let me make it abundantly clear. Restorative justice is not about a revolutionary, completely pushing one out and replacing it with something else that would never work. If it were to work, it would take us probably a hundred years to implement and bring people on the side. It is simply a way of, in some circumstances, changing the dialogue. If you look at that first line there, crime is a conflict between individuals, secondarily it's law breaking. So it's looking to see how better we can come out of a law breaking episode. So the parties can be reconciled the heading there's

interesting, by the way, it says restorative brackets relational. When I was first in this space in the late nineties, when I was teaching in the U S by the way I came across restorative justice, Americans were talking about it and the Brits were coming to the conferences and the Brits were calling it relational justice.

Rick Sarre ([08:23](#)):

I actually prefer the term relational justice, because it's about relationships. The criticism of restorative justice is it's designed to restore people to the place they were at before the offending occurred. Well, a lot of offenders have never been in that place. They can't be restored back to something that we're never in a, with apologies to the Americans in the room. If there are any, there were more Americans dealing in this space than bricks. So the Americans, one of the terminology, but I had my druthers. I'd call it relational justice. It's the same thing in such a mechanism or restorative mechanism. You'd normally have these three things paramount in your thinking direct involvement by victims. That's the crucial thing. It's one of the reasons why the more conservative voices in justice, rather like it, that it's victim folk, sorry, speak words. It's victims process focused. And in contact with offenders, we can call that process oriented.

Rick Sarre ([09:19](#)):

And the second one compensation, either the financial or in some other way for the emotional and material losses of the victim. So it's victim orientated and then reintegration of the offender into the community, if that's possible. So a good outcome. So there's the three dimensions that typically have to be within any mechanism that we're exploring. Now, remember then it's not a type of justice. It's not a wholesale revision of the justice process. It's any number of mechanisms that incorporate that mindset. And I'm going to list a bunch of them here to you, and then focus on a couple of them. The police have often said that what they do with cautioning and you know, how cautioning works and offense might've been committed, but the police say, well, it was of such a minor thing. It wouldn't be bad idea. If I just spoke to the parents in those circumstances, we'll just more or less deal with this one informally.

Rick Sarre ([10:14](#)):

And of course, diversionary tactics, police divert so many, so many offenses, get them out of the justice system. Anyone who's worked in juvenile justice would know that one of the best predictors of a young person going into the adult courts and adult life of crime is that whether or not they would draw deeply into the justice system. So police often say that what they are doing with cautions and diversions is restorative. Family conferencing is the big one. That's the one that most people think of the family conference. I'll talk about a bit later is where instead of a young person typically, but it can be, it can apply to older people as well. Instead of them going to court, they're taken off to another conference in a room I'm told by people who've been monitoring it now for 20 years that typically victims turn up at about 50% of occasions.

Rick Sarre ([11:02](#)):

And over the next hour or two with a facilitator, sometimes with police, they go through what it is about the offending. The young offender takes responsibility for his or her actions. They express their remorse and remorse and regrets and apologies. And then they work through what needs to happen. Thereafter. A very strong emphasis in the young offenders act in the youth court act from 20 years ago, we're going to focus on that. A bit later, victim offender, mediation has been less successful or sometimes victims do want to meet with offenders. Sometimes offenders do want to meet with those victims. And there are

mediation services where that occurs circle sentencing is one doesn't happen so much here in Australia, but very, very common in north America and Canada, where typically indigenous communities will be asked to sit around indeed in a circle and work out what consequences particular offending need to lead to prison.

Rick Sarre ([11:54](#)):

Ministries are very strong, typically around here in south Australia, focused on by Catholics uniting church. And they'll have a lot of type of forgiveness type ministries in prison. Again, I'm not talking about that today. That's another subject, but they would claim that their work and I agree is, is restorative school-based conflict resolution classes which people in Thailand has called it more prevention than response, but I'm happy to put it into that particular dot point. And the last one I'm putting the parenthesis here and also in italics because it relates to the work that John Braithwaite does, which is quite extraordinary, where he uses these techniques of restorative justice to look at conflicts between countries and conflicts within countries. Again, I won't go down that particular path today that is taking a small idea and putting it into the world stage. It's quite astonishing. And if you're interested at all, all you've got to do is Google John Braithwaite, international peacemaking, international restorative justice, and transitional justice.

Rick Sarre ([12:53](#)):

And you'll see lots of resources. So where did this come from? I'm about halfway now about a third of the way through. If I speed up, I'm halfway through, where did it come from? It's rather contested. In fact, a lot of indigenous communities sometimes say, well, we've had thousands of years of this kind of shaming. And they inter reintegration go back four or 5,000 years to Leviticus. And you can read about the Jews having tissue out, which means turning around the Yom Kippur, the Jubilee principle, et cetera, saying this idea of redemption shaming, taking responsibility and moving on is not something new. The Christian traditions of forgiveness and repentance then came in to inform the Mennonites who formed in the United States. The Mennonite conciliation service back in the 1970s followed shortly thereafter by what was called VoIP, the victim offender reconciliation project in Canada to a mainly looking at victim offender mediation as was the Mennonite conciliation service.

Rick Sarre ([13:55](#)):

So I'm not going to pretend that I can tell you the answer about where it came from. It is multifaceted and it's contested. It's a debate for another day. So that's what it is. The question for us in the next 17 minutes is, does it work? Okay? We will research into this sort of field. If you're talking about some sort of social intervention and a particular outcome, particularly looking at criminal justice matters is never easy. There are a lot of desired outcomes. Someone says, well, I'm doing this and we're going to do this. And this is the outcome, and this is the outcome. But how do you judge that success? These are very difficult things to test. Let's have a look at some of the things that people think we could be testing. And some of the things we think that restorative justice should be solving, does it lead to less crime?

Rick Sarre ([14:47](#)):

What about lower rates of recidivism recidivism re-offending? So does a person stop re-offending or slow down? Does it lead to greater victim satisfaction? What about greater confidence in the way in which police are handling matters? What about greater process efficiency? Getting people through the system quickly and dealing with matters. And finally, is there not a safer correctional environment, the prison ministries people often say that that level of redemption and forgiveness within prison

environments make the prisoners they deal with less agitated. So that's a difficult thing because restorative justice is unlikely to change all of the things that we could safely say contribute in some way to antisocial behavior like economic disadvantage, high rates of unemployment, familial dysfunction, historical and contemporary, indigenous disadvantage, poor police relationships, higher rates of mental illness, particularly what we see in police detainees and drug and alcohol abuse. You can't take one intervention, restorative justice and say, we're going to reduce crime when all these other factors are in that space.

Rick Sarre ([15:52](#)):

It's a very difficult ask. So anyone, I want a test, this is going to be giving themselves a very difficult task. So how do you know, in fact that the restorative justice intervention that we've talking about, the family conferencing, the police diversions, the mediation services. How do we know that that was the intervention? If there are fewer offenses, if there is less recidivism, how do we know that was the key? It's really only one way of doing that. And you do some evaluations. Now, the main evaluations, as I said in this particular space are a family conferencing, family conferencing, typically involving young people. We have them here. We've had them here for more than 20 years in south Australia, where instead of going to court, a young person is directed to a conference where they sit around. Now I'm watching the time and recognizing that I really only have yeah, about 14 minutes, but I'm going to you.

Rick Sarre ([16:44](#)):

In fact, I'm going to put it on the screen. Those of you who don't have very good eyesight, but distances can simply close your eyes. And listen, as I read it, this is a lovely piece by John Braithwaite written back about 20 years ago in 1996, that was published in Canada. And it's a slightly hypothetical, but based upon a true story, John was titillating it a little bit to make it a little bit more relevant about Sam, the robber. And in this long piece, he's describing the way in which this family group conference unfolds. There's Sam he's pleaded guilty. He hasn't gone to court instead. He's been referred to a conference, sitting in the room. He's got his support, or he's got his uncle George. He's got his sister. There's a police officer. There's a facilitator. There's the victim. There's the victim's mother.

Rick Sarre ([17:30](#)):

And some other support people all sitting around in a circle, we'll try to resolve from this robbery, some better outcome. These are the last two paragraphs that so that John Braithwaite writes. And I think you'll find them rather moving and not overstated. Here we go. It is his. So we're near the end, the conference. It's his sister's love that penetrates. Sam's callous exterior from then on he's emotionally engaged with the conference. He says, he's sorry about what the victim has lost. He would like to pay it back, but has no money or job. He has shows the victim. He's not stalking her. She readily accepts this now. And when questioned by the facilitator says, now she thinks she will feel safe, walking out alone. She wants her money back, but says it'll help her. If they can talk about what to do to help Sam find a job and a home Sam's sister says he can come and live in her house for a while, the hockey coach says he's got some casual work that needs to be done enough to pay Sam's debt to the victim.

Rick Sarre ([18:25](#)):

And a bit more. If Sam does get a job, he'll write him a reference replications for permanent jobs. When the conference breaks up, the victim hugs, Sam and tearfully wishes him. Good luck. He apologizes again. Uncle George quietly slips a hundred dollars to Sam sister to the fray. The extra cost of having Sam in the house says he will be there for both of them. If they need him. Sam has a Rocky life

punctuated by several periods of unemployment. A year later, he has to go through another conference after he steals a bicycle, but he finds work when he can mostly stays out of trouble and lives to mourn at the funerals of uncle George and his sister, the victim gets her money back and enjoys taking long walks alone. But she and her daughters say they feel enriched as a result of the conference and have a little more grace in their lives.

Rick Sarre ([19:12](#)):

So that's kind of John Braithwaites summary of of a successful conference, more or less successful because he didn't stay out of trouble completely. His life was still very Rocky, but the victim felt some degree of satisfaction. Now we can look at some evaluations in the next 11 minutes. These evaluations begin with the one and only randomized trial. Why is a randomized trial useful? Because it tends to eliminate all the rogue variables. Now this little slide I have up there, cause the left-hand side patients, I couldn't find one that talked about offenders, but to get the idea, you take a bunch of people. You randomly put them into a treatment group. You randomly put another half into a control group and then test them against the restorative justice or going to court and see what happens at the end. And they did this a very highly financed.

Rick Sarre ([20:00](#)):

I should say, this is not easy. And a team that had to go through ethics. I mentioned the ethics of, of, of putting one person to court conference court conference as they came through the door. So they finally got it organized. It took them five years to do. And they called up the reintegrate of shaming experiment of Canberra. And so they had placement and tracking for the following. Reoffenders over a number of years through a number of juvenile courts and indeed adult courts involving a large number of offenders, property theft, property theft stores, and personal drink driving for the under thirties and offenses involving violence. So then they tested it against reducing offending in the first two years after arrest now, recidivism definitions vary wildly. This was their recidivism definition. Do they? Re-Offend in the first two years after arrest juvenile property theft from stores, no difference between the two groups, juvenile property theft, personal, no difference between the two groups drink driving recidivism slightly higher for the conference based ones.

Rick Sarre ([21:03](#)):

So we didn't go to court. You were more likely to drink drive again. How bizarre was that? But look at this next one. And here's the crucial one violent offenders who participated in conferences had about 50% less re-offending than those who went to court. So indeed you can see in a bit of a snapshot there that may be so offenses are crucial to this process. This was a randomized yeah. A study. It's the only randomized study in Australia that I know of. And I would know of it if I'd heard of another one, because these are very difficult to do very expensive and and, and, and and, and ethically charged. So we can't go to any more randomized scorecards. We can, however, go to some qualitative and process evaluations by qualitative, we interview a whole bunch of people about their experience.

Rick Sarre ([21:50](#)):

Did it work for you? And I'm going to give you two or three studies that have been done. The first one by Kathy Daley and Hennessy Hayes here in south Australia, going back 15 or so years, the juvenile justice study concluded. There are two variables, which if present appear to make a difference to recidivism rights and victim satisfaction, that is genuine remorse of the offender who typically has to plead guilty and a genuine consensus in a conference in fashioning and appropriate outcome. If you don't have buy-



in, you don't get the outcome. So Kathy and Hennessy was saying that the conferences they observed the period of the qualitative study and the people I interviewed said yes, on balance, they were good. They were better than not doing it for the reasons of seeing the remotes of the offender, getting a consensus and perhaps having a way of reducing recidivism rights as well.

Rick Sarre ([22:42](#)):

Same question in new south Wales, this time, the bureau of crime stats and research in 2002, they reached three conclusions, which are put up on the screen here. The proportion of juveniles, who re-offend is about 28% lower. If you go to a conference than go to court. So a good outcome, the number of reappearances in court is about 24% lower. If you're referred to a conference, a good outcome. And thirdly, there are reductions of 15 to 20% in re-offending across different offense types, regardless of the gender criminal history, age and Aboriginality of the offenders. So a very good score card, but because it wasn't randomized, you always have a little difficulty in saying, well, how do we know that people referred to these conferences weren't going to succeed anyway. And that's always been a little bit of a difficulty for doing qualitative work. As I said, the one randomized study gave us a really mixed outcome as well.

Rick Sarre ([23:35](#)):

You're getting the picture from me. I think that this is not a scorecard, which is easy to pick up on adult conferencing. Pilot was run here in south Australia back in 2005 that's 10 years ago by three academics from Flinders, Andrew Goldsmith, mark Halsy and David Bamford. And it was a pilot because the court's a little bit nervous about having conferencing for non juveniles. So going into the adult courts and they ran a pilot there, it doesn't, it doesn't exist anymore. It was after all only a pilot, this is what they concluded victim strongly endorsed the process. Most offenders, at least accepted its value and appropriateness for victims. And in many cases it's value for them. And the small group of stakeholders who would have been the the support networks around both of those people were in favor of processes of this kind.

Rick Sarre ([24:22](#)):

So the, the, there was no attempt to suggest recidivism rights after all. It was just simply the saying, does it work? And I don't know whether Robin was in the courts and never had any of these conferencing outcomes come back to her court. But often sentences since it's servers will say, well, I'm prepared to accept the fact that someone is prohibited by the conference free of charge and get me the results. I'm happy to incorporate that into my sentencing remarks. And that's occurred from time to time. I see Peter Norman here as well from the Supreme court. He might want to comment on that a bit later. So nothing about recidivism, nothing about outcomes in relation to less crime, but certainly some good outcomes about the process. Sentencing circles have been attempted in new south Wales, in indigenous groups, but the box, our report, again, not particularly good, no difference was found between Aboriginal circle sentencing and a match control group of Aboriginal offenders who weren't so sentenced regarding recidivism or the seriousness of the next offense.

Rick Sarre ([25:19](#)):

However, once again, process, here's what they concluded. Giving Aboriginal elders direct involvement in the sentencing of Aboriginal offenders, encourages offenders to critically reflect the, their behavior and be given opportunities to address the factors that get them involved in crime, particularly drug and alcohol abuse. So once again, a good process outcome, but not a particularly good outcome outcome. If

what you're looking for is less crime and lower recidivism rates. And here's the final slide. I'm going to show you by way of evaluation. I've got five minutes to go. This was a matter analysis. Those, if you're not familiar with that term, it simply means someone has gone back and not done their own work, but looked at all of the material that's emerging out of the literature of the hundreds of evaluations. Now there'd be dozens of evaluations in Australia. There are dozens of evaluations over the last 25 years in New Zealand, where this is very, very popular and literally hundreds of evaluations in north America.

Rick Sarre ([26:19](#)):

This matter analysis wasn't necessarily looking at north American situations, which are dramatically different to ours. I would just I'd venture to say, but this meta analysis was looking at Australia, New Zealand data to try and pull down what I'm doing this morning. This is a night of 2014. The question does it work. I says, Jackie Lassen is asked of all interventions in the criminal justice field and is most often answered by assessing the impact on re-offending. I think that's caused a very narrow way of looking at it, given all the good process stuff that emerges. And on this point, it says, Jackie Lawson, the evidence for restorative justice remains mixed where we actually, we seen that this morning, good and bad. However, the literature she says is replete with reports of high levels of victim satisfaction and feelings that the process is fair. Further research conducted to date consistently demonstrates that restorative justice programs work at least as well as formal justice responses.

Rick Sarre ([27:17](#)):

So that's kind of a report card from someone who's done more than I've done this morning in relation to looking across the hundreds of, of restorative justice evaluations, qualitative, and the one, a randomized trial and, and drawing down from those. So I've got three minutes to go, which is wonderful. Cause I've got three slides to go. If these mechanisms, as Jackie licenses work just as well and are cost effective, should not the preferred response be to continue with such mechanisms. And my answer is a guarded. Yes, I say guarded because I don't want it to be overstated, but I do want to highlight how important it is in restoring people's faith, whether they are offenders or victims or their supporters restoring their faith, that the process listens to them and is fair. But any restorative mechanism is difficult to get public acceptance in an environment where public resentment is uncompromising.

Rick Sarre ([28:13](#)):

I saw this chap outside parliament house about three or four months ago. I'm, I'm sorry for the spelling of the, of the last word there. So again, if you're going to get people on board, you're going to have to convince them that it's fair and it's victim orientated and that it's not in some way or other going to be exacerbating their passion in the wrong direction. If it's going to work, it has to be explained. So my conclusion, and I'm actually going to be about 90 seconds early, unless I read this last slide slowly, restorative justice. Here it is. If you're listening on radio Adelaide, here's the conclusion restorative justice works for some offenders, not all offenders in some situations that until you, it doesn't work, they say in relation to domestic vine islands, that's a tough call. The last a person who's been beaten, black and blue by her partner wants to do is to have some sort of mediation. At least that's the experience coming from the evaluations. So some offenders in some situations, in some practices for some specified outcomes, if you're looking for lower crime rates and he looks somewhere else, if you're looking across the board at the Metro analysis, but if you're looking for victim support and fairness, it has strong support and acceptance, but not with all victims. But I would say with most victims, if teachers to be relieved of that, we can be sitting. And with that, my friends I've come to 10 30. So thank you very much for listening.



Robin Layton ([29:51](#)):

Okay. So we can take questions. And if you've got questions, if you could just go to the back of the room, that would be excellent. Thank you.

Fiona Weringsmith ([30:02](#)):

Victim level of satisfaction. They feel the process is fair, is sort of roughly how they, the studies came out. But what about the factors that caused the problems and does cause the, cause the actual offending does restorative justice have any way of really working on those earlier problems? I mean, I don't want to just rave on, but my thought is brain plasticity and brain training tools are there with very sound science behind them. And if you go right back to school where children have difficulties with learning, I think there's a complete correlation, not necessarily causation between those who drop out of school, seek bad leaders, go on drugs, finish up in prison. Now, if you could fix that early stuff and you can with brain training with particular brain training and the same team that designed that built brain training for adults, we can all use it, but it's very helpful for people on drugs or people who really just need a boost to feel better about themselves. And maybe that they've got control of their lives. And I think, you know, it's, it's a tool there. It's an idea that's time has come. And I just did not say nothing in any further. I just can't stand say nothing because I know a lot. It thank

Rick Sarre ([31:24](#)):

You very much. That it's a very good comment. Let me say that essentially the restorative justice at our response now, there are certain things that people have said about school. You see Lee Garrett at Fender's aid. And he runs the restorative justice center here in south Australia does a lot of stuff in schools with, with kids. But essentially what I'm talking about this morning is something has happened. And what we want to make sure is it doesn't happen again now to the, to the extent that sometimes in those conferences, the remorse, the, the, the way in which their drug offending might be dealt with will have the effect of that particular offender, not offending again, but restorative justice is not designed to be broadly based as a crime prevention tool that will probably happen in relation to certain offenders, but it's not a broadly based tool. I'll tell you the next person who asking you a question is Peter Norman. And I'm conscious of the fact, you've had one question I'm sort of coming into here on top of dropping here. And I think that Peter who's actually in charge of the Australian crime prevention council is the person to speak to over coffee this morning in relation to crime prevention more generally, but I'm going to go to quit to Peter's question what I

Speaker 5 ([32:31](#)):

Had really a common first in the adult courts. There's not really the resources as there is in the youth court for restorative justice conferences, but under the sentencing act, a judge can take into account any relevant matter. And obviously if there has been privately arranged a an informal restorative justice conference, the outcome of that can be made known to the court. And that can be very useful. But my question relates to the issue you're able to restorative justice in schools. I wasn't sure where the Lee was here, that I understand one of the most busy parts of the center for restorative justice, with which Lee's involved is teaching restorative justice practices to schools. And I was wondering whether there was any evidence of research of how effective that has been. Maybe Lee could comment on that also,

Rick Sarre ([33:17](#)):

Here's, Lee's not here. I hope he is at home listening to this on radio Adelaide and hearing his name being mentioned. The answer is I don't have any evaluations. My ideas say they would have done

evaluations. If they're going to get funded, you must kind of show that what you're doing is more than just a warm in a glow. You're actually having some outcomes. But would only have been in terms of qualitative people feeling that they w w w w feeling stronger about the process that the teachers might say, anecdotally, we've got some teachers in the room here today anecdotally that kids are far better versed now about resolving their difficulties rather than hitting each other. This is really taking restorative justice to another level in the same way that John Braithwaite has taken restorative justice to another level in relation to responding to international conflicts, which are quite extraordinary.

Rick Sarre ([34:04](#)):

But for the most part, the most evaluations have been to answer those questions, particularly from governments who are funding youth conferences to say, does it lead to less recidivism? Is there less crime? And on that, as I said, it's mixed some offenses, some offenders, some circumstances with some restorative justice mechanisms, but to the extent that anyone with, with common sense would say that bringing some restorative justice tools to the schoolyard so that kids don't have to hit each other when they're getting upset with each other would have to be a good thing. I don't know if, because there are teachers in the room here that would like to comment on that. I see another, another question, sorry, Roman, I'm taking this completely out of your hands. Well done you. Thank you.

Speaker 6 ([34:49](#)):

Thank you, Rick, for your honest and interesting and understandable talk. Two questions. One is apart from playing a role between offender and victim, can this play a role between authority and suppose offender, for example, in decreasing rates to over rate of indigenous people being put into prison. And secondly, if I'm interested in this being tried and researched and integrated further in our system, what can I do?

Rick Sarre ([35:17](#)):

Okay. Let me take that one one step at a time. In fact, I see Fiona sitting in front of you, there who's head to probably a lot more experience in indigenous justice communities in the Northern territory. In fact, I might even invite her to say something, if not putting you on the spot at all to respond to that. Does it have much to do with the relationship between or authority and offender? As I said, a restorative can be as broadly based as, as we defined it to say that most people have sort of focused on response, take a young person, put them at a family group conference and hope they don't re-offend to 95% of people that is restorative justice. I and others have tried to define it a little bit more broadly to include things like police cautioning to include things like police diversion, police do enormous, enormous numbers of diversions, particularly with indigenous communities knowing full well.

Rick Sarre ([36:10](#)):

That the last thing that that particular system needs is to have further over representation of, of young indigenous kids in custody. Some of you may know there's about 400 kids in custody around Australia, tonight 48% of them, half of them are indigenous, and they represent about 3.5% of that relevant population. So it's a woeful woeful over representation. And to the extent that police are looking at wise of re re realigning, those kids' lives. So there's going to be less re-offending. We could call it restorative, particularly given the fact they wouldn't have come to the attention of police, but for the fact that something had gone wrong, that they committed an offense and they were brought to the attention of police. So to that extent, restorative justice does not leave that out of the, the, the the arrows in, in, in there. What's that called the quiver.

Rick Sarre ([36:59](#)):

The outwards at that arrow is in the right any arches here this morning, the arrow in the quiver, that's it take it out of the quiver. You're not going to leave it in the quiver. You'll take that out of the quiver. So yes or authorities would see restorative justice practices just in the same way that correctional officers would say some of the, it doesn't have to be prison ministry, but just the way in which they too can work with offenders in, in helping offenders through certain processes. I'm not a psychologist as I'm sure the, the young woman here is. But, but certainly I can see that it would be a lot of vantage in that. And the second part of your question what can you do? Two things, one in, in live, in the debate every time there's a kind of a law and order called for, and I, I respect the, is holding up the sign and what he stood for and what he understood recognize that that simply is going to fill our jails.

Rick Sarre ([37:51](#)):

You may know, in south Australia here the last year our jail numbers, which are now creeping well up towards 3000 here in in south Australia, increased by 10% the year before that they increased by 10%. There is no known connection between higher imprisonment rates and lower offending rates. In fact, it's exactly the opposite. So what we need to do is ensure that the kind of law and order rhetoric rhetoric that sometimes emerge, particularly when there's something particularly egregious, we just need to keep a lid on that, to say that one of the best ways of being involved in crime prevention is to ensure responsible and responsive restorative ways. Once the offending occurs to make sure the victim and the offender and others can get on with their lives in different ways. So that's the answer. That's not a simple answer,

Robin Layton ([38:37](#)):

Change my role. Now, I'm not going to ask people to ask questions. I might comment instead. I think one of the things about restorative justice is that on the whole, it tends to stop at the court door, but often what happens is there has to be followup and to take the a woman who said, well, you've got to look at the causes of crime and the causes of crime are not necessarily about that relationship, but it might be poverty. It might be disadvantage. It might be drug abuse. And there might be a very good process, which I agree with Rick restorative justice is a good process to be used for sentencing, but there's got to be follow up after that. And that's not part of restorative justice. That's part of all of the programs that can deal with that person whilst they're in prison, if the case may be, and when they get out of prison, that there's a pathway for them to keep them out of jail in the future.

Robin Layton ([39:34](#)):

And for those that you have might be interested in Aboriginal and this is a promo for myself tomorrow, I'll be talking at the, what would Roma say about the incarceration rates about Aboriginal people and some of the solutions for that? Thanks for the question, right? You like to tag team. I have done it. Repeat the question. I'm sorry. The question was, have I ever done any of restorative justice when I was a Supreme court judge? The answer is yes. And I did it within an Aboriginal context. What we have is a section nine C procedure, which involves then the elders. It's a little like circle sentencing, but not quiet. So you have the offender, you have the victim and you have the elders. And there is a conversation which enables the victim to apologize. I'm sorry, the offended, who apologize to the victim and allow the victim, if that person is still living.

Robin Layton ([40:36](#)):

And in the case that I've particularly got in mind, it was the parents of the victim who died. And that process was took a long time, but it was very engaging. So it was two young men knew each other one punch the other, both drunk, one died. There were friends, one Aboriginal, one non Aboriginal, and that process was really moving. So I've had a very good experience. And so did the people involved in that, in that particular process? And I don't think that young man will ever offend again, it was just a shocking thing for him to come to grips with that. He had actually done that.

Rick Sarre ([41:17](#)):

Now I'm going to take over a Robin's role and asked Fiona Weringsmith to make a comment. A Fiona is a former student of mine, studied criminology with me in fact, and I know that she's now practicing as a lawyer up in the Northern territory. Fiona, do you want to add something to this? Yeah,

Fiona Weringsmith ([41:30](#)):

I'm not actually practicing in the Northern territory, but I have some placement there. Thanks Rick. But I did want to ask, I wanted to pick up with respect to Robin's experience in the APY lens. She's kind of gone into it already talking about section nine C conferencing, but about the role of restorative justice in that context of the APY lands. Because as you would know, there's often situations there where the our legal system, isn't the end of the trouble. The trouble can go on and on in terms of payback and, and things like that. And I'm wondering what Robin thinks about the role of restorative justice in, in helping there.

Rick Sarre ([42:07](#)):

That's an excellent question for Robin who she is.

Robin Layton ([42:10](#)):

No, that is a very good question. And a very difficult question. So just to give a context, I have worked with women on the APY lands with regard to domestic violence, and it is a very serious issue and they are all living in a confined environment. They can't just escape. They can't run away. Some of them do because there's no other protections. So I think a restorative justice process with the sentencing could work really well, but it has to be quite controlled. It has to be well-managed and the elders and other people within the community have to back it. And that includes the men because often the violence has against the women. The women are trying to do something about it, for example, the NPY women's council, but they've got to bring them in with them. The men have got to take responsibility for the violence that men have against women on the APY lands, but I think it's an excellent opportunity for that to happen. And now he's reminding me that my next job is to do the final housekeeping. So to first of all, tell you that.